

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To amend the Liquor Act, 1928, the Railways and Harbours Pensions Amendment Act, 1941, the Railway Expropriation Act, 1955, the Railways and Harbours Control and Management (Consolidation) Act, 1957, the Railways and Harbours Service Act, 1960, the Railways and Harbours Superannuation Fund Act, 1960, the Level Crossings Act, 1960, and the Railway Board Act, 1962; to enable certain members of the New Railways and Harbours Superannuation Fund to contribute thereto in respect of periods of previous non-contributory service; to validate certain changes in conditions of employment, and to provide for other incidental matters.

(English text signed by the State President.)
(Assented to 25th February, 1965.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 5 of Act 30 of 1928, as amended by section 2 of Act 41 of 1934 and section 1 of Act 88 of 1963.

1. Section *five* of the Liquor Act, 1928, is hereby amended by the substitution, for sub-section (2), of the following sub-section:

“(2) (a) Nothing in this Act contained shall affect the operation of any provision of Chapter V of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957).

(b) Subject to the provisions of paragraph (a), every refreshment room or bar in which liquor is sold at a railway station, whether by the Railway Administration itself or by any person to whom a concession has been granted in terms of sub-section (1) of section *fifty-eight* of the said Act shall, for the purposes of this Act, be deemed to be premises in respect of which a bar licence has been issued, and the person in charge of such room or bar shall be deemed to be the holder of such licence and to be the employer of all persons working in such room or bar.”

Amendment of section 1 of Act 26 of 1941.

2. Section *one* of the Railways and Harbours Pensions Amendment Act, 1941 (hereinafter called “the Pensions Amendment Act”) is hereby amended by the substitution in sub-section (1) for the expression “1925 (Act No. 24 of 1925)” of the expression “1960 (Act No. 39 of 1960)”.

Amendment of section 2 of Act 26 of 1941 as amended by section 6 of Act 23 of 1944.

3. Section *two* of the Pensions Amendment Act is hereby amended by the addition thereto of the following sub-section:

“(3) (a) A Bantu who has been in the service of the Administration from a date prior to the first day of January, 1955, during a continuous period of ten years or longer or intermittently during periods which amount in the aggregate to a period of ten years or longer, and whose services are terminated for the reason that, in terms of any law relating to Bantu or in consequence of any action taken by competent authority pursuant to such law, it has become unlawful for him to remain or work in the area in which he is employed shall, for the purposes of sub-section (1), be deemed to have been retired from the service of the Administration because of a fact mentioned in paragraph (c) of that sub-section: Provided that such Bantu shall be entitled to a gratuity only.

- (b) Any annuity or gratuity granted before the commencement of the Railways and Harbours Acts Amendment Act, 1965, to a Bantu whose services were terminated under such circumstances as are mentioned in paragraph (a), shall be deemed to have been lawfully granted if such Bantu was otherwise eligible for an annuity or gratuity in terms of sub-section (1)."

Amendment of section 7 of Act 26 of 1941.

4. Section *seven* of the Pensions Amendment Act is hereby amended by the substitution for the expression "Governor-General" of the expression "State President".

Amendment of section 8 of Act 26 of 1941.

5. Section *eight* of the Pensions Amendment Act is hereby amended by the substitution for the expression "*twenty-one* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925)" of the expression "*twenty* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960)".

Amendment of section 1 of Act 37 of 1955.

6. Section *one* of the Railway Expropriation Act, 1955, is hereby amended by the substitution, for the definition of the expression "principal Act", of the following definition:

"'principal Act' means the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957);".

Substitution of new section for section 2 of Act 37 of 1955.

7. The following section is hereby substituted for section *two* of the Railway Expropriation Act, 1955:

2. The reference in paragraph (1) of section *two* of the principal Act to 'the relevant law relating to the expropriation or use of land or water' shall be construed as a reference to this Act."

Amendment of section 3 of Act 37 of 1955.

8. Section *three* of the Railway Expropriation Act, 1955, is hereby amended—

(a) by the substitution for sub-section (1) of the following sub-section:

"(1) Whenever the Administration proposes to expropriate or take any property which it is by the principal Act or the Railways Construction Act, 1922 (Act No. 30 of 1922), empowered to expropriate or take, it shall cause a notice to be served upon the owner and upon every person to whom such property has been hypothecated, setting forth clearly and fully the property which is being expropriated or taken and requiring the said owner to state the amount (if any) claimed by him as compensation for such property or for any damage alleged to have been sustained by him in consequence of the expropriation. Such notice may be served either by personal delivery or by registered post, but where it is served by personal delivery it shall be deemed to have been properly served if a true copy thereof has been handed to the owner or other person concerned after the original has been exhibited to him.";

(b) by the substitution, in sub-section (3), for the word "the" where it occurs for the second time, of the word "a", and for the word "either" of the word "any".

Amendment of section 8 of Act 37 of 1955, as amended by section 1 of Act 39 of 1963.

9. Section *eight* of the Railway Expropriation Act, 1955, is hereby amended by the substitution, in sub-section (1), for the words "one thousand pounds", wherever they occur, of the words "two thousand rand".

Amendment of section 15 of Act 37 of 1955.

10. Section *fifteen* of the Railway Expropriation Act, 1955, is hereby amended by the substitution for the words "twenty-five pounds" of the words "one hundred rand" and for the words "one month" of the words "six months".

Amendment of section 1 of Act 70 of 1957, as amended by section 5 of Act 25 of 1959, section 6 of Act 62 of 1961 and section 5 of Act 62 of 1962.

11. Section *one* of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (hereinafter called "the Control and Management Act") is hereby amended—

(a) by the substitution for the definition of the expression "Administration", in sub-section (1) of the following definition:

"'Administration' means the authority which, under the Railway Board Act, 1962 (Act No. 73 of 1962) administers and works the railways, ports and harbours of the Republic;"

- (b) by the deletion, in the definition of the expression "private railways" in sub-section (1), of the words "the term 'private railways' also includes the line of the Rhodesia Railways from Vryburg to the northern boundary of the Union in the event of the control and working thereof being hereafter undertaken and carried on by the Rhodesia Railways".

Amendment of section 2 of Act 70 of 1957, as amended by section 1 of Act 4 of 1958, section 3 of Act 7 of 1963, section 5 of Act 39 of 1963 and section 2 of Act 54 of 1964.

12. Section *two* of the Control and Management Act is hereby amended—

- (a) by the substitution, in paragraphs (1) and (17), for the expression "South Africa Act, 1909" of the expression "Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961)";

- (b) by the insertion of the following new paragraph after paragraph (4):

"(4)*bis* To deny access to a harbour to any ship—

- (a) which has the nationality of any state which the Minister has by notice in the *Gazette* declared to be a state which denies access to its harbours to ships of South African nationality; or

- (b) which is owned directly or indirectly by, or is on charter to, nationals of any such state or a corporation or other juristic person in which nationals of any such state have a controlling interest; or

- (c) irrespective of its nationality, if any person who is or at any time was a member of the crew of such ship has at any time been convicted, under a law in force in the Republic or in the Territory of South West Africa, of any offence committed while such ship was in the territorial waters of the Republic, as defined in section *two* of the Territorial Waters Act, 1963 (Act No. 87 of 1963) or within the fishing zone as defined in section *three* of that Act; or

- (d) irrespective of its nationality, if the Administration's officer in charge of the marine department of the harbour is satisfied, on reasonable grounds, that such ship has at any time been engaged, within the said territorial waters or the said fishing zone, in activities that constituted an offence under any law in force in the Republic or in the Territory of South West Africa;"

- (c) by the substitution for paragraph (10) of the following paragraph:

"(10) To construct and maintain, for the purposes of any activity in which it may lawfully engage, telegraphic or telephonic communication with or without wires in or on any premises or place occupied by it for the purposes of any such activity, or between any such premises or place and any other premises or place so occupied by it, and for that purpose to enter upon any land or any street or road and make therein all necessary excavations for the erection of posts and for the laying down of lines and subterranean communication, and to erect or lay any necessary posts, cables or wires: Provided that—

- (a) no excavation for the erection of posts or the laying of cables or wires shall be carried out in any street or road without the prior written consent of the local authority controlling such street or road;

- (b) all overhead cables or wires shall be at least ten feet (or, in the immediate neighbourhood of towns, twelve feet) above the surface of the ground except where they cross any street or road or any path on which there is a likelihood of vehicular traffic, in which case they shall be at least fourteen feet (or, in the immediate neighbourhood of towns, eighteen feet) above the surface of the ground;

- (c) such cables or wires shall be placed in such a way as not to impair or obstruct the free use or enjoyment of such street, road or path to a greater extent than is absolutely necessary for the proper construction, establishment and maintenance of any such communication;"

Amendment of section 3 of Act 70 of 1957, as amended by section 43 of Act 30 of 1959, section 37 of Act 44 of 1959, section 2 of Act 2 of 1960, section 7 of Act 62 of 1961, section 6 of Act 62 of 1962 and section 4 of Act 7 of 1963.

13. Section *three* of the Control and Management Act is hereby amended—

- (a) by the substitution, in paragraph (qq) of sub-section (1), for the expression "section *thirty-one* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)" of the expression "section *thirty-two* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960)";
- (b) by the substitution, in sub-section (2), for the words "fifty pounds" of the words "one hundred rand";
- (c) by the substitution, in sub-section (4), for the expression "Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)" of the expression "Railways and Harbours Service Act, 1960 (Act No. 22 of 1960)".

Amendment of section 10 of Act 70 of 1957.

14. Section *ten* of the Control and Management Act is hereby amended—

- (a) by the substitution, in paragraph (a) of sub-section (3), for the words "one shilling, sixpence or three-pence" of the words "ten cents, five cents or three cents", and by the substitution in paragraph (b) of that sub-section, for the words "Ten shillings, five shillings, or two shillings and sixpence" of the words "One rand, fifty cents or twenty-five cents";
- (b) by the substitution, in sub-section (4), for the words "five pounds" of the words "fifty rand", and for the words "one month" of the words "three months".

Amendment of section 11 of Act 70 of 1957.

15. Section *eleven* of the Control and Management Act is hereby amended—

- (a) by the substitution, in sub-section (1), for the words "ten pounds" of the words "fifty rand", and for the words "one month", where they occur for the first time, of the words "three months";
- (b) by the substitution, in sub-section (2), for the words "one hundred pounds" of the words "two hundred rand".

Amendment of section 12 of Act 70 of 1957.

16. Section *twelve* of the Control and Management Act is hereby amended by the substitution for the words "ten pounds" of the words "fifty rand", and for the words "one month", where they occur for the first time, of the words "three months".

Amendment of section 13 of Act 70 of 1957.

17. Section *thirteen* of the Control and Management Act is hereby amended by the substitution for the words "ten pounds" of the words "fifty rand", and for the words "one month", where they occur for the first time, of the words "three months".

Amendment of section 16 of Act 70 of 1957.

18. Section *sixteen* of the Control and Management Act is hereby amended by the substitution, in sub-section (4), for the words "ten pounds" of the words "twenty rand".

Amendment of section 18 of Act 70 of 1957.

19. Section *eighteen* of the Control and Management Act is hereby amended by the substitution, in paragraph (d) of sub-section (1) of the English text, for the words "the Queen's enemies" of the words "hostile forces".

Amendment of section 26 of Act 70 of 1957, as amended by section 7 of Act 62 of 1962.

20. Section *twenty-six* of the Control and Management Act is hereby amended by the substitution, in paragraph (a) of sub-section (4), for the words "fifty pounds" of the words "one hundred rand".

Amendment of section 28 of Act 70 of 1957.

21. Section *twenty-eight* of the Control and Management Act is hereby amended by the substitution, in sub-section (6), for the words "one hundred pounds" of the words "two hundred rand".

Amendment of section 30 of Act 70 of 1957, as amended by section 38 of Act 44 of 1959.

22. Section *thirty* of the Control and Management Act is hereby amended by the substitution, in sub-section (1), for the words "twenty-five pounds" of the words "fifty rand".

Amendment of section 34 of Act 70 of 1957.

23. Section *thirty-four* of the Control and Management Act is hereby amended by the substitution for the word "Commissioner" of the words "Secretary for Customs and Excise".

Amendment of section 35 of Act 70 of 1957, as amended by section 8 of Act 62 of 1961.

24. Section *thirty-five* of the Control and Management Act is hereby amended by the substitution, in that portion thereof which follows paragraph (p), for the words "ten pounds" of the words "fifty rand", and for the words "one month", where they occur for the first time, of the words "three months".

Amendment of section 36 of Act 70 of 1957.

25. Section *thirty-six* of the Control and Management Act is hereby amended by the substitution, in that portion thereof which follows paragraph (f), for the words "twenty pounds" of the words "one hundred rand", and for the word "three" of the word "six".

Amendment of section 37 of Act 70 of 1957, as amended by section 6 of Act 39 of 1963.

26. Section *thirty-seven* of the Control and Management Act is hereby amended by the substitution, in that portion thereof which follows paragraph (e), for the words "two hundred pounds" of the words "five hundred rand".

Amendment of section 38 of Act 70 of 1957.

27. Section *thirty-eight* of the Control and Management Act is hereby amended by the substitution, in sub-section (6), for the words "twenty-five pounds" of the words "fifty rand", for the words "twenty pounds" of the words "forty rand", for the words "fifteen pounds" of the words "thirty rand", for the words "six pounds" of the words "twelve rand", for the words "three pounds" of the words "six rand" and for the words "two pounds" of the words "four rand".

Amendment of section 39 of Act 70 of 1957.

28. Section *thirty-nine* of the Control and Management Act is hereby amended by the substitution, in paragraph (b) of sub-section (4), for the words "seven hundred and fifty pounds", wherever they occur, of the words "one thousand five hundred rand".

Amendment of section 42 of Act 70 of 1957, as amended by section 9 of Act 62 of 1961.

29. Section *forty-two* of the Control and Management Act is hereby amended by the substitution for the words "remain so vested", wherever they occur, of the words "be vested in the State President".

Amendment of section 44 of Act 70 of 1957, as amended by section 43 of Act 30 of 1959.

30. Section *forty-four* of the Control and Management Act is hereby amended by the substitution for the words "fifty pounds" of the words "one hundred rand".

Amendment of section 45 of Act 70 of 1957.

31. Section *forty-five* of the Control and Management Act is hereby amended by the substitution for the word "Commissioner" of the words "Secretary for Customs and Excise".

Amendment of section 54 of Act 70 of 1957.

32. Section *fifty-four* of the Control and Management Act is hereby amended by the substitution in the English text for the words "the Queen's enemies" of the words "hostile forces".

Amendment of section 57 of Act 70 of 1957, as amended by section 40 of Act 44 of 1959.

33. Section *fifty-seven* of the Control and Management Act is hereby amended—

(a) by the substitution for sub-section (1) of the following sub-section:

"(1) The State President may, in manner provided by the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), appoint so many persons as may be deemed necessary for the duty of maintaining law and order upon the railways and at the harbours, and when any such person so appointed is carrying out that duty, he shall be capable of exercising all such powers and shall perform all such functions as are by law conferred on or are to be performed by a member of the South African Police Force established under the Police Act, 1958 (Act No. 7 of 1958), and shall be liable in respect of acts done or omitted to be done to the same extent as he would have been liable in like circumstances if he were a member of the said Force, and shall have the benefit of all the indemnities to which a member of such Force would in like circumstances be entitled.";

(b) by the substitution, in sub-section (4), for the expression "section *thirty-one* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)" of the expression "section *thirty-two* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960)";

(c) by the substitution, in sub-section (5), for the expression "section *thirty-one* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)" of the expression "section *thirty-two* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960)", and for the words "twenty-five pounds" of the words "fifty rand";

(d) by the substitution, in sub-section (6), for the expression "section *thirty-one* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)" of the expression "section *thirty-two* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960)", and for the words "fifty pounds" of the words "one hundred rand";

(e) by the substitution, in sub-section (7), for the words "fifty pounds" of the words "one hundred rand".

Amendment of section 58 of Act 70 of 1957, as amended by section 5 of Act 7 of 1963.

34. Section *fifty-eight* of the Control and Management Act is hereby amended by the substitution, for paragraphs (c) and (d) of sub-section (1), of the following paragraphs:

"(c) The sale of intoxicating liquor and other articles in terms of any provision of this sub-section, whether by the Administration itself or by any concessionary referred to in paragraph (d) of this sub-section, shall be subject to the provisions of this Chapter and of any applicable regulation.

(d) (i) The Administration may, upon such conditions as it may think fit but subject to the provisions of sub-paragraphs (ii) and (iii) of this paragraph, grant to any person a concession to carry on, at any place under the Administration's control, any trading activity in which the Administration may itself engage in terms of paragraph (a) of this sub-section, and may let to such person any land or premises required for that purpose.

(ii) The provisions of sub-paragraph (i) of this paragraph shall not be deemed to relieve any person to whom such a concession has been granted, of the obligation to obtain any licence or other authority (except a licence under the Liquor Act, 1928 (Act No. 30 of 1928)) which he would by law be required to obtain for the conduct of his business if such business were carried on on private premises.

(iii) A concession which includes the right to sell intoxicating liquor shall not be granted under sub-paragraph (i) of this paragraph to or in favour of any person who is disqualified in terms of section *sixty-five* of the said Liquor Act, 1928, from obtaining a liquor licence, or to or in favour of any producer or manufacturer or brewer or agent or nominee or person or company referred to in section *one hundred and fourteen ter* of the said Act; and if it should at any time appear that any such concession has been granted in conflict with the provisions of this sub-paragraph or that any person to whom such concession has been granted has become disqualified in terms of this paragraph to be the holder thereof, such concession shall lapse as from a date determined by the Administration, not being later than the last day of the third calendar month following that in which the facts regarding the concessionary's disqualification were established to the satisfaction of the Administration."

Amendment of section 59 of Act 70 of 1957, as substituted by section 6 of Act 7 of 1963.

35. Section *fifty-nine* of the Control and Management Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) In respect of all refreshment rooms or bars situated at any one station or airport, in which intoxicating liquor is sold, whether by the Administration itself or by a concessionary, one total sum equal to the sum payable in respect of a bar licence in the district in which such station or airport is situated;"

Amendment of section 60 *bis* of Act 70 of 1957.

36. Section *sixty bis* of the Control and Management Act is hereby amended by the substitution, in sub-section (6), for the words "one hundred pounds" of the words "two hundred rand".

Amendment of section 62 of Act 70 of 1957.

37. Section *sixty-two* of the Control and Management Act is hereby amended by the substitution, in sub-section (4), for the expression "*twenty, twenty-one and twenty-three* of the Railways and Harbours Service Act, 1925" of the expression "*twenty-three; twenty-four and twenty-six* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960)".

Amendment of section 63 of Act 70 of 1957.

38. Section *sixty-three* of the Control and Management Act is hereby amended by the substitution, in sub-section (2), for the words "two hundred pounds" of the words "four hundred rand".

Amendment of section 70 of Act 70 of 1957, as amended by section 42 of Act 44 of 1959.

39. Section *seventy* of the Control and Management Act is hereby amended—

(a) by the substitution, in paragraph (a) of sub-section (2), for the words "one thousand pounds" of the words "one thousand rand";

(b) by the substitution, in sub-section (4) *bis*, for the words "three pounds" of the words "six rand".

Amendment of section 71 of Act 70 of 1957.

40. Section *seventy-one* of the Control and Management Act is hereby amended by the substitution for the expression "South Africa Defence Act, 1912 (Act No. 13 of 1912)" of the expression "Defence Act, 1957 (Act No. 44 of 1957)".

Amendment of section 74 of Act 70 of 1957.

41. Section *seventy-four* of the Control and Management Act is hereby amended by the substitution for the expression "Crown Land Disposal (Execution of Deeds) Act, 1911 (Act No. 2 of 1911)" of the expression "State Land Disposal Act, 1961 (Act No. 48 of 1961)".

Amendment of Third Schedule to Act 70 of 1957.

42. The Third Schedule to the Control and Management Act is hereby amended by the substitution for the second column thereof of the following:

<u>"R c</u>
80.00 per head
40.00 " "
24.00 " "
16.00 " "
6.00 " "
4.00 " "
3.00 " "
2.00 " "
1.00 " "

Amendment of Fourth Schedule to Act 70 of 1957.

43. The Fourth Schedule to the Control and Management Act is hereby amended by the substitution, in paragraph (I), for the expression "£5" of the expression "R10".

Substitution of expressions "State President" and "Republic" for expressions "Governor-General" and "Union" in Act 70 of 1957.

44. The Control and Management Act is hereby amended by the substitution for the expression "Governor-General", wherever it occurs, except in section *forty-two*, of the expression "State President", and for the word "Union", wherever it occurs, of the word "Republic".

Amendment of section 1 of Act 22 of 1960, as amended by section 11 of Act 62 of 1961 and section 7 of Act 7 of 1963.

45. Section *one* of the Railways and Harbours Service Act, 1960 (hereinafter called "the Service Act") is hereby amended—

(a) by the substitution for the definition of the expression "Administration" in sub-section (1) of the following definition:

"'Administration' means the authority which, under the Railway Board Act, 1962 (Act No. 73 of 1962) administers and works the railways, ports and harbours of the Republic;"

(b) by the substitution for the definition of the expression "Railways and Harbours Board" in the said sub-section of the following definition:

"'Railways and Harbours Board' means the board referred to in section *two* of the Railway Board Act, 1962 (Act No. 73 of 1962);"

(c) by the substitution, in the definition of the expression "revenue" in the said sub-section, for the expression "one hundred and seventeen of the South Africa Act, 1909", of the expression "ninety-nine of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961)";

(d) by the substitution for the definition of the expression "the New Fund" in the said sub-section of the following definition:

"'the New Fund' means the New Railways and Harbours Superannuation Fund referred to in section *three* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960);"

Amendment of section 3 of Act 22 of 1960.

46. Section *three* of the Service Act is hereby amended by the substitution for the expression "1925 (Act No. 24 of 1925)" of the expression "1960 (Act No. 39 of 1960)".

Amendment of section 6 of Act 22 of 1960.

47. Section *six* of the Service Act is hereby amended by the deletion, in sub-section (3), of the word "and" at the end of paragraph (d), and of paragraph (e).

Amendment of section 7 of Act 22 of 1960.

48. Section *seven* of the Service Act is hereby amended by the substitution, in sub-section (4), for the words "fifty pounds" of the words "one hundred rand".

Amendment of section 13 of Act 22 of 1960, as amended by section 13 of Act 62 of 1961.

49. Section *thirteen* of the Service Act is hereby amended—

- (a) by the substitution, in paragraph (ii) of sub-section (1), for the expression "*seventy-four bis* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925)" of the expression "*fifty-eight* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960)";
- (b) by the substitution, in sub-section (2), for the expression "*seventy-four bis* of the Railways and Harbours Superannuation Fund Act, 1925" of the expression "*fifty-eight* of the Railways and Harbours Superannuation Fund Act, 1960";
- (c) by the substitution, in paragraph (a) of sub-section (4), for the expression "*thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925" of the expression "*thirty-two* of the Railways and Harbours Superannuation Fund Act, 1960";
- (d) by the substitution, in that part of paragraph (c) of sub-section (4) which follows sub-paragraph (ii), for the word "pounds" of the word "rand";
- (e) by the substitution, in paragraph (d) of sub-section (4), for the words "thirty-six pounds" of the words "seventy-two rand";
- (f) by the substitution, in paragraph (e) of sub-section (4), for the expression "*thirty-three* of the said Railways and Harbours Superannuation Fund Act, 1925" of the expression "*thirty-two* of the said Railways and Harbours Superannuation Fund Act, 1960".

Amendment of section 16 of Act 22 of 1960, as amended by section 3 of Act 54 of 1964.

50. (1) Section *sixteen* of the Service Act is hereby amended—

- (a) by the substitution for sub-paragraph (ii) of paragraph (c) of sub-section (1) of the following sub-paragraph: "*(ii) a driver, senior fireman, senior driver's assistant, fireman or driver's assistant of a locomotive; or*";
- (b) by the substitution for paragraph (d) of sub-section (1) of the following paragraph: "*(d) fifty-three years, if immediately prior to the attainment of that age he held the position of fleet captain, senior captain, captain, chief training captain, senior training captain, training captain, senior first officer, first officer, senior navigation officer or navigation officer in the airways department of the Service, or any other position in the said department the incumbent whereof is or may be required to perform duties on board an aircraft in flight, to which the Minister has by notice in the Gazette declared the said age of retirement to apply. Any position mentioned in any such notice shall be deemed to have been specifically mentioned in this paragraph.*";

(2) Paragraph (a) of sub-section (1) shall be deemed to have come into operation on the sixteenth day of August, 1962, and paragraph (b) of that sub-section shall be deemed to have come into operation, with respect to any officer occupying the position of chief training captain, senior training captain, training captain or senior first officer, as from the date on which he first began to occupy such position.

Amendment of section 20 of Act 22 of 1960, as amended by section 10 of Act 7 of 1963.

51. Section *twenty* of the Service Act is hereby amended by the substitution, in paragraph (a) of sub-section (2), for the words "two pounds" of the words "four rand".

Amendment of section 21 of Act 22 of 1960, as amended by section 11 of Act 7 of 1963.

52. Section *twenty-one* of the Service Act is hereby amended by the substitution, in paragraph (b) of sub-section (5), for the words "five pounds" of the words "ten rand".

Amendment of section 22 of Act 22 of 1960, as amended by section 12 of Act 7 of 1963.

53. Section *twenty-two* of the Service Act is hereby amended by the substitution, in paragraph (a) of sub-section (2), for the words "five pounds" of the words "ten rand".

Amendment of section 23 of Act 22 of 1960, as amended by section 14 of Act 62 of 1961 and section 13 of Act 7 of 1963.

54. Section *twenty-three* of the Service Act is hereby amended by the substitution for the words "two hundred pounds" of the words "four hundred rand".

Amendment of section 24 of Act 22 of 1960.

55. Section *twenty-four* of the Service Act is hereby amended by the substitution for the words "fifty pounds" of the words "one hundred rand".

Amendment of section 25 of Act 22 of 1960.

56. Section *twenty-five* of the Service Act is hereby amended by the substitution for the words "twenty pounds" of the words "forty rand".

Amendment of section 28*bis* of Act 22 of 1960, as inserted by section 16 of Act 7 of 1963.

57. Section *twenty-eight bis* of the Service Act is hereby amended—

(a) by the insertion after sub-section (1) of the following sub-section:

"(1)*bis* (a) Whenever in any criminal proceedings against a servant employed in a particular department, branch or division of the Service for having taken part, in contravention of sub-section (1), in a strike or in the continuation of a strike, it is proved that such concerted action as is described in paragraph (b) took place in that department, branch or division during the period covered by the charge, and that at any time during that period the accused was engaged upon work or a type of work with respect to the performance of which such a departure from standards, methods, procedures or practices as is referred to in sub-paragraph (i) of paragraph (b) had occurred, such concerted action shall be deemed to constitute a retardation of the progress of work or an obstruction of work within the meaning of the definition of "strike" contained in section *one*, and the accused shall be deemed to have taken part in such concerted action unless he proves that he personally was opposed to such action and in fact took no part in it, and that during the period covered by the charge he openly dissociated himself from such action.

(b) The concerted action referred to in paragraph (a) is any concerted action on the part of any number of servants which—

(i) involves a departure from standards, methods, procedures or practices which had previously been observed, maintained or adopted by those servants as their normal and regular routine in or in connection with the performance of their work;

(ii) has resulted in a diminution in the output or a reduction in the tempo of work or a prolongation of the time normally taken to perform particular tasks in the department, branch or division of the Service concerned; and

(iii) by reason of any circumstances referred to in sub-paragraph (ii) has had, or was likely to have if continued, a detrimental effect upon the punctuality, regularity or frequency of any of the Administration's transport services or upon the efficiency of the Service in general."

(b) by the insertion in sub-section (2) after the words "section one" of the words "(as amplified by sub-section (1) *bis* of this section)".

Amendment of section 32 of Act 22 of 1960, as amended by section 18 of Act 7 of 1963.

58. (1) Section *thirty-two* of the Service Act is hereby amended by the insertion, after paragraph (g) of sub-section (1), of the following paragraph:

"(g)*bis* the establishment, control and administration of a savings fund to which all non-white servants or any specified class of non-white servants shall be required to contribute; the scale of contributions and the manner in which contributions shall be paid by the servants for whose benefit the fund is administered; the investment of the moneys in the fund; the payment

from the fund of the amount contributed thereto by a servant, plus interest thereon, in the event of the servant's dying or for any reason leaving the Service; the calculation of the amount of such interest; the person or persons to whom any amount becoming payable from the fund in the event of a contributor's death, shall be paid; and the circumstances and conditions under which a contributor may be granted a refund of his contributions, with or without interest thereon, whilst still in the Service;"

(2) Any regulations made under paragraph (g)*bis* of sub-section (1) of section *thirty-two* of the Service Act, as inserted by paragraph (b) of sub-section (1) of this section, may be given retrospective effect from a date not earlier than the sixteenth day of December, 1964.

Amendment of section 33 of Act 22 of 1960.

59. Section *thirty-three* of the Service Act is hereby amended by the substitution for the expression "*thirty-four bis* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925)" of the expression "*thirty-four* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960)".

Substitution of expressions "State President" and "Republic" for expressions "Governor-General" and "Union" in Act 22 of 1960.

60. The Service Act is hereby amended by the substitution for the expressions "Governor-General" and "Union", wherever they occur, of the expressions "State President" and "Republic" respectively, except where it appears from the context of any particular provision that any reference therein to "Governor-General" or to "Union" must be retained in order to give effect to the true meaning and intent of such provision.

Amendment of section 1 of Act 39 of 1960, as amended by section 15 of Act 62 of 1961 and section 19 of Act 7 of 1963.

61. Section *one* of the Railways and Harbours Superannuation Fund Act, 1960 (hereinafter referred to as "the Superannuation Fund Act") is hereby amended—

(a) by the substitution, for the definition of the expression "Administration", of the following definition:

"'Administration' means the authority which, under the Railway Board Act, 1962 (Act No. 73 of 1962) administers and works the railways, ports and harbours of the Republic;"

(b) by the substitution, in the definition of the expression "revenue", for the expression "*one hundred and seventeen* of the South Africa Act, 1909" of the expression "*ninety-nine* of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961)".

Amendment of section 6 of Act 39 of 1960.

62. Section *six* of the Superannuation Fund Act is hereby amended by the substitution, in paragraph (c) of sub-section (1), for the words "Union Government" of the words "Government of the Republic".

Amendment of section 8 of Act 39 of 1960, as amended by section 16 of Act 62 of 1961.

63. Section *eight* of the Superannuation Fund Act is hereby amended by the insertion in paragraph (b) of sub-section (2), after the word "Union", of the words "or of the Republic".

Amendment of section 18 of Act 39 of 1960, as amended by section 21 of Act 7 of 1963.

64. Section *eighteen* of the Superannuation Fund Act is hereby amended by the substitution in the headings to the tables appearing in sub-sections (1) and (3), for the words "Number of pounds for each pound of annuity commuted" of the words "Number of rands for each rand of annuity commuted" and for the symbol "£" of the symbol "R".

Amendment of section 30 of Act 39 of 1960, as amended by section 20 of Act 62 of 1961.

65. Section *thirty* of the Superannuation Fund Act is hereby amended—

(a) by the substitution, in sub-section (4), for the word "pounds" of the word "rand", and for the symbol "£", in the heading to the table appearing in that sub-section, of the symbol "R";

(b) by the substitution, in sub-section (5), for the words "thirty-six pounds", wherever they occur, of the words "seventy-two rand".

Amendment of section 31 of Act 39 of 1960.

66. Section *thirty-one* of the Superannuation Fund Act is hereby amended—

(a) by the substitution, in sub-section (2), for the word "pounds" of the word "rand";

(b) by the substitution, in sub-section (3), for the words "thirty-six pounds" of the words "seventy-two rand".

Amendment of section 51 of Act 39 of 1960.

67. Section *fifty-one* of the Superannuation Fund Act is hereby amended—

- (a) by the substitution, in paragraph (b) of sub-section (3), for the word “pounds” of the word “rand”;
- (b) by the substitution, in the heading to the table appearing in that paragraph, for the symbol “£”, wherever it occurs, of the symbol “R”;
- (c) by the substitution, in sub-section (4), for the words “thirty-six pounds” of the words “seventy-two rand”.

Amendment of section 56 of Act 39 of 1960.

68. Section *fifty-six* of the Superannuation Fund Act is hereby amended—

- (a) by the substitution, in the heading to the table appearing in sub-section (1), for the words “Number of pounds for each pound of annuity commuted” of the words “Number of rands for each rand of annuity commuted”, and for the symbol “£” of the symbol “R”;
- (b) by the substitution, in sub-section (3), for the word “pound” of the word “rand”.

Substitution of expressions “State President” and “Republic” for expressions “Governor-General” and “Union” in Act 39 of 1960.

69. The Superannuation Fund Act is hereby amended by the substitution for the expressions “Governor-General” and “Union”, wherever they occur, of the expressions “State President” and “Republic”, respectively, except where it appears from the context of any particular provision that any reference therein to “Governor-General” or “Union” must be retained in order to give effect to the true meaning and intent of such provision.

Amendment of section 1 of Act 41 of 1960.

70. Section *one* of the Level Crossings Act, 1960, is hereby amended by the substitution for the definition of the expression “Administration” of the following definition:

“‘Administration’ means the authority which, under the Railway Board Act, 1962 (Act No. 73 of 1962), administers and works the railways, ports and harbours of the Republic;”.

Amendment of section 2 of Act 41 of 1960.

71. Section *two* of the Level Crossings Act, 1960, is hereby amended by the substitution, in sub-section (2), for the words “seven hundred and fifty thousand pounds” of the words “one million five hundred thousand rand”.

Amendment of section 3 of Act 41 of 1960.

72. Section *three* of the Level Crossings Act, 1960, is hereby amended—

- (a) by the substitution, in paragraph (a) of sub-section (2), for the word “ten” of the word “eleven”;
- (b) by the substitution, in sub-paragraph (i) of that paragraph, for the word “three” of the word “four”, and by the addition at the end of that sub-paragraph of the words “and one of whom shall be a person qualified in signal engineering;”;
- (c) by the substitution, in sub-section (3), for the words “civil engineering” of the words “civil or signal engineering, as the case may be,”.

Amendment of section 4 of Act 41 of 1960.

73. Section *four* of the Level Crossings Act, 1960, is hereby amended by the substitution, in sub-section (1), for the word “Union” of the word “Republic”.

Amendment of section 6 of Act 41 of 1960, as amended by section 22 of Act 62 of 1961.

74. Section *six* of the Level Crossings Act, 1960, is hereby amended by the substitution, for sub-sections (1) and (2), of the following sub-sections:

“(1) Whenever the Administration has entered into an agreement with a provincial administration or with a provincial administration and a divisional council, where a divisional council is also concerned, with respect to the elimination of a level crossing situated on a public road for the cost of maintenance whereof such provincial administration is wholly or partly responsible by law, or to which it contributes (whether such crossing is situated within or outside the area of a divisional council), there shall be defrayed from the Fund—

- (a) where the elimination of such level crossing is to be effected by means of a structure, such portion of the total cost of the work of elimination as the Administration has in terms of such agreement undertaken to bear, but not exceeding seventy-five per cent. of such cost;
- (b) where the elimination of such level crossing is to be effected by means of a structure in conjunction with a road or a rail deviation, or both a road and a rail deviation, such portion of the total cost of the work of elimination as the committee may in its discretion determine, but not exceeding such portion of

the total cost of the work of elimination as the Administration has in terms of such agreement undertaken to bear, or a sum equal to seventy-five per cent. of such cost, whichever is the lesser;

- (c) where the elimination of such level crossing is to be effected by means of a bridge or subway for pedestrians, with or without approach roads for diverting road traffic to an existing or contemplated vehicular structure, such portion of the total cost of the work of elimination as the Administration has in terms of such agreement undertaken to bear, but not exceeding seventy-five per cent. of such cost;
- (d) where the elimination of such level crossing is to be effected by means of a road or rail deviation alone, such portion of the total cost of the work of elimination as the committee may in its discretion determine, but not exceeding such portion of the total cost of the work of elimination as the Administration has in terms of such agreement undertaken to bear, or a sum equal to seventy-five per cent. of such cost, whichever is the lesser:

Provided that where the level crossing to which such agreement relates is situated on a "declared road" as defined in section *one* of the National Roads Act, 1935 (Act No. 42 of 1935), there shall be paid from the Fund to the National Roads Fund established under section *five* of the said Act, over and above any amount which may be payable to the Administration in terms of paragraph (a), (b), (c) or (d) of this sub-section, such amount (not exceeding twenty-five per cent. of the cost of the work of elimination) as is payable from the said National Roads Fund to a provincial administration or a local authority, whether by law or by virtue of an agreement, in respect of the cost of elimination of such level crossing.

(2) Whenever the Administration has entered into an agreement with a local authority, other than a divisional council, for the elimination of a level crossing situated on a public road within the area of such local authority, the provisions of sub-section (1) shall apply: Provided that if the Administration has by such agreement undertaken to bear the full cost of the work of elimination, or a share of such cost which is greater than the amount which may be defrayed from the Fund in terms of paragraph (a), (b), (c) or (d) of sub-section (1), whichever may be applicable, the committee may, if it is satisfied that by reason of its financial circumstances the local authority is not reasonably able to make any contribution towards such cost or a greater contribution thereto than it has agreed to make, by resolution determine that there shall be defrayed from the Fund the full cost of the work of elimination, if the Administration has in terms of such agreement undertaken to bear the full cost, or such portion of the said cost as the Administration has so undertaken to bear: Provided further that where the committee has at any time prior to the conclusion of such agreement, intimated to the Administration its opinion that the local authority concerned would, by reason of its financial circumstances, not reasonably be able to bear twenty-five per cent. of the cost involved in the elimination of such level crossing and that the Administration would be justified in bearing a larger portion of such cost than seventy-five per cent. thereof, and the Administration thereafter by agreement with the local authority undertakes to bear the whole of such cost or a larger portion than seventy-five per cent. thereof, the case shall be dealt with in terms of the first proviso to this sub-section, and no further resolution by the committee shall be required."

Insertion of new section in Act 41 of 1960.

75. The following section is hereby inserted after section *eight* of the Level Crossings Act, 1960:

"Cost of certain protective devices or measures may be defrayed from the Fund.

8bis. (1) If the committee has communicated to the General Manager its opinion that, having regard to the conditions obtaining at a particular level crossing, whether or not such crossing is included in the list, it would be desirable in the public interest that flashing lights, booms or gates or any other kind of protective measure be provided or adopted at that crossing, and

the Administration thereafter provides or adopts at that crossing the particular type of protective device or measure which the committee has recommended, the cost involved in providing or adopting such protective device or measure (including the remuneration of crossing attendants) may, subject to the succeeding provisions of this section, be defrayed from the Fund.

(2) Where the adoption of any such protective measure involves recurrent expenditure, such expenditure shall not be defrayed from the Fund for a longer period than that stipulated by the committee in recommending the adoption of that measure: Provided that such period may, in the discretion of the committee, be extended from time to time.

(3) The committee may at any time recommend to the General Manager that any protective device or measure which has been provided or adopted at a level crossing pursuant to a recommendation under sub-section (1), be replaced by a protective device or measure of a different type, and if the Administration thereupon gives effect to such recommendation, the cost involved in providing or adopting such last-mentioned protective device or measure may, subject to the provisions of sub-section (2), be defrayed from the Fund.

(4) Whenever a protective device has been provided at a level crossing pursuant to a recommendation of the committee under this section, there may be defrayed from the Fund, if the committee so decides, in addition to the cost involved in the initial installation of the device, also the cost involved in maintaining it, either for an indefinite time or for such fixed period as the committee may determine: Provided that such fixed period may, in the discretion of the committee, be extended from time to time.

(5) Whenever any protective device, the cost of which has been financed from the Fund in terms of this section, is subsequently removed or dismantled and any usable material is recovered, there shall be paid into the Fund—

- (a) if the Administration decides to retain such material for its own purposes, the net value of such material; or
- (b) if the Administration decides to dispose of such material, the net proceeds of sale, after deduction of the costs of removal or dismantling.”.

Amendment of section 3 of Act 73 of 1962.

76. Section *three* of the Railway Board Act, 1962, is hereby amended by the insertion after sub-section (2) of the following sub-section:

“(2)*bis* (a) Any regulations made under sub-section (2) may—

(i) include provisions with regard to the establishment, constitution, powers, functions, duties and procedure of the Railways and Harbours Tender Board, and matters incidental thereto, and with regard to the issue by the Minister, after consultation with the board, of instructions aimed at ensuring the proper implementation of the tender procedure provided for in such regulations;

(ii) notwithstanding anything to the contrary in any other law contained, and apart from any other remedies prescribed in such regulations, empower the General Manager to impose a monetary penalty, calculated on such basis or bases as may be prescribed therein, on any person to whom a contract or order for the supply of goods or services to the Administration has been awarded on the strength of information furnished by such person which, subsequent to the award, is shown to have been incorrect information, and may prescribe the manner in which any such penalty may be recovered.

(b) Nothing in this sub-section contained shall be deemed to require the republication in the *Gazette* of the

existing regulations relating to the establishment, constitution, functions, powers and duties of the Railways and Harbours Tender Board.”.

Insertion of new section in Act 73 of 1962.

77. The following section is hereby inserted after section six of the Railway Board Act, 1962:

“Applica- 6bis. This Act and any amendment thereof shall
tion of Act apply also to the Territory of South West Africa.”
to South
West Africa.

Option to members of New Superannuation Fund to contribute in respect of periods of previous non-contributory service.

78. (1) A member of the New Fund who was admitted to membership thereof prior to the first day of January, 1949, and who, immediately prior to the date of such admission, was employed in a temporary or a casual capacity, shall have the right to elect, subject to the succeeding provisions of this section, to contribute to that fund in respect of the period of his continuous service prior to the said date but not from a date earlier than that upon which he attained the age of sixteen years, and he shall not be precluded from electing so to contribute because he had exercised or failed to exercise any option that had previously been available to him under any other law.

(2) The election provided for in sub-section (1) shall be exercised within a period of three months after the date on which there is furnished to the member by the Administration's Chief Accountant a statement of the arrear contributions and interest that will become payable by him to the New Fund should he decide to contribute in respect of any such period of continuous service as is referred to in that sub-section.

(3) (a) If a member elects to contribute in respect of any such period of continuous service he shall be required to pay arrear contributions to the New Fund according to his age at the date from which contributions are due to be paid, at the appropriate rate calculated on the pensionable emoluments drawn by him during the period to be covered, and he shall pay compound interest on such arrear contributions in respect of any period up to the date or dates upon which payment thereof is actually made, at the rate of four and one-half per cent. per annum, compounded quarterly.

(b) The said arrear contributions and interest may be paid in one amount, or by such monthly instalments as may be determined by the Administration's Chief Accountant in consultation with the member concerned.

(4) (a) If a member referred to in sub-section (1) dies or retires or is retired from the Service on the ground of superannuation or by reason of severe bodily injury occasioned without his own default, or by reason of permanent ill-health or physical disability in respect of which a railway medical officer or such practitioner or board as may be prescribed in terms of the applicable pension law, has not certified that it was occasioned by the member's own default, or in consequence of a reduction or re-organisation of staff—

(i) before the statement referred to in sub-section (2) has been furnished to him; or

(ii) within three months after such statement was furnished to him but before he has exercised the election referred to in sub-section (1),

he shall be deemed to have elected to contribute in respect of such period of continuous service as is referred to in sub-section (1), and any benefit payable to the member or to some other person in respect of his death shall be calculated as if the amount payable in terms of sub-section (3) had been paid in full at the time of the member's death or retirement, as the case may be: Provided that in the case of a member who has died, the provisions of this paragraph shall be given effect to only if it would be to the advantage of the member's widow or other dependant to do so.

(b) If a member who has elected to contribute in respect of any such period of continuous service as is referred to in sub-section (1), dies or leaves the Service for any of the reasons mentioned in paragraph (a) of this sub-section before the amounts payable in terms of sub-section (3) have been paid in full, any benefit payable to the member or to some other person in respect of his death, shall be calculated

as if such amounts had been paid in full at the time of the member's death or retirement, as the case may be.

(c) (i) Upon the death or retirement of a member to whom paragraph (a) or (b) of this sub-section applies, any amount payable in terms of sub-section (3) which has not then been paid or paid in full, shall be recovered by deduction from any benefit payable to the member or to some other person in respect of his death;

(ii) for the purpose of sub-paragraph (i) the expression "benefit" shall be deemed to include, in relation to a deceased member, the capital sum on which in terms of the applicable pension law, the calculation of any annuity payable to his widow is based.

(5) If a member who has elected to contribute in respect of such period of continuous service as is referred to in sub-section (1) ceases to be a servant under the circumstances mentioned in sub-section (1) of section *thirteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), before the amounts payable by him in terms of sub-section (3) of this section have been paid in full, and an annuity is granted to him under the said section, there shall be taken into account, for the purpose of calculating the amount of such annuity, only such portion of the said period of service as has actually been covered by contributions at the date upon which the member ceased to be a servant.

(6) Any expression to which a meaning is assigned in section *one* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), shall, when used in this section, have the meaning so assigned to it.

Validation of certain changes in conditions of employment.

79. All changes in conditions of employment for which provision is made in any regulation published under any Government Notice mentioned in the Schedule to this Act, and which were brought into operation with retrospective effect or in respect whereof the amending regulations were not approved by the State President until after the expiration of the period of three months mentioned in sub-section (3) of section *thirty-two* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), are hereby validated with effect from the dates as from which such changes were respectively brought into operation.

Application of Act to South West Africa.

80. This Act shall apply also to the Territory of South-West Africa.

Short title.

81. This Act shall be called the Railways and Harbours Acts Amendment Act, 1965.

Schedule.

<i>Number of Government Notice.</i>	<i>Date of Publication.</i>
R678	10.5.1963
R1222	14.8.1964
R1238	14.8.1964
R1490	25.9.1964