

No. 62, 1962.]

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 Railway Board Act, 1916; the Railways and Harbours Pensions Amendment Act, 1941; the Railway Construction Act, 1956; the Railways and Harbours Control and Management (Consolidation) Act, 1957; and the Railways and Harbours Service Act, 1960; and to provide for certain incidental matters.

(English text signed by the State President.)  
(Assented to 29th May, 1962.)

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

1. Section *three* of the Railway Board Act, 1916, is hereby amended by the substitution in paragraph (e) of sub-section (1) for the word "five" of the word "ten". Amendment of section 3 of Act 17 of 1916.

2. (1) The following section is hereby substituted for section *three* of the Railways and Harbours Pensions Amendment Act, 1941: Substitution of section 3 of Act 26 of 1941.

"Scale of annuities or gratuities.

3. (1) If a person mentioned in section *two* has served as aforesaid during any such period as is mentioned in paragraph (a), (b) or (c) of sub-section (2) he shall, subject to the provisions of sub-section (3) of section *four*, be entitled to such benefit as is provided for in whichever of the said paragraphs is applicable in his case: Provided that in no case shall the benefit payable to any such person be less than it would have been had the Railways and Harbours Acts Amendment Act, 1962, not been passed.

(2) If such person has served as aforesaid during a period of—

- (a) five years or longer, but less than fifteen years, he shall be entitled to a gratuity equal to three-quarters of the aggregate of his emoluments for the last thirteen weekdays of his service for which he earned full emoluments, in respect of each year of his service;
- (b) fifteen years or longer, but less than twenty-five years, he shall be entitled to an annuity not exceeding one-half of his average annual emoluments during the last ten years of his service, calculated upon the following scale:

<i>Emoluments on the date immediately preceding the date of retirement:</i>	<i>Amount of annuity:</i>
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at a rate of—

- |   |  |
|---|--|
| (i) one rand forty-two cents or more per day .. ..    | three rand fifty cents per annum in respect of each year of his service; |
| (ii) less than one rand forty-two cents per day .. .. | three rand per annum in respect of each year of his service;             |

or, at his request and with the concurrence of the General Manager, to a gratuity equal to one-eighteenth of his average annual emoluments during the last ten years of his service, in respect of each year of service: Provided that for the purpose of calculating such gratuity the said average annual emoluments shall be determined in the manner provided in sub-section (3);

- (c) twenty-five years or longer, he shall be entitled to an annuity calculated upon the following scale:

<i>Emoluments on the date immediately preceding the date of retirement:</i>	<i>Amount of annuity:</i>
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at a rate of—

- |  |  |
|--|--|
| (i) one rand forty-two cents or more per day .. .. | five rand fifty cents per annum in respect of each year of his service, not exceeding forty years; |
| (ii) less than one rand forty-two cents per day .. | four rand fifty cents per annum in respect of each year of his service, not exceeding forty years; |

or to an annuity equal to two-thirds of his average annual emoluments during the last ten years of his service, whichever is the less; or, at his request and with the concurrence of the General Manager, to a gratuity equal to one-twelfth of his average annual emoluments during the last ten years of his service, in respect of each year of his service, not exceeding forty years: Provided that for the purpose of calculating such gratuity the said average annual emoluments shall be determined in the manner provided in sub-section (3).

(3) For the purpose of calculating the gratuity referred to in paragraphs (b) and (c) of sub-section (2), the average annual emoluments of the person concerned during the last ten years of his service shall be determined by dividing by ten the sum of—

- (a) one and one-third of the total emoluments earned by him during that part of the said period of ten years which preceded the fixed date; and
- (b) three-quarters of the total emoluments earned by him during the remaining part of the said period of ten years.

(4) For the purposes of this section, 'fixed date' means—

- (i) in relation to an officer, or an employee paid on a calendar month basis, the first day of April, 1961; or
- (ii) in relation to an employee other than one referred to in paragraph (i), the sixteenth day of March, 1961."

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1961, in the case of officers and of employees paid on a calendar month basis, and on the sixteenth day of March, 1961, in the case of all other employees.

3. (1) Section four of the Railways and Harbours Pensions Amendment Act, 1941, is hereby amended by the substitution of section 4 of Act 26 of 1941. in sub-section (1) for the word "one-quarter" of the word "three-sixteenths".

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1961, in the case of officers and of employees paid on a calendar month basis, and on the sixteenth day of March, 1961, in the case of all other employees.

4. (1) The Schedule to the Railway Construction Act, 1956, is hereby amended by the substitution of the following for the description, approximate length and estimated cost of the first line of railway, and the description of the second line of railway, mentioned in that Schedule: Amendment of Schedule to Act 43 of 1956.

“Description of line.	Approximate	Estimated
	length. Miles.	cost. £
1. From Woltemade to Nyanga. (Province of the Cape of Good Hope).	7·7	2,459,610
2. From a point on the existing line between Bellville and Kuils River at 13 miles 65 chains, to a junction with the new line from Woltemade to Nyanga (referred to in item 1 of this Column) at 7 miles 38 chains, including a connection approximately 28 chains in length, to afford an additional link with that line. (Province of the Cape of Good Hope).”		

(2) Any expenditure incurred in connection with the construction and equipment of the first line of railway mentioned in the Schedule to the said Railway Construction Act, 1956, as amended by sub-section (1), shall, together with any expenditure incurred in connection with the construction and equipment of any portion thereof prior to the commencement of this Act, not exceed in the aggregate the amount shown in the third column of the said Schedule, as amended by sub-section (1), opposite the description of the said line.

5. Section *one* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended— Amendment of section 1 of Act 70 of 1957, as amended by section 6 of Act 62 of 1961.

(a) by the insertion, after the definition of the expression “Administration’s jurisdiction” in sub-section (1), of the following definition:

“(ii)*bis* ‘Bantu beer’ means—

(a) the drink generally known as kaffir beer and commonly brewed by Bantu from kaffir corn or millet or other grain; and

(b) any other fermented liquor which the State President may from time to time, by Proclamation in the *Gazette*, declare to be Bantu beer; ((ii) *bis*)”; and

(b) by the substitution, in the definition of the expression “intoxicating liquor” in that sub-section, for the word “Kaffir” of the word “Bantu”.

6. Section *three* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended— Amendment of section 3 of Act 70 of 1957, as amended by section 43 of Act 30 of 1959, section 2 of Act 2 of 1960, and section 7 of Act 62 of 1961.

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

“(jj)*bis* the sale or supply of intoxicating liquor to Bantu servants and the brewing of Bantu beer in terms of section *sixty bis*”;,

(b) by the substitution, in sub-section (6), for the words “this Act and of such harbour and quarantine regulations” of the words “such harbour regulations”, and by the deletion in the proviso to the said sub-section of the words “this Act and of”.

7. Section *twenty-six* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended by the substitution for sub-section (4) of the following sub-section: Amendment of section 26 of Act 70 of 1957.

“(4) (a) Any person who delivers goods upon a railway and, in any consignment note, waybill or other document which under this Act he is required to deliver in respect of those goods, wilfully makes a false statement as to the nature, quantity, weight or measurement of such goods, or as to the purpose for which the goods are intended to be used after having been transported, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(b) If in any such document there be any understatement of the quantity, weight or measurement of the goods, or any misdescription of their nature, the Administra-

tion may, irrespective of any person's liability under sub-section (3) and whether the understatement or misdescription was wilful or not—

- (i) if the understatement or misdescription is detected before the transport of the goods has commenced, refuse to carry the goods except upon payment of freight at such special rate, not exceeding double the ordinary rate, as the Administration may specifically fix; or
- (ii) if the understatement or misdescription has led to the goods being charged for at less than the proper rate, recover from any person who was responsible for the understatement or misdescription, whether or not according to the contract of carriage that person was responsible for the payment of the freight in the first instance, a sum which, together with any amount already paid in respect of freight, is equal to twice the ordinary rate of freight:

Provided that the Administration may waive or, as the case may be, refund the whole or a portion of any such excess charge if it is satisfied that the understatement or misdescription was not wilfully made or given.

- (c) If in consequence of any statement, contained in any such document as aforesaid, that the goods to which the document relates are intended for use for a particular purpose, such goods have been transported at a rate lower than that applicable to goods of the same description not intended for such use, and it thereafter appears that the said goods have not been used for that purpose or that the conditions governing the transport of the goods at such lower rate have otherwise not been complied with, the Administration shall be entitled to recover from any person who has had the benefit of such lower rate, whether or not according to the contract of carriage such person was responsible for the payment of the freight in the first instance, a sum which, together with any amount already paid in respect of freight, is equal to twice the ordinary rate of freight: Provided that the Administration may waive or, as the case may be, refund the whole or a portion of any such excess charge if such person satisfies the Administration that the statement aforesaid was made in good faith and that the goods were not used for the specified purpose, or that the said conditions were not complied with, through circumstances beyond that person's control."

8. The following section is hereby inserted after section *sixty* of the Railways and Harbours Control and Management (Consolidation) Act, 1957: Insertion of new section 60bis in Act 70 of 1957.

"Sale of intoxicating liquor to Bantu servants of the Administration.

**60bis.** (1) Notwithstanding anything in any other law contained, but subject to the provisions of sub-sections (3) and (4), the Administration may—

- (a) sell or supply intoxicating liquor or any particular kind of intoxicating liquor to any Bantu servant of the age of eighteen years or more, in any building or room forming part of a compound or hostel maintained by the Administration for the accommodation of its Bantu servants and approved by the Minister for the purposes of this section;

- (b) undertake the brewing of any Bantu beer required for the purposes of sale or supply to Bantu servants in terms of paragraph (a).

(2) Any Bantu servant referred to in sub-section (1) may purchase liquor from the Administration and may possess liquor sold or supplied to him in terms of that sub-section.

(3) The sale or supply of intoxicating liquor in terms of sub-section (1) shall be for consumption only in the building or room in which the sale

or supply takes place, and such sale or supply, as well as the brewing of Bantu beer in terms of that sub-section, shall be subject to any applicable regulation.

(4) If any such compound or hostel is situated within the area of jurisdiction of a local authority which, in terms of any law, has the right or has been permitted to brew, sell and supply Bantu beer, and such local authority is able and willing to supply the Administration with as much Bantu beer as it requires for the purpose of sale or supply in such compound or hostel in terms of sub-section (1), the Administration shall, if that local authority so requires, obtain from that local authority all the Bantu beer which it requires for the aforementioned purpose, and the price to be paid for such beer and the conditions relating to the supply thereof shall, in the absence of agreement between the Administration and the local authority, be determined and, if need be, redetermined from time to time, by the Minister of Bantu Administration and Development.

(5) The net profits derived by the Administration from the sale of intoxicating liquor in terms of sub-section (1) shall be paid to the Benevolent Fund and the Railway Institutes Fund referred to in section *thirty-four* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), in such proportions as the Minister may direct, and shall be applied to the purposes of those funds in such manner as in the opinion of the Administration will best serve the interests of its non-European servants.

(6) Any servant who is employed in connection with the sale or supply of intoxicating liquor to Bantu servants in terms of sub-section (1) and who knowingly sells or supplies liquor to any person to whom or at a time when or under circumstances whereunder it may not lawfully be supplied under the provisions of sub-section (1) or (3) or of any applicable regulation, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or, in default of payment, to imprisonment for a period not exceeding twelve months, or to such imprisonment without the option of a fine, or both such fine and such imprisonment.

(7) For the purposes of this section the expression 'Bantu' shall mean a Native as defined in section *one* of the Population Registration Act, 1950 (Act No. 30 of 1950)."

9. Section *sixty-four* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended by the substitution, in paragraph (a) of the proviso to sub-section (3), for the word "or" of the word "and".

Amendment of section 64 of Act 70 of 1957.

10. Section *four* of the Railways and Harbours Service Act, 1960, is hereby amended by the substitution for sub-section (1) of the following sub-section:

Amendment of section 4 of Act 22 of 1960.

"(1) (a) After the commencement of the Railways and Harbours Acts Amendment Act, 1962, no person shall be appointed in a permanent capacity or on probation or in a temporary capacity to any office or post in the Service unless such person is a citizen of the Republic of South Africa and is of good character and free from any mental or physical defect, disease or infirmity which would be likely to interfere with the proper performance of his duty or to render necessary his retirement therefrom earlier than the prescribed age of retirement: Provided that a person other than a South African citizen who at the date of commencement of the said Act is in the employment of the Administration—

(i) in a casual capacity or under contract, or

(ii) in a temporary capacity, may nevertheless at any time prior to the first day of January, 1966, be appointed to an office or post in the Service, in the first-mentioned case, in a temporary or permanent capacity or on probation, or in the last-mentioned case, on probation or in a permanent capacity, even though he is not a citi-

zen of the Republic of South Africa, provided he has remained in the employment of the Administration continuously between the said date of commencement and the date of his appointment.

- (b) For the purposes of paragraph (a) the expression 'person other than a South African citizen' means a British subject including a citizen of the Commonwealth of Australia, the Dominion of Canada, the Dominion of New Zealand, the Federation of Rhodesia and Nyasaland or the Republic of Ireland."

11. (1) Section *fourteen* of the Railways and Harbours Service Act, 1960, is hereby amended by the insertion in the proviso to sub-section (3), after the words "for any" of the word "other", and after the words "or for" of the words "any other".

Amendment of section 14 of Act 22 of 1960.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of July, 1960.

12. This Act, with the exception of section *four*, shall apply to the Territory of South West Africa.

Application of Act to South West Africa.

13. This Act shall be called the Railways and Harbours Acts Amendment Act, 1962.

Short Title.