

No. 56, 1949.]

ACT

To amend the Native Labour Regulation Act, 1911, the Native Affairs Act, 1920, the Natives Taxation and Development Act, 1925, the Native Administration Act, 1927, the Native Administration Act, 1927, Amendment Act, 1929, and the Native Trust and Land Act, 1936; to exempt certain land held by the South African Native Trust from the provisions of the laws governing the establishment of townships or relating to townplanning; to authorize the granting of exemption in respect of land whereon Natives employed in mining or industrial undertakings are housed from the provisions of certain laws; and to repeal certain provisions of British Bechuanaland Proclamation No. 2 of 1885 and Act No. 7 of 1924.

(Afrikaans Text signed by the Governor-General.)
(Assented to 1st July, 1949.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 2 of Act 15 of 1911, as amended by section 33 of Act 46 of 1937.

1. Section *two* of the Native Labour Regulation Act, 1911, is hereby amended—

(a) by the insertion after the definition of "advance" of the following definitions:

"'attesting officer' shall mean a magistrate or any officer designated by the Director to exercise the powers and perform the duties assigned to an attesting officer by this Act;

'authorized officer' shall mean a magistrate, a justice of the peace, a European member of the police, an attesting officer, an officer designated to register contracts of service in terms of any regulation made under section *twenty-three* and any other person who may be authorized by the Minister to demand the production of documents under this Act or the regulations;";

(b) by the deletion in the definition of "compound manager" of the words "in any labour district";

(c) by the addition at the end of the definition of "labour agent" of the words "and shall include any employee who so recruits natives for employment by his employer or by any member of a group of persons by whom he is employed";

(d) by the substitution for the definition of "labour district" of the following definition:

"'labour district' shall mean any area declared by the Minister by notice in the *Gazette* to be a labour district for the purposes of this Act;";

(e) by the substitution for the definition of "magistrate" of the following definition:

"'magistrate' shall, except in section *twenty*, include an additional or an assistant magistrate, a native commissioner and an additional or an assistant native commissioner;"; and

(f) by the substitution for the definition of "native labourer" of the following definition:

"'native labourer' shall mean—

(a) a native recruited for employment on, or employed or working on, any mine or works; and

(b) a native recruited for employment or employed in any occupation or any area or under conditions which the Minister may by notice in the *Gazette* declare to be an occupation in which or an area in which or conditions under

which a native so recruited for employment or employed shall be a native labourer for the purposes of this Act provided at least three months' notice of his intention to publish such a notice has been given by the Minister by notice in the *Gazette*;"

Amendment of section 4 of Act 15 of 1911.

2. Section *four* of the Native Labour Regulation Act, 1911, is hereby amended by the addition at the end thereof of the following proviso:

"Provided that any employee (other than a person employed by a group of persons) acting on behalf of his employer, may without licence—

- (a) recruit natives voluntarily offering their services at the place of employment, if—
 - (i) his employer is the holder of an employer's recruiting licence and he acts in accordance with the provisions of this Act, the regulations and the conditions of his employer's licence; or
 - (ii) they are recruited for employment by his employer in any of the occupations mentioned in paragraph (a) of sub-section (2) of section *five*; or
 - (iii) his employer is a person who does not employ more than fifty natives at any one time;
- (b) recruit natives if—
 - (i) they are recruited for employment by his employer in any of the occupations mentioned in paragraph (a) of sub-section (2) of section *five*; or
 - (ii) his employer is a person who does not employ more than fifty natives at any one time, and he is authorized thereto by, and acts in accordance with the conditions of, a permit to recruit issued by a magistrate of the district in which the natives are recruited; and
- (c) recruit natives at any place referred to in paragraph (c) of sub-section (2) of section *five*."

Substitution of section 5 of Act 15 of 1911.

3. The following section is hereby substituted for section *five* of the Native Labour Regulation Act, 1911:

"Em-
ployer's
recruiting
licences.

5. (1) Subject to the provisions of sub-section (2), no person shall recruit natives, for employment by him or on his behalf within or outside the Union, unless he is the holder of an employer's recruiting licence issued under this Act, and recruits in accordance with the conditions of his licence, the provisions of this Act, and the regulations.

(2) No such licence shall be required by any person—

- (a) who recruits natives for employment by him or on his behalf in farming, agriculture, horticulture, irrigation, stevedoring, shipping operations, domestic service, local government services, or in any shop or store—
 - (i) within the district where such natives are to be employed; or
 - (ii) if authorized thereto by, and he acts in accordance with the conditions of, a permit to recruit issued by a magistrate of the district in which the natives are recruited;
- (b) who recruits natives for employment by him or on his behalf, if he employs not more than fifty natives at any one time and—
 - (i) recruits the natives within the district where they are to be employed; or
 - (ii) is authorized thereto by, and he acts in accordance with the conditions of, a permit to recruit issued by a magistrate of the district in which the natives are recruited;
- (c) who recruits natives for employment by him or on his behalf, if he recruits them at any Government labour bureau or other place approved by the Minister; or
- (d) who recruits natives for employment by him or on his behalf in any of the occupations

mentioned in paragraph (a) through a person who is the holder of a labour agent's licence or through an employee of his who is in terms of the proviso to section *four* exempted from obtaining such a licence."

Insertion of section *5bis* in Act 15 of 1911.

4. The following section is hereby inserted after section *five* of the Native Labour Regulation Act, 1911:

"Dis-
cretion as
to issue
etc., of
permits to
recruit.
5bis. (1) Subject to any directions which the Minister may give thereanent either generally or specifically, the granting, refusal or cancellation of, or the conditions attaching to, any permit to recruit mentioned in paragraph (b) of the proviso to section *four* or paragraph (a) or (b) of sub-section (2) of section *five* shall be in the discretion of the magistrate concerned, subject to an appeal to the Minister.

(2) The holder of any permit referred to in sub-section (1) shall produce such permit for inspection on demand by any authorized officer."

Amendment of section 8 of Act 15 of 1911.

5. Section *eight* of the Native Labour Regulation Act, 1911, is hereby amended—

(a) by the deletion of paragraphs (b) and (c) of sub-section (2);

(b) by the substitution in sub-section (3) for the words "native labourers" of the word "natives", and by the addition at the end of the said sub-section of the following proviso:

"Provided that if a labour agent acts as the employee of a group of employers registered in terms of any regulations made under paragraph (d)ter of sub-section (1) of section *twenty-three*, the Director may cause that fact together with the name under which that group is registered to be inserted in the licence, instead of the names and addresses of the individual employers belonging to that group."

(c) by the deletion of sub-section (5); and

(d) by the substitution for sub-section (8) of the following sub-section:

"(8) The licensee shall produce his licence for inspection on demand by any authorized officer."

Amendment of section 9 of Act 15 of 1911.

6. Section *nine* of the Native Labour Regulation Act, 1911, is hereby amended—

(a) by the insertion in sub-sections (2), (3), (4), (5), (7) and (9) before the word "permit", wherever it occurs, of the word "runner's"; and

(b) by the substitution for sub-section (6) of the following sub-section:

"(6) Every runner shall produce his permit for inspection on demand by any authorized officer."

Amendment of section 11 of Act 15 of 1911.

7. Section *eleven* of the Native Labour Regulation Act, 1911, is hereby amended by the substitution in sub-section (2) for the words "reported guilty of such misconduct as, in the opinion of the Director, renders him unfit to hold his licence, the Director shall" of the words "suspected of any misconduct connected with his calling or activities authorized by his licence, the Director may"; by the substitution for the word "charged" of the word "alleged"; and by the substitution for the words "cancellation of the licence or its restoration, as he shall think fit" of the words "cancellation, or suspension for a specified period, of the licence or its restoration. In directing that a licence be restored the Minister may impose such special conditions in respect thereof as he may think fit".

Substitution of section 12 of Act 15 of 1911.

8. The following section is hereby substituted for section *twelve* of the Native Labour Regulation Act, 1911:

"Contract
of employ-
ment, form
and attesta-
tion.
12. (1) Every holder of a labour agent's licence, an employer's recruiting licence or a permit to recruit, shall enter into a written contract with every native recruited by him and every such contract shall save as provided in sub-section (4) state the name of the employer and be attested by an attesting officer in the district in which the native has been recruited unless, in the case of a holder of

a labour agent's licence or an employer's recruiting licence, the approval in writing of the Director, or, in the case of a holder of a permit to recruit, of the magistrate who issued the permit, has been obtained for such contract to be attested in another district: Provided that—

- (a) the foregoing provisions shall not apply in respect of a holder of an employer's recruiting licence or of a permit to recruit in respect of natives who are apparently over the age of eighteen years and are recruited in the district in which they are to be employed;
- (b) the Minister may require the holder of any labour agent's licence or employer's recruiting licence or permit to recruit to cause the attestation of any contract entered into with a native who has not attained the age of eighteen years to be effected in the district in which such native resides;
- (c) the contract may be subscribed by any person who holds a special power of attorney for that purpose from the holder of the licence or permit and who has been approved in writing by the Director;
- (d) no contract shall be attested unless the attesting officer is satisfied that the terms and conditions thereof are fully understood by the native concerned;
- (e) no contract shall be attested between any person and any native recruited by him or on his behalf in contravention of any provision of this Act or the regulations; and
- (f) no contract with a native apparently under the age of eighteen years shall be attested except for employment of such nature and under such conditions as may be approved by the Minister.

(2) Every person referred to in paragraph (c) of the proviso to sub-section (1) shall, if so required by the attesting officer, produce proof of his authority to subscribe the contract.

(3) Any contract attested between any person and any native recruited by him or on his behalf in contravention of any provision of this Act or the regulations shall be of no force or effect.

(4) Any labour agent referred to in the proviso to sub-section (3) of section *eight* may enter into a contract with any native recruited by him in terms of which such native undertakes to enter the service of any unspecified member of the group of employers by whom such labour agent is employed.

(5) Any native who has entered into such a contract as is mentioned in sub-section (4), who without lawful cause fails or refuses to enter upon his contract of service or who fails or refuses to enter the service of the member of such group of employers to whom he may be allotted by the said group or by any person lawfully acting on behalf of the said group shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two months: Provided that any such native shall as far as practicable be given an opportunity to indicate at the time of allotment to which member of the group of employers who requires labour he wishes to be allotted.

(6) If any native has in pursuance of any such contract as is mentioned in sub-section (4) entered the service of any member of such group of employers to whom he has been allotted as provided in sub-section (5), that contract shall thereafter for all purposes be deemed to be a contract of service between such native and the person whose service he has entered.

(7) The provisions of sub-section (2) of section *fourteen* shall *mutatis mutandis* apply in respect of any proceedings under sub-section (5).

(8) Every native labourer shall be registered to the person by whom he is to be employed.

(9) Every attesting officer shall be deemed to be a 'proper officer' for the attestation of contracts of service under The Master and Servants Law, 1880 (Law No. 13 of 1880) (Transvaal)."

Amendment of section 13 of Act 15 of 1911.

9. Section *thirteen* of the Native Labour Regulation Act, 1911, is hereby amended—

(a) by the substitution for paragraph (e) of the following paragraph:

"(e) enter upon any premises where natives in employment are housed or upon private property for the purpose of recruiting, without the previous consent in writing of the employer of natives housed on such premises or of the owner or occupier of such private property;" and

(b) by the substitution for paragraph (f) of the following paragraph:

"(f) recruit any native on any railway or on any railway station;"

Amendment of section 14 of Act 15 of 1911.

10. Section *fourteen* of the Native Labour Regulation Act, 1911, is hereby amended by the deletion in sub-section (2) of the words "any court of resident magistrate or native commissioner or native sub-commissioner may try the offence and".

Substitution of section 17 of Act 15 of 1911.

11. The following section is hereby substituted for section *seventeen* of the Native Labour Regulation Act, 1911:

"Labour districts. 17. The Minister may, by notice in the *Gazette*, declare any area to be a labour district for the purposes of this Act."

Amendment of section 18 of Act 15 of 1911.

12. Section *eighteen* of the Native Labour Regulation Act, 1911, is hereby amended by the substitution for the words "Governor-General may" of the words "Minister, or if delegated thereto by the Minister, the Secretary for Native Affairs or Under Secretary for Native Affairs may, subject to the laws governing the public service,".

Amendment of section 23 of Act 15 of 1911.

13. Section *twenty-three* of the Native Labour Regulation Act, 1911, is hereby amended—

(a) by the insertion in paragraph (a) of sub-section (1) before the word "permit", wherever it occurs, of the word "runner's";

(b) by the insertion in paragraphs (b) and (c) of sub-section (1) before the word "permits", wherever it occurs, of the word "runner's";

(c) by the deletion in paragraph (d) of sub-section (1) of the word "registration";

(d) by the insertion after paragraph (d) of sub-section (1) of the following paragraphs:

"(d)*bis*. the registration of every contract of service, whether already in existence at the date of coming into force of the regulations or not, entered into by a native in any area or in respect of any occupation; the payment by the employer in respect of such registration of a fee, which may differ in different Provinces, districts or areas in the Union, not exceeding two shillings per month; the notification by employers of such natives of the termination of such contracts or the desertion from service of such natives; the production by every such native under a contract of service and every employer of such a native, on demand by an authorized officer, of such evidence of the contract as may be prescribed; the circumstances under which registering officers may refuse to register contracts; the exemption of natives from the provisions of any regulation made under this paragraph; the prohibition of the misuse of, or of any unauthorized activity connected with, contracts of service or other documents issued in terms of such regulations; and generally any matter connected with the

proper registration of service contracts: Provided that any regulation made under this paragraph shall not apply to any urban area as defined in the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945): Provided further that natives falling within any of the classes mentioned in sub-section (2) of section *twenty-three* of the said Natives (Urban Areas) Consolidation Act, 1945, shall be exempt from the operation of such regulations but any native may be required by an authorized officer to produce proof that he falls within one of such classes and if upon demand he fails to produce such proof to the officer, he shall *prima facie* be presumed not to be so exempted;

- (d)ter. the formation, for the purpose of the recruitment of natives, by employers of natives in farming, agriculture, horticulture or irrigation, of groups of employers; the registration by the Director of such groups and the cancellation of any such registration; the admission of persons to such groups as members and their expulsion therefrom; the limitation of the number of persons who may belong to such groups and the areas in respect of which such groups may be formed; the giving of security by such groups for the compliance by their members with the terms and conditions of contracts of service entered into with natives recruited by labour agents employed by such groups; and generally, the conduct of the affairs of such groups;";
- (e) by the insertion in paragraph (j) of sub-section (1) after the words "native labourers" where they occur for the first time, of the words "the housing of the families of such labourers by employers who provide married quarters";
- (f) by the substitution for paragraph (k) of sub-section (1) of the following paragraph:
- "(k) the regulation and control of compounds and the married quarters of native labourers, the right of entry into and residence in such compounds or quarters and the rules to be observed therein for the maintenance of good order, discipline and health;";
- (g) by the insertion, after paragraph (k) of sub-section (1), of the following paragraph:
- "(k)bis. the powers and duties of compound manager in compounds and the married quarters of native labourers (including the power to arrest and detain any native committing or suspected by them of committing or of having committed an offence, and to search for, to confiscate or to destroy dangerous weapons, intoxicating liquor, dagga or other habit-forming drugs) and the delegation by compound managers of their powers to persons acting under them who have been approved in writing by the native commissioner of the district in which the compound concerned is situated;";
- (h) by the deletion in paragraph (l) of sub-section (1) of all the words after "native labourers"; and
- (i) by the substitution for paragraph (o) of sub-section (1) of the following paragraph:
- "(o) the establishment, management and control of labour bureaux and of depots for the housing of natives being dealt with by any such bureau; the control, housing, feeding and medical examination of natives dealt with by any such bureau or housed in any such depot; the classes of natives to be dealt with by any such bureau and the classes of persons to whom natives may be made available by any such bureau for employment;

the charges to be paid for any service rendered by any such bureau; the maintenance of registers of natives desiring to take up employment and of persons requiring the services of natives; the voluntary or compulsory registration with such a bureau of natives; the notification to such a bureau by any person desiring to engage the services of natives of vacancies for natives; the advice to such a bureau of the engagement or termination of services of natives; the prohibition or restriction of the residence or sojourn of unemployed natives on land or premises of prospective employers; and generally any matter connected with the proper maintenance and control of labour bureaux and depots;”.

Insertion of section 24bis in Act 15 of 1911.

14. The following section is hereby inserted after section *twenty-four* of the Native Labour Regulation Act, 1911:

“Con-
gregation
of natives
near mines
or works.

24bis. If it appears to the Governor-General that in the neighbourhood of any mine or works, situated outside an urban area as defined in the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), natives are congregating or are residing or are likely to congregate or reside in numbers in excess of the reasonable labour requirements of such mine or works and the surrounding neighbourhood, he may by proclamation in the *Gazette* declare that the area specified in such proclamation, being the area in which such mine or works are situated, shall as from a date to be specified in such proclamation be deemed to be an urban area for the purposes of section *fifteen* of the said Natives (Urban Areas) Consolidation Act, 1945, and the provisions of that section shall thereupon *mutatis mutandis* apply in respect of the area so specified as if it were an urban area.”.

Amendment of section 29 of Act 15 of 1911.

15. Section *twenty-nine* of the Native Labour Regulation Act, 1911, is hereby amended by the substitution for the words “the court of resident magistrate or by a native commissioner or sub-commissioner” of the words “a magistrate’s court or by a native commissioner, an additional native commissioner or an assistant native commissioner” and by the substitution for the words “courts of resident magistrate or to native commissioners or sub-commissioners” of the words “magistrates’ courts or to native commissioners, additional native commissioners or assistant native commissioners.”.

Amendment of long title of Act 15 of 1911.

16. The long title of the Native Labour Regulation Act, 1911, is hereby amended by the substitution for the words after the word “regulate” of the words “the recruiting, employment, accommodation, feeding and health conditions of native labour.”.

Substitution of section 5 of Act 23 of 1920, as amended by section 1 of Act 15 of 1927.

17. The following section is hereby substituted for section *five* of the Native Affairs Act, 1920:

“Establish-
ment of
councils of
natives
for native
areas.

5. (1) The Governor-General may on the recommendation of the commission establish a local council for the whole or any portion of any of the native areas which have been set aside or may hereafter be set aside as such by Parliament or for any area adjoining any existing native areas which the Governor-General may by proclamation in the *Gazette* declare to be a native area for the purposes of this section.

(2) Each local council shall consist of such number of members, and shall exercise control over such area, as may be prescribed by the Governor-General by proclamation in the *Gazette*.

(3) All the members of a local council shall be natives, but the Minister of Native Affairs may designate an officer of the public service to preside at the meetings of any such council and generally to act in an advisory capacity in regard to it.”.

Amendment of section 11 of Act 41 of 1925, as amended by section 4 of Act 28 of 1926, section 7 of Act 37 of 1931 and section 21 of Act 36 of 1944.

Amendment of section 2 of Act 38 of 1927, as substituted by section 2 of Act 21 of 1943.

Amendment of section 6 of Act 38 of 1927.

Amendment of section 10 of Act 38 of 1927, as amended by section 5 of Act 9 of 1929 and section 3 of Act 21 of 1943.

Amendment of section 12 of Act 38 of 1927, as substituted by section 23 of Act 36 of 1944.

Amendment of section 13 of Act 38 of 1927.

Amendment of section 20 of Act 38 of 1927, as amended by section 6 of Act 9 of 1929 and section 8 of Act 21 of 1943.

18. Section *eleven* of the Natives Taxation and Development Act, 1925, is hereby amended by the addition at the end of paragraph (c) of sub-section (1) of the words "or, if delegated thereto by the Minister, by the Secretary for Native Affairs".

19. Section *two* of the Native Administration Act, 1927, is hereby amended—

(a) by the insertion in sub-section (7) after the word "headmen" of the words "acting chiefs and acting headmen";

(b) by the insertion after sub-section (7) of the following sub-sections:

"(7)*bis*. When recognizing or appointing a person as chief of a native tribe the Governor-General may, notwithstanding anything in this Act or in any other law contained, after a public enquiry by such persons having a knowledge of the language, customs and laws of the native tribe concerned, as he may appoint for the purpose, make an order awarding to, or imposing upon, the person so recognized or appointed as chief such of the property, rights or obligations of the previous chief, whether deceased or deposed, as in his opinion were acquired or incurred by the previous chief by virtue of his office and as he may deem just.

(7)*ter*. Any person affected by an order made in terms of sub-section (7)*bis* may, within one year from the date thereof, petition the Governor-General for the amplification, variation or interpretation of the provisions of the order, and the Governor-General may make such order thereon as he may deem fit."; and

(c) by the substitution in sub-section (8) for the words "or the Under Secretary for Native Affairs" of the words "the Under Secretary for Native Affairs or the chief native commissioner for the area concerned".

20. Section *six* of the Native Administration Act, 1927, is hereby amended by the insertion in sub-section (1) after the words "amendment thereof" of the words "or within any such area in any location".

21. Section *ten* of the Native Administration Act, 1927, is hereby amended by the addition thereto of the following sub-section:

"(7) The reference in section *twenty* of the Deeds Registries Act, 1937 (Act No. 47 of 1937), to the court, shall include a reference to a native commissioner's court."

22. Section *twelve* of the Native Administration Act, 1927, is hereby amended—

(a) by the substitution in sub-sections (1) and (2) for the word "Governor-General" of the word "Minister"; and

(b) by the insertion in sub-section (4) after the word "judgment", where it occurs for the first time, of the words "(including a judgment given by a chief exercising jurisdiction under the provisions of section *thirty-one* of British Bechuanaland Proclamation No. 2 of 1885)" and by the insertion in the said sub-section after the word 'commissioner', where it occurs for the second time, of the words 'or, in the case of a judgment given by a chief exercising jurisdiction under the provisions of the said section *thirty-one*, to the court of native commissioner of the district in which the chief's judgment was given'."

23. Section *thirteen* of the Native Administration Act, 1927, is hereby amended by the insertion in sub-section (6) after the word "Minister" of the words "or, if delegated thereto by the Minister, the Secretary for Native Affairs or the Under Secretary for Native Affairs".

24. Section *twenty* of the Native Administration Act, 1927, is hereby amended—

(a) by the substitution in sub-section (1) for the word "Governor-General", wherever it occurs, of the word "Minister" and by the deletion in the said sub-section of the words "according to native law and custom" and of the words "which is punishable under native law and custom";

- (b) by the substitution in sub-section (2) for the word "Governor-General" of the word "Minister";
- (c) by the deletion in sub-section (3) of the words "two head of cattle or";
- (d) by the insertion after sub-section (4) of the following sub-section:
 - "(4)*bis*. (a) If a native chief or headman fails to recover from a person any fine imposed upon him in terms of sub-section (3), or any portion of such fine, he may arrest or cause such person to be arrested by his messengers, and shall, within forty-eight hours after his arrest, bring or cause such person to be brought before the native commissioner in whose area of jurisdiction the trial took place.
 - (b) A native commissioner before whom any person is brought in terms of paragraph (a) shall deal with the matter in accordance with regulations made under sub-section (6), and may, upon being satisfied that the fine was duly and lawfully imposed and is still unpaid either wholly or in part sentence such person to imprisonment with or without hard labour for a period not exceeding—
 - (i) seven days if the fine or the portion of the fine, which is still unpaid, does not exceed one pound and five shillings;
 - (ii) fourteen days if the fine or the portion of the fine, which is still unpaid, exceeds one pound and five shillings but does not exceed two pounds and ten shillings;
 - (iii) twenty-one days if the fine or the portion of the fine, which is still unpaid, exceeds two pounds and ten shillings but does not exceed three pounds and fifteen shillings;
 - (iv) twenty-eight days if the fine or the portion of the fine, which is still unpaid, exceeds three pounds and fifteen shillings.
 - (c) The native commissioner shall, whether or not criminal jurisdiction has been conferred upon him under section *nine*, issue in respect of any person sentenced to imprisonment in terms of this sub-section a warrant for his detention in a prison or gaol."; and
- (e) by the insertion in sub-section (5) after the word "section" of the words "or under section *thirty-two* of British Bechuanaland Proclamation No. 2 of 1885".

Amendment of section 21 of Act 38 of 1927.

25. Section *twenty-one* of the Native Administration Act, 1927, is hereby amended by the substitution for the words "second proviso to sub-section (1) of section *twelve*, nothing in that section or in section *twenty*" of the words "proviso to sub-section (1) of section *twelve*, in sub-section (4) of section *twelve* and in sub-section (5) of section *twenty*, nothing in those sections".

Amendment of section 27 of Act 38 of 1927, as amended by section 2 of Act 9 of 1939 and section 3 of Act 42 of 1942.

26. Section *twenty-seven* of the Native Administration Act, 1927, is hereby amended by the deletion at the end of paragraph (*d*)*ter* of sub-section (1) of the word "and", and the insertion after the said paragraph of the following paragraph:

"(*d*)*quater*. the prohibition, restriction or regulation of—

- (i) the advertising, whether by word of mouth or by any other means, of native medicines;
- (ii) the advertising to natives, whether by word of mouth or by any other means, of any substance alleged to be capable of procuring for any person wealth or success in any undertaking or occupation or of producing in any person any disposition or attribute or immunity from, resistance against or susceptibility to hostile agencies, supernatural powers, witchcraft or unnatural diseases; and".

Amendment of section 10 of Act 9 of 1929, as amended by section 5 of Act 42 of 1942.

27. Section *ten* of the Native Administration Act, 1927, Amendment Act, 1929, is hereby amended—

- (a) by the substitution in sub-section (1) for the words "out of any such marriage which is not cognisable by a native commissioner's court established under section *ten* of the principal Act" of the word "therefrom"; and
- (b) by the substitution for sub-section (3) of the following sub-section:

“(3) (a) Every such court shall be a court of law and shall consist of the person for the time being acting as president of the native appeal court exercising jurisdiction in the same area or any such officer of the public service as the Governor-General may appoint.

(b) The person presiding over a native divorce court may in his discretion summon to his assistance two persons holding the office of native commissioner to sit and act with him as assessors in an advisory capacity on questions of fact.”

Amendment of section 2 of Act 18 of 1936, as amended by section 1 of Act 17 of 1939.

28. Section *two* of the Native Trust and Land Act, 1936, is hereby amended by the insertion in paragraph (b) of the proviso to sub-section (2), after the word “Trust”, where it occurs for the first time, of the words “such land shall become Crown land and”.

Amendment of section 8 of Act 18 of 1936.

29. Section *eight* of the Native Trust and Land Act, 1936, is hereby amended by the insertion after paragraph (e) of the following paragraph:

“(e)*bis*. all fines recovered in respect of contraventions of any regulations made under any law and relating to the administration and control of any land which vests in the Trust under section *six*;”.

Amendment of section 9 of Act 18 of 1936, as amended by section 27 of Act 17 of 1938, section 4 of Act 17 of 1939 and section 21 of Act 46 of 1945.

30. Section *nine* of the Native Trust and Land Act, 1936, is hereby amended by the deletion of sub-section (2).

Insertion of section 9*bis* in Act 18 of 1936.

31. The following section is hereby inserted after section *nine* of the Native Trust and Land Act, 1936:

“Auditing of accounts by Controller and Auditor-General. 9*bis*. (1) The books and statements of account of the Trust shall be audited annually by the Controller and Auditor-General.

(2) The provisions of sections *thirteen*, *fourteen*, *fifteen*, *eighteen* and *nineteen* of the Exchequer and Audit Act, 1911 (Act No. 21 of 1911), shall *mutatis mutandis* apply in respect of such audit: Provided that, for the purposes of this sub-section—

(a) the reference in sections *thirteen* and *eighteen* to the Treasury shall be deemed to be a reference to the Minister of Native Affairs;

(b) the reference in sections *fourteen* and *fifteen* of the said Act to a person in the employment of the Union Government shall be deemed to include any person employed by the Trust;

(c) the references in section *nineteen* of the said Act to the Minister shall be deemed to be references to the Minister of Native Affairs.

(3) As soon as possible after any such audit, the Controller and Auditor-General shall transmit to the Minister and to the Minister of Finance a copy of the statements of account and balance sheet, together with his certificate and report thereon.

(4) The Minister of Finance shall cause the accounts, balance sheet and report to be laid on the Tables of both Houses of Parliament within seven days after their receipt by him, if Parliament be then in session, or if Parliament be not then in session, within seven days after the commencement of its next ensuing ordinary session.

(5) The Controller and Auditor-General shall notify the Minister of Native Affairs of any surcharge which he may make under section *fifteen* of the Exchequer and Audit Act, 1911, as applied by sub-section (2) of this section, and the Minister shall, subject to the provisions of section *nineteen* of the said Act, as so applied, recover the amount thereof from the person against whom the surcharge was made: Provided that, unless the Minister otherwise directs the amount of any such surcharge which may be due from a person in the employment of the Union Government or the Trust, shall be recovered in equal monthly instalments by deductions from such person's monthly salary or wages not exceeding one-fourth thereof.

(6) The amount of any surcharge may be sued for and recovered on behalf of the Trust by action in any competent court at the suit of the Minister of Native Affairs.”.

Insertion of section 12bis in Act 18 of 1936.

32. The following section is hereby inserted after section *twelve* of the Native Trust and Land Act, 1936:

“Restriction upon alienation or lease of land to natives in certain areas.

12bis. (1) Notwithstanding anything in this Act or in any other law contained, no person shall, except with the consent of the Minister, alienate or lease to a native any portion of any land, in a scheduled native area or released area, which has been partitioned or sub-divided after the commencement of this Act.

(2) The Minister may grant his consent in terms of sub-section (1) subject to such conditions as he may determine and may impose in regard to the use and occupation of land referred to in the said sub-section, after the alienation or lease thereof, such conditions as he may deem fit.

(3) Notwithstanding anything contained in the Deeds Registries Act, 1937 (Act No. 47 of 1937), the transferor of any land in respect of which any condition relating to the use or occupation thereof has been imposed under sub-section (2) shall cause every such condition to be inserted in the relevant deed of transfer.

(4) (a) The Minister shall be entitled to enforce any condition relating to the use or occupation of land imposed under sub-section (2).

(b) Any person who contravenes the provisions of sub-section (1) or who alienates or leases any land otherwise than in accordance with the conditions imposed under sub-section (2) shall be guilty of an offence.

(5) No registrar of deeds shall execute, attest or register any deed relating to the alienation or lease of any land referred to in sub-section (1) unless there is produced to him a certificate under the hand of the Secretary for Native Affairs stating that the Minister has consented to such alienation or lease, as the case may be, and setting forth any conditions relating to the use or occupation of the land which the Minister may have imposed under sub-section (2).

(6) The provisions of this section shall not apply in respect of land which is the property of the Trust or in respect of land included in any township, sub-divided estate, private township or hamlet to the establishment, approval, proclamation or recognition of which the Minister has declared his consent in terms of section *thirty-seven* of the Native Laws Amendment Act, 1937 (Act No. 46 of 1937).”.

Certain laws not to apply in respect of certain land.

33. The provisions of any law in force in the province concerned governing the establishment of townships or relating to townplanning shall not apply to land in a scheduled native area or released area, as defined by or under the Native Trust and Land Act, 1936 (Act No. 18 of 1936), of which the South African Native Trust established by section *four* of the said Act, is the registered owner.

Exemption from provisions of certain laws.

34. In respect of land whereon natives employed in mining or industrial undertakings are housed, the Minister of Native Affairs may grant exemption from any of the statutory provisions mentioned in Part II of the Third Schedule to the Native Trust and Land Act, 1936 (Act No. 18 of 1936).

Repeal of laws.

35. Section *thirty-three* of British Bechuanaland Proclamation No. 2 of 1885 and so much of Act No. 7 of 1924 as is unrepealed, are hereby repealed.

Short title.

36. This Act shall be called the Native Laws Amendment Act, 1949.