

Third Schedule.

Act No. 53
of 1952.

Amendments to Schedule No. 3 to the Excise Act, 1942, as amended.

Description of Licence.	Fee Payable.			Licence Year.
	£	s.	d.	
Insert the following new paragraph: "14. Sweets: To manufacture for sale"	1	0	0	1st January— 31st December."
Add the following new paragraphs: "20. Soft drinks: To manufacture for sale in bottles or other containers	1	0	0	1st January— 31st December.
21. Carbon dioxide: To manufacture	1	0	0	1st January— 31st December."

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ACT

To amend the Native Labour Regulation Act, 1911, the Natives Land Act, 1913, the Native Administration Act, 1927, the Native Administration Act, 1927 Amendment Act, 1929, and the Natives (Urban Areas) Consolidation Act, 1945; to repeal certain provisions of British Bechuanaland Proclamation No. of 1885 and to repeal the Natives (Urban Areas) Amendment Act, 1945.

(Afrikaans text signed by the Governor-General.)
(Assented to 24th June, 1952.)

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

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

(a) by the substitution for the definition of "Director" of the following definition:

"'Director' shall mean the Director of Native Labour appointed under section *two bis*;"

(b) by the insertion after the definition of "magistrate" of the following definition:

"'medical officer' shall mean any medical officer in the wholetime employment of the Department of Health;"

(c) by the insertion after the definition of "native labourer" of the following definition:

"'non-prescribed area' shall mean the area of jurisdiction of a native commissioner excluding any portion thereof which is a prescribed area;"

Amendment of section 2 of Act 15 of 1911, as amended by section 33 of Act 46 of 1937 and section 1 of Act 56 of 1949.

(d) by the insertion after the definition of "prescribed" of the following definition:

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" 'prescribed area' shall mean an area proclaimed in terms of section *twenty-three* of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), or an area which has by notice in the *Gazette* been declared by the Minister to be a prescribed area whether as an addition to a proclaimed area or not;";

(e) by the addition at the end thereof of the following definition:

" 'workseeker' shall mean any native over the age of fifteen years who—

(a) is unemployed or not *bona fide* engaged in any business, trade, profession or other remunerative activity;

(b) is not a pupil or student at an educational institution or, having completed a course of study at one institution, is not awaiting admission to another institution; and

(c) is capable of being employed and is mainly dependent upon employment for his means of subsistence;

but does not include a male native over sixty-five years of age or a female native over sixty years of age. Where there is any doubt as to whether a native falls within this definition the burden of proof that he is not a workseeker shall be upon such native."; and

(f) by the insertion of the following sub-section as sub-section (2), the existing section becoming sub-section (1):

"(2) The Minister may, by notice in the *Gazette*, declare that any particular native or any member of a specified class of natives shall be deemed not to be a workseeker for the purposes of this Act and the Minister may in like manner cancel or amend any such notice."

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

Insertion of
section *2bis* in
Act 15 of 1911.

"Appoint-
ment of
Director,
Assistant
Director
and Addi-
tional
Directors
of Native
Labour.

2bis. The Minister may, subject to the laws governing the public service, appoint—

(a) an officer to be styled the Director of Native Labour, who shall exercise the powers and perform the duties assigned to the Director by this Act and the regulations;

(b) an officer to be styled the Assistant Director of Native Labour who may exercise such powers

and perform such duties of the Director as may be assigned to such officer by the Director;

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- (c) for any area, an officer to be styled Additional Director of Native Labour, who may in relation to such area exercise such powers and perform such duties of the Director as may be assigned to such officer by the Minister, or if authorized thereto by the Minister, by the Secretary for Native Affairs.”.

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

Substitution of
a new section for
section 6 of
Act 15 of 1911.

“Restrictions on issue of certain licences and runners’ permits.

6. (1) No labour agent’s licence and no employer’s recruiting licence shall be issued in the name of a company, partnership or association of persons.

(2) No labour agent’s licence and no runner’s permit shall be issued to any person who is—

- (a) an attorney;
- (b) a law agent;
- (c) a messenger of the court;
- (d) under the age of twenty-one years;
- (e) the holder of a licence for the sale of intoxicating liquor; or
- (f) an employee of any such person as is referred to in paragraph (a), (b), (c), (d) or (e).

(3) If the holder of a labour agent’s licence or runner’s permit becomes such a person as is referred to in paragraph (a), (b), (c), (e) or (f) of sub-section (2), such licence or permit, as the case may be, shall lapse and shall be surrendered forthwith to the Director for cancellation.”.

4. Section *eight* of the Native Labour Regulation Act, 1911, is hereby amended by the addition at the end thereof of the following sub-section:

Amendment of
section 8 of Act
15 of 1911, as
amended by
section 5 of Act
56 of 1949.

“(11) The Director may in his discretion, on the application of any company, partnership or association of persons, declare any employer’s recruiting licence issued to any person on behalf of such company, partnership or association of persons to be cancelled and in substitution for such licence issue another licence, free of charge, for the unexpired portion of the period for which such cancelled licence was issued and applicable to the same districts to which such cancelled licence was applicable, to a person designated by and acting on behalf of such company, partnership or association of persons.”.

5. Section *nine* of the Native Labour Regulation Act, 1911, is hereby amended by the substitution in sub-section (5) for the second proviso of the following proviso:

Amendment of
section 9 of
Act 15 of 1911,
as amended by
section 6 of
Act 56 of 1949.

"and provided further that, where a labour agent's licence is suspended or cancelled or an employer's recruiting licence is cancelled in terms of sub-section (1) of section *eight*, a runner's permit issued in connection with any such licence may be transferred by and with the consent of the magistrate by endorsement free of charge to another labour agent acting on behalf of the same employer or to the person to whom an employer's recruiting licence has been issued in substitution for such cancelled employer's recruiting licence."

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

Amendment of
section 12 of
Act 15 of 1911
as substituted by
section 8 of Act
56 of 1949.

- (a) by the insertion in sub-section (1) after the word "shall" where it occurs for the first time of the word "personally";
- (b) by the substitution in paragraph (c) of the proviso to sub-section (1) for the words "the contract may be subscribed" of the words "the holder of a labour agent's licence, an employer's recruiting licence or a permit to recruit may be represented at the attestation of the contract";
- (c) by the addition at the end of the proviso to sub-section (1) of the following paragraph:
 "(g) if it is a condition upon which any labour agent's licence, employer's recruiting licence or permit to recruit is issued that the holder thereof shall not recruit within a specified portion of a district, no contract entered into with a native recruited by such holder shall be attested in that portion of the district."; and
- (d) by the insertion after sub-section (1) of the following sub-section:
 "(1)*bis*. The provisions of paragraph (g) of the proviso to sub-section (1) shall apply only in districts to which the Minister may by notice in the *Gazette* declare the said provisions to be applicable."

7. Section *fourteen* of the Native Labour Regulation Act, 1911, is hereby amended—

Amendment of
section 14 of Act
15 of 1911, as
amended by
section 10 of
Act 56 of 1949.

- (a) by the insertion after paragraph (b) of sub-section (1) of the following paragraphs:
 "(b)*bis* neglects to perform any work which it is his duty to perform or unfits himself for the proper performance of his work through the use of dagga or other habit-forming drugs or by having become or being intoxicated during working hours; or
- (b)*ter* refuses to obey any lawful command of his employer or any person lawfully placed in authority over him or uses insulting or abusive language to his employer or any person lawfully placed in authority over him; or"; and

(b) by the substitution in the Nederlands version of sub-section (1) for the words "word gestraft" of the words "is schuldig aan een overtreding en wordt by schuldigbeving gestraft", and for the words "drie maanden" of the words "twee maanden".

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

Insertion of section 14*bis* in Act 15 of 1911.

"Introduc-
tion into,
or posses-
sion in,
compound
or married
quarters of
native
labourers,
of sprouted
grain
prohibited.

14*bis*. (1) The Minister may at any time declare by notice in the *Gazette* that as from a date to be specified therein no native labourer shall introduce any sprouted grain or crushed or ground sprouted grain into or be in possession thereof, in any compound or married quarters of native labourers specified in such notice.

(2) Any native labourer who contravenes the provisions of a notice issued under sub-section (1) shall be guilty of an offence and liable on conviction to the penalties mentioned in section *fourteen*."

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

Substitution of a new section for section 15 of Act 15 of 1911.

"With-
holding of
wages from
native
labourers.

15. (1) Any employer who—

- (a) save with the written consent of the Director, or of an officer of the public service authorized by the Director in writing to give such consent, pays the whole or any part of the wages due to any native labourer employed by him to any person other than such labourer;
- (b) withholds the wages of any native labourer or any portion thereof without reasonable and probable cause for believing that such wages or portion thereof were not due; or
- (c) makes any deduction from the wages of any native labourer save as is provided by any law or by the order of a court of competent jurisdiction,

shall be guilty of an offence.

(2) Any person who employs any native recruited under this Act and who, save with the written consent of the Director, withholds the wages of such native or any portion thereof when it becomes due, on the ground that the native has agreed that the payment of such wages or portion thereof shall be deferred, shall be guilty of an offence.

(3) The Director may give his consent in terms of sub-section (2) subject to such conditions as he may deem desirable and any person who fails to comply with any conditions imposed by the Director in terms of this sub-section shall be guilty of an offence.

(4) In any proceedings under this section the magistrate may, in addition to any penalty which

he may impose, give judgment against the employer for the amount of wages wrongfully disposed of, withheld or deducted and for the costs of the proceedings and the judgment shall be of the same force and effect, and shall be executable in the same manner, as if it had been given in a civil action.”.

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10. Section *sixteen* of the Native Labour Regulation Act, 1911, is hereby amended by the deletion of the words “in any labour district”.

Amendment of section 16 of Act 15 of 1911.

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

Substitution of a new section for section 18 of Act 15 of 1911 as amended by section 12 of Act 56 of 1949.

“Appoint-
ment and
duties of
inspectors
of native
labourers.

18. The Minister or if authorized thereto by the Minister, the Secretary for Native Affairs may, subject to the laws governing the public service, appoint inspectors of native labourers whose duty it shall be—

- (a) to inspect compounds or other places occupied by native labourers and to report to the Director any contravention of or failure to comply with any provision of this Act or of any regulation;
- (b) to inquire into and redress, if necessary, or otherwise to report to the Director, any grievance complained of by native labourers;
- (c) to perform such other duties as may be imposed upon them by this Act, the regulations or the Director; and
- (d) generally to promote the interests and welfare of native labourers.”.

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

Insertion of section *18bis* in Act 15 of 1911.

“Native
commis-
sioners may
perform
duties of
inspectors.

18bis. Every native commissioner, additional native commissioner or assistant native commissioner may perform or, if directed by the Secretary for Native Affairs to do so, shall perform, in the area for which he holds office, all such duties as are imposed upon inspectors of native labourers by section *eighteen* or the regulations and every such native commissioner, additional native commissioner or assistant native commissioner may exercise in such area, all such powers as are conferred upon inspectors of native labourers by paragraphs (a) and (b) of sub-section (1) of section *nineteen*.”.

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

Substitution of a new section for section 19 of Act 15 of 1911.

“Powers of
inspectors.

19. (1) Every inspector of native labourers may—
(a) enter any compound or other place occupied by native labourers or any place at which

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native labourers are employed for the purpose of carrying out the duties imposed upon him by this Act, the regulations or the Director;

- (b) question any native labourer and demand from any employer or person in charge of any native labourer such information and assistance as he may require for the proper carrying out of his duties;
- (c) try any case in which it is alleged that a native labourer has committed any of the following offences, namely, that he has—
- (i) neglected to perform any work which it was his duty to perform; or
 - (ii) unfitted himself for the proper performance of his work through the use of dagga or other habit-forming drugs or by having become or having been intoxicated during working hours; or
 - (iii) refused to obey any lawful command of his employer or any person lawfully placed in authority over him; or
 - (iv) used insulting or abusive language to his employer or any person lawfully placed in authority over him; or
 - (v) committed a breach of any rule prescribed for good order, discipline or health in any compound or married quarters of native labourers; or
 - (vi) without lawful cause, absented himself from his place of employment: Provided that an inspector shall not try any case in which it is alleged that a native labourer absented himself from his place of employment for a longer period than one day.

(2) On finding any native labourer guilty of any such offence as is mentioned in paragraph (c) of sub-section (1) the inspector may discharge the offender with a caution or reprimand or impose a fine not exceeding two pounds and may, for the purpose of recovering any fine imposed, notify the amount to the native labourer's employer, who shall, subject to such conditions as may be imposed by the inspector, withhold the amount so notified from any wages which are due to or may become due to such native labourer and pay it over for the benefit of the Consolidated Revenue Fund to such officer as may be appointed to receive it.

(3) Nothing in this section contained shall be construed as depriving a magistrate of jurisdiction to try any such offence as is mentioned in paragraph (c) of sub-section (1) and to impose therefor any

other penalty prescribed for such offence by this Act or the regulations.”.

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

Substitution of
a new section for
section 20 of Act
15 of 1911.

“Subpoena-
ing of
witnesses
etc.

20. (1) For the purpose of exercising his jurisdiction under paragraph (c) of sub-section (1) of section *nineteen* an inspector of native labourers may cause any native labourer who is alleged to have committed any such offence as is mentioned in the said paragraph to be brought before him and may subpoena any person as a witness.

(2) Any subpoena issued by an inspector shall as far as possible be in the form in use in criminal proceedings in magistrates' courts and shall be served by such person and in such manner as a subpoena to attend and give evidence in such courts is served.

(3) Any person so subpoenaed who fails, without reasonable excuse, to comply with the terms of the subpoena, shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding fourteen days.

(4) The inspector of native labourers shall at the instance of the native labourer being tried subpoena any witness he may reasonably require for purposes of his defence.

(5) An inspector may at any trial held by him under paragraph (c) of sub-section (1) of section *nineteen* administer an oath or affirmation to any witness.

(6) Any witness who refuses to be sworn or to make an affirmation, or having been sworn or having made an affirmation fails to answer to the best of his knowledge or belief all questions lawfully put to him, shall be guilty of an offence and liable on conviction to the penalty prescribed in sub-section (3).

(7) At any trial before an inspector the inspector shall take down the evidence in writing and record his finding and any sentence imposed.

(8) An appeal shall lie to the magistrate of the district in which the native labourer concerned is employed against the finding and sentence of an inspector if within twenty-one days after the date of the sentence notice stating the grounds of appeal is given in writing to the inspector.

(9) Within seven days of receiving any such notice the inspector shall transmit it to the magistrate, together with the record of the proceedings and such observations as he may wish to offer.”.

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15. The following section is hereby substituted for section *twenty-one* of the Native Labour Regulation Act, 1911:

Substitution of
section 21 of Act
15 of 1911.

“Duty of
employers
etc. to
afford
facilities to
inspectors,
medical
officers and
native
commis-
sioners.

21. Every employer or person in charge of native labourers shall afford every reasonable facility to an inspector of native labourers or a medical officer for the carrying out of the duties imposed upon him by this Act or the regulations and to any native commissioner, additional native commissioner or assistant native commissioner for the carrying out of the duties imposed upon him by section *eighteen bis*, and any such employer or person who fails to do so shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.”.

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

Amendment of
section 23 of Act
15 of 1911, as
amended by
section 13 of Act
56 of 1949.

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

“(e)*bis* the conditions and circumstances under which the Director or an officer of the public service authorized thereto by him in writing, may consent to deductions being made by employers of native labourers from the wages of such labourers in respect of articles loaned to them or supplied to them by such employers for use in connection with their work, which are retained, lost, damaged or destroyed by such labourers;”;

(b) by the insertion in paragraph (k)*bis* of sub-section(1) after the words “intoxicating liquor” of the words “yeast, sprouted grain or crushed or ground sprouted grain (where its introduction into or possession in the compound or married quarters concerned is an offence under any law)”;

(c) by the insertion in paragraph (n) of sub-section (1) after the word “employers” of the words “groups of employers registered in terms of the regulations made under paragraph (d)*ter* of this sub-section”;

(d) by the insertion in paragraph (o) of sub-section (1) after the words “prospective employers” of the words “the creation of prescribed areas; the control of the movement of native workseekers from non-prescribed to prescribed areas or from one prescribed area to another; the assignment, by the Governor-

General, or if authorized thereto by the Governor-General, the Minister, under such conditions as may be prescribed, to the council of any municipality or other local authority (after consultation with such council or other local authority) of powers and duties connected with the conduct and control of labour bureaux;”, and after the word “depots” at the end of the paragraph of the following proviso: “Provided that a native who has furnished satisfactory proof that he is re-entering the service of his previous employer shall not be prohibited or prevented by any regulation from doing so.”; and

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(e) by the substitution for paragraph (q) of sub-section (1) of the following paragraph:

“(q) the custody of any moneys deposited with the Director or with any person who employs natives recruited under this Act and the repayment of such moneys or the remittance of such moneys or of any wages due to such natives, to their homes;”.

17. Section *twenty-six* of the Native Labour Regulation Act, 1911, is hereby amended by the substitution for the words “except section *thirteen*” of the words “except paragraphs (a) to (e) both inclusive and paragraph (g) of section *thirteen*”.

Amendment of section 26 of Act 15 of 1911.

18. (1) The land referred to in paragraph 1 of the Schedule to this Act shall cease to form part of the location in question and shall be deemed to be excluded from the Schedule to the Natives Land Act, 1913.

Alteration of Schedule to Act 27 of 1913.

(2) The land referred to in paragraph 2 of the Schedule to this Act shall be deemed to be included in the Schedule to the Natives Land Act, 1913.

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

Amendment of section 2 of Act 38 of 1927, as substituted by section 2 of Act 21 of 1943 and amended by section 19 of Act 56 of 1949.

(a) by the substitution in sub-section (7) for the words “and privileges” of the words “privileges and conditions of service”;

(b) by the insertion in sub-section (7)*bis* after the word “tribe” where it occurs for the first time of the words “or at any time thereafter”; and

(c) by the insertion in sub-section (8) after the word “location” of the words “or as headman of the natives in any area”.

20. The following section is hereby substituted for section *five* of the Native Administration Act, 1927:

Substitution of a new section for section 5 of Act 38 of 1927, as amended by Act 9 of 1929.

“Constitution or adjustment of native tribes and removal of natives.

5. (1) The Governor-General may—
(a) define the boundaries of the area of any tribe or of a location and may from time to time alter the same and may divide any existing tribe into two or more parts or amalgamate tribes or parts of tribes into one tribe or

constitute a new tribe, as necessity or the good government of the natives may in his opinion require;

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- (b) whenever he deems it expedient in the general public interest, order that, subject to such conditions as he may determine, any tribe, portion of a tribe or native shall withdraw from any place to any other place or to any district or province within the Union and shall not at any time thereafter or during a period specified in the order return to the place from which the withdrawal is to be made or proceed to any place, district or province other than the place, district or province indicated in the order, except with the written permission of the Secretary for Native Affairs: Provided that if a tribe refuses or neglects to withdraw as aforesaid no such order shall be given or, having been given, shall be of any force and effect until a resolution approving of the withdrawal has been adopted by both Houses of Parliament: Provided further that any such order made in respect of a portion of a tribe or a native which is still in force after the expiry of a period of twelve months from the date of service thereof shall be laid upon the Tables of both Houses of Parliament within fourteen days after the expiry of such period if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session, and shall, if both Houses of Parliament pass resolutions disapproving thereof during the session in which it is so laid upon the said Tables, cease to have effect on the day on which the last of such resolutions is passed.

- (2) (a) Any native who neglects or refuses to comply with any order issued under paragraph (b) of sub-section (1) or with any condition thereof, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment, with or without the option of a fine, for a period not exceeding six months.

- (b) Any native commissioner or magistrate may, upon such conviction, take all such steps as may be necessary to ensure compliance with the order or with any condition thereof and may, by warrant under his hand, direct that any policeman or policemen shall carry out the withdrawal or ensure compliance with the order, if necessary by force.
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(c) Any person who obstructs or hinders any native commissioner, magistrate or policeman, or any person assisting such native commissioner, magistrate or policeman in the exercise of his powers under this section, 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.

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(3) Notwithstanding the provisions of sub-section (2) the Governor-General may order that any native who neglects or refuses to comply with any order issued under paragraph (b) of sub-section (1) or with any condition thereof shall be summarily arrested and detained and as soon as possible removed in terms of the order.

(4) No interdict or other legal process shall issue for the stay of any order or direction issued under paragraph (b) of sub-section (1), paragraph (b) of sub-section (2) or sub-section (3) nor shall any such order or direction be suspended by reason of any appeal against a conviction under sub-section (2).

(5) (a) The powers vested in the Governor-General under this section shall be in addition to the powers vested in him under section *one*; and

(b) the provisions of this section shall be of full force and effect in relation to any native who has been exempted, in terms of section *thirty-one* of this Act or any other law, from any laws specially affecting natives.”.

21. Section *eight* of the Native Administration Act, 1927, is hereby amended by the addition at the end of paragraph (c) of sub-section (1) of the word “or” and by the addition at the end of the said sub-section of the following paragraph:

Amendment of section 8 of Act 38 of 1927, as amended by section 2 of Act 42 of 1942.

“(d) to which the provisions of this section may be applied by the Governor-General by Proclamation in the *Gazette*.”.

22. Section *twelve* of the Native Administration Act, 1927, is hereby amended by the deletion in sub-section (4) of the words “(including a judgment given by a chief exercising jurisdiction under the provisions of section *thirty-one* of British Bechuanaland Proclamation No. 2 of 1885)” and of the words “or, in the case of a judgment given by a chief exercising jurisdiction under the provisions of the said section *thirty-one*, to the court of native commissioner of the district in which the chief’s judgment was given”.

Amendment of section 12 of Act 38 of 1927, as substituted by section 23 of Act 36 of 1944 and amended by section 22 of Act 56 of 1949.

23. The following section is hereby substituted for section *twenty* of the Native Administration Act, 1927:

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"Powers
of chiefs,
headmen
and chiefs'
deputies to
adjudicate
on certain
offences.

20. (1) The Minister may—

- (a) confer upon any native chief or headman jurisdiction to try and punish any native who has committed, in the area under the control of the chief or headman concerned any offence specified by the Minister;
- (b) at the request of any chief upon whom jurisdiction has been conferred in terms of paragraph (a), confer upon a deputy of such chief jurisdiction to try and punish any native who has committed, in the area under the control of such chief, any offence specified by the Minister.

Substitution of new section for section 20 of Act 38 of 1927, as amended by section 6 of Act 9 of 1929, section 8 of Act 21 of 1943 and section 24 of Act 56 of 1949.

(2) The Minister may at any time revoke the jurisdiction conferred upon a chief, headman or chief's deputy under sub-section (1).

(3) In the exercise of jurisdiction conferred upon him under sub-section (1) a chief, headman or chief's deputy may impose a fine not exceeding five pounds upon any person convicted by him of any such offence.

(4) The procedure at a trial for any offence under this section, the manner of execution of any penalty imposed in respect of such offence, and the appropriation of fines shall, save in so far as the same may be specified by regulation which the Minister is hereby authorized to make, be in accordance with native law and custom.

(5) (a) If a native chief, headman or chief's deputy fails to recover from a person any fine imposed upon him in terms of sub-section (3), or any portion of such fine, he may arrest such person or cause him to be arrested by his messengers, and shall within forty-eight hours after his arrest, bring or cause him to be brought before the native commissioner in whose area of jurisdiction the trial took place.

(b) A native commissioner before whom any person is brought in terms of paragraph (a) shall deal with the matter in accordance with regulations made under sub-section (7), and may, upon being satisfied that the fine was duly and lawfully imposed and is still unpaid either wholly or in part, sentence such person to imprisonment with or without hard labour for a period not exceeding—

- (i) seven days if the fine or the portion of the fine, which is still unpaid, does not exceed one pound and five shillings;

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- (ii) fourteen days if the fine or the portion of the fine which is still unpaid, exceeds one pound and five shillings but does not exceed two pounds and ten shillings;
 - (iii) twenty-one days if the fine or the portion of the fine, which is still unpaid, exceeds two pounds and ten shillings but does not exceed three pounds and fifteen shillings;
 - (iv) twenty-eight days if the fine or the portion of the fine, which is still unpaid, exceeds three pounds and fifteen shillings.
- (c) The native commissioner shall, whether or not criminal jurisdiction has been conferred upon him under section *nine*, issue in respect of any person sentenced to imprisonment in terms of this sub-section a warrant for his detention in a prison or gaol.

(6) Any person who has been convicted by a native chief, headman or chief's deputy under this section may appeal in the manner and within the period prescribed by regulation made under sub-section (7) against his conviction and against any sentence which may have been imposed upon him, to the court of native commissioner in whose area of jurisdiction the trial in question took place, and in hearing the appeal the court shall hear and record such available evidence as may be relevant to any question in issue and it may thereupon confirm or set aside or vary the conviction and sentence or give such judgment as the native chief, headman or chief's deputy ought, in the opinion of the court, to have given in the first instance: Provided that no assistant native commissioner shall hear an appeal under this sub-section unless no native commissioner (as distinct from an assistant native commissioner) has any judicial jurisdiction in the said area.

(7) The Minister may make regulations prescribing the manner in which and the period within which an appeal under sub-section (6) shall be brought and the procedure which shall be followed in any action taken under this section."

24. The following section is hereby substituted for section *twenty-one* of the Native Administration Act, 1927:

"Jurisdiction of native chiefs in British Bechuanaland.

21. (1) Notwithstanding anything to the contrary in this Act contained, a native chief in British Bechuanaland shall—

- (a) have original and exclusive jurisdiction to hear and determine all civil causes and matters (other than matters in which a decree of nullity, divorce, or separation in respect of a marriage is sought) arising between natives of his own tribe; and

Substitution of a new section for section 21 of Act 38 of 1927, as amended by section 25 of Act 56 of 1949.

(b) have jurisdiction, according to native law and custom, in all criminal cases, other than cases of rape, murder, culpable homicide and pretended witchcraft, arising exclusively between natives of his own tribe: Provided that it shall not be competent for such chief to inflict any punishment involving death, mutilation or grievous bodily harm.

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(2) The Minister may make regulations prescribing the procedure which shall be followed in any action taken under sub-section (1);

(3) The infliction or attempted infliction by any native chief of any such punishment as is mentioned in the proviso to paragraph (b) of sub-section (1) shall, in addition to any other legal consequences, have the effect that such chief is deprived of the criminal jurisdiction conferred on him by the said paragraph.

(4) Any party to a suit in which such a chief has given judgment, or any person who has been convicted by such a chief, may appeal to the court of the native commissioner in whose area of jurisdiction the judgment was given or the trial took place, as the case may be, and the provisions of sub-sections (4) and (5) of section *twelve* and of sub-section (6) of section *twenty*, and the regulations made under the said sections, shall *mutatis mutandis* apply to such appeal: Provided that the Minister may make different regulations prescribing the manner in which and the period within which an appeal under this section shall be brought.

(5) Any appeal from the decision of a native commissioner's court in any criminal proceedings under sub-section (4) shall be to the Griqualand West Local Division of the Supreme Court of South Africa."

25. Section *twenty-seven* of the Native Administration Act, 1927, is hereby amended by the addition at the end of paragraph (e) of sub-section (1) of the words "the generality of the powers conferred by this paragraph not being limited by the provisions of the preceding paragraphs".

Amendment of section 27 of Act 38 of 1927, as amended by section 2 of Act 9 of 1939, section 3 of Act 42 of 1942 and section 26 of Act 56 of 1949.

26. Section *ten* of the Native Administration Act, 1927, Amendment Act, 1929, is hereby amended by the substitution for sub-section (3) of the following sub-section:

Amendment of section 10 of Act 9 of 1929, as amended by section 5 of Act 42 of 1942 and section 27 of Act 56 of 1949.

"(3) (a) Every such court shall be a court of law and shall consist of so many divisions as the Governor-General may from time to time determine.

- (b) A division of the court shall consist of a president who shall be the person for the time being holding the appointment of president of the native appeal court exercising jurisdiction in the same area or any such other officer of the public service as the Governor-General may appoint, and sittings of two or more divisions may be held simultaneously.
- (c) The president of a division of the court may in his discretion summon to his assistance two persons holding the office of native commissioner to sit and act with him as assessors in an advisory capacity on questions of fact."

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27. The following section is hereby substituted for section ten of the Natives (Urban Areas) Consolidation Act, 1945:

Substitution of
a new section for
section 10 of Act
25 of 1945.

"Restriction of right of natives to remain in certain areas.

10. (1) No native shall remain for more than seventy-two hours in an urban area or in a proclaimed area in respect of which an urban local authority exercises any of the powers referred to in sub-section (1) of section *twenty-three* or in any area forming part of a proclaimed area and in respect of which an urban local authority exercises any of those powers, unless—

- (a) he was born and permanently resides in such area; or
- (b) he has worked continuously in such area for one employer for a period of not less than ten years or has lawfully remained continuously in such area for a period of not less than fifteen years and has not during either period been convicted of any offence in respect of which he has been sentenced to imprisonment without the option of a fine for a period of more than seven days or with the option of a fine for a period of more than one month; or
- (c) such native is the wife, unmarried daughter or son under the age at which he would become liable for payment of general tax under the Natives Taxation and Development Act, 1925 (Act No. 41 of 1925), of any native mentioned in paragraph (a) or (b) of this sub-section and ordinarily resides with that native; or
- (d) permission so to remain has been granted to him by a person designated for the purpose by that urban local authority.

(2) An officer so designated shall issue to any native who has been permitted to remain in any such area a permit indicating the purposes for which and the period during which such native may remain in that area: Provided that—

- (a) where a native has been permitted to remain in any area for the purpose of taking up employment, the period of validity of the permit shall be limited to the period during which he remains in the service of the employer by whom he has been engaged;
- (b) where a native has been permitted to remain in any area for the purpose of seeking work, the period of validity of the permit issued to such native shall be not less than seven or more than fourteen days, unless such native finds employment before the expiration of his permit, in which case the permit shall remain valid until the expiration of the period during which such native remains in the service of the employer by whom he is engaged.

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(3) Any native who, having obtained employment within an area referred to in sub-section (1), has been refused permission to remain in that area, may appeal against such refusal to the chief native commissioner for the area in question, whose decision on any such appeal shall be final, and the native commissioner or magistrate having jurisdiction in that area may, in the event of such an appeal being lodged, in his discretion grant permission to the native concerned to remain in the area in question pending the decision of such chief native commissioner on the appeal.

(4) Any person who contravenes any provision of this section, or who remains in any area for a purpose other than that for which permission so to remain has been granted to him, shall be guilty of an offence.

(5) In any criminal proceedings against a native in respect of a contravention of the provisions of this section, it shall be presumed until the contrary is proved that such native remained in the area in question for a period longer than seventy-two hours.

(6) The Governor-General may, if requested thereto by a resolution adopted at a duly constituted meeting of any urban local authority, by proclamation in the *Gazette* declare that for such period as may be specified in the proclamation the provisions of this section shall not apply in respect of the urban area under the jurisdiction of that urban local authority or in respect of any proclaimed area or part thereof in which that urban local authority exercises any of the powers referred to in sub-section (1) of section *twenty-three*."

28. The following section is hereby inserted in the Natives (Urban Areas) Consolidation Act, 1945, after section *ten*:

Insertion of section 10bis in Act 25 of 1945.

"Employment of natives in certain areas.

10bis. (1) No person shall employ any native in any urban area or in a proclaimed area in respect of which an urban local authority exercises any of the powers referred to in sub-section (1) of section *twenty-three* or in any area forming part of a proclaimed area and in respect of which an urban local authority exercises any of those powers unless permission to seek or take up employment has been granted to such native by the officer designated under sub-section (1) of section *ten* or the provisions of paragraphs (a), (b) or (c) of the said sub-section apply in regard to such native.

(2) Any person who contravenes any provisions of sub-section (1) shall be guilty of an offence.

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29. The following section is hereby substituted for section *eleven* of the Natives (Urban Areas) Consolidation Act, 1945:

"Introduc-
tion of
natives into
certain
areas.

11. (1) No person shall introduce into any area a native who in terms of section *ten* is prohibited from remaining in that area except under permit referred to in sub-section (2) of that section, or induce or assist such a native to enter any such area, except with the written permission of the officer referred to in the said sub-section, and subject to such conditions as he may determine, including, in the case of a native who is intended to be employed in that area by the person to whom such permission is given, a condition requiring that person to give security to the satisfaction of such officer that, at the termination of the contract of employment entered into with the native, such native will be returned to his home or last place of residence.

(2) Any person who contravenes any provision of sub-section (1) shall be guilty of an offence.

(3) Whenever the Union Government (including the Railway Administration) or any provincial administration has introduced any native who is in its employ or whom it intends to employ, into an area referred to in sub-section (1), it shall at the request of the officer designated under sub-section (1) of section *ten* by the local authority concerned, at its own expense return that native to his home or last place of residence if it does not take that native into its employ or if any contract of employment entered into between it and that native has expired or has been terminated."

Substitution of a
new section for
section 11 of
Act 25 of 1945.

30. Section *twelve* of the Natives (Urban Areas) Consolidation Act, 1945, is hereby amended by the substitution in sub-section (1) for the words "other than a native lawfully domiciled in the Union, the mandated territory of South-West Africa, Basutoland, the Bechuanaland Protectorate or Swaziland" of

Amendment of
section 12 of
Act 25 of 1945.

the words "other than a native born in the Union who has entered the Union from any country or territory other than the territory of South-West Africa, Basutoland, the Bechuanaland Protectorate or Swaziland or, having entered any of the said territories from any other country or territory, has subsequently entered the Union from such territory."

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31. The following section is hereby substituted for section *thirteen* of the Natives (Urban Areas) Consolidation Act 1945:

Substitution of new section for section 13 of Act 25 of 1945.

"Certain provisions not to apply to natives employed in certain industries.

13. The provisions of sections *ten*, *ten bis*, *eleven* and *twelve* shall not apply to or in respect of any native employed or proceeding to employment in a mining industry or any industry to which the Minister may, by notice in the *Gazette*, after consultation with the urban local authority concerned, apply the provisions of this section, but the said provisions shall be of full force and effect immediately upon termination of any contract of service in any such industry."

32. The following section is hereby substituted for section *fourteen* of the Natives (Urban Areas) Consolidation Act, 1945:

Substitution of new section for section 14 of Act 25 of 1945.

"Removal of natives who unlawfully remain in certain areas.

14. (1) A native who has been convicted under sub-section (4) of section *ten* or sub-section (2) of section *twelve* or has been introduced into any area in contravention of the provisions of sub-section (1) of section *eleven*, may, under a warrant issued by a magistrate or native commissioner and addressed to a police officer, be removed to his home or his last place of residence, or in the case of a native referred to in section *twelve*, to the country or territory from which he entered the Union or any of the territories mentioned in the said section.

(2) A magistrate or native commissioner may, in issuing any warrant under sub-section (1) in respect of a native convicted under sub-section (2) of section *twelve*, order that the cost of removal of such native be met from money found in his possession or otherwise belonging to him or accruing to him from any source.

(3) Any person convicted—

- (a) under sub-section (2) of section *eleven* of having introduced a native into or having induced or assisted a native to enter any area in contravention of the provisions of sub-section (1) of that section; or
- (b) under sub-section (3) of section *twelve* of having employed or continued to employ a native in any area in contravention of the provisions of sub-section (1) of that section,

may be required by order of the court which convicted him, made at the time of his conviction or at

any time thereafter, to pay the costs of removal of the native under a warrant issued in terms of sub-section (1).

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(4) A warrant may be issued under sub-section (1) or an order made under sub-section (3), notwithstanding the fact that a penalty has been imposed under this Act or any other law in respect of the offence in question upon the person against whom the warrant is issued or the order is made."

33. Section *fifteen* of the Natives (Urban Areas) Consolidation Act, 1945, is hereby amended by the substitution in sub-section (4) for the words "a local government" of the word "any".

Amendment of section 15 of Act 25 of 1945.

34. Section *nineteen* of the Natives (Urban Areas) Consolidation Act, 1945, is hereby amended—

Amendment of section 19 of Act 25 of 1945, as amended by section 1 of Act 43 of 1945.

(a) by the substitution for paragraph (c) of sub-section (3) of the following paragraph:

"(c) an amount equal to two-thirds of the balance standing to the credit of the said account at the end of the financial year of the local authority which commenced after the thirty-first day of December, 1949, plus two-thirds of the profits derived from the sale of kaffir beer during every subsequent financial year and not used during that financial year for any of the purposes mentioned in paragraph (a), which amounts shall revert to the main native revenue account and against which may be charged—

- (i) the losses on housing schemes for natives in a location, native village or native hostel;
- (ii) any amount required to offset the loss to the native revenue account resulting from the reduction of rentals in force in any location, native village or native hostel;
- (iii) the capital expenditure on housing schemes or works or services for or in connection with a location, native village or native hostel; and
- (iv) interest and redemption charges and maintenance costs for or in connection with a location, native village or native hostel:

Provided that the Governor-General may, after public inquiry by a person or persons appointed by him for that purpose, at which urban local authorities and other parties interested shall be entitled to be heard, declare by proclamation in the *Gazette* that as from a date to be specified therein, being not less than twelve months from the date of such proclamation, the provisions of

this paragraph shall be suspended for a period to be stated in such proclamation or shall be withdrawn.”.

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- (b) by the insertion in paragraph (a) of sub-section (10) after the word “nine” where it occurs for the first time of the words “*ten, ten bis,*”, and the deletion of the words “or *ten*”.

35. Section *twenty-three* of the Natives (Urban Areas) Consolidation Act, 1945, is hereby amended—

Amendment of section 23 of Act 25 of 1945, as amended by section 1 of Act 42 of 1946.

- (a) by the deletion in that portion of sub-section (1) which precedes paragraph (a) of the words “the local authority of which has, either before or after the commencement of this Act, made or has been required to make any of the provisions mentioned in section *two*”;
- (b) by the substitution in the said portion for the words “in which natives are congregated in large numbers for mining and industrial purposes” of the words “in which there is a large number of natives”;
- (c) by the substitution in paragraph (e) of that sub-section for the words “enters the proclaimed area” of the words “has in terms of section *ten* been authorized to remain in the proclaimed area for the purposes of seeking employment.”.

36. The following section is hereby substituted for section *twenty-nine* of the Natives (Urban Areas) Consolidation Act, 1945:

Substitution of new section for section 29 of Act 25 of 1945.

“Manner of dealing with idle or undesirable natives.

29. (1) Whenever any authorized officer has reason to believe that any native within an urban area or an area proclaimed in terms of section *twenty-three*—

- (a) is an idle person in that—
 - (i) he is habitually unemployed and has no sufficient honest means of livelihood; or
 - (ii) because of his own misconduct or default (which shall be taken to include the squandering of his means by betting, gambling or otherwise) he fails to provide for his own support or for that of any dependant whom he is legally liable to maintain; or
 - (iii) he is addicted to drink or drugs, in consequence of which he is unable to provide for his own support or is unable or neglects to provide for the support of any dependant whom he is legally liable to maintain; or
 - (iv) he habitually begs for money or goods or induces others to beg for money or goods on his behalf; or

(b) he is an undesirable person in that he—

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- (i) has been convicted of an offence mentioned in the Third Schedule to the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), other than an offence against the laws for the prevention of the supply of intoxicating liquor to natives or coloured persons; or
- (ii) has been convicted of selling or supplying intoxicating liquor, other than kaffir beer, or of being in unlawful possession of any such liquor, or has been convicted more than once within a period of three years of selling or supplying kaffir beer or of being in unlawful possession of kaffir beer; or
- (iii) has been required under paragraph (c) of sub-section (1) of section *twenty-three* to depart from a proclaimed area and has failed to depart therefrom, or having been required under paragraph (e) of that sub-section to depart from such an area, has failed to depart therefrom within the period specified in terms of that paragraph or has returned thereto before the expiration of the period so specified; or
- (iv) being a female prohibited under paragraph (d) of sub-section (1) of section *twenty-three*, from entering any area for any purpose mentioned in that paragraph without the certificates prescribed in that paragraph, has entered that area for such a purpose without the said certificates, or having entered the area, has failed to produce the said certificates on demand by an authorized officer,

he may, without warrant arrest that native or cause him to be arrested and any European police officer or officer appointed under sub-section (1) of section *twenty-two* may thereupon bring such a native before a native commissioner or magistrate who shall require the native to give a good and satisfactory account of himself.

(2) If any native who has been so required to give a good and satisfactory account of himself fails to do so, the native commissioner or magistrate enquiring into the matter shall declare him to be an idle or an undesirable person, according to the circumstances.

(3) If a native commissioner or magistrate declares any native to be an idle or undesirable person, he shall—

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- (a) by warrant addressed to any police officer order that such native be removed from the urban or proclaimed area and sent to his home or to a place indicated by such native commissioner or magistrate, and that he be detained in custody pending his removal; or
- (b) order that such native other than a female referred to in sub-paragraph (iv) of paragraph (b) of sub-section (1) be sent to and detained in a work colony established or deemed to have been established under the Work Colonies Act, 1949; or
- (c) if such native is declared to be an idle person, order that he be sent to and detained for a period not exceeding two years in a farm colony, work colony, refuge, rescue home or similar institution established or approved under section *fifty* of the Prisons and Reformatories Act, 1911 (Act No. 13 of 1911), and perform thereat such labour as may be prescribed under that Act or the regulations made thereunder for the persons detained therein; or
- (d) if such native agrees to enter and enters into a contract of employment with such an employer and for such a period as that native commissioner or magistrate may approve, order that such native enter into employment in accordance with the terms of that contract and, if he deems fit, that such native be detained in custody pending his removal to the place at which he will in terms of that contract be employed.

(4) An order made under paragraph (b) of sub-section (3) shall have the same effect as if it had been made under sub-section (6) of section *fifteen* of the Work Colonies Act, 1949.

(5) In addition to any order made in terms of sub-section (3), the native commissioner or magistrate may further order that the native concerned shall not at any time thereafter, or during the period specified in the order, enter any urban or proclaimed area indicated in the order, not being the area in which he was born and permanently resided at the date of the order, except with the written permission of the Secretary for Native Affairs.

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(6) Any native commissioner or magistrate having jurisdiction in the area in question may suspend the execution of any warrant or order issued in terms of sub-section (3) for any period and on any conditions determined by him.

(7) If any native enters any urban or proclaimed area in contravention of an order made under sub-section (5), he shall be guilty of an offence, and the court convicting him of such offence shall by warrant order that, after he has paid any fine or served any period of imprisonment to which he may be sentenced in respect of that offence, he be dealt with as provided in paragraph (a) or (b) of sub-section (3).

(8) Any dependant of any native who is ordered to return home or is removed to any place, may at the request of the urban local authority or of such native or dependant be removed, together with his personal effects, at the public expense, to the said native's home or the place to which he has been ordered to be removed.

(9) A native commissioner or magistrate enquiring into any matter under this section—

- (a) may authorize the finger prints of any native, who, in terms of this section, is required to give a good and satisfactory account of himself, to be taken.
- (b) may from time to time adjourn the enquiry and may in such case order that the native concerned be detained in a gaol or in a police cell or lock-up or other place which such native commissioner or magistrate considers suitable, or release him on bail *mutatis mutandis* as if he were a person whose trial on a criminal charge in a magistrate's court is adjourned;
- (c) shall keep a record of the proceedings and may, in his discretion, summon to his assistance two natives to sit and act with him as assessors in an advisory capacity.

(10) The provisions of the law relating to appeals and to any form of review in criminal cases shall *mutatis mutandis* apply in respect of any order made under paragraph (b) or (c) of sub-section (3) as if such order were a sentence passed by a magistrate's court in a criminal case."

37. Section *thirty-four* of the Natives (Urban Areas) Consolidation Act, 1945, is hereby amended—

Amendment of
section 34 of
Act 25 of 1945.

- (a) by the insertion after sub-section (6) of the following new sub-section—

“(6)*bis*. The selling price of kaffir beer sold by any urban local authority under this section, shall after inquiry by an officer appointed by the Minister for that purpose (at which such urban local authority shall be entitled to be heard), be fixed by the Minister as from a date to be determined by the Minister. The Secretary for Native Affairs shall notify such local authority in writing of the fixing of such price and the determination of such date, and as from the said date no kaffir beer shall be sold by such local authority at a price in excess of the price so fixed by the Minister.”.

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(b) by the substitution in sub-section (7) for the expression “and (6)” of the expression “(6) and (6)*bis*.”.

38. Section *thirty-nine* of the Natives (Urban Areas) Consolidation Act, 1945, is hereby amended—

Amendment of
section 39 of
Act 25 of 1945.

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

“(1) Whenever the Governor-General deems it expedient he may, after reference to the Administrator and to the body concerned, by proclamation in the *Gazette* designate any such body as is contemplated by paragraph (vi) of section *eighty-five* of the South Africa Act, 1909, as an urban local authority for the purpose of the application, within one or more areas under its jurisdiction specified in the proclamation, of such provisions of this Act as may be so specified, and thereupon, in respect of the provisions and the area or areas so specified, such body shall, subject to the provisions of sub-section (2), be invested and charged with all the powers, duties and functions of an urban local authority under this Act.”;

(b) by the substitution in sub-section (2) for the words “local government body in question” of the words “body by which such regulations are to be made”.

39. Sections *twenty*, *thirty-one* and *thirty-two* of British Bechuanaland Proclamation No. 2 of 1885 and the Natives (Urban Areas) Amendment Act, 1945 (Act No. 43 of 1945) are hereby repealed.

Repeal of laws.

40. This Act shall be called the Native Laws Amendment Act, 1952.

Short title.

Schedule.

(Section *eighteen*.)

1. Certain piece of land being Sub-division “B” of Umlazi Native Location No. 4676, County of Durban, Province of Natal, in extent 74.1657 acres.

2. Certain piece of land known as Bucknell No. 11562, situated in the Umkomanzi Health Committee (Malaria) Area, County of Durban, Province of Natal, in extent 135 acres 7 perches.