

Act No. 31
of 1961.

(c) Compensation which may be payable to the holder of an unregistered right in respect of the land, shall be taken into account to the extent to which that right brings about a diminution in the fair market value of the land.

Compensation is payable to owner or is deposited in Guardian's Fund.

13. Any compensation which is payable in terms of this Act to the owner of land or of any right in or over land, shall be paid to the owner, if his address is known, or, if his address is not known, to the Master of the Supreme Court to be deposited in the Guardian's Fund: Provided that where the land is mortgaged, the compensation may be applied as far as is necessary for the payment of claims of bondholders in their legal order of preference, providing such bondholders have complied with the provisions of section *nine*: Provided further that if the said land was sold before the fixed date to any person who furnished proof that he has paid the purchase price either in whole or in part, the whole amount of the compensation payable in respect of the land, less any amount still owing to the seller by way of purchase price, may be paid to the purchaser.

Repeal of certain laws by proclamation.

14. (1) The Governor-General may by proclamation in the *Gazette* from a date fixed therein repeal in whole or in part any law or provision thereof which applies to an incorporated area and which in the opinion of the Governor-General is in conflict with the provisions of this Act.

(2) The Minister shall cause a copy of every proclamation issued under sub-section (1) to be laid upon the Table of both Houses of Parliament within fourteen days after the publication thereof 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.

(3) Every such proclamation shall cease to have the force of law thirty days after it has been laid upon the Table of both Houses of Parliament unless before that date it has been approved by Act of Parliament.

Short title.

15. This Act shall be called the Preservation of Coloured Areas Act, 1961.

Act No. 32
of 1961.

ACT

To constitute the Republic of South Africa and to provide for matters incidental thereto.

(*Afrikaans text signed by the Governor-General.*)
(*Assented to 24th April, 1961.*)

IN HUMBLE SUBMISSION to Almighty God, Who controls the destinies of nations and the history of peoples;

Act No. 32
of 1961.

Who gathered our forebears together from many lands
and gave them this their own;
Who has guided them from generation to generation;
Who has wondrously delivered them from the dangers
that beset them;

WE, who are here in Parliament assembled, DECLARE that
whereas we

ARE CONSCIOUS of our responsibility towards God and man;

ARE CONVINCED OF THE NECESSITY TO STAND UNITED

To safeguard the integrity and freedom of our country;

To secure the maintenance of law and order;

To further the contentment and spiritual and material
welfare of all in our midst;

ARE PREPARED TO ACCEPT our duty to seek world peace in
association with all peace-loving nations; and

ARE CHARGED WITH THE TASK of founding the Republic of
South Africa and giving it a constitution best suited to
the traditions and history of our land:

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

PART I.

THE REPUBLIC.

1. The Union of South Africa consisting of the pro-
vinces of the Cape of Good Hope, Natal, the Transvaal and
the Orange Free State as they existed immediately prior to
the commencement of this Act, shall as from the thirty-first
day of May, 1961, be a republic under the name of the
Republic of South Africa.

2. The people of the Republic of South Africa acknow-
ledge the sovereignty and guidance of Almighty God.

3. As from the date mentioned in section *one*, any refer-
ence in any law in force immediately prior to the commence-
ment of this Act, in the Union of South Africa or in any other
territory in respect of which Parliament is competent to legis-
late—

- (a) to the Union of South Africa or the State, shall be
construed as a reference to the Republic;
- (b) to the Crown or the King or the Queen or the
Governor-General shall be construed as a reference
to the Republic or the State President as the cir-
cumstances may require;
- (c) to the King-in-Council or the Queen-in-Council or
the Governor-General-in-Council, shall be construed
as a reference to the State President.

Republic of
South Africa.

Sovereignty and
guidance of
Almighty God
acknowledged.

Construction of
pre-Republican
laws.

Act No. 32
of 1961.

PART II.

NATIONAL FLAG AND ANTHEM.

National Flag
of Republic.

4. There shall be a National Flag of the Republic of which the design shall be as set out in section *five*.

Design of
National Flag.

5. (1) The National Flag of the Republic shall be a flag consisting of three horizontal stripes of equal width from top to bottom orange, white and blue, on which there shall appear—

- (a) in the centre of the white stripe, the flag of the republic of "De Oranjevrijstaat" hanging vertically and spread in full; and
- (b) on opposite sides and adjoining the flag referred to in paragraph (a)—
 - (i) the Union Jack, as it existed in 1927, horizontally spread in full towards the pole; and
 - (ii) the Vierkleur of "De Zuid-Afrikaansche Republiek" horizontally spread in full away from the pole.

(2) The flags referred to in paragraphs (a) and (b) of sub-section (1) shall all be of the same size and of a shape proportionally the same as that of the National Flag, the width of each of such flags shall be equal to one-third of the width of the white stripe on the National Flag, and the flags referred to in paragraph (b) of sub-section (1) shall be equidistant from the margins of the said white stripe.

National Anthem.

6. The National Anthem of the Republic shall be "Die Stem van Suid-Afrika".

PART III.

THE STATE PRESIDENT.

The head of the
State and his
powers.

7. (1) The head of the Republic shall be the State President.
(2) The command-in-chief of the South African Defence Force is vested in the State President.
(3) He shall, subject to the provisions of this Act, have power—

- (a) with due regard to the provisions of this Act to dissolve the Senate or the House of Assembly or the Senate and the House of Assembly simultaneously;
- (b) in accordance with the provisions of sections *twenty* and *twenty-one* to appoint Ministers and deputies to Ministers;
- (c) to confer honours;
- (d) to appoint and to accredit, to receive and to recognize ambassadors, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers;

Act No. 32
of 1961.

- (e) with due regard to the provisions of this Act to appoint the times for the holding of sessions of Parliament and to prorogue Parliament;
- (f) to pardon or reprieve offenders, either unconditionally or subject to such conditions as he may deem fit, and to remit any fines, penalties or forfeitures;
- (g) to enter into and ratify international conventions, treaties and agreements;
- (h) to proclaim and terminate martial law;
- (i) to declare war and make peace;
- (j) to make such appointments as he may deem fit under powers conferred upon him by any law, and to exercise such powers and perform such functions as may be conferred or assigned to him under this Act or any other law.

(4) The State President shall in addition as head of the State have such powers and functions as were immediately prior to the commencement of this Act possessed by the Queen by way of prerogative.

(5) The constitutional conventions which existed immediately prior to the commencement of this Act shall not be affected by the provisions of this Act.

Election of
State President.

8. (1) The State President shall be elected by an electoral college consisting of the members of the Senate and the House of Assembly, at a meeting to be called in accordance with the provisions of this section and presided over by the Chief Justice of South Africa or a judge of appeal designated by him.

(2) The election of a State President shall be held at a time and place to be fixed by the Speaker or (in his absence) the Secretary to the House of Assembly and made known by notice in the *Gazette* not less than fourteen days before such election.

(3) The date so fixed shall in respect of the first such election be a date before the thirty-first day of May, 1961, and in the case of any subsequent such election a date not less than one month and not more than three months before the termination of the period of office of the State President then holding office: Provided that if the State President dies or for any other reason vacates his office before the expiration of his period of office a date within three months after the office became vacant shall be so fixed.

(4) No person may be elected or serve as State President unless he is qualified to be nominated or elected and to take his seat as a member of the Senate.

(5) Any person holding any public office in respect of which he receives any remuneration or allowance out of public funds, who is elected as State President, shall vacate such office with effect from the date on which he is elected.

Act No. 32
of 1961.Method of
election.

9. (1) Nominations of candidates for election as State President shall be called for at the meeting at which the election is to take place, by the person presiding thereat.

(2) Every nomination shall be submitted in the form prescribed and shall be signed by two members of the electoral college and also by the person nominated, unless he has in writing or by telegram signified his willingness to accept nomination: Provided that in the case of the person for the time being holding office as State President, nomination shall be by way of a decision such as is provided for in paragraph (a) of sub-section (1) of section *ten*.

(3) The names of the persons duly nominated as provided in sub-section (2) shall be announced at the meeting at which the election is to take place by the person presiding thereat, and no debate shall be allowed at the election.

(4) If in respect of any election only one nomination has been received, the person presiding at the meeting shall declare the candidate in question to be duly elected.

(5) Where more than one candidate is nominated for election, a vote shall be taken by secret ballot, each member of the electoral college present at the meeting in question having one vote, and any candidate in whose favour a majority of all the votes cast is recorded, shall be declared duly elected by the person presiding at the meeting.

(6) (a) If no candidate obtains a majority of all the votes so cast, the candidate who received the smallest number of votes shall be eliminated and a further ballot taken in respect of the remaining candidates, this procedure being repeated as often as may be necessary until a candidate receives a majority of all the votes cast and is declared duly elected.

(b) Whenever two or more candidates being the lowest on the poll have received the same number of votes, the electoral college shall by separate vote, to be repeated as often as may be necessary, determine which of those candidates shall for the purposes of paragraph (a) be eliminated.

(7) (a) Whenever—

- (i) only two candidates have been nominated; or
- (ii) after the elimination of one or more candidates in accordance with the provisions of this section, only two candidates remain,

and there is an equality of votes between those two candidates, a further meeting shall be called in accordance with the provisions of section *eight*, and the provisions of this section shall apply as if such further meeting were the first meeting called for the purposes of the election in question.

Act No. 32
of 1961.

(b) At the third meeting called in connection with any particular election, the person presiding at the meeting shall in the event of an equality of votes between any two candidates under the circumstances described in paragraph (a), have and exercise a casting vote.

(8) (a) The Speaker of the House of Assembly shall make rules in regard to the procedure to be observed at a meeting of the electoral college, including rules prescribing the form in which any nomination shall be submitted, and rules defining the duties of the presiding officer and of any person appointed to assist him and prescribing the manner in which the ballot at any such meeting shall be conducted.

(b) Any such rules shall be made known in such manner as the Speaker of the House of Assembly may consider necessary.

Tenure of
office of State
President.

10. (1) (a) The State President shall hold office for a period of seven years from the date upon which he takes the oath prescribed in section *twelve*, and shall not on termination of his period of office be eligible for re-election, unless it is expressly otherwise decided by the electoral college.

(b) He shall cease to hold office on a resolution passed by the Senate and by the House of Assembly during the same session declaring him to be removed from office on the ground of misconduct or inability to perform efficiently the duties of his office.

(2) (a) No resolution shall be taken under paragraph (b) of sub-section (1), except after consideration of a report of a joint committee of the Senate and the House of Assembly appointed in pursuance of a resolution of the House of Assembly which has been concurred in by the Senate.

(b) The House of Assembly shall not adopt a resolution that such a committee be appointed, unless there has previously been submitted to the Speaker of the House of Assembly a petition signed by not less than thirty members of the House of Assembly and requesting that such a committee be appointed.

(c) In connection with any resolution contemplated in paragraph (b) no debate shall be allowed either in the Senate or in the House of Assembly.

(3) The State President may resign by lodging his resignation in writing with the Speaker of the House of Assembly, who shall forthwith advise the Prime Minister of such resignation.

(4) The State President shall not be absent from the Republic except with the prior consent of the Executive Council.

Acting State
President.

11. Whenever the office of State President is vacant or the State President is for any reason unable to perform the duties of his office, the President of the Senate shall serve as Acting State President, and, if the office of President of the Senate is vacant or the holder of that office is unable to act, the

**Act No. 32
of 1961.**

Speaker of the House of Assembly or, if his office is vacant or he is unable to act, a person appointed by the Executive Council shall serve as Acting State President.

**Oath of office by
State President
and Acting State
President.**

12. The State President and any Acting State President shall before assuming office make and subscribe an oath of office in the following form before the Chief Justice of South Africa or a Judge of the Supreme Court of South Africa:

In the presence of Almighty God and in the full realization of the high calling I assume as State President/ Acting State President in the service of my people, I, A.B., do swear to be faithful to the Republic of South Africa and do solemnly and sincerely promise at all times to promote that which will advance it, to oppose all that may harm it and to dedicate myself to the welfare of its inhabitants, to obey, observe, uphold and maintain the Constitution and all other Law of the Republic, to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience, to do justice unto all and to devote myself to the well-being of my people.

May the Almighty by His grace guide and sustain me in keeping this oath with honour and dignity.

So help me God.

**Protection of
dignity and
reputation of
State President
and Acting
State President.**

13. Any person who commits any act which is calculated to violate the dignity or injure the reputation of the State President or an Acting State President, shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or imprisonment for a period not exceeding five years.

**Salary of
State President.**

14. (1) There shall be paid to the State President out of and as a charge on the Consolidated Revenue Fund, in addition to any allowances appropriated from time to time by Parliament, and apart from any privileges which he may enjoy, a salary of twenty-five thousand rand per annum.

(2) The salary of the State President shall not be reduced during his term of office.

**Pension payable
to State President
and his widow.**

15. (1) There shall be paid out of and as a charge on the Consolidated Revenue Fund—

(a) to any person who has at any time occupied the office of State President, a pension at the rate of six thousand rand per annum;

(b) to the widow of any such person, unless her marriage to him took place after the date on which he vacated office, a pension at the rate of two-thirds of the rate of the pension payable to such person.

(2) Any pension under sub-section (1) shall be payable—

(a) in the case of the State President with effect from the day following that upon which he vacated office;

Act No. 32
of 1961.

(b) in the case of his widow, with effect from the day following that upon which she became a widow.

(3) Notwithstanding the repeal by section *one hundred and twenty* of section *ten bis* of the South Africa Act, 1909, any pension which but for such repeal would have been payable to any person under the latter section shall continue to be payable as if the repeal had not been effected.

PART IV.

EXECUTIVE GOVERNMENT.

Executive
government
vested in State
President acting
on advice of
Executive
Council.

16. (1) The executive government of the Republic in regard to any aspect of its domestic or foreign affairs is vested in the State President, acting on the advice of the Executive Council.

(2) Save where otherwise expressly stated or necessarily implied, any reference in this Act to the State President shall be deemed to be a reference to the State President acting on the advice of the Executive Council.

(3) The provisions of sub-sections (1) and (2) of this section shall not be construed to affect the exercise by the State President of his powers under section *twenty*, in so far as it relates to the appointment of Ministers, or section *twenty-five*, paragraph (a) of sub-section (1) of section *thirty-three* or section *forty-seven*, or the constitutional conventions relating to the exercise of his functions by the State President.

Executive
Council

17. The Executive Council shall consist of the Ministers appointed under section *twenty* for the time being holding office.

Seal of the
Republic.

18. (1) There shall be a Seal of the Republic, showing the coat of arms of the Republic with the circumscription "Republic of South Africa—Republiek van Suid-Afrika".

(2) The Seal shall be in the custody of the State President, and shall, save in so far as may be otherwise determined by the State President, be used on all public documents on which the Royal Great Seal or the Royal Signet of the Union of South Africa or the Governor-General's Great Seal was immediately prior to the commencement of this Act required to be used.

Confirmation
of executive acts
of State President.

19. (1) The will and pleasure of the State President as head of the executive government of the Republic shall be expressed in writing under his signature, and every instrument signed by him shall be countersigned by a Minister.

(2) The signature of the State President on any instrument shall be confirmed as provided in section *eighteen*.

Appointment of
Ministers.

20. (1) The State President may appoint persons not exceeding eighteen in number to administer such departments of State of the Republic as the State President may establish.

Act No. 32
of 1961.

(2) Persons appointed under sub-section (1) shall hold office during the pleasure of the State President and shall be the Ministers of the Republic.

(3) No Minister shall hold office for a longer period than three months unless he is or becomes a member of the Senate or the House of Assembly.

(4) Whenever any Minister is from any cause whatever unable to perform any of the functions of his office, the State President may appoint any other member of the Executive Council to act in the said Minister's stead, either generally or in the performance of any particular function.

(5) A Minister shall before assuming his duties as such or as a member of the Executive Council make and subscribe an oath before the State President or a person designated by him, in the following form:

I, A.B., do hereby swear to be faithful to the Republic of South Africa and undertake before God to honour this oath; to hold my office as Minister and as a member of the Executive Council with honour and dignity; to respect and uphold the Constitution and all other Law of the Republic; to be a true and faithful counsellor; not to divulge directly or indirectly any matters brought before the Executive Council which are entrusted to me under secrecy; and to perform the duties of my office conscientiously and to the best of my ability.

So help me God.

(6) Any department of State established under section *fourteen* of the South Africa Act, 1909, and in existence immediately prior to the commencement of this Act, shall be deemed to have been duly established under this section, and any officer appointed under sub-section (1) of the first-mentioned section to administer any such department and holding office immediately prior to such commencement, shall be deemed to have been duly appointed under this section to administer that department, but shall make and subscribe the oath prescribed in sub-section (5) before assuming his duties.

Appointment
and functions
of Deputy
Ministers.

21. (1) The State President may appoint not more than six persons to hold office during his pleasure as deputies to any Minister in his capacity as the person appointed to administer any particular department of State, and any such deputy may on behalf of that Minister and under the designation of Deputy Minister of the department in question, exercise such of the powers and perform such of the duties and functions assigned to that Minister in terms of any law or otherwise as the said Minister may from time to time determine, but shall not be a member of the Executive Council.

(2) Any person appointed under this section shall before assuming the duties of his office make and subscribe before the State President or a person designated by him for the purpose, an oath in such form as the State President may determine.

Act No. 32
of 1961.

(3) No person appointed under this section shall hold office for a longer period than three months unless he is or becomes a member of the Senate or the House of Assembly.

(4) Any person appointed under sub-section (3) of section *fourteen* of the South Africa Act, 1909, and holding office immediately prior to the commencement of this Act, shall be deemed to have been duly appointed under this section, and may, subject to the provisions of this section, continue to exercise or perform any powers, duties and functions which immediately prior to such commencement could be exercised or performed by him by virtue of a determination under sub-section (3) of the first-mentioned section, as if he were authorized to exercise such powers or perform such duties or functions in pursuance of a determination made by the Minister concerned in terms of this section, but shall make and subscribe the oath required under sub-section (2) before assuming the duties of his office.

Power to appoint
and discharge
persons.

22. The appointment and removal of persons in the service of the Republic shall be vested in the State President, unless the appointment or removal is delegated by the State President to some other authority or is in terms of this Act or any other law vested in some other authority.

Seat of
Government.

23. Save as is otherwise provided in section *twenty-seven*, Pretoria shall be the seat of Government of the Republic.

PART V.

PARLIAMENT.

Legislative
power.

24. (1) The legislative power of the Republic shall be vested in the Parliament of the Republic which shall consist of the State President, a Senate, and a House of Assembly.

(2) The Senate and the House of Assembly as constituted for the purposes of the South Africa Act, 1909, and in existence immediately prior to the commencement of this Act, shall be deemed to have been duly constituted for the purposes of this Act, and any person elected or nominated as a member of the said Senate or House of Assembly and holding office immediately prior to such commencement shall be deemed to have been duly elected or nominated to the Senate or the House of Assembly established by this Act: Provided that any such person shall before taking his seat as a member of the Senate or the House of Assembly established by this Act, make and subscribe the oath prescribed in section *fifty-two*.

(3) Any reference in any law to Parliament or any House of Parliament or the Senate or the House of Assembly or a member thereof, shall be construed as a reference to the Parliament or the Senate or the House of Assembly established by this Act or to a member of the said Senate or House of Assembly.

(4) Where any matter which has during the session of Parliament (as constituted in terms of the South Africa Act, 1909) immediately preceding the commencement of this Act,

**Act No. 32
of 1961.**

been brought before the said Parliament or Senate or House of Assembly, has not before such commencement been disposed of, that matter may be further dealt with or considered by the Parliament or Senate or House of Assembly, as the case may be, established by this Act, and any steps taken in connection with that matter by such first-mentioned Parliament or Senate or House of Assembly shall be deemed to have been taken by the Parliament or Senate or House of Assembly, as the case may be, established by this Act.

(5) Any Bill passed prior to the commencement of this Act by the Senate and by the House of Assembly (as constituted in terms of the South Africa Act, 1909) which has been assented to by the Governor-General, but has not been promulgated before such commencement, may be promulgated thereafter and shall thereupon have full force and effect as an Act of Parliament in all respects as if this Act had not been passed, but any reference in any such Act to any authority referred to in the South Africa Act, 1909, shall be construed as a reference to the corresponding authority established under this Act.

(6) If any Bill brought before Parliament or the Senate or the House of Assembly (as constituted in terms of the South Africa Act, 1909) prior to the commencement of this Act, has not been passed by both such Senate and such House of Assembly or if the Governor-General has not assented to any Bill so passed, that Bill may be further dealt with or considered by the Parliament or the Senate or the House of Assembly, as the case may be, established by this Act or may be assented to by the State President, as the circumstances may require, and, where it is so assented to, the Bill may be promulgated and shall have full force and effect as an Act of the Parliament established by this Act: Provided that any reference in such a Bill to any authority established by the South Africa Act, 1909, shall under the directions of the President of the Senate and the Speaker of the House of Assembly be altered before the promulgation thereof to a reference to the corresponding authority established by this Act.

**Sessions of
Parliament.**

25. (1) The State President may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation in the *Gazette* or otherwise, prorogue Parliament.

(2) If immediately before the commencement of this Act the Parliament established under the South Africa Act, 1909, is in session by virtue of a proclamation issued under section *twenty* of that Act, that session shall be resumed from such date after such commencement as may prior to the said commencement be determined by resolution of the Senate and of the House of Assembly established under that Act in the same manner as if it were a session of the Parliament established by this Act for the holding of which the time

- Act No. 32 of 1961.** had been duly appointed in terms of this Act, and such resumed session shall be the first session of the first Parliament established by this Act.
- Annual session of Parliament.** **26.** There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.
- Seat of Legislature.** **27.** Cape Town shall be the seat of the Legislature of the Republic.
- Senate.*
- Constitution of the Senate.** **28.** (1) The Senate shall subject to the provisions of the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949), and the Separate Representation of Voters Act, 1951 (Act No. 46 of 1951), consist of—
- (a) eight senators nominated by the State President of whom two shall be nominated from each province; and
 - (b) so many senators, but not less than eight, in the case of each province as are equal to one-tenth of the number of the electoral divisions into which that province has at the last delimitation under this Act, for the election of members of the House of Assembly been divided, together with the electoral divisions into which that province has been so divided for the election of provincial councillors.
- (2) Where in the case of any province the figure to be divided by ten for the purpose of determining the number of senators to be elected in respect of that province in terms of paragraph (b) of sub-section (1) is not a multiple of ten, that figure shall for the said purpose be assumed to be the lowest multiple of ten above the said figure.
- (3) The senators referred to in paragraph (b) of sub-section (1) shall in the case of each province be elected jointly by the sitting members of the House of Assembly and provincial councillors for that province other than the members and provincial councillors elected under the Separate Representation of Voters Act, 1951.
- Nominated senators.** **29.** (1) The senators nominated by the State President in terms of paragraph (a) of sub-section (1) of section *twenty-eight* shall, subject to the provisions of section *thirty-three*, hold their seats for five years.
- (2) (a) The State President shall when nominating senators have regard to the desirability of ensuring that the Senate will as far as practicable consist of persons having knowledge of matters affecting the various interests of the inhabitants of the Republic.
- (b) When nominating senators, the State President shall have regard further to the requirement that at least one of the two senators nominated from each province under this section shall be thoroughly acquainted, by reason of official

Act No. 32
of 1961.

experience or otherwise, with the interests of the coloured population in the province for which the said senator is nominated, and that the said senator should be capable *inter alia* of serving as the channel through which the interests of the said coloured population in that province may be promoted.

(3) If the seat of a senator so nominated becomes vacant, the State President shall nominate another person to hold the seat until the completion of the period for which the person in whose stead he is nominated, would have held the seat.

Elected
senators.

30. (1) The senators elected under sub-section (3) of section *twenty-eight* shall hold their seats for five years unless the Senate be sooner dissolved.

(2) If the seat of an elected senator becomes vacant, the sitting members of the House of Assembly and the provincial councillors for the province concerned (other than the members and provincial councillors elected under the Separate Representation of Voters Act, 1951), shall elect a person to hold the seat until the completion of the period for which the person in whose stead he is elected, would have held the seat.

(3) The election of senators shall take place according to the principle of proportional representation, each voter having one transferable vote.

(4) The State President may make regulations in regard to the election of senators under this Act, including regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection with such elections.

Standing
committees
of Senate.

31. The Senate may from time to time establish standing committees for various matters as it may deem fit, and any Minister or deputy of a Minister may at any time with due regard to the rules of the Senate, move that any matter be referred to such a committee for investigation and report.

Announcing of
legislation
intended to
be introduced
in Senate.

32. The Prime Minister or any Minister acting on his behalf shall at the commencement of each session and may from time to time during the course of any session of Parliament as circumstances may require, make known what bills are to be introduced in the Senate during that session.

Dissolution of
the Senate and
vacation of
seats by
nominated
senators in
certain
circumstances.

33. (1) Notwithstanding anything contained in this Act or any other law the State President may—

(a) at any time by proclamation in the *Gazette* dissolve the Senate simultaneously with the House of Assembly;

(b) dissolve the Senate at any time within one hundred and twenty days of any dissolution of the House of Assembly or the expiry of the term of office of a provincial council under section *seventy-one*.

(2) Upon any such dissolution of the Senate all the members of the Senate, including those members who were elected

Act No. 32
of 1961.

or nominated under the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949), or the Separate Representation of Voters Act, 1951 (Act No. 46 of 1951), shall vacate their seats.

(3) Any senator nominated in terms of section *twenty-eight* of this Act or under the South-West Africa Affairs Amendment Act, 1949, or the Separate Representation of Voters Act, 1951, shall, subject to the provisions of this Act and any other law, vacate his seat if the Prime Minister vacates his office and another person becomes Prime Minister and the State President publishes a notice in the *Gazette* that a change of Government has occurred.

Qualifications of
senators.

34. No person shall be qualified to be a senator under this Act unless he—

- (a) is at least thirty years of age;
- (b) is qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;
- (c) has resided for five years within the limits of the Republic;
- (d) is a white person and is a South African citizen in terms of the provisions of the South African Citizenship Act, 1949 (Act No. 44 of 1949).

President of the
Senate.

35. (1) The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

(2) The President shall cease to hold office if he ceases to be a senator and he may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the State President.

Deputy-President
of the Senate.

36. Prior to or during any absence of the President of the Senate the Senate may choose a senator to perform his duties in his absence.

Resignation of
senators.

37. (1) A senator may, by writing under his hand addressed to the State President, resign his seat, which thereupon shall become vacant.

(2) Whenever the seat of a senator becomes vacant, whether in consequence of his resignation or otherwise, the State President shall as soon as practicable cause steps to be taken to have the vacancy filled.

Quorum.

38. The presence of at least fifteen senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in the
Senate.

39. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

**Act No. 32
of 1961.**

House of Assembly.

Constitution
of House of
Assembly.

40. The House of Assembly shall be composed of—

- (a) one hundred and fifty members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section *forty-three*;
- (b) six members elected in accordance with the provisions of the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949); and
- (c) four members elected in accordance with the provisions of the Separate Representation of Voters Act, 1951 (Act No. 46 of 1951).

Elections.

41. At any general election of members of the House of Assembly under this Act, all polls shall be taken on one and the same day in all the electoral divisions throughout the Republic, such day to be appointed by the State President.

Delimitation of
electoral
divisions.

42. (1) At intervals of not less than five years and not more than ten years commencing from the last delimitation of electoral divisions under the South Africa Act, 1909, the State President shall appoint a delimitation commission consisting of three judges of the Supreme Court of South Africa, which shall divide each province into so many electoral divisions that their number bears, as nearly as possible, the same ratio to one hundred and fifty as, in terms of the current voters' lists, duly corrected up to the latest possible date, the number of white voters in that province bears to the total number of white voters in the Republic.

(2) In dividing a province into electoral divisions in terms of sub-section (1) the said commission shall act in accordance with the provisions of section *forty-three*.

Method of
dividing
provinces into
electoral
divisions.

43. (1) For the purposes of any division of the provinces into electoral divisions, the quota of each province shall be obtained by dividing the total number of voters in the province as ascertained from an examination of the current voters' lists by the number of members of the House of Assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3), contain a number of voters as nearly as may be equal to the quota of the province.

(3) The delimitation commission shall give due consideration to—

- (a) community or diversity of interests;
- (b) means of communication;
- (c) physical features;
- (d) boundaries of existing electoral divisions;
- (e) sparsity or density of population,

in such manner that, while taking the quota of voters as the basis of division, the commission may depart therefrom when—

Act No. 32
of 1961.

ever it is deemed necessary, but in no case to any greater extent than fifteen per cent more or fifteen per cent less than the quota.

Powers and duties of commission for delimiting electoral divisions.

44. (1) A commission constituted under the provisions of section *forty-two* shall submit to the State President—

- (a) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division;
- (b) a map or maps showing the electoral divisions into which the provinces have been divided;
- (c) such further particulars as it considers necessary.

(2) The State President may refer to the commission for its consideration all matters relating to such list or arising out of the powers or duties of the commission.

(3) The State President shall by proclamation in the *Gazette* make known the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Republic in the provinces.

(4) If any discrepancy arises between the description of the divisions and the aforesaid map or maps, the description shall prevail.

Date from which alteration of electoral divisions takes effect.

45. Any alteration in the number of members of the House of Assembly to be elected in the several provinces, and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

Qualifications of members of House of Assembly.

46. No person shall be qualified to be a member of the House of Assembly under this Act, unless he—

- (a) is qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;
- (b) has resided for five years within the limits of the Republic;
- (c) is a white person and is a South African citizen in terms of the provisions of the South African Citizenship Act, 1949 (Act No. 44 of 1949).

Duration of House of Assembly.

47. (1) Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may at any time be dissolved by the State President by proclamation in the *Gazette*.

(2) For the purposes of sub-section (1), the date of the first meeting of the first Parliament under this Act shall be taken to have been the fourth day of July, 1958.

**Act No. 32
of 1961.**Speaker of the
House of
Assembly.

48. (1) The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker.

(2) The Speaker shall cease to hold his office if he ceases to be a member of the House of Assembly, and may be removed from office by resolution of the House and may resign his office or his seat by writing under his hand addressed to the State President.

Deputy-Speaker.

49. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

Quorum.

50. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House
of Assembly.

51. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

Both Senate and House of Assembly.

Oath.

52. Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the State President, or some person authorized by him, an oath in the following form:

I, A.B., do swear to be faithful to the Republic of South Africa and solemnly promise to perform my duties as a member of the Senate/House of Assembly to the best of my ability.

So help me God.

Effect of
dissolution of
Senate or House
of Assembly.

53. Notwithstanding any dissolution of the Senate or the House of Assembly under this Act, whether by effluxion of time or otherwise—

- (a) every person who at the date of the dissolution is a member of the body concerned shall remain a member thereof;
- (b) the said body shall remain competent to perform its functions; and
- (c) the State President shall have power to summon Parliament for the despatch of business, during the period following such dissolution up to and including the day immediately preceding the polling day for the election held in pursuance of such dissolution, in the same manner in all respects as if the dissolution had not occurred.

Act No. 32
of 1961.

Vacating of seats
by members and
powers of
Ministers in
Senate and House
of Assembly.

54. (1) A member of the Senate who is elected as a member of the House of Assembly shall vacate his seat as a senator with effect from the date on which he becomes a member of the House of Assembly.

(2) A member of the House of Assembly who is elected or nominated as a member of the Senate shall vacate his seat as a member of the House of Assembly with effect from the date on which he becomes a member of the Senate.

(3) A member of the Senate or the House of Assembly who is elected as a member of a provincial council shall cease to be a member of the Senate or the House of Assembly with effect from the date upon which he becomes a member of that provincial council.

(4) A Minister who is a member of the Senate or the House of Assembly and a member of the Senate or the House of Assembly holding office as a deputy to any Minister, shall have the right to sit and speak in the Senate and in the House of Assembly, but shall vote only where he is a member.

Disqualifications
from being a
member of
Senate or House
of Assembly.

55. No person shall be capable of being elected or nominated or of sitting as a member of the Senate or the House of Assembly, if he—

- (a) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months, unless he has received a grant of amnesty or a free pardon, or unless such imprisonment has expired at least five years before the date of his election or nomination; or
- (b) is an unrehabilitated insolvent; or
- (c) is of unsound mind, and has been so declared by a competent court; or
- (d) holds any office of profit under the Republic: Provided that the following persons shall not be deemed to hold an office of profit under the Republic for the purposes of this paragraph, namely—
 - (i) a Minister of the Republic, or any person holding office as deputy to any Minister;
 - (ii) a person in receipt of a pension from the Republic;
 - (iii) an officer or member of the South African Defence Force on retired or half-pay, or an officer or member of the South African Defence Force whose services are not wholly employed by the Republic;
 - (iv) any person who has been appointed or has become a justice of the peace under section two of the Justices of the Peace and Oaths Act, 1914 (Act No. 16 of 1914);
 - (v) any person who, while the Republic is at war, is an officer or member of the South African Defence Force or any other force or service established by or under the Defence Act, 1957 (Act No. 44 of 1957);

Act No. 32
of 1961.

- (vi) a member of any council, committee, board or similar body established by or under any law who receives no payment in respect of his services on such council, committee, board or body in excess of an allowance at a rate not exceeding eleven rand for each day on which he renders such services, together with the reimbursement of any travelling expenses incurred by him in the course of such services.

Vacation of
seats.

56. A senator or member of the House of Assembly shall vacate his seat, if he—

- (a) becomes subject to any of the disabilities mentioned in section *fifty-five*; or
- (b) ceases to be qualified as required by law; or
- (c) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be, unless his absence is due to his serving, while the Republic is at war, with the South African Defence Force or any other force or service established by or under the Defence Act, 1957 (Act No. 44 of 1957).

Penalty for
sitting or
voting when
disqualified.

57. Any person who is by law incapable of sitting as a senator or member of the House of Assembly, and who while so incapable and knowing or having reasonable grounds for knowing that he is so incapable, sits or votes as a member of the Senate or the House of Assembly, shall be liable to a penalty of two hundred rand for each day on which he so sits or votes, to be recovered on behalf of the Treasury of the Republic by action in any division of the Supreme Court of South Africa.

Rules of
procedure.

58. (1) The Senate or the House of Assembly may make rules and orders with respect to the order and conduct of its business and proceedings.

(2) If a joint sitting of the Senate and the House of Assembly is required under the provisions of this Act, it shall be convened by the State President by message to the Senate and to the House of Assembly.

(3) At any joint sitting referred to in sub-section (2) the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall, as far as practicable, apply.

Powers of Parliament.

Powers of
Parliament.

59. (1) Parliament shall be the sovereign legislative authority in and over the Republic, and shall have full power to make laws for the peace, order and good government of the Republic.

(2) No court of law shall be competent to enquire into or to pronounce upon the validity of any Act passed by Parliament, other than an Act which repeals or amends or purports to repeal or amend the provisions of section *one hundred and eight* or *one hundred and eighteen*.

**Act No. 32
of 1961.****Money Bills.**

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly.

(2) A Bill shall not be deemed to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(3) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(4) The Senate may not amend any Bills so as to increase any proposed charge or burden on the people.

**Appropriation
Bills.**

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

**Recommendation
of money
votes.**

62. The House of Assembly shall not originate or pass any vote, resolution, address or Bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the State President during the session in which such vote, resolution, address or Bill is proposed.

**Disagreement
between Senate
and House of
Assembly.**

63. (1) If the House of Assembly in any session passes a Bill imposing taxation only or dealing with the appropriation of revenue or moneys for the services of the Government, and the Senate in the same session rejects or fails to pass it, the Bill shall, unless the House of Assembly otherwise directs, be presented to the State President for his assent and shall as soon as it has been assented to by the State President become an Act of Parliament and be taken to have been duly passed by the Senate and by the House of Assembly notwithstanding that the Senate has not consented to it.

(2) There shall be endorsed on every Bill which imposes taxation only or which deals with the appropriation of revenue or moneys for the services of the Government, when it is sent up to the Senate and when it is presented to the State President for his assent, the certificate of the Speaker of the House of Assembly signed by him that it is such a Bill.

(3) If the House of Assembly in two successive sessions (whether of the same Parliament or not) passes a Bill, other than a Bill referred to in sub-section (1), and the Senate in each of those sessions rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Bill shall, unless the House of Assembly otherwise directs, be presented to the State President for his assent, and shall as soon as it has been assented to by the State President become an Act of Parliament and be taken to have been duly passed by the Senate and by the House of Assembly, not-

Act No. 32
of 1961.

withstanding that the Senate has not consented to it, provided those sessions were not held in the same calendar year.

(4) When a Bill is presented to the State President for his assent in terms of sub-section (3), there shall be endorsed on the Bill the certificate of the Speaker of the House of Assembly signed by him that the provisions of this section have been duly complied with in relation to that Bill.

(5) A Bill shall be deemed to be the same Bill as a former Bill sent up to the Senate in the preceding session if, when it is sent up to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House of Assembly to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the Senate in the former Bill in the preceding session, and any amendments which are certified by the Speaker to have been made by the Senate in the second session and agreed to by the House of Assembly, shall be inserted in the Bill as presented to the State President for his assent in terms of this section: Provided that the House of Assembly may, if it thinks fit, on the passage of such a Bill through the House of Assembly in the second session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be regarded as amendments made by the Senate and agreed to by the House of Assembly, but the exercise of this power by the House of Assembly shall not affect the operation of this section in the event of the Bill being rejected by the Senate.

(6) The provisions of this section shall not apply in relation to such a Bill as is referred to in section *one hundred and eighteen*.

Assent to Bills.

64. (1) When a Bill is presented to the State President for his assent, he shall declare according to his discretion, but subject to the provisions of this Act, that he assents thereto or that he withholds assent.

(2) The State President may return to the Senate or the House of Assembly, in whichever it may have originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the Senate or the House of Assembly, as the case may be, may deal with the recommendation.

Signature and
enrolment of
Acts.

65. As soon as may be after any law has been assented to by the State President, the Secretary to the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Afrikaans language (one of which copies shall have been signed by the State President), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa,

Act No. 32
of 1961.

and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies so enrolled that signed by the State President shall prevail.

PART VI.

THE PROVINCES.

Administrators.

Appointment
and tenure of
office of
provincial
administrators.

66. (1) In each province there shall be a chief executive officer appointed by the State President who shall be known as the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the administrator of any province, the State President shall as far as practicable give preference to persons resident in such province.

(3) An administrator shall hold office for a period of five years and shall not be removed from office before the expiration thereof except by the State President for cause assigned which shall be communicated by message to the Senate and to the House of Assembly within one week after the removal, if Parliament is in session, or, if Parliament is not in session, within one week after the commencement of the next ensuing session.

(4) The State President may from time to time appoint a deputy-administrator to execute the office and functions of the administrator during his absence or illness or whenever for any reason he is unable to perform the duties of his office, or while the appointment of an administrator for the province concerned is pending.

Salaries of
administrators.

67. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

Provincial Councils.

Constitution of
provincial
councils.

68. (1) There shall be a provincial council in each province consisting, subject to the provisions of the Separate Representation of Voters Act, 1951 (Act No. 46 of 1951), of the same number of members as are elected in the province for the House of Assembly under this Act: Provided that, in any province whose representatives in the House of Assembly are less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of a provincial council under this Act shall be qualified to be a member of such council under this Act.

(3) Any provincial council constituted as provided in section *seventy* of the South Africa Act, 1909, and in existence immediately prior to the commencement of this Act, shall be deemed to have been duly constituted as provided in this Act.

**Act No. 32
of 1961.**

Election of
provincial
councillors.

69. (1) The members of a provincial council under this Act shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly under this Act: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions of the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation in the *Official Gazette* of the province direct, and the provisions of section *forty-one* applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such election.

(4) Any person who immediately prior to the commencement of this Act holds office as a member of a provincial council by virtue of an election held as provided in section *seventy-one* of the South Africa Act, 1909, shall be deemed to have been elected to the corresponding provincial council established by this Act.

Application of
sections *fifty-five*
to *fifty-seven*
to
provincial
councillors.

70. (1) The provisions of sections *fifty-five*, *fifty-six* and *fifty-seven*, relative to members of the House of Assembly, shall *mutatis mutandis* apply to members of the provincial councils.

(2) Any member of a provincial council who becomes a member of the Senate or the House of Assembly, shall cease to be a member of such provincial council.

Tenure of office
of provincial
councillors.

71. (1) A provincial council shall continue for five years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

(2) The provisions of section *fifty-three* relating to the tenure of office of the members and the functioning of the Senate or the House of Assembly upon a dissolution thereof, and to the summoning of Parliament after the Senate or the House of Assembly has been dissolved, shall *mutatis mutandis* apply with reference to a dissolution and summoning of any provincial council.

Sessions of
provincial
councils.

72. (1) The administrator of a province shall by proclamation in the *Official Gazette* of that province fix such times for holding the sessions of the provincial council of that province as he may think fit, and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year so that a period of twelve months shall not intervene between the last

**Act No. 32
of 1961.**

sitting of the council in one session and its first sitting in the next session.

(2) If immediately before the commencement of this Act any provincial council constituted under the South Africa Act, 1909, is in session by virtue of a proclamation issued under section *seventy-four* of that Act, that session shall be resumed from a date after such commencement to be determined before such commencement by resolution of that council in the same manner as if it were a session of the corresponding provincial council established by this Act for the holding of which the time had been duly fixed in terms of this Act.

**Chairman of
provincial
council and
rules of
procedure.**

73. (1) The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings.

(2) Rules made under sub-section (1) shall be transmitted by the administrator to the State President, and shall have full force and effect unless and until the State President expresses his disapproval thereof in writing addressed to the administrator.

**Allowances of
provincial
councillors.**

74. The members of the provincial council shall receive such allowances as shall be determined by the State President.

**Freedom of
speech in
provincial
councils.**

75. There shall be freedom of speech in the provincial council and no administrator or any other member of the executive committee of a province and no member of the provincial council shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of any matter or thing which he may have brought by petition, draft ordinance, resolution, motion or otherwise, or have said before the provincial council, or by reason of his vote in such council.

*Executive Committees.***Provincial
executive
committees.**

76. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province.

(2) The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner.

(3) The members so elected shall receive such remuneration as the provincial council, with the approval of the State President shall determine.

(4) (a) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee, and a member of the executive committee shall not be disqualified from being elected as a member of the provincial council, or from being appointed as a deputy-administrator under the provisions of sub-section (4) of section *sixty-six*.

(b) A member of the executive committee who is appointed as a deputy-administrator under the provisions of sub-section

Act No. 32
of 1961.

(4) of section *sixty-six* shall as from the termination of such appointment resume his office and functions as a member of such executive committee unless his successor has in the meantime been elected under the provisions of sub-section (1) of this section.

(5) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

Method of voting for provincial executive committees.

77. (1) The election of members of the executive committee of a province as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote.

(2) The State President shall make regulations in regard to the election of members of the executive committee of a province, including regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith.

Right of administrator, etc., to take part in proceedings of provincial council.

78. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote: Provided that a member of the executive committee who is a member of the provincial council, and who is appointed as a deputy-administrator under the provisions of sub-section (4) of section *sixty-six*, shall during the period of his appointment retain the right to vote as a member of the provincial council.

Powers of provincial executive committees.

79. (1) The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs.

(2) Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall as soon as practicable convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

Transfer of powers to provincial executive committees.

80. Subject to the provisions of this Act, all powers, authorities and functions which immediately prior to the commencement of this Act were vested in or exercised by the executive committee of a province in terms of the South Africa Act, 1909, shall as far as the same continue in existence and are capable of being exercised after the commencement of this Act, be vested in the corresponding executive committee established under this Act.

Voting in executive committees.

81. (1) Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote.

Act No. 32
of 1961.

(2) Subject to the approval of the State President, the executive committee may make rules for the conduct of its proceedings.

Appointment of officers by executive committees.

82. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the State President under the provisions of this Act, to carry out the services entrusted to it and to make and enforce regulations for the organization and discipline of such officers.

Power of administrator to act on behalf of State President.

83. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the State President when required to do so, and shall act without reference to the other members of the executive committee.

Powers of Provincial Councils.

Powers of provincial councils.

84. (1) Subject to the provisions of this Act, the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), and the assent of the State President as hereinafter provided, a provincial council may make ordinances in relation to matters coming within the following classes of subjects, namely—

- (a) direct taxation within the province in order to raise revenue for provincial purposes;
- (b) the borrowing of money on the sole credit of the province with the consent of the State President and in accordance with regulations framed by Parliament;
- (c) education, other than higher education and Bantu education, until Parliament otherwise provides;
- (d) agriculture to the extent and subject to the conditions defined by Parliament;
- (e) the establishment, maintenance and management of hospitals and charitable institutions;
- (f)
 - (i) municipal institutions, divisional councils and other local institutions of a similar nature;
 - (ii) any institutions or bodies other than such institutions as are referred to in sub-paragraph (i), which have in respect of any one or more areas (whether contiguous or not) situated outside the area of jurisdiction of any such institution as is referred to in sub-paragraph (i), authority and functions similar to the authority and functions of such institutions as are referred to in the said sub-paragraph, or authority and functions in respect of the preservation of public health in any such area or areas, includ-

Act No. 32
of 1961.

ing any such body as is referred to in section seven of the Public Health Act, 1919 (Act No. 36 of 1919);

- (g) local works and undertakings within the province, other than railways and harbours, and other than such works as extend beyond the borders of the province and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise;
- (h) roads, outspans, ponts and bridges, other than bridges connecting two provinces;
- (i) markets and pounds;
- (j) fish and game preservation, subject to the provisions of section *fourteen* of the Sea Fisheries Act, 1940 (Act No. 10 of 1940);
- (k) the imposition of punishment by fine or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section;
- (l) generally all matters which, in the opinion of the State President are of a merely local or private nature in the province;
- (m) all other subjects in respect of which Parliament may by law delegate the power of making ordinances to the provincial council.

(2) An ordinance passed by a provincial council in relation to any matter referred to in paragraph (f) of sub-section (1), may provide for the appointment by the administrator of the province concerned, or any specified authority, of the members or any number of the members of any institution or body referred to in the said paragraph.

(3) The provisions of sub-sections (4), (5) and (6) of section *twenty-four* shall *mutatis mutandis* apply with reference to a provincial council, as if a reference therein to Parliament or the Senate or the House of Assembly were a reference to a provincial Council, and as if a reference therein to an Act of Parliament were a reference to an ordinance of a provincial council and a reference to a Bill which has been brought before the Senate or the House of Assembly were a reference to a draft ordinance which is before such a council.

Effect of
provincial
ordinances.

85. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

Recommendations to
Parliament.)

86. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

**Act No. 32
of 1961.**

Power to deal with matters proper to be dealt with by private Bill legislation.

Constitution of Provincial Revenue Fund.

87. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as may be prescribed by Parliament, take evidence by means of a select committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

88. (1) (a) There shall be a provincial revenue fund in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the State President to the provincial council.

(b) The provincial revenue fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the State President for particular purposes, then for such purposes, but no such ordinance shall be passed by the provincial council unless the administrator has first recommended to the council to make provision for the specific service for which the appropriation is to be made.

(c) No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator.

(2) The State President may make regulations for the provinces prescribing—

(a) the form of estimates required for presentation to the provincial council;

(b) the system which shall be observed for—

(i) the collection, receipt, banking, custody, issue, expenditure, care and management of provincial moneys as defined in paragraph (b) of subsection (4) of section *ninety-one*; and

(ii) the control of stores;

(c) the officers or other persons who shall receive, hold, issue, account for, manage or otherwise deal with such provincial moneys, stores, stamps or securities, and the duties and responsibilities of such officers or persons,

and generally for the better administration of the provincial revenue fund.

(3) The administrator of a province may, subject to the laws relating to education, authorize every educational institution in the province which is specified in a list published by the State President by proclamation in the *Gazette*, to retain and apply such of its revenues and other moneys received by it, as the administrator may from time to time determine, for the purpose of meeting its expenditure, and such revenues and other moneys shall, notwithstanding

Act No. 32
of 1961.

the provisions of sub-section (1), not be paid into the provincial revenue fund, but shall be accounted for and dealt with as the administrator may prescribe.

Assent to
provincial
ordinances.

89. (1) When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the State President for his assent.

(2) The State President shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration.

(3) A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the State President he makes known by proclamation in the *Gazette* that it has received his assent.

Effect and
enrolment of
ordinances.

90. (1) An ordinance assented to by the State President and promulgated by the administrator shall, subject to the provisions of this Act, have the force of law within the province.

(2) The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Afrikaans language (one of which copies shall have been signed by the State President), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies so enrolled, that signed by the State President shall prevail.

*Miscellaneous.*Audit of
provincial
accounts.

91. (1) In each province there shall be an auditor of accounts appointed in accordance with the laws governing the public service.

(2) The salary and any allowances of any such auditor shall be paid out of moneys appropriated by Parliament for the purpose.

(3) Any such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the State President and approved by Parliament, and no warrant signed by the administrator authorizing the issuing of money shall have effect unless countersigned by such auditor.

(4) (a) If any person who is or was in the employment of a province—

(i) has failed to collect any moneys owing to that province for the collection of which he is or was responsible; or

(ii) is or was responsible for any improper payment of provincial moneys or for any payment of such moneys which is not duly vouched; or

Act No. 32
of 1961.

- (iii) is or was responsible for any deficiency in, or for the destruction of or any damage to, any provincial moneys, stamps, securities, stores or other property of a province; or
- (iv) has caused a province any loss by a failure to carry out a specific duty,

and a proper explanation is not, within a period specified by an auditor referred to in sub-section (1), furnished to such auditor with regard to such failure to collect, improper payment, payment not duly vouched, deficiency, destruction, damage or failure to carry out a duty, that auditor may surcharge against the said person the amount not collected or the amount of such payment, deficiency, damage or loss or the value of the property destroyed, as the case may be, or such lesser amount or value as he may in the circumstances of the case deem fit, and the amount of any such surcharge shall, subject to the provisions of sub-section (8), be a debt due from the person against whom the surcharge is made.

(b) For the purposes of paragraph (a) "provincial moneys" shall include all revenues and moneys referred to in sub-section (1) of section *eighty-eight* and all other moneys whatsoever received or held by, for or on account of a province.

(5) The auditor making any such surcharge shall notify the administrator concerned of that surcharge, and such administrator shall, subject to the provisions of sub-section (8), recover the amount thereof from the person liable to pay the same: Provided that, unless the administrator otherwise directs, the amount of any such surcharge which is due from a person in the employment of a province shall be recovered in equal monthly instalments by deductions from his monthly salary not exceeding one-fourth of such salary.

(6) The amount of any such surcharge may be recovered by the administrator concerned by action in any competent court, and in the event of any such action being instituted against a person referred to in the proviso to sub-section (5) that proviso shall not apply.

(7) The auditor concerned may at any time withdraw a surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and shall at once notify the administrator concerned of any such withdrawal of surcharge.

(8) (a) Any person who is dissatisfied with any surcharge made against him by an auditor may, within a period of one month after he has been notified by such auditor of the surcharge, or within such further period as the administrator concerned may allow, appeal to that administrator and, after such further investigation as may be considered necessary, that administrator may make such order directing that the

Act No. 32
of 1961.

appellant be released wholly or in part from the surcharge as may appear to be just and reasonable.

(b) The auditor concerned shall be informed of every such order.

(c) The administrator concerned shall present a complete list of all surcharges remitted in whole or in part in accordance with the provisions of this sub-section, to the provincial council as soon as possible if the council is in session, or if the council is not in session, within seven days after the commencement of its next ensuing session.

(9) Any person against whom a surcharge has been raised, may, instead of appealing to the administrator concerned under paragraph (a) of sub-section (8), apply to any court of competent jurisdiction, within a period of one month after he has been notified in writing by the auditor concerned of the surcharge, or within such further period as the court may allow, for an order setting aside or reducing the surcharge, and such court may on any such application, if not satisfied by that auditor on the merits of the case that the surcharge was rightly imposed, or as to the correctness of the amount thereof, make an order setting aside the surcharge or reducing it, as the case may be.

Continuation of powers of divisional and municipal councils.

92. Notwithstanding anything in this Act contained, all powers, authorities and functions lawfully exercised at the commencement of this Act by divisional or municipal councils, or any other duly constituted local authority or body contemplated in paragraph (vi) of section *eighty-five* of the South Africa Act, 1909, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

Seats of provincial government.

93. The seats of provincial government shall be—

For the Cape of Good Hope	Cape Town.
For Natal	Pietermaritzburg.
For the Transvaal	Pretoria.
For the Orange Free State	Bloemfontein.

PART VII.

ADMINISTRATION OF JUSTICE.

Constitution and powers of Supreme Court of South Africa.

94. (1) The judicial authority of the Republic shall be vested in a Supreme Court to be known as the Supreme Court of South Africa and consisting of an Appellate Division and such provincial and local divisions as may be prescribed by law.

(2) The said Supreme Court shall, subject to the provisions of section *fifty-nine*, have jurisdiction as provided in the Supreme Court Act, 1959.

(3) Save as otherwise provided in the Supreme Court Act, 1959, Bloemfontein shall be the seat of the Appellate Division of the Supreme Court of South Africa.

Act No. 32
of 1961.Administrative
functions relating
to administration
of justice.

95. All administrative powers, functions and duties affecting the administration of justice shall be under the control of the Minister of Justice.

PART VIII.

FINANCE AND RAILWAYS.

Existing debts and
liabilities of the
State.

96. Nothing in this Act contained shall affect any assets or rights belonging to the State or any debts or liabilities of the State as existing immediately prior to the commencement of this Act, and all such assets, rights, debts and liabilities shall remain assets, rights, debts and liabilities of the Republic, subject, notwithstanding any other provisions contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors concerned, and may, subject to such conditions and rights, convert, renew or consolidate such debts.

All revenues
vest in State
President.

97. All revenues of the Republic, from whatever source arising, shall vest in the State President.

Consolidated
Revenue Fund.

98. There shall be a Consolidated Revenue Fund into which shall be paid all revenues raised or received by the State President, other than the revenues referred to in section *ninety-nine*, and such fund shall be appropriated by Parliament for the purposes of the Republic in the manner prescribed by this Act, and subject to the charges imposed thereby.

Railway and
Harbour Fund.

99. There shall be a Railway and Harbour Fund into which shall be paid all revenues raised or received by the State President from the administration of the railways, ports and harbours, and such fund shall be appropriated by Parliament for the purposes of the railways, ports and harbours in the manner prescribed by this Act.

Requirements
for withdrawal
of money from
funds.

100. No money shall, subject to the provisions of the Exchequer and Audit Act, 1956 (Act No. 23 of 1956), be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund, except under appropriation made by law.

Security for
interest on
public debts of
Colonies.

101. The annual interest of the public debts of the Colonies incorporated in the Union of South Africa in terms of the South Africa Act, 1909, and any sinking funds constituted by law at the establishment of the Republic, shall form a first charge on the Consolidated Revenue Fund.

Railways and
Harbours Board.

102. (1) The Railways and Harbours Board referred to in section *one* of the Railway Board Act, 1916 (Act No. 17 of 1916), hereinafter referred to as the board, shall consist of not more than three commissioners, who shall be appointed by the State President, and a Minister, who shall be chairman.

Act No. 32
of 1961.

(2) A commissioner shall hold office for a period of five years, but may be re-appointed.

(3) A commissioner shall not be removed before the expiration of his period of appointment, except by the State President for cause assigned, which shall be communicated by message to the Senate and to the House of Assembly within one week after the removal, if Parliament is in session or, if Parliament is not in session, within one week after the commencement of the next ensuing session.

(4) The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

Railways, ports and harbours to be administered on business principles.

103. (1) The Railways, ports and harbours of the Republic shall be administered on business principles, due regard being had to agricultural and industrial development within the Republic and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces.

(2) (a) So far as may be, the total earnings of the railways, ports and harbours shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections *one hundred and five* and *one hundred and six*.

(b) The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

Establishment of fund for maintaining uniformity of railway rates.

104. Notwithstanding anything to the contrary contained in section *one hundred and three*, the board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

Construction of railways, ports and harbour works.

105. (1) Save as provided in paragraph (6) of section *two* of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957), no railway for the conveyance of public traffic, and no port, harbour or similar work, shall be constructed without the sanction of Parliament.

(2) Every proposal for the construction of any port or harbour works or of any line of railway, shall, before being submitted to Parliament, be considered by the board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed.

(3) (a) If any such works or line is constructed contrary to the advice of the board, and if the board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation.

Act No. 32
of 1961.

(b) Such estimate shall be examined by the Controller and Auditor-General, and when approved by him, the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the board and certified by the Controller and Auditor-General, is less than the estimate framed by the board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred.

(c) In calculating the loss arising from the operation of any such work or line, the board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

Making good of deficiencies in Railway and Harbour Fund in certain cases.

106. If the board is required by the State President or under any Act of Parliament or resolution of the Senate and of the House of Assembly to provide any services or facilities either gratuitously or at a tariff which is insufficient to meet the costs involved in the provision of such services or facilities, the board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services or facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

PART IX.

GENERAL.

Continuation of existing laws.

107. Subject to the provisions of this Act, all laws which were in force in any part of the Union of South Africa, or in any territory in respect of which Parliament is competent to legislate, immediately prior to the commencement of this Act, shall continue in force until repealed or amended by the competent authority.

Equality of official languages.

108. (1) English and Afrikaans shall be the official languages of the Republic, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges.

(2) All records, journals and proceedings of Parliament shall be kept in both the official languages, and all Bills, Acts and notices of general public importance or interest issued by the Government of the Republic shall be in both the official languages.

Equality of use of official languages by provincial councils and local authorities.

109. All records, journals and proceedings of a provincial council shall be kept in both the official languages, and all draft ordinances, ordinances and notices of public importance or interest issued by a provincial administration, and all notices issued and all regulations or by-laws made by

Act No. 32
of 1961.

any institution or body contemplated in paragraph (f) of sub-section (1) of section *eighty-four*, shall be in both the official languages.

Method of
publication of
notices, etc., in
newspapers.

110. Whenever anything is published in a newspaper at the instance of the State or by or under the directions of any body referred to in paragraph (f) of sub-section (1) of section *eighty-four* or of the administration of a province, the publication shall take place simultaneously in both official languages and in the case of each language in a newspaper circulating in the area of jurisdiction of the authority concerned which appears mainly in that language, and the publication in each language shall as far as practicable occupy the same amount of space: Provided that where in the area in question any newspaper appears substantially in both of the official languages, publication in both languages may take place in that newspaper.

Administration
of Bantu Affairs,
etc.

111. The control and administration of Bantu affairs and of matters specially or differentially affecting Asiatics throughout the Republic shall vest in the State President, who shall exercise all those special powers in regard to Bantu administration which immediately prior to the commencement of this Act were vested in the Governor-General-in-Council of the Union of South Africa, and any lands which immediately prior to such commencement vested in the said Governor-General-in-Council for the purpose of reserves for Bantu locations shall vest in the State President, who shall exercise all such special powers in relation to such reserves as may have been exercisable by the said Governor-General-in-Council, and no lands which were set aside for the occupation of Bantu and which could not at the establishment of the Union of South Africa have been alienated except by an Act of the Legislature of a colony which was incorporated in the Union of South Africa in terms of the South Africa Act, 1909, shall be alienated or in any way diverted from the purposes for which they were set aside except under the authority of an Act of Parliament.

Certain
rights and
obligations
under
conventions,
etc., to vest
in Republic.

112. All rights and obligations under conventions, treaties or agreements which were binding on any of the Colonies incorporated in the Union of South Africa at its establishment, and were still binding on the Union immediately prior to the commencement of this Act, shall be rights and obligations of the Republic, just as all other rights and obligations under conventions, treaties or agreements which immediately prior to the commencement of this Act were binding on the Union.

Transfer of
certain executive
powers.

113. All powers, authorities and functions which immediately prior to the commencement of this Act were in any of the provinces vested in the Governor-General or in the Governor-General-in-Council or in any authority of the province, shall as far as the same continue in existence and are

**Act No. 32
of 1961.**

capable of being exercised after the commencement of this Act, be vested in the State President, or in the authority exercising similar powers under the Republic, as the case may be, except such powers, authorities and functions as are by this Act or any other law vested in some other authority.

Petition by provincial councils necessary for alteration of provinces or for abolition of provincial councils.

114. Parliament shall not—

- (a) alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Republic, except on the petition of the provincial council of every province whose boundaries are affected thereby;
- (b) abolish any provincial council or abridge the powers conferred on provincial councils under section *eighty-four*, except by petition to Parliament by the provincial council concerned.

Affirmation in lieu of oath.

115. Any person who is in terms of any provision of this Act required to make and subscribe an oath of office may in lieu of such oath make and subscribe a solemn affirmation in corresponding form.

Criminal proceedings and transition provisions.

116. (1) (a) All criminal proceedings which immediately prior to the commencement of this Act were required to be instituted in the name of the Queen shall be instituted in the name of the Republic.

(b) Any such proceedings which have not been concluded before the commencement of this Act, or which, having been so concluded, are thereafter reopened, shall be continued in all respects as if this Act had not been passed, except that the proceedings shall thereafter be conducted as if they were instituted in the name of the Republic.

(2) Any civil proceedings instituted prior to the commencement of this Act by or against a Minister as representing the Government of the Union of South Africa or by or against an administrator of a province appointed under the South Africa Act, 1909, which have not been disposed of before such commencement, or, having been so disposed of, are thereafter reopened, may be proceeded with without interruption by or against that Minister as representing the Government of the Republic or by or against the said administrator in his capacity as the person appointed as the administrator of the province concerned under this Act.

(3) Any provision of any law in terms of which any person is required to take an oath or solemn affirmation of allegiance to the King or the Queen, shall be construed as a provision requiring such person to take an oath or solemn affirmation that he will be faithful to the Republic.

(4) Any person who holds an office in the service of the State in respect of which he has prior to the commencement of this Act taken an oath or solemn affirmation of allegiance to the King or the Queen, shall, if required to do so on the direc-

**Act No. 32
of 1961.**

tion of the State President, take an oath or solemn affirmation that he will be faithful to the Republic.

References in other laws to Houses or certain officers of Parliament.

117. (1) References in any law—

(a) to any House or the Houses of Parliament, shall be construed as references to the Senate or the House of Assembly or both the Senate and the House of Assembly, as the context may require;

(b) to the Clerk or the Clerk-Assistant of the Senate or the House of Assembly, shall be construed as references to the Secretary and the Deputy Secretary respectively to the Senate or the House of Assembly.

(2) Any person holding office immediately before the commencement of this Act as the Clerk or the Clerk-Assistant of the Senate or the House of Assembly shall be deemed to have been duly appointed as Secretary or Deputy Secretary respectively to the Senate or the House of Assembly.

Amendment of Act.

118. (1) Parliament may by law repeal or alter any of the provisions of this Act: Provided that no repeal or alteration of the provisions contained in this section or in section *one hundred and eight* shall be valid unless the Bill embodying such repeal or alteration is passed by the Senate and the House of Assembly sitting together, and at the third reading is agreed to by not less than two-thirds of the total number of members of the Senate and the House of Assembly.

(2) A Bill passed as aforesaid at such joint sitting shall be taken to have been duly passed by the Senate and by the House of Assembly.

Definitions.

119. In this Act, unless the context otherwise indicates—

“Afrikaans” includes Dutch;

“province” means any of the provinces incorporated in the Union of South Africa by the South Africa Act, 1909;

“Republic” means the Republic of South Africa;

Repeal of laws.

120. (1) The laws specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

(2) Any authority constituted or person appointed or power conferred or anything done in pursuance of powers conferred by or by virtue of any provision of any law repealed by sub-section (1) shall be deemed to have been constituted, appointed, conferred or done in pursuance of powers conferred by or by virtue of the corresponding provision of this Act.

Short title and commencement.

121. This Act shall be called the Republic of South Africa Constitution Act, 1961, and shall, save in so far as may be otherwise required for the purpose of giving effect to any provision thereof, come into operation on the thirty-first day of May, 1961.

Act No. 32
of 1961.

Schedule.

LAWS REPEALED.

No. and Year of Law.	Title.	Extent of Repeal.
9 Edward VII, Ch. 9.	The South Africa Act, 1909 ..	The whole, except sections <i>fifty-six, one hundred and fifteen, one hundred and fifty and one hundred and fifty-one</i> and the Schedule.
Act No. 9 of 1920.	Constitution of the Senate Act, 1920.	The whole.
Act No. 8 of 1925.	Official Languages of the Union Act, 1925.	The whole.
Act No. 9 of 1925.	South Africa Act, 1909, Amendment Act, 1925.	The whole.
Act No. 34 of 1925.	South Africa Act, 1909, Further Amendment Act, 1925.	The whole.
Act No. 1 of 1926.	Local Government (Provincial Powers) Act, 1926.	Section <i>one</i> .
Act No. 51 of 1926.	Payment of Members of Parliament Act, 1926.	The whole.
Act No. 54 of 1926.	Senate Act, 1926	The whole.
Act No. 40 of 1927.	Flags Act, 1927	The whole.
Act No. 21 of 1932.	Salaries Reduction Act, 1932 ..	Sections <i>four</i> and <i>five</i> .
Act No. 17 of 1933.	South Africa Act Amendment Act, 1933.	The whole.
Act No. 29 of 1933.	Financial Adjustments Act, 1933	Section <i>two</i> .
Act No. 45 of 1934.	South Africa Act Amendment Act, 1934.	The whole.
Act No. 69 of 1934.	Status of the Union Act, 1934 ..	The whole.
Act No. 70 of 1934.	Royal Executive Functions and Seals Act, 1934.	The whole.
Act No. 5 of 1935.	Census Amendment Act, 1935 ..	The whole.
Act No. 43 of 1935.	South Africa Act Amendment Act, 1935.	The whole.

Act No. 32
of 1961.

No. and Year of Law.	Title.	Extent of Repeal.
Act No. 15 of 1936.	Deputy-Administrators Act, 1936	The whole.
Act No. 2 of 1937.	His Majesty King Edward the Eighth's Abdication Act, 1937.	The whole.
Act No. 7 of 1937.	Coronation Oath Act, 1937 ..	The whole.
Act No. 13 of 1938.	South Africa ³ Act Amendment Act, 1938.	The whole.
Act No. 42 of 1939.	Senate Act, 1939	The whole.
Act No. 19 of 1940.	Constitution (Prevention of Disabilities) Act, 1940.	Sections <i>one, two and three.</i>
Act No. 20 of 1940.	Electoral Laws Amendment Act, 1940.	The whole.
Act No. 30 of 1942.	Electoral Quota Consolidation Act, 1942.	The whole.
Act No. 38 of 1945.	Financial Relations Consolidation and Amendment Act, 1945.	Section <i>twenty-eight.</i>
Act No. 21 of 1946.	South Africa Act Amendment Act, 1946.	The whole.
Act No. 41 of 1947.	Provincial Powers Extension Act, 1947.	Sections <i>one, two and three.</i>
Act No. 16 of 1948.	Powers and Privileges of Provincial Councils Act, 1948.	Section <i>fourteen.</i>
Act No. 17 of 1948.	Royal Style and Titles Act, 1948	The whole.
Act No. 2 of 1949.	Deputy-Administrators Act, 1949	The whole.
Act No. 39 of 1950.	South Africa Act Amendment Act, 1950.	The whole.
Act No. 66 of 1951.	South Africa Act Amendment Act, 1951.	The whole.
Act No. 35 of 1952.	High Court of Parliament Act, 1952.	The whole.
Act No. 55 of 1952.	Electoral Laws Amendment Act, 1952.	Section <i>one.</i>
Act No. 6 of 1953.	Royal Style and Titles Act, 1953	The whole.
Act No. 10 of 1953.	Members of Parliament Act, 1953	The whole.

Act No. 32
of 1961.

No. and Year of Law.	Title.	Extent of Repeal.
Act No. 47 of 1953.	Bantu Education Act, 1953 ..	Section <i>sixteen</i> .
Act No. 9 of 1954.	Provincial Councils Continuance Act, 1954.	The whole.
Act No. 20 of 1954.	South Africa Act Amendment Act, 1954.	The whole.
Act No. 50 of 1954.	Royal Seals Amendment Act, 1954.	The whole.
Act No. 9 of 1955.	South Africa Act Amendment Act, 1955.	The whole.
Act No. 53 of 1955.	Senate Act, 1955	Sections <i>one to nine</i> , inclusive.
Act No. 9 of 1956.	South Africa Act Amendment Act, 1956.	Sections <i>two, three and four</i> .
Act No. 10 of 1956.	Official Languages (Local Authorities) Amendment Act, 1956.	The whole.
Act No. 39 of 1956.	Railways and Harbours Acts Further Amendment Act, 1956.	The whole.
Act No. 1 of 1957.	South Africa Act Further Amendment Act, 1957.	The whole.
Act No. 2 of 1957.	South Africa Act Amendment Act, 1957.	The whole.
Act No. 18 of 1957.	Flags Amendment Act, 1957 ..	The whole.
Act No. 24 of 1957.	Official Languages (Local Authorities) Amendment Act, 1957.	The whole.
Act No. 1 of 1958.	South Africa Act Amendment Act, 1958.	The whole.
Act No. 49 of 1958.	South Africa Act Further Amendment Act, 1958.	The whole.
Act No. 3 of 1959.	South Africa Act Amendment Act, 1959.	The whole.
Act No. 48 of 1959.	South Africa Act Further Amendment Act, 1959.	The whole.
Act No. 49 of 1959.	Offices of Profit Amendment Act, 1959.	The whole.
Act No. 52 of 1960.	Referendum Act, 1960	The whole.
Act No. 53 of 1960.	Senate Act, 1960	The whole, except section <i>two</i> .

Act No. 32
of 1961.

ARRANGEMENT OF SECTIONS.

	<i>Section.</i>
PREAMBLE.	
PART I The Republic	1- 3
PART II National Flag and Anthem	4- 6
PART III The State President	7- 15
PART IV Executive Government	16- 23
PART V Parliament	24- 27
Senate	28- 39
House of Assembly	40- 51
Both Senate and House of Assem- bly	52- 58
Powers of Parliament	59- 65
PART VI The Provinces:	
Administrators	66- 67
Provincial Councils	68- 75
Executive Committees	76- 83
Powers of Provincial Councils	84- 90
Miscellaneous	91- 93
PART VII Administration of Justice	94- 95
PART VIII Finance and Railways	96-106
PART IX General	107-121
SCHEDULE.	

Act No. 33
of 1961.**ACT**

To amend the Public Health (Amendment) Act, 1928.

(English text signed by the Officer Administering the Government.)
(Assented to 4th May, 1961.)

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:—

Amendment of
section 15 of
Act 15 of 1928.

1. Section *fifteen* of the Public Health (Amendment) Act, 1928, is hereby amended by the addition of the following sub-section:

“(4) Where any such notice has been served on the owner, the said costs together with interest thereon calculated at six per cent. per annum with effect from the date