

No. 50, 1956.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To declare the unlawful appropriation of the use of another's property an offence, to amend the law relating to the formalities of certain contracts, to amend Law No. 22 of 1863 (Natal), Law No. 14 of 1882 (Natal), Law No. 12 of 1884 (Natal), the Masters and (Native) Servants Act, 1894 (Natal), the Transfer Duty Proclamation, 1902 (Transvaal), the Transfer Duty Ordinance, 1906 (Orange Free State), the South Africa Act, 1909, the Prisons and Reformatories Act, 1911, the Companies Act, 1926, the Administration of Justice (Further Amendment) Act, 1927, the Insolvency Act, 1936, the Deeds Registries Act, 1937, the Prescription Act, 1943, the Magistrates' Courts Act, 1944, the Second-hand Goods Act, 1955 and the Criminal Procedure Act, 1955.

(English text signed by the Governor-General.)
(Assented to 7th June, 1956.)

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

1. (1) Any person who, without a *bona fide* claim of right and without the consent of the owner or the person having the control thereof, removes any property from the control of the owner or such person with intent to use it for his own purposes without the consent of the owner or any other person competent to give such consent, whether or not he intends throughout to return the property to the owner or person from whose control he removes it, shall, unless it is proved that such person, at the time of the removal, had reasonable grounds for believing that the owner or such other person would have consented to such use if he had known about it, be guilty of an offence and the court convicting him may impose upon him any penalty which may lawfully be imposed for theft.

Unlawful appropriation of the use of another's property is an offence.

(2) Any person charged with theft may be found guilty of a contravention of sub-section (1) if such be the facts proved.

2. No lease of land shall be invalid merely by reason of the fact that such lease is not in writing: Provided that no lease of land which is entered into for a period of not less than ten years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period of the lease amount in all to not less than ten years, and no cession of such lease, shall be valid as against third parties if executed after the commencement of this Act, unless registered against the title deeds of the leased land.

Formalities in respect of leases of land.

3. No lease of any rights to minerals in land and no cession of such a lease shall be valid if executed after the commencement of this Act, unless attested by a notary public, nor shall such a lease or cession thereof be valid as against third parties unless registered against the title deeds of the land concerned or the certificate of rights to minerals concerned, as the case may be.

Formalities in respect of rights to minerals.

4. For the purposes of sections *two* and *three* "lease" includes a sub-lease, and "lessee" includes a sub-lessee.

Lease includes a sub-lease.

5. No donation concluded after the commencement of this Act shall be invalid merely by reason of the fact that it is not registered or notarially executed: Provided that no executory contract of donation entered into after the commencement of this Act shall be valid unless the terms thereof are embodied in a written document signed by the donor.

Formalities in respect of donations.

6. No contract of suretyship entered into after the commencement of this Act, shall be valid, unless the terms thereof are embodied in a written document signed by the surety: Provided that nothing in this section contained shall affect the liability of the signer of an aval under the laws relating to negotiable instruments. Formalities in respect of contracts of suretyship.
7. (1) Section *ninety-seven* of the South Africa Act, 1909, is hereby amended by the insertion after the word "division" where it occurs for the third time, of the words "or in any vacancy in that division". Amendment of section 97 of the South Africa Act, 1909 as substituted by section 1 of Act 41 of 1941.
- (2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1956.
8. Section *one hundred and twelve* of the South Africa Act, 1909, is hereby amended by the insertion after the word "provincial" of the words "or local". Amendment of section 112 of the South Africa Act, 1909.
9. (1) Section *forty-eight* of the Prisons and Reformatories Act, 1911, is hereby amended by the substitution for sub-section (2) of the following sub-sections: Amendment of section 48 of Act 13 of 1911.
- "(2) Each board of visitors shall, at least once in every year, furnish to the Director a report in writing containing detailed particulars relative to the history, conduct and industry of—
- (a) every convict detained in any convict prison on whom a sentence of over four years was imposed;
- (b) every convict or prisoner detained in any prison or gaol with regard to whom a special report is required, and may in that report make such recommendations in regard to any such convict or prisoner as the board may deem fit.
- (2)*bis*. Upon receipt of any such report the Director—
- (a) may, if such report contains a favourable recommendation in regard to any convict or prisoner, remit such portion of the sentence of such convict or prisoner, as may be prescribed by the Governor-General by regulation; or
- (b) shall, if no remission of sentence is granted by him under paragraph (a), submit the report to the Minister."
- (2) Sub-section (1) shall not come into operation until the first day of July, 1956.
10. Section *two hundred and nineteen* of the Companies Act, 1926, is hereby amended by the insertion in sub-section (1) after the word "shall" where it occurs for the second time of the words "unless otherwise indicated in the said Schedule". Amendment of section 219 of Act 46 of 1926 as amended by section 126 of Act 46 of 1952.
11. Section *nineteen* of the Insolvency Act, 1936, is hereby amended by the addition thereto of the following sub-section: Amendment of section 19 of Act 24 of 1936.
- "(6) The Governor-General may by proclamation in the *Gazette* amend the said tariff A and rules."
12. Section *sixty-three* of the Insolvency Act, 1936, is hereby amended by the insertion after sub-section (1) of the following sub-section: Amendment of section 63 of Act 24 of 1936.
- "(1)*bis*. The Governor-General may by proclamation in the *Gazette* amend the said tariff B."
13. The following section is hereby inserted after section *one hundred and fifty-eight* of the Insolvency Act, 1936: Insertion of section 158*bis* in Act 24 of 1936.
- "Governor-General may amend First Schedule 158*bis*. The Governor-General may by proclamation in the *Gazette* amend the First Schedule."
14. (1) Section *three* of the Deeds Registries Act, 1937, is hereby amended by the deletion in paragraph (k) of the words "and, in the province of Natal, also post-nuptial contracts,". Amendment of section 3 of Act 47 of 1937.
- (2) Nothing in sub-section (1) contained shall affect the registration in Natal of a post-nuptial contract notari-ally executed before the commencement of this Act.
15. (1) Section *eighty-nine* of the Deeds Registries Act, 1937, is hereby repealed. Repeal of section 89 of Act 47 of 1937.
- (2) Nothing in sub-section (1) contained shall affect the registration in Natal of a post-nuptial contract notari-ally executed before the commencement of this Act.

16. (1) Section *three* of the Prescription Act, 1943, is hereby amended by the deletion of paragraph (a) of sub-section (2).
 (2) Nothing in sub-section (1) contained shall affect a donation concluded before the commencement of this Act.
- Amendment of section 3 of Act 18 of 1943, as amended by section 27 of Act 46 of 1945 and section 23 of Act 62 of 1955.
17. Section *nine* of the Magistrates' Courts Act, 1944, is hereby amended—
- (a) by the substitution in sub-sections (2) and (3) for the words "or Under-Secretary for Justice" of the words "Under-Secretary or Assistant Secretary for Justice or the first administrative officer in the staff branch of the department of Justice";
- (b) by the substitution in sub-section (4) for the words "or Under-Secretary for Native Affairs" of the words "Under-Secretary or Assistant Secretary for Native Affairs or the first administrative officer in the staff branch of the department of Native Affairs" and for the words "or Under-Secretary for Justice" of the words "Under-Secretary or Assistant Secretary for Justice or the first administrative officer in the staff branch of the department of Justice".
- Amendment of section 9 of Act 32 of 1944 as amended by section 8 of Act 40 of 1952.
18. Section *twenty-one* of the Magistrates' Courts Act, 1944, is hereby amended by the insertion after the word "court" of the words ", other than the court of a regional division established under section *two*,".
- Amendment of section 21 of Act 32 of 1944.
19. Section *twenty-five* of the Magistrates' Courts Act, 1944, is hereby amended by the insertion in sub-paragraph (vi) of paragraph (a) of sub-section (3) after the word "Act" of the words "or the Criminal Procedure Act, 1955 (Act No. 56 of 1955), in relation to magistrates' courts".
- Amendment of section 25 of Act 32 of 1944.
20. Section *sixty-five* of the Magistrates' Courts Act, 1944, is hereby amended by the addition thereto of the following sub-section:
- "(12) Any order under paragraph (d) of sub-section (7) may at any time and for good cause be suspended, varied or rescinded by the court."
- Amendment of section 65 of Act 32 of 1944 as substituted by section 15 of Act 40 of 1952 and amended by section 1 of Act 14 of 1954.
21. Section *one* of the Second-hand Goods Act, 1955, is hereby amended by the deletion of the definition of "local authority".
- Amendment of section 1 of Act 23 of 1955.
22. Section *one* of the Criminal Procedure Act, 1955, is hereby amended by the addition to the definition of "rules of court" of the words "of this Act or section *twenty-five* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), as the case may be."
- Amendment of section 1 of Act 56 of 1955.
23. Section *seventy* of the Criminal Procedure Act, 1955, is hereby amended by the addition thereto of the following paragraph:
- "(g) if it appears in the course of the examination that the court of a regional division has jurisdiction to deal summarily with the offence which is the subject of the examination, and that it is desirable to try the accused summarily, with the consent of the prosecutor and the accused, stop the examination and proceedings shall then be recommenced *de novo* before the court of the regional division concerned."
- Amendment of section 70 of Act 56 of 1955.
24. Section *eighty-seven* of the Criminal Procedure Act, 1955, is hereby amended by the addition thereto of the following sub-section:
- "(3) (a) When an accused is released on bail under this section, a recognizance shall be taken from the accused alone or from the accused and one or more sureties, as the magistrate may determine, regard being had to the nature and circumstances of the case.
- (b) The conditions of the recognizance shall be that the accused shall appear at a time and place specified in writing and as often as may be necessary thereafter within a period of six months, until the preparatory examination is concluded.
- (4) The magistrate may further add to the recognizance any condition which he may deem necessary or advisable in the interests of justice, as to—

- (a) times and places at which and persons to whom the accused shall personally present himself;
- (b) places where he is forbidden to go;
- (c) prohibition against communication by the accused with witnesses for the prosecution; or
- (d) any other matter relating to his conduct."

25. The following section is hereby inserted after section *ninety-nine* of the Criminal Procedure Act, 1955: Insertion of section 99 bis in Act 56 of 1955.

"Amendment of conditions of recognizances. 99bis. Any court, judge, magistrate or other judicial officer may, if it or he is of opinion that it is necessary or advisable in the interests of justice that the conditions of a recognizance entered into under the provisions of this Chapter be amended or supplemented, issue a warrant for the arrest of the accused and may, when the accused is brought before it or him, amend or supplement the said conditions as the court, judge, magistrate or other judicial officer may deem fit."

26. Section *one hundred and eleven* of the Criminal Procedure Act, 1955, is hereby amended by the insertion after paragraph (h) thereof of the following paragraph: Amendment of section 111 of Act 56 of 1955.

"(i) under paragraph (a) or (b) of section *eleven* of the Suppression of Communism Act, 1950 (Act No. 44 of 1950);"

27. Section *one hundred and twelve* of the Criminal Procedure Act, 1955, is hereby amended by the insertion in sub-section (1) after the words "public violence" of the words "or of contravening any provision of paragraph (a) or (b) of section *eleven* of the Suppression of Communism Act, 1950 (Act No. 44 of 1950)". Amendment of section 112 of Act 56 of 1955.

28. Section *two hundred and eighty-nine* of the Criminal Procedure Act, 1955, is hereby amended— Amendment of section 289 of Act 56 of 1955.

- (a) by the deletion of the proviso to sub-section (1);
- (b) by the addition thereto of the following sub-sections:

"(3) The court which has convicted any person on any charge may, at the request of the public prosecutor, order that the finger prints, palm prints or foot prints of the said person be taken.

(4) A magistrate who has committed any person for trial or sentence after the conclusion of a preparatory examination may, at the request of the public prosecutor, order that the finger prints, palm prints or foot prints of the said person be taken.

(5) Any finger prints, palm prints or foot prints and the records of any steps taken under the provisions of this section shall be destroyed if the person concerned is found not guilty at his trial or his conviction is set aside by a superior court or the attorney-general declines to prosecute him in terms of paragraph (a) of sub-section (1) of section *seventy-nine*."

29. Section *three hundred and nine* of the Criminal Procedure Act, 1955, is hereby amended by the substitution for sub-sections (3) and (4) of the following sub-sections: Amendment of section 309 of Act 56 of 1955.

"(3) If, upon the day appointed for the appearance of any person to answer any charge, he fails to appear and the court is satisfied upon the return of the person required to serve the summons that he was duly summoned, or if it appears from evidence given under oath that he is evading service of the summons, or if it appears from such evidence that he attended but failed to remain in attendance, the court in which the said criminal proceedings are conducted, may issue a warrant, directing that he be arrested and brought, at a time and place stated in the warrant, or as soon thereafter as possible, before the court or any magistrate.

(4) When the person in question has been arrested under the said warrant, he may be detained thereunder before the court which issued it or in any gaol or lock-up or other place of detention or in the custody of the person who is in charge of him, with a view to securing his presence at his trial: Provided that the court may release him on a recognizance with or without sureties for his appearance at his trial and for his appearance at the enquiry referred to in sub-section (5).

(5) The court may in a summary manner enquire into the said person's failure to obey the summons or into his evasion of the service of the summons or his failure to remain in attendance, and unless it is proved that the said person has a reasonable excuse for such failure or evasion, the court may sentence him to pay a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding one month.

(6) Any sentence imposed by any court under sub-section (5) shall be enforced and shall be subject to an appeal as if it were a sentence in a criminal case imposed by that court.

(7) If a person who has entered into any recognizance referred to in the proviso to sub-section (4), fails so to appear, he may apart from the forfeiture of his recognizance, be dealt with as if he had failed to obey a summons to answer any charge.

(8) When a person under the age of nineteen years is summoned as aforesaid, the provisions of sub-sections (1), (2) and (4) of section *fifty-seven* shall *mutatis mutandis* apply."

30. Section *three hundred and seventy-five* of the Criminal Procedure Act, 1955, is hereby amended by the insertion in sub-section (2) after the word "Minister" of the words "or any person acting under his authority". Amendment of section 375 of Act 56 of 1955.

31. Part II of the Third Schedule to the Criminal Procedure Act, 1955, is hereby amended by the insertion after the word "intent" where it occurs for the second time of the words "or any attempt". Amendment of Part II of Third Schedule to Act 56 of 1955.

32. The laws specified in the Schedule are hereby repealed to the extent set out in the fourth column of the Schedule. Repeal of laws.

33. This Act shall be called the General Law Amendment Act, 1956. Short title.

Schedule.

Province or Union.	No. and year of law.	Title.	Extent of repeal.
Natal. ..	Law No. 22 of 1863.	"To prevent Community of Goods attaching to certain Marriages, and to enable the spouses of such Marriages to devise their properties".	Section <i>seven</i> .
Natal. ..	Law No. 14 of 1882.	"To amend Law 22 of 1863".	Section <i>two</i> .
Natal. ..	Law No. 12 of 1884.	"To render a Writing necessary for Actions in respect of certain Contracts".	The whole, except in so far as it relates to the purchase and sale of immovable property or any interest therein.
Natal. ..	Act No. 40 of 1894.	"Master and Servants (Native)".	Sections <i>seventeen</i> and <i>eighteen</i> .
Orange Free State.	Ordinance No. 12 of 1906.	Transfer Duty Ordinance, 1906.	Sections <i>fifty-one</i> , <i>fifty-two</i> and <i>fifty-three</i> .
Transvaal.	Proclamation No. 8 of 1902.	Transfer Duty Proclamation, 1902.	Section <i>twenty-nine</i> .
Transvaal.	Proclamation No. 27 of 1902.	"To amend the Transfer Duty Proclamation, 1902".	Section <i>one</i> .
Union. ..	Act No. 11 of 1927.	Administration of Justice (Further Amendment) Act, 1927.	Section <i>two</i> .
Union. ..	Act No. 37 of 1948.	Criminal Procedure Amendment Act, 1948.	Section <i>fourteen</i> .
Union. ..	Act No. 13 of 1954.	Native High Court Abolition Act, 1954.	Section <i>eighteen</i> .