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REPUBLIC OF SOUTH AFRICA.

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**EXPLANATORY MEMORANDUM**

ON THE

**VARIOUS CLAUSES IN THE FINANCE BILL, 1962.**

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PART I.

MATTERS AFFECTING THE CONSOLIDATED REVENUE FUND.

CLAUSE ONE.

This clause gives effect to the Budget proposal that any profits arising from purchases of shares on the London market on behalf of financial institutions in the Republic are to be credited to the Defence Special Equipment Account.

CLAUSE TWO.

With effect from the 1st April, 1962, the administrative expenses of the Group Areas Development Board, including the salaries and allowances of board members, are in terms of Act 49 of 1962 paid from revenue. Prior to that date, such salaries and allowances were, with the exception of the salaries of board members who were in the full-time employ of the State, paid out of the funds of the Board in terms of section *six* of the Group Areas Development Act, 1955, as it then existed.

The exception was originally made because it was not expected that persons in the full-time employ of the State would serve on the Board other than in a part-time capacity. In 1960 and again in 1961, however, two such persons were appointed as full-time members of the Board, one as vice-chairman and the other as chairman, and their salaries were, from the dates on which they were so appointed, paid out of the funds of the Board.

While this was in accordance with the then existing policy that the Board should meet its administrative expenses out of its own funds, it was not strictly in accordance with the terms of section *six* of Act 69 of 1955 prior to its amendment by section *thirty-three* of Act 49 of 1962, and the object of this clause is to validate the payments so made.

CLAUSE THREE.

In terms of section 20 (1) (c) of the Exchequer and Audit Act, 1956, Parliament may make moneys available, in the form of recoverable advances, to meet any deficiency in the Bantu Education Account.

As there is a possibility of small temporary deficiencies arising during the current financial year unless the rate at which Bantu taxation is being collected can be increased, it is deemed advisable to provide for this contingency, which is the object of paragraph (1) (a) of this clause.

Paragraph (1) (b) provides that any advances which it may be necessary to make are to be repaid at the commencement of the ensuing financial year, and paragraph (2) merely ensures that any such advances will be included in the borrowing powers of the State President.

CLAUSE FOUR.

This clause extends to the 30th September, 1962, the period of validity of any instrument which was stamped at sterling rates prior to the date of commencement of the Decimal Coinage Act, 1959, but which had not been executed by the 14th

February, 1962, the date on which the period of validity expired in terms of section *one* of the Stamp Duties and Fees Further Amendment Act, 1960.

Such instruments consist principally of cheque forms on which the duty has been embossed.

#### CLAUSE FIVE.

This clause gives effect to the Budget proposal that all 5 per cent. Seven Year Treasury Bonds may be redeemed at the option of the holder after five years at par instead of at a discount of 2 per cent., the condition on which they were originally issued.

#### CLAUSE SIX.

In terms of section *seventy-six* of the Pneumoconiosis Act of 1956 the Pneumoconiosis Board could pay an allowance not exceeding R15 per month to those beneficiaries under the Act who required the constant services of an attendant.

The Pneumoconiosis Compensation Act, 1962, which repeals the 1956 Act, consolidates this allowance with the pension payable in respect of pneumoconiosis in the fourth stage. All miners falling in this category who were not previously in receipt of the allowance therefore benefit by an amount of R15 per month, whereas those in this category who were in receipt of the allowance will receive no extra benefit under the 1962 Act.

In order that the persons falling in the latter group may also be afforded some measure of relief, it has been decided to pay them a special allowance of R10 per month, and the object of this clause is to make the necessary provision.

#### CLAUSE SEVEN.

The Kaffirkuils Irrigation Scheme was transferred to the State in terms of section *nine* of Act 35 of 1923, and the object of this clause is to delete from that section those provisions which, while necessary at the time, have now become redundant by virtue of the provisions of the Water Act, 1956.

#### CLAUSE EIGHT.

Section *three* of Act 45 of 1931 provides that any person upon whose information any precious stone or precious metal, or any money paid in respect of the illicit purchase of any precious stone or precious metal, is seized under any law may, at the discretion of the Commissioner of the South African Police, be paid as a drawback out of the revenue accruing to the State from the sale of such precious stone or metal or from the seizure of such money, a reward not exceeding one-third of the amount realized by such sale or of such money seized.

In some instances the amount realized or the money seized is so little that the application of even the full amount for the purpose of reward would not be adequate compensation to the informer. The Police are to a very great extent dependent upon information supplied by the public for the successful combatting of crime and the detection of criminals, and it is therefore considered that in such instances the Commissioner of Police should be able to grant a more adequate reward than the Act at present allows.

The object of paragraph (a) of this clause is therefore to empower the Commissioner to grant, in instances such as are referred to in the previous paragraph, a total reward not exceeding R100. Paragraph (b) is a consequential amendment which makes it clear that the portion of a reward which does not exceed one-third of the amount accruing to the State shall continue, as at present, to be paid as a drawback from accruing revenue.

#### CLAUSE NINE.

Section *ninety-four* of the Co-operative Societies Act, 1939, provides for the amalgamation of two or more co-operative societies or companies with limited liability, and section *92bis* of the Act provides for the conversion of co-operative agricultural societies with unlimited liability into co-operative agricultural companies with limited liability.

Both sections provide that Registrars of Deeds shall make, free of charge or stamp duties, such notes or entries as are necessary as a result of an amalgamation or conversion in accordance with the relevant section of the Act. In the past, this has always been interpreted to mean also that no transfer duty is payable in respect of the property passing from the original societies or companies to the new companies, but some doubt has recently been cast on this interpretation because the sections in question do not specifically provide for exemption from transfer duty.

The principle of exemption from transfer duty in cases such as this is, however, well-established and is provided for, e.g., in section 37 (7) of the Building Societies Act, 1934, section 33 (3) of the Banking Act, 1942, section 14 (3) of the Pension Funds Act, 1956, and section 21 (13) of the Friendly Societies Act, 1956, and the object of this clause is to remove the doubt which has arisen in regard to co-operative societies and companies.

Since transfer duty has not been levied in respect of past amalgamations and conversions, it is necessary to make the amendments to the Act retrospective to the dates on which the above-mentioned sections of the Co-operative Societies Act came into operation.

#### CLAUSE TEN.

If a banking institution takes over all the assets and liabilities of another banking institution, it is not necessary to have new deeds, certificates, letters of appointment and other documents registered in the name of the institution taking over the assets and liabilities. Section 33 (3) of the Banking Act provides that the relevant documents in the registration offices concerned need only be endorsed and the registers altered in order to record the transfer. Furthermore, in terms of that section no transfer duty, stamp duty, registration fees or other charges are payable in respect of the transfer, endorsements and alterations. However, the institution taking over the assets and liabilities remains liable for licence duties where the licences of its predecessor are not transferable and for transfer charges where the licences are indeed transferable but such charges are payable.

The object of this clause is to enable the institution taking over the assets and liabilities to take over without extra charge also the valid licences of its predecessor, other than the latter's company licence.

The existing section 33 (3) was inserted in the Banking Act in 1951 pursuant to a transfer of banking business which took effect during that year. However, because that transfer took effect on 2nd January, 1951, which coincided with the renewal date of licences, exemption from licence duties was not considered at the time.

The present amendment has retrospective effect from 31st March, 1962, so as to bring within its scope a transfer which took effect on that date.

#### CLAUSE ELEVEN.

Section *sixteen* of the Atomic Energy Act, 1948, which deals with the finances of the Atomic Energy Board, was amended by section *three* of Act 44 of 1961 to provide, *inter alia*, for the financial arrangements flowing from the negotiation of the stretch-out agreements relating to the sale of prescribed material, including the arrangements in respect of the investment of advances to be received by the Board in terms of those agreements and the manner of accounting for the interest payable on such advances and receivable on such investments.

As a result of representations by the producers of prescribed material, the Board agreed to make certain advances to them out of the advances received by it under the stretch-out agreements, but matters were only finalized after Act 44 of 1961 had been passed, and section *sixteen* of the Atomic Energy Act as amended by that Act thus made no provision for advances to producers. This must now be rectified, which is the object of paragraph (1) (a) of this clause.

The provisions relating to investments by the Board and the manner of accounting for interest payable and receivable must also be amended to take account of the changed circumstances arising from the Board's agreement to make advances to producers. Paragraph (1) (b) effects the necessary amendments in this respect.

At the same time the opportunity is being taken to provide firstly (see the proposed paragraph (v) (*aa*)) that the Board shall, pending such payments, invest with the Public Debt Commissioners that part of the proceeds of the sale of prescribed materials which is required to make payments to producers, which payments, for administrative reasons, can normally be made only some days after the Board itself receives payment. Formerly the money was invested at call with the National Finance Corporation, but for some time now it has been the practice to invest it with the Public Debt Commissioners, which is the proper course to follow having regard to the fact that it can properly be classed as public money.

Secondly, it is now provided that instead of any surplus interest being paid to revenue annually, surpluses are to be carried forward to meet possible deficits in future years and are to be paid to revenue only when the Board is no longer liable in respect of any advances made to it under the stretch-out agreements. This arrangement is necessary because certain producers of prescribed material have been permitted, with the approval of the Treasury, to pay in one lump sum the present value of their interest liability in respect of advances made to them by the Board. As the Act now reads, these lump sum payments would have to be taken into account *in toto* in the year in which they were received, thus creating a large artificial surplus for that year which would have to be paid to revenue and which in turn would mean that deficits requiring to be voted could arise in subsequent years. Since the whole object of paragraph (vi) of the proviso to section 16 (4) of the Atomic Energy Act is to ensure that Parliament is fully informed of the ultimate interest cost or profit arising from the stretch-out agreements, it is considered that the provision now proposed is best calculated to achieve that object.

Those portions of section *sixteen* of the Atomic Energy Act dealing with the financial arrangements flowing from the negotiation of the stretch-out agreements came into operation on the 1st January, 1961, in terms of section 3 (2) of Act 44 of 1961, and the present amendments must therefore be deemed to have come into operation on that date. Paragraph (2) of this clause provides accordingly.

#### CLAUSES TWELVE TO SEVENTEEN.

The object of clauses *thirteen* to *sixteen* is to bring the provisions of the Estate Duty Act into line with the provisions of the Income Tax Act in certain respects. Clause *thirteen* confers upon the Commissioner for Inland Revenue in regard to Estate Duty matters similar powers to call for the production of documents and to examine witnesses on oath as are conferred upon him by section *seventy-four* of the Income Tax Act; clause *fourteen* provides that the burden of proof where any exemption from or deduction or reduction of duty is claimed shall be upon the claimant, as is the case in regard to income tax in terms of section *eighty-two* of the Income Tax Act; clause *fifteen* provides for disputes regarding Estate Duty assessments to be referred to the Income Tax Special Court referred to in section *eighty-three* of the Income Tax Act, and clause *sixteen* provides that in any action by the Commissioner for the recovery of duty, the fact that an appeal has been lodged with the Income Tax Special Court against the amount of duty assessed by the Commissioner is in itself no defence to such an action, a provision which is also contained in the Income Tax Act.

Clauses *twelve* and *seventeen* are consequential upon the amendment effected by clause *thirteen*.

#### CLAUSE EIGHTEEN

The collection of provincial income tax is undertaken by the Commissioner for Inland Revenue on behalf of the provinces, and in terms of section 21 (4) (*a*) of the Exchequer and Audit Act, 1956, the basis on which payments are made to the various provincial revenue funds is prescribed by regulation.

The recent installation of an electronic computer in the office of the Commissioner made it possible to alter the existing basis for such payments with effect from the 1st April, 1962, and they can now be made on the basis of actual collections, instead of on the basis of assessments issued, as at present prescribed by section 21 (4) (*a*) of the Exchequer and Audit Act and the regulations thereunder.

It is therefore necessary to amend section 21 (4) (*a*) suitably, which is the object of paragraph (*a*) of this clause; at the same time, new regulations have to be issued, and paragraph (*b*) of this clause provides that such regulations may be made retrospective to the 1st April, 1962, the date on which the new system could be brought into operation.

### CLAUSE NINETEEN.

The Treasury exercises its control over financial matters by means of *inter alia* the Exchequer and Audit Act, 1956, the regulations framed thereunder, and directives issued from time to time by means of Treasury Circulars.

The existing regulations (which are commonly referred to as the Financial Regulations) were last revised in 1926 and consist on the one hand of principles which are fundamental to parliamentary control of expenditure and on the other hand of directives of a procedural nature.

The Financial Regulations are at present being revised, and it is the intention to include therein only those matters which are fundamental to parliamentary control of expenditure, leaving all those matters which are of a procedural nature, or which are at present covered by Treasury Circulars, to be dealt with by means of either Treasury Instructions or Revenue Instructions to be issued by principal receivers of revenue with the approval of the Treasury. The revision and reclassification of the existing Financial Regulations is being undertaken in close collaboration with the Controller and Auditor-General.

The object of this clause is to define what matters are to be included in the Financial Regulations and to permit the Treasury to issue, or approve the issue of, Instructions of a procedural nature which will have legislative authority.

### CLAUSE TWENTY.

The object of this clause is to provide that diamonds may be registered for export at Cape Town as well as at Johannesburg or Kimberley as at present.

### CLAUSES TWENTY-ONE AND TWENTY-TWO.

Prior to the establishment of the Republic, Government stock could be issued in London in terms of the Colonial Stock Acts of the United Kingdom and thereby acquire trustee status in the United Kingdom. Stock so issued is defined in section *one* of the General Loans Act, 1961, as "consolidated stock".

The establishment of the Republic did not affect the trustee status of consolidated stock already issued, but it is of course no longer possible to make use of the provisions of the Colonial Stock Acts in respect of issues made subsequent to the 31st May, 1961. The General Loans Act must therefore be amended to confine the definition of "consolidated stock" to stock issued in the United Kingdom prior to that date, which is the object of clause *twenty-one*.

Clause *twenty-two* contains a consequential amendment.

### CLAUSE TWENTY-THREE.

In terms of section *three* of the Finance Act, 1961, the Minister of Finance was empowered to withdraw from circulation such quantities of sterling bronze coins as might become surplus to requirements as a result of decimalization.

At the time this power was confined to sterling bronze coins as it was known that they would in the nature of things have to disappear altogether sooner or later, and also because it was not then expected that any silver coins would become surplus.

Experience has since shown, however, that the half-crown (which incidentally has no counterpart in the decimal system) and also the 3d. coin and its counterpart, the 2½c coin, have for unknown reasons lost their popularity to some extent, so that considerable quantities are accumulating in the hands of the commercial banks, where they create a storage problem.

It would be unfair to expect the banks to cope with this storage problem should the unpopularity of these coins persist, and the object of this clause is to empower the Minister of Finance to authorize the Director of the Mint to take over surplus coins as the need arises.

While it is not expected that any problem is likely to arise in respect of other coins, it is nevertheless deemed advisable that the Minister's powers should extend to all coins.

CLAUSE TWENTY-FOUR.

The object of paragraph (a) of this clause is to delete a provision which is redundant. The exemption in respect of Item I of the First Schedule to the Stamp Duties Act, 1962, is wide enough to cover any affidavit or declaration required by the Department of Social Welfare and Pensions in connection with the payment by it of pensions on behalf of the Government of the United Kingdom, or any British colonial territory, without specifically exempting such affidavits or declarations.

Paragraph (b) corrects an error in the Afrikaans text, while the object of paragraph (c) of this clause is to extend to the governments of all countries the general exemption from stamp duties and fees presently enjoyed only by the Government of the United Kingdom.

PART II.

MATTERS AFFECTING THE RAILWAY ADMINISTRATION.

CLAUSE TWENTY-FIVE.

In accordance with the procedure normally observed, this clause provides for the disposal of the surplus revenue in the Railway and Harbour Fund arising from the operation of the Administration's services for the financial year ended 31st March, 1962.

In the Railway Budget Speech it was announced that R8 million from the estimated 1961/62 surplus of R8.599 million would be appropriated to the Betterment Fund. Since then the working results have reflected a more favourable position and the surplus is now expected to exceed R12 million. The proposed appropriation to the Betterment Fund has therefore been increased to R12 million.

Normally, the accounting adjustments to give effect to the disposal of the surplus are made as soon as the Unauthorized Expenditure Act for the financial year concerned has been promulgated, that is, the adjustments are reflected in the accounts for the ensuing financial year. In this case, however, it is specifically provided that the Betterment Fund shall receive the credit in the 1961/62 accounts in order to cover expenditure over the available balance for that year, as well as expenditure during the 1962/63 financial year which will be brought to charge commencing with April, 1962.

CLAUSE TWENTY-SIX.

This clause deals with the increase in the salaries of Railway Commissioners from R6,000 to R6,800 per annum with effect from 1st April, 1961, which was decided upon on 14th June, 1961. Payment of the increase was made at the end of June, 1961, with retrospective effect.

At the time the decision was taken, it was too late to include the necessary provision in the Finance Bill for 1961.

Validation of the increase in the Commissioners' salaries as from 1st April, 1961, is accordingly now sought to comply with section 102 (4) of the Republic of South Africa Constitution Act, 1961.