

No. 33, 1922.]

ACT

To make provision for the taking over by the Union Government of all War Department lands and buildings and certain Admiralty lands in the Union; for the conserving of them for defence purposes; and, further, to make certain financial and other provision in respect of matters incidental thereto.

WHEREAS His Majesty's Government of the Union of South Africa (hereinafter called the Government of the Union), has assumed, as from the 1st day of December, 1921, responsibility for the land defences of the Union and for any military measures which it may be necessary to take for the defence and security of the Union :

AND WHEREAS His Majesty's Government of the United Kingdom (hereinafter called the Government of the United Kingdom) did agree that upon the Government of the Union assuming the responsibilities aforesaid there should be relinquished in favour of, and transferred to, the Government of the Union all the right, title and interest in, to and over certain lands and interests in land hereinafter mentioned and situate in the Union, together with the buildings on such lands :

AND WHEREAS the Government of the Union did agree and undertake to hold and use the properties thus relinquished and transferred, exclusively for the benefit of the defence force organizations and establishments and land defences of the Union or to conserve the value of them for the benefit of the said organizations, establishments and defences :

AND WHEREAS the Government of the United Kingdom did agree to transfer to the Government of the Union, the freehold of certain lands originally granted to the Lords Commissioners of the Admiralty to be used for naval purposes :

AND WHEREAS in order to give effect to the agreements aforesaid it is necessary to make provision for the registration of such transfer, and the use of such properties after transfer and to make certain financial and other provisions incidental to the transfer and the use of such properties :

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 :—

1. (1) All lands and interests in land in the Union heretofore held by or reserved for the use of His Majesty's War Department, as specified in the Schedule to this Act, shall, together with the buildings on such lands, be deemed to have been or to be transferred to the Government of the Union as from the date specified opposite the description of the property in the said Schedule and shall be held by it subject to the provisions of this Act and subject also, so far as they may be applicable, to the conditions imposed by the title deeds or other deeds of such lands or interests in land and subject also to any obligations and liabilities incurred by the said War Department, existing at the said date in respect of the said property.

(2) All such lands and interests in land with the buildings aforesaid shall be defence endowment property and are referred to hereafter in this Act as endowment property.

2. (1) The registrar of deeds in charge of the deeds registry in which is registered any title deed of, or other deed relating to any endowment property shall, when any such deed is produced to him, endorse thereon, and at the same time

Transfer to
Union of
War Depart-
ment land
and
buildings.

Registration
of transfer of
defence
endowment
property.

on the duplicate original thereof (if any) filed in such registry, the fact of the transfer under section *one* and shall make in the proper registers in the deeds registry such entries as will effectually record such transfer: Provided that if the original of any deed is not produced to such registrar endorsement of the fact of such transfer on the said duplicate original only (if any), shall have the same effect as endorsement on the original deed.

(2) Whenever Crown lands have been set apart or reserved at any time for the purposes of the War Department of the Government of the United Kingdom, without any document of title relating thereto, having been registered in a deeds registry, and such setting apart or reservation has been recorded on the plans and records filed in the office of a surveyor-general, such surveyor-general shall make such alterations and endorsements on his plans and records without payment of any fee of office or other charge, as will effectually record the relinquishment of the property by the Government of the United Kingdom in favour of the Government of the Union.

(3) No transfer duty, stamp duty, or any registration fees or charges shall be payable in respect of any transfer under this section.

3. (1) Subject to the powers of appropriation, reservation, sale or lease hereinafter conferred, endowment property shall be held and maintained for the use and benefit of the Union Defence Forces, or any portion thereof.

(2) Whenever the Minister of Defence certifies under his hand that any endowment property is not required or is not likely to be required for the purpose of the Union Defence Forces, the Governor-General may, subject to the provisions of this Act and notwithstanding anything contained in any law relating to the disposal of Crown land—

- (a) appropriate such property to, or reserve it for the use of, any department of State (other than the Railways and Harbours Administration) for any public purpose for which it is or is likely to be required; or
- (b) cause such property to be sold or leased to—
 - (i) the Railways and Harbours Administration;
 - (ii) any provincial administration;
 - (iii) any local authority empowered by law to own or hold a lease of land and having jurisdiction where such property is situate; or
 - (iv) any person or body of persons corporate or unincorporate.

(3) Whenever endowment property is appropriated or reserved under paragraph (a) of sub-section (2) the value thereof shall be determined by a method of assessment approved by the Minister of Defence and the Treasury.

(4) Whenever endowment property is sold or leased under paragraph (b) of sub-section (2), then—

- (i) in case of a sale, the purchase price shall be likewise determined; and
- (ii) in case of a lease, the rent payable under and in terms and conditions of the lease shall be likewise approved:

Provided that in the case of a sale as aforesaid to a local authority or to a person or body of persons the method and the terms and conditions of payment of the purchase price may include provisions for an exchange of the property for other immovable property and, in the case only of a sale to a local authority, it may be agreed with the local authority that payment of the purchase price shall be deferred on its being secured by a first mortgage bond or in any other manner approved by the Treasury, the rate of interest on the payment so deferred being likewise approved.

Use of
defence
endowment
property.

(5) Notwithstanding anything to the contrary in this section contained, the Governor-General may grant to the Railways and Harbours Administration—

- (a) the same rights of user for railway purposes in respect of certain pieces of land which were held under written agreement immediately prior to the first day of December, 1921, from His Majesty's War Department and which under this Act become endowment property, on the same terms and conditions as that Administration then so held those rights ;
- (b) rights of user for railway purposes, on such terms and conditions as the Governor-General may determine, over and on such portion of the property known as Lords Ground, Durban, and described as item 3 in the Schedule to this Act, as the Minister of Defence may certify in writing under his hand is not required or likely to be required for the purpose of the Union Defence Forces.

Defence
endowment
account.

4. (1) A special account shall be established called the "defence endowment account" to which shall be credited the value of any endowment property appropriated or reserved under paragraph (a) of sub-section (2) of the last preceding section and into which shall be paid—

- (a) the amount of the purchase price of any endowment property sold under this Act ;
- (b) interest on any mortgage bond thereunder ;
- (c) any rents received under a lease of any endowment property thereunder ;
- (d) any rentals of buildings, being endowment property or deductions from the pay of members of the Union Defence Forces in respect of quarters, being endowment property, provided in kind when the pay of such members is at a rate inclusive of lodging ;
- (e) interest on moneys accruing to the account and invested by the Public Debt Commissioners.

(2) The moneys of the defence endowment account shall be applied to—

- (a) permanent defence works and buildings ;
- (b) major repairs, structural alterations and renovations of existing buildings, being endowment property, up to an amount not exceeding in the aggregate the amount paid into such account in respect of rentals and deductions under paragraphs (c) and (d) of sub-section (1) of this section,

and no moneys shall be withdrawn from the account except in pursuance of an Appropriation Act.

(3) The provisions of this section shall have effect anything to the contrary notwithstanding in section *one hundred and seventeen* of the South Africa Act, 1909.

(4) The provisions of the Exchequer and Audit Act, 1911 (Act No. 21 of 1911) shall, save and except the provisions of section *twenty-two* of that Act, apply *mutatis mutandis* in respect of the defence endowment account.

(5) Moneys paid into the defence endowment account shall be deposits for the purposes of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911) and any amendment thereof.

Debits and
credits
to defence
endowment
account.

5. (1) There shall be debited to the defence endowment account the sum of £150,262, being the amount agreed by the Government of the Union to be due to the Government of the United Kingdom in respect of certain particular lands and buildings, included in the Schedule to this Act but not to pass to the Union without payment. To discharge the debit of that sum there shall be set off the first credits to a like amount in

respect of any appropriations or reservations of endowment property under sub-section (2) (a) of section *three*.

(2) There shall be credited to the defence endowment account interest (at the current rate at which money is borrowed by the Government of the Union for public purposes) on the amount due to the account in respect of any endowment property which has been appropriated or reserved under paragraph (a) of sub-section (2) of section *three* and has been credited to the said account and there shall be debited to the said account interest at the same rate upon any debit balance of the said account.

Transfer of
certain
Admiralty
lands to the
Government.

6. (1) Any lands the freehold title whereof was originally granted free of charge by the former Government of the Colony of the Cape of Good Hope either to the Admiralty or to His Majesty's War Department and now held in the name of the Admiralty and which the Lords Commissioners of the Admiralty are willing to transfer to the Government of the Union shall upon transfer to the Government of the Union be regarded in all respects as endowment property.

(2) Upon production to the registrar of deeds concerned of a schedule or schedules signed by an officer of His Majesty's Royal Navy authorized to sign it on behalf of the said Lords Commissioners and by an officer of the Union Department of Defence authorized to sign it on behalf of the Government of the Union, describing any such land and setting forth any reservations which have been agreed upon and the date from which it has been agreed transfer shall take effect, the registrar of deeds concerned shall thereupon transfer the freehold title of such land subject to such reservations and as from such date to the Government of the Union. The provisions of section *two* shall apply *mutatis mutandis* to any such transfer.

(3) The land along the coast line of the Province of Natal, sometimes designated "Admiralty Reserve" but which is not, and never has been, vested in or claimed by the Lords Commissioners of the Admiralty, is vested in the Government of the Union, and no portion of it is, or shall be capable of being treated as endowment property under this Act.

Short title.

7. This Act may be cited for all purposes as the Defence Endowment Property and Account Act, 1922.

Schedule.

SCHEDULE OF WAR DEPARTMENT PROPERTY AND RIGHTS IN PROPERTY TRANSFERRED TO UNION GOVERNMENT IN TERMS OF GENERAL SETTLEMENT UNDER SECRET DESPATCH DATED 19TH SEPTEMBER, 1921, FROM SECRETARY OF STATE FOR THE COLONIES.

Province.	Date of deed, etc.	Description.	Approximate area or remaining extent.			Date from which transfer to Union Government takes effect.
			Acres	Roods	Perches	
A. LANDS AND BUILDINGS.						
Natal	Title Deed dated 11/8/54, and Transfer Deed, 13/3/13, No. 561.	Fort Napier Cantonments, Pietermaritzburg and surrounding Ordnance Land.	1,115	0	23	1/4/21.*
" ..	Deed dated 23/6/99, No. 788/99.	Polo Ground, Pietermaritzburg.	32	3	8	1/12/21.
" ..	Title Deed dated 11/8/54, also Deeds dated 30/4/12, and 27/8/12.	Lords Ground, Durban.	24	3	13·63	17/6/21. (Transfer Deed No. 2351/1921).
" ..		The Camp (Site of Old Fort, Durban.)	5	0	39·121	1/12/21.
" ..		Cemetery, Durban ..		2	37·385	1/12/21.
" ..		Wagon Shed Site, Durban.		2	10·11	19/10/21. (Transfer Deed No. 3959/1921.)
" ..	Deed dated 9/12/15, No. 2194.	Sub-Division 101 of Lot 1 of Farm "Wentworth" Merebank, County of Durban.	1	0	24·3	1/12/21.
" ..	Deed dated 3/5/83, No. 357.	Cemetery at Samson's Klip, County of Newcastle.			28·15	"
" ..	Deed dated 16/4/78, No. 219.	Cemetery at Fort Amiel, County of Newcastle (and right of access).		2	15	"
Transvaal.	Reserved by Executive Council Min. No. 1817 of 4/3/09.	Cantonments, Roberts Heights, comprising: (a) Cantonments proper. (b) Land on which Headquarters House is built. (c) Rifle Range or Musketry Camp. (d) Portion of Groenkloof.	Morgen	Sq. Rds.	Sq. Ft.	
			1,387	533	0	1/4/21.*
			6	167	0	1/4/21.
			348	61	0	"
	Reserved by E.C.M. 752, 12/3/14.		382	593	0	"
	Reserved by E.C.M. 329 of 8/4/04 and E.C.M. 869 of 22/8/04.	(e) Pumping Station, Groenkloof.	2	492	0	"
" ..	Reserved by E.C.M. 1817 of 4/3/09.	Artillery Barracks, Pretoria.	32	362	0	1/10/14.
" ..	"	Artillery Barracks, Pretoria Extension.	130	348	0	1/10/14.
" ..	Not formally reserved.	Schanskop Fort, Pretoria.	34	576	0	1/12/21.
" ..	"	Klapperkop Fort, Pretoria.	21	188	0	"
" ..	Deed of Reserve No. 5/1911, dated 3/7/11.	Cantonments, Potchefstroom.	2,839	7	0	1/12/20.*
Orange Free State.	Transfer Deeds Nos. 6806 to 6813 dated 25/3/04.	Headquarters House, Bloemfontein.		412	0	1/12/21.
" ..	Transfer Deeds Nos. 6122 and 6123, dated 16/2/04.	Tempe Farms, comprising: (a) Devonport ..	3	251	0	1/12/1921.
	" ..	(b) Woolwich ..	3	250	0	"
	Transfer Deed No. 6706, dated 21/3/04.	(c) Quadrangle ..		475	0	"

War Department's lettings on land surrounding cantonments proper and of any buildings thereon transferred from 1st December, 1921.

SCHEDULE—CONTINUED.

em o.	Province.	Date of deed, etc.	Description.	Approximate area or remaining extent.			Date from which transfer to Union Government takes effect.
				Mor- gen	Sq. Rds	Sq. Ft.	
		A. LANDS AND	BUILDINGS.—Cont.				
		Transfer Deeds Nos. 6449 to 6451 dated 5/3/04.	(d) Boven Tempe .. (e) Exchange .. (f) West Spitzkop ..	2,378 15 6	498 485 221	0 72 0	1/12/1921. " "
18	Orange F. State	Lease 18/12/04, also 18/1/06.	Tempe Cantonments*	746	332	0	,
9 0	Cape ..	Grant 22/11/92	Sea Point Battery ..	4	350	106	"
1	" ..	Grant 17/9/88	Three Anchor Bay ..	3	274	48	"
	" ..	Certificate of Reservation, 29/12/94.	Position Finding Sta- tion near Sea Point Battery.		314	140	"
22	" ..	Deed, 5/7/13..	Alternative Port War Signal Station.		25	0	"
23	" ..	Grant, 1/5/40	Groote Mouflage Battery.	3	272	138	"
4	" ..	Grant, 1/6/40	Fort Wynyard, New Laboratory.		278	82	"
25	" ..	Certificate of Reservation, 9/9/97.	Fort Wynyard, Site of Battery.	16	479	0	"
6	" ..	Title Deed, 13/3/93.	Tamboers Kloof Maga- zine.	9	318	80	"
7	" ..	Grant, 22/11/92	Road to Lion Battery	2	345	96	"
28	" ..	Grant, 22/11/92	Lion Battery ..	2	400	0	"
29	" ..	Certificate of Reservation, 8/11/94.	Position Finding Sta- tion near Lion Battery.	2	206	36	"
30	" ..	Certificate, 29/12/94.	" " "		93	101	"
31	" ..	Title Deed, 9/2/14.	Lion Battery Exten- sion.	2	217	136	"
2	" ..	Grant, 23/3/40, and two Trans- fer Deeds, dated 16/1/90.	The Castle, Cape Town	13	341	121	"
33	" ..	Grant, 23/3/40	Hospital Reserve ..	13	394	20	"
34	" ..	Grant, 23/3/40	Fort Knokke ..	3	230	121	"
35	" ..	Grant, 23/3/40	Craig's Battery ..	5	578	88	"
36	" ..	Certificate of Reservation, 24/4/94.	Position Finding Sta- tion, Prince of Wales Blockhouse.		280	134	"
37	" ..	Grant, 31/10/95	Zonnebloem ..		285	67	"
38	" ..	Purchase Deed, 21/7/00, and Deed, 15/7/01.	Charlies Hope, Rose- bank and land ad- joining.	4	591	75	"
39	" ..	Grants, 21/6/86 and 16/3/88.	Wynberg Camp, in- cluding Lots I., II. and IV.	65	282	62	"
40	" ..	Grant, 2/1/88	Diep River, Lot D ..	4	520	0	"
41	" ..	Grant, 25/11/44	Hout Bay, East Side	7	52	32	"
42	" ..	Grant, 25/11/44	Hout Bay, West Side	7	52	32	"
43	" ..	Grant, 25/11/44	Muizenberg, Plots 1, 2, 3 and 4.	8	512	14	"
44	" ..	Grant, 25/11/44	Simonstown, Lower North Battery.	14	47	108	"
45	" ..	Grant, 7/8/88	Simonstown, Upper North Battery, Plots A, B, C.	11	139	4	"
46	" ..	Certificate of Reservation, 19/10/93.	Simonstown, Position Finding Station near Upper North Battery	1	25	0	"
47	" ..	Grant, 19/2/04	Simonstown, Scala Battery.	13	157	62	"

* Buildings only. Land is property of Bloemfontein Municipality and is held on lease only. See also under Leases, item 59.

SCHEDULE—CONTINUED.

Province.	Date of deed, etc.	Description.	Approximate area or remaining extent.			Date from which transfer to Union Government takes effect.
			Mor- gen	Sq. Rds.	Sq. Ft.	
Cape ..	A. LANDS AND Amended title, 26/7/98; Grant, 12/3/91; Deed, 1/9/93.	BUILDINGS.— <i>Cont.</i> Simonstown, Palace Barracks, including piece of land at Redhill.	5	344	108	1/12/1921.
..	Grant, 25/11/44; Grant, 31/5/02; Transfer, 2/2/09.	Simonstown Main Barracks.*	2	211	101	..
..	Deed, 11/11/68	Simonstown Officers' Mess, near Main Barracks.		34	104	..
..	Grant, 25/11/44	Simonstown Cole Point.		316	124.6	..
..	Grant, 25/11/44 Grant, 20/3/88.	Simonstown, Queens' Battery (South Battery).	9	294	111.9	..
..	Grants, 10/1/88, 23/12/87, 20/3/88, 20/3/88.	Simonstown, Noah's Ark Battery, Plots I., II., III. and IV.	9	536	77	..
..	Certificate of Reservation, 19/10/93.	Simonstown, Position Finding Station near Noah's Ark Battery.	1	177	112	..
	B. LEASES AND AGREEMENTS.		Acres	Roods	Per- ches	
Natal..	Lease, 17/5/04	The Point Block 1, Lot 13.			14.69	16/9/21.
Trans- vaal	Lease, 7/3/11..	Potchefstroom, Pipe Track Reservoir and Pumping Station.	4	3	0	1/12/21.
..	Agreement, 10/11/06.	Potchefstroom, Town Lands Manoeuvring Rights and Water Rights for Canton- ments.	46,000			..
Natal..	Agreement, 20/6/07, 26/8/07.	Durban, Maintenance of Military Cemetery and old Fort Build- ings.	(See Items Nos. 4 & 5)			..
Orange Free State.	Lease, 8/12/04 and 18/1/06.	Tempe Cantonments Area.	Mor- gen.	Sq. rds.	Sq. Pt.	..
Cape ..	Agreement, 31/7/09.	Wynberg, Spring- field Convent, drain- age across Convent property (Item 75 refers).	..	..	..	..
..	Agreement, 17/1/02.	Wynberg Muni- cipality, contribution in aid of mainten- ance of drainage works.	..	..	..	..
..	Agreement, 28/12/11.	Simonstown Muni- cipality, contribution in aid of mainten- ance of drainage works.	..	..	..	..
..	Agreement, 2/12/13.	Simonstown (a) use of Municipal land for field works.	..	..	..	..
..	Draft Agree- ment, October, 1913.	(b) Lease of Municipal land on which two blockhouses are erected.	..	..	..	..
..	Agreement, 19/9/00.	Maitland Road Ceme- tery. Upkeep of military graves.	..	..	..	..

Subject to continued occupation by Naval Authorities for so long as required of the portion of the lands at present occupied by them.

SCHEDULE—CONTINUED.

em No.	Province.	Date of deed, etc.	Description.	Approximate area or remaining extent.			Date from which transfer to Union Government takes effect.
				Mor- gen	Sq. Rds.	Sq. Ft.	
			C. SERVITUDES.				
65	Natal..	Transfer Deed, 16/10/71.	(a) Tho Bluff, Port Natal. (b) Botha's Hill Pietermaritz- burg. (c) Bushman's River, Coun- ty of Weenen (d) The Point, Port Natal.	..	..	..	1/12/1921
			Right to re-occupy at any time if necessary.				
66	Cape ..	Transfer Deed, 18/4/08.	Green Point (No. 1), Right of Resumption Green Point (No. 2), Clearance Rights, etc.	3	336	61	..
67	.. ..	Transfer Deed, 13/4/89.	From Mouille Point property to No. 1 Battery Clearance Rights along the Beach.	6			..
68	.. ..	Transfer Deed, 19/3/90.	From No. 1 Battery to No. 2 Battery. Clearance Rights along the Beach.	1	450		..
69	.. ..	Grant, 1/6/40	Fort Wynyard, Clear- ance Rights over Square A, B, C, D.	16	479		..
70	.. ..	Transfer Deed, 11/9/06.	Kloof Nek Military Reserve. Right of consultation before land alienated.	4	133	108	..
71	.. ..	Transfer Deed, 3/3/05.	Tamboers Kloof Road. Right of user.		56	108	..
72	.. ..	Grant, 23/3/40	The Castle, Clearance. Rights over Square A, B, C, D.	1	493	25	..
73	.. ..	Title to H.T. Colebrook, dated 21/3/1831.	Farm Zonnebloem, Clearance, Rights and right to erect block- houses, forts, etc., on certain portion.	..	..	..	..
74	.. ..	Grant, 21/6/86	Wynberg. Right of access over Crown lands to Rifle Range.	..	..	..	..
75	.. ..	Agreement, 31/7/09. See Title, 14/9/87, in favour of Lady Superior, St. Mary's Convent.	Wynberg. Right to lay drain over pro- perty of St. Mary's Convent. (Item 60 refers.)	..	..	..	..
76	.. ..	Title, dated 9/1/07.	Simonstown. Clear- ance rights over por- tion of Lot A1 of land granted to Muni- cipality in 1907.	..	..	..	..
77	.. ..	Title, 23/9/07.	Simonstown. Piece of land at Redhill used as road. Right to lay drains, etc.		21	26	..
78	.. ..	Transfer to Ad- miralty, 25/3/11.	Simonstown, Kloof Magazine. Right of resumption if no longer required by Admiralty, also use of Equipment Maga- zine, right of access to same and joint use of doubtful cor- dite store.	1	371	133	..

SCHEDULE—CONTINUED.

Province.	Date of deed, etc.	Description.	Approximate area or remaining extent.	Date from which transfer to Union Government takes effect.
Cape.	C. Deeds of Relinquishment, 27/6/82 and 20/3/06.	SERVITUDES.— <i>Cont.</i> Certain lands at King-williamstown, Port Elizabeth, Grahams-town and throughout Eastern Province detailed in Deeds of Relinquishment, dated 27/6/82 and 20/3/06. Right to equivalent barrack or lodging accommodation.	Mor- gen Rds. Sq. Rds. Sq. Ft.	1/12/1921.

Signed on behalf of the War Department.

(Sgd.) J. T. HEATH, Lieutenant-Colonel, R.E.,
Acting Chief Engineer.

Cape Town, 20th January, 1922.

Signed on behalf of the Union Government.

(Sgd.) H. R. M. BOURNE,
Secretary for Defence.

Pretoria, 17th January, 1922.