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EXTRAORDINARY BUITENGEWONE

EX UNITATE VIRES

THE REPUBLIC OF SOUTH AFRICA

Government Gazette

Staatskoerant

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DEPARTMENT OF THE PRIME MINISTER.

No. 630.] [5th May, 1965.

It is hereby notified that the State President has assented to the following Acts which are hereby published for general information:—

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DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 630.] [5 Mei 1965.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wette wat hierby ter algemene inligting gepubliseer word:—

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No. 46, 1965.]

ACT

To amend the Land Bank Act, 1944.

(*English text signed by the State President.*)
(*Assented to 29th April,* 1965.)

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

Amendment of section 4 of Act 13 of 1944, as amended by section 2 of Act 42 of 1951.

1. Section *four* of the Land Bank Act, 1944 (hereinafter referred to as the principal Act), is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) The operations of the bank shall be controlled by a board consisting of a chairman (who shall be the managing director appointed under sub-section (1) of section *four bis* or a general manager appointed under sub-section (1) of section *thirteen* who serves as acting managing director) and not less than four or more than six other members to be appointed by the Governor-General.".

Substitution for section 4*bis* of Act 13 of 1944, as inserted by section 3 of Act 42 of 1951.

2. The following section is hereby substituted for section *four bis* of the principal Act:

"Managing director and acting managing director of bank.

4*bis*. (1) The Governor-General shall, upon such terms as he may deem fit, appoint a managing director of the bank who shall in addition to his functions as chairman of the board, exercise such powers and perform such duties as the Minister may determine.

(2) Whenever the office of managing director is vacant or the managing director is for any reason unable to perform the duties of his office, the general manager appointed under sub-section (1) of section *thirteen*, or, if there are two or more such general managers, one of those general managers designated by the Minister, shall serve as acting managing director, and if there is no such general manager or for any reason no such general manager is able to serve as acting managing director, an officer of the bank designated by the Minister on the recommendation of the board, shall serve as acting managing director.".

Amendment of section 10 of Act 13 of 1944, as amended by section 1 of Act 10 of 1952 and section 3 of Act 47 of 1959.

3. Section *ten* of the principal Act is hereby amended—

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

"Provided that for every day on which a member (other than the chairman) is absent from a meeting of the board without the board's leave, granted under sub-section (2), his salary shall be reduced by the sum of five pounds.";

(*b*) by the substitution for sub-section (2) of the following sub-section:

"(2) The board may grant to any member leave of absence from meetings of the board—

(*a*) for any number of days in respect of which it is satisfied that such member was or will be prevented by the business of the bank or of any board, association, organization or commission to which he has been appointed by the Governor-General or any Minister of State or the Administrator of any province, from attending meetings of the board;

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No. 46, 1965.]

WET

Tot wysiging van die Landbankwet, 1944.

(*Engelse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 29 *April* 1965.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 4 van Wet 13 van 1944, soos gewysig deur artikel 2 van Wet 42 van 1951.

1. Artikel *vier* van die Landbankwet, 1944 (hieronder die Hoofwet genoem), word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) Die werksaamhede van die bank word beheer deur 'n raad bestaande uit 'n voorsitter (wat die kragtens sub-artikel (1) van artikel *vier bis* aangestelde besturende direkteur is of 'n kragtens sub-artikel (1) van artikel *dertien* aangestelde hoofbestuurder is wat as waarnemende besturende direkteur dien) en minstens vier, maar hoogstens ses, ander lede wat deur die Goewerneur-generaal aangestel word.".

Vervanging van artikel 4*bis* van Wet 13 van 1944, soos ingevoeg deur artikel 3 van Wet 42 van 1951.

2. Artikel *vier bis* van die Hoofwet word hierby deur die volgende artikel vervang:

„Besturende direkteur en waarnemende besturende direkteur van bank.

4*bis*. (1) Die Goewerneur-generaal stel op die voorwaardes wat hy goedvind, 'n besturende direkteur van die bank aan wat benewens sy werksaamhede as voorsitter van die raad, die bevoegdhede uitoefen en pligte verrig wat die Minister bepaal.

(2) Wanneer die amp van die besturende direkteur vakant is of die besturende direkteur om een of ander rede nie sy ampspligte kan uitvoer nie, dien die kragtens sub-artikel (1) van artikel *dertien* aangestelde hoofbestuurder, of, indien daar twee of meer sodanige hoofbestuurders is, een van daardie hoofbestuurders deur die Minister aangewys, as waarnemende besturende direkteur, en indien daar geen sodanige hoofbestuurder is nie of om een of ander rede geen sodanige hoofbestuurder as waarnemende besturende direkteur kan dien nie, dien 'n deur die Minister op aanbeveling van die raad aangewese beampte van die bank as waarnemende besturende direkteur.".

Wysiging van artikel 10 van Wet 13 van 1944, soos gewysig deur artikel 1 van Wet 10 van 1952 en artikel 3 van Wet 47 van 1959.

3. Artikel *tien* van die Hoofwet word hierby gewysig—

(*a*) deur die voorbehoudsbepaling by sub-artikel (1) deur die volgende voorbehoudsbepaling te vervang:

„Met dien verstande dat die salaris van 'n lid (behalwe die voorsitter), vir elke dag wat hy van 'n vergadering van die raad afwesig is sonder verlof deur die raad kragtens sub-artikel (2) verleen, met 'n bedrag van vyf pond verminder word.";

(*b*) deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) Die raad kan aan 'n lid verlof tot afwesigheid van vergaderings van die raad verleen—

(*a*) vir enige aantal dae ten opsigte waarvan die raad oortuig is dat bedoelde lid in verband met die werksaamhede van die bank of van 'n raad, vereniging, organisasie of kommissie waarin hy deur die Goewerneur-generaal of 'n Staatsminister of die Administrateur van 'n provinsie aangestel is, verhinder was of sal word om vergaderings van die raad by te woon;

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(*b*) for any number of days not exceeding thirty-nine days in any year of office, in respect of which it is satisfied that such member was or will be prevented by illness from attending meetings of the board;

(*c*) for not more than twenty-four days in respect of each year of office, subject to the condition that no member shall under this paragraph be granted leave to be absent from meetings on more than forty-eight days in any one such year.".

Amendment of section 13 of Act 13 of 1944, as inserted by section 2 of Act 60 of 1957.

4. Section *thirteen* of the principal Act is hereby amended by the substitution for sub-section (2) of the following sub-section:

"(2) Whenever an office of general manager is vacant or a general manager is for any reason unable to perform the duties of his office, the board may designate an officer of the bank to serve as acting general manager.".

Amendment of section 21 of Act 13 of 1944, as amended by section 6 of Act 47 of 1959, section 2 of Act 35 of 1961 and section 1 of Act 14 of 1964.

5. Section *twenty-one* of the principal Act is hereby amended by the insertion after paragraph (*e*) of sub-section (1) of the following paragraph:

"(*e*)*bis* to guarantee the payment of any amount of money which may be or become owing by any person to whom any advance has been made by the board in terms of this Act or any other law or who has deposited any money with the bank, if such amount does not exceed the amount of the advance or deposit, as the case may be;".

Amendment of section 29 of Act 13 of 1944.

6. Section *twenty-nine* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) Whenever an owner, as defined in the Dipping Tanks (Advances) Act, 1911, of a holding, as so defined, desires to construct thereon a tank, silo or other contrivance for the making or storage of ensilage, the bank may make an advance to such owner for the purpose: Provided that the specifications of the tank, silo or other contrivance shall be subject to the approval of the Department of Agricultural Technical Services.".

Amendment of section 30 of Act 13 of 1944.

7. Section *thirty* of the principal Act is hereby amended by the substitution for sub-section (2) of the following sub-section:

"(2) The provisions of the Dipping Tanks (Advances) Act, 1911, as modified by the Dipping Tanks Further Provision Act, 1913, and by this Act, shall *mutatis mutandis* apply to any such advance.".

Amendment ot section 34 of Act 13 of 1944, as amended by section 15 of Act 47 of 1959.

8. Section *thirty-four* of the principal Act is hereby amended—

(*a*) by the insertion after sub-section (4) of the following sub-section:

"(4)*bis* While a debtor owes the bank any money by virtue of an advance mentioned in sub-section (1), all articles or substances purchased by the debtor with the money advanced to him, which are in the possession of or in transit to the debtor or an agent of the debtor, shall be deemed to have been pledged to the bank as effectually as if they had been expressly pledged and delivered to the bank, and any disposal thereof by or on behalf of the debtor, without the consent in writing of the board, shall be null and void.";

(*b*) by the insertion after sub-section (6) of the following sub-section:

"(6)*bis* If any advance in connection with the production, cultivation, gathering, processing or marketing of wine (as defined in the Wine and Spirits Control Amendment Act, 1940 (Act No. 23 of 1940), or the Wine and Spirits Control Act, 1956 (Act No. 38 of 1956)) or of wattle bark (as defined in the Wattle Bark Industry Act, 1960 (Act No. 23 of 1960)) has been made to any person under sub-section (1), no right arising out of the said Acts in respect of the production of any such wine or wattle bark shall be ceded by or transferred from such person to any other person, and no such right shall be granted to such first-mentioned person in lieu of any other such right, until the advance, together with costs and interest, has been repaid, unless the board consents to such cession, transfer or grant.";

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(*b*) vir enige aantal dae van hoogstens nege-en-dertig dae gedurende 'n ampsjaar, ten opsigte waarvan die raad oortuig is dat bedoelde lid weens siekte verhinder was of sal word om vergaderings van die raad by te woon;

(*c*) vir hoogstens vier-en-twintig dae ten opsigte van elke ampsjaar, behoudens die voorwaarde dat aan geen lid kragtens hierdie paragraaf verlof verleen word om op meer as agt-en-veertig dae gedurende 'n bepaalde ampsjaar van vergaderings afwesig te wees nie.".

Wysiging van artikel 13 van Wet 13 van 1944, soos ingevoeg deur artikel 2 van Wet 60 van 1957.

4. Artikel *dertien* van die Hoofwet word hierby gewysig deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) Wanneer 'n amp van hoofbestuurder vakant is of 'n hoofbestuurder om een of ander rede nie sy ampspligte kan uitvoer nie, kan die raad 'n beampte van die bank aanwys om as waarnemende hoofbestuurder te dien.".

Wysiging van artikel 21 van Wet 13 van 1944, soos gewysig deur artikel 6 van Wet 47 van 1959, artikel 2 van Wet 35 van 1961 en artikel 1 van Wet 14 van 1964.

5. Artikel *een-en-twintig* van die Hoofwet word hierby gewysig deur na paragraaf (*e*) van sub-artikel (1) die volgende paragraaf in te voeg:

„(*e*)*bis* om die betaling te waarborg van enige bedrag geld wat verskuldig is of kan word deur 'n persoon aan wie 'n voorskot deur die raad kragtens hierdie Wet of ander wetsbepalings gemaak is of wat geld by die bank gedeponeer het, indien bedoelde bedrag nie die bedrag van die voorskot of deposito, na gelang van die omstandighede, te bowe gaan nie;".

Wysiging van artikel 29 van Wet 13 van 1944.

6. Artikel *nege-en-twintig* van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) Wanneer 'n eienaar, soos in die ‚Dipbakken (Voorschotten) Wet, 1911', omskryf, van 'n besitting, soos aldus omskryf, daarop 'n bak, voerkuil of ander inrigting vir die maak of bewaring van kuilvoer wil aanbou, kan die bank aan daardie eienaar 'n bedrag vir die doel voorskiet: Met dien verstande dat die spesifikasies van die bak, voerkuil of ander inrigting deur die Departement van Landbou-tegniese Dienste goedgekeur moet word.".

Wysiging van artikel 30 van Wet 13 van 1944.

7. Artikel *dertig* van die Hoofwet word hierby gewysig deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) Die bepalings van die ‚Dipbakken (Voorschotten) Wet, 1911', soos deur die ‚Dipbakken Verdere Regelings Wet, 1913', en deur hierdie Wet gewysig, is *mutatis mutandis* op so 'n voorskot van toepassing.".

Wysiging van artikel 34 van Wet 13 van 1944, soos gewysig deur artikel 15 van Wet 47 van 1959.

8. Artikel *vier-en-dertig* van die Hoofwet word hierby gewysig—

(*a*) deur die volgende sub-artikel na sub-artikel (4) in te voeg:

„(4)*bis* Solank as 'n skuldenaar aan die bank geld skuld op grond van 'n in sub-artikel (1) bedoelde voorskot, word alle artikels of stowwe deur die skuldenaar gekoop met die geld wat aan hom voorgeskiet is en wat in die besit is van of onderweg is na die skuldenaar of 'n agent van die skuldenaar, geag net so daadwerklik aan die bank verpand te wees asof dit uitdruklik aan die bank verpand en oorhandig was, en is beskikking daaroor deur of namens die skuldenaar, sonder skriftelike toestemming van die raad, nietig.";

(*b*) deur die volgende sub-artikel na sub-artikel (6) in te voeg:

„(6)*bis* Indien in verband met die produksie, bewerking, insameling, verwerking of bemarking van wyn (soos in die Wysigingswet op die Kontrole oor Wyn en Spiritualieë, 1940 (Wet No. 23 van 1940), of die Wet op Beheer oor Wyn en Spiritualieë, 1956 (Wet No. 38 van 1956), omskryf) of van wattelbas (soos in die Wet op die Wattelbasnywerheid, 1960 (Wet No. 23 van 1960), omskryf) aan 'n persoon 'n voorskot kragtens sub-artikel (1) toegestaan is, mag geen reg wat uit bedoelde Wette voortspruit met betrekking tot die produksie van bedoelde wyn of wattelbas, deur bedoelde persoon aan 'n ander persoon gesedeer, of van eersbedoelde persoon aan 'n ander persoon oorgedra word nie, en mag geen sodanige reg aan eersbedoelde persoon in die plek van 'n ander sodanige reg toegeken word nie, alvorens die voorskot met koste en rente terugbetaal is, tensy die raad tot die sessie, oordrag of toekenning toestem.";

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(*c*) by the insertion after sub-section (9) of the following sub-section:

"(9)*bis* Any rights which a debtor in respect of any advance under sub-section (1), may have under any Act referred to in sub-section (6)*bis*, in respect of the sale or disposal of wine or wattle bark as defined in any such Act, which the board has decided to sell under sub-section (7), shall, if the board buys in such wine or wattle bark, be vested in the bank, and if the board sells such wine or wattle bark to any person, be vested in that person.".

Amendment of section 34*bis* of Act 13 of 1944, as inserted by section 16 of Act 47 of 1959 and amended by section 3 of Act 35 of 1961.

9. Section *thirty-four bis* of the principal Act is hereby amended by the substitution for paragraph (*a*) of sub-section (6) of the following paragraph:

"(*a*) The board may, if the debtor in respect of any advance made under this section fails to pay, when due, any amount for which he has become liable under this section or to observe any condition of the advance, or if the debtor deals or purports to deal with the hypothecated property or any part thereof in a manner in which he is, by virtue of the application of the provisions of this section, not entitled to deal therewith after the expiry of seven days after demand for the repayment of the advance has been made by registered letter addressed to the address of the debtor stated in the form of application for the advance, without recourse to a court of law, require any messenger of the court or any other person nominated by the board for the purpose, to seize the property thus hypothecated and, whether or not such messenger of the court or such other person is a licensed auctioneer, to sell such property by public auction at such place and at such time and on such conditions as the board may determine, or the board may itself sell the property so seized by public tender on the conditions which it may determine.".

Insertion of section 50*bis* in Act 13 of 1944.

10. The following section is hereby inserted in the principal Act after section *fifty*:

"Women divested of certain benefits.

50*bis*. Any married or unmarried woman to whom an advance is granted by the bank in terms of this Act or any other law or who guarantees or stands surety for or takes over or assumes responsibility for the payment of the debt of any person to the bank shall be deemed to have renounced the benefits of the *Senatusconsultum Velleianum* and the *Authentica si qua mulier*, in so far as they would but for the renunciation have applied.".

Amendment of section 55 of Act 13 of 1944.

11. Section *fifty-five* of the principal Act is hereby amended—

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

"(*d*) the security for the advance be declared executable by order of a competent court or be attached in pursuance of a judgment of any such court or under section *twenty-two ter* of the Farmers' Assistance Act, 1935 (Act No. 48 of 1935) or becomes the subject of a direction under sub-section (2) of the said section; or";

(*b*) by the substitution for sub-paragraph (ii) of paragraph (*b*) of sub-section (2) of the following sub-paragraph:

"(ii) in the circumstances mentioned in paragraph (*c*), (*d*), (*e*), or (*f*) of sub-section (1), the board may so enter upon and take possession of and sell the whole or any part of such security as soon after the debtor's estate has been finally sequestrated or assigned, or the debtor has been sentenced, or the property has been declared executable or attached or become the subject of a direction under sub-section (2) of section *twenty-two ter* of the Farmers' Assistance Act, 1935, or the debtor's estate is being administered under the provisions of sub-section (3) of section *forty-eight* of the said Administration of Estates

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(*c*) deur die volgende sub-artikel na sub-artikel (9) in te voeg:
„(9)*bis* Alle regte wat 'n skuldenaar weens 'n voorskot volgens sub-artikel (1), ingevolge 'n in sub-artikel (6)*bis* bedoelde Wet mag besit ten opsigte van die verkoop van of beskikking oor wyn of wattelbas soos in so 'n Wet omskryf en wat die raad kragtens sub-artikel (7) besluit het om te verkoop, berus, indien die raad die wyn of wattelbas inkoop, by die bank, en indien die raad die wyn of wattelbas aan 'n persoon verkoop, by daardie persoon.".

Wysiging van artikel 34*bis* van Wet 13 van 1944, soos ingevoeg deur artikel 16 van Wet 47 van 1959 en gewysig deur artikel 3 van Wet 35 van 1961.

9. Artikel *vier-en-dertig bis* van die Hoofwet word hierby gewysig deur paragraaf (*a*) van sub-artikel (6) deur die volgende paragraaf te vervang:
„(*a*) Die Raad kan, indien die skuldenaar ten opsigte van 'n voorskot wat kragtens hierdie artikel verstrek is, versuim om 'n bedrag waarvoor hy ingevolge hierdie artikel aanspreeklik geword het op die vervaldag te betaal of om 'n voorwaarde van die voorskot na te kom, of indien die skuldenaar met die goed wat verhipotekeer is of enige deel daarvan handel of heet te handel op 'n wyse waarop hy uit hoofde van die toepassing van die bepalings van hierdie artikel nie geregtig is om daarmee te handel nie, na die verstryking van sewe dae na opvordering van die voorskot per aangetekende brief gerig aan die adres van die skuldenaar wat in die vorm van aansoek om die voorskot aangegee is, sonder geregtelike proses 'n geregsbode of enige ander deur die raad vir die doel aangewese persoon aansê om op die aldus verhipotekeerde goed beslag te lê en, hetsy sodanige geregsbode of sodanige ander persoon 'n gelisensieerde afslaer is al dan nie, om sodanige goed by openbare veiling te verkoop by die plek en op die tyd en op die voorwaardes wat die raad bepaal, of die raad kan self die goed waarop aldus beslag gelê is by openbare tender verkoop op die voorwaardes wat hy bepaal.".

Invoeging van artikel 50*bis* in Wet 13 van 1944.

10. Die volgende artikel word hierby in die Hoofwet na artikel *vyftig* ingevoeg:

„Vroue van sekere voordele ontdoen.

50*bis*. 'n Getroude of ongetroude vrou aan wie 'n voorskot deur die bank ingevolge hierdie Wet of ander wetsbepalings toegestaan word of wat die skuld van enige persoon by die bank waarborg of daarvoor borgstaan of dit oorneem of aanspreeklikheid vir die betaling daarvan aanvaar, word geag van die voordele van die *Senatusconsultum Velleianum* en die *Authentica si qua mulier* afstand te gedoen het vir sover hulle by ontstentenis van die afstanddoening sou gegeld het.".

Wysiging van artikel 55 van Wet 13 van 1944.

11. Artikel *vyf-en-vyftig* van die Hoofwet word hierby gewysig—
(*a*) deur paragraaf (*d*) van sub-artikel (1) deur die volgende paragraaf te vervang:
„(*d*) die sekuriteit vir die voorskot by bevel van 'n bevoegde hof eksekutabel verklaar word of ingevolge 'n bevel van so 'n hof of kragtens artikel *twee-en-twintig ter* van die Boere-Bystandswet, 1935 (Wet No. 48 van 1935), in beslag geneem word of die onderwerp word van 'n opdrag kragtens sub-artikel (2) van genoemde artikel; of";
(*b*) deur sub-paragraaf (ii) van paragraaf (*b*) van sub-artikel (2) deur die volgende sub-paragraaf te vervang:
„(ii) onder die omstandighede in paragraaf (*c*), (*d*), (*e*) of (*f*) van sub-artikel (1) genoem, die raad bedoelde sekuriteit of 'n deel daarvan aldus kan betree en in beslag kan neem en kan verkoop sodra hy dit raadsaam ag nadat die boedel van die skuldenaar finaal gesekwestreer of afgestaan is, of die skuldenaar gevonnis is, of die eiendom eksekutabel verklaar of in beslag geneem is of die onderwerp van 'n opdrag kragtens sub-artikel (2) van artikel *twee-en-twintig ter* van die Boere-Bystandswet, 1935, geword het, of die boedel van die skuldenaar volgens die bepalings van sub-artikel (3) van artikel *agt-en-veertig* van

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Act, 1913, or a notice has been published with reference to the debtor under sub-section (1) of section *ten* of the said Farmers' Assistance Act, 1935, as the board may deem expedient;".

Amendment of section 65 of Act 13 of 1944, as amended by section 9 of Act 13 of 1953.

12. Section *sixty-five* of the principal Act is hereby amended by the substitution for sub-sections (1) and (2) of the following sub-sections:

"(1) The managing director shall, within three months after the thirty-first day of December in each year, transmit to the Minister, to be laid before the Governor-General and published in the *Gazette*, a statement of account showing—

(*a*) the assets and liabilities of the bank as on the said date; and

(*b*) the profit and loss account for the preceding year.

(2) Every such statement shall be signed as correct by the managing director, two members of the board and the chief accountant of the bank, and shall be laid before Parliament within seven days after it has been so transmitted, if Parliament be then in session, or if Parliament be not then in session, within seven days after the commencement of its next ensuing session.".

Short title.

13. This Act shall be called the Land Bank Amendment Act, 1965.

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genoemde Boedelwet, 1913, beheer word, of 'n kennisgewing volgens sub-artikel (1) van artikel *tien* van genoemde Boere-Bystandswet, 1935, met betrekking tot die skuldenaar gepubliseer is;".

Wysiging van artikel 65 van Wet 13 van 1944, soos gewysig deur artikel 9 van Wet 13 van 1953.

12. Artikel *vyf-en-sestig* van die Hoofwet word hierby gewysig deur sub-artikels (1) en (2) deur die volgende sub-artikels te vervang:

„(1) Die besturende direkteur moet binne drie maande na die een-en-dertigste dag van Desember elke jaar, aan die Minister, vir voorlegging aan die Goewerneur-generaal en publikasie in die *Staatskoerant*, 'n staat stuur, waarin vermeld word—

(*a*) die bates en laste van die bank op gemelde datum; en
(*b*) die wins- en verliesrekening vir die vorige jaar.

(2) Elke sodanige staat moet deur die besturende direkteur, twee lede van die raad en die hoofrekenmeester van die bank as korrek onderteken word, en moet aan die Parlement voorgelê word binne sewe dae nadat dit aldus aangestuur is, as die Parlement dan sit, of as die Parlement dan nie sit nie, binne sewe dae na die begin van sy eersvolgende sitting.".

Kort titel.

13. Hierdie Wet het die Wysigingswet op die Landbank, 1965.

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No. 47, 1965.]

ACT

To amend the Public Service Act, 1957.

(*Afrikaans text signed by the State President.*)
(*Assented to 29th April,* 1965.)

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

Amendment of section 1 of Act 54 of 1957, as amended by section 1 of Act 71 of 1963.

1. Section *one* of the Public Service Act, 1957 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Commission" in sub-section (1) of the following definition:

"'Commission' means the Public Service Commission and in relation to any power conferred upon or function entrusted to the Commission by this Act or any other law, includes any member or members of the Commission or any officer employed in the office of the Commission to whom the exercise of such power or the performance of such function has been lawfully delegated by the Commission in terms of sub-section (2) of section *five* and in relation to any such power or function the exercise or performance of which has been so delegated to the staff board or a member or members of the staff board established by section *four bis,* includes that staff board or member or members of that staff board;". (xi)

Amendment of section 4*bis* of Act 54 of 1957, as inserted by section 2 of Act 71 of 1963.

2. Section *four bis* of the principal Act is hereby amended—

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

"(1) There is hereby established a staff board for the Department of Posts and Telegraphs and that branch of the Administration of the territory charged with the administration, management and working of the postal, telegraph and telephone services (hereinafter referred to as the staff board).";

(*b*) by the insertion after sub-section (3) of the following sub-section:

"(3)*bis*. Whenever the chairman of the staff board is absent for any reason whatsoever, the Commission may, after consultation with the Minister of the Interior, designate another member of the Commission to act in the place of the chairman during his absence and whenever another member of the staff board is so absent, the Minister of Posts and Telegraphs may, in consultation with the Commission, designate another officer to act in the place of that member during his absence."; and

(*c*) by the substitution for sub-section (4) of the following sub-section:

"(4) Failing general agreement among the members of the staff board on any matter which in terms of a delegation under sub-paragraph (i) of paragraph (*c*) of sub-section (2) of section *five* falls within its powers or functions, the Postmaster-General shall submit such matter to the Commission which shall deal with it as if the power or function concerned had not been delegated to the staff board.".

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No. 47, 1965.]

WET

Tot wysiging van die Staatsdienswet, 1957.

(*Afrikaanse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 29 *April* 1965.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 54 van 1957, soos gewysig deur artikel 1 van Wet 71 van 1963.

1. Artikel *een* van die Staatsdienswet, 1957 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van „Kommissie" in sub-artikel (1) deur die volgende omskrywing te vervang:

„'Kommissie', die Staatsdienskommissie en in verband met 'n bevoegdheid of werksaamheid wat aan die Kommissie by hierdie Wet of enige ander wetsbepaling verleen of opgedra word, ook enige lid of lede van die Kommissie of 'n beampte in diens in die kantoor van die Kommissie aan wie die uitoefening van daardie bevoegdheid of die verrigting van daardie werksaamheid wettiglik deur die Kommissie ingevolge sub-artikel (2) van artikel *vyf* gedelegeer is en in verband met so 'n bevoegdheid of werksaamheid waarvan die uitvoering of verrigting aldus aan die by artikel *vier bis* ingestelde personeelraad of 'n lid of lede van daardie personeelraad gedelegeer is, ook daardie personeelraad of lid of lede van daardie personeelraad;". (iii)

Wysiging van artikel 4*bis* van Wet 54 van 1957, soos ingevoeg deur artikel 2 van Wet 71 van 1963.

2. Artikel *vier bis* van die Hoofwet word hierby gewysig—

(*a*) deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) Daar word hierby 'n personeelraad vir die Departement van Pos- en Telegraafwese en dié afdeling van die Administrasie van die gebied wat belas is met die administrasie, bestuur en lewering van pos-, telegraaf- en telefoondienste (hieronder die personeelraad genoem), ingestel.";

(*b*) deur na sub-artikel (3) die volgende sub-artikel in te voeg:

„(3)*bis*. Wanneer die voorsitter van die personeelraad, om watter rede ook al, afwesig is, kan die Kommissie, na oorlegpleging met die Minister van Binnelandse Sake, 'n ander lid van die Kommissie aanwys om gedurende die afwesigheid van die voorsitter in sy plek op te tree en wanneer 'n ander lid van die personeelraad aldus afwesig is, kan die Minister van Pos- en Telegraafwese, in oorleg met die Kommissie, 'n ander beampte aanwys om in die plek van daardie lid gedurende sy afwesigheid op te tree."; en

(*c*) deur sub-artikel (4) deur die volgende sub-artikel te vervang:

„(4) By gebrek aan eenstemmigheid onder die lede van die personeelraad oor enige aangeleentheid wat ingevolge 'n delegasie kragtens sub-paragraaf (i) van paragraaf (*c*) van sub-artikel (2) van artikel *vyf* by sy bevoegdhede of werksaamhede inbegrepe is, moet die Posmeester-generaal bedoelde aangeleentheid aan die Kommissie voorlê, wat daarmee handel asof die betrokke bevoegdheid of werksaamheid nie aan die personeelraad gedelegeer was nie.".

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Amendment of section 5 of Act 54 of 1957, as amended by section 3 of Act 71 of 1963.

3. Section *five* of the principal Act is hereby amended by the substitution for paragraph (*c*) of sub-section (2) of the following paragraph:

"(*c*) in respect of the Department of Posts and Telegraphs and that branch of the Administration of the territory charged with the administration, management and working of the postal, telegraph and telephone services—
(i) by the staff board under a general or special delegation from the Commission; and
(ii) by a member or members of the staff board under a general or special delegation from the Commission.".

Short title.

4. This Act shall be called the Public Service Amendment Act, 1965.

No. 48, 1965.]

ACT

To amend the Magistrates' Courts Act, 1944.

(*English text signed by the State President.*)
(*Assented to 29th April,* 1965.)

Amendment of section 9 of Act 32 of 1944, as amended by section 8 of Act 40 of 1952, section 17 of Act 50 of 1956, section 38 of Act 68 of 1957, section 24 of Act 93 of 1962 and section 1 of Act 19 of 1963.

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

1. Section *nine* of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act), is hereby amended—

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

"(1) (*a*) Subject to the provisions of the law governing the public service and the provisions of paragraph (*b*) of this sub-section and of section *ten*, the Minister may appoint for any district or sub-district a magistrate, one or more additional magistrates or one or more assistant magistrates and for every regional division a magistrate or magistrates.

(*b*) No person shall be appointed as a magistrate of a regional division unless he is a magistrate who has satisfied all the requirements for the degree of *baccalaureus legum* of a university in the Republic or has passed the Public Service Senior Law Examination or an examination deemed by the Public Service Commission to be equivalent or superior to the said examination, and the board referred to in section *nine bis* has informed the Minister that he is suitable for appointment as a magistrate of a regional division.

(*c*) A magistrate of a regional division may also be a magistrate of a district."; and

(*b*) by the substitution for sub-section (2) of the following sub-section:

"(2) Whenever by reason of absence or incapacity a magistrate, additional magistrate or assistant magistrate is unable to carry out the functions of his office or whenever such office becomes vacant, the Minister, or, if delegated by the Minister, the Secretary or Deputy Secretary for Justice or an Under-Secretary for Justice or the Administrative Control Officer or first administrative officer in the staff branch of the Department of Justice may appoint any other competent officer of the public service or any competent retired officer of the public service to act in the place of the absent or incapacitated magistrate, additional magistrate or assistant magistrate, as the case may be, during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that no person shall be appointed as an acting magistrate of a regional division unless he has satisfied all the requirements for the degree referred to in paragraph (*b*) of sub-section (1) or has passed an examination referred to in that paragraph: Provided further that when any such vacancy has remained unfilled for a continuous period exceeding six months the fact shall be reported to the Public Service Commission.".

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3. Artikel *vyf* van die Hoofwet word hierby gewysig deur paragraaf (*c*) van sub-artikel (2) deur die volgende paragraaf te vervang:

Wysiging van artikel 5 van Wet 54 van 1957, soos gewysig deur artikel 3 van Wet 71 van 1963.

„(*c*) ten opsigte van die Departement van Pos- en Telegraafwese en dié afdeling van die Administrasie van die gebied wat belas is met die administrasie, bestuur en lewering van pos-, telegraaf- en telefoondienste—
(i) deur die personeelraad ingevolge 'n algemene of spesiale delegasie van die Kommissie; en
(ii) deur 'n lid of lede van die personeelraad ingevolge 'n algemene of spesiale delegasie van die Kommissie.".

Kort titel.

4. Hierdie Wet heet die Staatsdiens-wysigingswet, 1965.

No. 48, 1965.]

WET

Tot wysiging van die Wet op Landdroshowe, 1944.

(*Engelse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 29 *April* 1965.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:

1. Artikel *nege* van die Wet op Landdroshowe, 1944 (hieronder die Hoofwet genoem), word hierby gewysig—

Wysiging van artikel 9 van Wet 32 van 1944, soos gewysig deur artikel 8 van Wet 40 van 1952, artikel 17 van Wet 50 van 1956, artikel 38 van Wet 68 van 1957, artikel 24 van Wet 93 van 1962 en artikel 1 Wet 19 van 1963.

(*a*) deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) (*a*) Behoudens die wetsbepalings met betrekking tot die Staatsdiens en die bepalings van paragraaf (*b*) van hierdie sub-artikel en van artikel *tien*, kan die Minister vir enige distrik of sub-distrik 'n magistraat, een of meer addisionele magistrate of een of meer assistent-magistrate, en vir elke streekafdeling, 'n magistraat of magistrate aanstel.

(*b*) Niemand word as 'n magistraat van 'n streekafdeling aangestel nie tensy hy 'n magistraat is wat aan al die vereistes vir die graad *baccalaureus legum* van 'n universiteit in die Republiek voldoen het of in die Senior Staatsdienseksamen in die Regte of 'n eksamen deur die Staatsdienskommissie as gelykstaande met of hoër as bedoelde eksamen geag, geslaag het, en die in artikel *nege bis* bedoelde raad die Minister meegedeel het dat hy geskik is vir aanstelling as 'n magistraat van 'n streekafdeling.

(*c*) 'n Magistraat van 'n streekafdeling kan ook die magistraat van 'n distrik wees."; en

(*b*) deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) Wanneer 'n magistraat, addisionele magistraat of assistent-magistraat weens afwesigheid of onvermoë om watter rede ook, nie in staat is om sy ampswerksaamhede te verrig nie of wanneer so 'n amp vakant word, kan die Minister of, indien deur die Minister daartoe gemagtig, die Sekretaris of Adjunk-sekretaris van Justisie of 'n Ondersekretaris van Justisie of die Administratiewe Beheerbeampte of eerste administratiewe beampte in die personeelafdeling van die Departement van Justisie, enige ander bevoegde amptenaar in die staatsdiens of 'n bevoegde afgetrede amptenaar van die staatsdiens aanstel om in die plek van die afwesige of onvermoënde magistraat, addisionele magistraat of assistent-magistraat, na gelang van die geval, gedurende sodanige afwesigheid of tydperk van onvermoë waar te neem, of om die vakante amp waar te neem totdat die vakature aangevul word: Met dien verstande dat niemand as 'n waarnemende magistraat van 'n streekafdeling aangestel word nie tensy hy aan al die vereistes vir die in paragraaf (*b*) van sub-artikel (1) bedoelde graad voldoen het of in 'n in daardie paragraaf bedoelde eksamen geslaag het: Met dien verstande voorts dat wanneer so 'n vakature ononderbroke gedurende 'n tydperk van meer as ses maande onaangevul gebly het, die geval aan die Staatsdienskommissie meegedeel moet word.".

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Insertion of section 9*bis* in Act 32 of 1944.

2. The following section is hereby inserted after section *nine* of the principal Act:

"Establishment of Regional Divisions Appointments Advisory Board.

9*bis*. (1) The Minister of Justice shall establish a board, to be known as the Regional Divisions Appointments Advisory Board, to determine from time to time the suitability of magistrates for appointment as magistrates of regional divisions and to advise the Minister concerned as to the suitability of such magistrates for appointment as magistrates of regional divisions.

(2) The board shall consist of—

(*a*) the Secretary for Justice who shall be the chairman thereof;

(*b*) the Deputy Secretary for Justice who shall be the vice-chairman thereof; and

(*c*) so many officers of the Department of Justice holding office as attorney-general or the rank of chief magistrate or Under-Secretary for Justice, as the Minister of Justice may from time to time appoint.

(3) Half the members of the board shall form a quorum.

(4) If the chairman of the board is absent from any meeting, the vice-chairman of the board shall preside at that meeting, and if both the chairman and the vice-chairman of the board are absent from any meeting, one of the members present thereat and previously designated thereto by the chairman shall preside at such meeting.

(5) The decision of a majority of the members of the board present at any meeting thereof shall be deemed to be the decision of the board.

(6) In the event of an equality of votes on any matter before a meeting of the board, the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.".

Amendment of section 48 of Act 32 of 1944.

3. Section *forty-eight* of the principal Act is hereby amended by the substitution for paragraph (*d*) of the following paragraph:

"(*d*) such judgment as to costs (including costs as between attorney and client) as may be just;".

Short title.

4. This Act shall be called the Magistrates' Courts Amendment Act, 1965.

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2. Die volgende artikel word hierby na artikel *nege* van die Hoofwet ingevoeg: — Invoeging van artikel 9*bis* in Wet 32 van 1944.

„Instelling van Adviserende Raad op Aanstellings vir Streekafdelings.

9*bis*. (1) Die Minister van Justisie stel 'n raad in wat die Adviserende Raad op Aanstellings vir Streekafdelings heet, om van tyd tot tyd die geskiktheid van magistrate vir aanstelling as magistrate vir streekafdelings te bepaal en om die betrokke Minister met betrekking tot die geskiktheid van sodanige magistrate vir aanstelling as magistrate van streekafdelings te adviseer.

(2) Die raad bestaan uit—

(*a*) die Sekretaris van Justisie wat die voorsitter daarvan is;

(*b*) die Adjunk-sekretaris van Justisie wat die ondervoorsitter daarvan is; en

(*c*) soveel amptenare van die Departement van Justisie wat die amp van prokureur-generaal of die rang van hoofmagistraat of Ondersekretaris van Justisie beklee, as wat die Minister van Justisie van tyd tot tyd mag aanstel.

(3) 'n Kworum bestaan uit die helfte van die lede van die raad.

(4) Indien die voorsitter van die raad van 'n vergadering afwesig is, moet die ondervoorsitter van die raad by daardie vergadering voorsit, en indien sowel die voorsitter as die ondervoorsitter van 'n vergadering afwesig is, sit een van die lede wat aldaar aanwesig is en wat vooraf deur die voorsitter daartoe aangewys is, by daardie vergadering voor.

(5) Die beslissing van 'n meerderheid van die lede van die raad wat op 'n vergadering daarvan aanwesig is, word geag 'n besluit van die raad te wees.

(6) By 'n staking van stemme oor enige aangeleentheid voor 'n vergadering van die raad, het die persoon wat by die betrokke vergadering voorsit, benewens sy beraadslagende stem, ook 'n beslissende stem.".

3. Artikel *agt-en-veertig* van die Hoofwet word hierby gewysig deur paragraaf (*d*) deur die volgende paragraaf te vervang: — Wysiging van artikel 48 van Wet 32 van 1944.

„(*d*) so 'n vonnis met betrekking tot die koste (met inbegrip van koste tussen prokureur en kliënt) vel as wat billik is;".

4. Hierdie Wet heet die Wysigingswet op Landdroshowe, 1965. — Kort titel.

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