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BUITENGEWONE



EXTRAORDINARY

Staatskoerant

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Die volgende Wetsontwerp, ingedien in die Volksraad, word gepubliseer ingevolge artikel 160 van die Reglement van Orde.

J. M. HUGO,
Klerk van die Volksraad.

HOUSE OF ASSEMBLY.

The following Bill having been introduced into the House of Assembly, is published in accordance with Standing Order No. 160.

J. M. HUGO,
Clerk of the House of Assembly.

BLADSY

PAGE

WETSONTWERP

Tot samevatting en wysiging van die wet met betrekking tot die registrasie en reëling van vakverenigings en werkgewers-organisasies, die voorkoming en beslegting van geskille tussen werkgewers en werknemers, die reëling van bedinge en voorwaardes van diens deur ooreenkoms en arbitrasie en die beheer van privaat registrasiekantore; om voorsiening te maak vir die instelling van 'n nywerheidshof en om sy werksaamhede te omskryf; om voorsiening te maak vir voorsorgsmaatreëls teen inter-rasse-mededinging; en om voorsiening te maak vir ander bykomstige aangeleenthede.

(Ingedien deur die MINISTER VAN ARBEID.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

Woordbepaling.

1. (1) In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
 - (i) „aangewese agent”, 'n aangewese agent van 'n nywerheidsraad aangestel of wat geag word aangestel te gewees het kragtens artikel *twee-en-sestig*; (ix) 5
 - (ii) „ampsdraer”, 'n ander persoon as 'n beampte wat enige amp in 'n geregistreerde vakvereniging of werkgewersorganisasie bekleed, met inbegrip van lidmaatskap van 'n komitee van sodanige vereniging of organisasie behalwe lidmaatskap *ex officio*; (xxii) 10
 - (iii) „amptenaar”, 'n persoon op die vaste diensstaat van die Staatsdiens, of 'n inspekteur; (xxiii) 15
 - (iv) „arbiter”, 'n arbiter aangestel of wat geag word aangestel te gewees het kragtens artikel *vyf-en-veertig* of *ses-en-veertig*; (ii)
 - (v) „beampte”, 'n werknemer van 'n geregistreerde vakvereniging of werkgewersorganisasie in diens as sekretaris, assistent sekretaris of organiseerder van sodanige vereniging of organisasie of in enige ander hoedanigheid voorgeskryf, hetsy sodanige werknemer in 'n voltydse hoedanigheid in diens is al dan nie; (xxiv) 20
 - (vi) „beloning”, 'n betaling in kontant of in natura of in kontant sowel as in natura gemaak of verskuldig aan enige persoon, en wat op enige wyse hoegenaamd uit diens ontstaan; en het „beloon” 'n ooreenkomstige betekenis; (xxxiv) 25
 - (vii) „blanke persoon”, iemand wat volgens voorkoms klaarblyklik 'n blanke is of wat gewoonlik vir 'n blanke deurgaan, maar nie ook 'n persoon wat, alhoewel hy volgens voorkoms klaarblyklik 'n blanke is, gewoonlik vir 'n gekleurde deurgaan nie; (xlv) 30
 - (viii) „gebied”, ook 'n aantal gebiede, aangrensend al dan nie; (iii) 35
 - (ix) „gekleurde persoon”, iemand wat nie 'n blanke persoon of 'n naturel is nie; (vi)
 - (x) „gereserveerde beroep”, 'n in sub-artikel (17) van artikel *vyf-en-dertig* bedoelde beroep; (xxxv) 40
 - (xi) „hierdie Wet”, ook enige regulasie; (xxxviii)
 - (xii) „inspekteur”, 'n inspekteur aangestel of wat geag word aangestel te gewees het kragtens artikel *sestig*; (xv)
 - (xiii) „loonreëlende maatreël”— 45
 - (a) 'n ooreenkoms, kennisgewing, toekenning of vasstelling wat ingevolge hierdie Wet bindend is;
 - (b) 'n vasstelling gemaak of wat geag word gemaak te gewees het kragtens die Loonwet, 1937 (Wet No. 44 van 1937); 50
 - (c) 'n toekenning gemaak ingevolge die regulasies by Oorlogsmaatreël No. 145 van 1942 gepubliseer;
 - (d) 'n vasstelling kragtens die Wet op Naturelle-bouwerkers, 1951 (Wet No. 27 van 1951), gemaak;
 - (e) 'n order kragtens die Wet op Naturellearbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953) gemaak; of 55
 - (f) enige ander dergelyke maatreël waardeur bedinge of voorwaardes van diens gereël word en wat

BILL

To consolidate and amend the law relating to the registration and regulation of trade unions and employers' organizations, the prevention and settlement of disputes between employers and employees, the regulation of terms and conditions of employment by agreement and arbitration and the control of private registry offices; to provide for the establishment of an industrial tribunal and to define its functions; to provide safeguards against interracial competition; and to provide for other incidental matters.

(Introduced by the MINISTER OF LABOUR.)

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) In this Act, unless the context otherwise indicates— Definitions.
- 5 (i) "agreement" means an agreement entered into or deemed to have been entered into by parties to an industrial council or conciliation board under this Act; (xxi)
- 10 (ii) "arbitrator" means an arbitrator appointed or deemed to have been appointed under section *forty-five* or *forty-six*; (iv)
- (iii) "area" includes any number of areas, whether or not contiguous; (viii)
- 15 (iv) "award" means an award made or deemed to have been made in terms of section *forty-five*, *forty-six* or *forty-nine*; (xxxiv)
- (v) "chairman", in relation to a trade union, employers' organization, industrial council or conciliation board, or the tribunal, includes any person who is responsible for the performance of any of the duties ordinarily performed by a chairman; (xli)
- 20 (vi) "coloured person" means a person who is not a white person or a native; (ix)
- (vii) "conciliation board" means a conciliation board established or deemed to have been established under this Act; (xxxix)
- 25 (viii) "council" means an industrial council; (xxviii)
- (ix) "designated agent" means a designated agent of an industrial council appointed or deemed to have been appointed under section *sixty-two*; (i)
- 30 (x) "determination" means a determination made under section *seventy-six* or *seventy-seven*, as the case may be; (xxxvii)
- (xi) "employee" means any person (other than a native) employed by, or working for any employer and receiving, or being entitled to receive any remuneration, and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer; and "employed" and "employment" have corresponding meanings; (xlv)
- 35 (xii) "employer" means any person whatsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person whatsoever in any manner to assist him in the carrying on or conducting of his business; and "employ" and "employment" have corresponding meanings; (xliii)
- 40 (xiii) "employers' organization" means any number of employers in any particular undertaking, industry, trade or occupation associated together primarily for the purpose of regulating relations in that undertaking, industry, trade or occupation between themselves or some of them and their employees or some of their employees; (xliv)
- 50 (xiv) "industrial council" means an industrial council registered or deemed to be registered under this Act: (xvii)
- 55 (xv) "inspector" means an inspector appointed or deemed to have been appointed under section *sixty*; (xii)

- ingevolge enige ander wetsbepaling bindend is;
(xiv)
- (xiv) „Minister”, die Minister van Arbeid; (xix)
- (xv) „naturel”, iemand wat inderdaad ’n lid van ’n inboorlingras of -stam van Afrika is of gewoonlik daarvoor deurgaen; (xx)
- (xvi) „naturellegebied”—
- (a) alle grond in ’n afgesonderde naturellegebied, soos omskryf in artikel *nege-en-veertig* van die Naturelletrust en -grond Wet, 1936 (Wet No. 18 van 1936), alle grond waarvan die Suid-Afrikaanse Naturelletrust, ingestel kragtens artikel *vier* van gemelde Wet, die geregistreerde eienaar, soos omskryf in artikel *nege-en-veertig* van gemelde Wet is, en alle grond in ’n oopgestelde gebied binne die bedoeling van gemelde Wet wat op naam van ’n naturel, soos in artikel *nege-en-veertig* van gemelde Wet omskryf, geregistreer staan of van sodanige naturel wat oorlede is of van enige persoon ten behoeve van of in trust vir ’n naturellestam of gemeenskap;
- (b) enige grond wat ingevolge artikel *twee* van die Naturelle (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945), as ’n lokasie of naturelledorp omskryf en afgesonderd is;
- (c) enige dorp of nedersetting wat bestuur word ingevolge regulasies uitgevaardig kragtens artikel *dertig* van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927);
- (d) enige grond wat deur die Minister van Naturellesake as woonplek vir naturelle goedgekeur is ingevolge paragraaf (h) van sub-artikel (2) van artikel *nege* van die Naturelle (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945);
- (e) enige gebied wat ingevolge ’n proklamasie kragtens artikel *drie* van die Wet op Groepsgebiede, 1950 (Wet No. 41 van 1950), uitgevaardig, ’n gebied is vir bewoning of grondbesit deur lede van ’n naturellegroep soos in sub-artikel (1) van artikel *twee* van genoemde Wet bedoel; of
- (f) enige gebied wat na die mening van die Minister oorheersend deur naturelle bewoon word en wat hy na oorlegpleging met die Minister van Naturellesake by kennisgewing in die *Staatskoerant* vir die doeleindes van hierdie Wet tot ’n naturellegebied verklaar; (xxi)
- (xvii) „nywerheidshof”, die nywerheidshof deur artikel *sewentien* ingestel en met betrekking tot enige aangeleentheid wat volgens hierdie Wet na ’n afdeling daarvan verwys is, ook daardie afdeling van die nywerheidshof waarna daardie aangeleentheid aldus verwys is; (xiv)
- (xviii) „nywerheidsraad”, ’n nywerheidsraad geregistreer of wat geag word geregistreer te wees, kragtens hierdie Wet; (xiv)
- (xix) „onderneming, nywerheid, bedryf of beroep”, ook enige afdeling of deel van ’n onderneming, nywerheid, bedryf of beroep; (xlii)
- (xx) „organisasie”, ’n werkgewersorganisasie; (xxv)
- (xxi) „ooreenkoms”, ’n ooreenkoms wat tussen die partye tot ’n nywerheidsraad of versoeningsraad kragtens hierdie Wet aangegaan is of geag word aangegaan te gewees het; (i)
- (xxii) „openbare rekenmeester”, ’n persoon geregistreer as ’n rekenmeester en ouditeur kragtens artikel *drie-en-twintig* van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951); (xxxi)
- (xxiii) „passasiersvervoer”, die vervoer van persone deur middel van ’n voertuig vir vergoeding volgens ’n rooster; (xxvi)
- (xxiv) „perseel”, enige grond en enige gebou of bouwerk bo of onder die oppervlakte van enige grond en ook enige voertuig, vliegtuig of vaartuig; (xxviii)
- (xxv) „plaaslike owerheid”, ’n afdelingsraad, stadsraad, munisipale raad, dorpsraad, dorpsbestuur, plaaslike bestuursraad, dorpsbestuursraad of gesondheidskomitee, die Gesondheidsraad vir Buite-stedelike Gebiede, ingestel kragtens die Ordonnansie tot Instelling van ’n Gesondheidsraad vir Buite-stedelike Gebiede, 1943 (Ordonnansie No. 20 van 1943) van Transvaal, die Kommissie vir Plaaslike Gesondheid

- (xvi) "licence of exemption" means a licence issued or deemed to have been issued under section *fifty-one* and includes any notice of exemption published in the *Gazette* under that section; (xlii)
- 5 (xvii) "local authority" means any divisional council, city council, municipal council, borough council, town council, village council, town board, local board, village management board or health committee, the Peri-Urban Areas Health Board Ordinance, 1943 (Ordinance No. 20 of 1943) of Transvaal, the Local Health Commission constituted under the Local Health Commission (Public Health Areas Control) Ordinance, 1941 (Ordinance No. 20 of 1941) of Natal, and any like body; (xxv)
- 10 (xviii) "lock-out" means any one or more of the following acts or omissions by a person who is or has been an employer—
- 15 (a) the exclusion by him of any body or number of persons who are or have been in his employ from any premises on which work provided by him is or has been performed; or
- 20 (b) the total or partial discontinuance by him of his business or of the provision of work; or
- 25 (c) the breach or termination by him of the contracts of employment of any body or number of persons in his employ; or
- (d) the refusal or failure by him to re-employ any body or number of persons who have been in his employ,
- 30 if the purpose of that exclusion, discontinuance, breach, termination, refusal or failure is to induce or compel any persons, who are or have been in his employ or in the employ of other persons—
- 35 (i) to agree to or comply with any demands or proposals concerning terms or conditions of employment or other matters made by him or on his behalf or by or on behalf of any other person who is or has been an employer; or
- 40 (ii) to accept any change in the terms or conditions of employment; or
- (iii) to agree to the employment or the suspension or termination of the employment of any person; (xxxv)
- 45 (xix) "Minister" means the Minister of Labour; (xiv)
- (xx) "native" means a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa; (xv)
- (xxi) "native area" means—
- 50 (a) all land in a scheduled native area as defined in section *forty-nine* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), all land of which the South African Native Trust, constituted by section *four* of the said Act, is the registered owner as defined in section *forty-nine* of the said Act, and all land in a released area within the meaning of the said Act which is registered in the name of a native as defined in section *forty-nine* of the said Act or of such a native who has died or of any person on behalf of or in trust for a native tribe or community;
- 55 (b) any land which has been defined and set apart as a location or native village in terms of section *two* of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
- 60 (c) any town, village or settlement administered under regulations made under section *thirty* of the Native Administration Act, 1927 (Act No. 38 of 1927);
- 65 (d) any land approved by the Minister of Native Affairs for the residence of natives in terms of paragraph (h) of sub-section (2) of section *nine* of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
- 70 (e) any area which in terms of any proclamation issued under section *three* of the Group Areas Act, 1950 (Act No. 41 of 1950), is an area for occupation or ownership by members of a native group such as is referred to in sub-section (1) of section *two* of the said Act; or
- 75

- ingestel kragtens die Ordonnansie op die Kommissie vir Plaaslike Gesondheid (Beheer oor Openbare Gesondheidsgebiede), 1941 (Ordonnansie No. 20 van 1941) van Natal, en enige dergelike liggaam; (xvii)
- (xxvi) „politieke fonds”, in ’n paragraaf (d) van sub-artikel 5 (6) van artikel *agt* bedoelde fonds; (xxvii)
- (xxvii) „privaat registrasiekantoor”, ’n besigheid vir wins gedryf waarin betrekkings vir persone wat werk van enige aard hoegenaamd soek, gevind word of waarin raad in verband met die vind van werk gegee word; 10 (xxx)
- (xxviii) „raad”, ’n nywerheidsraad; (viii)
- (xxix) „registrateur”, die nywerheidsregistrateur kragtens artikel *drie* aangestel; (xxxii)
- (xxx) „regulasie”, ’n regulasie kragtens hierdie Wet uit- 15 gevaardig; (xxxiii)
- (xxxi) „sekretaris”, met betrekking tot ’n vakvereniging of werkgewersorganisasie of nywerheidsraad of versoeningsraad, ook enige persoon wat verantwoordelik is vir die verrigting van enige van die pligte wat 20 gewoonlik deur ’n sekretaris verrig word; (xxxvi)
- (xxxii) „skeidsregter”, ’n skeidsregter aangestel of wat geag word aangestel te gewees het kragtens artikel *vyf-en-veertig* of *ses-en-veertig*; (xli)
- (xxxiii) „staking”, een of meer van die onderstaande dade of 25 versuime deur enige liggaam of aantal persone wat in diens is of was of by dieselfde werkgewer of by verskillende werkgewers—
- (a) die weiering of versuim deur hulle om aan te hou met werk (hetsy die afbreking volkome of ge- 30 deeltelik is), of om hul werk te hervat of om herindiensneming aan te neem of om aan die bedinge of voorwaardes van diens wat op hulle van toepassing is, te voldoen, of die vertraging deur hulle van die vooruitgang van werk, of die 35 belemmering deur hulle van werk; of
- (b) die verbreking of beëindiging deur hulle van hul dienskontrakte,
- indien—
- (i) daardie weiering, versuim, vertraging, be- 40 lemming, verbreking of beëindiging plaasvind na aanleiding van ’n samespanning, ooreenkoms of verstandhouding, hetsy uitdruklik of nie, tussen hulle; en
- (ii) die doel van daardie weiering, versuim, vertraging, 45 belemmering, verbreking of beëindiging is om enige persoon by wie hulle of enige ander persone in diens is of was te beweeg of te dwing om—
- (aa) toe te stem tot of te voldoen aan enige eise of voorstelle in verband met bedinge of voor- 50 waardes van diens of ander aangeleenthede wat gestel is deur of namens hulle of enige van hulle of enige ander persone wat in diens is of was; of
- (bb) enige kennisgewing van voorneme om be- 55 dinge of voorwaardes van diens te verander, terug te trek of na te laat om daaraan gevolg te gee, of as so ’n verandering aangebring is, die bedinge of voorwaardes te herstel tot wat hulle gewees het voor die verandering 60 aangebring is; of
- (cc) enige persoon in diens te neem of te skors of sy diens te beëindig; (xxxvii)
- (xxxiv) „toekenning”, ’n toekenning gemaak of wat geag word gemaak te gewees het ingevolge artikel *vyf-en-veertig*, 65 *ses-en-veertig* of *nege-en-veertig*; (iv)
- (xxxv) „uitsluiting”, een of meer van die onderstaande dade of versuime deur ’n persoon wat ’n werkgewer is of was—
- (a) die nie-toelating deur hom van ’n liggaam of aantal 70 persone wat in sy diens is of wat tot ’n perseel waarop werk wat hy verskaf het verrig word of verrig is; of
- (b) die algehele of gedeeltelike stopsit deur hom van sy besigheid of van die verskaffing van werk; of 75
- (c) die verbreking of beëindiging deur hom van die dienskontrakte van ’n liggaam of aantal persone in sy diens; of
- (d) die weiering of versuim deur hom om ’n liggaam of aantal persone wat in sy diens was, weer in 80 diens te neem,

- (f) any area which in the opinion of the Minister is predominantly occupied by natives and which he may after consultation with the Minister of Native Affairs by notice in the *Gazette* declare to be a native area for the purposes of this Act; (xvi)
- 5 (xxii) "office-bearer" means a person, other than an official, who holds any office in a registered trade union or employers' organization, including membership of a committee of such union or organization other than membership *ex officio*; (ii)
- 10 (xxiii) "officer" means a person on the fixed establishment of the public service, or an inspector; (iii)
- (xxiv) "official" means an employee of a registered trade union or employers' organization employed as secretary, assistant secretary or organizer of such union or organization or in any other prescribed capacity, whether or not such employee is employed in a full-time capacity; (v)
- 15 (xxv) "organization" means an employers' organization; (xx)
- 20 (xxvi) "passenger transportation" means the conveyance of persons by means of any vehicle for reward according to a time-table; (xxiii)
- (xxvii) "political fund" means a fund referred to in paragraph (d) of sub-section (6) of section eight; (xxvi)
- 25 (xxviii) "premises" means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft, or vessel; (xxiv)
- (xxix) "prescribed" means prescribed by this Act; (xl)
- 30 (xxx) "private registry office" means any business carried on for gain in which engagements for persons seeking work of any nature whatsoever are procured or in which advice in regard to the securing of employment is given; (xxvii)
- (xxxi) "public accountant" means a person registered as an accountant and auditor under section *twenty-three* of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951); (xxii)
- 35 (xxxii) "registrar" means the industrial registrar appointed in terms of section *three*; (xxix)
- 40 (xxxiii) "regulation" means a regulation made under this Act; (xxx)
- (xxxiv) "remuneration" means any payment in money or in kind or both in money and in kind, made or owing to any person, which arises in any manner whatsoever out of employment; and "remunerate" has a corresponding meaning; (vi)
- 45 (xxxv) "reserved occupation" means an occupation referred to in sub-section (17) of section *thirty-five*; (x)
- (xxxvi) "secretary", in relation to a trade union or employers' organization or industrial council or conciliation board, includes any person who is responsible for the performance of any of the duties ordinarily performed by a secretary; (xxxi)
- 50 (xxxvii) "strike" means any one or more of the following acts or omissions by any body or number of persons who are or have been employed either by the same employer or by different employers—
- 55 (a) the refusal or failure by them to continue to work (whether the discontinuance is complete or partial) or to resume their work or to accept re-employment or to comply with the terms or conditions of employment applicable to them, or the retardation by them of the progress of work, or the obstruction by them of work; or
- 60 (b) the breach or termination by them of their contracts of employment,
- 65 if
- (i) that refusal, failure, retardation, obstruction, breach or termination is in pursuance of any combination, agreement or understanding between them, whether expressed or not; and
- 70 (ii) the purpose of that refusal, failure, retardation, obstruction, breach or termination is to induce or compel any person by whom they or any other persons are or have been employed—
- 75 (aa) to agree to or to comply with any demands or proposals concerning terms or conditions

indien die doel van genoemde nie-toelating, stopsit, verbreking, beëindiging, weiering of versuim is om persone wat in sy diens of in die diens van andere is of was te bewoog of te dwing om—

- (i) toe te stem tot of te voldoen aan enige eise of voorstelle in verband met bedinge of voorwaardes van diens of ander aangeleentheid wat gestel of gemaak is deur of namens hom of deur of namens enige ander persoon wat 'n werkgewer is of was; of 5 10
- (ii) enige verandering in die bedinge of voorwaardes van diens te aanvaar; of
- (iii) toe te stem tot die indiënsneming of die skorsing of beëindiging van diens van enige persoon; (xviii)
- (xxxvi) „vakvereniging”, enige getal werknemers in 'n bepaalde onderneming, nywerheid, bedryf of beroep wat verenig is hoofsaaklik met die doel om verhoudings tussen hulle of party van hulle en hul werkgewers of party van hul werkgewers in daardie onderneming, nywerheid, bedryf of beroep te reël; (xxxix) 15 20
- (xxxvii) „vasstelling”, 'n vasstelling kragtens artikel *ses-en-sewentig*, of *sewe-en-sewentig* na gelang van die geval, gemaak; (x)
- (xxxviii) „vereniging”, 'n vakvereniging; (xlii)
- (xxxix) „versoeningsraad”, 'n versoeningsraad ingestel of wat geag word ingestel te gewees het kragtens hierdie Wet; (vii) 25
- (xl) „voorgeskryf”, deur hierdie Wet voorgeskryf; (xxix)
- (xli) „voorsitter”, met betrekking tot 'n vakvereniging, werkgewersorganisasie, nywerheidsraad of versoeningsraad, of die nywerheidshof, ook enige persoon wat verantwoordelik is vir die verrigting van enige van die pligte wat gewoonlik deur 'n voorsitter verrig word; (v) 30
- (xlii) „vrystellingsertifikaat”, 'n sertifikaat uitgereik of wat geag word uitgereik te gewees het kragtens artikel *een-en-vyftig* en ook enige kennisgewing van vrystelling ingevolge daardie artikel in die *Staatskoerant* gepubliseer; (xvi) 35
- (xliii) „werkgewer”, enige persoon hoegenaamd wat enige persoon in diens het of aan hom werk verskaf, en wat daardie persoon beloon, of uitdruklik of stilswyend onderneem om hom te beloon, of wat enige persoon hoegenaamd toelaat om hom op enige wyse te help om sy besigheid voort te sit of te drywe; en „in diens hê”, „in diens neem” en „diens” het ooreenkomstige betekenisse; (xii) 40 45
- (xliv) „werkgewersorganisasie”, enige getal werkgewers in 'n bepaalde onderneming, nywerheid, bedryf of beroep wat verenig is hoofsaaklik met die doel om verhoudings tussen hulle of party van hulle en hul werknemers of party van hul werknemers in daardie onderneming, nywerheid, bedryf of beroep te reël; (xiii) 50
- (xlv) „werknemer”, enige persoon (behalwe 'n naturel) wat in diens is by of werk verrig vir enige werkgewer en beloning ontvang of geregtig is om dit te ontvang, en enige ander persoon hoegenaamd wat op enige wyse help om die besigheid van 'n werkgewer voort te sit of te drywe, en het „in diens” en „diens” ooreenkomstige betekenisse. (xi) 55 60
- (2) (a) By die toepassing van hierdie Wet word 'n lid van 'n vakvereniging of werkgewersorganisasie geag in goeie finansiële stand te wees as hy enige intree-gelde wat in die konstitusie van die vereniging of organisasie, na gelang van die geval vasgestel word betaal het en nie meer dan drie maande agterstallig is nie met die betaling van die ledegelde, indien enige, wat volgens die konstitusie van die betrokke vereniging of organisasie betaalbaar is: Met dien verstande dat 'n lid wat vrygestel is van die verpligting om enige sodanige gelde te betaal, geag word in goeie finansiële stand te wees as die registrateur oortuig is dat hy nie aldus vrygestel is met die doel om die bepalings van hierdie sub-artikel te ontduik nie. 65 70
- (b) By die toepassing van hierdie sub-artikel beteken „ledegelde” daardie gelde, waarvan die periodieke betaling 'n voorwaarde van lidmaatskap is maar nie ook enige aparte gelde, subskripsiegelde of bydrae wat 'n lid op enige finansiële voordeel geregtig maak nie, nog enige spesiale heffing vir 'n besondere doel opgelê, nog enige bydrae tot 'n politieke fonds. 75 80

of employment or other matters made by or on behalf of them or any of them or any other persons who are or have been employed; or

5 (bb) to withdraw or to refrain from giving effect to any notification of intention to change terms or conditions of employment, or if such a change has been made to restore the terms or conditions to those which existed before the change was made; or

10 (cc) to employ or to suspend or terminate the employment of any person; (xxxiii)

(xxxviii) "this Act" includes any regulation; (xi)

15 (xxxix) "trade union" means any number of employees in any particular undertaking, industry, trade or occupation associated together primarily for the purpose of regulating relations in that undertaking, industry, trade or occupation between themselves or some of them and their employers or some of their employers; (xxxvi)

20 (xl) "tribunal" means the industrial tribunal established by section *seventeen* and in relation to any matter which has been referred to any division thereof in terms of this Act, includes that division of the industrial tribunal to which that matter has been so referred; (xvii)

25 (xli) "umpire" means an umpire appointed or deemed to have been appointed under section *forty-five* or *forty-six*; (xxxii)

30 (xlii) "undertaking, industry, trade or occupation" includes a section or a portion of an undertaking, industry, trade or occupation; (xix)

(xliii) "union" means a trade union (xxxviii)

(xliv) "wage regulating measure" means—

35 (a) an agreement, notice, award or determination which is binding in terms of this Act;

(b) a determination made or deemed to have been made under the Wage Act, 1937 (Act No. 44 of 1937);

40 (c) an award made in terms of the regulations published under War Measure No. 145 of 1942;

(d) a determination made under the Native Building Workers Act, 1951 (Act No. 27 of 1951);

45 (e) an order made under the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953); or

(f) any other like measure whereby terms or conditions of employment are regulated and which is binding in terms of any other law; (xiii)

50 (xlv) "white person" means a person who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person. (vii)

55 (2) (a) For the purposes of this Act a member of a trade union or employers' organization shall be deemed to be in good financial standing if he has paid any entrance fee laid down in the constitution of the union or organization, as the case may be, and is not more than three months in arrear with the payment of the membership fees, if any, payable in terms of the constitution of the union or organization concerned: Provided that a member who has been exempted from the obligation to pay any such fee, shall be deemed to be in good financial standing if the registrar is satisfied that he has not been so exempted for the purpose of evading the provisions of this sub-section.

60 (b) For the purposes of this sub-section, "membership fee" means that fee the periodical payment of which is a condition of membership but does not include any separate fee, subscription or contribution which entitles a member to any financial benefit, nor any special levy imposed for a particular purpose, nor any contribution to a political fund.

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Toepassing
van Wet.

2. (1) Behoudens die bepalinge van sub-artikel (2) is hierdie Wet van toepassing op elke onderneming, nywerheid, bedryf of beroep.

(2) Hierdie Wet (behalwe artikel *drie-en-sestig*) is nie van toepassing op persone ten opsigte van hul diens in boerdery- 5 bedrywighede of huishoudelike diens in privaat huishoudings nie, nóg op amptenare van die Parlement ten opsigte van hul diens as sulks, nóg behoudens die bepalinge van sub-artikels (3) en (9), op persone in diens van die Staat ten opsigte van hul diens as sulks, nóg op die verrigting van werk in 'n liefdadig- 10 heidsinrigting waarvoor die persone wat dit verrig geen beloning ontvang nie, nóg op werk wat in of in verband met enige universiteit, kollege, skool of ander opvoedkundige inrigting wat geheelal of gedeeltelik uit staatsfondse onderhou word, verrig word as deel van die opvoeding of opleiding van 15 die persone wat dit verrig, nóg op universiteitstudente ten opsigte van hul diens in enige onderneming, nywerheid, bedryf of beroep as deel van hul universiteitsopleiding as daardie diens vereis word vir die voltooiing van hulle leergange.

(3) 'n Liggaam wat geheelal bestaan uit persone in diens 20 van die Staat, hetsy die liggaam by die inwerkingtreding van hierdie Wet bestaan of na daardie datum ingestel word, en wat by daardie inwerkingtreding kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), nie geregistreer is nie, of nie geag word geregistreer te wees nie, kan ooreenkomstig 25 die bepalinge van artikel *vier*, by die registrateur aansoek doen om registrasie kragtens hierdie Wet, en die registrateur kan, met inagneming van die bepalinge van daardie artikel, daardie liggaam as 'n vakvereniging registreer en daarna is die bepalinge van artikels *vyf* tot en met *sestien* op daardie liggaam van toe- 30 passing asof dit 'n vakvereniging is.

(4) Enige vakvereniging, werkgewersorganisasie of nywerheidsraad wat by die inwerkingtreding van hierdie Wet kragtens die Nywerheids-versoeningswet, 1937 (Wet No. 36 van 1937), geregistreer is, of geag word geregistreer te wees, word geag 35 kragtens hierdie Wet geregistreer te wees; en sy konstitusie, soos van tyd tot tyd kragtens die bepalinge van genoemde Wet of van die „Nijverheid Verzoenings Wet, 1924" (Wet No. 11 van 1924), gewysig, bly, behoudens die bepalinge van sub-artikel (6) van artikel *agt*, as sy kragtens hierdie Wet goedgekeurde 40 konstitusie van krag tot dat dit kragtens hierdie Wet verander word: Met dien verstande dat as die registrateur te eniger tyd en van tyd tot tyd van mening is dat bedoelde konstitusie in enige opsig met hierdie Wet strydig is of nie daaraan voldoen 45 nie, of dat dit bepalinge bevat wat strydig is met enige wetsbepalinge of bereken word om die bereiking van die oogmerke van enige wetsbepalinge te verhinder of wat in die geval van 'n vakvereniging of werkgewersorganisasie onredelik is met betrekking tot die lede of die publiek, kan die registrateur van die betrokke vereniging, organisasie of raad vereis om daardie 50 bepalinge van sy konstitusie te verwyder of anders om sy konstitusie te verander ten einde dit in ooreenstemming met hierdie Wet of daardie ander wetsbepalinge te bring, en kan 'n tydperk wat nie een jaar te bowe gaan nie, vasstel waarbinne die verwydering of verandering aangebring moet word, en 55 ondanks enige andersluidende bepalinge in die konstitusie van daardie vereniging, organisasie of raad, kan die verwydering of verandering aangebring word op sodanige wyse en deur sodanige orgaan van die vereniging, organisasie of raad as wat die registrateur mag gelas. 60

(5) Enige versoeningsraad kragtens die Nywerheids-versoeningswet, 1937 (Wet No. 36 van 1937) ingestel wat nie voor die inwerkingtreding van hierdie Wet ontbind is nie, word geag kragtens hierdie Wet ingestel te gewees het.

(6) Enige assessor, arbiter, bemiddelaar, of skeidsregter wat 65 kragtens een of ander van die bepalinge van die Nywerheids-versoeningswet, 1937 (Wet No. 36 van 1937) aangestel is en by die inwerkingtreding van hierdie Wet nie *functus officio* is nie, word geag kragtens die ooreenstemmende bepalinge van hierdie Wet aangestel te gewees het. 70

(7) Enige vrystellingsertifikaat uitgereik, ooreenkoms aangegaan, toekenning gemaak of kennisgewing gepubliseer kragtens een of ander van die bepalinge van die Nywerheids-versoeningswet, 1937 (Wet No. 36 van 1937), word geag kragtens die ooreenstemmende bepalinge van hierdie Wet uitgereik, aan- 75 gegaan, gemaak of gepubliseer te gewees het.

(8) Enige federasie van werkgewersorganisasies of vakverenigings wat by die inwerkingtreding van hierdie Wet kragtens artikel *tagtig* van die Nywerheids-versoeningswet, 1937 (Wet No. 36 van 1937) geregistreer is, word geag kragtens 80 artikel *tagtig* van hierdie Wet geregistreer te gewees het.

2. (1) This Act shall, subject to the provisions of sub-section (2), apply to every undertaking, industry, trade or occupation.

Application of Act.

(2) This Act (except section *sixty-three*) shall not apply to persons in respect of their employment in farming operations or in domestic service in private households nor to officers of Parliament in respect of their employment as such nor, subject to the provisions of sub-sections (3) and (9), to persons employed by the State in respect of their employment as such nor to the performance of work in a charitable institution for which the persons performing it receive no remuneration nor to work performed in or in connection with any university, college, school or other educational institution maintained wholly or partly from public funds as part of the education or training of the persons performing it nor to university students in respect of their employment in any undertaking, industry, trade or occupation as part of their university training if such employment is required for the completion of their curricula.

(3) An association composed wholly of persons employed by the State whether the association exists at the commencement of this Act or is established after that commencement, and which at that commencement is not registered or deemed to be registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), may in accordance with the provisions of section *four* apply to the registrar for registration under this Act and the registrar may, subject to the provisions of that section, register that association as a trade union, and thereupon the provisions of sections *five* to *sixteen*, inclusive, shall apply to that association as if it were a trade union.

(4) Any trade union, employers' organization or industrial council which at the commencement of this Act is registered or deemed to be registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall be deemed to be registered under this Act; and its constitution, as altered from time to time under the provisions of that Act or of the Industrial Conciliation Act, 1924 (Act No. 11 of 1924), shall, subject to the provisions of sub-section (6) of section *eight*, continue to have effect as its constitution approved under this Act until altered under this Act: Provided that if at any time and from time to time the registrar is of opinion that the said constitution is in any respect inconsistent or not in compliance with this Act or that it contains provisions which are contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law, or which in the case of a trade union or employers' organization are unreasonable in relation to the members of the public, the registrar may require the union, organization or council concerned to remove the relevant provisions from its constitution or otherwise to alter its constitution so as to bring it into conformity with this Act or that other law, and may fix a period not being longer than one year during which the removal or alteration shall be effected, and notwithstanding anything to the contrary in the constitution of that union, organization or council, it shall be competent for the removal or alteration to be effected in such manner and by such organ of the union, organization or council as the registrar may direct.

(5) Any conciliation board established under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), which has not been discharged before the commencement of this Act, shall be deemed to have been established under this Act.

(6) Any assessor, arbitrator, mediator or umpire appointed under any of the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) who is not *functus officio* at the date of commencement of this Act shall be deemed to have been appointed under the corresponding provisions of this Act.

(7) Any licence of exemption issued, agreement entered into, award made or notice published under any of the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall be deemed to have been issued, entered into, made or published under the corresponding provisions of this Act.

(8) Any federation of employers' organizations or trade unions which at the commencement of this Act is registered under section *eighty* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) shall be deemed to have been registered under section *eighty* of this Act.

(9) Enige persoon in diens van die Staat kan, met die toestemming van die Minister van die betrokke departement of, in die geval van 'n provinsiale administrasie, van die betrokke Administrateur, dien as die verteenwoordiger of plaasvervanger van 'n verteenwoordiger, van enige party by 'n nywerheidsraad, tensy die raad in sy konstitusie die teendeel bepaal, of as 'n lid van 'n versoeningsraad, of as arbiter, assessor, likwidateur, bemiddelaar of skeidsregter.

Nywerheids-registrateur en assistent-nywerheids-registrateur.

3. (1) Met inagneming van die wetsbepalings op die staatsdiens, kan die Minister 'n amptenaar, bekend te staan as die nywerheidsregistrateur, aanstel, wat registers moet hou van vakverenigings, werkgewersorganisasies, nywerheidsrade, privaat registrasiekantore en federasies van werkgewersorganisasies of vakverenigings geregistreer of wat geag word geregistreer te wees, kragtens hierdie Wet, en sodanige ander werksaamhede en pligte moet verrig as wat hierdie Wet hom ople.

(2) Met inagneming van genoemde wetsbepalings, kan die Minister 'n amptenaar, bekend te staan as die assistent-nywerheidsregistrateur, aanstel wat die registrateur in die verrigting van sy werksaamhede en die uitvoering van sy pligte moet bystaan en wat, behoudens sodanige algemene of spesiale opdrigte as wat die registrateur mag uitreik, bevoeg is om enige werksaamheid of handeling te verrig wat die nywerheidsregistrateur bevoeg is om te verrig.

(3) 'n Amptenaar wat kragtens die bepaling van die Nywerheid-versoeningwet, 1937 (Wet No. 36 van 1937) as nywerheidsregistrateur of as assistent-nywerheidsregistrateur aangestel is en wat by die inwerkingtreding van hierdie Wet sy amp as sulks bekleed, word geag kragtens die bepaling van hierdie artikel aangestel te gewees het.

Registrasie van vakverenigings en werkgewers-organisasies.

4. (1) (a) Elke vakvereniging wat voor die inwerkingtreding van hierdie Wet ingestel is maar wat by daardie inwerkingtreding nie kragtens die Nywerheid-versoeningwet, 1937 (Wet No. 36 van 1937) geregistreer is of geag word geregistreer te wees nie en wat die registrateur nie geweier het om onder daardie Wet of onder die „Nijwerheid Verzoenings Wet,” 1924 (Wet No. 11 van 1924) te registreer nie moet nie vroeër dan drie maande na die datum waarop hy ingestel is en nie later dan ses maande na die inwerkingtreding van hierdie Wet, en elke vakvereniging wat na die inwerkingtreding van hierdie Wet ingestel word, moet nie vroeër dan drie maande en nie later dan ses maande na die datum waarop hy ingestel word by die registrateur in die vorm en op die wyse voorgeskryf om registrasie aansoek doen. Sodanige aansoek moet vergesel wees van drie afskrifte van die konstitusie van die vakvereniging wat aansoek doen, behoorlik geoutentiseer deur die handtekening van die voorsitter en sekretaris, en deur sodanige ander stukke of inligting as wat voorgeskryf mag wees.

(b) Na ontvangs van so 'n aansoek om registrasie, of van 'n beswaar daarteen, kan die registrateur van die vakvereniging wat aansoek gedoen het vereis om enige nadere inligting wat hy mag vereis binne die deur die registrateur vasgestelde tydperk te verstrek.

(c) Indien die aansoek om registrasie na die verstryking van die tydperk wat voorgeskryf is ingedien word, kan die registrateur na goeëddunke, om gegronde redes aangevoer, die bepaling van hierdie artikel op daardie aansoek toepas asof dit binne daardie tydperk ingedien was.

(2) (a) So gou doenlik na ontvangs van 'n aansoek wat volgens sub-artikel (1) ingedien is of ten opsigte waarvan hy ingevolge paragraaf (c) van sub-artikel (1) besluit het om die bepaling van hierdie artikel toe te pas, moet die registrateur in die *Staatkoerant* laat publiseer 'n kennisgewing wat sodanige besonderhede van die aansoek bevat as wat hy nodig ag en wat enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, uitnoodi om sy beswaar, tesame met die redes daarvoor, binne een maand na die datum van die kennisgewing op die wyse voorgeskryf in te dien. 'n Vereniging wat kragtens hierdie sub-artikel 'n beswaar indien moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van daardie beswaar en van die redes daarvoor aan die vereniging wat aansoek gedoen het, per geregistreerde brief gestuur of afgelewer het.

(9) Any person employed by the State may, with the consent of the Minister of the department or, in the case of a provincial administration, of the Administrator concerned, serve as the representative or the alternate to a representative, of any party to an industrial council, unless the council provides to the contrary in its constitution, or as a member of a conciliation board, or as an arbitrator, assessor, liquidator, mediator or umpire.

3. (1) The Minister may, subject to the laws governing the public service, appoint an officer to be styled the industrial registrar, who shall keep registers of trade unions, employers' organizations, industrial councils, private registry offices and federations of employers' organizations or trade unions registered or deemed to be registered under this Act, and shall perform such other functions and duties as are imposed on him by this Act.

Industrial registrar and assistant industrial registrar.

(2) The Minister may, subject to the said laws, appoint an officer to be styled the assistant industrial registrar, who shall assist the registrar in the performance of his functions and duties, and who shall be competent, subject to any general or special instructions which the registrar may issue, to perform any function or do any act which the industrial registrar is competent to perform or do.

(3) An officer appointed as industrial registrar or as assistant industrial registrar under the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), and who holds office as such at the commencement of this Act shall be deemed to have been appointed under the provisions of this section.

4. (1) (a) Every trade union which has been established before the commencement of this Act but which at that commencement is not registered or deemed to be registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), and which the registrar has not refused to register under that Act or under the Industrial Conciliation Act, 1924 (Act No. 11 of 1924), shall, not earlier than three months after the date on which it was established and not later than six months after the commencement of this Act, and every trade union which is established after the commencement of this Act shall, not earlier than three months and not later than six months after the date on which it is established, apply in the prescribed form and manner, to the registrar for registration. Such application shall be accompanied by three copies of the constitution of the applicant union, duly authenticated by signature of the chairman and secretary, and by such other documents or information as may be prescribed.

Registration of trade unions and employers' organizations.

(b) After receipt of any such application for registration, or of any objection thereto, the registrar may require the applicant union to furnish him with any further information he may require, within the period fixed by him.

(c) If an application for registration is lodged after the expiration of the prescribed period, the registrar may in his discretion on good cause shown apply the provisions of this section to such application as though it had been lodged within that period.

(2) (a) As soon as practicable after he has received an application lodged in terms of sub-section (1) or in respect of which he has decided in terms of paragraph (c) of sub-section (1) to apply the provisions of this section, the registrar shall cause to be published in the *Gazette* a notice containing such particulars of the application as he deems necessary and inviting any registered trade union which objects to the application to lodge its objection together with the reasons therefor in the prescribed manner within one month of the date of such notice. Any union which lodges an objection under this sub-section shall at the same time furnish proof to the satisfaction of the registrar that it has sent by registered post or delivered a copy of such objection and of the reasons therefor to the applicant union.

- (b) Na ontvangs van so 'n beswaar, kan die registrateur van die vereniging wat beswaar gemaak het vereis om enige nadere inligting wat hy met betrekking tot die beswaar mag vereis, binne die deur die registrateur vasgestelde tydperk te verstrek. 5
- (c) Die vereniging wat aansoek gedoen het moet enige vertoë wat hy verlang om in antwoord op die beswaar te maak aan die registrateur op die wyse voorgeskryf voorlê binne twee maande vanaf die datum van die toepaslike kennisgewing gepubliseer kragtens paragraaf (a), en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van daardie vertoë aan die vereniging wat beswaar gemaak het, per geregistreerde pos gestuur of afgelewer het. 10
- (d) Die vereniging wat beswaar gemaak het moet enige verdere vertoë, wat hy verlang om in antwoord op die in paragraaf (c) bedoelde vertoë te maak, aan die registrateur op die wyse voorgeskryf, voorlê binne drie maande vanaf die datum van die toepaslike kennisgewing gepubliseer kragtens paragraaf (a), en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van daardie verdere vertoë aan die vereniging wat aansoek gedoen het, per geregistreerde pos gestuur of afgelewer het, maar die laasgenoemde vereniging is nie geregtig om 'n antwoord daarop voor te lê sonder die voorafgaande goedkeuring van die registrateur nie. 25
- (3) (a) Indien geen beswaar binne die tydperk wat voorgeskryf is ingedien word nie, of indien na oorweging van 'n beswaar aldus ingedien, enige vertoë gemaak binne die tydperke voorgeskryf, enige nadere inligting verstrek binne die tydperk wat deur hom vasgestel is en sodanige ander aangeleenthede as wat hy ter sake ag, die registrateur oortuig is dat paragraaf (b) van hierdie sub-artikel nie van toepassing is nie, kan hy, behoudens die bepalinge van hierdie artikel, die vereniging registreer ten opsigte van die belange en ten opsigte van die gebied waarvoor hy om registrasie aansoek gedoen het, of ten opsigte van sodanige kleiner belange of gebied as wat na sy mening deur die vereniging gedien word. 35
- (b) Behoudens die bepalinge van sub-artikel (5), indien na oorweging van enige besware ingedien en vertoë gemaak binne die tydperke voorgeskryf, enige nadere inligting verskaf binne die tydperk deur hom vasgestel en enige addisionele aangeleenthede wat hy ter sake ag, die registrateur oortuig is dat 'n geregistreerde vereniging wat aldus 'n beswaar ingedien het, in die hele gebied ten opsigte waarvan die vereniging wat aansoek gedoen het, registrasie verlang, of in enige deel daarvan, voldoende verteenwoordigend is van al die belange ten opsigte waarvan hy registrasie verlang, of van enige deel van daardie belange, kan hy weier om die vereniging wat aansoek gedoen het, te registreer, of, behoudens die bepalinge van hierdie artikel, die vereniging wat aansoek gedoen het, registreer ten opsigte van sodanige gebied en belange as wat na sy mening deur daardie vereniging gedien word en ten opsigte waarvan die geregistreerde vereniging na sy mening nie voldoende verteenwoordigend is nie. 40
- (4) (a) Die registrateur, by die bepaling van die verteenwoordigendheid van 'n vakvereniging vir die doeleindes van sub-artikel (3)— 60
- (i) moet ag slaan op die feite soos hulle bestaan het op die datum waarop die betrokke aansoek ingedien is; 65
- (ii) moet, vir sover die getal lede ter sake is, ag slaan alleenlik op die lede wat in goeie finansiële stand was op daardie datum;
- (iii) kan, met inagneming van die aard van die betrokke onderneming, nywerheid, bedryf of beroep en die ligging van enige gebied ten opsigte waarvan registrasie verlang word, 'n bestaande geregistreerde vereniging as voldoende verteenwoordigend beskou ten opsigte van die bedoelde onderneming, nywerheid, bedryf of beroep in die geheel van daardie gebied, selfs al sou daardie vereniging geen lede in daardie gebied hê nie, mits hy oortuig is dat die bedoelde vereniging die belange van werknemers in die betrokke onderneming, nywerheid, bedryf of beroep in daardie gebied dien. 70 75 80

- (b) After receipt of any such objection the registrar may require the objecting union to furnish him with any further information in regard to its objection which he may require, within the period fixed by him.
- 5 (c) The applicant union shall submit any representations it wishes to make in answer to such objection to the registrar in the prescribed manner within two months of the date of the relevant notice published under paragraph (a) and shall at the same time furnish proof to the satisfaction of the registrar that it has sent by registered post or delivered a copy of such representations to the objecting union.
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- (d) The objecting union shall submit any further representations it wishes to make in answer to any representations referred to in paragraph (c) to the registrar in the prescribed manner within three months of the date of the relevant notice published under paragraph (a), and shall at the same time furnish proof to the satisfaction of the registrar that a copy of such further representations has been sent by registered post or delivered to the applicant union, but the last-mentioned union shall not be entitled to submit a reply thereto without the prior approval of the registrar.
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- 25 (3) (a) If no objection is lodged within the period prescribed, or if after consideration of any objection so lodged, any representations made within the periods prescribed any further information furnished within the period fixed by him and such additional matters as he deems relevant, the registrar is satisfied that paragraph (b) of this sub-section is not applicable, he may, subject to the provisions of this section, register the union in respect of the interests and in respect of the area for which it applied for registration, or in respect of such smaller interests or area as in his opinion are or is served by the union.
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- (b) Subject to the provisions of sub-section (5), if after consideration of any objections lodged and representations made within the periods prescribed, any further information furnished within the period fixed by him and any additional matters which he deems relevant, the registrar is satisfied that any registered union which has so lodged an objection is sufficiently representative in the whole of the area in respect of which the applicant union seeks registration or in any part thereof, of the whole of the interests in respect of which it seeks registration, or of any part thereof, he may refuse to register the applicant union or, subject to the provisions of this section, register the applicant union in respect of such area and interests as in his opinion is or are served by it and in respect of which such registered union is not in his opinion sufficiently representative.
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- 55 (4) (a) In determining the representativeness of a trade union for the purposes of sub-section (3), the registrar—
- (i) shall have regard to the facts as they existed at the date on which the application concerned was lodged;
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- (ii) shall, in so far as the number of members is relevant, have regard only to members who were in good financial standing at that date;
- (iii) may, having regard to the nature of the undertaking, industry, trade or occupation concerned and the location of any area in respect of which registration is sought, regard an existing registered union as sufficiently representative in respect of the said undertaking, industry, trade or occupation in the whole of such area, even though such union may have no members in such area, provided he is satisfied that the said union serves the interests of employees employed in the undertaking, industry, trade or occupation concerned in that area.
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- (b) Indien, voordat hy onder sub-artikel (3) met betrekking tot 'n aansoek tot 'n besluit geraak het, die registrateur 'n aansoek (hieronder die tweede aansoek genoem) ontvang wat deur 'n ander vereniging ingedien is, om registrasie ten opsigte van belange en 'n gebied wat na sy mening wesenlik dieselfde is as die hele of enige gedeelte van die belange en gebied ten opsigte waarvan die eersgenoemde aansoek gedoen is, kan die vereniging wat die eersgenoemde aansoek ingedien het, 'n beswaar kragtens paragraaf (a) van sub-artikel (2) teen die tweede aansoek indien asof dit 'n geregistreerde vakvereniging is, en as hy 'n beswaar aldus indien, moet die registrateur die beswaar oorweeg asof die vereniging wat dit ingedien het 'n vereniging is wat geregistreer is ten opsigte van die bedoelde belange en gebied, of die bedoelde gedeelte daarvan: Met dien verstande dat indien voordat die registrateur ingevolge sub-artikel (3) met betrekking tot die tweede aansoek tot 'n beslissing geraak het—
- (i) die eersgenoemde aansoek geweier word, hierdie paragraaf ophou om van toepassing te wees ten opsigte van die beswaar aldus ingedien; of
 - (ii) die eersgenoemde aansoek toegestaan word, die beswaar aldus ingedien oorweeg moet word alleen ten opsigte van daardie belange en daardie gebied ten opsigte waarvan daardie aansoek toegestaan is.
- (5) (a) 'n Vereniging wat 'n aansoek om registrasie ingedien het en wat die registrateur oortuig—
- (i) dat sy konstitusie sy lidmaatskap beperk tot 30 blanke persone;
 - (ii) dat, afgesien van die feit dat hy sy lidmaatskap aldus beperk, die onderneming, nywerheid, bedryf of beroep en die gebied ten opsigte waarvan hy om registrasie aansoek gedoen het, dieselfde is as, of insluit, die onderneming, nywerheid, bedryf of beroep en die gebied ten opsigte waarvan 'n vereniging, waarvan die lidmaatskap oop is vir beide blanke persone en gekleurde persone, geregistreer is;
 - (iii) dat op die datum waarop sy aansoek om registrasie ingedien is, die getal van sy lede in goeie finansiële stand in diens in die onderneming, nywerheid, bedryf of beroep en in die gebied ten opsigte waarvan die in sub-paragraaf (ii) bedoelde geregistreerde vereniging geregistreer is, meer was as helfte van die getal blanke persone wat op daardie datum in diens was in die bedoelde onderneming, nywerheid, bedryf of beroep in daardie gebied; en
 - (iv) dat sy aansoek om registrasie as 'n vakvereniging andersins in orde is, kan geregistreer word ten opsigte van die belange van blanke persone in diens in die bedoelde onderneming, nywerheid, bedryf of beroep in daardie gebied, nie-teenstaande dat die in sub-paragraaf (ii) bedoelde geregistreerde vakvereniging genoegsaam verteenwoordigend is van die geheel van die belange en gebied ten opsigte waarvan die bedoelde aansoek om registrasie gedoen is en 'n beswaar teen bedoelde aansoek op daardie grond ingedien het.
- (b) Die bepalinge van paragraaf (a) is *mutatis mutandis* van toepassing op 'n vereniging wat aansoek gedoen het en waarvan die konstitusie sy lidmaatskap beperk tot gekleurde persone alleen.
- (6) (a) Geen vereniging word kragtens hierdie artikel geregistreer nie alvorens die registrateur oortuig is dat—
- (i) aan die vereistes van hierdie artikel voldoen is; en
 - (ii) die konstitusie van die vereniging wat aansoek gedoen het in ooreenstemming met hierdie Wet is en nie bepalinge bevat wat strydig is met enige wetsbepalinge of bereken word om die bereiking van die oogmerke van enige wetsbepalinge te verhinder, of onredelik is met betrekking tot die lede of die publiek nie; en
 - (iii) die vereniging nie gevorm is met die doel om enige wetsbepalinge te ontduik nie.
- (b) 'n Vereniging wat aansoek gedoen het, kan, behoudens die bepalinge van paragraaf (c), te eniger tyd nadat hy sy konstitusie ingevolge sub-artikel (1) ingedien

- (b) If, before he has reached a decision under sub-section (3) in regard to an application, the registrar receives an application (hereinafter referred to as the second application, lodged by another union for registration in respect of interests and an area which in his opinion are substantially the same as the whole or any portion of the interests and area in respect of which the first-mentioned application has been made, the union which lodged the first-mentioned application may lodge an objection in terms of paragraph (a) of sub-section (2), to the second application as if it were a registered trade union and if it does so lodge an objection, the registrar shall consider such objection as though the union which lodged it were a union registered in respect of the said interests and area, or the said portion thereof: Provided that if before the registrar has reached a decision under sub-section (3) in regard to the second application—
- (i) the first-mentioned application is refused, this paragraph shall cease to apply in respect of the objection so lodged; or
 - (ii) the first-mentioned application is granted, the objection so lodged shall be considered only in respect of those interests and that area in respect of which such application has been granted.
- (5) (a) Any trade union which has lodged an application for registration and which satisfies the registrar—
- (i) that its constitution limits its membership to white persons only;
 - (ii) that apart from the fact that it so limits its membership, the undertaking, industry, trade or occupation and the area in respect of which it has applied for registration are the same as, or include, the undertaking, industry, trade or occupation and the area in respect of which any union, the membership of which is open to both white persons and coloured persons, is registered;
 - (iii) that at the date on which its application for registration was lodged, the number of its members in good financial standing employed in the undertaking, industry, trade or occupation and in the area in respect of which the registered union referred to in sub-paragraph (ii) is registered, was equal to more than half of the number of white persons who at that date were employed in the said undertaking, industry, trade or occupation in that area; and
 - (iv) that its application for registration is otherwise in order,
- may be registered in respect of the interests of white persons employed in the said undertaking, industry, trade or occupation in that area, notwithstanding that the registered trade union referred to in sub-paragraph (ii) was at the date of the said application sufficiently representative of the whole of the interests and area in respect of which the said application for registration has been made and has lodged an objection against the said application on that ground.
- (b) The provisions of paragraph (a) shall *mutatis mutandis* apply to any applicant union, the constitution of which limits its membership to coloured persons only
- (6) (a) No union shall be registered under this section until the registrar is satisfied that—
- (i) the requirements of this section have been complied with; and
 - (ii) the constitution of the applicant union is consistent with this Act and does not contain provisions which are contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law or are unreasonable in relation to the members or the public; and
 - (iii) the union has not been formed for the purpose of evading the provisions of any law.
- (b) Subject to the provisions of paragraph (c) an applicant union may at any time after it has submitted its constitution in terms of sub-section (1) amend such

het, sy konstitusie wysig, of dit met 'n nuwe konstitusie vervang, ten einde die registrateur ten opsigte van die in sub-paragraaf (ii) van paragraaf (a) van hierdie sub-artikel bedoelde aangeleenthede te vrede te stel.

- (c) Indien na die mening van die registrateur die konstitusie van 'n vereniging wat aansoek gedoen het, nie aan die bepalings van sub-paragraaf (ii) van paragraaf (a) voldoen nie, en die vereniging binne 'n tydperk van drie maande na die datum waarop die registrateur hom versoek het om sy konstitusie te wysig of om 'n nuwe konstitusie in te dien ten einde aan die bepalings van genoemde sub-paragraaf te voldoen, of binne sodanige verdere tydperk of tydperke as wat die registrateur op aansoek van die vereniging om goeie redes mag toegelaat het, nie aan daardie versoek voldoen het nie, moet die aansoek om registrasie deur die registrateur geweier word.

(7) Wanneer die registrateur 'n vereniging kragtens hierdie artikel geregistreer het moet hy aan die vereniging 'n registrasiesertifikaat in die vorm voorgeskryf, stuur, saam met een afskrif van die konstitusie met 'n deur hom getekende sertifikaat daarop geskryf wat vermeld dat hy dit goedgekeur het.

(8) Elke aansoek wat voor die inwerkingtreding van hierdie Wet deur 'n vakvereniging gedoen is om registrasie onder die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937) en nie voor daardie inwerkingtreding afgehandel is nie, word geag 'n aansoek te wees wat onder hierdie artikel gedoen is.

(9) Na die inwerkingtreding van hierdie Wet word geen vakvereniging kragtens hierdie artikel geregistreer nie—

- (a) ten opsigte van die belange van beide blanke persone en gekleurde persone; of
(b) ten opsigte van belange omskryf anders as met verwysing na 'n bepaalde onderneming, nywerheid, bedryf of beroep in 'n vermelde gebied; of
(c) indien lidmaatskap van die vereniging oop is vir beide blanke persone en gekleurde persone:

Met dien verstande dat 'n in paragraaf (c) bedoelde vereniging geregistreer kan word indien die Minister, op aansoek van die betrokke vereniging en met inagneming van die mate waarin sy lidmaatskap bestaan uit of waarskynlik sal bestaan uit beide blanke en gekleurde persone; die registrateur magtig om, behoudens die ander bepalings van hierdie artikel, 'n aansoek deur die vereniging om registrasie ten opsigte van die belange van beide blanke en gekleurde persone te oorweeg.

(10) Die bepalings van hierdie artikel behalwe sub-artikel (5) en paragrafe (a) en (c) van sub-artikel (9), is *mutatis mutandis* op werkgewersorganisasies van toepassing.

Uitwerking
van registrasie
van vak-
verenigings
en werkgewers-
organisasies.

5. (1) Elke vakvereniging of werkgewersorganisasie wat by die inwerkingtreding van hierdie Wet kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937) geregistreer is of geag word geregistreer te wees bly na daardie inwerkingtreding voortbestaan as, en elke ander vakvereniging of werkgewersorganisasie word by registrasie kragtens hierdie Wet, 'n regspersoon en is bevoeg om in regte as eiser of verweerder op te tree, en, behoudens enige wetsbepalings wat die verkryging of besit van grond verbied of beperk, om roerende of onroerende eiendom te koop of andersins te verkry, te besit en te vervreem.

(2) By die registrasie kragtens hierdie Wet van enige vakvereniging of werkgewersorganisasie gaan al die regte en verpligtings van die lede daarvan in hul hoedanigheid as sulks oor op die vereniging of organisasie.

(3) Tensy die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie anders bepaal is geen persoon vir enige van die verpligtings van daardie vereniging of organisasie verantwoordelik bloot omdat hy 'n lid, ampsdraer of beamppte van daardie vereniging of organisasie is nie.

Verdeling van
bates van en
toepassing van
die beginsel
van geslote
geledere op
sekere vak-
verenigings in
sekere omstan-
dighede.

6. (1) (a) In hierdie artikel beteken „oorspronklike vereniging” 'n vakvereniging waarvan die konstitusie sy lidmaatskap nie tot blanke persone alleen of tot gekleurde persone alleen beperk nie en wat voor die inwerkingtreding van hierdie Wet geregistreer is; en beteken „nuwe vereniging” 'n vakvereniging waarvan die konstitusie sy lidmaatskap tot blanke persone alleen of tot gekleurde persone alleen beperk en wat geregistreer is na die inwerkingtreding van hierdie Wet ten opsigte van 'n onderneming, nywerheid, bedryf of beroep en 'n gebied wat, afgesien van die feit dat hy

constitution, or substitute a new constitution therefor, in order to satisfy the registrar in respect of the matters referred to in sub-paragraph (ii) of paragraph (a) of this sub-section.

- 5 (c) If in the opinion of the registrar the constitution of an applicant union does not comply with the provisions of sub-paragraph (ii) of paragraph (a), and the union has not, within a period of three months from the date on which the registrar required it to amend its constitution or to submit a new constitution in order to comply with the provisions of the said sub-paragraph or within such further period or periods as the registrar upon the application of the union may for good cause have allowed, complied with such requirement, the application for registration shall be refused by the registrar.

- 10 (7) When the registrar has registered a union under this section, he shall forward to the union a certificate of registration in the prescribed form, together with one copy of the constitution with a certificate written thereon, signed by him, stating the fact that he has approved thereof.

- 20 (8) Every application made before the commencement of this Act by any trade union for registration under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), and not disposed of at that commencement, shall be deemed to be an application made under this section.

(9) After the commencement of this Act no trade union shall be registered under this section—

- 30 (a) in respect of the interests of both white persons and coloured persons; or
 (b) in respect of interests defined otherwise than by reference to a particular undertaking, industry, trade or occupation in a specified area; or
 35 (c) if membership of such union is open to both white persons and coloured persons:

Provided that a union referred to in paragraph (c) may be registered if the Minister on the application of the union concerned and having regard to the extent to which its membership is or is likely to be composed of both white and coloured persons, authorizes the registrar to consider, subject to the other provisions of this section, an application by such union for registration in respect of the interests of both white and coloured persons.

- 40 (10) The provisions of this section, other than sub-section (5) and paragraphs (a) and (c) of sub-section (9), shall *mutatis mutandis* apply to employers' organizations.

- 50 5. (1) Every trade union or employers' organization which at the commencement of this Act is registered or deemed to be registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall after that commencement continue to be, and every other trade union or employers' organization shall upon registration under this Act become, a body corporate, and shall be capable in law of suing or being sued, and subject to the provisions of any law prohibiting or restricting the acquisition or holding of land, of purchasing or otherwise acquiring, holding and alienating property, movable or immovable.

Effect or registration of trade unions and employers' organizations.

- 60 (2) Upon the registration under this Act of any trade union or employers' organization, all rights and liabilities of the members thereof in their capacity as such shall devolve upon the union or organization.

- (3) Unless it is otherwise provided by the constitution of a registered trade union or employers' organization, no person shall, by reason only of the fact that he is a member, office-bearer or official of that union or organization, be liable for 65 any of the obligations of that union or organization.

- 70 6. (1) (a) In this section "original union" means a trade union the constitutions of which does not limit its membership to white persons only or to coloured persons only and which was registered before the commencement of this Act; and "new union" means a trade union, the constitution of which limits its membership to white persons only or to coloured persons only and which is registered after the commencement of this Act in respect of an undertaking, industry, trade or occupation and an area which apart

Division of assets of and application of closed shop principle to certain trade unions in certain circumstances.

aldus sy lidmaatskap beperk, dieselfde is as, of insluit, die onderneming, nywerheid, bedryf of beroep en die gebied ten opsigte waarvan die oorspronklike vereniging geregistreer is.

- (b) Die bepalings van hierdie artikel is van toepassing 5
wanneer op die datum waarop 'n nuwe vereniging
kragtens sub-artikel (1) van artikel vier, aansoek doen
om registrasie, sy lede persone in diens in 'n onder-
neming, nywerheid, bedryf of beroep insluit wat,
terwyl hulle aldus in diens was te eniger tyd gedurende 10
die tydperk van vyf jaar wat die inwerkingtreding van
hierdie Wet onmiddellik voorafgegaan het, lede was
van 'n oorspronklike vereniging waarop 'n in para-
graaf (x) van sub-artikel (1) van artikel vier-en-twintig
bedoelde bepaling, te eniger tyd gedurende die tydperk 15
wanneer hulle aldus in diens was, bindend was ingevolge
'n kennisgewing wat in die *Staatskoerant* kragtens
sub-artikel (1) van artikel agt-en-veertig van die
Nywerheid-versoeningswet, 1937 (Wet No. 36 van
1937) of kragtens daardie sub-artikel soos toegepas 20
deur sub-artikel (6) van daardie artikel, gepubliseer
is. Vir die doeleindes van hierdie paragraaf word 'n
persoon wat na die mening van die registrateur
normaalweg in 'n bepaalde onderneming, nywerheid,
bedryf of beroep in diens is, geag te alle tersaaklike 25
tye aldus in diens te wees of te gewees het, sonder te
let op die feit dat hy te eniger tyd tydelik werkeloos
is of was.
- (c) Indien 'n in paragraaf (b) bedoelde nuwe vereniging,
kragtens hierdie Wet geregistreer word, dan is die nuwe 30
vereniging, ondanks andersluidende bepalings in die
konstitusie van die betrokke oorspronklike vereniging
of in enige wetsbepaling vervat, geregtig om met inag-
neming van die bydraes wat die lede van die nuwe
vereniging aan die oorspronklike vereniging betaal 35
het, onderhandelings met die oorspronklike vereniging
aan te knoop met die oog op die verdeling tussen
hulle van die bates van die oorspronklike vereniging
- (d) Indien die nuwe vereniging en die oorspronklike
vereniging binne 'n tydperk van twaalf maande na die 40
datum van registrasie van die nuwe vereniging, met
betrekking tot die verdeling tussen hulle van die bates
van die oorspronklike vereniging, nie tot 'n ooreen-
koms geraak het nie, kan die nuwe vereniging by die
registrateur aansoek doen om 'n bevel onder sub- 45
artikel (2).
- (e) Wanneer hy 'n aansoek ingevolge paragraaf (d) ge-
maak, oorweeg, kan die registrateur 'n openbare reken-
meester of 'n aktuaris raadpleeg en die gelde betaal-
baar aan daardie openbare rekenmeester of aktuaris 50
is 'n las teen die Gekonsolideerde Inkomstefonds:
Met dien verstande dat die registrateur kan, na hy die
betrokke verenigings 'n geleentheid gegee het om met
betrekking daartoe vertoë aan hom te rig, beveel dat
die bedrag van die gelde wat betaalbaar is of sodanige 55
deel daarvan as wat hy mag bepaal op die betrokke
verenigings verhaal word in sulke verhoudings as
wat deur hom beveel mag word.
- (f) By ontvangs van 'n in paragraaf (d) bedoelde aansoek,
moet die registrateur die applikant en die oorspronk- 60
like vereniging 'n geleentheid gee om binne 'n tydperk
deur hom vasgestel skriftelik vertoë aan hom voor
te lê.
- (g) Die sekretaris van elke vakvereniging wat in 'n aansoek
ingevolge paragraaf (d) gemaak, betrokke is, moet aan 65
die registrateur sodanige inligting verskaf en sodanige
boeke en stukke vir ondersoek voorlê as wat die
registrateur van tyd tot tyd mag vereis, binne sodanige
tydperk as wat hy mag bepaal of binne sodanige
verlengde tydperk as wat hy om goeie redes skriftelik 70
mag toelaat.
- (2) (a) Na oorweging van 'n aansoek kragtens paragraaf (d)
van sub-artikel (1) gedoen en van enige vertoë aan hom
voorgelê binne die tydperk kragtens paragraaf (f)
van daardie sub-artikel vasgestel en van enige ander 75
aangeleenthede wat hy ter sake ag, kan die registrateur
'n bevel uitreik wat betref die bates, indien enige, van
die oorspronklike vereniging wat tussen die oor-
spronklike vereniging en die nuwe vereniging verdeel
moet word en wat betref die basis waarop die verdeling 80
gemaak moet word. Vir so ver die getal lede ter sake

from the fact that it so limits its membership, are the same as, or include, the undertaking, industry, trade or occupation and the area in respect of which the original union was registered.

- 5 (b) The provisions of this section shall apply whenever, on the date on which a new union applies for registration under sub-section (1) of section *four* its members include persons employed in an undertaking, industry, trade or occupation who, while so employed at any
10 time during the period of five years immediately preceding the commencement of this Act were members of an original union, on which a provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* was, at any time during the period
15 when they were so employed, binding in terms of a notice published in the *Gazette* under sub-section (1) of section *forty-eight* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), or under that sub-section as applied by sub-section (6) of that section.
20 For the purposes of this paragraph a person who in the opinion of the registrar is normally employed in a particular undertaking, industry, trade or occupation, shall be deemed to be or to have been so employed at all relevant times, irrespective of the fact that he may at any time be or have been temporarily unemployed.
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- (c) If a new union such as is referred to in paragraph (b) is registered under this Act, then notwithstanding any provision to the contrary contained in the constitution of the original union concerned, or in any law, the new union shall be entitled, having regard to the contributions made to the original union by the members of the new union, to enter into negotiations with the original union with a view to the division between them of the assets of the original union.
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- (d) If the new union and the original union have not, within a period of twelve months from the date of registration of the new union, reached agreement in regard to the division between them of the assets of the original union, the new union may apply to the registrar for an order under sub-section (2).
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- (e) When considering an application made in terms of paragraph (d) the registrar may consult a public accountant or an actuary and the fees payable to such public accountant or actuary shall be a charge on the Consolidated Revenue Fund: Provided that the registrar may, after giving the unions concerned an opportunity to submit representations to him in regard thereto, order that the amount of the fees payable or such portion thereof as he may determine be recovered from the unions concerned in such proportions as may be ordered by him.
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- (f) On the receipt of any application such as is referred to in paragraph (d) the registrar shall give the applicant and the original union an opportunity of submitting representations to him in writing within a period fixed by him.
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- (g) The secretary of every trade union concerned in any application made in terms of paragraph (d) shall furnish to the registrar such information, and produce for examination such books and documents, as the registrar may from time to time require within such period as he may stipulate, or within such extended period as he may for good cause in writing allow.
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- (2) (a) After consideration of an application made under paragraph (d) of sub-section (1) and of any representations submitted to him within the period fixed under paragraph (f) of that sub-section, and of any other matters which he deems relevant, the registrar may make an order as to which, if any, of the assets of the original union shall be divided between the original union and the new union, and as to the basis on which the division shall be made. In so far as the
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mag wees moet die registrateur in aanmerking neem die getal lede van die nuwe vereniging in goeie finansiële stand twaalf maande na die datum van registrasie van die nuwe vereniging, wat te eniger tyd gedurende die tydperk van vyf jaar wat die inwerkingtreding van hierdie Wet onmiddellik voorafgaan, lede van die oorspronklike vereniging was. 5

(b) 'n Order kragtens die bepalings van paragraaf (a) gemaak kan bepalings met betrekking tot een of meer van die volgende aangeleenthede insluit— 10

(i) die reg van lede van die nuwe vereniging om aan te hou lede te wees van 'n siek- of voorsieningsfonds of dergelike fonds deur die oorspronklike vereniging in stand gehou en die behoud deur hulle van al of sommige van hul regte om uit so 'n fonds voordele te trek terwyl hulle aanhou om ooreenkomstig die reëls van so 'n fonds tot die fonds by te dra; 15

(ii) die oordrag aan die nuwe vereniging in een som of in paaiemente van 'n bedrag wat die registrateur 20 as 'n redelike kontant-ekwivalent van die belange van die lede van die nuwe vereniging in so 'n fonds beskou;

(iii) die betaling aan die nuwe vereniging periodies van 'n deel van die inkomste wat van enige belegging 25 van die oorspronklike vereniging verkry word;

(iv) die oordrag aan die nuwe vereniging in een som of in paaiemente van 'n bedrag wat na die mening van die registrateur 'n redelike kontant-ekwivalent van die bydraes van die lede van die nuwe vereniging tot die bates van die oorspronklike vereniging sou uitmaak; 30

(v) oor die algemeen enige aangeleentheid wat die registrateur vir die doeleindes van die bevel nodig beskou. 35

(3) (a) Die bepalings van 'n bevel deur die registrateur kragtens paragraaf (e) van sub-artikel (1) of paragraaf (a) van sub-artikel (2) uitgevaardig, moet skriftelik aan die betrokke verenigings bekend gemaak word en so 'n bevel, sodra dit by die klerk of registrateur van enige bevoegde hof wat regsbevoegdheid besit ingedien is, het al die gevolge van, en kan uitgevoer word asof dit 'n siviele uitspraak was wat wettiglik in daardie hof gevel is ten gunste van die Regering van die Unie of van die nuwe vereniging, na gelang van die geval. 45

(b) Die registrateur kan om goeie redes deur of die nuwe vereniging of die oorspronklike vereniging aangevoer, die bepalings van 'n bevel waarna in paragraaf (a) verwys word wysig of so 'n bevel terugtrek.

(4) Die bates van 'n oorspronklike vereniging kan kragtens hierdie artikel verdeel word tussen hom en alleen een nuwe vereniging, waarvan die konstitusie sy lidmaatskap tot blanke persone beperk en alleen een nuwe vereniging, waarvan die konstitusie sy lidmaatskap tot gekleurde persone beperk, en daarna is geen verdere nuwe vereniging bloot op grond van die bepalings van hierdie artikel geregtig op 'n deel van die bates van die betrokke oorspronklike vereniging nie. 55

(5) Indien op die datum waarop 'n nuwe vereniging geregistreer word, sy lede persone insluit wat te eniger tyd gedurende die tydperk van vyf jaar wat die inwerkingtreding van hierdie Wet onmiddellik voorafgaan lede was van 'n oorspronklike vereniging waarop 'n in paragraaf (x) van sub-artikel (1) van artikel vier-en-twintig bedoelde bepaling, bindend was soos voormeld, en indien daardie of 'n soortgelyke bepaling op daardie datum op die oorspronklike vereniging bindend is, 65 word 'n verwysing in sodanige bepaling na die oorspronklike vereniging of sy lede geag 'n verwysing na die nuwe vereniging of sy lede, na gelang van die geval, in te sluit.

Verandering
van bestek
van registra-
sie van vak-
vereniging of
werkgewersor-
ganisasie.

7. (1) As die registrateur te eniger tyd oortuig is dat die gebied of die belange ten opsigte waarvan enige vakvereniging of werkgewersorganisasie geregistreer is nie ooreenstem met die gebied of belange wat deur daardie vereniging of organisasie gedien word nie, kan hy uit eie beweging, na oorlegpleging met daardie vereniging of organisasie, of op aansoek van die vereniging of organisasie ingedien op die wyse voorgeskryf, die gebied of belange ten opsigte waarvan dit geregistreer is verander en moet hy, in daardie geval, die nodige veranderings in sy registers aanbring. 75

(2) Die registrateur kan te eniger tyd van die sekretaris van die betrokke vereniging of organisasie vereis om die registrasie- 80

number of members may be relevant the registrar shall have regard to the number of members of the new union in good financial standing twelve months after the date of registration of the new union, who at any time during the period of five years immediately preceding the commencement of this Act were members of the original union.

(b) An order made under the provisions of paragraph (a) may include provisions relating to any one or more of the following matters—

(i) the right of members of the new union to continue to be members of any sick, provident or similar fund maintained by the original union and the retention by them of all or some of their rights to benefit out of any such fund while they continue to contribute to such fund in accordance with the rules of any such fund;

(ii) the transfer to the new union in one sum or in instalments of an amount which the registrar deems to be a reasonable cash equivalent of the interests of members of the new union in any such fund;

(iii) the payment to the new union periodically of a share of the income derived from any investments of the original union;

(iv) the transfer to the new union in one sum or in instalments of an amount which, in the opinion of the registrar, would represent a reasonable cash equivalent of contributions of members of the new union to the assets of the original union;

(v) generally any matter which the registrar deems necessary for the purposes of the order.

(3) (a) The terms of an order made by the registrar under paragraph (e) of sub-section (1) or paragraph (a) of sub-section (2) shall be notified to the unions concerned in writing and any such order, on being filed with the clerk or registrar of any competent court having jurisdiction, shall have all the effects of and may be executed as if it were a civil judgment lawfully given in that court in favour of the Government of the Union or of the new union, as the case may be.

(b) The registrar may, on good cause shown by either the new union or the original union, vary the provisions of any order referred to in paragraph (a) or withdraw any such order.

(4) The assets of an original union may be divided under this section between it and only one new union, the constitution of which limits its membership to white persons, and only one new union, the constitution of which limits its membership to coloured persons, and thereafter no further new union shall solely by virtue of the provisions of this section be entitled to a share of the assets of the original union concerned.

(5) If at the date on which a new union is registered, its members include persons who at any time during the period of five years immediately preceding the commencement of this Act were members of an original union on which any provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* was binding as aforesaid, and if that or any similar provision is at that date binding on the original union, any reference in such provision to the original union or its members shall be deemed to include a reference to the new union or its members, as the case may be.

7. (1) If at any time the registrar is satisfied that the area or the interests in respect of which any trade union or employers' organization is registered do not coincide with the area or interests served by that union or organization, he may of his own motion, after consultation with that union or organization, or on its application lodged in the prescribed manner, vary the area or interests in respect of which it is registered, and shall in that event make the necessary alterations in his registers.

Variation of scope of registration of trade union of employers' organization.

(2) The registrar may at any time require the secretary of the union or organization concerned to transmit to him the certificate of registration issued to such union or organization, and

sertifikaat wat aan die vereniging of organisasie uitgereik is aan hom te stuur en die sekretaris moet binne veertien dae nadat hy aldus aangesê is die registrasiesertifikaat aan die registrateur stuur.

(3) Die registrateur moet, by ontvangs deur hom van die registrasiesertifikaat, die nodige veranderings daarin aanbring en dit daarna aan die vereniging of organisasie terugbesorg, of 'n nuwe sertifikaat aan die vereniging of organisasie uitreik.

(4) Die bepalings van sub-artikels (2), (3), (4), (5), (8) en (9) van artikel vier is, *mutatis mutandis*, van toepassing ten opsigte van enige verandering wat dit voorgestel word om kragtens hierdie artikel aan te bring, waarvan die uitwerking sal wees om die gebied of die belange van die vakvereniging of werkgewersorganisasie te vergroot of uit te brei. Vir die doeleindes van die toepassing van sub-artikels (4) en (5) van artikel vier, indien die registrateur uit eie beweging handel, word die datum waarop die registrateur besluit om aldus te handel, geag die datum te wees waarop die aansoek binne die bedoeling van daardie sub-artikels ingedien is.

Konstitusie en
prosedure van
vakverenigings
en werkgewers-
organisasies.

8. (1) Die konstitusie van elke geregistreerde vakvereniging moet bepalings bevat wat nie met hierdie artikel strydig is nie, in verband met die onderstaande aangeleenthede—

- (a) die vereistes vir lidmaatskap en die ledegelde en ander gelde (indien enige) deur lede betaalbaar of die metode van vasstelling van sodanige gelde; 25
- (b) die omstandighede waaronder en die wyse waarvolgens die lidmaatskap van 'n lid beëindig kan word;
- (c) die reg van 'n lid om sy lidmaatskap te beëindig;
- (d) die omstandighede waaronder 'n lid nie langer op die voordele van lidmaatskap geregtig is nie; 30
- (e) die liggaam of liggame waarna 'n lid die reg van appél het teen 'n beslissing van 'n komitee of 'n ander dergelyke liggaam, wat ingevolge die konstitusie die bevoegdheid besit om so 'n beslissing te gee in verband met enige aangeleentheid waarna in paragraaf (b) of (d) verwys word, en die wyse waarop sodanige appél voortgesit en afgehandel moet word; 35
- (f) die verkryging en beheer van eiendom;
- (g) die verandering van die konstitusie;
- (h) die belegging en bestuur van vergaderings van lede en die hou van notule van die verrigtinge by sodanige vergaderings; 40
- (i) die verkiesing van verteenwoordigers op enige nywerheidsraad of versoeningsraad, behalwe in die geval van die in sub-artikel (3) van artikel twee bedoelde ver- 45 enigings;
- (j) die aanhou van 'n register van lede wat hul name, ledegelde en sodanige ander besonderhede as wat voorskryf mag word, aandui;
- (k) die doeleindes waarvoor sy fondse gebruik kan word; 50
- (l) die hou van behoorlike rekeningboeke;
- (m) die opmaak minstens eenmaal elke jaar van 'n staat van inkomste en uitgawe en 'n balansstaat;
- (n) die voorlegging minstens eenmaal elke kalenderjaar, van finansiële state, met inbegrip van die in sub- 55 artikel (5) bedoelde inkomste- en uitgawerekening, balansstaat en verslag, aan 'n vergadering of vergaderings wat alle lede mag bywoon, of die beskikbaarstelling van afskrifte daarvan deur publikasie of andersins vir ondersoek deur lede in goeie finansiële 60 stand;
- (o) die prosedure wat by die nominasie van kandidate vir verkiesing as ampsdraers gevolg moet word;
- (p) die hou van 'n stembuis per stembriefie van lede vir die verkiesing van ampsdraers wanneer meer as een kandidaat vir enige amp behoorlik genomineer is: Met dien verstande dat as na die mening van die registrateur die 65 hou van 'n stemming per stembriefie van lede nie doenlik is nie, kan hy die vervanging daarvan deur 'n bepaling vir die hou van 'n stemming per stembriefie van verteenwoordigers van lede of van die lede van enige liggaam ingevolge die konstitusie ingestel, goedkeur; 70
- (q) die prosedure wat by die aanstelling van beamptes gevolg moet word; 75
- (r) die bevoegdhede en pligte van ampsdraers en beamptes;
- (s) die omstandighede waaronder en die wyse waarvolgens ampsdraers en beamptes van hul ampte onthef kan word: Met dien verstande dat, benewens enige ander bepaling ingevolge hierdie paragraaf gemaak, voor- 80

the secretary shall within fourteen days of being so called upon transmit to the registrar the certificate of registration.

(3) The registrar shall, upon receipt by him of the certificate of registration, make the necessary alteration therein, and thereafter return it to the union or organization, or issue to the union or organization a fresh certificate.

(4) The provisions of sub-sections (2), (3), (4), (5), (8) and (9) of section *four* shall, *mutatis mutandis*, apply in respect of any variation which it is proposed to make in terms of this section, the effect of which would be to increase the area or widen the interests of the trade union or employers' organization. For the purposes of the application of the provisions of sub-sections (4) and (5) of section *four*, if the registrar acts of his own motion, the date upon which he decides so to act shall be deemed to be the date on which the application was lodged within the meaning of those sub-sections.

8. (1) The constitution of every registered trade union shall contain provisions not inconsistent with this section in regard to the following matter: Constitution of trade unions and employers' organizations.

- (a) the qualifications for membership and the membership fees and other moneys (if any) to be paid by members or the method of determining such fees;
- (b) the circumstances under which and the manner in which the membership of a member may be terminated;
- (c) the right of a member to terminate his membership;
- (d) the circumstances under which a member shall cease to be entitled to the benefits of membership;
- (e) the body or bodies to which a member shall have the right to appeal against a decision given on any matter referred to in paragraph (b) or (d) by a committee or other similar body having the power to give such a decision in terms of the constitution and the manner in which such appeal shall be prosecuted and determined;
- (f) the acquisition and control of property;
- (g) the alteration of the constitution;
- (h) the calling and conduct of meetings of members and the keeping of minutes of the proceedings at such meetings;
- (i) the election of representatives on any industrial council or conciliation board, except in the case of unions referred to in sub-section (3) of section *two*;
- (j) the maintenance of a register of members showing their names, membership fees and such other details as may be prescribed;
- (k) the purposes for which its funds may be used;
- (l) the keeping of proper books of account;
- (m) the preparation at least once a year of a statement of income and expenditure and a balance sheet;
- (n) the submission of financial statements, including the income and expenditure account, balance sheet and report referred to in sub-section (5), at least once every calendar year to a meeting or meetings which all members may attend, or the making available of copies thereof by publication or otherwise for examination by members in good financial standing;
- (o) the procedure to be followed in the nomination of candidates for election as office-bearers;
- (p) the taking of a ballot of members for the election of office-bearers whenever more than one candidate has been duly nominated for any office: Provided that if the registrar is of opinion that the taking of a ballot of members is not practicable he may approve of the substitution of a provision for the taking of a ballot of representatives of members or of the members of any body established in terms of the constitution;
- (q) the procedure to be followed in the appointment of officials;
- (r) the powers and duties of office-bearers and officials;
- (s) the circumstances under which and the manner in which office-bearers and officials may be removed from office: Provided that, in addition to any other provision made in terms of this paragraph, provision

- siening gemaak moet word vir die hou van 'n stemming per stembriefie op die skriftelike versoek van 'n bepaalde aantal of deel van die lede, om te bepaal of 'n ampsdraer of beampte in die versoek genoem, van sy amp onthef moet word of indien hy aldus onthef is, of hy weer herstel moet word;
- (t) die wyse waarop 'n stemming per stembriefie gehou moet word;
- (u) die likwidasië van die vereniging of organisasie; en
- (v) enige ander aangeleentheid wat voorgeskryf is. 10
- (2) Die bepalings van paragrawe (a) tot (n) en paragraaf (u) van sub-artikel (1) is *mutatis mutandis* van toepassing ten opsigte van die konstitusie van elke geregistreerde werkgewers-organisasie.
- (3) (a) Indien die lidmaatskap van 'n geregistreerde vak- 15
vereniging of werkgewersorganisasie oop is vir beide blanke persone en gekleurde persone moet die konstitusie van daardie vereniging of organisasie voorsiening maak—
- (i) vir die instelling van afsonderlike takke vir blanke 20
persone of gekleurde persone; en
- (ii) dat die afsonderlike takke afsonderlike vergaderings moet hou.
- (b) Die Minister kan enige vakvereniging of werkgewers- 25
organisasie van almal of enige van die bepalings van hierdie sub-artikel vrystel as hy, met inagneming van die mate waarin die ledetal daarvan uit blanke en gekleurde persone saamgestel is, dit raadsaam ag om dit te doen; en hy kan te eniger tyd, na eie goeddunke, so 'n vrystelling intrek. 30
- (4) (a) Benewens die aangeleenthede waarna in sub-artikels (1), (2) en (3) verwys word en onderworpe aan die bepalings van hierdie artikel, kan die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie vir enigeen of meer van die volgende aangeleent- 35
hede voorsiening maak—
- (i) die voordele waarop lede geregtig is of mag word;
- (ii) die boetes, heffings en verbeurings waarvoor lede 40
vir oortredings van die konstitusie aanspreeklik is of mag word;
- (iii) die instelling en die bevoegdhede, pligte en werksaamhede van 'n uitvoerende komitee en ander komitees;
- (iv) enige ander aangeleentheid wat na die mening 45
van die registrateur geskik is om in die konstitusie van 'n vakvereniging of werkgewersorganisasie, al na gelang van die geval, behandel te word.
- (b) Indien die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie voorsiening maak vir 50
die oplê van die in paragraaf (a) bedoelde boetes, heffings en verbeurings kan sodanige vereniging of organisasie daardie gelde in 'n gereghof verhaal sonder om skade te bewys.
- (5) Elke geregistreerde vakvereniging of werkgewersorgani- 55
sasie moet minstens eenmaal per jaar die rekeningboeke van sodanige vereniging of organisasie deur 'n openbare rekenmeester, of as die registrateur dit goedkeur deur 'n ander persoon laat ouditeer en daardie openbare rekenmeester of ander persoon moet 'n verslag aan die vereniging of organisasie ver- 60
strek wat meld of—
- (i) hy hom oortuig het van die bestaan van enige effekte en die rekeningboeke en rekords ondersoek het;
- (ii) behoorlike rekeningboeke gehou is;
- (iii) hy al die nodige inligting en verduidelikings verkry 65
het;
- (iv) die inkomste- en uitgawerekeninge en balansstaat na sy mening behoorlik opgemaak is om 'n ware en korrekte weergawe van die toedrag van sake te toon na die beste van sy wete en volgens die verduidelikings 70
aan hom verstrekte en soos in die boeke op die datum van die balansstaat aangedui;
- (v) die bepalings van die konstitusie, vir sover hulle op finansiële sake betrekking het, na sy mening nagekom 75
is.
- (6) Nieteenstaande andersluidende bepalings in hierdie Wet of in die konstitusie van enige geregistreerde vakvereniging of werkgewersorganisasie vervat—
- (a) is 'n beampte van 'n geregistreerde vakvereniging of 80
werkgewersorganisasie nie geregtig om op enige vergadering van 'n uitvoerende komitee ingevolge die

shall be made for the taking of a ballot, at the written request of a specified number or proportion of the members, to determine whether an office-bearer or official named in the request shall be removed from office, or if he has been so removed whether he shall be re-instated;

- (t) the manner in which a ballot shall be conducted;
- (u) the winding-up of the union or organization; and
- (v) any other prescribed matter.

(2) The provisions of paragraphs (a) to (n) and paragraph (u) of sub-section (1) shall *mutatis mutandis* apply in respect of the constitution of every registered employers' organization.

(3) (a) If membership of a registered trade union or employers' organization is open to both white and coloured persons, the constitution of such union or organization shall provide—

- (i) for the establishment of separate branches for white persons or coloured persons; and
- (ii) that separate meetings shall be held by the separate branches.

(b) The Minister may exempt a trade union or employers' organization from all or any of the provisions of this sub-section if, having regard to the extent to which its membership is composed of white and coloured persons, he deems it expedient to do so; and he may at any time in his discretion withdraw any such exemption.

(4) (a) In addition to the matters referred to in sub-sections (1), (2) and (3) and subject to the provisions of this section, the constitution of a registered trade union or employers' organization may provide for any one or more of the following matters:

- (i) the benefits to which members are or may become entitled;
- (ii) the fines, levies and forfeitures to which members are or may become liable for breaches of the constitution;
- (iii) the establishment and the powers, duties and functions of an executive committee and other committees;
- (iv) any other matter which in the opinion of the registrar is suitable to be dealt with in the constitution of a trade union or employers' organization, as the case may be.

(b) If the constitution of a registered trade union or employers' organization provides for the imposition of the fines, levies and forfeitures referred to in paragraph (a), it shall be competent for such union or organization to recover such moneys in a court of law without proving damages.

(5) Every registered trade union or employers' organization shall cause the books of account of such union or organization to be audited at least once a year by a public accountant or if the registrar approves by some other person, and such public accountant or other person shall furnish the union or organization with a report stating whether—

- (i) he has satisfied himself of the existence of any securities and has examined the books of account and the records;
- (ii) proper books of account have been kept;
- (iii) he has obtained all the information and explanations required;
- (iv) in his opinion the income and expenditure account and the balance sheet have been properly drawn up so as to exhibit a true and correct reflection of the state of affairs according to the best of his knowledge and according to the explanations given him and as shown by the books as at the date of the balance sheet;
- (v) in his opinion, the provisions of the constitution in so far as they relate to financial affairs, have been complied with.

(6) Notwithstanding anything to the contrary contained in this Act or in the constitution of any registered trade union or employers' organization—

(a) an official of a registered trade union or employers' organization shall not be entitled to vote at any meeting of an executive committee established in terms of

- konstitusie van die vereniging of organisasie ingestel, te stem nie: Met dien verstande dat hierdie paragraaf nie van toepassing is op 'n lid van so 'n vereniging of werkgewersorganisasie wat die amp van president of voorsitter beklee of wat in 'n deeltydse hoedanigheid by sodanige vereniging of organisasie in diens is nie;
- (b) moet alle stemming per stembriefie geheim wees en moet stembriefies deur die sekretaris van die betrokke vereniging of organisasie in veilige bewaring vir 'n tydperk van drie jaar gehou word;
- (c) moet geen sodanige vereniging of organisasie met enige politieke party affilieër nie;
- (d) moet geen sodanige vereniging of organisasie geldelike steun verleen of enige uitgawes aangaan met die doel om enige politieke party of enige kandidaat vir verkiesing tot die Parlement of tot enige provinsiale raad of plaaslike owerheid te steun nie behalwe uit 'n fonds deur of ingevolge die konstitusie van sodanige vereniging of organisasie vir hierdie doel ingestel;
- (e) moet 'n politieke fonds alleenlik uit vrywillige bydraes deur lede gefinansier word en moet afsonderlike rekeningboeke ten opsigte van elke sodanige fonds gehou word;
- (f) moet van geen lid van so 'n vereniging of organisasie vereis word om tot 'n politieke fonds by te dra nie; en enige lid wat verkies om nie tot so 'n fonds by te dra nie is nie aan enige straf of diskriminasie hoegenaamd onderhewig nie.
- (7) By die toepassing van paragrawe (c) en (d) van sub-artikel (6), beteken „politieke party” enige liggaam of groep persone wat as sy oogmerk het of as een van sy oogmerke het, hetsy uitdruklik of andersins—
- (i) die benoeming van kandidate vir verkiesing tot die Parlement of tot 'n provinsiale raad of plaaslike owerheid; of
- (ii) die beïnvloeding van die openbare mening om so 'n liggaam of groep te ondersteun of teen te gaan.

Verandering
van konsti-
tusie en naam
van vakver-
eniging of
werkgewers-
organisasie.

9. (1) 'n Geregistreerde vakvereniging of werkgewersorganisasie kan, op die wyse in sy konstitusie aangewys, sy konstitusie verander.
- (2) Drie afskrifte van elke besluit vir die verandering van die konstitusie van 'n geregistreerde vakvereniging of 'n werkgewersorganisasie moet aan die registrateur gestuur word deur die sekretaris van die vereniging of organisasie saam met 'n deur hom en die voorsitter van die vereniging of organisasie getekende sertifikaat, waarin verklaar word dat die bepalings van die konstitusie wat die verandering van die konstitusie reël nagekom is, of, as die registrateur kragtens die voorbehoudsbepaling tot sub-artikel (4) van artikel twee voorskifte gegee het wat betref die wyse waarvolgens of die orgaan waardeur die verandering aangebring moet word, dat sy voorskifte nagekom is.
- (3) As enige geregistreerde vakvereniging of werkgewersorganisasie deur middel van so 'n besluit voornemens is om sy bestaande konstitusie deur 'n nuwe konstitusie te vervang of om besondere bepalings van sy konstitusie te verander, en die registrateur oortuig is dat die nuwe konstitusie of die verandering, na gelang van die geval, aan die vereistes van sub-paragraaf (ii) van paragraaf (a) van sub-artikel (6) van artikel vier voldoen, moet hy die voorgestelde nuwe konstitusie of verandering goedkeur en een van die afskrifte van die besluit aan die sekretaris van die vereniging of organisasie terugstuur met 'n deur hom getekende sertifikaat daarop geskryf wat vermeld dat hy dit goedgekeur het en die datum waarop sy goedkeuring verleen is; en die nuwe konstitusie of verandering, na gelang van die geval, is vanaf daardie datum van krag.
- (4) Elke verandering van die konstitusie van 'n vakvereniging of werkgewersorganisasie wat voor die inwerkingtreding van hierdie Wet vir goedkeuring ingevolge die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937) voorgelê is, wat die registrateur by daardie inwerkingtreding nog nie goedgekeur of geweier het om goed te keur nie, word geag 'n verandering van die konstitusie van daardie vereniging of organisasie te wees wat kragtens hierdie artikel voorgelê is.
- (5) Indien 'n geregistreerde vakvereniging of werkgewersorganisasie verlang om die naam waaronder hy geregistreer is, te verander, word sodanige verandering op dieselfde wyse teweeggebring as 'n verandering van die konstitusie en as die bepalings van hierdie artikel ten opsigte daarvan nagekom is, moet die registrateur 'n nuwe sertifikaat uitreik en die nodige verandering in sy registers aanbring.

- the constitution of the union or organization: Provided that this paragraph shall not apply to a member of any such union or organization who holds office as president or chairman or who is employed by such union or organization in a part-time capacity;
- (b) all voting by ballot shall be secret and ballot papers shall be retained by the secretary of the union or organization concerned in safe custody for a period of three years;
- (c) no such union or organization shall affiliate with any political party;
- (d) no such union or organization may grant financial assistance to or incur expenditure with the object of assisting any political party or any candidate for election to Parliament, or to any provincial council or local authority, otherwise than from a fund, established for this purpose by or in terms of the constitution of such union or organization;
- (e) a political fund shall be financed solely by voluntary contributions by members and separate books of account shall be kept in respect of every such fund;
- (f) no member of any such union or organization shall be required to contribute to a political fund; and a member who elects not to contribute to such fund shall not be subject to any penalty or discrimination whatsoever.

(7) For the purposes of paragraphs (c) and (d) of sub-section (6), "political party" means any association or group of persons which has as its object, or as one of its objects, whether expressed or otherwise—

- (i) the nomination of candidates for election to Parliament or to any provincial council or local authority; or
- (ii) the influencing of public opinion to support or to oppose any such association or group.

9. (1) A registered trade union or employers' organization may, in the manner directed by its constitution, alter its constitution.

Alteration of constitution and name of trade union or employers' organization.

(2) Three copies of every resolution for the alteration of the constitution of a registered trade union or an employers' organization shall be transmitted to the registrar by the secretary of the union or organization, together with a certificate signed by him and by the chairman of the union or organization, stating that the provisions of the constitution regulating the alteration of the constitution have been complied with, or, if the registrar has given directions under the proviso to sub-section (4) of section two as to the manner in or the organ by which the alteration shall be effected, that his directions have been complied with.

(3) If by any such resolution any registered trade union or employers' organization proposes to substitute a new constitution for its existing constitution or to alter particular provisions of its constitution, and the registrar is satisfied that the new constitution, or the alteration, as the case may be, complies with the requirements of sub-paragraph (ii) of paragraph (a) of sub-section (6) of section four, he shall approve the proposed new constitution or alteration, and shall return one of the copies of the resolution to the secretary of the union or organization, with a certificate written thereon and signed by him, stating the fact of his approval and the date on which his approval was given; and as from that date the new constitution or the alteration, as the case may be, shall have effect.

(4) Every alteration of the constitution of a trade union or employers' organization submitted before the commencement of this Act for approval in terms of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), which at that commencement the registrar has not approved or refused to approve, shall be deemed to be an alteration of the constitution of that union or organization submitted under this section.

(5) Should any registered trade union or employers' organization desire to change the name under which it is registered, such change shall be effected in the same manner as an alteration of the constitution, and if the provisions of this section in relation thereto have been complied with, the registrar shall issue a new certificate and make the necessary alterations in his registers.

Oordrag van sekere bevoegdhede van vakverenigings en werkgewers-organisasies belet.

Geregistreeerde vakverenigings en werkgewers-organisasies moet stukke behou en inligting aan registrateur verstrek.

10. Wanneer volgens die konstitusie van 'n geregistreeerde vakvereniging of werkgewersorganisasie die bevoegdheid om enige stemming per stembriefie te hou uitgeoefen kan word deur die vereniging of organisasie of 'n komitee of ampsdraer of beampte daarvan, mag die vereniging of organisasie of sodanige komitee, ampsdraer of beampte daardie bevoegdheid aan geen ander persoon of liggaam oordra nie. 5

11. (1) Die sekretaris van elke geregistreeerde vakvereniging of werkgewersorganisasie moet—

- (a) vir 'n tydperk van vyf jaar gereken vanaf die datum waarop hulle betrekking het, alle—
 - (i) rekeningboeke, state van inkomste en uitgawe, balansstate en ouditeursverslae;
 - (ii) alle lede-registers en die aantekeninge van gelde (indien enige) deur elke lid betaal; en 15
 - (iii) alle notule van vergaderings, en
- (b) alle stawende bewysstukke, korrespondensie en ander stukke rakende die sake van die vereniging of organisasie, vir 'n tydperk van drie jaar vanaf die datum van ontstaan van elke sodanige stuk, 20

behou.

(2) Die sekretaris van elke geregistreeerde vakvereniging of werkgewersorganisasie moet—

- (a) nie later nie as die laaste dag van Februarie van elke jaar aan die registrateur in die vorm voorgeskryf, 'n opgaaf, deur die voorsitter en sekretaris van die betrokke vereniging of organisasie as korrek gesertifiseer, stuur wat soos op die een-en-dertigste dag van Desember van die vorige jaar en in die geval van 'n vakvereniging, ten opsigte van blanke persone en gekleurde persone afsonderlik, die totale aantal lede, die aantal lede wat volgens die lederegister nie in goeie finansiële stand is nie, en sodanige ander besonderhede as wat voorgeskryf mag word, aantoon; 25
- (b) binne dertig dae na ontvangs deur hom van 'n skriftelike versoek van die registrateur, 'n skriftelike opgawe, gesertifiseer op die wyse in paragraaf (a) uiteengesit, aan die registrateur stuur wat aantoon soos op die datum in sodanige versoek vermeld, die totale aantal lede en die aantal lede wat nie in goeie finansiële stand is nie, of ten opsigte van die totale lidmaatskap of ten opsigte van die klasse of groepe van lede en die gebied in sodanige versoek vermeld, volgens die lede-register; 35
- (c) binne dertig dae na ontvangs deur hom van 'n ouditeursverslag, 'n getroue afskrif van sodanige verslag en van die staat van inkomste en uitgawe en van die balansstaat waarop sodanige verslag betrekking het, aan die registrateur stuur; en 45
- (d) binne dertig dae na ontvangs deur hom van 'n skriftelike versoek van die registrateur, aan die registrateur skriftelik 'n verduideliking gee van enige aangeleentheid betreffende 'n in paragraaf (a) of (b) bedoelde opgawe of 'n in paragraaf (c) bedoelde verslag, staat of balansstaat waarop die registrateur 'n verduideliking mag verlang. 55

(3) Wanneer enige verkiesing of aanstelling van ampsdraers of beamptes van 'n geregistreeerde vakvereniging of werkgewersorganisasie plaasvind moet die sekretaris van die betrokke vereniging of organisasie binne dertig dae na die verkiesing of aanstelling die registrateur in kennis stel van die name en adresse van die verkose of aangestelde persone, of daar enige veranderings onder die ampsdraers of beamptes was al dan nie. 60

(4) Wanneer enige verandering van adres van die hoofkantoor van 'n geregistreeerde vakvereniging of werkgewersorganisasie plaasvind, moet die sekretaris van die betrokke vereniging of organisasie die registrateur binne dertig dae na die verandering plaasgevind het daarvan in kennis stel. 65

(5) Die sekretaris van 'n geregistreeerde vakvereniging of werkgewersorganisasie waarvan die konstitusie vir die instelling van takke voorsiening maak, moet binne dertig dae na die instelling van enige nuwe tak, die registrateur van die name en adresse van die voorsitter en sekretaris daarvan en van besonderhede van sy ledetal in kennis stel. 70 75

Spesiale bevoegdhede van en ondersoek deur die registrateur.

12. (1) As die registrateur te eniger tyd rede het om te vermoed dat 'n bepaling van die konstitusie van 'n geregistreeerde vakvereniging of werkgewersorganisasie nie nagekom is nie,

10. Whenever under the constitution of a registered trade union or employers' organization the power to take any ballot is exercisable by the union or organization or any committee or office-bearer or official thereof, the union or organization, or such committee, office-bearer or official shall not delegate that power to any other person or body.

Delegation of certain powers of trade unions and employers' organizations prohibited.

11. (1) The Secretary of every registered trade union or employers' organization shall retain—

Registered trade unions and employers' organizations to retain records and to furnish information to the registrar.

(a) for a period of five years reckoned from the date to which they relate all—

- (i) books of account, statements of income and expenditure, balance sheets and auditor's reports;
- (ii) all registers of members and the records of moneys (if any) paid by each member; and
- (iii) all minutes of meetings; and

(b) all substantiating vouchers, correspondence and other documents relating to the affairs of the union or organization for a period of three years from the date of origin of every such document.

(2) The secretary of every registered trade union or employers' organization shall—

(a) not later than the last day of February in each year forward to the registrar in the prescribed form, a statement certified to be correct by the chairman and secretary of the union or organization concerned showing as at the thirty-first day of December of the previous year, and in the case of a trade union in respect of white persons and coloured persons separately, the total number of members, the number of members who are not in good financial standing, according to the register of members and such other details as may be prescribed;

(b) within thirty days after the receipt by him of a written request by the registrar furnish to the registrar in writing a statement certified in the manner set out in paragraph (a) showing, as at the date specified in such request, the total number of members and the number of members who are not in good financial standing, either in respect of the total membership or in respect of the classes or groups of members and the area specified in such request, according to the register of members;

(c) within thirty days after the receipt by him of an auditor's report forward to the registrar a true copy of such report and of the statement of income and expenditure and of the balance sheet to which such report relates; and

(d) within thirty days after the receipt by him of a written request by the registrar furnish to the registrar in writing an explanation of any matter relating to a statement referred to in paragraph (a) or (b) or a report, statement or balance sheet referred to in paragraph (c) upon which the registrar may require an explanation.

(3) Whenever any election or appointment of office-bearers or officials of a registered trade union or employers' organization takes place, the secretary of the union or organization concerned shall notify the names and addresses of the persons elected or appointed to the registrar within thirty days after the election or appointment, whether or not there have been any changes amongst the office-bearers or officials.

(4) Whenever any change in the address of the head office of a registered trade union or employers' organization takes place, the secretary of the union or organization concerned shall notify the new address to the registrar within thirty days after the change took place.

(5) The secretary of a registered trade union or employers' organization, the constitution of which provides for the establishment of branches, shall, within thirty days of the establishment of any new branch, notify the registrar of the names and addresses of the chairman and secretary thereof and of particulars of its membership.

12. (1) If at any time the registrar has reason to believe that any provision of the constitution of a registered trade union or employers' organization has not been observed, and

Special powers of and enquiries by registrar.

en dat as gevolg van sodanige nie-nakoming die vereniging of organisasie nie in staat is om volgens sy konstitusie te fungeer nie, toe te skryf, òf geheel-en-al òf gedeeltelik, aan—

- (a) die nie-bestaan van sy uitvoerende liggaam;
- (b) die versuim om 'n vakature ooreenkomstig die voorskrifte van die konstitusie te vul; of
- (c) enige ander omstandigheid wat uit die nie-nakoming van die voorskrifte van die konstitusie voortspruit,

kan die registrateur as na sy mening 'n aansienlike aantal van die lede verlang dat sodanige vereniging of organisasie moet voortgaan om te fungeer, sodanige opdragte uitreik as wat hy nodig ag ten einde die vereniging of organisasie so na moontlik in dieselfde posisie te plaas asof die nie-nakoming van die voorskrifte van die konstitusie nie plaasgevind het nie. By die uitreiking van enige sodanige opdragte moet die registrateur 'n prosedure voorskryf wat so na doenlik met die in die konstitusie van die vereniging of organisasie voorgeskrewe prosedure ooreenkom. Die registrateur kan kragtens hierdie sub-artikel optree, of die konstitusie van die betrokke vereniging of organisasie bepalings bevat wat soortgelyke bevoegdhede aan hom verleen al dan nie.

(2) Enige vereniging of organisasie aan wie die registrateur 'n opdrag ingevolge sub-artikel (1) uitgereik het, word sodra hy daardie opdrag uitgevoer het, vir die doeleindes van hierdie Wet en sy konstitusie, geag aan die bepalings van sy konstitusie aangaande die aangeleentheid waarop sodanige opdrag betrekking het, te voldoen het.

(3) As die registrateur te eniger tyd rede het om te vermoed dat—

- (a) 'n onreëlmatigheid van wesenlike belang in verband met 'n verkiesing gehou ingevolge die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie, geskied het; of
- (b) 'n beampte, ampsdraer, komitee of ander liggaam van 'n geregistreerde vakvereniging of werkgewersorganisasie versuim het om 'n bepaling van die konstitusie van sodanige vereniging of organisasie na te kom of andersins onwettiglik opgetree het of op 'n wyse gehandel het wat onredelik teenoor die lede is en wat ernstige ontevredenheid onder 'n aansienlike deel van die lede in goeie finansiële stand veroorsaak het,

kan hy, sonder afbreuk te doen aan enige regs middel wat enige belanghebbende persoon mag hê, 'n ondersoek aangaande daardie aangeleentheid instel.

(4) Vir die doel van so 'n ondersoek kan die registrateur enigeen wat na sy mening in staat mag wees om inligting van wesenlike belang te verstrek omtrent die onderwerp wat ondersoek word, of wat hy vermoed of glo in besit of bewaring is van of beheer het oor enige boek, stuk of ding wat in verband staan met die onderwerp wat ondersoek word, as getuie dagvaar om op 'n in die subpoena vermelde tyd en plek voor hom te verskyn, om ondervra te word of om daardie boek, stuk of ding voor te lê. As die vakvereniging of werkgewersorganisasie of betrokke ampsdraer of beampte die registrateur oortuig dat daar redelike gronde bestaan om te veronderstel dat enige persoon in staat is om sodanige inligting te verstrek of so 'n boek, stuk of ding in sy besit of bewaring of onder sy beheer het, moet hy daardie persoon aldus as getuie dagvaar. Die registrateur kan enige boek, stuk of ding wat aldus voorgelê is vir ondersoek behou.

(5) Die registrateur kan enige by die ondersoek aanwesige persoon wat ingevolge sub-artikel (4) as getuie gedagvaar is of kon geword het oproep en aan hom die eed oplê, en kan hom ondervra en van hom vereis dat hy enige boek, stuk of ding wat in sy besit of bewaring of onder sy beheer is, voorlê.

- (6) (a) Enige persoon wat kragtens sub-artikel (4) as getuie gedagvaar is en wat sonder voldoende rede versuim om op die in die subpoena vermelde tyd en plek te verskyn, is aan 'n misdryf skuldig.
- (b) Enige persoon wat kragtens sub-artikel (4) as getuie gedagvaar of kragtens sub-artikel (5) opgeroep is en wat weier om as 'n getuie ingesweer te word of versuim om op alle aan hom wettiglik gestelde vrae ten volle en, op bevredigende wyse volgens sy hele kennis en oortuiging te antwoord of om enige boek, stuk of ding in sy besit of bewaring of onder sy beheer voor te lê wanneer hy wettiglik vereis word om dit te doen of versuim om aanwesig te bly totdat die registrateur hom van verdere bywoning vrystel, is aan 'n misdryf skuldig: Met dien verstande dat die regsreëls betreffende privilegie soos van toepassing op 'n getuie

that as a result of such non-observance the union or organization is unable to function constitutionally due, either wholly or in part, to—

- (a) the non-existence of its executive body;
- 5 (b) failure to fill a vacancy in accordance with the requirements of the constitution; or
- (c) any other circumstance arising from non-observance of the requirements of the constitution,

the registrar may if in his opinion a substantial number of the
10 members desire that such union or organization should continue to function, issue such instructions as he may deem necessary in order to place the union or organization in the same position, as nearly as may be, as if the non-observance of the requirements of the constitution had not taken place. In
15 issuing any such instructions the registrar shall prescribe a procedure which as nearly as practicable conforms to that prescribed in the constitution of the union or organization. The registrar may act under this sub-section whether or not the constitution of the union or organization concerned contains
20 provisions which confer similar powers on him.

(2) Any union or organization to which the registrar has, in terms of sub-section (1), issued an instruction, shall, on giving effect to that instruction, be deemed, for the purposes of this Act and its constitution, to have complied with the provisions
25 of its constitution in regard to the matter to which such instruction relates.

(3) If at any time the registrar has reason to believe that—
(a) any material irregularity occurred in connection with any election held in terms of the constitution of a
30 registered trade union or employers' organization; or
(b) any official, office-bearer, committee or other body of a registered trade union or employers' organization has failed to observe any provision of the constitution of such union or organization or has otherwise
35 acted unlawfully, or has acted in a manner which is unreasonable in relation to the members and which has caused serious dissatisfaction amongst a substantial section of the members in good financial standing,
40 he may, without prejudice to any other legal remedy any interested person may have, conduct an enquiry into such matter.

(4) For the purpose of any such enquiry the registrar may subpoena any person who in his opinion may be able to give
45 material information concerning the subject of the enquiry, or who he suspects or believes has in his possession or custody or under his control any book, document or thing which has any bearing upon the subject of the enquiry, to appear before him at a time and place specified in the subpoena, to be interrogated
50 or to produce that book, document or thing. If the trade union or employers' organization or office-bearer or official concerned satisfies the registrar that there is reasonable ground for supposing that any person is able to give such information or has in his possession or custody or under his control any
55 such book, document or thing, he shall so subpoena that person. The registrar may retain for examination any book, document or thing so produced.

(5) The registrar may call and administer an oath to any person present at the enquiry who was or might have been
60 subpoenaed in terms of sub-section (4), and may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control.

(6) (a) Any person who has been subpoenaed under sub-section (4) and who fails without sufficient cause to attend at the time and place specified in the subpoena shall be guilty of an offence.

(b) Any person who has been subpoenaed under sub-section (4) or who has been called under sub-section (5) and who refuses to be sworn as a witness or fails
70 to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him, or to produce any book, document or thing in his possession or custody or under his control when lawfully required to do so or who fails to remain in
75 attendance until excused from further attendance by the registrar, shall be guilty of an offence: Provided that in connection with the interrogation of any such person, or the production of any such book, document

wat as getuie gedagvaar is om voor 'n geregshof getuienis af te lê of 'n boek, stuk of ding voor te lê, in verband met die ondervraging van so 'n persoon of die voorlegging van so 'n boek, stuk of ding van toepassing is.

(7) Die ondervraging van 'n getuie deur die registrateur moet privaat plaasvind, tensy die registrateur anders besluit: Met dien verstande dat op versoek van 'n getuie die ondervraging van daardie getuie privaat moet plaasvind: Met dien verstande voorts dat die registrateur, na goeë dunnke en met die toestemming van die getuie die teenwoordigheid van 'n bepaalde persoon by die ondervraging van daardie getuie kan magtig.

(8) Die registrateur kan enige amptenaar magtig om namens hom 'n ondersoek in te stel of enige ondervraging te doen of gelas dat enige boek, stuk of ding aan 'n amptenaar deur hom vir die doel aangewys voorgelê word; en so 'n amptenaar kan aan enige getuie wat voor hom verskyn 'n eed oplê; en die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op enige ondersoek of ondervraging deur of die voorlegging van so 'n boek, stuk of ding aan die gemagtigde of aangewese amptenaar, behalwe dat die verslag van so 'n amptenaar aan die registrateur gestuur moet word.

(9) Aan enige persoon wat as getuie gedagvaar is om voor die registrateur of 'n amptenaar te verskyn, kan, as die registrateur oortuig is dat hy weens sy verskynning in gehoorsaamheid aan die subpoena enige geldelike verlies gely het of enige onkoste moes aangaan, die toelae voorgeskryf of die bedrag van sodanige verlies en onkoste, na gelang watter die minste is, betaal word.

(10) By voltooiing van 'n ondersoek ingevolge hierdie artikel lê die registrateur aan die Minister 'n verslag voor waarin die bevindings en sy aanbevelings wat betref enige stappe wat hy nodig ag, uiteengesit word.

(11) Indien na 'n ondersoek kragtens hierdie artikel ingestel is, die registrateur oortuig is dat—

(a) 'n onreëlmatigheid van wesenlike belang in verband met 'n verkiesing gehou ingevolge die konstitusie van die betrokke vereniging of organisasie, geskied het; of

(b) 'n beampete, ampsdraer, komitee of ander liggaam van die betrokke vereniging of organisasie versuim het om 'n bepaling van die konstitusie na te kom of onwettiglik opgetree het of op 'n wyse gehandel het wat onredelik teenoor die lede is en wat ernstige ontevredenheid onder 'n aansienlike deel van die lede in goeie finansiële stand veroorsaak het,

kan hy, in sy verslag aan die Minister, benewens enige ander aanbeveling wat hy dit raadsaam ag om te maak, die hou van 'n verdere verkiesing of verkiesings ten opsigte van die betrokke pos, amp, komitee of liggaam op sodanige tye en plekke en op sodanige voorwaardes as wat hy nodig ag (met inbegrip van voorwaardes met betrekking tot toesig oor enige verkiesing en alle aangeleenthede wat met sodanige verkiesing in verband staan of daarmee saamhang), aanbeveel.

(12) By ontvangs van 'n verslag ingevolge sub-artikel (10), kan die Minister die verslag of enige gedeelte daarvan of sodanige uittreksels daaruit as wat hy goeëvind, aan die uitvoerende liggaam van die betrokke vereniging of organisasie laat stuur vir die doel om sodanige liggaam uit te nooi om binne 'n tydperk van nie minder as 30 dae nie deur hom vasgestel, enige verstoë wat daardie liggaam verlang om te maak aangaande die raadsaamheid om uitvoering te gee aan enige aanbevelings in die verslag vervat, skriftelik aan hom voor te lê.

(13) Na oorweging van enige verstoë ingevolge sub-artikel (12) gemaak, kan die Minister gelas dat uitvoering gegee word aan almal of enige gedeelte van die bedoelde aanbevelings.

(14) Enige verdere verkiesing gehou ooreenkomstig enige lasgewing ingevolge sub-artikel (13) gegee, word geag 'n verkiesing ingevolge die konstitusie van die betrokke vereniging of organisasie te wees; en vanaf die datum waarop die uitslag van die verdere verkiesing bekend is, is die verkiesing wat die onderwerp van die verslag uitgemaak het, nietig en van geen krag nie.

(15) Enige persoon wat die registrateur of enige ingevolge sub-artikel (8) gemagtigde of aangewese amptenaar in die uitvoering van enige van die werksaamhede of pligte wat aan hom deur of kragtens hierdie artikel verleen of opgelê word opsetlik hinder en enige persoon wat die persone aangestel om toesig te hou oor enige verdere verkiesing gehou kragtens 'n lasgewing ingevolge sub-artikel (13) gegee, opsetlik hinder of wat opsetlik versuim om te voldoen aan 'n aanbeveling wat die onderwerp

or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.

5 (7) The interrogation of any witness by the registrar shall be conducted in private, unless the registrar otherwise decides: Provided that at the request of any witness the interrogation of that witness shall be conducted in private: Provided further that the registrar may, in his discretion, and with the consent
10 of the witness authorize the presence of any specified person at the interrogation of that witness.

(8) The registrar may authorize any officer to conduct any enquiry or to make any interrogation on his behalf or direct that any book, document or thing be produced before an
15 officer designated for the purpose by him; and any such officer may administer an oath to any witness appearing before him; and the provisions of this section shall *mutatis mutandis*, apply to any enquiry or interrogation by or the production of any such book, document or thing before any authorized or designated
20 officer, save that the report of any such officer shall be submitted to the registrar.

(9) Any person subpoenaed to appear before the registrar or any officer may if the registrar is satisfied that he has by reason of his appearance in obedience to the subpoena suffered
25 any pecuniary loss or been put to any expense, be paid the prescribed allowances or the amount of such loss and expense, whichever is the lesser.

(10) On the completion of an enquiry under this section, the registrar shall submit to the Minister a report setting out the
30 findings and his recommendations as to any action he considers necessary.

(11) If after an enquiry has been conducted under this section the registrar is satisfied that—

35 (a) any material irregularity occurred in connection with any election held in terms of the constitution of the union or organization concerned; or

40 (b) any official, office-bearer, committee or other body of the union or organization concerned has failed to observe any provision of the constitution, or has acted unlawfully, or has acted in a manner which is unreasonable in relation to the members and which has caused serious dissatisfaction amongst a substantial section of the members in good financial standing,

45 he may, in his report to the Minister, in addition to any other recommendation he may deem it expedient to make, recommend the holding of a further election or elections in respect of the post, office, committee or body concerned at such times and places and under such conditions as he may consider necessary (including conditions relating to the supervision of any election
50 and all matters connected with or incidental to such election).

(12) On the receipt of a report in terms of sub-section (10) the Minister may cause the report or any portion thereof or such extracts therefrom as he deems fit, to be submitted to the executive body of the union or organization concerned for the
55 purpose of inviting such body to submit to him in writing within a period fixed by him not being less than thirty days, any representations that body desires to make as to the advisability of giving effect to any recommendations contained in the report.

(13) After considering any representations made in terms of
60 sub-section (12) the Minister may direct that effect be given to the whole or any portion of the said recommendations.

(14) Any further election held in accordance with any direction given in terms of sub-section (13) shall be deemed to be an election in terms of the constitution of the union or organization
65 concerned; and as from the date on which the result of the further election is known, the election which formed the subject of the report shall be void and of no effect.

(15) Any person who wilfully hinders the registrar or any officer authorized or designated in terms of sub-section (8) in
70 the performance of any of the functions or duties conferred or imposed upon him by or under this section and any person who wilfully hinders the persons appointed to supervise any further election held under a direction given in terms of sub-section (13) or who wilfully fails to comply with or wilfully obstructs
75 the carrying into effect of a recommendation which forms the

van 'n ingevolge sub-artikel (13) gegewe lasgewing uitmaak of opsetlik die uitvoering daarvan belemmer, is aan 'n misdryf skuldig; en as hy 'n getuie is, kan die registrateur gelas dat geen uitbetaling, of slegs 'n verminderde uitbetaling, aan hom ingevolge sub-artikel (9) gemaak word.

Likwidasië van vakverenigings of werkgewers-organisasies.

13. (1) 'n Geregistreeerde vakvereniging of werkgewersorganisasie kan gelikwedeer word—

- (a) indien nie minder as twee-derdes van die vereniging of organisasie in goeie finansiële stand by besluit die likwidasië van die vereniging of organisasie goedkeur; 10 of
- (b) indien die vereniging of organisasie nie in staat is om sy werksaamhede voort te sit nie weens 'n rede wat na die mening van die registrateur nie kragtens sub-artikel (1) van artikel *twalf* reggemaak kan word nie. 15

(2) Wanneer 'n geregistreeerde vakvereniging of werkgewersorganisasie gelikwedeer staan te word, kan die registrateur vir so ver hy die bepalings van die konstitusie met betrekking tot likwidasië as onvoldoende beskou, sodanige voorskrifte uitreik as wat hy nodig ag om te verseker dat die vereniging of organisasie met behoorlike inagneming van die belange van die betrokke partye gelikwedeer word en kan vir hierdie doel enige persoon as likwidator aanstel onderhewig aan sodanige voorwaardes as wat hy mag bepaal.

(3) (a) 'n Likwidator ingevolge sub-artikel (2) aangestel, is geregtig op sodanige gelde as waarop tussen hom en die beskikbare lede van die laasaangestelde uitvoerende liggaam, wat in goeie finansiële stand is, ooreengekom mag word, of, by ontstentenis van sodanige ooreenkoms, as wat deur die registrateur bepaal mag word. 25

(b) Enige gelde aan 'n likwidator betaalbaar moet betaal word voor alle ander skulde en laste uit die bates van die betrokke vereniging of organisasie.

(4) Indien na alle skulde en verpligtings van die vereniging of organisasie vereffen is, daar bates oorbly waaroor nie ingevolge die konstitusie van die vereniging of organisasie of ingevolge 'n besluit van die meerderheid van die lede van die vereniging of organisasie wat in goeie finansiële stand was toe so 'n besluit aangeneem is, beskik kan word nie, kan die registrateur na goeddunke te eniger tyd en van tyd tot tyd gelas dat enige sodanige bates gelikwedeer word en dat die gelde wat opgebring word of enige gedeelte daarvan, betaal word aan 'n ander geregistreeerde vakvereniging of werkgewersorganisasie, na gelang van die geval, wat geregistreeer is ten opsigte van belange wat na die mening van die registrateur geheel-en-al of gedeeltelik dieselfde is as die geheel of deel van die belange ten opsigte waarvan die vereniging of organisasie wat gelikwedeer word, geregistreeer is. Enige gedeelte van sodanige gelde waaroor nie binne twee jaar vanaf die datum waarop die likwidasië voltooi is, aldus beskik is nie, moet in die Gekonsolideerde Inkomstefonds gestort word. 40 45 50

(5) Die registrateur kan gelas dat enige gelde waarna in sub-artikel (4) verwys word, by die Openbare Skuldkommissaris gestort word vir tydelike belegging hangende die beskikking daaroor ingevolge daardie sub-artikel, en die gelde aldus gestort word beskou as „deposito's” ingevolge artikel *nege* van die „Openbare Schuld Kommissarissen Wet, 1911” (Wet No. 18 van 1911). 55

Intrekking van registrasie van vakvereniging of werkgewers-organisasie wat ophou om te bestaan.

14. (1) Wanneer die registrateur redelike gronde het om te glo dat 'n geregistreeerde vakvereniging of werkgewersorganisasie gelikwedeer is of nie meer as 'n vakvereniging of werkgewersorganisasie fungeer nie kan hy 'n kennisgewing in die *Staatskoerant* publiseer en per geregistreeerde pos aan die vereniging of organisasie stuur dat by die verstryking van die tydperk in daardie kennisgewing vermeld, wat nie minder as dertig dae vanaf die datum van daardie kennisgewing moet wees nie, die registrasie van die vakvereniging of werkgewersorganisasie daarin vermeld, tensy redes daarteen aangevoer word, ingetrek sal word. 60 65 70

(2) By die verstryking van die tydperk vermeld in 'n in sub-artikel (1) bedoelde kennisgewing, kan die registrateur, tensy redes daarteen tot sy bevrediging tevore aangevoer is, die registrasie van die vereniging of organisasie intrek, en moet hy 'n kennisgewing te dien effekte in die *Staatskoerant* publiseer. 75

(3) Sodra die registrasie van 'n vakvereniging of werkgewersorganisasie kragtens hierdie artikel ingetrek is, hou daardie vereniging of organisasie op om 'n regspersoon te wees: Met dien verstande dat die aanspreeklikheid (indien enige) van elke

subject of a direction under sub-section (13), shall be guilty of an offence; and if he is a witness, the registrar may order that no payment or only a reduced payment be made to him under sub-section (9).

5 13. (1) A registered trade union or employers' organization may be wound up—

Winding up of
trade union or
employers'
organizations.

(a) if not less than two-thirds of the members of the union or organization in good financial standing by resolution approve of the winding-up of the union or organization; or

10 (b) if the union or organization is unable to continue to function for any reason which in the opinion of the registrar cannot be remedied under sub-section (1) of section *twelve*.

15 (2) When a registered trade union or employers' organization is to be wound up, the registrar may to the extent that he considers the provisions of the constitution in regard to winding-up to be inadequate, issue such directions as he deems necessary to ensure that the union or organization is wound up with

20 due regard to the interests of the parties concerned and may for this purpose appoint any person as liquidator subject to such conditions as he may determine.

(3) (a) A liquidator appointed in terms of sub-section (2) shall be entitled to such fees as may be agreed upon between him and the available members of the last appointed executive body, who are in good financial standing or, failing such agreement, as may be determined by the registrar.

25 (b) Any fees payable to a liquidator shall be a first charge on the assets of the union or organization concerned.

(4) If after all liabilities and obligations of the union or organization have been discharged there remain assets which cannot be disposed of in terms of the constitution of the union or organization, or in terms of a resolution of the majority of the members of the union or organization who were in good financial standing when any such resolution was adopted, the registrar may in his discretion at any time and from time to time direct that any such assets be liquidated and that the moneys realised or any portion thereof, be paid to any other

35 registered trade union or employers' organization, as the case may be, which is registered in respect of interests which in the opinion of the registrar are wholly or partly the same as the whole or part of the interests in respect of which the union or organization which is being wound up was registered. Any

40 portion of such moneys which has not been so disposed of within two years from the date on which the liquidation was completed shall be paid into the Consolidated Revenue Fund.

(5) The registrar may direct that any moneys referred to in sub-section (4) be deposited with the Public Debt Commissioners for temporary investment pending the disposal thereof in terms of that sub-section, and the moneys so deposited shall be regarded as "deposits" in terms of section *nine* of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911).

55 14. (1) Whenever the registrar has reasonable cause to believe that a registered trade union or employers' organization has been wound up or is not functioning as a trade union or employers' organization, he may publish in the *Gazette* and send to the union or organization by registered post a notice that at the expiration of the period mentioned in that notice, not being less than thirty days from the date of that notice, the registration of the trade union or employers' organization mentioned therein will, unless cause is shown to the contrary, be cancelled.

Cancellation of
registration of
defunct trade
union or employ-
ers' organization.

(2) At the expiration of the period mentioned in any such notice, as is referred to in sub-section (1), the registrar may, unless cause to the contrary to his satisfaction has previously been shown, cancel the registration of the union or organization, and shall publish a notice to that effect in the *Gazette*.

(3) Upon the cancellation of the registration of any trade union or employers' organization under this section, that union or organization shall cease to be a body corporate: Provided that the liability (if any) of every person charged with the winding-up of a union or organization and of every office-bearer,

persoon belas met die likwidasie van 'n vereniging of organisasie en van elke ampsdraer, beampte en lid van die vereniging of organisasie bly bestaan en afgedwing kan word asof die registrasie van die vereniging of organisasie nie ingetrek was nie.

(4) 'n Kennisgewing kragtens hierdie artikel kan gerig word 5
aan die vereniging of organisasie by sy laasbekende hoofkantoer.

(5) Die persoon wat die betrekking van sekretaris van 'n vereniging of organisasie waarvan die registrasie kragtens hierdie artikel ingetrek is, bekleë of laas bekleë het, moet binne 10
veertien dae na versoek van die registrateur, die registrasiesertifikaat wat aan die vereniging of organisasie uitgereik is, aan hom stuur of laat stuur.

Oortredings
deur vakvereni-
gings en werk-
gewers organisa-
sies en hul
beamptes.

15. 'n Vakvereniging of werkgewersorganisasie of 'n ander persoon wat enige van die bepalings van, of enige vereiste, versoek of eis van die registrateur kragtens die voorbehoudsbepaling by sub-artikel (4) van artikel twee, sub-artikel (1) van artikel vier, paragraaf (g) van sub-artikel (1) van artikel ses, sub-artikel (2) van artikel sewe, sub-artikels (5) en (6) van artikel agt, artikel tien, artikel elf, of sub-artikel (5) van artikel veertien 20
oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

Appelle teen
beslissings
van die regi-
strateur.

16. (1) Enigiemand (hieronder die appellant genoem) wat veronreg voel deur enige vereiste, versoek, beslissing of bevel 25
van, of enige intrekking van die registrasie van 'n vakvereniging of werkgewersorganisasie deur, die registrateur kragtens artikel twee, vier, ses, sewe, agt, nege, veertien, negetien, een-en-twintig, of twee-en-twintig, kan binne veertien dae vanaf die datum van die vereiste, versoek, beslissing, of bevel of van die betrokke kennisgewing kragtens sub-artikel (2) van artikel veertien, by 30
die registrateur aansoek doen om 'n uiteensetting van sy redes daarvoor, en kan appelleer—

(a) ten opsigte van 'n in artikel ses bedoelde aangeleentheid, na die nywerheidshof; of

(b) ten opsigte van enige ander aangeleentheid, na die 35
Minister,

teen sodanige vereiste, versoek, beslissing of bevel of intrekking binne sestig dae vanaf die datum waarop sodanige redes aan hom verstreë is, of as hy nie om 'n uiteensetting van die registrateur se redes aansoek gedoen het nie, binne sestig dae vanaf 40
die datum van bedoelde vereiste, versoek, beslissing of bevel of van die publikasie van die in sub-artikel (1) van artikel veertien bedoelde kennisgewing: Met dien verstande dat waar 'n tydperk van minder as sestig dae voorgeskryf of deur die registrateur kragtens hierdie Wet vasgestel is vir die uitvoering van so 45
'n vereiste of versoek, dan moet, tensy sodanige vereiste of versoek nagekom is, binne die aldus voorgeskrewe of vasgestelde korter tydperk, geappelleer word.

(2) (a) 'n Appèl kragtens sub-artikel (1) moet in die vorm en op die wyse voorgeskryf ingedien word, en moet 50
van sodanige skriftelike verdoë as wat die appèllant verlang om in verband daarmee te maak, vergesel wees. Daarna en in elk geval nie later as veertien dae daarna nie, moet die registrateur 'n uiteensetting van sy redes vir die vereiste, versoek, beslissing, bevel of intrekking 55
waarteen geappelleer word, tesame met sodanige skriftelike verdoë as wat hy verlang om in verband daarmee te maak, aan die Minister of die nywerheidshof, na gelang van die geval, stuur.

(b) Enige ander persoon wat na die mening van die Minister of die nywerheidshof, na gelang van die geval, deur die appèl geraak word, is geregtig om skriftelike verdoë in verband daarmee binne die tydperk voorgeskryf of binne sodanige ander tydperk as wat die Minister of die nywerheidshof mag vasstel, aan hom 65
of die nywerheidshof voor te lê.

(c) In so 'n appèl word enige party wat 'n beswaar kragtens enige bepaling van hierdie Wet ingedien het, beperk tot die gronde in sy kennisgewing van beswaar vermeld.

(d) Die Minister of die nywerheidshof, na gelang van die 70
geval, kan die appèl op die in paragraawe (a) en (b) bedoelde stukke beslis sonder om enige party tot die appèl persoonlik aan te hoor; maar die nywerheidshof kan uit eie beweging en moet, indien aldus versoek deur die appèllant, die registrateur of enige ander 75
party wat na die mening van die nywerheidshof deur die appèl geraak word, reël dat die aangeleentheid voor hom beredeneer word. Die aanhoor deur die

official and member of the union or organization shall continue and may be enforced as if the registration of the union or organization had not been cancelled.

(4) A notice under this section may be addressed to the union or organisation at its last known head office.

(5) The person who holds or last held the office of secretary of a union or organization, the registration of which has been cancelled under this section, shall within fourteen days of demand by the registrar transmit or cause to be transmitted to him the certificate of registration issued to the union or organization.

15. Any trade union or employers' organization which, or any other person who, contravenes or fails to comply with any of the provisions of, or any requirement, request or demand of the registrar under the proviso to sub-section (4) of section two, sub-section (1) of section four, or paragraph (g) of sub-section (1) of section six, sub-section (2) of section seven, sub-sections (5) and (6) of section eight, section ten, section eleven, or sub-section (5) of section fourteen, shall be guilty of an offence.

Offences by trade unions and employers' organizations and their officials.

16. (1) Any person (hereinafter referred to as the appellant) who feels aggrieved by any requirement, request, decision or order of, or any cancellation of the registration of a trade union or employers' organization by the registrar under section two, four, six, seven, eight, nine, fourteen, nineteen, twenty-one, or twenty-two may within fourteen days of the date of such requirement, request decision or order or of the relevant notice under sub-section (2) of section fourteen, apply to the registrar for a statement of his reasons therefor, and may appeal—

Appeals from decision of the registrar.

(a) in respect of any matter referred to in section six, to the tribunal; or

(b) in respect of any other matter, to the Minister, against such requirement, request, decision, order or cancellation within sixty days of the date on which he is furnished with such reasons, or if he has not applied for a statement of the registrar's reasons, within sixty days of the date of the said requirement, request, decision or order or of the publication of the notice referred to in sub-section (1) of section fourteen: Provided that where a period of less than sixty days has been prescribed or fixed by the registrar under this Act for the carrying out of any such requirement or request then unless such requirement or request has been complied with, the appeal shall be made within such shorter period so prescribed or fixed.

(2) (a) An appeal under sub-section (1) shall be lodged in the prescribed form and manner and shall be accompanied by such written representations as the appellant may wish to make in regard thereto. Thereupon and in any case not later than fourteen days thereafter the registrar shall forward to the Minister or the tribunal, as the case may be, a statement of his reasons for the requirement, request, decision, order or cancellation against which the appeal is made together with such written representations as he may wish to make in regard thereto.

(b) Any other person who in the opinion of the Minister or the tribunal, as the case may be, is affected by the appeal shall be entitled to submit written representations to him or it in regard thereto within the prescribed period or within such other period as the Minister or the tribunal may fix.

(c) In any such appeal any party who had lodged an objection under any provision of this Act shall be limited to the grounds stated in his notice of objection.

(d) The Minister or the tribunal, as the case may be, may decide the appeal on the papers referred to in paragraphs (a) and (b) without hearing any party to the appeal personally, but the tribunal may of its own motion and shall if so requested by the appellant, the registrar or any other party who in the opinion of the tribunal is affected by the appeal, arrange that the matter be argued before it. The hearing by the tri-

nywerheidshof van die beredenering kan van tyd tot tyd tot enige tyd en datum wat gerieflik mag voorkom, verdaag word.

(3) Wanneer hierdie Wet aan die registrateur voorskryf om sy beslissing kragtens 'n in sub-artikel (1) bedoelde bepaling te baseer op feite soos hulle op 'n datum wat voorgeskryf word, bestaan het, moet 'n appèl teen sy beslissing op die feite soos hulle op daardie datum bestaan het, vir sover hulle tot die appèl ter sake is, beslis word.

(4) (a) Die Minister of die nywerheidshof, na gelang van die geval, kan of weier om in te gryp teen die registrateur se vereiste, versoek, beslissing, bevel of intrekking of sodanige vereiste, versoek, beslissing, bevel of intrekking tersyde stel.

(b) Wanneer hy 'n beslissing of bevel tersyde stel moet die Minister of die nywerheidshof, na gelang van die geval, sodanige ander beslissing gee of bevel uitreik as wat na sy mening die registrateur moes gegee of uitgereik het; en die beslissing of bevel van die Minister of die nywerheidshof word by die toepassing van hierdie Wet geag die beslissing of bevel van die registrateur te wees.

(c) Wanneer hy die intrekking van die registrasie van 'n vakvereniging of werkgewersorganisasie tersyde stel, kan die Minister sodanige voorskrifte gee as wat nodig mag wees om die vereniging of organisasie so na as moontlik in dieselfde posisie te plaas asof die registrasie van die vereniging of organisasie nie ingetrek was nie.

(d) Die nywerheidshof kan sodanige bevel aangaande appèl-koste en die verhaal daarvan maak as wat hy regverdig ag.

(5) (a) Enigiemand wat veronreg voel deur enige beslissing van die Minister op 'n appèl kragtens hierdie artikel, kan binne dertig dae na die beslissing appèl aanteken by 'n provinsiale of plaaslike afdeling van die Hooggeregshof wat regsbevoegdheid besit, en moet die appèl binne ses weke vanaf die datum van die beslissing voortsit.

(b) Die afdeling van die Hooggeregshof waarna geappelleer word, bevestig die beslissing wat die onderwerp van die appèl uitgemaak het of gee so 'n ander beslissing as wat na sy mening die Minister moes gegee het; en sy beslissing word by die toepassing van hierdie Wet geag die beslissing van die Minister te wees.

Instelling en werksaamhede van nywerheidshof.

17. (1) Hierby word 'n hof ingestel genoem die nywerheidshof wat bestaan uit vyf lede deur die Minister aangestel te word, van wie—

(a) een deur die Minister as voorsitter aangewys word en 'n persoon moet wees met die kwalifikasies wat vir toelating as advokaat van die Hooggeregshof van Suid-Afrika vereis word;

(b) die ander lede moet aangestel word uit persone genomineer op sodanige grondslag en ooreenkomstig so 'n prosedure as wat die Minister mag vasstel soos volg—

(i) een uit persone deur die Verenigde Munisipale Uitvoerende Raad van Suid-Afrika genomineer;

(ii) een uit persone genomineer deur sodanige vakverenigings as wat die Minister van tyd tot tyd mag aanwys, wat ten opsigte van werknemers in diens by plaaslike owerhede geregistreer is;

(iii) een uit persone genomineer deur sodanige organisasies verteenwoordigende werkgewers (behalwe plaaslike owerhede) as wat die Minister van tyd tot tyd vir die doel mag aanwys;

(iv) een uit persone genomineer deur sodanige organisasies verteenwoordigende werknemers (behalwe werknemers in diens by plaaslike owerhede) as wat die Minister van tyd tot tyd vir die doel mag aanwys.

(2) Wanneer die aanstelling van 'n in paragraaf (b) van sub-artikel (1) bedoelde lid van die nywerheidshof nodig word, moet die Minister die liggame in daardie paragraaf bedoel, wat by die aanstelling betrokke is, by skriftelike kennisgewing laat aansê om op die grondslag en ooreenkomstig die prosedure deur die Minister bepaal, soveel persone as wat in die kennisgewing vermeld mag word te nomineer uit wie die aanstelling gedoen kan word, en om die Minister binne 'n tydperk aldus vermeld skriftelik in kennis te stel van die name en adresse van die persone aldus genomineer.

bunal of the argument may be adjourned from time to time to any time and date that may seem convenient.

(3) Whenever the registrar is required by this Act to base a decision under any provision referred to in sub-section (1) on facts existing at a prescribed date, any appeal against his decision shall be decided on the facts existing at that date in so far as they are relevant to the appeal.

(4) (a) The Minister or the tribunal, as the case may be, may decline to interfere with the registrar's requirement, request, decision, order or cancellation or set aside such requirement, request, decision, order or cancellation.

(b) When setting aside a decision or order the Minister or the tribunal, as the case may be, shall give such other decision or make such other order as in his or its opinion, the registrar ought to have given or made; and the decision or order of the Minister or tribunal shall for the purpose of this Act be deemed to be the decision or order of the registrar.

(c) When setting aside the cancellation of the registration of any trade union or employers' organization the Minister may give such directions as may be necessary for placing the union or organization in the same position as nearly as may be, as if the registration of the union or organization had not been cancelled.

(d) The tribunal may make such order as to costs of an appeal to it and the recovery thereof as it may deem just.

(5) (a) Any person who feels aggrieved by any decision of the Minister on an appeal under this section may within thirty days after such decision note an appeal to any provincial or local division of the Supreme Court having jurisdiction, and shall prosecute such appeal within a period of six weeks from the date of such decision.

(b) The division of the Supreme Court to which the appeal is made shall confirm the decision which formed the subject of the appeal or give such other decision as in its opinion the Minister ought to have given; and its decision shall for the purposes of this Act be deemed to be the decision of the Minister.

17. (1) There is hereby established a tribunal to be known as the industrial tribunal which shall consist of five members to be appointed by the Minister of whom—

Establishment and functions of industrial tribunal.

(a) one shall be designated by the Minister as chairman and shall be a person with the qualifications required for admission as an advocate of the Supreme Court of South Africa;

(b) the remaining members shall be appointed from amongst persons nominated on such a basis and in accordance with such a procedure as the Minister may determine as follows—

(i) one from amongst persons nominated by the United Municipal Executive of South Africa;

(ii) one from amongst persons nominated by such trade unions as the Minister may from time to time designate which are registered in respect of employees employed by local authorities;

(iii) one from amongst persons nominated by such organizations representing employers (other than local authorities) as the Minister may from time to time designate for the purpose;

(iv) one from amongst persons nominated by such organizations representing employees (other than employees employed by local authorities) as the Minister may from time to time designate for the purpose.

(2) Whenever the appointment of a member of the tribunal referred to in paragraph (b) of sub-section (1) becomes necessary the Minister shall cause the bodies referred to in that paragraph which are concerned in the appointment, to be called upon, by notice in writing, to nominate, on the basis and in accordance with the procedure determined by the Minister, so many persons as may be specified in the notice from amongst whom the appointment may be made and to advise the Minister in writing within a period so specified, of the names and addresses of the persons so nominated.

- (3) Elke aanstelling van 'n lid van die nywerheidshof moet in die *Staatskoerant* bekend gemaak word.
- (4) (a) 'n Lid van die nywerheidshof beklee sy amp vir 'n tydperk van vyf jaar onderworpe aan die nakoming van die diensvoorwaardes deur die Minister, na raadpleging met die Staatsdienskommissie, vasgestel, en kan by verstryking van 'n tydperk waarvoor hy aangestel is, weer aangestel word.
- (b) Daar is aan 'n lid (met inbegrip van 'n tydelike lid) van die nywerheidshof sodanige beloning en toelaes ten opsigte van sy dienste betaalbaar as wat die Minister, in oorleg met die Minister van Finansies, van tyd tot tyd mag vasstel.
- (5) 'n Toevallige vakature wat in die nywerheidshof ontstaan, moet gevul word deur die aanstelling van 'n ander lid ooreenkomstig die prosedure wat in artikel een voorgeskryf word en 'n aldus aangestelde persoon beklee sy amp vir die onverstreke deel van die ampstydperk van sy voorganger.
- (6) Die werksaamhede en pligte van die nywerheidshof kan uitgeoefen of verrig word deur die nywerheidshof of deur enige van die onderstaande twee afdelings daarvan—
- (a) die eerste afdeling bestaande uit die voorsitter en die lede ingevolge sub-paragrafe (i) en (ii) van paragraaf (b) van sub-artikel (1) aangestel; en
- (b) die tweede afdeling bestaande uit die voorsitter en die lede ingevolge sub-paragrafe (iii) en (iv) van paragraaf (b) van sub-artikel (1) aangestel.
- (7) Die Minister kan—
- (a) enige persoon as 'n tydelike voorsitter van die nywerheidshof; en
- (b) enige persoon as 'n tydelike lid van die nywerheidshof, aanstel terwyl die voorsitter of ander lid van die nywerheidshof, na gelang van die geval, vir enige rede nie in staat is om op te tree nie of terwyl die amp van voorsitter of van enige lid tydelik vakant is. Die bepalings van sub-artikel (1) moet, vir sover dit doenlik is, by die maak van so 'n aanstelling nagekom word.
- (8) Die werksaamhede en pligte van die nywerheidshof is—
- (a) om enige appél na hom kragtens die bepalings van artikel *sestien* gemaak te verhoor;
- (b) om arbitrasies ingevolge artikel *vyf-en-veertig*, *ses-en-veertig* of *nege-en-veertig* te onderneem;
- (c) om die Minister met raad oor enige in paragraaf (c) van sub-artikel (7) van artikel *ses-en-veertig* bedoelde aangeleentheid te bedien;
- (d) om enige aangeleentheid wat ingevolge artikel *ses-en-sewentig* na hom verwys is vas te stel;
- (e) om ingevolge artikel *sewe-en-sewentig* ondersoeke in te stel en aanbevelings aan die Minister te doen;
- (f) om met enige ander aangeleentheid te handel waarmee hy kragtens hierdie Wet moet of kan handel; en
- (g) om oor die algemeen met alle aangeleenthede te handel wat noodsaaklik is vir die verrigting van sy werksaamhede kragtens hierdie Wet of wat daarmee in verband staan.
- (9) Geen verrigtinge van die nywerheidshof is ongeldig nie uit hoofde alleenlik van die feit dat 'n vakature in sy lidmaatskap bestaan het of dat die aanstelling van enige lid of tydelike lid vir een of ander rede gebrekkig was of dat enige lid of tydelike lid nie gedurende die hele of enige gedeelte van die verrigtinge teenwoordig was nie.
- (10) Die nywerheidshof kan besluit dat enige ondersoek wat hy kragtens hierdie Wet verlang word of toegelaat word om te onderneem of wat hy nodig ag in verband met enige aangeleentheid wat deur die nywerheidshof oorweeg word, deur enige lid of lede daarvan uitgevoer word.
- (11) Enige aangeleentheid wat ingevolge hierdie Wet deur die nywerheidshof behandel kan of moet word, kan deur die afdeling van die nywerheidshof behandel word aan wie sodanige aangeleentheid deur die voorsitter verwys word.
- (12) Die beslissing van die meerderheid van die lede van die nywerheidshof word vir doeleindes van hierdie Wet geag die beslissing van die nywerheidshof te wees.
- (13) (a) Die nywerheidshof, en enige lid wat ingevolge sub-artikel (10) enige ondersoek uitvoer, besit by die verrigting van sy werksaamhede, al die bevoegdhede deur sub-artikels (4), (5), (7) en (8) van artikel *twaalf* aan die registrateur verleen en die bepalings van sub-artikels (6), (7), (8), (9) en (15) van daardie artikel is *mutatis mutandis* van toepassing op die uitoefening van daardie bevoegdhede deur die nywerheidshof of lid, na gelang van die geval.

- (3) Every appointment of a member of the tribunal shall be notified in the *Gazette*.
- (4) (a) A member of the tribunal shall hold office for a period of five years subject to observance of the conditions of employment determined by the Minister, and shall be eligible for re-appointment on the termination of any period for which he has been appointed.
- (b) There shall be payable to a member (including a temporary member) of the tribunal such remuneration and allowances in respect of his services as the Minister may, in consultation with the Minister of Finance, from time to time determine.
- (5) Any casual vacancy that occurs on the tribunal shall be filled by the appointment of another member in accordance with the procedure prescribed in sub-section (1) and any person so appointed shall hold office for the unexpired portion of the period of office of his predecessor.
- (6) The functions and duties of the tribunal may be exercised and performed by the tribunal or by any one of the following two divisions thereof:
- (a) the first division consisting of the chairman and the members appointed in terms of sub-paragraphs (i) and (ii) of paragraph (b) of sub-section (1); and
- (b) the second division consisting of the chairman and the members appointed in terms of sub-paragraphs (iii) and (iv) of paragraph (b) of sub-section (1).
- (7) The Minister may appoint—
- (a) any person to be temporary chairman of the tribunal; and
- (b) any person to be a temporary member of the tribunal, while the chairman, or other member of the tribunal, as the case may be, is unable for any reason to act or while the office of chairman or of any member is temporarily vacant. The provisions of sub-section (1) shall, as far as it is practicable, be observed in making any such appointment.
- (8) The functions and duties of the tribunal shall be—
- (a) to hear any appeal made to it under the provisions of section *sixteen*;
- (b) to undertake arbitrations in terms of section *forty-five*, *forty-six* or *forty-nine*;
- (c) to advise the Minister on any matter referred to in paragraph (c) of sub-section (7) of section *forty-six*;
- (d) to determine any matter referred to it in terms of section *seventy-six*;
- (e) to make investigations and submit recommendations to the Minister in terms of section *seventy-seven*;
- (f) to deal with any other matter which it is required or permitted to deal with under this Act; and
- (g) generally to deal with all matters necessary or incidental to the performance of its functions under this Act.
- (9) No proceedings of the tribunal shall be invalid by reason only of the fact that a vacancy existed in its membership or that the appointment of any member or temporary member was defective for any reason, or that any member or temporary member was not present during the whole or any part of the proceedings.
- (10) The tribunal may decide that any investigation which it is required or permitted under this Act to make or which it deems necessary in connection with any matter which is being considered by the tribunal, shall be carried out by any member or members thereof.
- (11) Any matter which falls to be dealt with by the tribunal in terms of this Act may be dealt with by the division of the tribunal to which such matter is referred by the chairman.
- (12) The decision of a majority of the members of the tribunal shall for the purposes of this Act be deemed to be the decision of the tribunal.
- (13) (a) The tribunal and any member carrying out any investigation in terms of sub-section (10) shall, in the performance of its or his functions, have all the powers conferred upon the registrar by sub-sections (4), (5), (7) and (8) of section *twelve* and the provisions of sub-sections (6), (7), (8), (9) and (15) of that section, shall *mutatis mutandis*, apply to the exercise of those powers by the tribunal or member, as the case may be.

- (b) 'n Subpoena in die uitoefening van die bedoelde bevoegdhede uitgereik kan deur die voorsitter of deur 'n amptenaar deur die voorsitter daartoe gemagtig of deur 'n lid van die nywerheidshof geteken word.
- (c) Wanneer 'n getuie voor die nywerheidshof, of enige lid wat enige ondersoek ingevolge sub-artikel (10) uitvoer, verskyn, kan die eed hom opgelê word deur die voorsitter of deur daardie lid, na gelang van die geval.
- (d) Die voorsitter en enige lid wat by 'n vergadering waarby enige getuie verskyn teenwoordig is, kan enige vraag aan die getuie stel; en enige assessor wat by sodanige vergadering teenwoordig is kan deur die voorsitter enige vraag aan die getuie stel: Met dien verstande dat die voorsitter na goeë dunnke, enige vraag kan afwys wat na sy mening nie by die ondersoek wat deur die nywerheidshof ingestel word, ter sake is nie.
- (14) (a) Behoudens die bepalings van sub-artikel (5) van artikel vyf-en-veertig, kan die Minister, as hy dit raadzaam ag om dit te doen en na raadpleging met die partye wat na sy mening hoofsaaklik in enige aangeleentheid wat deur die nywerheidshof oorweeg word, betrokke is, sodanige aantal assessore as wat na sy mening nodig is om redelike verteenwoordiging van die bedoelde partye te verseker, aanstel om die nywerheidshof in 'n raadgewende hoedanigheid behulpzaam te wees wanneer die nywerheidshof met die aangeleentheid ten opsigte waarvan hulle aangestel is, handel.
- (b) Assessor-lede ingevolge paragraaf (a) aangestel is op sodanige toelaes as wat voorgeskryf word, geregig.
- (15) In verband met die uitvoering van enigen van sy werksaamhede of pligte kragtens hierdie Wet, behalwe die verhoor van 'n in paragraaf (a) van sub-artikel (8) bedoelde appèl, kan die nywerheidshof die Raad van Handel en Nywerheid, die Loonraad, enige Staatsdepartement of enige dergelike owerheid raadpleeg en kan enige tersaaklike inligting deur daardie owerhede verstrekk in oorweging neem.
- (16) (a) Die nywerheidshof kan uit eie beweging en moet op versoek van enige party by enige appèl of ander verrigtinge voor die nywerheidshof enige regspraak wat by enige sodanige appèl of verrigtinge ontstaan vir die beslissing van die Appèlafdeling van die Hoogeregshof voorbehou en moet sodanige vraag in die vorm van 'n spesiale saak stel. Die vraagstuk aldus gestel kan voor die Hof beredeneer word wat sodanige beslissing moet gee en sodanige bevel wat betref koste kan maak as wat hy as regverdig ag.
- (b) Indien 'n spesiale saak soos voormeld op versoek van 'n ander party as die registrateur gestel word, moet hy vir enige koste wat hy mag beveel word om te betaal, by die griffier van die Appèlafdeling van die Hoogeregshof sodanige sekuriteit gee as wat die bedoelde griffier mag vasstel.
- (c) In afwagting van die beslissing van die Appèlafdeling op enige regspraak ingevolge paragraaf (a) voorbehou moet die nywerheidshof sy beslissing in die aangeleentheid in verband waarmee die spesiale saak gestel is, uitstel.
- (17) Behoudens die bepalings van hierdie Wet en onderhewig aan die goedkeuring van die Minister, kan die nywerheidshof reëls maak vir die leiding van die verrigtinge van die nywerheidshof, die wyse waarop verhoë aan hom voorgelê kan word, die verteenwoordiging van partye wanneer getuies of beredenering aangehoor word en oor die algemeen met betrekking tot alle aangeleenthede wat nodig is vir die uitoefening van sy bevoegdhede en die verrigting van sy werksaamhede of wat daarmee in verband staan en kan met dergelike goedkeuring enige sodanige reëls terugtrek of verander.

Stigting van
nywerheidsraad.

18. (1) Enige—

- (a) werkgewer (as die registrateur dit goedkeur); of
- (b) groep werkgewers (as die registrateur dit goedkeur); of
- (c) geregistreerde werkgewersorganisasie; of
- (d) groep geregistreerde werkgewersorganisasies; of
- (e) groep van een werkgewer en een of meer geregistreerde werkgewersorganisasies (as die registrateur dit goedkeur); of
- (f) groep werkgewers en een of meer geregistreerde werkgewersorganisasies (as die registrateur dit goedkeur);

- (b) A subpoena issued in the exercise of the said powers may be signed by the chairman or by an officer authorized by the chairman to do so, or by a member of the tribunal.
- 5 (c) Whenever a witness appears before the tribunal, or any member carrying out any investigation in terms of sub-section (10), the oath may be administered to him by the chairman, or by that member, as the case may be.
- 10 (d) The chairman and any member who is present at a meeting at which any witness appears may put any question to the witness; and any assessor who is present at such meeting may through such chairman put any question to the witness: Provided that the
- 15 chairman may in his discretion disallow any question which in his opinion is not relevant to the enquiry which is being made by the tribunal.
- (14) (a) Subject to the provisions of sub-section (5) of section *forty-five* the Minister may, if he deems it expedient to do so, and after consultation with the parties which in his opinion are principally concerned in any matter which is being considered by the tribunal appoint such number of assessors as in his opinion are necessary to ensure reasonable representation of the said parties to assist the tribunal in an advisory capacity, whenever the tribunal is dealing with the matter in respect of which they were appointed.
- 20 25
- (b) Assessor members appointed in terms of paragraph (a) shall be entitled to such allowances as may be prescribed.
- 30
- (15) In connection with the performance of any of its functions or duties under this Act, other than the hearing of any appeal referred to in paragraph (a) of sub-section (8), the tribunal may consult, and may take into consideration any relevant information furnished by, the Board of Trade and Industries, the Wage Board, any Department of State or any like authority.
- 35
- (16) (a) The tribunal may, of its own motion, and shall at the request of any party to any appeal or other proceedings before the tribunal reserve for the decision of the Appellate Division of the Supreme Court any question of law which arises in any such appeal or proceedings, and shall state such question in the form of a special case. The question so stated may be argued before the court which shall give such decision and may make such order as to costs as it thinks right.
- 40 45
- (b) If a special case as aforesaid is stated at the request of any party other than the registrar, he shall lodge with the registrar of the Appellate Division of the Supreme Court such security for any costs that he may be ordered to pay as the said registrar may determine.
- 50
- (c) Pending the decision of the Appellate Division on any question of law reserved in terms of paragraph (a), the tribunal shall defer its decision in the matter in connection with which the special case was stated.
- 55
- (17) The tribunal may, subject to the provisions of this Act and to the approval of the Minister, make rules for the conduct of the proceedings of the tribunal, the manner in which representations may be submitted to it, the representation of parties whenever evidence or argument is heard and generally relating to all matters necessary or incidental to the exercise of its powers and the performance of its functions, and may with like approval withdraw or vary any such rules.
- 60
- 65 18. (1) Any—
- (a) employer (if the registrar approves); or
- (b) group of employers (if the registrar approves); or
- (c) registered employers' organizations; or
- (d) group of registered employers' organizations; or
- 70 (e) group of one employer and one or more registered employers' organizations (if the registrar approves); or
- (f) group of employers and one or more registered employers' organizations (if the registrar approves),
- Formation of industrial council.

saam met enige—

(i) geregistreerde vakvereniging; of

(ii) groep geregistreerde vakverenigings,

kan 'n nywerheidsraad stig deur die konstitusie waarop hulle vir die bestuur van die raad ooreengekom het, te teken of dit namens hulle te laat teken, en die registrasie van die raad kragtens hierdie Wet te verkry: Met dien verstande dat die registrateur nie kragtens paragraaf (a), (b), (e) of (f) goedkeuring verleen nie indien die werkgewer of die individuele werkgewers wat die groep betrokke werkgewers uitmaak toelaatbaar is tot lidmaatskap van 'n werkgewersorganisasie wat 'n party by die raad is.

(2) Die werkgewers, werkgewersorganisasies en vakverenigings deur of namens wie die konstitusie en die aansoek om registrasie van die nywerheidsraad geteken is, en enige werkgewers, werkgewersorganisasies en vakverenigings wat volgens die konstitusie van tyd tot tyd toegelaat word tot deelname aan die raad en wat hulle nie van die raad onttrek het nie, word in hierdie Wet die partye by die raad genoem.

Registrasie
van 'n nywer-
heidsraad.

19. (1) Die werkgewers, werkgewersorganisasies en vakverenigings wat voornemens is om 'n nywerheidsraad te stig moet aan die registrateur op die wyse wat voorgeskryf is—

- (a) die konstitusie van die raad, deur of namens hulle geteken, tesame met drie afskrifte daarvan; en
- (b) aansoeke om die registrasie van die raad in die vorm voorgeskryf en bevattende die inligting wat voorgeskryf word,

stuur en moet aan hom sodanige ander of verdere inligting verstrek as wat die registrateur mag verlang.

- (2) (a) So gou doenlik na ontvangs van 'n in sub-artikel (1) bedoelde aansoek en sodanige nadere inligting as wat hy mag vereis, moet die registrateur 'n kennisgewing in die *Staatskoerant* laat publiseer met sodanige besonderhede van die aansoek as wat hy nodig ag en waarin enige persoon wat teen die aansoek beswaar maak, uitgenooi word om sy beswaar tesame met sy redes daarvoor, op die wyse voorgeskryf binne een maand vanaf die datum van sodanige kennisgewing in te dien. Enige persoon wat kragtens hierdie sub-artikel 'n beswaar indien moet terselfdertyd bewys tot bevrediging van die registrateur lewer dat 'n afskrif daarvan en van die redes daarvoor aan die partye by die raad per geregistreerde pos gestuur of afgelewer is.
- (b) Na ontvangs van so 'n beswaar kan die registrateur van die persoon wat die beswaar ingedien het vereis om binne die tydperk deur die registrateur vasgestel, aan hom sodanige nadere inligting in verband daarmee te verstrek as wat die registrateur mag vereis.
- (c) Indien 'n beswaar aldus ingedien word moet die partye by die raad enige verdoë wat hulle verlang om in antwoord op die beswaar te maak aan die registrateur op die wyse voorgeskryf voorlê binne twee maande vanaf die datum van die toepaslike kennisgewing gepubliseer kragtens paragraaf (a) en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van daardie verdoë aan die persoon wat die beswaar ingedien het, per geregistreerde pos gestuur of afgelewer het.
- (d) Die bedoelde persoon moet enige verdere verdoë wat hy verlang om in antwoord op die in paragraaf (c) bedoelde verdoë te maak, aan die registrateur op die wyse voorgeskryf, voorlê binne drie maande vanaf die datum van die toepaslike kennisgewing gepubliseer kragtens paragraaf (a), en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van daardie verdere verdoë per geregistreerde pos gestuur of afgelewer is aan die partye by die raad, maar die bedoelde partye by die raad is nie geregtig om 'n antwoord voor te lê sonder die voorafgaande goedkeuring van die registrateur nie.

(3) Indien geen beswaar binne die tydperk wat voorgeskryf is ingedien word nie of as, na oorweging van enige beswaar aldus ingedien, enige verdoë voorgelê binne die tydperk wat voorgeskryf is, enige nadere inligting binne die deur hom vasgestelde tydperk verstrek en sodanige verdere aangeleenthede wat hy ter sake ag, die registrateur oortuig is dat—

- (a) die vereistes van hierdie artikel nagekom is; en
- (b) die voorgestelde konstitusie in ooreenstemming met hierdie Wet is en nie bepalings bevat wat strydig is

together with any—

- (i) registered trade union; or
 - (ii) group of registered trade unions,
- may form an industrial council by signing the constitution
5 agreed to by them for the government of the council, or
causing it to be signed on their behalf, and obtaining the
registration of the council under this Act: Provided that the
registrar shall not approve under paragraph (a), (b), (c) or
10 (f) if the employer or the individual employers comprising
the group of employers concerned are eligible for member-
ship of an employers' organization which is a party to the
council.

(2) The employers, employers' organizations and trade
unions by or on behalf of which the constitution and the
15 application for the registration of the industrial council were
signed, and any employers, employers' organizations and trade
unions which in terms of the constitution are from time to
time admitted to participation in the council and who have
not withdrawn from the council, are in this Act referred to as
20 the parties to the council.

19. (1) The employers, employers' organizations and trade
unions intending to form an industrial council shall transmit
to the registrar in the manner prescribed—

- (a) the constitution of the council, signed by or on behalf
25 of them, together with three copies thereof; and
- (b) applications for the registration of the council in
the prescribed form containing the prescribed
information,

and shall furnish to him such other or further information
30 as the registrar may require.

(2) (a) As soon as practicable after he has received an
application in terms of sub-section (1) and such
further information as he may require, the registrar
shall cause to be published in the *Gazette* a notice
35 containing such particulars of the application as he
deems necessary and inviting any person who objects
to the application to lodge his objection, together
with the reasons therefor, in the prescribed manner
within one month of the date of such notice. Any
40 person who lodges an objection under this sub-section
shall at the same time furnish proof to the satisfac-
tion of the registrar that a copy thereof and of the
reasons therefor have been sent by registered post or
delivered to the parties to the council.

(b) After receipt of any such objection the registrar may
45 require the person who lodged the objection to
furnish him with such further information in regard
thereto as the registrar may require, within a period
fixed by the registrar.

(c) If an objection is so lodged the parties to the council
50 shall submit any representations they wish to make
in answer to such objection to the registrar in the
prescribed manner within two months of the date
of the relevant notice published under paragraph (a)
55 and shall at the same time furnish proof to the satis-
faction of the registrar that they have sent by registered
post or delivered a copy of such representations to
the person who lodged the objection.

(d) The said person shall submit any further representa-
60 tions he wishes to make in answer to any represen-
tations referred to in paragraph (c) to the registrar
in the prescribed manner within three months of the
date of the relevant notice published under paragraph
65 (a) and shall at the same time furnish proof to the
satisfaction of the registrar that a copy of such further
representations has been sent by registered post or
delivered to the parties to the council, but the said
parties to the council shall not be entitled to submit
70 a reply thereto without the prior approval of the
registrar.

(3) If no objection is lodged within the period prescribed
or if after consideration of any objection so lodged, any repre-
sentations made within the period prescribed, any further
information furnished within a period fixed by him and such
75 additional matters as he deems relevant, the registrar is
satisfied that—

- (a) the requirements of this section have been complied
with; and
- (b) the proposed constitution is consistent with this
80 Act and does not contain provisions which are

Registration of
industrial council.

met enige wetsbepalings nie of bereken word om die bereiking van die oogmerke van enige wetsbepalings te verhinder; en

- (c) daar nie 'n nywerheidsraad bestaan wat ten opsigte van die betrokke onderneming, nywerheid, bedryf of beroep en die betrokke gebied geregistreer is nie; en

- (d) die partye by die raad binne enige gebied voldoende verteenwoordigend van die betrokke onderneming, nywerheid, bedryf of beroep is, 10

kan hy die raad ten opsigte van die in paragraaf (d) bedoelde gebied en onderneming, nywerheid, bedryf of beroep registreer.

(4) Die registrateur, by die bereiking van 'n besluit wat betref die verteenwoordigheid van die partye by 'n raad—

- (a) moet vir sover die aantal lede van enige vakvereniging of werkgewersorganisasie ter sake is, slegs lede in goeie finansiële stand op die datum waarop die betrokke aansoek op die wyse voorgeskryf ingedien is, in aanmerking neem; en 15

- (b) kan, met inagneming van die aard van die onderneming, nywerheid, bedryf of beroep en die ligging van die gebied ten opsigte waarvan registrasie verlang word, die partye by die raad as voldoende verteenwoordigend ten opsigte van die geheel van sodanige gebied beskou, nieteenstaande die feit dat 'n vakvereniging of werkgewersorganisasie wat 'n party by die raad is, geen lede in 'n gedeelte van daardie gebied het nie; en 25

- (c) kan, nieteenstaande die feit dat die vakverenigings wat partye by 'n raad is nie geregistreer is ten opsigte van alle klasse persone in diens in die betrokke onderneming, nywerheid, bedryf of beroep of, indien aldus geregistreer, geen lede wat aan sekere klasse van sodanige persone behoort het nie, die partye by die raad as voldoende verteenwoordigend van die onderneming, nywerheid, bedryf of beroep beskou, mits die werkgewers wat op die raad verteenwoordig is, persone in hul diens het wat aan al daardie klasse behoort. 30

- (5) (a) Indien die registrateur voornemens is om die raad nie te registreer nie of om dit vir 'n kleiner gebied as die gebied waarvoor dit aansoek gedoen het, te registreer, moet hy die partye by die raad in kennis laat stel van sy voorneme en van die redes daarvoor en moet hulle 'n geleentheid gee om skriftelike verhoër aan hom voor te lê of om die aansoek om registrasie van die raad te wysig. 45

- (b) By ontvangs van so 'n gewysigde aansoek, kan die registrateur indien hy oortuig is ten opsigte van die in sub-artikel (3) bedoelde aangeleenthede, die raad ooreenkomstig die gewysigde aansoek registreer. 50

(6) Wanneer die registrateur 'n raad geregistreer het, moet hy aan die raad 'n sertifikaat van sy registrasie in die vorm voorgeskryf stuur, saam met een afskrif van die konstitusie met 'n deur hom getekende sertifikaat daarop geskryf wat vermeld dat hy dit goedgekeur het. 55

(7) Sodra 'n nywerheidsraad geregistreer is het hy al die bevoegdhede en pligte wat deur hierdie Wet aan 'n nywerheidsraad verleen en opgedra word en tree sy konstitusie in werking; en by die inwerkingtreding van hierdie Wet het elke nywerheidsraad, wat ingevolge sub-artikel (4) van artikel twee geag word kragtens hierdie Wet geregistreer te wees, al die genoemde bevoegdhede en pligte. 60

(8) Wanneer die registrateur oortuig is—

- (a) dat die gebied ten opsigte waarvan 'n nywerheidsraad geregistreer is nie dieselfde is nie as die gebied waarbinne hy voldoende verteenwoordigend is van die onderneming, nywerheid, bedryf of beroep ten opsigte waarvan hy geregistreer is; of 65

- (b) dat die onderneming, nywerheid, bedryf of beroep ten opsigte waarvan 'n nywerheidsraad geregistreer is nie dieselfde is nie as die onderneming, nywerheid, bedryf of beroep waarvan hy voldoende verteenwoordigend is binne die gebied ten opsigte waarvan hy geregistreer is; of 70

- (c) dat 'n ooreenkoms aangegaan is tussen 'n nywerheidsraad en enige werkgewer, geregistreerde werkgewersorganisasie of vakvereniging wat nie 'n party by die raad is nie vir die toelating van daardie werkgewer, organisasie of vereniging as 'n party by die raad, en dat indien daardie werkgewer, organisasie of vereni- 75

contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law; and

5 (c) that there is not in existence an industrial council which is registered in respect of the undertaking, industry, trade or occupation and in respect of the area concerned; and

(d) that the parties to the council are sufficiently representative, within any area, of the undertaking, industry, trade or occupation concerned,

10 he may register the council in respect of the area and of the undertaking, industry, trade or occupation referred to in paragraph (d).

(4) In arriving at a decision as to the representativeness of the parties to a council, the registrar—

(a) shall in so far as the number of members of any trade union or employers' organization is relevant, take into consideration only members in good financial standing at the date on which the relevant application was lodged in the manner prescribed; and

20 (b) may, having regard to the nature of the undertaking, industry, trade or occupation and the location of the area in respect of which registration is sought, regard the parties to the council as sufficiently representative in respect of the whole of such area, notwithstanding the fact that a trade union or employers' organization which is a party to the council may have no members in part of that area; and

25 (c) may, notwithstanding the fact that the trade unions which are parties to a council are not registered in respect of all classes of persons employed in the undertaking, industry, trade or occupation concerned, or, if so registered, have no members belonging to certain classes of such persons, regard the parties to the council as sufficiently representative of the undertaking, industry, trade or occupation, provided the employers represented on the council have in their employ persons belonging to all such classes.

30 (5) (a) If the registrar proposes not to register the council, or to register it in respect of an area less than that applied for, he shall cause the parties to the council to be notified of his intention and of the reasons therefor and shall afford them an opportunity of submitting written representations to him, or of amending the application for registration of the council.

35 (b) Upon receipt of such an amended application, the registrar may, if he is satisfied in respect of the matters referred to in sub-section (3), register the council in accordance with the amended application.

40 (6) Whenever the registrar has registered a council he shall forward to the council a certificate of its registration in the prescribed form, together with one copy of the constitution with a certificate written thereon, signed by him, stating the fact that he has approved thereof.

45 (7) Upon the registration of an industrial council it shall have all the powers and duties which by this Act are conferred and imposed upon an industrial council, and its constitution shall take effect; and upon the commencement of this Act every industrial council deemed in terms of sub-section (4) of section two to be registered under this Act shall have all the said powers and duties.

(8) Whenever the registrar is satisfied—

50 (a) that the area in respect of which an industrial council is registered is not the same as the area within which it is sufficiently representative of the undertaking, industry, trade or occupation in respect of which it is registered; or

55 (b) that the undertaking, industry, trade or occupation in respect of which an industrial council is registered is not the same as the undertaking, industry, trade or occupation of which it is sufficiently representative within the area in respect of which it is registered; or

60 (c) that an agreement has been entered into between an industrial council and any employer, registered employers' organization or trade union which is not a party to the council for the admission of that employer, organization or union as a party to the council, and that if that employer, organization or union were so admitted, the council would, within

ging aldus toegelaat sou word, die raad binne die gebied ten opsigte waarvan hy geregistreer is, vol-
doende verteenwoordigend sou wees van 'n onder-
neming, nywerheid, bedryf of beroep ten opsigte
waarvan hy nie geregistreer is nie,

kan hy, na goeë dunde en uit eie beweging na oorlegpleging met die raad of op versoek daarvan, die gebied of onderneming, nywerheid, bedryf of beroep ten opsigte waarvan die raad geregistreer is, met ingang vanaf 'n deur hom vasgestelde datum, verander.

(9) Die bepalings van sub-artikels (1), (2), (3) en (4) is *mutatis mutandis* van toepassing op enige voorgenome verandering kragtens sub-artikel (8).

(10) Indien die registrateur die gebied of die onderneming, nywerheid, bedryf of beroep ten opsigte waarvan 'n nywerheidsraad geregistreer is, verander het, moet die sekretaris van die raad binne veertien dae vanaf die datum waarop hy deur die registrateur aangesê is om dit te doen die registrasiesertifikaat wat aan die raad uitgereik is, aan die registrateur stuur; en as die sekretaris, sonder redelike oorsaak, versuim om dit te doen, is hy aan 'n misdryf skuldig.

(11) Die registrateur moet by ontvangs deur hom van die registrasiesertifikaat die nodige veranderinge daarin aanbring en dit aan die raad terugbesorg of 'n nuwe sertifikaat aan die raad uitreik.

Nywerheidsrade
regspersone te
wees en aan-
spreeklikheid
van partye be-
perk te wees.

20. (1) Elke nywerheidsraad wat kragtens hierdie Wet geregistreer is of geag word geregistreer te wees, is 'n regspersoon en is bevoeg om in regte as eiser of verweerder op te tree en, behoudens enige wetsbepalings wat die verkryging of besit van grond verbied of beperk, om roerende of onroerende eiendom te koop of andersins te verkry, te besit en te vervreem.

(2) Tensy die konstitusie van 'n nywerheidsraad anders bepaal is geen werkgewer, werkgewersorganisasie of vakvereniging vir enige van die verpligtings van daardie raad aanspreeklik slegs weens die feit dat hy 'n party by daardie raad is nie.

Konstitusies
van nywer-
heidsrade.

21. (1) Die konstitusie van 'n nywerheidsraad moet, behoudens die bepalings van hierdie artikel, vir die onderstaande aangeleenthede voorsiening maak—

- (a) die aanstelling as lede van die raad van verteenwoordigers van die partye by die raad, van wie een helfte aangestel moet word deur daardie werkgewers en werkgewersorganisasies wat partye by die raad is (hieronder die werkgewersvertenwoordigers genoem) en een helfte deur daardie vakverenigings wat partye by die raad is (hieronder die werknemersvertenwoordigers genoem), en die aanstelling deur die betrokke werkgewers en werkgewersorganisasies en vakverenigings van plaasvervangers vir elk of enige van die vertenwoordigers wat hulle aangestel het;
- (b) behoudens die bepalings van artikel *nege-en-twintig*, die aanstelling, ontslag, pligte en bevoegdhede van ampsdraers en beamptes;
- (c) die tye wanneer of die omstandighede waaronder vertenwoordigers hul setels moet ontruim;
- (d) die belegging en bestuur van vergaderings van die raad en van komitees daarvan (indien enige);
- (e) die hou van notule van vergaderings;
- (f) die prosedure vir die behandeling van alle geskille in die betrokke onderneming, nywerheid, bedryf of beroep in die gebied ten opsigte waarvan die raad geregistreer is, soos van tyd tot tyd verander;
- (g) die toelating van addisionele werkgewers of geregistreerde werkgewersorganisasies of geregistreerde vakverenigings as partye by die raad;
- (h) die hou van behoorlike rekeningboeke en die periodieke ouditering van sodanige rekeningboeke en verwante stukke minstens eenmaal elke kalenderjaar deur 'n openbare rekenmeester of, as die registrateur dit goedkeur, deur 'n ander persoon en die beskikbaarstelling aan die partye by die raad of hul vertenwoordigers van afskrifte van die rekeninge en state en die ouditeursverslag daarop, ingevolge sub-artikel (2) van artikel *twee-en-dertig* aan die registrateur deurgestuur;
- (i) die doeleindes waarvoor die raad se fondse aangewend kan word;
- (j) die wyse waarop die raad se fondse wat die raad se benodighede vir uitgawes te bowe gaan, belê moet word;

the area in respect of which it is registered, be sufficiently representative of an undertaking, industry, trade or occupation, in respect of which it is not registered,

5 he may, in his discretion, and of his own motion after consultation with the council, or at its request, vary the area or undertaking, industry, trade or occupation, in respect of which the council is registered with effect from a date determined by him.

10 (9) The provisions of sub-sections (1), (2), (3) and (4) shall *mutatis mutandis* apply to any proposed variation under sub-section (8).

(10) If the registrar has varied the area or undertaking, industry, trade or occupation in respect of which an industrial council is registered, the secretary of the council shall transmit to him the certificate of registration issued to the council within fourteen days of being called upon by the registrar to do so; and if, without reasonable cause, the secretary fails to do so, he shall be guilty of an offence.

20 (11) The registrar shall, upon receipt by him of the certificate of registration make the necessary alterations therein and return it to the council, or issue to the council a fresh certificate.

25 20. (1) Every industrial council which is registered or deemed to be registered under this Act, shall be a body corporate, and shall be capable in law of suing and being sued and, subject to the provisions of any law prohibiting or restricting the acquisition or holding of land, of purchasing or otherwise acquiring, holding and alienating property, movable or immovable.

Industrial councils to be bodies corporate and liability of parties to be limited.

(2) Unless it is otherwise provided by the constitution of an industrial council, no employer, employers' organization or trade union shall, by reason only of the fact that he or it is a party to that council, be liable for any of the obligations of that council.

21. (1) The constitution of an industrial council shall subject to the provisions of this section provide for the following matters—

Constitutions of industrial councils.

- 40 (a) the appointment as members of the council of representatives of the parties to the council, of whom one half shall be appointed by those employers and employers' organizations which are parties to the council (hereinafter referred to as the representatives of employers) and one half by those trade unions which are parties to the council (hereinafter referred to as the representatives of the employees), and the appointment by the employers and employers' organizations and trade unions concerned of alternates to each or any of the representatives appointed by them;
- 45 (b) subject to the provisions of section *twenty-nine*, the appointment, removal, duties and powers of office-bearers and officials;
- (c) the times when or the circumstances in which representatives shall vacate their seats;
- 55 (d) the calling and conduct of meetings of the council and of committees thereof (if any);
- (e) the keeping of minutes of meetings;
- (f) the procedure for dealing with all disputes in the undertaking, industry, trade or occupation concerned within the area in respect of which the council is registered, as varied from time to time;
- 60 (g) the admission of additional employers or registered employers' organizations or registered trade unions as parties to the council;
- 65 (h) the keeping of proper books of account and the periodical auditing of such books of account and relative records at least once every calendar year, by a public accountant or, if the registrar approves, by some other person and the making available to the parties to the council or to their representatives of copies of the accounts and statements and the auditor's report thereon transmitted to the registrar in terms of sub-section (2) of section *thirty-two*;
- 70 (i) the purposes to which the funds of the council may be applied;
- 75 (j) the manner of investment of funds of the council in excess of its requirements for expenses;

(k) die verandering van die konstitusie;

(l) die likwidasië van die raad; en

(m) enige ander aangeleentheid wat voorgeskryf is.

(2) Benewens die in sub-artikel (1) bedoelde aangeleenthede en behoudens die bepalings van hierdie artikel kan die konstitusie van 'n nywerheidsraad voorsiening maak vir enige aangeleentheid wat na die mening van die registrateur geskik is om in die konstitusie van 'n nywerheidsraad behandel te word.

(3) Die fondse van 'n nywerheidsraad wat meer is as die raad se benodigdhede vir uitgawes moet nie belê word nie behalwe in—

(i) Unie- en plaaslike staatseffekte;

(ii) Unie-leningsertifikate;

(iii) Opspaarbankrekeninge of -sertifikate;

(iv) spaarrekeninge of vaste deposito in bougenootskappe of banke;

of op enige ander deur die registrateur goedgekeurde wyse.

Verandering van konstitusie of naam van nywerheidsraad.

22. Die bepalings van artikel *nege* met betrekking tot die verandering van die konstitusie of naam van 'n vakvereniging of werkgewersorganisasie, gelees met die bepalings van paragraaf (b) van sub-artikel (3) van artikel *negentien* is *mutatis mutandis* van toepassing ten opsigte van die verandering van die konstitusie of naam van 'n nywerheidsraad.

Pligte van nywerheidsrade.

23. (1) 'n Nywerheidsraad moet in die onderneming, nywerheid, bedryf of beroep en die gebied ten opsigte waarvan hy geregistreer is, streef om deur die totstandbringende ooreenkomste of andersins die ontstaan van geskille te voorkom en om geskille wat ontstaan het of kan ontstaan tussen werkgewers of werkgewersorganisasies en werknemers of vakverenigings te besleg en sodanige stappe doen as wat hy raadsaam ag om die reëling of beslegting van aangeleenthede van onderlinge belang vir werkgewers of werkgewersorganisasies en werknemers of vakverenigings te weeg te bring.

(2) Die partye by 'n nywerheidsraad geregistreer ten opsigte van enige bedrywigheid wat deur 'n plaaslike owerheid voorgesit word, besit die bevoegdheid om 'n in sub-artikel (1) bedoelde ooreenkoms aan te gaan, ondanks andersluidende bepalings in enige wet wat die sake van die betrokke plaaslike owerheid reël.

Aangeleenthede wat deur 'n ooreenkoms van 'n nywerheidsraad behandel kan word.

24. (1) 'n Ooreenkoms wat kragtens artikel *agtenveertig* bindend verklaar kan word, kan bepalings bevat aangaande almal of sommige of enige van die onderstaande aangeleenthede—

(a) die minimum skaal waarteen 'n werkgewer aan elk van sy werknemers of aan elke lid van 'n klas van sy werknemers beloning moet betaal;

(b) die minimum gemiddelde skaal van beloning wat deur 'n werkgewer aan sy werknemers of aan die lede van 'n klas van sy werknemers betaal moet word: Met dien verstande dat verskillende minimum gemiddelde skale bepaal kan word vir verskillende onderdele van 'n klas van werknemers;

(c) die minimum skaal waarteen beloning deur enige werkgewer betaal moet word aan elke werknemer of aan elke lid van enige klas van werknemers agtereenvolgens na verloop van vermelde tydperke of tussenposes, of wat aan enige werknemer of lid van 'n klas van werknemers volgens ervaring of enige ander maatstaf betaal moet word;

(d) die verbod van aftrekkings van beloning betaalbaar aan enige werknemer of klas van werknemers behalwe aftrekkings wat die ooreenkoms, of enige wetsbepaling of bevel van 'n bevoegde hof die werkgewer verplig of toelaat om te maak;

(e) die verbod of beperking van skuldvergelyking van skulde wedersyds verskuldig tussen 'n werkgewer en sy werknemer;

(f) die wyse waarop minimum skale van beloning of minimum gemiddelde skale van beloning bereken word;

(g) die dag van die week, datum, tyd, plek en wyse van betaling van beloning, die state wat die werkgewer in verband met die betaling aan die werknemer moet verstrek, die houer waarin die geld wat betaalbaar is geplaas moet word en die inligting wat op die houer geskryf moet word, en oor die algemeen, enige ander bepalings aangaande die wyse van betaling;

(h) die betaling deur 'n werkgewer aan 'n werknemer, wat gedurende enige tydperk stukwerk (afgesien van die hoeveelheid daarvan) verrig het, van 'n beloning vir

- (k) the alteration of the constitution;
- (l) the winding-up of the council; and
- (m) any other prescribed matter.

(2) In addition to the matters referred to in sub-section (1) and subject to the provisions of this section, the constitution of an industrial council may provide for any matter which, in the opinion of the registrar, is suitable to be dealt with in the constitution of an industrial council.

(3) The funds of an industrial council surplus to its requirements for expenses shall not be invested otherwise than in—

- (i) Union or local government stock;
 - (ii) Union Loan Certificates;
 - (iii) Post Office Savings accounts or certificates;
 - (iv) Savings accounts or fixed deposit in building societies or banks;
- or in any other manner approved by the registrar.

22. The provisions of section *nine* relative to the alteration of the constitution or name of a trade union or employers' organization read with the provisions of paragraph (b) of sub-section (3) of section *nineteen* shall, *mutatis mutandis*, apply in respect of the alteration of the constitution or name of an industrial council.

Alteration of constitution or name of industrial council.

23. (1) An industrial council shall, within the undertaking, industry, trade or occupation, and in the area, in respect of which it has been registered, endeavour by the negotiation of agreements or otherwise to prevent disputes from arising, and to settle disputes that have arisen or may arise between employers or employers' organizations and employees or trade unions and take such steps as it may think expedient to bring about the regulation or settlement of matters of mutual interest to employers or employers' organizations and employees or trade unions.

Duties of industrial councils.

(2) The parties to an industrial council registered in respect of any activity carried on by a local authority shall have power to enter into an agreement such as is referred to in sub-section (1) notwithstanding anything to the contrary contained in any law regulating the affairs of the local authority concerned.

24. (1) An agreement, which may be declared binding under section *forty-eight*, may include provisions as to all or some or any of the following matters—

Matters that may be dealt with by industrial council agreement.

- (a) the minimum rate at which remuneration shall be paid by any employer to each of his employees or to each member of any class of his employees;
- (b) the minimum average rate of remuneration which shall be paid by any employer to his employees or to the members of any class of his employees: Provided that different minimum average rates may be provided for different fractions of any class of employees;
- (c) the minimum rate at which remuneration shall be paid by any employer to each employee or to each member of any class of employees successively on the expiration of specified periods or intervals, or which shall be paid to any employee or any member of any class of employees according to experience or any other standard;
- (d) the prohibition of deductions from remuneration payable to any employee or class of employees, other than deductions which the employer is required or permitted to make in terms of the agreement or of any law or order of a competent court;
- (e) the prohibition or limitation of set-offs of debts mutually owing between an employer and his employee;
- (f) the method of calculating minimum rates of remuneration, or minimum average rates of remuneration;
- (g) the day of the week, date, time, place and manner of payment of remuneration, the statements to be furnished by the employer to the employee concerning the payment, the container in which the money to be paid shall be enclosed and the information to be written upon the container, and generally, any other provisions as to the manner of payment;
- (h) the payment by an employer to an employee, who has performed during any period piece-work (irrespective of the amount thereof), of a remuneration

- die stukwerk wat gedurende daardie tydperk deur daardie werknemer verrig is, wat nie minder moet wees nie as die beloning wat aan bedoelde werknemer betaalbaar sou gewees het as hy gedurende daardie tydperk as 'n tydwerker in diens was; 5
- (i) die hou deur 'n werkgewer van state van werk wat deur 'n stukwerker verrig is en die vorm van sulke state; 10
- (j) die verbod of reëling van die uitgee van stukwerk of taakwerk aan of die verrigting daarvan deur 'n werknemer; 10
- (k) die verbod van die verrigting van werk op persele of op plekke van 'n bepaalde aard of soort of wat vir 'n bepaalde doel gebruik word, of elders as op sodanige persele of sodanige plekke; 15
- (l) die maksimum aantal werknemers van enige klas wat deur 'n werkgewer in diens geneem kan word in verhouding tot die aantal werknemers van enige ander klas of tot die totale aantal werknemers in sy diens; 15
- (m) die verbod van enige betaling aan, of die aanname van enige betaling deur 'n werkgewer of regstreeks of onregstreeks, ten opsigte van die indiensneming of opleiding van enige werknemer; 20
- (n) kennisgewings wat deur werkgewers vertoon moet word; 20
- (o) die verbod van die indiensneming van enige persoon onder 'n bepaalde ouderdom; 25
- (p) wanneer enige werk aan 'n persoon op kontrak uitgegee word deur 'n prinsipaal of aannemer, hetsy daardie prinsipaal of aannemer self 'n werkgewer is in of betrokke is in die betrokke onderneming, nywerheid, bedryf of beroep al dan nie, die skale waarteen, of die grondslag of beginsels waarop betaling aan daardie persoon gemaak moet word vir die werk; 30
- (q) die bydraes betaalbaar deur werkgewers en werknemers of lede van bepaalde klasse werknemers, in die betrokke onderneming, nywerheid, bedryf of beroep tot die onkoste van die raad in die verrigting van sy werksaamhede; 35
- (r) die instelling van pensioen-, siekte-, mediese-, werkloosheids-, vakansie-, voorsorg-, en ander versekeringsfondse en die heffing op werkgewers en werknemers van bydraes tot sodanige fondse of tot soortgelyke fondse deur die konstitusie van die raad ingestel; 40
- (s) die verbod van die betaling van beloning behalwe met geld; 45
- (t) die verbod of beperking of reëling van oortyd-werk; 45
- (u) die gradering deur die raad van werknemers volgens grondslae of beginsels in die ooreenkoms voorgeskryf; 45
- (v) die uitreiking deur 'n werkgewer aan 'n lid van 'n bepaalde klas van sy werknemers by beëindiging van sy diens, van 'n sertifikaat wat die tydperk gedurende welke hy in diens was en sodanige ander besonderhede as wat in die ooreenkoms vermeld word, uit een sit; 50
- (w) die hou deur 'n lid van 'n vermelde klas van werknemers van 'n aantekening wat sodanige besonderhede as wat in die ooreenkoms voorgeskryf word, bevat; 55
- (x) die verbod van die indiensneming deur 'n werkgewer wat 'n party by die ooreenkoms is, of wat 'n lid is van 'n werkgewersorganisasie, wat 'n party by die ooreenkoms is, van werknemers wat, terwyl hulle tot lidmaatskap van die vakvereniging wat 'n party by die ooreenkoms is, toelaatbaar is, nie lede van sodanige vereniging is nie, en die verbod van die aanname deur lede van sodanige vakvereniging van diens by 'n werkgewer wat nóg 'n party by die ooreenkoms nóg 'n lid van 'n werkgewersorganisasie wat 'n party by sodanige ooreenkoms is nie; 60
- (y) die betaling of verbeuring deur 'n werknemer aan 'n werkgewer van 'n bedrag in plaas van kennisgewing van opsegging van sy dienskontrak; 70
- (z) die verbod van die verrigting van werk op 'n kontrakbasis op die persele van die prinsipaal; 70
- en, oor die algemeen, aangaande enige aangeleentheid wat betref of in verband staan met die beloning of ander bedinge of voorwaardes van diens van alle werknemers of van die lede van enige klas of klasse van werknemers, hetsy hul beloon word volgens tyd gewerk of werk verrig of op enige ander grondslag, of aangaande enige aangeleentheid hoegenaamd van onderlinge belang vir werkgewers en werknemers. Die bestek van hierdie artikel word op generlei wyse beperk deur die vermelding in hierdie sub-artikel van besondere aangeleenthede nie. 80

- for the piece-work performed by that employee during that period, which shall be not less than the remuneration which would have been payable to the said employee had he been employed as a time-worker during that period;
- 5 (i) the keeping by an employer of records of work performed by a piece-worker, and the form of such records;
- 10 (j) the prohibition or the regulation of the giving out to, or the performance by, an employee of piece-work or taskwork;
- 15 (k) the prohibition of the performance of work on premises or at places of a specified description or type or used for a specified purpose, or elsewhere than on such premises or at such places;
- (l) the maximum number of employees of any class who may be employed by an employer in proportion to the number of employees of any other class, or to the total number of employees employed by him;
- 20 (m) the prohibition of any payment to or the acceptance of any payment by an employer, either directly or indirectly, in respect of the employment or training of an employee;
- (n) notices to be exhibited by employers;
- 25 (o) the prohibition of the employment of any person under a specified age;
- (p) where any work is given out on contract to any person by a principal or contractor, whether or not that principal or contractor is himself an employer in or is engaged in the undertaking, industry, trade or occupation concerned, the rates at which, the basis of or the principles upon which, payment shall be made to that person for the work;
- 30 (q) the contributions to be paid by employers and employees or members of specified classes of employees in the undertaking, industry, trade or occupation concerned towards the expenses of the council in the performance of its functions;
- 35 (r) the establishment of pension, sick, medical, unemployment, holiday, provident and other insurance funds, and the levying upon employers and employees of contributions towards such funds or towards similar funds established by the constitution of the council;
- 40 (s) the prohibition of the payment of remuneration otherwise than in money;
- 45 (t) the prohibition or limitation or regulation of overtime work;
- (u) the grading by the council of employees according to bases or principles prescribed in the agreement;
- 50 (v) the issue by an employer to any member of a specified class of his employees, on the termination of his employment, of a certificate setting forth the period during which he has been employed and such other particulars as may be specified in the agreement;
- 55 (w) the keeping by a member of a specified class of employees of a record containing such particulars as may be prescribed in the agreement;
- (x) the prohibition of the employment by an employer who is a party to the agreement or who is a member of an employers' organization which is a party to the agreement, of employees who, while being eligible for membership of a trade union which is a party to the agreement are not members of such union, and the prohibition of the acceptance by members of such trade union of employment with an employer who is neither a party to such agreement nor a member of an employers' organization which is a party to such agreement;
- 60 (y) the payment or forfeiture by an employee to an employer of an amount in lieu of notice of termination of his contract of employment;
- 65 (z) the prohibition of the performance of work on a contract basis on the principal's premises;
- 70

and, generally, as to any matter affecting or connected with

75 the remuneration or other terms or conditions of employment of all employees or of the members of any class or classes of employees whether remunerated according to time worked or work performed or on any other basis, or as to any matter whatsoever of mutual interest to employers and employees,

80 the scope of this provision not being limited in any way by the mention in this sub-section of particular matters.

(2) By die toepassing van hierdie artikel beteken „klas van werknemers” en „klas van sy werknemers” ook sodanige groep, afdeling of tipe van werknemers as wat in die ooreenkoms vermeld of omskrywe word, en by ’n sodanige vermelding of omskrywing, kan enige metode van differensiering of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van dienstryd of tipe van werk of tipe of klas van perseel waarop of waarin werk verrig word of enige ander metode wat raadsaam geag word, toegepas word: Met dien verstande dat daar nie op die grondslag van ras of kleur gedifferensieer of gediskrimineer word nie.

Instelling en werksaamhede van komitees van nywerheidsrade.

25. (1) ’n Nywerheidsraad kan van tyd tot tyd komitees instel en kan, onderworpe aan sodanige voorwaardes as wat hy mag vasstel, enige van sy funksies aan so ’n komitee oordra: Met dien verstande dat enige beslissing van so ’n komitee te eniger tyd deur die raad tersyde gestel of verander kan word.

(2) Behoudens die bepalings van sub-artikel (5), moet ’n uitvoerende komitee aldus ingestel, geheel-en-al uit lede van die raad, of hul plaasvervangers, bestaan, en enige ander komitee van genoemde raad kan—

- (a) geheel-en-al uit lede van die raad of hul plaasvervangers; of
- (b) gedeeltelik uit sodanige in paragraaf (a) bedoelde persone en gedeeltelik uit werkgewers en werknemers in die betrokke onderneming, nywerheid, bedryf of beroep, wat nie lede van die raad of hul plaasvervangers is nie; of
- (c) geheel-en-al uit werkgewers en werknemers in die betrokke onderneming, nywerheid, bedryf of beroep, wat nie lede van die raad of hul plaasvervangers is nie,

bestaan.

(3) Enige komitee aldus ingestel moet bestaan uit gelyke aantalle verteenwoordigers van werkgewers en werknemers en, as hy nie vanuit die lede gekies is nie, die voorsitter.

(4) By die toepassing van sub-artikels (2) en (3)—

- (a) word enige lid, ampsdraer of beampte van ’n vakvereniging wat ’n party by die raad is, indien aangestel as ’n verteenwoordiger van die werknemers, geag ’n werknemer in die betrokke onderneming, nywerheid, bedryf of beroep te wees;
- (b) word enige lid, ampsdraer of beampte van ’n werkgewersorganisasie wat ’n party by die raad is en enige persoon wat in diens is as ’n bestuurder of in enige ander toesighoudende hoedanigheid by ’n werkgewer in die betrokke onderneming, nywerheid, bedryf of beroep (hetsy daardie werkgewer ’n lid van sodanige werkgewersorganisasie is al dan nie), indien aangestel as ’n verteenwoordiger van die werkgewers, geag ’n werkgewer in die betrokke onderneming, nywerheid, bedryf of beroep te wees; en
- (c) word ’n lid van ’n plaaslike owerheid wat ’n party by ’n raad is, indien aangestel as ’n verteenwoordiger van werkgewers, geag ’n werkgewer in die betrokke onderneming, nywerheid, bedryf of beroep te wees.

(5) (a) Die voorsitter van so ’n komitee kan die voorsitter of die ondervoorsitter van die raad wees of ’n persoon deur die raad of die komitee gekies vanuit die lede van die komitee of andersins, soos die raad mag bepaal.

(b) Indien die voorsitter van so ’n komitee nie vanuit die verteenwoordigers van die werkgewers en werknemers op die komitee gekies word nie, is hy nie geregtig om te stem nie.

Voorsitter van nywerheidsraad.

26. (1) Die voorsitter en die ondervoorsitter van ’n nywerheidsraad kan deur die nywerheidsraad vanuit sy lede of andersins gekies word.

(2) As die nywerheidsraad versuim om enige vakature wat in die amp van voorsitter of ondervoorsitter bestaan, te vul, kan die Minister, na verstryking van ’n tydperk deur hom vasgestel en aan die nywerheidsraad bekendgemaak te word, ’n persoon wat hy self vanuit die lede of andersins gekies het, as voorsitter of as ondervoorsitter aanstel; en enige persoon wat aldus aangestel is beklee die amp totdat ’n voorsitter of ondervoorsitter, na gelang van die geval, deur die nywerheidsraad gekies is.

(3) Die voorsitter, en by sy afwesigheid, die ondervoorsitter, moet, behoudens die bepalings van sub-artikel (2) van artikel vier-en-veertig, op alle vergaderings van die raad voorsit; en as die voorsitter en ondervoorsitter albei van enige vergadering afwesig is moet ’n persoon wat deur die aanwesige lede vanuit hul midde gekies word, behoudens bedoelde bepalings, op daardie vergadering voorsit.

(2) For the purposes of this section, "class of employees" and "class of his employees" includes such group or section or type of employees as may be specified or defined in the agreement, and in the making of any such specification or definition any method of differentiation or discrimination based on age, sex, experience, length of employment or type of work or type or class of premises on or in which work is performed or any other method which is deemed to be advisable may be applied: Provided that no differentiation or discrimination on the basis of race or colour shall be made.

25. (1) An industrial council may from time to time establish committees and may subject to such conditions as it may determine, delegate any of its functions to any such committee: Provided that any decision of any such committee may at any time be set aside or varied by the council.

Establishment
and functions
of committees of
industrial councils.

(2) Subject to the provisions of sub-section (5), an executive committee so established shall consist wholly of members of the council or their alternates, and any other committee of such council may consist—

- (a) wholly of members of the council or their alternates; or
- (b) partly of such persons as are referred to in paragraph (a) and partly of employers and employees in the undertaking, industry, trade or occupation concerned who are not members of the council or their alternates; or
- (c) wholly of employers and employees in the undertaking, industry, trade or occupation concerned who are not members of the council or their alternates.

(3) Any committee so established shall consist of equal members of representatives of employers and employees and if he is not chosen from amongst the members, the chairman.

(4) For the purposes of sub-sections (2) and (3)—

- (a) any member, office-bearer or official of a trade union which is a party to the council shall, if appointed as a representative of the employees, be deemed to be an employee in the undertaking, industry, trade or occupation concerned;
 - (b) any member, office-bearer or official of an employers' organization, which is a party to the council and any person employed as a manager or in any other supervisory capacity by an employer in the undertaking, industry, trade or occupation concerned (whether or not that employer is a member of such an employers' organization) shall, if appointed as a representative of the employers, be deemed to be an employer in the undertaking, industry, trade or occupation concerned; and
 - (c) a member of a local authority which is a party to the council shall, if appointed as a representative of the employers be deemed to be an employer in the undertaking, industry, trade or occupation concerned.
5. (a) The chairman of any such committee may be the chairman or the vice-chairman of the council or a person chosen by the council or the committee from amongst the members of the committee or otherwise, as the council may determine.
- (b) If the chairman of any such committee is not chosen from amongst the representatives of the employers and employees on the committee, he shall not be entitled to vote.

26. (1) The chairman and the vice-chairman of an industrial council may be chosen by the council from amongst its members or otherwise.

Chairman of
industrial council.

(2) If the council fails to fill any vacancy which may exist in the office of chairman or vice-chairman, the Minister may, after the expiration of a period to be fixed by him and notified to the council, appoint as chairman or as vice-chairman any person selected by himself from amongst the members or otherwise; and any person so appointed shall hold office until a chairman or vice-chairman, as the case may be, shall have been chosen by the council.

(3) The chairman, and in his absence, the vice-chairman, shall, subject to the provisions of sub-section (2) of section *forty-four*, preside at all meetings of the council; and if the chairman and the vice-chairman are both absent from any meeting, that meeting shall, subject to the said provisions, be presided over by a person chosen by the members present from amongst their number.

(4) As die voorsitter of ondervoorsitter nie vanuit die lede gekies is nie, is hy nie geregtig om te stem nie.

Vergaderings van
nywerheidsrade.

27. (1) Vergaderings van 'n nywerheidsraad moet gehou word op sodanige tye en plekke as wat die nywerheidsraad of die voorsitter van tyd tot tyd mag bepaal, op sodanige kennis- 5
gewing aan lede as wat in sy konstitusie neergelê mag wees.

(2) Behoudens die bepalings van sub-artikel (3) maak 'n meerderheid van die totale aantal lede 'n kworum op enige vergadering uit.

(3) As die getal lede wat aanwesig is op die tyd en plek wat vir 'n vergadering vasgestel is onvoldoende is om 'n kworum uit te maak, moet 'n vergadering van die raad op sodanige kennisgewing aan lede as wat voorgeskryf mag word, gehou word op 'n datum minstens sewe dae daarna, en op daardie vergadering maak vier lede 'n kworum uit: Met dien verstande dat indien 10
al die werkgewersverteenwoordigers of al die werknemersverteenwoordigers op die raad van sodanige uitgestelde vergadering afwesig is, die verteenwoordigers wat aanwesig is geag word 'n kworum uit te maak alleenlik vir die doel om getuienis af te neem en daarvoor verslag te doen en vir hierdie doel die 20
bevoegdheid kan uitoefen wat deur artikel *dertig* aan 'n nywerheidsraad verleen word.

(4) 'n Plaasvervanger kan enige vergadering bywoon maar is nie geregtig om aan die verrigtinge deel te neem nie, tensy die vergadering anders besluit, en is nie geregtig om te stem nie: 25
Met dien verstande dat indien enige werkgewers- of werknemersverteenwoordiger van enige vergadering afwesig is, kan enige plaasvervanger van die werkgewers of van die werknemers, na gelang van die geval, op daardie vergadering namens hom optree; en op daardie vergadering word hy in alle opsigte as 'n 30
verteenwoordiger van die werkgewers of van die werknemers na gelang van die geval, beskou.

(5) Vir elke werkgewersverteenwoordiger wat van enige vergadering afwesig is en in wie se plek 'n plaasvervanger van die werkgewers nie ingevolge sub-artikel (4) optree nie, word een 35
van die werknemersverteenwoordigers op daardie vergadering nie toegelaat om te stem nie; en die werknemersverteenwoordigers wat op daardie vergadering aanwesig is moet by meerderheidstem besluit watter een van hulle aldus van stemming uitgesluit moet word. 40

(6) As enige werknemersverteenwoordiger van enige vergadering afwesig is en 'n plaasvervanger van die werknemers nie ingevolge sub-artikel (4) in sy plek optree nie, is die bepalings van sub-artikel (5) *mutatis mutandis* van toepassing.

(7) 'n Besluit ten gunste waarvan minstens twee-derdes van die 45
verteenwoordigers wat aanwesig is op die vergadering waarop die beslissing geneem word en wat ingevolge hierdie artikel geregtig is om te stem, gestem het, is die beslissing van die raad.

(8) Die sekretaris van elke nywerheidsraad moet aan die byregulasie bepaalde inspekteur sodanige kennis van elke ver- 50
gadering van die raad gee as wat voorgeskryf mag wees.

(9) 'n Inspekteur (of 'n amptenaar wat skriftelik deur 'n inspekteur daartoe gemagtig is) is geregtig om enige vergadering van 'n raad of van enige komitee daarvan by te woon en kan aan die verrigtinge deelneem, maar is nie geregtig om te stem nie. 55

(10) Die bepalings van sub-artikels (2), (3), (4) en (7) is nie van toepassing nie indien die konstitusie van die raad ten opsigte van die in daardie sub-artikels bedoelde aangeleenthede anders bepaal.

(11) Behoudens die bepalings van sub-artikel (9) van hierdie 60
artikel en van sub-artikel (7) van artikel *twaalf*, soos deur artikel *dertig* toegepas, moet elke vergadering van 'n raad privaat plaasvind, tensy die raad anders besluit.

Notule van
verrigtinge van
nywerheidsrade.

28. (1) Elke nywerheidsraad moet notule van alle verrigtinge van elke vergadering van die raad laat hou, en die sekretaris 65
van die raad moet so gou doenlik na afloop van 'n vergadering maar nie later nie as een-en-twintig dae daarna, 'n afskrif (of die aantal afskrifte wat by regulasie voorgeskryf word) van die notule van daardie vergadering aan die by regulasie bepaalde inspekteur stuur. 70

(2) Die sekretaris moet die notule van 'n vergadering van die raad aan die daaropvolgende vergadering van die raad voorlê; en die raad moet, nadat hy sodanige verbeterings as wat hy nodig ag daaraan laat aanbring het, die notule deur 'n besluit bekragtig; en die persoon wat by die vergadering voorsit moet 75
die aldus bekragtigde notule teken; en die getekende afskrif moet deur die sekretaris van die raad vir 'n tydperk van vyf jaar vanaf die datum van bekragtiging van die notule in veilige bewaring behou word.

(4) If the chairman or vice-chairman has not been selected from amongst the members he shall not be entitled to vote.

27. (1) Meetings of an industrial council shall be held at such times and places as the council or the chairman may from time to time determine, upon such notification to members as may be prescribed by its constitution. Meetings of industrial councils.

(2) Subject to the provisions of sub-section (3), a majority of the total number of members shall form a quorum at any meeting.

(3) If the number of members present at the time and place fixed for a meeting is insufficient to form a quorum, a meeting of the council shall, upon such notification to members as may be prescribed, be held on a date not less than seven days thereafter, and at that meeting four members shall form a quorum: Provided that if all the representatives of the employers or all the representatives of the employees on the council are absent from such adjourned meeting, the representatives who are present shall be deemed to form a quorum solely for the purpose of taking evidence and reporting thereon and for this purpose may exercise the powers conferred on an industrial council by section thirty.

(4) Any alternate may attend any meeting but shall not be entitled to participate in the proceedings unless the meeting otherwise decides, and shall not be entitled to vote: Provided that if any representative of the employers or of the employees is absent from any meeting, any alternate of the employers or of the employees, as the case may be, may act in his stead at that meeting; and at that meeting he shall in all respects be regarded as a representative of the employers or of the employees, as the case may be.

(5) For every representative of the employers who is absent from any meeting, and in whose stead an alternate of the employers does not, in terms of sub-section (4), act, one representative of the employees shall not be allowed to vote at that meeting; and the representatives of the employees present at that meeting shall determine by a majority vote which of their number shall be so excluded from voting.

(6) If any representative of the employees is absent from any meeting, and an alternate of the employees does not, in terms of sub-section (4), act in his stead, the provisions of sub-section (5) shall, *mutatis mutandis*, apply.

(7) A decision in favour of which not less than two-thirds of the representatives present at the meeting at which the decision is taken, and who are entitled to vote in terms of this section have voted, shall be the decision of the council.

(8) The secretary of every industrial council shall send to the inspector defined by regulation such notice of every meeting of the council as may be prescribed.

(9) An inspector (or an officer authorized thereto in writing by an inspector), shall be entitled to attend any meeting of a council or of any committee thereof and may take part in the proceedings, but shall not be entitled to vote.

(10) The provisions of sub-sections (2), (3), (4) and (7) shall not apply if the constitution of the council otherwise provides in respect of the matters referred to in those sub-sections.

(11) Subject to the provisions of sub-section (9) of this section and of sub-section (7) of section twelve, as applied by section thirty, every meeting of a council shall be conducted in private, unless the council otherwise decides.

28. (1) Every industrial council shall cause minutes of all proceedings of every meeting of the council to be kept, and the secretary of the council shall, as soon as practicable after the close of any meeting but not later than twenty-one days thereafter, transmit a copy (or the number of copies prescribed by regulation), of the minutes of that meeting to the inspector defined by regulation. Minutes of proceedings of industrial councils.

(2) The secretary shall submit the minutes of any meeting of the council to the next succeeding meeting of the council; and the council shall, after causing to be made therein such corrections as it thinks necessary, confirm the minutes by resolution; and the person presiding at the meeting shall sign the minutes so confirmed; and the signed copy shall be retained by the secretary of the council in safe custody for a period of five years from the date of confirmation of the minutes.

(3) Behalwe waar die registrateur 'n ander prosedure goed-gekeur het, moet die sekretaris so gou doenlik na afloop van 'n vergadering waarop die notule van 'n voorafgaande vergadering ingevolge sub-artikel (2) bekragtig is maar nie later as een-en-twintig dae na sodanige bekragtiging nie, 'n afskrif (of die aantal afskrifte wat by regulasie voorgeskryf word) van die aldus bekragtigde notule, deur hom as juis gesertifiseer, aan die by regulasie bepaalde inspekteur stuur.

(4) Die raad moet binne dertig dae vanaf die datum van 'n skriftelike versoek van die registrateur aan hom enige inligting of verduideliking deur hom versoek en wat in verband staan met enige aangeleentheid wat in die in sub-artikel (3) bedoelde notule voorkom, verstrek.

(5) Indien die sekretaris, behalwe 'n sekretaris ingevolge artikel *nege-en-twintig* aangestel, sonder redelike verontskuldiging, versuim om enige plig wat deur hierdie artikel hom opgelê word, na te kom, is hy aan 'n misdryf skuldig.

(6) Enige notule wat voorgee kragtens sub-artikel (2) geteken te wees is bewys van die verrigtinge wat daarin aangeteken is.

Minister kan sekretaris en ander personeel van nywerheidsraad aanstee.

29. Die Minister kan, as hy dit raadsaam ag, op versoek 20 van 'n nywerheidsraad of van die partye wat ooreengekom het om 'n nywerheidsraad te stig, enige persoon (wat 'n staats-amptenaar mag wees) aanstel as sekretaris van 'n nywerheidsraad en kan ook sodanige ander klerklike hulp verskaf as wat hy vir die doeltreffende verrigting van die werksaamhede van die raad nodig ag. Wanneer sekretariële en klerklike hulp aldus verskaf word, moet die uitgawe daaraan verbonde, soos deur die Minister bepaal, of die gedeelte daarvan waarop ooreengekom mag word, deur die Minister en die nywerheidsraad of die partye, na gelang van die geval, op die wyse en voorwaardes wat voorgeskryf word, uit die fondse van die raad betaal word, en die balans, indien enige, moet uit die Gekonsolideerde Inkomstefonds betaal word.

Dagvaarding en ondervraging van getuies deur nywerheidsraad of komitee.

30. (1) By die uitvoering van enige plig of die uitoefening van enige bevoegdheid aan hom opgelê of verleen deur of kragtens hierdie Wet, besit 'n nywerheidsraad en die uitvoerende komitee ingestel ingevolge artikel *vyf-en-twintig* of ingevolge sy konstitusie en enige ander komitee aldus ingestel, wat kragtens sub-artikel (2) deur die registrateur vir die doeleindes van hierdie artikel aangewys is, al die bevoegdhede wat kragtens sub-artikels (4), (5), (7) en (8) van artikel *twaalf* aan die registrateur verleen is en die bepalinge van sub-artikels (6), (7), (8), (9) en (15) van daardie artikel is *mutatis mutandis* van toepassing op die uitoefening van daardie bevoegdhede deur die raad of komitee: Met dien verstande dat 'n persoon nie kragtens sub-artikel (4) van artikel *dertien* gedagvaar word nie as die doel is om ondersoek in te stel of sodanige persoon 'n misdryf begaan het: Met dien verstande verder dat enige bedrag betaalbaar kragtens sub-artikel (9) van artikel *dertien*, soos toegepas deur hierdie sub-artikel, uit die fondse van die raad betaal moet word.

(2) Die registrateur kan op aansoek van 'n nywerheidsraad, enige komitee ingestel deur die raad ingevolge artikel *vyf-en-twintig* of ingevolge sy konstitusie, as 'n komitee aanwys wat die by sub-artikel (1) verleende bevoegdhede kan uitoefen; en hy kan te eniger tyd so 'n aanwysing terugtrek.

(3) 'n Subpoena wat by die uitoefening van die bedoelde bevoegdhede uitgereik word, moet deur die voorsitter of onder-voorsitter of sekretaris van die betrokke raad of komitee geteken word.

(4) Die eed wat 'n getuie opgelê word, kan opgelê word deur die persoon wat voorsit op die vergadering van die raad of komitee, waarop die getuie verskyn.

(5) Die persoon wat voorsit op die vergadering van die raad of komitee waarop 'n getuie verskyn, kan, en enige lid aanwesig op daardie vergadering kan deur bedoelde voorsitter, enige vraag aan die getuie stel: Met dien verstande dat die bedoelde voorsitter na eie goeddunke enige vraag kan afwys wat na sy mening nie by die ondersoek wat deur die raad of komitee ingestel word, ter sake is nie.

Ooreenkomste deur nywerheidsraad totstandgebring aan Minister gestuur te word.

31. Wanneer 'n nywerheidsraad 'n in artikel *vier-en-twintig* bedoelde ooreenkoms totstandgebring het, moet 'n afskrif van die ooreenkoms deur die voorsitter, die ondervoorsitter en die sekretaris van die raad of deur enige drie persone behoorlik deur die raad daartoe gemagtig, namens die partye of hul verteenwoordigers geteken en na die Minister gestuur word.

Jaarlikse rekeninge van nywerheidsraad.

32. (1) Elke nywerheidsraad moet, minstens eenmaal elke kalenderjaar, 'n rekening laat opmaak van al die inkomste en uitgawe van die raad sedert die einde van die tydperk deur die

(3) Except in cases where the registrar has approved some other procedure, the secretary shall, as soon as practicable after the close of any meeting at which the minutes of a preceding meeting have been confirmed in terms of sub-section (2) but not later than twenty-one days after such confirmation, transmit to the inspector defined by regulation a copy (or the number of copies prescribed by regulation) of the minutes so confirmed, certified by him as correct.

(4) The council shall within thirty days of the date of any written request from the registrar furnish him with any information or explanation requested by him and relating to any matter appearing in any minutes referred to in sub-section (3).

(5) If the secretary, other than a secretary appointed in terms of section *twenty-nine*, fails without reasonable excuse, to comply with any duty imposed upon him by this section, he shall be guilty of an offence.

(6) Any minute purporting to be signed in terms of sub-section (2) shall be evidence of the proceedings recorded therein.

29. The Minister may, if he deems it expedient, at the request of an industrial council or of the parties who have agreed to form an industrial council, appoint any person (who may be an officer of the public service) as secretary of an industrial council and also provide such other clerical assistance as he deems necessary for the effectual performance of the functions of the council. When secretarial and clerical assistance is so provided, the expenditure involved as determined by the Minister, or such portion thereof as may be agreed upon between the Minister and the council or the parties, as the case may be, shall be paid in the manner and on the terms prescribed from the funds of the council, and the balance (if any) shall be defrayed from the Consolidated Revenue Fund.

Minister may appoint secretary and other staff of industrial council.

30. (1) In the performance of any duty or the exercise of any power imposed or conferred upon it by or under this Act, an industrial council and the executive committee established in terms of section *twenty-five* or in terms of its constitution and any other committee so established which in terms of sub-section (2) has been designated by the registrar for the purposes of this section shall have all the powers conferred upon the registrar by sub-sections (4), (5), (7) and (8) of section *twelve* and the provisions of sub-sections (6), (7), (8), (9) and (15) of that section, shall *mutatis mutandis* apply to the exercise of those powers by the council or committee: Provided that a person shall not be subpoenaed under sub-section (4) of section *thirteen* if the object is to investigate whether such person has committed an offence: Provided further that any amount payable under sub-section (9) of section *thirteen* as applied by this sub-section shall be paid from the funds of the council.

Subpoenaing and examination of witnesses by industrial council or committee.

(2) The registrar may, on the application of an industrial council, designate any committee established by it in terms of section *twenty-five* or in terms of its constitution, as a committee which may exercise the powers conferred by sub-section (1); and he may at any time withdraw any such designation.

(3) A subpoena issued in the exercise of the said powers shall be signed by the chairman or vice-chairman or secretary of the council or committee concerned.

(4) The oath administered to any witness may be administered by the person presiding over the meeting of the council or committee at which the witness appears.

(5) The person presiding over the meeting of the council or committee, at which any witness appears, may, and any member present at that meeting may through such chairman, put any question to the witness: Provided that the said chairman may in his discretion disallow any question which in his opinion is not relevant to the enquiry which is being made by the council or committee.

31. Whenever an industrial council has negotiated an agreement such as is referred to in section *twenty-four*, a copy of the agreement shall be signed by the chairman, the vice-chairman and the secretary of the council or by any three persons duly authorized thereto by the council, on behalf of the parties or their representatives, and shall be transmitted to the Minister.

Agreements negotiated by industrial council to be transmitted to Minister.

32. (1) Every industrial council shall, at least once in every calendar year, cause to be prepared an account of all the revenue and expenditure of the council since the close of the period

Annual accounts of industrial council.

vooraangaande rekening gedek, asook 'n staat wat sy bate en laste aantoon.

(2) Elke sodanige rekening en staat moet deur die ouditeur van die raad gesertifiseer word en moet deur die voorsitter van die raad mede-onderteken word en moet binne drie maande na die end van die tydperk wat daardeur gedek word deur die raad aan die registrateur gestuur word, saam met enige verslag wat bedoelde ouditeur daarvoor gelewer het.

(3) Die raad moet aan die registrateur binne 'n tydperk deur hom vasgestel te word sodanige besonderhede ter verduideliking of aanvulling van die rekening en staat verstrek, as wat hy verlang.

(4) Alle in sub-artikels (1) en (2) bedoelde rekeningboeke en state en alle stukke wat daarmee in verband staan moet deur die sekretaris van die raad in veilige bewaring in die kantoor van die raad behou word vir 'n tydperk van minstens vyf jaar vanaf die jongste datum waarop hulle betrekking het.

(5) Indien die sekretaris sonder redelike verontskuldiging versuim om die bepalings van sub-artikel (4) na te kom, is hy aan 'n misdryf skuldig.

Likwidasië van
nywerheidsrade.

33. (1) Vir sover die bepalings van die konstitusie van enige nywerheidsraad in verband met die likwidasië daarvan ontoereikend mag wees, is die bepalings van sub-artikels (1), (2), (3), (4) en (5) van artikel *dertien, mutatis mutandis* van toepassing.

(2) By die voltooiing van die likwidasië van 'n nywerheidsraad moet alle stukke van die raad aan die by regulasie bepaalde inspekteur gestuur word tensy die registrateur gelas dat enige sodanige stukke gestuur moet word na enige ander nywerheidsraad wat ten opsigte van 'n soortgelyke onderneming, nywerheid, bedryf of beroep en ten opsigte van dieselfde gebied geregistreer mag wees.

Intrekking van
registrasie van
nywerheidsraad.

34. (1) Wanneer die registrateur ten opsigte van 'n nywerheidsraad redelike grond het om te vermoed dat—

(a) dit gelikwedeer is; of

(b) dit opgehou het om sy werksaamhede kragtens hierdie Wet te verrig of sy werksaamhede nie op 'n bevredigende wyse verrig nie; of

(c) meer as helfte van die werkgewersvertegenwoordigers of meer as helfte van die werknemersvertegenwoordigers deur hul onderskeidelike partye onttrek is en dat opvolgers nie binne 'n redelike tydperk aangestel is nie; of

(d) een of meer van die partye hulle aan die raad onttrek het en die raad as gevolg van daardie onttrekking opgehou het om voldoende verteenwoordigend te wees,

kan hy 'n geregistreerde brief aan die nywerheidsraad op sy hoofkantoor rig waarin van die raad vereis word om binne 'n in daardie brief vasgestelde tydperk redes aan te voer waarom sy registrasie nie ingetrek en die raad nie ontbind moet word nie.

(2) By die verstryking van die aldus vasgestelde tydperk kan die registrateur, tensy gronde daarteen tot sy bevrediging tevore aangevoer is, die registrasie van die raad intrek en moet 'n kennisgewing te dien effekte in die *Staatskoerant* publiseer, en met die publikasie van daardie kennisgewing is die raad ontbind: Met dien verstande dat ondanks sodanige intrekking, die bepalings van enige ooreenkoms wat aangegaan is deur almal of enige van die partye en vir 'n vermelde tydperk by 'n kragtens artikel *agt-en-veertig* gepubliseerde kennisgewing bindend verklaar is, op die persone op wie dit aldus bindend verklaar is, bindend bly totdat daardie tydperk verstreke is, en dat die bevoegdhede en werksaamhede van die raad ten opsigte van daardie ooreenkoms berus by en uitgeoefen word deur sodanige persoon of persone as wat die registrateur mag aand wys: Met dien verstande voorts dat die aanspreeklikheid (indien enige) van elke persoon wat met die likwidasië van die raad belas is en van elke beampte of lid van en party by die raad bly voortbestaan en afgedwing kan word asof die raad nie ontbind is nie.

(3) Die persoon wat die betrekking van sekretaris van 'n nywerheidsraad waarvan die registrasie kragtens hierdie artikel ingetrek is, bekleë of laas bekleë het moet op versoek van die registrateur die registrasiesertifikaat wat aan die raad uitgereik is binne veertien dae aan hom stuur; en as hy sonder redelike verontskuldiging versuim om dit te doen is hy aan 'n misdryf skuldig.

(4) Sodra 'n nywerheidsraad ingevolge sub-artikel (2) ontbind is, moet oor enige onbestede fondse van die raad ooreenkomstig die onderstaande bepalings beskik word—

(a) een-derde van sodanige fondse moet betaal word aan die werkgewers en die werkgewersorganisasies wat by die ontbinding van die raad partye by die raad was

covered by the preceding account, and a statement showing its assets and liabilities.

(2) Every such account and statement shall be certified by the auditor of the council and shall be countersigned by the chairman of the council, and shall, within three months after the close of the period covered by it, be transmitted by the council to the registrar, together with any report made thereon by the said auditor.

(3) The council shall furnish to the registrar within a period to be fixed by him such particulars in explanation or amplification of the account and statement as may be required by him.

(4) All books of account and statements referred to in sub-sections (1) and (2) and all records relating thereto shall be retained by the secretary of the council in safe custody in the office of the council for a period of not less than five years from the latest date to which they relate.

(5) If the secretary fails without reasonable excuse, to comply with the provisions of sub-section (4), he shall be guilty of an offence.

20 33. (1) To the extent to which the provisions of the constitution of any industrial council relating to the winding-up thereof may be inadequate, the provisions of sub-sections (1), (2), (3), (4) and (5) of section *thirteen* shall *mutatis mutandis* apply. Winding-up of industrial councils.

25 (2) On the completion of the winding-up of an industrial council all records of the council shall be forwarded to the inspector defined by regulation unless the registrar directs that any such records shall be forwarded to any other industrial council which may be registered in respect of a similar undertaking, industry, trade or occupation and in respect of the same area.

34. (1) Whenever the registrar has reasonable cause to believe in respect of an industrial council that—

Cancellation of registration of industrial council.

- (a) it has been wound up; or
- 35 (b) it has ceased to perform its functions under this Act or is not performing its functions in a satisfactory manner; or
- (c) more than half of the representatives of the employers or more than half of the representatives of the employees have been withdrawn by their respective parties and that successors have not been appointed within a reasonable time; or
- 40 (d) one or more of the parties have withdrawn from the council and the council has by reason of that withdrawal ceased to be sufficiently representative,
- 45 he may send a registered letter addressed to the council at its head office, requiring the council to show cause within a period fixed in that letter why its registration shall not be cancelled and the council dissolved.

50 (2) At the expiration of the period so fixed, the registrar may, unless cause to the contrary to his satisfaction has previously been shown, cancel the registration of the council, and shall publish a notice to that effect in the *Gazette*, and on the publication of that notice the council shall be dissolved:

55 Provided that notwithstanding such cancellation, the provisions of any agreement entered into by all or any of the parties, and declared by any notice published under section *forty-eight* to be binding for a specified period, shall remain binding until the expiration of that period upon the persons

60 upon whom they were so declared to be binding, and that the powers and functions of the council in respect of that agreement shall vest in and be exercised by such person or persons as the registrar may designate: Provided further that the liability (if any) of every person charged with the winding-

65 up of the council and of every official, member of and party to the council shall continue and may be enforced as if the council had not been dissolved.

(3) The person who holds or last held the office of secretary of an industrial council the registration of which has been

70 cancelled under this section shall within fourteen days of demand by the registrar transmit to him the certificate of registration issued to the council; and if, without reasonable excuse, he fails to do so, he shall be guilty of an offence.

(4) Upon the dissolution of an industrial council in terms of sub-section (2), any unexpended funds of the council shall be disposed of in accordance with the following provisions—

- (a) one-third of such funds shall be paid to the employers who and the employers' organizations which were parties to the council at its dissolution, and one-third

- en een-derde aan die vakverenigings wat by die ontbinding van die raad partye by die raad was; en die aandeel wat aan elke sodanige werkgewer, werkgewersorganisasie en vakvereniging betaal moet word, moet vasgestel word deur ooreenkoms tussen die werkgewers en werkgewersorganisasies, of, na gelang van die geval, tussen die vakverenigings, en as geen ooreenkoms binne 'n tydperk van dertig dae vanaf die datum van die ontbinding of sodanige verdere tydperk of tydperke as wat die registrateur mag vasstel voor of na die verstryking van so 'n tydperk, bereik word nie, deur beslissing van die registrateur;
- (b) die registrateur kan gelas dat die balans van sodanige fondse, of enige gedeelte daarvan, betaal word aan enige nuwe nywerheidsraad wat geregistreer mag word ten opsigte van dieselfde onderneming, nywerheid, bedryf of beroep as dié ten opsigte waarvan die raad wat ontbind is, geregistreer was;
- (c) by ontstentenis van so 'n lasgewing, kan die registrateur gelas dat sodanige balans of daardie gedeelte daarvan wat nie die onderwerp van so 'n lasgewing uitgemaak het nie, vir tydelike belegging by die Openbare Skuld-kommissarisse gestort word, en die gelde aldus gestort word beskou as „deposito's” ingevolge artikel *nege* van die „Openbare Schuld Kommissarissen Wet, 1911” (Wet No. 18 van 1911). Die registrateur kan daarna gelas dat sodanige gelde, of enige gedeelte daarvan, aan 'n in paragraaf (b) bedoelde nuwe nywerheidsraad betaal word;
- (d) na die verstryking van twee jaar vanaf die datum waarop enige sodanige gelde by die Openbare Skuld-kommissarisse gestort is, kan die registrateur gelas dat die bedoelde gelde of daardie gedeelte daarvan wat nie aldus aan 'n nuwe raad betaal is nie, in die Gekonsolideerde Inkomstefonds gestort word;
- (e) by die toepassing van paragraaf (b) beteken „dieselfde onderneming, nywerheid, bedryf of beroep” 'n onderneming, nywerheid, bedryf of beroep waarvan die nuwe raad na die mening van die registrateur die plek van die ontbinde raad inneem ten opsigte van die geheel of enige gedeelte van die onderneming, nywerheid, bedryf of beroep en gebied ten opsigte waarvan die ontbinde raad geregistreer was.
- (5) Die bepalinge van sub-artikel (4) is nie van toepassing nie op enige fonds deur die raad ingestel vir 'n ander doel as dié in paragraaf (g) van sub-artikel (1) van artikel *vier-en-twintig* bedoel, nòg op enige sodanige fondse as wat in paragraaf (r) van sub-artikel (1) van artikel *vier-en-twintig* bedoel word, waaroor beskik moet word ooreenkomstig die bepalinge van die konstitusie of ooreenkoms waarkragtens hulle ingestel is, of, indien daardie konstitusie of ooreenkoms nie enige bepalinge in verband daarmee bevat nie, dan ooreenkomstig die voorskrifte van die registrateur.

Instelling van
versoeningsraad
en die uitreiking
van bevel deur
die Minister.

35. (1) Wanneer beweer word dat 'n geskil in enige onderneming, nywerheid, bedryf of beroep in enige gebied bestaan en die partye by die beweerde geskil is—

- (a) een of meer geregistreerde vakverenigings; of
- (b) een of meer werknemers; of
- (c) een of meer geregistreerde vakverenigings en een of meer werknemers,
- aan die eenkant, en
- (d) een of meer geregistreerde werkgewersorganisasies; of
- (e) een of meer werkgewers; of
- (f) een of meer geregistreerde werkgewersorganisasies en een of meer werkgewers,
- aan die anderkant (hierna die partye by die geskil genoem), kan enige sodanige party by die Minister in die vorm en op die wyse voorgeskryf, aansoek doen om die instelling van 'n versoeningsraad om die beweerde geskil te oorweeg en, indien moontlik, te besleg.

(2) Indien die applikant of een van die applikante 'n vakvereniging of werkgewersorganisasie is, moet die aansoek vergesel wees van 'n sertifikaat deur die president of voorsitter en die sekretaris van daardie vereniging of organisasie onderteken wat vermeld dat by die doen van stappe wat tot die geskil gelei het en by die doen van die aansoek die vereniging of organisasie en diensdraers of beamptes wat by die aangeleentheid betrokke is, al die tersaaklike bepalinge van die konstitusie van die vereniging of organisasie, na gelang van die geval, nagekom het.

to the trade unions which were parties to the council at its dissolution; and the share which shall be paid to every such employer, employers' organization and trade union shall be determined by agreement between the employers and employers' organizations, or, as the case may be, between the trade unions, and if no agreement is reached within a period of thirty days from the date of the dissolution, or such further period or periods as the registrar may fix, before or after the expiry of any such period, by decision of the registrar;

(b) the registrar may direct that the balance of such funds, or any portion thereof be paid to any new industrial council which may be registered in respect of the same undertaking, industry, trade or occupation as that in respect of which the council which has been dissolved was registered;

(c) in the absence of any such direction, the registrar may direct that such balance, or that portion of it which has not been the subject of such a direction, shall be deposited with the Public Debt Commissioners for temporary investment pending the disposal thereof in terms of this sub-section, and the moneys so deposited shall be regarded as "deposits" in terms of section *nine* of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911). The registrar may thereafter direct that such moneys or any portion thereof be paid to any new industrial council such as is referred to in paragraph (b);

(d) after the expiry of two years from the date on which any such money was deposited with the Public Debt Commissioners, the registrar may direct that the said money or that portion thereof which has not been so paid to a new council, be paid into the Consolidated Revenue Fund;

(e) for the purpose of paragraph (b) "same undertaking, trade or occupation" means an undertaking, industry, trade or occupation the new council of which, in the opinion of the registrar, takes the place of the dissolved council, in respect of the whole or any part of the undertaking, industry, trade or occupation and area in respect of which the dissolved council was registered.

(5) The provisions of sub-section (4) shall not apply to any fund established by a council for a purpose other than that referred to in paragraph (g) of sub-section (1) of section *twenty-four*, nor to any such funds as are referred to in paragraph (r) of sub-section (1) of section *twenty-four*, which shall be disposed of in accordance with the provisions of the constitution or agreement under which they were established, or, if that constitution or agreement does not contain any provisions in regard thereto, then in accordance with the directions of the registrar.

35. (1) Whenever a dispute is alleged to exist in any undertaking, industry, trade or occupation in any area, and the parties to the alleged dispute are—

Establishment of conciliation board and issue of orders by the Minister.

(a) one or more registered trade unions; or
(b) one or more employees; or
(c) one or more registered trade unions and one or more employees,

on the one hand, and

(d) one or more registered employers' organizations; or
(e) one or more employers; or
(f) one or more registered employers' organizations and one or more employers,

on the other hand (hereinafter referred to as the parties to the dispute), any such party may apply to the Minister in the form and manner prescribed for the establishment of a conciliation board to consider and, if possible, settle the alleged dispute.

(2) If the applicant or one of the applicants is a trade union or employers' organization the application shall be accompanied by a certificate signed by the president or chairman and the secretary of that union or organization stating that in taking the steps which led to the dispute and in making the application the union or organization and the office-bearers or officials concerned in the matter have observed all the relevant provisions of the constitution of the union or organization, as the case may be.

(3) 'n Afskrif van die aansoek moet terselfdertyd deur die applikant gestuur word aan die ander party of partye by die geskil, wat op die wyse voorgeskryf en binne veertien dae vanaf die datum van sodanige aansoek, of sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd of voor of na verstryking van so 'n tydperk mag vasstel, vertoë aan die Minister in verband daarmee kan voorlê.

(4) Indien na oorweging van die aansoek en enige vertoë aan hom deur die ander party of partye by die geskil binne die in sub-artikel (3) bedoelde tydperk voorgelê, en enige ander aangeleenthede wat hy ter sake ag, die Minister oortuig is—

- (a) dat 'n geskil met betrekking tot enige aangeleentheid betreffende die verhouding tussen werkgewer en werknemer bestaan; en
- (b) dat daar geen nywerheidsraad is wat regsbevoegdheid besit ten opsigte van die geskilpunt nie; en
- (c) (i) in die geval van 'n in paragraaf (a), (b) of (c) van sub-artikel (1) bedoelde applikant, behalwe 'n individuele werknemer wat na die mening van die Minister die enigste werknemer is wat deur die geskil geraak word, dat die applikant voldoende verteenwoordigend van die werknemers is wat na die mening van die Minister aldus geraak word; of
- (ii) in die geval van 'n in paragraaf (d), (e) of (f) van sub-artikel (1) bedoelde applikant, behalwe 'n individuele werkgewer wat na die mening van die Minister die enigste werkgewer is wat deur die geskil geraak word, dat die applikant voldoende verteenwoordigend van die werkgewers is wat na die mening van die Minister aldus geraak word; en
- (d) dat die geskil nie enkel uit 'n regsvraag ontstaan nie; en
- (e) dat enige ooreenkoms, toekenning of vasstelling aangegaan of gemaak of wat geag word aangegaan of gemaak te gewees het kragtens hierdie Wet, wat op die partye by die geskil bindend is, of enige vasstelling gemaak of wat geag word gemaak te gewees het, kragtens die Loonwet, 1937 (Wet No. 44 van 1937), wat op die partye by die geskil bindend is en wat vir minder as 'n jaar voor die datum van die aansoek in werking gewees het, nie bepalings bevat wat oor die onderwerp van die geskil handel nie; en
- (f) indien die geskil ten opsigte van 'n in paragraaf (a) van sub-artikel (9) bedoelde aangeleentheid is, dat die aansoek binne 'n redelike tydperk gedoen is, in aanmerking geneem die onderhandelings wat voor die aansoek mag plaasgevind het, of ander faktore wat na die mening van die Minister ter sake is; en
- (g) indien die aansoek deur of namens 'n individu gemaak is, dat die aansoek aan die vereistes van sub-artikel (5) voldoen,

kan hy, indien hy dit raadsaam ag, om dit te doen, en in die geval van 'n geskil ten opsigte waarvan die bepalings van artikel ses-en-veertig van toepassing is, moet hy, behoudens die bepalings van hierdie artikel, die instelling van 'n versoeningsraad goedkeur en die nodige stappe daartoe laat doen.

(5) Behoudens die bepalings van sub-artikel (6), kan geen versoeningsraad ingestel word nie as die aansoek deur of namens 'n individu gemaak word tensy die Minister oortuig is—

- (a) dat die betrokke individu te alle tersaaklike tye in 'n gereserveerde beroep in diens was, of, in alle ander gevalle, dat die aansoek namens hom gemaak word deur 'n geregistreerde vakvereniging—
 - (i) waarvan hy 'n lid in goeie finansiële stand was te alle tersaaklike tye tot en met die datum waarop die aansoek ingedien is; en
 - (ii) wat op die genoemde datum voldoende verteenwoordigend was van werknemers wat by die betrokke werkgewer in dieselfde klas van diens as die betrokke individu in diens was; en
 - (iii) wat voor die genoemde datum deur die betrokke individu gemagtig is om namens hom aansoek te doen; en
- (b) indien die onderwerp van die geskil is die besluit of voorstel van 'n werkgewer om die diens van die betrokke individu te skors of te beëindig of die weiering of versuim van die werkgewer om daardie individu weer in diens te neem, dat die applikant bewys tot bevrediging van die Minister gelewer het dat daar redelik gronde bestaan om te vermoed dat die bedoelde besluit, voorstel, weiering of versuim nie toe te skryf

(3) A copy of the application shall at the same time be furnished by the applicant to the other party or parties to the dispute who may, in the manner prescribed and within fourteen days of the date of such application, or such further period or periods as the Minister may from time to time either before or after the expiry of any such period fix, submit representations to the Minister in regard thereto.

(4) If after considering the application and any representations submitted to him by the other party or parties to the dispute within the period referred to in sub-section (3), and any other matters which he considers relevant, the Minister is satisfied—

- (a) that a dispute exists in regard to any matter concerning the relationship between employer and employee; and
- (b) that there is no industrial council having jurisdiction in respect of the matter in dispute; and
- (c) (i) in the case of an applicant referred to in paragraph (a), (b) or (c) of sub-section (1), other than an individual employee who in the opinion of the Minister is the only employee affected by the dispute, that the applicant is sufficiently representative of the employees who in the opinion of the Minister are so affected; or
- (ii) in the case of an applicant referred to in paragraph (d), (e) or (f) of sub-section (1) other than an individual employer who in the opinion of the Minister is the only employer affected by the dispute, that the applicant is sufficiently representative of the employers who in the opinion of the Minister are so affected; and
- (d) that the dispute does not arise solely out of a question of law; and
- (e) that any agreement, award or determination entered into or made or deemed to have been entered into or made under this Act which is binding on the parties to the dispute, or any wage determination made or deemed to have been made under the Wage Act, 1937 (Act No. 44 of 1937) which is binding on the parties to the dispute and which has been in operation for less than one year prior to the date of the application, does not contain provisions dealing with the subject matter of the dispute; and
- (f) if the dispute is in respect of a matter referred to in paragraph (a) of sub-section (9), that the application was made within a reasonable time, having regard to any negotiations which may have taken place prior to the application or to other factors which in the opinion of the Minister are relevant; and
- (g) if the application is made by or on behalf of an individual, that the application satisfies the requirements of sub-section (5),

he may, if he deems it expedient to do so, and in the case of a dispute in respect of which the provisions of section *forty-six* apply he shall, subject to the provisions of this section, approve of the establishment of a conciliation board and cause the necessary steps thereto to be taken.

(5) Subject to the provisions of sub-section (6), no conciliation board shall be established if the application is made by or on behalf of an individual unless the Minister is satisfied—

- (a) that the individual concerned was at all relevant times employed in a reserved occupation, or, in all other cases that the application is made on his behalf by a registered trade union—
 - (i) of which he was a member in good financial standing at all relevant times up to and including the date on which the application was lodged; and
 - (ii) which at the said date was sufficiently representative of employees who were employed by the employer concerned in the same class of employment as the individual concerned; and
 - (iii) which has prior to the said date been authorized by the individual concerned to make application on his behalf; and
- (b) if the subject matter of the dispute is the decision or proposal of an employer to suspend or terminate the employment of the individual concerned or the refusal or failure of the employer to re-employ that individual, that the applicant has established to the satisfaction of the Minister that there are reasonable grounds for believing that the said decision, pro-

is aan wangedrag aan die kant van die bedoelde individu of aan ander omstandighede wat sodanige besluit, voorstel, weiering of versuim regverdig nie; en

- (c) indien die betrokke individu in diens by 'n plaaslike owerheid is, dat die geskil nie betrekking het op 'n eis vir bevoorregte behandeling wat 'n afwyking van die bedinge of voorwaardes van diens of pensioenering van toepassing op werknemers van dieselfde klas in diens by sodanige plaaslike owerheid, sou meebring nie.

(6) Nieteenstaande die feit dat hy nie ten opsigte van een of meer van die in sub-artikel (5) bedoelde aangeleenthede oortuig is nie, kan die Minister 'n versoeningsraad instel op 'n aansoek deur of namens 'n individu gedoen as hy van mening is dat spesiale omstandighede bestaan wat dit wenslik maak om 'n versoeningsraad in te stel sodat die oogmerke van hierdie Wet bereik kan word.

(7) By die toepassing van paragraaf (a) van sub-artikel (4) kan die Minister aanneem dat 'n geskil bestaan as enige party wat 'n eis, versoek of kennisgewing met betrekking tot enige aangeleentheid betreffende die verhouding tussen werkgewer en werknemer ontvang het, almal of enige van die voorstelle of besluite in sodanige eis, versoek of kennisgewing vervat, verwerp het of daarteen beswaar gemaak het of versuim het om enige van die genoemde voorstelle of besluite binne 'n tydperk deur die Minister as redelik geag, te verwerp of toe te staan.

(8) (a) Wanneer 'n versoeningsraad kragtens hierdie Wet ingestel word, moet die Minister die opdrag aan die raad en die gebied ten opsigte waarvan dit ingestel moet word, bepaal; en hy kan van tyd tot tyd so 'n bepaling verander: Met dien verstande dat 'n in paragraaf (x) van sub-artikel (1) van artikel vier-en-twintig bedoelde aangeleentheid van die opdrag uitgesluit kan word as die Minister nie oortuig is nie dat op die datum waarop die aansoek ingedien is die aantal werknemers in die betrokke beroepe wat op daardie datum lede in goeie finansiële stand was van 'n vakvereniging wat 'n party by die geskil is, gelyk gestaan het aan minstens twee-derdes van die totale aantal werknemers wat in daardie beroepe in die betrokke gebied in diens was van die werkgewers wat partye by die geskil is of wat lede is van werkgewersorganisasies wat partye by die geskil is.

(b) Indien die applikant een of meer geregistreerde vakverenigings of een of meer geregistreerde werkgewersorganisasies is, kan die gebied kragtens paragraaf (a) bepaal, enige gebied insluit wat na die mening van die Minister dit billik is om in te sluit, ondanks die feit dat die applikant nie in daardie gebied vir die doeleindes van paragraaf (c) van sub-artikel (4) voldoende verteenwoordigend is nie, indien na sy mening die applikant ten opsigte van die bepaalde gebied as 'n geheel geneem voldoende verteenwoordigend is: Met dien verstande dat geen gebied ten opsigte waarvan geeneen van die bedoelde verenigings of organisasies geregistreer is nie, aldus ingesluit moet word nie.

(9) 'n Aansoek kragtens sub-artikel (1) kan 'n versoek vir die uitreiking van 'n bevel kragtens sub-artikel (10) insluit—

(a) indien die beweerde geskil betrekking het op—

(i) die besluit of voorstel van 'n werkgewer om die diens van 'n werknemer of werknemers te skors of te beëindig; of

(ii) 'n verandering of voorgestelde verandering in die bedinge of voorwaardes van diens van 'n werknemer of werknemers behalwe om uitvoering aan enige toepaslike wetsbepaling of loonreëlende maatregel te gee; en

(b) indien die aansoek gedoen is binne dertig dae vanaf die datum waarop kennis van die voorgestelde skorsing, beëindiging of verandering gegee is, of indien geen sodanige kennis gegee is nie, vanaf die datum waarop die skorsing, beëindiging of verandering plaasgevind het: Met dien verstande dat hierdie paragraaf nie van toepassing is nie as die betrokke werknemer of werknemers by 'n plaaslike owerheid in diens is.

(10) Na oorweging van 'n in sub-artikel (9) bedoelde versoek en van enige verhoë aan hom deur die ander party of partye by die geskil binne die in sub-artikel (3) bedoelde tydperk voorgelê, en van enige ander aangeleentheid wat hy as ter sake beskou, en as hy besluit het om 'n versoeningsraad in te stel, kan die Minis-

posals, refusal or failure is not due to misconduct on the part of the said individual or to other circumstances which justify such decision, proposal, refusal or failure; and

- 5 (c) if the individual concerned is employed by a local authority, that the dispute does not concern a demand made for preferential treatment which would involve a departure from the terms or conditions of employment or superannuation applicable to employees of
10 the same class employed by such local authority.

(6) Notwithstanding the fact that he is not satisfied in respect of one or more of the matters referred to in sub-section (5), the Minister may establish a conciliation board on an application made by or on behalf of an individual if he is of opinion that
15 special circumstances exist which make it desirable to establish a board in order that the objects of this Act may be achieved.

(7) For the purposes of paragraph (a) of sub-section (4), the Minister may consider a dispute to exist if any party who has received a demand, request or notice in regard to any matter
20 concerning the relationship between employer and employee has rejected or objected to all or any of the proposals or decisions contained in such demand, request or notice or has failed to reject or concede any of the said proposals or decisions within a period deemed by the Minister to be reasonable.

25 (8) (a) When establishing a conciliation board under this section the Minister shall determine the terms of reference of the board and the area in respect of which it shall be established; and he may from time to time vary any such determination: Provided that a matter
30 such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* may be excluded from the terms of reference if the Minister is not satisfied that at the date on which the application was lodged the number of employees in the occupations concerned who were
35 at that date members in good financial standing of a trade union which is a party to the dispute, was equal to not less than two-thirds of the total number of employees who were employed in such occupations in the area concerned by the employers who are parties to the dispute or who are members of employers' organizations which are parties to the dispute.

(b) If the applicant is one or more registered trade unions or one or more registered employers' organizations, the area determined under paragraph (a) may include any
45 area which in the opinion of the Minister it is equitable to include, notwithstanding the fact that the applicant is not sufficiently representative in that area for the purposes of paragraph (c) of sub-section (4), if in his opinion the applicant is sufficiently representative in
50 respect of the determined area taken as a whole: Provided that no area in respect of which none of the said unions or organizations, is registered, shall be so included.

(9) An application under sub-section (1) may include a request
55 for the issue of an order under sub-section (10)—

- (a) if the alleged dispute concerns—
(i) the decision or proposal of an employer to suspend or terminate the employment of an employee or employees; or
60 (ii) a change or proposed change in the terms or conditions of employment of an employee or employees, except to give effect to any relevant law or wage regulating measure; and
(b) if the application was made within thirty days of the
65 date on which notice was given of the proposed suspension, termination or change, or if no such notice was given, of the date on which the suspension, termination or change took place: Provided that this paragraph shall not apply if the employee or employees concerned is or are employed by a local authority.
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(10) After consideration of a request such as is referred to in sub-section (9) and of any representations submitted to him by the other party or parties to the dispute within the period referred to in sub-section (3) and of any other matters which
75 he considers relevant and if he has decided to establish a conciliation board, the Minister may, if he deems it expedient to do

ter, as hy dit raadsaam ag om dit te doen, 'n bevel uitreik wat van die betrokke werkgewer of werkgewers vereis—

(a) om in 'n in sub-paragraaf (i) van paragraaf (a) van sub-artikel (9) bedoelde geval, nie die diens van die betrokke werknemer of werknemers te skors of te beëindig nie of indien sodanige diens geskors of beëindig is, die skorsing in te trek of die betrokke werknemer of werknemers weer in sy diens te herstel op bedinge en voorwaardes nie minder gunstig vir hom of hulle nie as daardie wat sy of hulle diens voor sodanige beëindiging beheer het; of

(b) om, in 'n in sub-paragraaf (ii) van paragraaf (a) van sub-artikel (9) bedoelde geval, nie die voorgestelde verandering aan te bring nie of indien die verandering aangebring is, die bedinge en voorwaardes van diens wat voor die verandering bestaan het, te herstel;

en kan hy te eniger tyd so 'n bevel terugtrek of verander.

(11) By die uitreiking van 'n bevel kragtens sub-artikel (10) moet die Minister die datum vasstel vanaf wanneer die bevel van krag word en kan hy dit terugwerkend maak na 'n datum nie vroeër nie as die datum waarop die diens van die werknemer of werknemers geskors of beëindig is of waarop die bedinge of voorwaardes van diens verander is.

(12) 'n Bevel kragtens sub-artikel (10) deur die Minister uitgereik, is van krag ondanks enige andersluidende bepalinge in enige wet of loonreëlende maatregel en bly van toepassing, tensy teruggetrek—

(i) totdat die geskilpunt deur die versoeningsraad, of as dit na arbitrasie verwys word, deur 'n toekenning besleg is; of

(ii) totdat 'n tydperk van dertig dae vanaf die datum waarop die Minister die versoeningsraad laat instel het of 'n sodanige verdere tydperk of tydperke as wat die Minister na oorlegpleging met die versoeningsraad wat die aangeleentheid oorweeg, mag vasstel, verstryk het,

na gelang watter die kortste tydperk is: Met dien verstande dat geen sodanige bevel vir langer as ses maande vanaf die datum van inwerkingtreding deur die Minister kragtens sub-artikel (11) vasgestel, van toepassing bly nie.

(13) By die toepassing van so 'n bevel uitgereik ten opsigte van 'n in sub-paragraaf (i) van paragraaf (a) van sub-artikel (9) bedoelde aangeleentheid word 'n werkgewer wat aan 'n werknemer die beloning betaal wat aan die werknemer verskuldig sou gewees het ten opsigte van sy normale werkure as sy diens nie geskors of beëindig was nie, geag uitvoering aan die bevel te gee het.

(14) Indien 'n versoeningsraad aangestel om 'n in sub-paragraaf (i) van paragraaf (a) van sub-artikel (9) bedoelde aangeleentheid te oorweeg, of 'n arbiter na wie die aangeleentheid ingevolge hierdie Wet verwys is, die besluit of voorstel wat tot die geskil aanleiding gee het, bekragtig of indien die besluit van die Minister om die instelling van 'n versoeningsraad ten opsigte van so 'n aangeleentheid goed te keur, kragtens sub-artikel (20) tersyde gestel word, is 'n werkgewer wat kragtens die bepalinge van sub-artikel (13) enige beloning aan 'n werknemer ter voldoening aan 'n kragtens sub-artikel (10) uitgereikte bevel ten opsigte van dieselfde aangeleentheid betaal het, geregtig om die beloning aldus betaal van die werknemer deur siviele geregtelike stappe te verhaal, mits die hof wat die saak vir die verhaal van sodanige beloning verhoor, oortuig is dat die skorsing of beëindiging of voorgestelde skorsing of beëindiging van diens van die werknemer weens wangedrag van die werknemer geregverdig was.

(15) (a) Wanneer 'n in paragraaf (a) van sub-artikel (9) bedoelde geskil aan 'n nywerheidsraad wat regsbevoegdheid besit, voorgelê word, kan enige party by die geskil terselfdertyd by die Minister aansoek doen om die uitreiking van 'n bevel kragtens sub-artikel (10), en die bepalinge van sub-artikels (2) en (3) is *mutatis mutandis* op so 'n versoek van toepassing.

(b) Na oorweging van so 'n aansoek en van enige vertoë aan hom voorgelê deur die ander party of partye by die geskil binne die tydperk waarna in sub-artikel (3), soos toegepas deur paragraaf (a) van hierdie sub-artikel verwys word, en van enige ander aangeleenthede wat hy as ter sake beskou, kan die Minister, as hy dit raadsaam ag om dit te doen, 'n in sub-artikel (10) bedoelde bevel uitreik, en die bepalinge van sub-artikels (10), (11), (12), (13) en (14) is *mutatis mutandis* op so 'n bevel van toepassing.

so, issue an order requiring the employer or employers concerned—

- 5 (a) in a case referred to in sub-paragraph (i) of paragraph (a) of sub-section (9) not to suspend or terminate the employment of the employee or employees concerned, or if such employment has been suspended or terminated to cancel the suspension or to re-instate the employee or employees concerned in his employment on terms and conditions not less favourable to him or them than those which governed his or their employment prior to such termination; or
- 10 (b) in a case referred to in sub-paragraph (ii) of paragraph (a) of sub-section (9) not to make the proposed change, or if the change has been made to restore the terms and conditions of employment which existed prior to the change;
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and he may at any time withdraw or vary any such order.

- (11) In issuing an order under sub-section (10) the Minister shall fix the date from which the order shall operate and may
- 20 make it retrospective to a date not earlier than that on which the employment of the employee or employees was suspended or terminated or on which the terms or conditions of employment were changed.

- (12) An order issued by the Minister under sub-section (10)
- 25 shall prevail over any contrary provisions in any law or wage regulating measure and shall, unless withdrawn, remain operative—

- (i) until the matter in dispute has been settled by the conciliation board or, if it is referred to arbitration, by an award; or
- 30 (ii) until the expiry of a period of thirty days from the date on which the Minister caused the board to be established or such further period or periods as the Minister, after consultation with the conciliation board which is considering the matter, may fix,
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whichever is the shorter period: Provided that no such order shall remain operative for longer than six months from the date of commencement fixed by the Minister under sub-section (11).

- (13) For the purposes of such an order issued in respect of
- 40 any matter referred to in sub-paragraph (i) of paragraph (a) of sub-section (9) an employer who pays to an employee the remuneration which would have been due to the employee in respect of his normal hours of work had his employment not been suspended or terminated shall be deemed to have complied
- 45 with the order.

- (14) If a conciliation board appointed to consider a matter referred to in sub-paragraph (i) of paragraph (a) of sub-section (9), or an arbitrator to whom the matter is referred in terms of this Act, confirms the decision or proposal which gave rise to
- 50 the dispute or if the decision of the Minister to approve of the establishment of a conciliation board in respect of such a matter is set aside under sub-section (20), any employer who under the provisions of sub-section (13) has paid any remuneration to an employee in satisfaction of an order issued under sub-section
- 55 (10) in respect of the same matter shall be entitled to recover the remuneration so paid from the employee by civil legal proceedings, provided the court which hears the action for the recovery of such remuneration is satisfied that the suspension or termination or proposed suspension or termination of the
- 60 employment of the employee was justified by reason of misconduct of the employee.

- (15) (a) Whenever a dispute such as is referred to in paragraph (a) of sub-section (9) is submitted to an industrial council having jurisdiction, any party to the dispute may at the same time apply to the Minister for the issue of an order under sub-section (10), and the provisions of sub-sections (2) and (3) shall *mutatis mutandis* apply to such an application.
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- (b) After consideration of such an application and of any representations submitted to him by the other party or parties to the dispute within the period referred to in sub-section (3), as applied by paragraph (a) of this sub-section, and of any other matters which he considers relevant, the Minister may, if he deems it expedient to do so, issue an order such as is referred to in sub-section (10), and the provisions of sub-sections (10), (11), (12), (13) and (14) shall *mutatis mutandis* apply to such an order.
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(16) Die Minister kan te eniger tyd sy goedkeuring van die instelling van 'n versoeningsraad intrek indien om enige rede die noodsaaklikheid vir die instelling van 'n raad na sy mening weggeval het.

(17) (a) Indien die registrateur oortuig is dat 'n werknemer van 'n plaaslike owerheid weens die aard van sy pligte of om enige ander rede verhoed word om 'n lid te word van enigeen van die vakverenigings wat ten opsigte van werknemers van een of meer plaaslike owerhede in die gebied waarin hy in diens is, geregistreer is, of dat hy lidmaatskap geweier is of uit sodanige vakvereniging gesit is, of dat dit verkeerd of hinderlik vir hom sou wees om 'n lid van so 'n vakvereniging te wees, kan hy 'n sertifikaat uitreik wat verklaar dat die bedoelde werknemer in 'n gereserveerde beroep in diens is; en hy kan te eniger tyd so 'n sertifikaat terugtrek of verander.

(b) Indien die registrateur oortuig is dat 'n klas van werknemers in diens by een of meer plaaslike owerhede in enige gebied, binne enige van die in paragraaf (a) beskrewe klasse val, kan hy 'n kennisgewing in die *Staatskoerant* laat publiseer, wat verklaar dat alle werknemers wat in daardie gebied tot daardie klas behoort, in 'n gereserveerde beroep in diens is; en hy kan te eniger tyd op dergelike wyse so 'n kennisgewing intrek of verander.

(c) 'n Kragtens paragraaf (a) uitgereikte sertifikaat moet in die vorm wat voorgeskryf word wees en moet die besonderhede wat voorgeskryf word, bevat.

(d) 'n Werknemer aan wie 'n sertifikaat ingevolge paragraaf (a) uitgereik is of op wie 'n kragtens paragraaf (b) gepubliseerde kennisgewing van toepassing is, word, terwyl hy in die in die sertifikaat of kennisgewing vermelde beroep in diens bly, geag, totdat sodanige sertifikaat of kennisgewing teruggetrek of ingetrek word, in 'n gereserveerde beroep in diens te wees.

(e) Geen bepaling in hierdie sub-artikel vervat word so uitgelê dat 'n persoon aan wie 'n sertifikaat kragtens paragraaf (a) uitgereik is of wat tot 'n klas van werknemers behoort waarna in 'n kragtens paragraaf (b) gepubliseerde kennisgewing verwys word, daardeur verhoed word om 'n lid te word of te bly van 'n vakvereniging wat ten opsigte van werknemers van een of meer plaaslike owerhede geregistreer is nie: Met dien verstande dat terwyl so 'n persoon 'n lid van so 'n vereniging is, hy geag word nie in 'n gereserveerde beroep in diens te wees nie.

(18) (a) Wanneer ookal die Minister rede het om te vermoed dat 'n geskil bestaan ten opsigte van 'n in paragraaf (a) van sub-artikel (4) bedoelde aangeleentheid in 'n bedrywigheid waarop die bepalings van artikel *ses-en-veertig* van toepassing is of van toepassing gemaak is, kan hy, deur die registrateur, van almal of enige van die partye by die geskil vereis om binne 'n vermelde tydperk aan hom, deur die registrateur, verklarings voor te lê wat volledig uiteensit die aangeleenthede wat die onderwerp van die geskil uitmaak, hulle menings daaromtrent en enige addisionele inligting wat die registrateur as nodig mag ag. Die registrateur kan te eniger tyd daarna namens die Minister van almal of enige van sodanige partye vereis om aan hom binne 'n vermelde tydperk, enige addisionele inligting wat hy nodig mag ag, te verskaf. Enige tydperk deur die Minister of die registrateur kragtens hierdie sub-artikel vasgestel kan deur hom van tyd tot tyd, of voor of na die verstryking van so 'n tydperk, verleng word.

(b) Indien, nadat hy enige verklaring en inligting ingevolge paragraaf (a) voorgelê en enige ander aangeleenthede wat hy ter sake beskou, oorweeg het, die Minister van mening is dat 'n in daardie paragraaf bedoelde geskil bestaan en dat die voortsetting van die geheel of enige gedeelte van so 'n bedrywigheid waarskynlik in gevaar gebring sal word, tensy die geskil besleg word, kan hy, as hy dit raadsaam ag om dit te doen, en niesteenstaande andersluidende bepalings in hierdie artikel vervat, die instelling van 'n versoeningsraad vir die oorweging en beslegting van die geskil goedkeur en die nodige stappe daartoe laat doen.

(c) Enige persoon wat weier of versuim om te voldoen aan enige vereiste ingevolge paragraaf (a) gestel, is aan 'n misdryf skuldig.

(16) The Minister may at any time cancel his approval of the establishment of a conciliation board, if for any reason the necessity for the establishment of the board has, in his opinion, fallen away.

5 (17) (a) If the registrar is satisfied that an employee of a local authority is, by reason of the nature of his duties or for any other reason, precluded from becoming a member of any of the trade unions which are registered in respect of employees of one or more local authorities
10 in the area in which he is employed, or that he has been refused membership of or expelled from such trade union, or that it would be improper or embarrassing for him to be a member of such a trade union, he may issue a certificate declaring the said employee to be employed in a reserved occupation;
15 and he may at any time withdraw or vary any such certificate.

(b) If the registrar is satisfied that any class of employees employed by one or more local authorities in any area falls within any of the categories described in paragraph (a), he may cause a notice to be published in the
20 *Gazette* declaring all employees belonging to that class in that area to be employed in a reserved occupation; and he may at any time in like manner cancel or vary any such notice.

(c) A certificate issued under paragraph (a) shall be in the prescribed form and shall contain the prescribed particulars.

(d) An employee to whom a certificate has been issued in terms of paragraph (a) or to whom a notice published under paragraph (b) applies, shall, while he continues to be employed in the occupation specified in the certificate or notice, be deemed, until such certificate or notice is withdrawn or cancelled, to be employed in a reserved occupation.
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(e) Nothing in this sub-section contained shall be construed as precluding any person to whom a certificate has been issued under paragraph (a) or who belongs to a class of employees referred to in a notice published under paragraph (b) from becoming or remaining a member of a trade union registered in respect of employees of one or more local authorities: Provided that while such a person is a member of any such union he shall be deemed not to be employed in a reserved occupation.
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(18) (a) Whenever the Minister has reason to believe that a dispute exists in respect of any matter referred to in paragraph (a) of sub-section (4) in an activity to which the provisions of section *forty-six* apply, or have been applied, he may, through the registrar, require all or any of the parties to the dispute to submit to him, through the registrar, within a specified period, statements setting out fully the matters which are the subject of dispute, their views in connection therewith and any additional information the registrar may consider necessary. The registrar may at any time thereafter on behalf of the Minister require all or any of such parties to furnish to him, within a specified period, any additional information he may consider necessary. Any period fixed by the Minister or the registrar under this sub-section may be extended by him from time to time either before or after the expiry of any such period.
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(b) If, after he has considered any statement and information submitted in terms of paragraph (a) and any other matters which he considers relevant, the Minister is of the opinion that a dispute such as is referred to in that paragraph exists and that the continuation of the whole or any part of any such activity is likely to be endangered unless the dispute is settled, he may, if he deems it expedient to do so, and notwithstanding anything to the contrary contained in this section, approve of the establishment of a conciliation board for the consideration and settlement of the dispute and cause the necessary steps to be taken thereto.
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(c) Any person who refuses or fails to comply with any requirement made in terms of paragraph (a), shall be guilty of an offence.

(19) Enige persoon wat deur enige beslissing van die Minister kragtens sub-artikel (4) in verband met 'n aansoek om die instelling van 'n versoeningsraad ten opsigte van 'n bedrywigheid waarop die bepalings van artikel *ses-en-veertig* van toepassing is of van toepassing gemaak is, of kragtens sub-artikel (18) geraak word, kan binne dertig dae vanaf sodanige beslissing appèl by die provinsiale of plaaslike afdeling van die Hooggeregshof wat regsbevoegdheid besit, aanteken en moet sodanige appèl binne 'n tydperk van ses weke vanaf die datum van sodanige beslissing voortsit.

(20) Die afdeling van die Hooggeregshof waarna geappelleer is, bekragtig die beslissing van die Minister of gee so 'n ander beslissing as wat na sy mening die Minister behoort te gegee het; en sy beslissing word by die toepassing van hierdie Wet geag die beslissing van die Minister te wees.

Werksaamhede
van versoenings-
raad en inhoud
van ooreenkoms.

36. (1) 'n Versoeningsraad moet probeer om by wyse van ooreenkoms of andersins die geskil wat na hom verwys is te besleg en die bepalings van artikel *vier-en-twintig* is behoudens die bepalings van paragraaf (a) van sub-artikel (8) van artikel *vyf-en-dertig*, *mutatis mutandis* van toepassing ten opsigte van 'n ooreenkoms aangegaan deur die partye wat op die versoeningsraad verteenwoordig is.

(2) Die partye verteenwoordig op 'n versoeningsraad wat ingestel is om 'n geskil, waarby een van die partye 'n plaaslike owerheid of 'n werkgewersorganisasie geregistreer ten opsigte van plaaslike owerhede, is, te oorweeg, is bevoeg om die geskil op 'n in sub-artikel (1) bedoelde wyse te besleg, ondanks enige andersluidende bepaling vervat in enige wet wat die sake van die betrokke plaaslike owerheid reël.

Samestelling van
versoeningsraad.

37. (1) 'n Versoeningsraad bestaan uit sodanige aantal verteenwoordigers as wat die Minister mag bepaal.

(2) Helfte van die aantal verteenwoordigers moet deur die vakverenigings en die werknemers wat nie lede van 'n betrokke vakvereniging is nie, wat partye by die geskil is (hieronder die werknemerspartye by die geskil genoem) aangestel word, en helfte deur die werkgewersorganisasies en werkgewers wat nie lede van 'n betrokke werkgewersorganisasie is nie, wat partye by die geskil is (hieronder die werkgewerspartye by die geskil genoem).

(3) Die werknemers- en werkgewerspartye by die geskil kan plaasvervangers aanstel vir elkeen of enigeen van die verteenwoordigers wat deur hulle aangestel is; en die bepalings van hierdie artikel is *mutatis mutandis* op sodanige plaasvervangers van toepassing.

(4) Tensy die Minister ten opsigte van enige versoeningsraad of enige aanstelling op so 'n versoeningsraad 'n afwyking van die voorskrifte van hierdie sub-artikel magtig, kan enige persoon, aangestel word om die werknemers- of werkgewerspartye by die geskil op 'n versoeningsraad te verteenwoordig: Met dien verstande dat—

(a) die verteenwoordigers van 'n vakvereniging of werkgewersorganisasie lede, ampsdraers of beamptes van die betrokke vereniging of organisasie moet wees;

(b) die verteenwoordigers van enige werknemers wat nie lede van enige betrokke vakvereniging is nie of ampsdraers of beamptes van 'n geregistreerde vakvereniging, of werknemers in die betrokke onderneming, nywerheid, bedryf of beroep, moet wees;

(c) die verteenwoordigers van enige werkgewers wat nie lede van enige betrokke werkgewersorganisasie is nie of ampsdraers of beamptes van 'n geregistreerde werkgewersorganisasie, of werkgewers in die betrokke onderneming, nywerheid, bedryf of beroep moet wees;

(d) tenminste een-helfte van die aantal verteenwoordigers van die werknemerspartye by die geskil, en een-helfte van die aantal verteenwoordigers van die werkgewerspartye by die geskil, werknemers en werkgewers onderskeidelik in die betrokke onderneming, nywerheid, bedryf of beroep moet wees;

(e) by die toepassing van subparagraaf (d)—

(i) word enige lid, ampsdraer of beampte van 'n vakvereniging wat 'n party by die geskil is, indien hy as 'n verteenwoordiger van die werknemerspartye by die geskil aangestel is, geag 'n werknemer in die betrokke onderneming, nywerheid, bedryf of beroep te wees;

(ii) word enige lid, ampsdraer of beampte van 'n werkgewersorganisasie wat 'n party by die geskil

(19) Any person who is affected by any decision of the Minister under sub-section (4) in relation to an application for the establishment of a conciliation board in respect of an activity to which the provisions of section *forty-six* apply or have been applied, or under sub-section (18), may within thirty days of such decision note an appeal to the provincial or local division of the Supreme Court having jurisdiction, and shall prosecute such appeal within a period of six weeks from the date of such decision.

10 (20) The division of the Supreme Court to which the appeal is made shall confirm the Minister's decision or give such other decision as in its opinion the Minister ought to have given; and its decision shall for the purposes of this Act be deemed to be the decision of the Minister.

15 36. (1) A conciliation board shall endeavour to settle by agreement or otherwise the dispute referred to it, and the provisions of section *twenty-four*, shall subject to the provisions of paragraph (a) of sub-section (8) of section *thirty-five*, *mutatis mutandis* apply in respect of any agreement entered
20 into by the parties represented on the board.

Functions of
conciliation
board and con-
tents of
agreement.

(2) The parties represented on a conciliation board which is established to consider a dispute in which one of the parties is a local authority, or an employers' organization registered in respect of local authorities, shall have the power to settle a
25 dispute in a manner such as is referred to in sub-section (1), notwithstanding anything to the contrary contained in any law regulating the affairs of the local authority concerned.

30 37. (1) A conciliation board shall consist of such number of representatives as the Minister may determine.

Composition
of conciliation
board.

(2) Half the number of representatives shall be appointed by the trade unions and the employees who are not members of a trade union concerned, who are parties to the dispute (hereinafter referred to as the employee parties to the dispute) and half
35 by the employers' organizations and employers, who are not members of an employers' organization concerned, who are parties to the dispute (hereinafter referred to as the employer parties to the dispute).

(3) The employee and employer parties to the dispute may
40 appoint alternates to each or any of the representatives appointed by them; and the provisions of this section shall *mutatis mutandis* apply to such alternates.

(4) Unless the Minister authorizes a departure from the requirements of this sub-section in respect of any conciliation
45 board or any appointment to any such conciliation board, any person may be appointed to represent the employee or employer parties to the dispute on the conciliation board: Provided that—

(a) the representatives of a trade union or employers' organization shall be members, office-bearers or officials of the union or organization concerned;
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(b) the representatives of any employees who are not members of any trade union concerned shall be either office-bearers or officials of any registered trade union, or employees in the undertaking, industry, trade or occupation concerned;
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(c) the representatives of any employers who are not members of any employers' organization concerned shall be either office-bearers or officials of any registered employers' organization, or employers in the undertaking, industry, trade or occupation concerned;
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(d) at least one half of the number of representatives of the employee parties to the dispute, and one half of the number of representatives of the employer parties to the dispute shall be employees and employers respectively in the undertaking, industry, trade or occupation concerned;
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(e) for the purposes of sub-paragraph (d)—

(i) any member, officer-bearer or official of a trade union which is a party to the dispute shall, if appointed as a representative of the employee parties to the dispute, be deemed to be an employee in the undertaking, industry, trade or occupation concerned;
70

(ii) any member, officer-bearer or official of an employers' organization which is a party to the

- is, en enige persoon wat as bestuurder of in enige ander toesighoudende hoedanigheid in diens is by 'n werkgewer in die betrokke onderneming, nywerheid, bedryf of beroep (hetsy daardie werkgewer 'n lid van so 'n werkgewersorganisasie is al dan nie), indien hy as 'n verteenwoordiger van die werkgewerspartye by die geskil aangestel is, geag 'n werkgewer in die betrokke onderneming, nywerheid, bedryf of beroep te wees;
- (iii) word enige lid van 'n plaaslike owerheid wat 'n party by 'n geskil is indien hy as 'n verteenwoordiger van die werkgewerspartye by die geskil aangestel is, geag 'n werkgewer in die betrokke onderneming, nywerheid, bedryf of beroep te wees;
- (f) ondanks die bepalings van paragrawe (a), (b) en (c), wanneer 'n versoeningsraad ingestel word om 'n geskil te oorweeg waarby een van die partye 'n plaaslike owerheid, of 'n werkgewersorganisasie geregistreer ten opsigte van plaaslike owerhede, is, kan die werknemers- en werkgewerspartye by die geskil, behoudens die bepalings van paragrawe (d) en (e), enige persone as verteenwoordigers aanstel.
- (5) Indien 'n party by die geskil, wat kragtens sub-artikel (2) geregtig is om 'n verteenwoordiger op die versoeningsraad aan te stel, nalaat om dit te doen binne veertien dae vanaf die goedkeuring van die instelling van die raad, of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, hetsy voor of na die verstryking van so 'n tydperk, kan die Minister self sodanige verteenwoordiger aanstel.
- Sekretariële en klerklike hulp aan versoeningsrade.** 38. Die Minister voorsien elke versoeningsraad van sodanige sekretariële en klerklike hulp as wat hy nodig ag vir die doeltreffende verrigting van die werksaamhede van die versoeningsraad.
- Prosedure van versoeningsrade.** 39. Die bepalings van artikel *ses-en-twintig*, sub-artikels (1) tot (7) en sub-artikels (9) en (11) van artikel *sewe-en-twintig* en sub-artikels (1) tot (3) en (6) van artikel *agt-en-twintig* is *mutatis mutandis* ten opsigte van versoeningsrade van toepassing.
- Dagvaardiging en ondervraging van getuies deur versoeningsrade.** 40. By die verrigting van sy werksaamhede besit 'n versoeningsraad al die bevoegdhede wat deur sub-artikels (4), (5), (7) en (8) van artikel *twaalf* aan die registrateur verleen word en die bepalings van sub-artikels (6), (7), (8), (9) en (15) van daardie artikel en van sub-artikels (3), (4) en (5) van artikel *dertig* is *mutatis mutandis* ten opsigte van die uitvoering van daardie bevoegdhede van toepassing.
- Onkoste van versoeningsraad.** 41. Enige toelaes wat volgens regulasie aan lede van 'n versoeningsraad betaalbaar is en sodanige ander onkoste wat aangegaan word in verband met die verrigtinge van 'n versoeningsraad as wat die Sekretaris van Arbeid goedkeur voordat of nadat hulle aangegaan is, word uit die Gekonsolideerde Inkomstefonds betaal.
- Verslag deur versoeningsraad.** 42. 'n Versoeningsraad moet so gou doenlik en in elk geval binne 'n tydperk van een maand vanaf die datum waarop die Minister die instelling daarvan goedgekeur het, of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, aan die Minister 'n verslag van sy beraadslagings voorlê wat uiteensit—
- (a) of hy die geskil besleg het, en indien wel, die bepalings van die beslegting;
- (b) of hy nie daarin geslaag het om die geskil te besleg nie, en indien wel, of hy oortuig is dat verdere beraadslagings nie 'n beslegting tot gevolg sal hê nie;
- (c) of hy ingevolge artikel *vyf-en-veertig* besluit het dat die geskil na 'n arbiter, of na arbiters en 'n skeidsregter, of na die nywerheidshof verwys moet word.
- Ontslag van versoeningsraad.** 43. (1) Die Minister kan 'n versoeningsraad ontslaan indien hy oortuig is dat hy sy beraadslagings voltooi het, of dat verdere beraadslagings geen nut sal hê nie of dat die rede van sy instelling weggeval het.
- (2) Ondanks die feit dat 'n versoeningsraad ontslaan is, kan die Minister op versoek van die partye wat op die versoeningsraad verteenwoordig was, en indien hy dit raadsaam ag om dit te doen, die wysiging van enige ooreenkoms wat deur die versoeningsraad voor sy ontslag tot stand gebring is, goedkeur.

- dispute and any person employed as a manager or in any other supervisory capacity by an employer in the undertaking, industry, trade or occupation concerned (whether or not that employer is a member of such an employers' organization) shall if appointed as a representative of the employer parties to the dispute, be deemed to be an employer in the undertaking, industry, trade or occupation concerned;
- (iii) a member of a local authority which is a party to the dispute shall, if appointed as a representative of the employer parties to the dispute, be deemed to be an employer in the undertaking, industry, trade or occupation concerned;
- (f) notwithstanding the provisions of paragraphs (a), (b) and (c), whenever a conciliation board is appointed to consider a dispute in which one of the parties is a local authority, or an employers' organization registered in respect of local authorities, the employee and employer parties to the dispute may subject to the provisions of paragraphs (d) and (e), appoint any persons as representatives.
- (5) If any party to the dispute who is entitled under sub-section (2) to appoint a representative to the board fails to do so within fourteen days of the approval of the establishment of the board or within such further period of periods as the Minister may from time to time fix, either before or after the expiry of any such period, the Minister may himself appoint such representative.
38. The Minister shall provide every conciliation board with such secretarial and clerical assistance as he may deem necessary for the effectual performance of the functions of the board. Secretarial and clerical assistance for conciliation board.
39. The provisions of section *twenty-six*, sub-sections (1) to (7) and sub-section (9) and (11) of section *twenty-seven*, and sub-section (1) to (3) and (6) of section *twenty-eight* shall, *mutatis mutandis*, apply in respect of conciliation boards. Procedure of conciliation boards.
40. In the performance of its functions a conciliation board shall have all the powers conferred upon the registrar by sub-sections (4), (5), (7) and (8) of section *twelve* and the provisions of sub-sections (6), (7), (8), (9) and (15) of that section and of sub-sections (3), (4) and (5) of section *thirty* shall *mutatis mutandis* apply to the exercise of those powers. Subpoenaing and examination of witnesses by conciliation board.
41. Any allowances payable to members of a conciliation board in accordance with regulations and such other expenses incurred in connection with the proceedings of a board as are approved by the Secretary for Labour before or after their incurrence, shall be defrayed from the Consolidated Revenue Fund. Expenses of conciliation board.
42. A conciliation board shall as soon as practicable and in any case within one month from the date the Minister approved of the establishment thereof or within such further period or periods as the Minister may from time to time fix, submit to the Minister, a report of its deliberations, setting forth— Report by conciliation board.
- (a) whether it has settled the dispute, and if so, the terms of the settlement;
- (b) whether it has failed to settle the dispute, and if so, whether it is satisfied that further deliberations will not result in a settlement;
- (c) whether it has decided, in terms of section *forty-five*, that the dispute shall be referred to an arbitrator or to arbitrators and an umpire or to the tribunal.
- (1) The Minister may discharge a conciliation board if he is satisfied that it has completed its deliberations, or that further deliberations will not serve any purpose or that the reason for its establishment has fallen away. Discharge of conciliation board.
- (2) Notwithstanding the fact that a conciliation board has been discharged, the Minister may at the request of the parties who were represented on the board, and if he deems it expedient to do so, approve of the amendment of any agreement negotiated by the board prior to its discharge.

(3) Vanaf die datum van goedkeuring van sodanige wysiging, word die ooreenkoms, soos gewysig, geag die ooreenkoms te wees wat deur die versoeningsraad tot stand gebring is, en indien 'n kennisgewing met betrekking tot sodanige ooreenkoms ingevolge artikel *agt-en-veertig* in die *Staatskoerant* voor bedoelde datum gepubliseer was, moet die Minister 'n verdere kennisgewing in die *Staatskoerant* laat publiseer wat die bepalings van die wysiging of van die ooreenkoms soos gewysig uiteensit, en die datum waarop daardie wysiging of die ooreenkoms, soos gewysig, op die in die eersgenoemde kennisgewing bedoelde persone, bindend word.

Bemiddeling.

44. (1) As enige nywerheidsraad of versoeningsraad by die Minister aansoek doen om die aanstelling van 'n bemiddelaar ten opsigte van enige geskil wat deur daardie nywerheidsraad of versoeningsraad oorweeg word, of as die Minister van mening is dat die aanstelling van 'n bemiddelaar die beslegting van 'n geskil deur enige nywerheidsraad of versoeningsraad sal bevorder, kan hy 'n persoon as bemiddelaar ten opsigte van daardie geskil aanstel.

(2) 'n Bemiddelaar wat aldus aangestel is, is geregtig om die vergaderings van die nywerheidsraad of versoeningsraad waarop die geskil oorweeg word by te woon en daarop voor te sit, maar is nie geregtig om aldaar te stem nie.

(3) 'n Bemiddelaar wat aldus aangestel is moet met die nywerheidsraad of versoeningsraad beraadslaag, sodanige navrae doen en ondersoek instel as wat hy nodig ag, probeer om die beslegting van die geskil te weeg te bring en aan die Minister verslag doen aangaande die resultate van sy bemiddeling en vir hierdie doeleindes het hy al die bevoegdhede van 'n voorsitter van 'n versoeningsraad.

(4) Sodanige onkoste in verband met bemiddeling, met inbegrip van die gelde betaalbaar aan die bemiddelaar, as wat die sekretaris van Arbeid goedkeur voordat of nadat hulle aangegaan is, word uit die Gekonsolideerde Inkomstefonds betaal.

Vrywillige arbitrasie.

45. (1) Behoudens die bepalings van artikel *ses-en-veertig*, kan 'n nywerheidsraad of 'n versoeningsraad besluit dat enige geskil wat deur daardie nywerheidsraad of versoeningsraad oorweeg is, na arbitrasie ooreenkomstig die bepalings van hierdie artikel verwys word; en kan hy verder besluit of die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke aantal arbiters en 'n skeidsregter, of deur die nywerheidshof onderneem moet word.

(2) Wanneer 'n nywerheidsraad of 'n versoeningsraad besluit het dat 'n arbitrasie deur 'n gelyke aantal arbiters onderneem moet word, moet 'n skeidsregter ook aangestel word.

(3) As die nywerheidsraad of versoeningsraad besluit het dat die arbitrasie deur 'n enkele arbiter onderneem moet word, moet daardie persoon as arbiter aangestel word ten gunste van wie se aanstelling 'n meerderheid van al die verteenwoordigers van die werknemers op die nywerheidsraad of versoeningsraad, en 'n meerderheid van al die verteenwoordigers van die werkgewers op die raad of versoeningsraad gestem het.

(4) As 'n nywerheidsraad of versoeningsraad besluit het dat die arbitrasie deur 'n gelyke aantal arbiters en 'n skeidsregter onderneem moet word, moet helfte van die getal arbiters deur die verteenwoordigers van die werknemers op die nywerheidsraad of versoeningsraad, en helfte deur die verteenwoordigers van die werkgewers op die nywerheidsraad of versoeningsraad aangestel word, en moet daardie persoon as skeidsregter aangestel word ten gunste van wie se aanstelling 'n meerderheid van al die verteenwoordigers van die werknemers op die nywerheidsraad of versoeningsraad en 'n meerderheid van al die verteenwoordigers van die werkgewers op die nywerheidsraad of versoeningsraad gestem het.

(5) 'n Meerderheid van al die verteenwoordigers van die werknemers en 'n meerderheid van al die verteenwoordigers van die werkgewers kan elk nie meer as twee assessore aanstel om die arbiter of die arbiters en die skeidsregter of die nywerheidshof, na gelang van die geval, in 'n raadgewende hoedanigheid behulpsaam te wees nie; en die versium van die verteenwoordigers van die werknemers om die reg deur hierdie sub-artikel aan hulle verleen, uit te oefen raak nie die reg deur hierdie sub-artikel aan die verteenwoordigers van die werkgewers verleen nie, en omgekeerd.

(6) Wanneer 'n arbiter, skeidsregter of assessor ingevolge hierdie artikel aangestel is, moet die sekretaris van die betrokke nywerheidsraad of versoeningsraad die Minister van die naam van die persoon aldus aangestel in kennis stel.

(3) From the date of approval of such amendment, the agreement as amended shall be deemed to be the agreement negotiated by the board, and if a notice in regard to such agreement had been published in the *Gazette* in terms of section 5 *forty-eight* before the said date, the Minister shall cause to be published in the *Gazette* a further notice setting forth the terms of the amendment or of the agreement as amended, and the date from which such amendment or the agreement as amended shall become binding upon the persons referred to in the 10 firstmentioned notice.

44. (1) If any industrial council or conciliation board applies Mediation. to the Minister for the appointment of a mediator in respect of any dispute which is being considered by that industrial council or conciliation board, or if the Minister is of opinion that the 15 appointment of a mediator will assist in the settlement of a dispute by any industrial council or conciliation board, he may appoint a person to be a mediator in respect of that dispute.

(2) A mediator so appointed shall be entitled to attend and preside at the meetings of the council or board at which the 20 dispute is being considered, but shall not be entitled to vote thereat.

(3) A mediator so appointed shall confer with the industrial council or conciliation board, conduct such enquiries and investigations as he may deem necessary, endeavour to bring 25 about a settlement of the dispute and make a report to the Minister as to the results of his mediation, and for these purposes shall have all the powers of a chairman of a conciliation board.

(4) Such expenses in connection with mediation, including the fees payable to the mediator, as are approved by the Secretary for Labour before or after their incurrence, shall be 30 defrayed from the Consolidated Revenue Fund.

45. (1) Subject to the provisions of section *forty-six*, an industrial council or a conciliation board may decide that any dispute which has been considered by that industrial council 35 or conciliation board shall be referred to arbitration in accordance with the provisions of this section, and may further decide whether the arbitration shall be conducted by a single arbitrator, or by an even number of arbitrators and an umpire, or by the tribunal. Voluntary arbitration.

40 (2) Whenever an industrial council or a conciliation board has decided that an arbitration shall be conducted by an even number of arbitrators, an umpire shall also be appointed.

(3) If the industrial council or conciliation board has decided that the arbitration shall be conducted by a single arbitrator, 45 that person shall be appointed arbitrator in favour of whose appointment a majority of all the representatives of the employees on the industrial council or conciliation board and a majority of all the representatives of the employers on the council or board have voted.

50 (4) If the industrial council or conciliation board has decided that the arbitration shall be conducted by an even number of arbitrators and an umpire, half the number of arbitrators shall be appointed by the representatives of the employees on the industrial council or conciliation board, and half by the 55 representatives of the employers on the council or board, and that person shall be appointed umpire in favour of whose appointment a majority of all the representatives of the employees on the industrial council or conciliation board and a majority of all the representatives of the employers on the industrial council 60 or conciliation board have voted.

(5) A majority of all the representatives of the employees and a majority of all the representatives of the employers may each appoint not more than two assessors to assist the arbitrator or the arbitrators and the umpire or the tribunal, as the case may 65 be, in an advisory capacity; and the omission of the representatives of the employees to exercise the right conferred upon them by this sub-section shall not affect the right conferred by this sub-section upon the representatives of the employers, and *vice versa*.

70 (6) Whenever an arbitrator, umpire or assessor has been appointed in terms of this section, the secretary of the industrial council or conciliation board concerned shall notify the Minister of the name of the person so appointed.

(7) Indien meer arbiters as een aangestel is, is die beslissing van die meerderheid van die arbiters die beslissing van die arbiters; en indien 'n meerderheid van die arbiters op enige punt nie saamstem nie, moet die skeidsregter die beslissing oor daardie punt gee.

(8) Indien 'n nywerheidsraad of versoeningsraad besluit het dat 'n geskil na arbitrasie verwys moet word maar—

(a) in gebreke gebly het om binne 'n tydperk van veertien dae vanaf die datum van sodanige besluit of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, te besluit of die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke aantal arbiters en 'n skeidsregter, of deur die nywerheidshof onderneem moet word; of

(b) nadat besluit is dat die arbitrasie deur 'n enkele arbiter of deur 'n gelyke aantal arbiters en 'n skeidsregter onderneem moet word, in gebreke gebly het om binne 'n tydperk van veertien dae vanaf die datum van sodanige besluit of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, die arbiter of arbiters en skeidsregter, na gelang van die geval, aan te stel,

word die arbitrasie deur die nywerheidshof onderneem.

(9) Enige party by die geskil is geregtig—

(a) as hy 'n individu is, om sy saak persoonlik by die arbitrasie-verrigtinge voor te dra, of om by daardie verrigtinge verteenwoordig te wees deur enige ander individu wat 'n party by die geskil is, of deur een of meer lede, ampsdraers of beamptes van 'n vakvereniging of werkgewersorganisasie wat 'n party by die geskil is, of as hy 'n vakvereniging of werkgewersorganisasie is, om verteenwoordig te wees deur een of meer van sy lede, ampsdraers of beamptes of deur een of meer lede, ampsdraers of beamptes van enige ander vakvereniging of werkgewersorganisasie wat 'n party by die geskil is; of

(b) indien die geskil deur 'n versoeningsraad oorweeg is, om by daardie verrigtinge deur enige een of meer van die in paragraaf (a) bedoelde persone of deur enige persoon wat 'n lid van daardie versoeningsraad was, 40 verteenwoordig te wees; of

(c) behoudens die bepalings van paragraaf (b), indien al die ander partye by die geskil instem, om by daardie verrigtinge verteenwoordig te wees deur een of meer regspraktisys of deur een of meer lede, ampsdraers of beamptes van 'n geregistreerde vakvereniging of werkgewersorganisasie wat nie 'n party by die geskil is nie;

en enige party wat op 'n in paragraaf (c) bedoelde wyse verteenwoordig word of wat ingestem het dat enige ander party op so 'n wyse verteenwoordig word, word geag daartoe in te gestem het dat elke ander party op so 'n wyse verteenwoordig word.

(10) (a) Die arbiter of die arbiters en die skeidsregter, na gelang van die geval, besit by die verrigting van sy of hulle werksaamhede al die bevoegdhede wat deur artikel dertig aan 'n nywerheidsraad verleen word, en die bepalings van artikel twaalf, soos toegepas deur eersgenoemde artikel, is *mutatis mutandis* van toepassing op die uitoefening van daardie bevoegdhede deur die arbiter of die arbiters en skeidsregter, na gelang van die geval.

(b) 'n Subpoena wat by die uitoefening van genoemde bevoegdhede uitgereik word, kan deur 'n arbiter of die skeidsregter geteken word.

(c) Die eed wat 'n getuie opgelê word, kan deur 'n arbiter of deur die skeidsregter opgelê word.

(11) Die arbiter, arbiters, skeidsregter of nywerheidshof, na gelang van die geval, moet 'n afskrif van sy of hul toekenning en van enige verslag in verband daarmee aan die Minister en aan die betrokke partye stuur; en die Minister kan die hele toekenning of verslag, of enige gedeeltes daarvan of uittreksels daaruit publiseer en enige van die betrokke partye kan die hele toekenning of verslag, of sodanige gedeeltes daarvan of uittreksels daaruit publiseer as wat die Minister mag goedkeur.

(12) 'n Toekenning moet alleenlik oor die onderwerp van die geskil handel en met aangeleenthede wat redelikerwys met die beslegting van die geskil in verband staan: Met dien verstande dat—

(i) die toekenning bepalings met betrekking tot ander aangeleenthede kan insluit indien die betrokke nywerheidsraad of versoeningsraad of, in die geval van 'n

(7) If more arbitrators than one have been appointed, the decision of the majority of the arbitrators shall be the decision of the arbitrators; and if a majority of the arbitrators are not agreed on any point, the umpire shall give the decision on that point.

(8) If an industrial council or conciliation board has decided that a dispute shall be referred to arbitration but—

(a) it has failed within a period of fourteen days from the date of such decision or within such further period or periods as the Minister may from time to time fix, to decide whether the arbitration shall be conducted by a single arbitrator, or by an even number of arbitrators and an umpire, or by the tribunal; or

(b) having decided that the arbitration shall be conducted by a single arbitrator or by an even number of arbitrators and an umpire, has failed within a period of fourteen days from the date of such decision or within such further period or periods as the Minister may from time to time fix, to appoint the arbitrator or the arbitrators and umpire, as the case may be, the arbitration shall be conducted by the tribunal.

(9) Any party to the dispute shall be entitled—

(a) if he is an individual, to present his case at the arbitration proceedings in person or to be represented at those proceedings by any other individual who is a party to the dispute or by one or more members, office-bearers or officials of a trade union or employers' organization which is a party to the dispute, or if it is a trade union or employers' organization to be represented by one or more of its members, office-bearers or officials or by one or more members, office-bearers or officials of any other trade union or employers' organization which is a party to the dispute; or

(b) if the dispute has been considered by a conciliation board, to be represented at those proceedings by any one or more of the persons referred to in paragraph (a) or by any person who was a member of that board; or

(c) subject to the provisions of paragraph (b), if all the other parties to the dispute consent, to be represented at those proceedings by one or more legal practitioners or by one or more members, office-bearers or officials of any registered trade union or employers' organization which is not a party to the dispute;

and any party which is represented in any manner referred to in paragraph (c) or which has consented to any other party being represented in any such manner, shall be deemed to have consented to every other party being represented in any such manner.

(10) (a) The arbitrator or the arbitrators and the umpire, as the case may be, shall in the performance of his or their functions have all the powers conferred upon an industrial council by section *thirty*, and the provisions of section *twelve*, as applied by the first-mentioned section, shall, *mutatis mutandis*, apply to the exercise of those powers by the arbitrator or the arbitrators and the umpire, as the case may be.

(b) A subpoena issued in the exercise of the said powers may be signed by an arbitrator or the umpire.

(c) The oath administered to any witness may be administered by an arbitrator or by the umpire.

(11) The arbitrator, arbitrators, umpire or tribunal, as the case may be, shall forward a copy of his, their or its award and of any report in connection therewith to the Minister and to the parties concerned; and the Minister may publish the whole of the award or report, or any portions thereof or extracts therefrom, and any of the parties concerned may publish the whole of the award or report, or such portions thereof or extracts therefrom as the Minister may approve.

(12) An award shall deal only with the subject matter of the dispute, and with matters reasonably incidental to the settlement of the dispute: Provided that—

(i) the award may include provisions relating to other matters if the industrial council or conciliation board concerned or in the case of a conciliation board which

versoeningsraad wat ontslaan is, die partye wat op die versoeningsraad verteenwoordig was, of, in 'n in sub-artikel (6) van artikel *ses-en-veertig* bedoelde geval, die partye by die geskil, skriftelik instem dat sodanige ander aangeleenthede in die toekenning 5 behandel word;

- (ii) geen toekenning 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling moet bevat nie tensy die arbiter, arbiters, skeidsregter of nywerheidshof, na gelang van die geval, oortuig is 10 dat dit die eenparige begeerte van die partye by die geskil is dat sodanige bepaling in die toekenning opgeneem moet word.

Verpligte
arbitrasie.

46. (1) By die toepassing van hierdie artikel, beteken die uitdrukking „in sub-artikel (1) bedoelde werkgewer”— 15

- (a) enige plaaslike owerheid; of
- (b) enige werkgewer behalwe 'n plaaslike owerheid wat binne die gebied van 'n plaaslike owerheid lig, krag, water, sanitasie, passasiersvervoer of 'n brandweerdienst verskaf; of 20
- (c) enige werkgewer wat in 'n bedrywigheid en gebied waarop die bepalings van hierdie artikel kragtens sub-artikel (7) toegepas is, betrokke is; of
- (d) enige geregistreerde werkgewersorganisasie wat namens een of meer van die in paragraaf (a), (b) of (c) bedoelde 25 werkgewers wat 'n lid of wat lede van daardie organisasie is, optree;

en die uitdrukking „in sub-artikel (1) bedoelde werknemer” beteken—

- (e) enige werknemer by 'n plaaslike owerheid in diens; of 30
- (f) enige werknemer by 'n in paragraaf (b) bedoelde werkgewer in diens in verband met die verskaffing van 'n in daardie paragraaf bedoelde diens; of
- (g) enige werknemer by 'n in paragraaf (c) bedoelde werkgewer in diens in verband met die bedrywigheide en in 35 die gebied in die betrokke kennisgewing kragtens sub-artikel (7) vermeld; of
- (h) enige geregistreerde vakvereniging wat namens een of meer van die in paragraaf (e), (f) of (g) bedoelde werknemers wat 'n lid of wat lede van daardie vereniging 40 is, optree.

(2) Wanneer 'n nywerheidsraad of versoeningsraad wat 'n geskil waarby die partye een of meer van die in sub-artikel (1) bedoelde werkgewers en een of meer van die in sub-artikel (1) bedoelde werknemers is, onder oorweging gehad het— 45

- (a) nie daarin geslaag het om binne 'n tydperk van dertig dae bereken vanaf die datum waarop die geskil na die nywerheidsraad verwys is of die datum waarop die Minister die instelling van die versoeningsraad goed- 50 gekeur het, na gelang van die geval, of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, die geskil te besleg nie; of
- (b) voor die verstryking van daardie tydperk of verdere tydperk of tydperke besluit het dat verdere beraadslagings nie die beslegting van die geskil tot gevolg 55 sal hê nie,

moet hy dienooreenkomstig aan die Minister verslag doen en moet die geskil ooreenkomstig die bepalings van hierdie artikel na arbitrasie verwys word.

(3) Wanneer 'n geskil kragtens die bepalings van sub-artikel 60 (2) na arbitrasie verwys moet word—

- (a) moet die nywerheidsraad of versoeningsraad, na gelang van die geval, binne veertien dae na die verstryking van die laaste van die in paragraaf (a) van daardie sub-artikel bedoelde tydperke, of binne veertien dae vanaf 65 die datum van die in paragraaf (b) van daardie sub-artikel bedoelde besluit, of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, besluit of die arbitrasie deur 'n enkele arbiter, of 'n gelyke aantal arbiters en 'n skeidsregter, 70 of deur die nywerheidshof onderneem moet word; en
- (b) indien die nywerheidsraad of versoeningsraad besluit het dat die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke aantal arbiters en 'n skeidsregter onderneem moet word, moet die arbiter of die arbiters en die 75 skeidsregter binne veertien dae na sodanige besluit of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, aangestel word.

has been discharged the parties who were represented on the board, or in a case referred to in sub-section (6) of section *forty-six*, the parties to the dispute, agrees or agree in writing to such other matters being dealt with in the award;

- (ii) no award shall contain a provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* unless the arbitrator, arbitrators, umpire or tribunal, as the case may be, is or are satisfied that it is the unanimous wish of the parties to the dispute that such provision shall be incorporated in the award.

46. (1) For the purposes of this section, the expression "employer referred to in sub-section (1)" shall mean—

Compulsory arbitration.

- (a) any local authority; or
 (b) any employer other than a local authority who within the area of a local authority provides light, power, water, sanitation, passenger transportation or a fire extinguishing service; or
 (c) any employer engaged in an activity and area to which the provisions of this section have been applied under sub-section (7); or
 (d) any registered employers' organization acting on behalf of one or more of the employers referred to in paragraph (a), (b) or (c) who is a member or who are members of that organization;

and the expression "employee referred to in sub-section (1)" shall mean—

- (e) any employee employed by a local authority; or
 (f) any employee employed by an employer referred to in paragraph (b) in connection with the provision of any service referred to in that paragraph; or
 (g) any employee employed by an employer referred to in paragraph (c) in connection with the activities and in the area specified in the relevant notice under sub-section (7); or
 (h) any registered trade union acting on behalf of one or more of the employees referred to in paragraph (e), (f) or (g) who is a member or who are members of that union.

(2) Whenever an industrial council or a conciliation board which has had under consideration a dispute in which the parties are one or more of the employers referred to in sub-section (1) and one or more of the employees referred to in sub-section (1)—

- (a) has failed to settle the dispute within a period of thirty days reckoned from the date on which the dispute was referred to the industrial council or the date on which the Minister approved of the establishment of the conciliation board, as the case may be, or within such further period or periods as the Minister may from time to time fix; or
 (b) before the expiry of that period or further period or periods has resolved that further deliberations will not result in the settlement of the dispute,

it shall report accordingly to the Minister and the dispute shall be referred to arbitration in accordance with the provisions of this section.

(3) When a dispute is to be referred to arbitration under the provisions of sub-section (2)—

- (a) the industrial council or conciliation board, as the case may be, shall within fourteen days after the expiry of the last of the periods referred to in paragraph (a) of that sub-section, or within fourteen days of the date of the resolution referred to in paragraph (b) of that sub-section, or within such further period or periods as the Minister may from time to time fix, decide whether the arbitration shall be conducted by a single arbitrator, or an even number of arbitrators and an umpire, or by the tribunal; and
 (b) if the industrial council or conciliation board has decided that the arbitration shall be conducted by a single arbitrator, or by an even number of arbitrators and an umpire, the arbitrator or the arbitrators and the umpire shall be appointed within a period of fourteen days after such decision, or within such further period or periods as the Minister may from time to time fix.

(4) Indien die in paragraaf (a) van sub-artikel (3) bedoelde besluit nie geneem, of die in paragraaf (b) van daardie sub-artikel bedoelde aanstellings nie gemaak is nie voor die verstryking van die tydperk waarbinne sodanige besluit geneem of sodanige aanstellings gemaak moet word volgens die toepaslike paragraaf, word die arbitrasie deur die nywerheidshof onderneem. 5

(5) Die bepalings van sub-artikels (2), (3), (4), (5), (6), (7), (9), (10), (11), en (12) van artikel vyf-en-veertig is, *mutatis mutandis*, op arbitrasie en die maak van aanstellings onder hierdie artikel van toepassing. 10

(6) (a) Ondanks andersluidende bepalings in hierdie artikel vervat, wanneer daar geen nywerheidsraad wat regs-bevoegdheid besit met betrekking tot 'n in sub-artikel (2) bedoelde geskil, bestaan nie, kan die partye by die geskil ooreenkom om aan die Minister verslag te doen dat hulle oortuig is dat enige versoeningsraad wat ingestel mag word, nie in staat sal wees om die geskil te besleg nie, en of hulle op die arbiter of die arbiters en skeidsregter ooreengekom het, of dat die arbitrasie deur die nywerheidshof onderneem moet word. 20

(b) By ontvangs van 'n in paragraaf (a) bedoelde verslag kan die Minister, as hy dit raadsaam ag om dit te doen en indien hy oortuig is dat die instelling van 'n versoeningsraad goedgekeur kon geword het indien aansoek daarom onder artikel vyf-en-dertig op of voor die datum van ontvangs van die genoemde verslag gedoen was, gelas dat die bepalings van hierdie artikel van toepassing is asof 'n versoeningsraad aldus ingestel was en by hom verslag gedoen het dat hy nie daarin geslaag het om die geskil te besleg nie; en daarop moet die arbitrasie deur die arbiter of arbiters en skeidsregter op die nywerheidshof soos deur die partye by die geskil ooreengekom, of by ontstentenis van sodanige ooreenkoms deur die nywerheidshof onderneem word. 25

(c) Die Minister moet die opdrag aan die arbiter, of arbiters en skeidsregter of die nywerheidshof, na gelang van die geval, en die betrokke gebied bepaal en die bepalings van sub-artikel (8) van artikel vyf-en-dertig is, *mutatis mutandis* op sodanige bepaling van toepassing. 40

(d) Indien enige geskil waarop die bepalings van hierdie artikel aldus toegepas is, 'n in sub-artikel (9) van artikel vyf-en-dertig bedoelde aangeleentheid raak, kan die Minister op versoek van enige party by die geskil en as hy dit raadsaam ag om dit te doen, die bevel uitreik wat hy geregtig sou gewees het om kragtens sub-artikel (10) van daardie artikel uit te reik indien by die instelling van 'n versoeningsraad goedgekeur het. Die bepalings van sub-artikels (11) tot en met (14) van artikel vyf-en-dertig is *mutatis mutandis* op 'n kragtens hierdie paragraaf uitgereikte bevel van toepassing. 50

(7) (a) Die Minister kan van tyd tot tyd by kennisgewing in die *Staatskoerant* sy voorneme bekendmaak om in 'n gebied in sodanige kennisgewing vermeld die bepalings van hierdie artikel toe te pas op enige bedrywighede in verband met— 55

(i) die voorsiening en distribusie van bederfbare voedselware; of

(ii) die voorsiening en distribusie van petrol of ander brandstowwe vir gebruik deur plaaslike owerhede of ander werkgewers in verband met die voorsiening van enige in paragraaf (b) van sub-artikel (1) bedoelde diens, 60

soos in die kennisgewing vermeld mag word.

(b) 'n Kennisgewing wat kragtens paragraaf (a) gepubliseer word moet enige persoon wat beswaar het teen sodanige toepassing, uitnoui om daardie beswaar binne dertig dae vanaf die datum van sodanige kennisgewing by die Sekretaris van Arbeid op die wyse wat voorgeskryf is, in te dien. 70

(c) Na oorweging van enige beswaar kragtens paragraaf (b) ingedien, en na oorlegpleging met die nywerheidshof, kan die Minister by kennisgewing in die *Staatskoerant* en vanaf 'n datum in sodanige kennisgewing vermeld die bepalings van hierdie artikel toepas op die geheel of enige gedeelte van die bedrywighede en in die geheel of enige gedeelte van die gebied vermeld in die ingevolge paragraaf (a) gepubliseerde kennisgewing. 75

(d) 'n Kennisgewing ingevolge sub-artikel (c) gepubliseer kan op dergelike wyse verander of teruggetrek word. 80

(4) If the decision referred to in paragraph (a) of sub-section (3) has not been taken, or the appointments referred to in paragraph (b) of that sub-section have not been made, before the expiry of the period within which such decision must be taken or such appointments made in terms of the relevant paragraph, the arbitration shall be conducted by the tribunal.

(5) The provisions of sub-section (2), (3), (4), (5), (6), (7), (9), (10), (11) and (12) of section *forty-five* shall, *mutatis mutandis*, apply to arbitration and the making of appointments under this section.

(6) (a) Notwithstanding anything to the contrary in this section contained, whenever there is no industrial council having jurisdiction in regard to a dispute referred to in sub-section (2), the parties to the dispute may agree to report to the Minister that they are satisfied that any conciliation board which may be established will not be able to settle the dispute and whether they have agreed upon the arbitrator or the arbitrators and umpire, or to the arbitration being conducted by the tribunal.

(b) Upon receipt of a report referred to in paragraph (a), the Minister may, if he deems it expedient to do so and if he is satisfied that the establishment of a conciliation board could have been approved if application had been made therefor under section *thirty-five* on or before the date of receipt of the said report, direct that the provisions of this section shall apply as though a conciliation board has been so appointed and had reported to him that it had failed to settle the dispute; and thereupon the arbitration shall be conducted by the arbitrator or arbitrators and umpire or the tribunal as agreed upon by the parties to the dispute, or in the absence of such agreement by the tribunal.

(c) The Minister shall determine the terms of reference of the arbitrator, or arbitrators and umpire or the tribunal, as the case may be, and the area concerned and the provisions of sub-section (8) of section *thirty-five* shall *mutatis mutandis* apply to any such determination.

(d) If any dispute to which the provisions of this section have been so applied concerns a matter referred to in sub-section (9) of section *thirty-five*, the Minister may at the request of any party to the dispute and if he deems it expedient to do so, issue the order which he would have been entitled to issue under sub-section (10) of that section if he had approved of the establishment of a conciliation board. The provisions of sub-sections (11) to (14) inclusive of section *thirty-five* shall *mutatis mutandis* apply to any order issued under this paragraph.

(7) (a) The Minister may from time to time by notice in the *Gazette* notify his intention of applying in an area specified in such notice the provisions of this section to such activities connected with—

- (i) the supply and distribution of any perishable food-stuffs; or
- (ii) the supply and distribution of petrol or other fuels for use by local authorities or other employers in connection with the provision of any service referred to in paragraph (b) of sub-section (1), as may be specified in the notice.

(b) A notice published in terms of paragraph (a) shall invite any person having objection to such application to lodge that objection with the Secretary for Labour within thirty days of the date of such notice in the manner prescribed.

(c) After considering any objection lodged in terms of paragraph (b) and after consultation with the tribunal, the Minister may by notice in the *Gazette* and as from a date specified in such notice apply the provisions of this section to the whole or any portion of the activities and in the whole or any portion of the area specified in the notice published in terms of paragraph (a).

(d) Any notice published in terms of sub-section (c) may in like manner be amended or withdrawn.

Arbitrasiekoste.

47. (1) Die koste van enige arbitrasieverrigtinge kragtens artikel *vyf-en-veertig* of *ses-en-veertig* word ooreenkomstig die bepalinge van hierdie artikel betaal.

(2) Indien die geskil onder oorweging van 'n nywerheidsraad was, word die koste, met inbegrip van die gelde wat voorgeskryf word, indien die arbitrasie deur die nywerheidshof onderneem word, uit die in paragraaf (g) van sub-artikel (1) van artikel *vier-en-twintig* vermelde bydraes betaal.

(3) Indien die geskil onder oorweging van 'n versoeningsraad was of indien sonder die aanstelling van 'n versoeningsraad klaargekom is ingevolge sub-artikel (6) van artikel *ses-en-veertig*, is die volgende bepalinge van toepassing:

- (a) as slegs een arbiter aangestel is, moet een helfte van sy gelde deur die werknemers en vakverenigings wat partye by die geskil is (in hierdie artikel die werknemers genoem) en een-helfte deur die werkgewers en werkgewersorganisasies wat partye by die geskil is (in hierdie artikel die werkgewers genoem) betaal word;
- (b) as meer arbiters as een aangestel is, moet die werknemers en werkgewers onderskeidelik die gelde van die arbiter of arbiters deur hulle aangestel betaal;
- (c) as 'n skeidsregter aangestel is, moet een helfte van sy gelde deur die werknemers en een helfte deur die werkgewers betaal word;
- (d) as die arbitrasie deur die nywerheidshof onderneem word, moet een helfte van die gelde wat voorgeskryf is, deur die werknemers en een helfte deur die werkgewers betaal word;
- (e) as assessore aangestel is, moet die werknemers en werkgewers onderskeidelik die gelde of uitgawes, indien enige, van die assessor of assessore deur hulle aangestel, betaal;
- (f) een helfte van alle ander arbitrasiekoste, met inbegrip van die betalings (indien enige) gemaak aan getuies ingevolge sub-artikel (9) van artikel *twalf* soos toegepas deur sub-artikel (10) van artikel *vyf-en-veertig* en deur paragraaf (a) van subartikel (13) van artikel *vier-en-sestig*, moet deur die werknemers en een helfte deur die werkgewers betaal word: Met dien verstande dat die koste van enige sekretariële of klerklike hulp deur die Minister voorsien, uit Staatsgelde betaal moet word: Met dien verstande voorts dat enige koste deur die werknemers en werkgewers regstreeks aangegaan, deur die werknemers of werkgewers, na gelang van die geval, betaal moet word tensy die werknemers en werkgewers anders ooreengekom het.

(4) Daardie gedeelte van die arbitrasiekoste wat kragtens sub-artikel (3) deur die werknemers en daardie gedeelte wat deur die werkgewers betaalbaar is moet onderskeidelik deur die afsonderlike werknemers of deur die afsonderlike werkgewers betaal word in die verhoudings waarop hulle ooreengekom het of by gebrek aan ooreenkoms, in die verhoudings vasgestel deur die arbiter, arbiters of skeidsregter of die nywerheidshof, na gelang van die geval.

Inwerkingstelling van ooreenkomste.

48. (1) Wanneer 'n nywerheidsraad 'n in artikel *vier-en-twintig* bedoelde ooreenkoms aangegaan deur enige of almal van die partye by die raad, aan die Minister stuur, kan die Minister, as hy dit raadsaam ag om dit te doen, op die versoek van die raad gedoen of op die tydstip van sodanige deursending of op enige tydstip daarna:

- (a) by kennisgewing in die *Staatskoerant* verklaar dat vanaf 'n datum en vir 'n tydperk deur hom in daardie kennisgewing vasgestel, al die bepalinge van die ooreenkoms, soos in daardie kennisgewing uiteengesit, bindend is op die werkgewers en die werkgewersorganisasies en vakverenigings wat die ooreenkoms aangegaan het, en op die werkgewers en werknemers wat lede van daardie organisasies of verenigings is;
- (b) in 'n kennisgewing kragtens paragraaf (a) gepubliseer of by kennisgewing in die *Staatskoerant* te eniger tyd daarna en van tyd tot tyd verklaar dat vanaf 'n datum en vir 'n tydperk deur hom in daardie kennisgewing vasgestel, al die bepalinge van die ooreenkoms of sodanige bepalinge daarvan as wat hy mag vermeld, bindend is op alle ander werkgewers en werknemers as die vermeld in enige toepaslike kennisgewing gepubliseer kragtens paragraaf (a), wat betrokke of in diens is in die onderneming, nywerheid, bedryf of beroep waarop die ooreenkoms betrekking het in die gebied of enige vermelde gedeelte van die gebied ten opsigte waarvan die raad geregistreer is;

47. (1) The costs of any arbitration proceedings under section *forty-five* or *forty-six* shall be paid in accordance with the provisions of this section. Costs of arbitration.

(2) If the dispute has been under the consideration of an industrial council, the costs including the prescribed fees if the arbitration is conducted by the tribunal shall be paid from the contributions referred to in paragraph (q) of sub-section (1) of section *twenty-four*.

(3) If the dispute has been under the consideration of a conciliation board or if the appointment of a conciliation board has been dispensed with in terms of sub-section (6) of section *forty-six*, the following provisions shall apply:

(a) if only one arbitrator has been appointed, one-half of his fees shall be paid by the employees and trade unions which are parties to the dispute (in this section called the employees) and one-half by the employers and employers' organizations which are parties to the dispute (in this section called the employers);

(b) if more arbitrators than one have been appointed, the employees and the employers shall, respectively, pay the fees of the arbitrator or arbitrators appointed by them;

(c) if an umpire has been appointed, one-half of his fees shall be paid by the employees and one-half by the employers;

(d) if the arbitration is conducted by the tribunal one-half of the prescribed fees shall be paid by the employees and one-half by the employers;

(e) if assessors have been appointed the employees and the employers shall, respectively, pay the fees or expenses, if any, of the assessor or assessors appointed by them;

(f) one-half of all other costs of the arbitration, including the payments (if any) made to witnesses in terms of sub-section (9) of section *twelve* as applied by sub-section (10) of section *forty-five* and by paragraph (a) of sub-section (13) of section *sixty-four*, shall be paid by the employees and one-half by the employers: Provided that the cost of any secretarial or clerical assistance provided by the Minister shall be paid from public moneys: Provided further, that any costs incurred directly by the employees or employers shall, unless the employees and the employers have otherwise agreed, be paid by the employees or employers, as the case may be.

(4) That portion of the costs of the arbitration in terms of sub-section (3) is payable by the employees and that portion which is payable by the employers shall, respectively, be paid by the several employees or by the several employers in the proportions agreed upon by them or, failing agreement, in the proportions determined by the arbitrator, arbitrators or umpire or the tribunal, as the case may be.

48. (1) Whenever an industrial council transmits to the Minister any agreement such as is referred to in section *twenty-four*, entered into between any or all of the parties to the council the Minister may, if he deems it expedient to do so, at the request of the council made either at the time of such transmission or at any time thereafter— Putting into force of agreements.

(a) by notice in the *Gazette* declare that from a date and for a period fixed by him in that notice, all the provisions of the agreement, as set forth in that notice, shall be binding upon the employers who and the employers' organizations and trade unions which entered into the agreement and upon the employers and employees who are members of those organizations or unions;

(b) in a notice published under paragraph (a) or by notice in the *Gazette* at any time thereafter and from time to time declare that from a date and for a period fixed by him in that notice all the provisions of the agreement, or such provisions thereof as he may specify shall be binding upon all employers and employees other than those referred to in any relevant notice published under paragraph (a), who are engaged or employed in the undertaking, industry, trade or occupation to which the agreement relates, in the area or any specified portion of the area in respect of which the council is registered;

- (c) in 'n kennisgewing gepubliseer kragtens paragraaf (a) of by kennisgewing in die *Staatskoerant* te eniger tyd daarna en van tyd tot tyd, verklaar dat vanaf 'n datum en vir 'n tydperk deur hom in daardie kennisgewing vasgestel, al die bepalings van die ooreenkoms of sodanige bepalings daarvan as wat hy mag vermeld, bindend is op alle werkgewers en werknemers of op 'n vermelde klas of klasse van werkgewers en werknemers betrokke of in diens in die onderneming, nywerheid, bedryf of beroep waarop die ooreenkoms betrekking het of in 'n vermelde afdeling of gedeelte daarvan, in 'n gebied benewens daardie ten opsigte waarvan die raad geregistreer is. 5
- (2) (a) 'n In sub-artikel (1) bedoelde nywerheidsraad kan of op dieselfde tyd wanneer hy 'n versoek doen om die publikasie van 'n kennisgewing kragtens paragraaf (a) of te eniger tyd daarna, 'n versoek tot die Minister rig om 'n kennisgewing kragtens paragraaf (b) of (c) van daardie sub-artikel te publiseer. 15
- (b) 'n Kennisgewing word nie kragtens paragraaf (b) van sub-artikel (1) gepubliseer nie tensy die Minister oortuig is dat die partye by die ooreenkoms voldoende verteenwoordigend is van die werkgewers en werknemers betrokke of in diens in die onderneming, nywerheid, bedryf of beroep waarop die ooreenkoms betrekking het in die gebied waarin die ooreenkoms ingevolge sodanige kennisgewing op sodanige werkgewers en werknemers bindend gemaak gaan word. 25
- (c) 'n Kennisgewing word nie kragtens paragraaf (c) van sub-artikel (1) gepubliseer nie tensy— 30
- (i) 'n kennisgewing kragtens paragraaf (b) van daardie sub-artikel ten opsigte van dieselfde ooreenkoms gepubliseer is of word; en
- (ii) die Minister oortuig is dat sodanige publikasie nodig is om onregverdige mededinging te verhoed tussen werkgewers in die gebied in die kennisgewing vermeld en werkgewers op wie enige kennisgewing kragtens paragraaf (a) en (b) van daardie sub-artikel gepubliseer, van toepassing is. 40
- (3) (a) Indien die Minister van mening is dat die oogmerk van 'n ooreenkoms wat die onderwerp van 'n versoek om 'n verklaring kragtens sub-artikel (1) was of is, in enige gebied verydel word of kan word deur die indiensneming van naturelle in die betrokke onderneming, nywerheid, bedryf of beroep teen skale van beloning en onder ander bedinge of voorwaardes van diens as dié wat in die ooreenkoms vermeld is, kan hy na oorlegpleging met die betrokke nywerheidsraad, indien hy dit raadsaam ag om dit te doen, in enige kennisgewing gepubliseer kragtens sub-artikel (1), of by kennisgewing in die *Staatskoerant* te eniger tyd daarna, en van tyd tot tyd, verklaar dat in 'n gebied en vanaf 'n datum en vir 'n tydperk deur hom in daardie kennisgewing vasgestel, al die bepalings van die ooreenkoms of sodanige bepalings daarvan as wat hy in die kennisgewing mag vermeld, *mutatis mutandis* bindend is op alle naturelle in diens in die vermelde onderneming, nywerheid, bedryf of beroep of in enige afdeling of gedeelte daarvan in die kennisgewing vermeld by werkgewers op wie enige sodanige bepalings bindend is en op daardie werkgewers. 55
- (b) Die gebied aldus vasgestel moet nie groter wees as die gebied ten opsigte waarvan die raad geregistreer is nie: Met dien verstande dat indien 'n kennisgewing kragtens paragraaf (c) van sub-artikel (1) gepubliseer is of word, die gebied die geheel of 'n gedeelte van die gebied in daardie kennisgewing vermeld, kan insluit. 65
- (c) In hierdie artikel, in sub-artikel (2) van artikel vier-entertig, en in artikels vyftig tot nege-en-vyftig, een-en-sestig, twee-en-sestig, ses-en-sestig, een-en-sewentig, vier-en-sewentig en vyf-en-sewentig word enige verwysing uitdruklik of stilswyend, na 'n werknemer so uitgelê dat 'n naturel ten opsigte van wie enige bepalings van 'n ooreenkoms kragtens hierdie sub-artikel of kragtens sub-artikel (4) van toepassing gemaak is, ingesluit word, en enige verwysing na 'n ooreenkoms word so uitgelê dat enige bepaling aldus toegepas, ingesluit word. 75
- (4) (a) Wanneer die Minister 'n kennisgewing kragtens paragraaf (a), (b) of (c) van sub-artikel (1) of kragtens 80

- (c) in a notice published under paragraph (a) or by notice in the *Gazette* at any time thereafter and from time to time declare that from a date and for a period fixed by him in that notice all the provisions of the agreement, or such provisions thereof as he may specify shall be binding upon all employers and employees or upon a specified class or classes of employers and employees engaged or employed in the undertaking, industry, trade or occupation to which the agreement relates, or in a specified section or portion thereof, in an area additional to that in respect of which the council is registered.
- (2) (a) An industrial council referred to in sub-section (1) may make a request to the Minister to publish a notice under paragraph (b) or (c) of that sub-section either at the same time as it makes a request for the publication of a notice under paragraph (a) or at any time thereafter.
- (b) A notice shall not be published under paragraph (b) of sub-section (1) unless the Minister is satisfied that the parties to the agreement are sufficiently representative of the employers and employees engaged or employed in the undertaking, industry, trade or occupation to which the agreement relates in the area in which the agreement is in terms of such notice to be made binding on such employers and employees.
- (c) A notice shall not be published under paragraph (c) of sub-section (1) unless—
- (i) a notice under paragraph (b) of that sub-section has been or is published in respect of the same agreement; and
- (ii) the Minister is satisfied that such publication is necessary to prevent unfair competition between employers in the area specified in the notice and employers to whom any notice published under paragraph (a) and (b) of that sub-section is applicable.
- (3) (a) If the Minister is of opinion that any object of an agreement which has been or is the subject of a request for a declaration under sub-section (1), is being or may be defeated in any area by the employment of natives in the undertaking, industry, trade or occupation concerned at rates of remuneration and under terms or conditions of employment other than those specified in the agreement, he may, after consultation with the industrial council concerned, if he deems it expedient to do so, in any notice published under sub-section (1), or by notice in the *Gazette*, at any time thereafter, and from time to time, declare that in an area and from a date and for a period fixed by him in that notice all the provisions of the agreement or such provisions thereof as he may specify in the notice shall, *mutatis mutandis*, be binding upon all natives employed in the said undertaking, industry, trade or occupation, or in any section or portion thereof specified in the notice, by the employers upon whom any such provisions are binding, and upon those employers.
- (b) The area so fixed shall not be greater than the area in respect of which the council is registered: Provided that if a notice has been or is published under paragraph (c) of sub-section (1), the area may include the whole or any portion of the area specified in that notice.
- (c) In this section, in sub-section (2) of section *thirty-four* and in sections *fifty to fifty-nine, sixty-one, sixty-two, sixty-six, seventy-one, seventy-four and seventy-five*, any reference, express or implied, to an employee shall be construed so as to include any native in respect of whom any provisions of an agreement have been applied under this sub-section or under sub-section (4), and any reference to an agreement shall be construed so as to include any provisions so applied.
- (4) (a) Whenever the Minister has published a notice under paragraph (a), (b) or (c) of sub-section (1), or under

sub-artikel (3) gepubliseer het, kan hy, op versoek van die betrokke nywerheidsraad of in die geval van 'n kennisgewing kragtens sub-artikel (3), na oorlegpleging met die betrokke nywerheidsraad, en as hy dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant*—

(i) die in sodanige kennisgewing vasgestelde tydperk deur sodanige verdere tydperk as wat hy in die nuwe kennisgewing mag vasstel, verleng; of

(ii) indien die in sodanige kennisgewing vasgestelde tydperk verstryk het, verklaar dat die bepalings van daardie kennisgewing van krag is vanaf 'n datum en vir 'n verdere tydperk deur hom in die nuwe kennisgewing vasgestel.

(b) Die bepalings van sub-artikel (2) is *mutatis mutandis* van toepassing ten opsigte van die publikasie van enige kennisgewing kragtens hierdie sub-artikel.

(5) Die Minister kan, op versoek van die betrokke nywerheidsraad, of in die geval van 'n kennisgewing kragtens sub-artikel (3) gepubliseer, na oorlegpleging met die betrokke nywerheidsraad, indien hy dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant* en met inwerkingtreding vanaf 'n datum deur hom in sodanige kennisgewing vasgestel, 'n kragtens sub-artikel (1), (3) of (4) gepubliseerde kennisgewing, in die geheel of gedeeltelik terugtrek.

(6) Wanneer 'n ooreenkoms ten opsigte waarvan 'n kennisgewing kragtens sub-artikel (1), (3) of (4) gepubliseer is, deur 'n verdere ooreenkoms gewysig, uitgebrei of vervang word, is die bepalings van hierdie artikel ten opsigte van sodanige verdere ooreenkoms van toepassing.

(7) In 'n kennisgewing deur die Minister kragtens sub-artikel (1), (3) of (4) gepubliseer met betrekking tot 'n ooreenkoms wat bepalings bevat oor enige van die in paragraaf (p) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde aangeleenthede, kan hy verklaar dat vanaf 'n datum en vir die tydperk deur hom in daardie kennisgewing vasgestel, daardie bepalings bindend is op sodanige in daardie paragraaf bedoelde prinsipale, aannemers of ander persone.

(8) 'n In paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling word nie kragtens enige bepaling van hierdie artikel bindend verklaar nie tensy die Minister oortuig is dat op die datum waarop die ooreenkoms deur of namens die partye daarby geteken is, die aantal werknemers in die beroepe waarop die bepalings van toepassing is, wat op daardie datum lede in goeie finansiële stand van 'n in sodanige bepaling bedoelde vakvereniging was, gelyk was aan minstens twee-derdes van die totale aantal werknemers in diens in sodanige beroepe in die gebied waarop die vermelde bepaling van toepassing is, by die werkgewers wat partye by die ooreenkoms is of wat lede is van die werkgewersorganisasies wat partye by die ooreenkoms is.

(9) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op enige ooreenkoms deurgestuur of versoek gedoen deur 'n versoeningsraad: Met dien verstande dat die versoeningsraad, of, nadat die versoeningsraad ontslaan is, die partye wat op die versoeningsraad verteenwoordig was, vir die doeleindes van enige in sub-artikels (1), (2), (3), (4) en (5) bedoelde versoek of oorlegpleging, geag word die betrokke nywerheidsraad te wees en die gebied vasgestel ingevolge sub-artikel (8) van artikel *vyf-en-dertig* geag word die gebied te wees ten opsigte waarvan die nywerheidsraad geregistreer is.

(10) (a) Ondanks enige andersluidende bepalings in hierdie artikel vervat, wanneer die Minister van mening is dat die opgehoopde fondse van 'n nywerheidsraad die bedrag wat nodig is om vir die administratiewe uitgawes van die raad te voorsien oorskry, kan hy, na oorlegpleging met daardie raad en indien hy dit raadsaam ag om dit te doen gelas dat bydraes betaalbaar ingevolge 'n in paragraaf (q) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling van 'n ooreenkoms, verminder word tot sodanige bedrae as wat hy mag bepaal, en moet hy 'n kennisgewing in die *Staatskoerant* publiseer wat die toepaslike bepalings van die ooreenkoms ooreenkomstig sy lasgewing wysig en 'n datum vasstel vanaf wanneer sodanige wysiging bindend word. Vanaf daardie datum en in die mate in sodanige kennisgewing uiteengesit, word die ooreenkoms geag ooreenkomstig die bepalings van hierdie artikel gewysig te gewees het.

(b) Die Minister kan op dergelike wyse enige kennisgewing ingevolge hierdie sub-artikel gepubliseer, intrek of wysig.

sub-section (3), he may, at the request of the industrial council concerned, or, in the case of a notice under sub-section (3), after consultation with the industrial council concerned, and if he deems it expedient to do so, by notice in the *Gazette*—

5 (i) extend the period fixed in such notice by such further period as he may fix in the new notice; or

(ii) if the period fixed in such notice has expired, declare that the provisions of such notice shall be effective from a date and for a further period fixed by him in the new notice.

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(b) The provisions of sub-section (2) shall *mutatis mutandis* apply in respect of the publication of any notice under this sub-section.

15 (5) The Minister may, at the request of the industrial council concerned, or in the case of a notice published under sub-section (3) after consultation with the industrial council concerned, if he deems it expedient to do so by notice in the *Gazette* and with effect from a date fixed by him in such notice withdraw in whole or in part any notice published under sub-section (1), (3) or (4).

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(6) Whenever any agreement in respect of which a notice has been published under sub-section (1), (3) or (4) is amended, amplified or replaced by a further agreement, the provisions of this section shall apply in respect of such further agreement.

25 (7) In any notice published by the Minister under sub-section (1), (3) or (4) relating to any agreement which contains provisions on any of the matters referred to in paragraph (p) of sub-section (1) of section *twenty-four*, he may declare that from a date and for the period fixed by him in that notice those provisions shall be binding upon any such principals, contractors or other persons as are referred to in that paragraph.

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(8) A provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* shall not be declared binding under any provision of this section unless the Minister is satisfied that at the date on which the agreement was signed by or on behalf of the parties thereto the number of employees in the occupations to which the provision applies who were at that date members in good financial standing of a trade union referred to in such provisions was equal to not less than two-thirds of the total number of employees employed in such occupations in the area to which the said provision applies, by the employers who are parties to the agreement or who are members of employers' organizations which are parties to the agreement.

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45 (9) The provisions of this section shall, *mutatis mutandis*, apply to any agreement transmitted by, or request made by a conciliation board: Provided that the conciliation board, or, after the conciliation board has been discharged, the parties who were represented on the conciliation board, shall, for the purposes of any request or consultation such as is referred to in sub-sections (1), (2), (3), (4) and (5) be deemed to be the industrial council concerned and the area determined in terms of sub-section (8) of section *thirty-five* shall be deemed to be the area in respect of which the industrial council is registered.

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55 (10) (a) Notwithstanding anything to the contrary in this section contained, whenever the Minister is of opinion that the accumulated funds of an industrial council exceed the amount necessary to provide for the administrative expenditure of such council, he may, after consultation with that council, and if he deems it expedient to do so, direct that contributions payable in terms of any provision of an agreement such as is referred to in paragraph (q) of sub-section (1) of section *twenty-four*, be reduced to such amounts as he may determine, and shall publish in the *Gazette* a notice amending in accordance with his direction the relevant provisions of the agreement and fixing a date as from which such amendment shall become binding. As from that date and to the extent set out in such notice the agreement shall be deemed to have been amended in accordance with the provisions of this section.

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(b) The Minister may in like manner cancel or amend any notice published in terms of this sub-section.

(11) Die Minister, wanneer die vraag of die partye by 'n ooreenkoms voldoende verteenwoordigend van werkgewers en werknemers is, kragtens hierdie sub-artikel beslis moet word—

- (a) moet vir sover die ledetal van enige vakvereniging of werkgewersorganisasie ter sake is, slegs daardie lede wat in goeie finansiële stand was op die datum waarop die ter saaklike versoek kragtens sub-artikel (1) gedoen is, in aanmerking neem;
- (b) kan, met inagneming van die aard van die onderneming, nywerheid, bedryf of beroep en die ligging van die gebied ten opsigte waarvan die vraag oorweeg word, die party as voldoende verteenwoordigend ten opsigte van die geheel van sodanige gebied beskou ondanks die feit dat 'n vakvereniging of werkgewersorganisasie wat 'n party by die ooreenkoms is, geen lede in 'n gedeelte van daardie gebied mag hê nie; en
- (c) kan, ondanks die feit dat die vakverenigings wat partye by die ooreenkoms is, nie ten opsigte van alle klasse van werknemers in diens in die betrokke onderneming, nywerheid, bedryf of beroep geregistreer is nie, of, indien aldus geregistreer, geen lede behorende tot sekere klasse van sodanige werknemers het nie, die partye by die ooreenkoms as voldoende verteenwoordigend van die onderneming, nywerheid, bedryf of beroep beskou, mits die werkgewers wat deur die partye by die ooreenkoms verteenwoordig word werknemers behorende aan alle sodanige klasse in hul diens het.

(12) By die toepassing van hierdie artikel beteken „klas van werkgewers” en „klas van werknemers” ook sodanige groep of afdeling of tipe van werkgewer of werknemer as wat in die tersaaklike kennisgewing vermeld of omskryf word; en by so 'n vermelding of omskrywing kan enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van dienstryd of tipe van werk of tipe of klas van perseel waarop of waarin werk verrig word of enige ander metode wat raadsaam geag word, toegepas word: Met dien verstande dat geen differensiasie of diskriminasie op die grondslag van ras of kleur gemaak word nie.

Uitwerking van
arbitrasie-
toekennings.

49. (1) Enige toekenning gemaak deur 'n arbiter, arbiters of skeidsregter of deur die nywerheidshof is afdoende en bindend op die werknemers en werkgewers en die vakverenigings en werkgewersorganisasies wat partye by die geskil is en op die werknemers en werkgewers wat lede van daardie verenigings of organisasies is: Met dien verstande dat indien enige toekenning 'n in paragraaf (x) van sub-artikel (1) van artikel vier-en-twintig bedoelde bepaling bevat en die vraag of so 'n bepaling gemaak moet word nie in die opdrag wat deur die Minister bepaal is kragtens sub-artikel (8) van artikel vyf-en-dertig of kragtens daardie sub-artikel soos toegepas deur paragraaf (c) van sub-artikel (6) van artikel ses-en-veertig, ingesluit was nie, is daardie bepaling nie bindend nie totdat die Minister, nadat hy homself oortuig het dat op die datum waarop die toekenning gemaak is die aantal werknemers in die beroepe waarop die bepaling van toepassing is wat op daardie datum lede in goeie finansiële stand was van 'n in sodanige bepaling bedoelde vakvereniging, gelyk was aan minstens twee-derdes van die totale aantal werknemers in diens in sodanige beroepe by die werkgewers wat partye by die geskil was in die gebied waarop die genoemde bepaling van toepassing is, of wat lede is van werkgewersorganisasies wat partye by die geskil was, by kennisgewing in die Staatskoerant die bedoelde bepaling as bindend verklaar het.

- (2) (a) Te eniger tyd nadat 'n toekenning gemaak is, kan die Minister die verbetering van 'n weglating of fout of die opklaring van enige bepaling van die toekenning goedkeur indien na sy mening die verbetering of opklaring nodig is.
- (b) Vanaf die datum van goedkeuring van sodanige verbetering of opklaring, word die toekenning soos verbeter of opgeklaar geag die toekenning te wees wat deur die arbiter, arbiters, skeidsregter of nywerheidshof, na gelang van die geval, gemaak is, en indien 'n kennisgewing ten opsigte van so 'n toekenning in die Staatskoerant kragtens enige bepaling van artikel agt-en-veertig, soos toegepas deur sub-artikel (10) van hierdie artikel, voor die datum van sodanige verbetering of opklaring gepubliseer is, laat die Minister 'n verdere kennisgewing in die Staatskoerant publiseer waarin die bepaling van sodanige verbetering of opklaring en die datum waarop sodanige verbetering of opklaring

(11) Whenever the question whether the parties to an agreement are sufficiently representative of employers and employees fails to be determined under this section, the Minister—

- 5 (a) shall in so far as the membership of any trade union or employers' organization is relevant take into consideration only those members who were in good financial standing at the date on which the relevant request under sub-section (1) was made;
- 10 (b) may, having regard to the nature of the undertaking, industry, trade or occupation and the location of the area in respect of which the question is being considered, regard the parties as sufficiently representative in respect of the whole of such area, notwithstanding the fact that a trade union or employers' organization which is a party to the agreement may have no members in part of that area; and
- 15 (c) may, notwithstanding the fact that the trade unions which are parties to the agreement are not registered in respect of all classes of employees employed in the undertaking, industry, trade or occupation concerned, or, if so registered, have no members belonging to certain classes of such employees, regard the parties to the agreement as sufficiently representative of the undertaking, industry, trade or occupation, provided
- 20 the employers represented by the parties to the agreement have in their employ employees belonging to all such classes.
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(12) For the purposes of this section, "class of employers" and "class of employees" includes such group or section or type of employer or employee as may be specified or defined in the relevant notice; and in the making of any such specification or definition any method of differentiation or discrimination based on age, sex, experience, length of employment or type of work or type or class of premises on or in which work is performed, or

30 any other method which is deemed to be advisable may be applied: Provided that no differentiation or discrimination on the basis of race or colour shall be made.

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49. (1) Any award made by an arbitrator, arbitrators or umpire or by the tribunal shall be final and binding upon the employees and employers who, and the trade unions and employers' organizations which, are parties to the dispute and upon the employees and employers who are members of those unions or organizations: Provided that if any award contains any provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four*, and the question of making such a provision was not included in the terms of reference determined by the Minister under sub-section (8) of section *thirty-five* or under that sub-section as applied by paragraph (c) of sub-section (6) of section *forty-six*, that provision shall

45 not be binding until the Minister, after he has satisfied himself that at the date on which the award was made the number of employees in the occupations to which the provision applies who were at that date members in good financial standing of a trade union referred to in such provision was equal to not less

50 than two-thirds of the total number of employees employed in such occupations in the area to which the said provision applies by the employers who were parties to the dispute or who are members of employers' organizations which were parties to the dispute, has by notice in the *Gazette* declared the said provision to be binding.

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Effect of arbitration awards.

(2) (a) At any time after an award has been made, the Minister may approve of the correction of an omission or error or the clarification of any provision in the award if in his opinion the correction or clarification is necessary.

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(b) From the date of approval of such correction or clarification the award as corrected or clarified shall be deemed to be the award made by the arbitrator, arbitrators, umpire or tribunal, as the case may be, and if a notice in respect of such an award has been published in the *Gazette* in terms of any provision of section *forty-eight* as applied by sub-section (10) of this section prior to the date of such correction or clarification, the Minister shall cause to be published in the *Gazette* a further notice setting out the terms of such correction or clarification and the date from which such correction

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op die in die eersgenoemde kennisgewing bedoelde persone bindend word, uiteengesit word.

(3) Die arbiter, arbiters, skeidsregter of nywerheidshof, na gelang van die geval, moet die datum vasstel waarop die toekenning bindend word, en hierdie datum kan die datum wees waarop die toekenning gemaak word of 'n vroeër of later datum wat vir hom of hulle billik mag voorkom: Met dien verstande dat—

(a) verskillende datums ten opsigte van verskillende bepalings van die toekenning vasgestel kan word; 10

(b) geen bepaling van 'n toekenning bindend gemaak word nie vanaf 'n datum vroeër as ses maande voor die datum waarop die toekenning gemaak is of vanaf 'n datum vroeër as die datum waarop na die mening van die arbiter, arbiters, skeidsregter of nywerheidshof, na gelang van die geval, die geskil ontstaan het, na gelang watter datum die jongste is; en 15

(c) 'n toekenning voorsiening kan maak vir die betaling aan werknemers van 'n bedrag in plaas van enige of almal van die voordele waarop sodanige werknemers geregtig word weens die feit dat enige bepaling van die toekenning bindend gemaak word ten opsigte van 'n tydperk voor die datum waarop sodanige toekenning gemaak word. 20

(4) Die bepalings van sub-artikels (5), (6) en (7) kan, na goedgevonden van die Minister, van toepassing gemaak word ten opsigte van die hele of enige gedeelte van 'n toekenning, of op enige afdeling of gedeelte van die onderneming, nywerheid, bedryf of beroep ten opsigte waarvan die toekenning bindend is, of in enige gedeelte van die gebied waarin die toekenning bindend is. 30

(5) Wanneer enige ooreenkoms ingevolge hierdie Wet aangegaan is of enige vasstelling ingevolge die Loonwet, 1937 (Wet No. 44 van 1937), gemaak is, en sodanige ooreenkoms of vasstelling behoort na die mening van die Minister 'n toekenning wat na die inwerkingtreding van hierdie Wet gemaak is te vervang, kan hy by kennisgewing in die *Staatskoerant* verklaar dat die bedoelde toekenning op die datum in sodanige kennisgewing vermeld ophou om bindend te wees. 35

(6) (a) In hierdie sub-artikel beteken „werknemers” die werknemers en vakverenigings wat partye by die geskil was of sodanige getal van hulle as wat na die mening van die Minister voldoende verteenwoordigend is van die werknemers op wie 'n toekenning ingevolge sub-artikel (1) bindend is; en beteken „werkgewers” die werkgewers en werkgewersorganisasies wat partye by die geskil was, of sodanige getal van hulle as wat na die mening van die Minister voldoende verteenwoordigend is van die werkgewers op wie die toekenning aldus bindend is. 50

(b) Te eniger tyd na verloop van vyftien maande vanaf die datum waarop 'n in sub-artikel (1) bedoelde toekenning gemaak is, kan die werknemers of die werkgewers die Minister van hul begeerte dat die toekenning moet ophou om bindend te wees, in kennis stel; en die werknemers of die werkgewers wat so 'n kennisgewing gegee het, kan dit terugtrek. 55

(c) Ten tyde van 'n kennisgewing kragtens paragraaf (b), of te eniger tyd binne dertig dae daarna, kan die werknemers of die werkgewers die Minister versoek— 60

(i) om 'n versoeningsraad in te stel om die aangeleenthede wat die onderwerp van die betrokke toekenning uitmaak, te oorweeg; of

(ii) om indien die betrokke toekenning bindend is op werknemers en werkgewers in enige onderneming, nywerheid, bedryf of beroep waarop die bepalings van artikel *ses-en-veertig* van toepassing is, die nywerheidshof te gelas om 'n nuwe toekenning te maak. 65

(d) Die werknemers of werkgewers wat 'n versoek kragtens sub-paragraaf (i) of (ii) van paragraaf (c) doen, kan ook 'n versoek kragtens die alternatiewe sub-paragraaf doen mits die eerste versoek teruggetrek word. 70

(e) Die werknemers of werkgewers wat die Minister ingevolge paragraaf (b) in kennis stel of wat 'n versoek kragtens paragraaf (c) doen moet terselfdertyd bewys tot bevrediging van die Minister lewer dat 'n afskrif daarvan aan die ander partye by die geskil per geregistreerde brief gestuur of afgelewer is. 75

(f) By ontvangs van so 'n kennisgewing of versoek kan die Minister van die bedoelde werknemers en werkgewers 80

or clarification shall become binding upon the persons referred to in such firstmentioned notice.

(3) The arbitrator, arbitrators, umpire or tribunal, as the case may be, shall fix the date from which the award shall be binding, which date may be the date on which the award is made or an earlier or a later date, as to him, them or it may seem equitable: Provided that—

- (a) different dates may be fixed in respect of different provisions of the award;
- (b) no provision of an award shall be made binding from a date earlier than six months prior to the date on which the award is made, or from a date earlier than the date upon which in the opinion of the arbitrator, arbitrators, umpire or tribunal, as the case may be, the dispute came into existence, whichever date is the later; and
- (c) an award may provide for the payment to employees of an amount in lieu of any or all of the benefits to which such employees become entitled by reason of the fact that any provision of the award is made binding in respect of any period prior to the date on which such award is made.

(4) The provisions of sub-sections (5), (6) and (7) may, in the discretion of the Minister, be applied in respect of the whole or any part of an award, or to any section or portion of the undertaking, industry, trade or occupation in respect of which the award is binding, or to any portion of the area in which the award is binding.

(5) Whenever any agreement has been entered into in terms of this Act or any determination has been made in terms of the Wage Act, 1937 (Act No. 44 of 1937), which agreement or determination in the opinion of the Minister should supersede an award made after the commencement of this Act, he may by notice in the *Gazette* declare that the said award shall cease to be binding on the date specified in such notice.

(6) (a) In this sub-section "employees" means the employees and trade unions who or which were parties to the dispute, or such number of them as are in the opinion of the Minister sufficiently representative of the employees upon whom an award is binding in terms of sub-section (1); and "employers" means the employers and employers' organizations who or which were parties to the dispute, or such number of them as are in the opinion of the Minister, sufficiently representative of the employers upon whom the award is so binding.

(b) At any time after the expiry of fifteen months from the date on which an award referred to in sub-section (1) was made, the employees or the employers may notify the Minister of their desire that the award shall cease to be binding; and the employees or the employers who gave any such notification may withdraw it.

(c) At the time of any notification under paragraph (b) or at any time within thirty days thereafter, the employees or the employers may request the Minister—

- (i) to establish a conciliation board to consider the matters which form the subject of the relevant award; or
- (ii) if the relevant award is binding upon employees and employers in any undertaking, industry, trade or occupation to which the provisions of section *forty-six* apply, to direct the tribunal to make a new award.

(d) The employees or employers who make a request under sub-paragraph (i) or (ii) of paragraph (c) may also make a request under the alternative sub-paragraph provided the first request is withdrawn.

(e) The employees or employers who notify the Minister in terms of paragraph (b), or who make a request under paragraph (c), shall at the same time furnish proof to the satisfaction of the Minister that a copy thereof has been sent by registered post or delivered to the other parties to the dispute.

(f) Upon receipt of any such notification or request the Minister may require the said employees or employers

- vereis om aan hom sodanige nadere inligting in verband daarmee as wat hy mag vereis, binne 'n tydperk deur hom vasgestel, te verskaf.
- (g) Enige party by die geskil wat 'n afskrif van 'n kennisgewing kragtens paragraaf (b) of 'n versoek kragtens paragraaf (c) ontvang of geregtig is om 'n afskrif daarvan te ontvang, kan skriftelik vertoë in verband daarmee aan die Minister voorlê binne dertig dae vanaf die datum van sodanige kennisgewing of versoek of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, hetsy voor of na die verstryking van so 'n tydperk en moet terselfdertyd bewys tot bevrediging van die Minister lewer dat 'n afskrif van daardie vertoë per geregistreerde pos gestuur of afgelewer is aan die werknemers of werkgewers wat die betrokke kennisgewing gegee of versoek gedoen het.
- (h) Enige werknemer of werkgewer wat 'n afskrif van die vertoë kragtens paragraaf (g) ontvang of geregtig is om dit te ontvang, kan skriftelik 'n antwoord daarop aan die Minister voorlê binne dertig dae vanaf die datum van sodanige vertoë of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd mag vasstel, hetsy voor of na die verstryking van so 'n tydperk en moet tegelykertyd bewys tot bevrediging van die Minister lewer dat 'n afskrif van die antwoord per geregistreerde pos gestuur of afgelewer is aan elke party by die geskil wat vertoë kragtens paragraaf (g) tot die Minister gerig het, maar so 'n party is nie geregtig om verdere vertoë in antwoord daarop voor te lê sonder die voorafgaande goedkeuring van die Minister nie.
- (7) (a) Na oorweging van 'n kennisgewing kragtens paragraaf (b) van sub-artikel (6) en van enige nadere inligting verskaf en vertoë en antwoord voorgelê ingevolge en binne die tydperke voorgeskryf of vasgestel kragtens paragrawe (b), (g) en (h) van daardie sub-artikel en van enige ander aangeleenthede wat hy ter sake ag, kan die Minister, indien geen versoek ingevolge paragraaf (c) van daardie sub-artikel gedoen is nie, 'n kennisgewing in die *Staatskoerant* laat publiseer wat verklaar dat die toekenning op die datum in sodanige kennisgewing vermeld ophou om bindend te wees.
- (b) Na oorweging van 'n kennisgewing kragtens paragraaf (b) van sub-artikel (6) en van 'n versoek gedoen, enige nadere inligting verskaf en vertoë en antwoord voorgelê kragtens en binne die tydperke voorgeskryf of vasgestel ingevolge paragrawe (c), (f), (g) en (h) van daardie sub-artikel en van enige ander aangeleenthede wat hy as ter sake ag, kan die Minister of—
- (i) indien hy oortuig is dat daar geen nywerheidsraad wat regsbevoegdheid besit ten opsigte van die in die toekenning behandelde aangeleenthede bestaan nie, 'n versoek gedoen ingevolge sub-paragraaf (i) of (ii) van paragraaf (c) van sub-artikel (6), na gelang van die geval, toestaan; of
- (ii) 'n kennisgewing in die *Staatskoerant* laat publiseer wat verklaar dat die toekenning ophou om bindend te wees op die datum in sodanige kennisgewing vermeld.
- (8) Indien die Minister 'n versoek wat ingevolge paragraaf (i) van paragraaf (c) van sub-artikel (6) gedoen is, toestaan, word die versoeningsraad daardeur ingestel geag 'n versoeningsraad te wees wat kragtens artikel vyf-en-dertig ingestel is en al die bepalings van hierdie Wet met betrekking tot so 'n versoeningsraad is *mutatis mutandis* op daardie versoeningsraad van toepassing.
- (9) Indien die Minister 'n versoek wat ingevolge sub-paragraaf (ii) van paragraaf (c) van sub-artikel (6) gedoen is, toestaan, is al die bepalings van hierdie Wet met betrekking tot die onderneming van arbitrasies en die maak van toekennings deur die nywerheidshof *mutatis mutandis* van toepassing.
- (10) Die bepalings van paragrawe (b) en (c) van sub-artikels (1) en (2) en van sub-artikels (3), (4), (5), (7), (11) en (12) van artikel agt-en-veertig is op 'n in sub-artikel (1) van hierdie artikel bedoelde toekenning *mutatis mutandis* van toepassing: Met dien verstande dat vir doeleindes van 'n in die genoemde bepalings bedoelde versoek of oorlegpleging en vir die doel om die verteenwoordigendheid van die partye vas te stel, die partye by die arbitrasie verrigtinge wat aanleiding tot die toekenning gegee het, geag word die betrokke nywerheidsraad of die partye by

to furnish him with such further information in regard thereto as he may require, within a period fixed by him.

5 (g) Any party to the dispute who receives or is entitled to receive a copy of a notification under paragraph (b) or a request under paragraph (c) may submit representations to the Minister in regard thereto in writing within thirty days of the date of such notification or request, or within such further period or periods as the Minister may from time to time fix, either before or after the expiry of any such period and shall at the same time furnish proof to the satisfaction of the Minister that a copy of such representations has been sent by registered post or delivered to the employers or employees who gave the notice or made the request concerned.

10 (h) Any employee or employer who receives or is entitled to receive a copy of the representations under paragraph (g) may submit a reply thereto in writing to the Minister within thirty days of the date of the said representations or within such further period or periods as the Minister may from time to time fix, either before or after the expiry of any such period and shall at the same time furnish proof to the satisfaction of the Minister that a copy of such reply has been sent by registered post or delivered to every party to the dispute who submitted representations to the Minister under paragraph (g), but any such party shall not be entitled to submit further representations in answer thereto without the prior approval of the Minister.

30 (7) (a) After consideration of a notification under paragraph (b) of sub-section (6) and of any further information furnished and representations and reply submitted under and within the periods prescribed or fixed in terms of paragraphs (b), (g) and (h) of that sub-section and of any other matters which he considers relevant, the Minister may, if no request has been made in terms of paragraph (c) of that sub-section, cause to be published in the *Gazette* a notice declaring that the award shall cease to be binding on the date specified in such notice.

35 (b) After consideration of a notification under paragraph (b) of sub-section (6) and of any request made, any further information furnished and representations and reply submitted under and within the periods prescribed or fixed in terms of paragraphs (c), (f), (g) and (h) of that sub-section and of any other matters which he considers relevant, the Minister may either—

40 (i) if he is satisfied that there is no industrial council having jurisdiction in respect of the matters dealt with in the award, grant a request made in terms of sub-paragraph (i) or (ii) of paragraph (c) of sub-section (6), as the case may be; or

45 (ii) cause to be published in the *Gazette* a notice declaring that the award shall cease to be binding on the date specified in such notice.

50 (8) If the Minister grants a request made in terms of sub-paragraph (i) of paragraph (c) of sub-section (6), the conciliation board thereby established shall be deemed to be a conciliation board established under section *thirty-five*, and all the provisions of this Act relating to such a board shall *mutatis mutandis* apply to that board.

55 (9) If the Minister grants a request made in terms of sub-paragraph (ii) of paragraph (c) of sub-section (6), all the provisions of this Act in regard to the conducting of arbitrations and the making of awards by the tribunal shall *mutatis mutandis* apply.

70 (10) The provisions of paragraphs (b) and (c) of sub-sections (1) and (2), and of sub-sections (3), (4), (5), (7), (11) and (12) of section *forty-eight* shall *mutatis mutandis* apply to an award referred to in sub-section (1) of this section: Provided that for the purposes of any request or consultation such as is referred to in the said provisions and for the purpose of determining the representativeness of the parties, the parties to the arbitration

die ooreenkoms te wees, na gelang van die geval, en die gebied waarin die toekenning bindend is geag word die gebied te wees ten opsigte waarvan die nywerheidsraad geregistreer is: Met dien verstande voorts dat die bepalings van sub-artikel (3) van artikel *agt-en-veertig* ten opsigte van 'n toekenning toegepas kan word hetsy daardie toekenning die onderwerp was van 'n versoek kragtens sub-artikel (1) van daardie artikel, soos toegepas deur hierdie sub-artikel, al dan nie.

Diverse bepalings ten opsigte van ooreenkomste en toekennings.

50. (1) Enige ooreenkoms of toekenning wat kragtens hierdie Wet bindend is op die lede van enige werkgewersorganisasie of vakvereniging, is bindend op elke werkgewer en werknemer wat 'n lid was van sodanige organisasie of vereniging op die datum waarop die ooreenkoms aangegaan of die toekenning gemaak is, of wat 'n lid daarna geword het, gedurende die geheel van die tydperk gedurende welke sodanige ooreenkoms of toekenning bindend is op die lede van sodanige organisasie of vereniging, hetsy hy aanhou om 'n lid van sodanige organisasie of vereniging te wees, al dan nie: Met dien verstande dat—

- (i) 'n bepaling ingevolge paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* in sodanige ooreenkoms of toekenning ingesluit ophou om op so 'n persoon bindend te wees vanaf die datum waarop hy ophou om 'n lid van die organisasie of vereniging na gelang van die geval, te wees; en
- (ii) in die geval van 'n werkgewer of werknemer wat 'n lid van sodanige organisasie of vereniging, na gelang van die geval, word na die datum waarop die ooreenkoms of toekenning kragtens hierdie Wet bindend geword het, die ooreenkoms of toekenning, behoudens die bepalings van enige kennisgewing kragtens paragraaf (b) of (c) van sub-artikel (1) van artikel *agt-en-veertig* gepubliseer op hom bindend is vanaf die datum waarop hy 'n lid word.

(2) Indien die geskil deur 'n nywerheidsraad na arbitrasie verwys is, kan die toekenning, benewens die behandeling van enige aangeleenthede wat die onderwerp van die geskil uitmaak het, voorsiening maak vir die administrasie daarvan deur sodanige raad en vir die betaling aan die raad van bydraes deur werkgewers en werknemers tot die koste van administrasie van die toekenning, of die bereiking van die oogmerke daarvan; en in daardie geval word sodanige toekenning vir doeleindes van artikel *een-en-veertig* geag 'n ooreenkoms te wees wat deur die partye by daardie raad aangegaan en kragtens artikel *agt-en-veertig* bindend verklaar is.

Vrystellings en die uitsluiting van naturelle gebied.

51. (1) Wanneer aansoek in die vorm en op die wyse voorgeskryf gedoen word vir die vrystelling van enige persoon of klas persone van almal of enige van die bepalings van 'n ooreenkoms of toekenning wat kragtens hierdie Wet bindend is, en die Minister van mening is dat—

- (a) die bedinge en voorwaardes van diens van sodanige persoon of klas persone vir hulle wesenlik nie minder gunstig is nie as die bedinge en voorwaardes van diens wat deur daardie ooreenkoms of toekenning voorgeskryf word; of
- (b) sodanige persoon aan 'n liggaamlike ongeskiktheid soos ouderdom of kroniese siekte of swaakheid ly en in staat is om alleen deel van die werk te verrig wat van 'n liggaamlik geskikte persoon vereis word; of
- (c) besondere omstandighede bestaan wat in belang van sodanige persoon of klas persone 'n vrystelling van daardie persoon of klas persone ingevolge hierdie artikel regverdig,

kan hy, as hy dit raadsaam ag om dit te doen, vrystelling verleen van almal of enige van die bepalings van die betrokke ooreenkoms of toekenning aan of ten opsigte van daardie persoon of klas persone vir sodanige tydperk en onderhewig aan sodanige bedinge en voorwaardes as wat hy mag vasstel. Die tydperk waarvoor vrystelling verleen word kan op 'n datum begin voor die waarop vrystelling verleen word maar nie vroeër as die datum waarop aansoek ingevolge hierdie sub-artikel gedoen is nie.

(2) Die Minister kan, na goëddunke, van tyd tot tyd 'n deur hom getekende geskrif die bevoegdhede wat sub-artikel (1) aan hom verleen aan enige amptenaar oordra; en hy kan te eniger tyd so 'n oordrag terugtrek.

(3) Aansoek om vrystelling van almal of enige van die bepalings van 'n ooreenkoms deur partye by 'n nywerheidsraad aangegaan en wat onder artikel *agt-en-veertig* bindend verklaar is, kan by die betrokke nywerheidsraad gedoen word, of by enige komitee aan wie die bevoegdhede van die raad ingevolge

proceedings which gave rise to the award shall be deemed to be the industrial council concerned or the parties to the agreement as the case may be, and the area in which the award is binding shall be deemed to be the area in respect of which the council is registered: Provided further that the provisions of sub-section (3) of section *forty-eight* may be applied in respect of an award, whether or not that award has been the subject of a request under sub-section (1) of that section as applied by this sub-section.

10 50. (1) Any agreement or award which is binding under this Act upon the members of any employers' organization or trade union shall be binding upon every employer and employee who was a member of such organization or union at the date on which the agreement was entered into or the award made or
15 who became a member thereafter, during the whole of the period during which such agreement or award is binding on the members of such organization or union, whether or not he continues to be a member of such organization or union: Provided that—

Miscellaneous provisions in regard to agreements and awards.

20 (i) any provision included in such agreement or award in terms of paragraph (x) of sub-section (1) of section *twenty-four* shall cease to be binding on any such person from the date on which he ceases to be a member of the organization or union, as the case may be; and

25 (ii) in the case of an employer or employee who becomes a member of such organization or union, as the case may be, after the date on which the agreement or award became binding under this Act, the agreement or award shall, subject to the provisions of any notice published under paragraph (b) or (c) of sub-section (1)
30 of section *forty-eight*, be binding on him from the date on which he becomes a member.

(2) If the dispute was referred to arbitration by an industrial council, the award may, in addition to dealing with any
35 matters which formed the subject of the dispute, provide for the administration thereof by such council and for the payment to the council of contributions by employers and employees towards the expenses of administration of the award or the attainment of the objects thereof; and in that event such award shall
40 for the purposes of section *fifty-one* be deemed to be an agreement entered into by the parties to that council and declared to be binding under section *forty-eight*.

51. (1) Whenever application is made in the prescribed form and manner for the exemption of any person or class of persons
45 from all or any of the provisions of an agreement or award which is binding under this Act and the Minister of opinion that—

Exemptions and the exclusion of native area.

50 (a) the terms and conditions of employment of such person or class of persons are substantially not less favourable to them than the terms and conditions of employment prescribed by that agreement or award; or

(b) such person suffers from a physical disability such as old age, or chronic sickness or infirmity and is capable of doing only part of the work required of an able-bodied person; or

55 (c) special circumstances exist which justify, in the interests of such person, or class of persons an exemption of that person or class of persons under this section,

he may, if he deems it expedient to do so, grant exemption from
60 all or any of the provisions of the agreement or award concerned to or in respect of that person or class of persons, for such period and subject to such terms and conditions as he may determine. The period for which exemption is granted may
65 commence on a date prior to that on which the exemption is granted but not earlier than the date on which the application was made in terms of this sub-section.

(2) The Minister may, in his discretion, from time to time by writing under his hand delegate the powers conferred upon him by sub-section (1) to any officer; and he may at any time
70 withdraw any such delegation.

(3) Application for exemption from all or any of the provisions of an agreement entered into by parties to an industrial council which has been declared binding under section *forty-eight* may be made to the industrial council concerned, or to any
75 committee to which the powers of the council under this section

hierdie artikel kragtens artikel vyf-en-twintig oorgedra is; en die bevoegdhede wat sub-artikel (1) aan die Minister verleen, kan *mutatis mutandis* deur sodanige raad of komitee uitgeoefen word.

(4) Die bedinge en voorwaardes van 'n vrystelling wat kragtens sub-artikels (1) of (3) verleen word moet in 'n vrystellingsertifikaat, onderteken deur 'n amptenaar of die sekretaris van die betrokke raad of komitee, na gelang van die geval, ingelyf word en 'n afskrif daarvan moet aan sodanige persoon of persone as wat die amptenaar of sekretaris, na gelang van die geval, nodig ag gestuur word: Met dien verstande dat in plaas van sodanige sertifikaat die Minister die publikasie in die *Staatskoerant* kan magtig van 'n kennisgewing wat die bedinge en voorwaardes van sodanige vrystelling uiteensit, en vanaf 'n datum in sodanige kennisgewing vermeld is die vrystelling bindend op die persone of klas persone daarin vermeld en vir die tydperk aldus vermeld.

(5) Enige persoon wat veronreg voel deur enige beslissing van 'n komitee—

(a) kragtens sub-artikel (3) op 'n aansoek om vrystelling; 20
of

(b) kragtens sub-artikel (8) om 'n vrystelling in te trek, kan te eniger tyd na die raad teen daardie beslissing appelleer, en die raad kan na oorweging van enige redes wat deur sodanige komitee vir sy beslissing voorgelê mag word, daardie beslissing bekrachtig of sodanige ander beslissing gee as wat die komitee na sy mening behoort te gegee het.

(6) (a) Enige persoon wat veronreg voel deur enige beslissing van die raad—

(i) kragtens sub-artikel (3) op 'n aansoek om vrystelling; of 30

(ii) kragtens sub-artikel (8) om 'n vrystelling in te trek; of

(iii) op 'n appèl onder sub-artikel (5), kan te eniger tyd na die Minister teen daardie beslissing appelleer: Met dien verstande dat geen werkgewer, wergeversorganisasie of vakvereniging wat 'n party by die raad is en geen lid van sodanige organisasie of vereniging die reg van appèl kragtens hierdie sub-artikel het nie, behalwe ten opsigte van 'n aansoek om vrystelling van 'n bepaling wat in 'n ooreenkoms ingevolge paragraaf (x) van sub-artikel (1) van artikel vier-en-twintig ingesluit is. 40

(b) By ontvangs van so 'n appèl kan die Minister van die raad vereis om aan hom binne 'n tydperk deur hom vasgestel die redes van sy beslissing te verskaf. Die Minister kan na oorweging van die redes wat deur die raad verskaf is en enige ander aangeleenthede wat hy as ter sake beskou, daardie beslissing bekrachtig of sodanige ander beslissing gee as wat die raad na sy mening behoort te gegee het; en sodanige beslissing word vir die doeleindes van hierdie Wet geag die beslissing van die raad te wees. 50

(7) Enige vrystelling wat kragtens hierdie artikel aan 'n werknemer verleen is, word geag om enige werkgewer wat sodanige werknemer in diens neem vry te stel van die tersaaklike bepalings van die betrokke ooreenkoms of toekenning tot die mate in die vrystellingsertifikaat vermeld, en enige bedinge en voorwaardes in die vrystellingsertifikaat vermeld is bindend op die persoon aan wie die vrystelling verleen is en, indien daardie persoon 'n werknemer is, op elke persoon wat hom in diens neem. 60

(8) Enige vrystelling verleen—

(a) deur die Minister of deur 'n amptenaar aan wie bevoegdhede kragtens sub-artikel (2) oorgedra is, of ooreenkomstig 'n beslissing van die Minister kragtens sub-artikel (6), kan te eniger tyd deur die Minister ingetrek word; of 65

(b) deur 'n amptenaar aan wie bevoegdhede aldus oorgedra is, kan te eniger tyd ingetrek word deur daardie amptenaar of deur enige ander amptenaar aan wie bevoegdhede aldus oorgedra is; of 70

(c) deur 'n nywerheidsraad, of ooreenkomstig 'n beslissing van 'n raad kragtens sub-artikel (5), behalwe 'n vrystelling wat ooreenkomstig 'n beslissing van die Minister kragtens sub-artikel (6) verleen is, kan te eniger tyd deur daardie raad ingetrek word; of 75

(d) deur 'n komitee van 'n nywerheidsraad, behalwe 'n vrystelling wat ooreenkomstig 'n beslissing van die Minister kragtens sub-artikel (6) of ooreenkomstig 'n beslissing van 'n raad kragtens sub-artikel (5) verleen is, kan te eniger tyd deur daardie komitee of deur 80

have been delegated in terms of section *twenty-five*; and the powers conferred on the Minister by sub-section (1) may *mutatis mutandis* be exercised by such council or committee.

(4) The terms and conditions of an exemption granted under sub-section (1) or (3) shall be incorporated in a licence of exemption, signed by an officer or the secretary of the council or committee concerned, as the case may be, and a copy thereof shall be transmitted to such person or persons as the officer or the secretary, as the case may be, considers necessary: Provided that in lieu of such licence, the Minister may authorize the publication in the *Gazette* of a notice setting out the terms and conditions of such exemption, and from a date specified in such notice the exemption shall be binding on the persons, or class of persons specified therein for the period so specified.

(5) Any person who feels aggrieved by any decision of a committee—

(a) under sub-section (3) on an application for exemption; or

(b) under sub-section (8) to withdraw any exemption, may appeal at any time to the council from that decision, and the council may after considering any reasons which may be submitted by the committee for its decision, confirm that decision or give such other decision as in its opinion the committee ought to have given.

(6) (a) Any person, who feels aggrieved by any decision of a council—

(i) under sub-section (3) on an application for exemption; or

(ii) under sub-section (8) to withdraw any exemption; or

(iii) on an appeal under sub-section (5), may appeal at any time to the Minister from that decision: Provided that no employer, employers' organization or trade union which is a party to the council, and no member of such organization or union shall have a right of appeal under this sub-section save in respect of an application for exemption from a provision included in the agreement in terms of paragraph (x) of sub-section (1) of section *twenty-four*.

(b) Upon receipt of any such appeal the Minister may require the council to furnish him with the reasons for its decision within a period fixed by him. The Minister may after considering the reasons furnished by the council and any other matter which he considers relevant, confirm that decision or give such other decision as in his opinion the council ought to have given; and such decision shall for the purposes of this Act be deemed to be the decision of the council.

(7) Any exemption granted to an employee under this section shall be deemed to exempt any employer who employs such employee from the relevant provisions of the agreement or award concerned to the extent specified in the licence of exemption and any terms and conditions specified in any licence of exemption shall be binding upon the person to whom the exemption was granted, and, if that person is an employee, upon every person who employs him.

(8) Any exemption granted—

(a) by the Minister or by an officer to whom powers have been delegated under sub-section (2), or in pursuance of a decision of the Minister under sub-section (6), may at any time be withdrawn by the Minister; or

(b) by an officer to whom powers have been so delegated may at any time be withdrawn by that officer or by any other officer to whom powers have been so delegated; or

(c) by an industrial council, or in pursuance of a decision of a council under sub-section (5), other than an exemption granted in pursuance of a decision of the Minister under sub-section (6), may at any time be withdrawn by that council; or

(d) by a committee of a council, other than an exemption granted in pursuance of a decision of the Minister under sub-section (6) or in pursuance of a decision of a council under sub-section (5), may at any time be withdrawn by that committee or by any other commit-

enige ander komitee waaraan die bevoegdheid deur sub-artikel (3) verleen ingevolge artikel vyf-en-twintig oorgedra is, of deur die raad ingetrek word.

(9) Vir die doeleindes van hierdie artikel beteken „klas persone” ook sodanige groep of afdeling of tipe persoon as wat in die vrystellingstifikaat vermeld of omskrywe word en by die maak van so ’n vermelding of omskrywing kan enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van dienstryd of tipe van werk of tipe of klas van perseel of gebied waarop of waarin werk verrig word, of enige ander metode wat raadsaam geag word, toegepas word.

(10) Indien, na sodanige ondersoek as wat hy nodig ag, die Minister oortuig is dat ’n persoon onredelikerwys lidmaatskap geweier is van, of onredelikerwys uitgesit is uit, ’n vakvereniging of werkgewersorganisasie en, ten gevolge van sodanige weiering of uitsetting nadelig geraak word deur ’n in paragraaf (x) van sub-artikel (1) van artikel vier-en-twintig bedoelde bepaling in ’n ooreenkoms, kan hy die nywerheidsraad dienooreenkomstig in kennis stel en met ingang vanaf die datum van sodanige kennisgewing is die bedoelde bepaling nie op of ten opsigte van sodanige persoon van toepassing nie.

(11) Wanneer die Minister van mening is dat dit in belang is van persone wat in ’n natuurlike-gebied woonagtig is, dat enige ooreenkoms of toekenning nie in daardie gebied of ten opsigte van enige besondere klas werk in daardie gebied van toepassing behoort te wees nie, kan hy, na goeddunke, te eniger tyd, na oorlegpleging met die betrokke nywerheidsraad of versoeningsraad, of indien die versoeningsraad ontslaan is, met die partye wat op die versoeningsraad verteenwoordig was, of indien daar nie so ’n nywerheidsraad of versoeningsraad is of was nie, met die partye by die arbitrasieverrigtinge waaruit die toekenning ontstaan het, by kennisgewing in die *Staatskoerant* daardie gebied of daardie besondere klas werk in daardie gebied van die werking van daardie ooreenkoms of toekenning vir sodanige tydperk en onderhewig aan sodanige voorwaardes as wat hy goed dink, uitsluit.

Bepalings van ooreenkoms, toekenning of vrystellingstifikaat kan nie deur ooreenkoms verander word nie nog kan daarvan afgesien word.

52. (1) Geen ooreenkoms, uitdruklik of stilswyend, met inbegrip van ’n plakkerdienskontrak of dienskontrak ingevolge die Naturelledienskontrak Wet, 1932 (Wet No. 24 van 1932), hetsy dit aangegaan is voordat of nadat enige ooreenkoms of toekenning wat kragtens hierdie Wet bindend is in werking getree het, of enige vrystellingstifikaat uitgereik is, het die uitwerking dat dit die betaling aan enige werknemer veroorloof van beloning minder as wat daardie ooreenkoms, toekenning of sertifikaat voorskryf, of die toepassing op enige werknemer van enige behandeling of die toekenning aan hom van voordele, wat vir hom minder gunstig is as die aldus voorgeskrewe behandeling of voordele, nog bewerkstellig dit die afstand deur enige werknemer van die toepassing van enige bepaling van daardie ooreenkoms, toekenning of sertifikaat op hom. Enige persoon wat ’n ooreenkoms aangaan wat voorgee om so ’n betaling, toepassing of toekenning te veroorloof of om so ’n afstand te bewerkstellig is aan ’n misdryf skuldig, en elke sodanige ooreenkoms is nietig.

(2) ’n Werkgewer wat vereis of toelaat dat enige werknemer enige beloning aan hom betaal of terugbetaal wat kragtens enige ooreenkoms of toekenning wat kragtens hierdie Wet bindend is of was, of kragtens enige vrystellingstifikaat, of ooreenkoms ’n lasgewing wat kragtens sub-artikel (1) van artikel vyf-en-vyftig uitgevaardig is aan daardie werknemer betaalbaar of betaal is, of enige handeling verrig of toelaat dat enige handeling verrig word waarvan die regstreekse of onregstreekse gevolg is dat aan daardie werknemer die voordeel of enige deel van die voordeel van enige aldus betaalde beloning ontnem word, is aan ’n misdryf skuldig.

(3) ’n Werkgewer wat vereis of toelaat dat ’n werknemer ’n kwitansie uitreik, of andersins voorgee, dat hy meer ontvang het as wat hy werklik by wyse van beloning ontvang het, is aan ’n misdryf skuldig.

(4) Die bepalinge van hierdie artikel is, *mutatis mutandis*, van toepassing ten opsigte van enige bepaling van enige ooreenkoms of toekenning met betrekking tot enige in paragraaf (p) van sub-artikel (1) van artikel vier-en-twintig bedoelde aangeleenthede en ten opsigte van enige prinsipaal of aannemer of ander persoon op wie daardie bepaling kragtens hierdie Wet bindend is of was.

53. (1) Iemand wat enige bepaling van ’n ooreenkoms, toekenning, vasstelling of vrystellingstifikaat, wat kragtens hierdie Wet op hom bindend is oortree, of versuim om daaraan te voldoen, is aan ’n misdryf skuldig.

Versuim om bepalinge van ooreenkoms, toekenning, vasstelling of vrystellingstifikaat na te kom.

tee to which in terms of section *twenty-five* the power conferred by sub-section (3) has been delegated, or by the council.

- (9) For the purposes of this section, "class of persons" includes such group or section or type of person as may be specified or defined in the licence of exemption and in the making of any such specification or definition any method of differentiation or discrimination based on age, sex, experience, length of employment or type of work or type or class of premises or area on or in which work is performed, or any other method which is deemed to be advisable may be applied.

- (10) If, after such enquiry as he deems necessary, the Minister is satisfied that any person has unreasonably been refused membership of or has unreasonably been expelled from any trade union or employers' organization and is by reason of such refusal or expulsion adversely affected by a provision in an agreement such as is referred to in paragraph (x) of sub-section (1), of section *twenty-four*, he may advise the industrial council concerned accordingly and with effect from the date of such advice, the provision referred to shall not apply to or in respect of such person.

- (11) Whenever the Minister considers that it will be in the interests of persons residing within any native area that any agreement or award should not be operative within that area or in respect of any particular class of work in that area, he may, in his discretion, at any time, after consultation with the industrial council or conciliation board concerned, or if the board has been discharged, with the parties who were represented on the board or if there is or was no such industrial council or conciliation board, with the parties to the arbitration proceedings which gave rise to the award, by notice in the *Gazette* exclude that area or that particular class of work in that area from the operation of that agreement or award for such period and subject to such conditions as he may think fit.

52. (1) No agreement, express or implied, including a labour tenant contract or service contract in terms of the Native Service Contract Act, 1932 (Act. No. 24 of 1932), whether entered into before or after the coming into operation of any agreement or award that is binding under this Act or the grant of any licence of exemption shall operate to permit of the payment to any employee of remuneration less than that prescribed by that agreement, award or licence, or of the application to any employee of any treatment, or the grant to him of any benefits, less favourable to him than the treatment or benefits so prescribed, nor shall it effect any waiver by an employee of the application to him of any provision of that agreement, award or licence. Any person who enters into any agreement purporting to permit of any such payment, application or grant or to effect any such waiver shall be guilty of an offence, and any such agreement shall be void.

Provisions of agreement, award or licence of exemption cannot be varied by agreement or be waived.

- (2) An employer who requires or permits any employee to pay or re-pay to him any remuneration payable or paid to that employee under any agreement or award, which is or was binding in terms of this Act, or under any licence of exemption, or pursuant to any direction given in terms of sub-section (1) of section *fifty-five*, or does any act or permits any act to be done as a direct or indirect result of which that employee is deprived of the benefit or of any portion of the benefit of any remuneration so paid, shall be guilty of an offence.

- (3) An employer who requires or permits any employee to give a receipt for, or otherwise to represent that he has received, more than he actually received by way of remuneration, shall be guilty of an offence.

- (4) The provisions of this section shall, *mutatis mutandis* apply in respect of any provision of any agreement or award relating to any of the matters referred to in paragraph (p) of sub-section (1) of section *twenty-four*, and in respect of an principal or contractor or other person upon whom that provision is or was binding under this Act.

53. (1) Any person who contravenes or fails to comply with any provision of any agreement, award, determination or licence of exemption binding upon him under this Act shall be guilty of an offence.

Failure to observe provisions of agreement, award, determination or licence of exemption.

(2) Indien die veroordeelde persoon 'n werkgewer was en die misdryf daaruit bestaan het dat hy 'n bepaling van so 'n ooreenkoms, toekenning of sertifikaat met betrekking—

(a) tot enige in paragraaf (a), (c) of (h) van sub-artikel (1) van artikel *vier-en-twintig*, bedoelde aangeleentheid, of tot betaling ten opsigte van oortyd of maaltye of ten opsigte van of in plaas van verlof of in plaas van kennisgewing van beëindiging van diens of tot betaling op die vervaldatum van die volle beloning verskuldig aan 'n werknemer, of, in die geval van 'n vrystelling-sertifikaat, tot enige beloning aan 'n werknemer daarvolgens verskuldig; of

(b) tot enige in paragraaf (b) of (l) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde aangeleentheid, oortree het of versuim het om daaraan te voldoen, moet die hof wat hom skuldig bevind die verskil ondersoek en vasstel tussen die bedrag wat hy betaal het en die bedrag wat hy sou betaal het as die oortreding of versuim waaraan hy skuldig bevind is nie plaasgevind het nie, en, in die geval van 'n in paragraaf (a) bedoelde oortreding of versuim, bepaal of die betrokke werknemer ingestem het, al dan nie, om minder te ontvang as die beloning, waarop hy kragtens die bepalings van die betrokke ooreenkoms, toekenning of sertifikaat geregtig was, en, indien hy aldus ingestem het, of hy bewus was, al dan nie, van sy regte kragtens daardie bepalings, en, indien hy van daardie regte bewus was, die omstandighede waaronder hy aldus ingestem het: Met dien verstande dat indien die hof uit al die getuienis, hetsy dit voor skuldigbevinding afgelê is of daarna, nie in staat is om daardie verskil presies vas te stel nie, hy die verskil na die beste van sy vermoë moet beraam. As geen bedrag betaal is nie word die bedrag wat betaal sou gewees het indien die oortreding of versuim nie plaasgevind het nie by die toepassing van hierdie sub-artikel geag die verskil te wees. Die verskil wat aldus vasgestel is, of die bedrag waarop dit aldus beraam is, word in hierdie artikel en in artikels *vier-en-vyftig* en *ses-en-vyftig* die onderbetaalde bedrag genoem.

(3) Indien die veroordeelde persoon 'n werknemer was en die misdryf daaruit bestaan het dat hy 'n bepaling van so 'n ooreenkoms, toekenning of sertifikaat met betrekking tot kennisgewing van diensbeëindiging oortree het of versuim het om daaraan te voldoen en bedoelde ooreenkoms toekenning of sertifikaat voorsiening maak vir die betaling of verbeuring deur 'n werknemer van 'n bedrag in plaas van kennisgewing, moet die hof wat hom skuldig bevind die verskil ondersoek en vasstel tussen enige bedrag wat hy betaal of verbeur het en die bedrag wat hy ingevolge die toepaslike bepaling van die ooreenkoms, toekenning of sertifikaat moes betaal of verbeur het: Met dien verstande dat indien die hof uit al die getuienis, of dit voor skuldigbevinding of daarna afgelê is, nie in staat is om daardie verskil presies vas te stel nie, hy die verskil na die beste van sy vermoë moet beraam. As geen bedrag betaal of verbeur is nie, word die bedrag wat die betrokke werknemer ingevolge die toepaslike bepaling van die ooreenkoms, toekenning of sertifikaat moes betaal of verbeur het by die toepassing van hierdie sub-artikel geag die verskil te wees. Die verskil wat aldus vasgestel is, of die bedrag waarop dit aldus beraam is word in hierdie artikel en in artikels *vier-en-vyftig* en *ses-en-vyftig* die bedrag wat betaal moet word genoem.

(4) Die hof moet, wanneer hy kragtens sub-artikel (2) optree aan die werkgewer 'n geleentheid gee om getuienis voor te lê aangaande die onderbetaalde bedrag en die omstandighede waaronder die onderbetaling plaasgevind het en, as die misdryf bestaan het uit 'n in paragraaf (a) van daardie sub-artikel bedoelde oortreding of versuim, aan die betrokke werknemer 'n soortgelyke geleentheid gee.

(5) Die verrigtinge van die hof kragtens sub-artikels (2), (3) en (4) moet plaasvind voordat die vonnis uitgespreek word en word geag deel van die verhoor uit te maak.

(6) As die misdryf bestaan het uit 'n in sub-artikel (2) bedoelde oortreding of versuim, en die onderbetaalde bedrag groter is as die maksimum bedrag van die geldboete voorgeskryf deur paragraaf (c) van sub-artikel (1) van artikel *twee-en-tagtig*, moet die maksimum bedrag van die geldboete waarmee die veroordeelde persoon volgens daardie artikel strafbaar is, verhoog word tot 'n bedrag wat gelykstaan aan die onderbetaalde bedrag.

(7) Dit is geen verweer teen 'n aanklag weens 'n oortreding of versuim in sub-artikel (2) of (3) bedoel om te bewys dat die handeling of versuim waarvan die beskuldigde aangekla word aan gebrek aan middele te wyte was nie.

(2) If the person convicted was an employer, and the offence consisted of the contravention of or failure to comply with any provision of any such agreement, award or licence relating—

5 (a) to any matter referred to in paragraph (a), (c) or (h) of sub-section (1) of section *twenty-four*, or to payment in respect of overtime or meals or in respect of or in lieu of leave of absence or in lieu of notice of termination of employment, or to payment on due date of the full remuneration owing to an employee, or, in the case of a licence of exemption, to any remuneration due to an employee in terms thereof; or

(b) to any matter referred to in paragraph (b) or (l) of sub-section (1) of section *twenty-four*,

15 the court convicting him shall enquire into and determine the difference between the amount which he paid and the amount which he would have paid if the contravention or failure of which he has been convicted had not occurred, and, in the case of a contravention or failure such as is referred to in paragraph (a), whether the employee concerned did or did not agree to accept less than the remuneration which under the provisions of the relative agreement, award or licence he was entitled to receive, and whether, if he did so agree, he did or did not know of his rights under those provisions, and if he did know of those rights, the circumstances under which he so agreed: Provided 20 that if the court is unable on all the evidence, whether given before or after conviction, to determine that difference exactly, it shall, to the best of its ability, estimate that difference. If no amount has been paid the amount which would have been paid if the contravention or failure had not occurred, shall, for the purposes of this sub-section, be deemed to be the difference. 30 The difference so determined or the amount at which it is so estimated is in this section and in sections *fifty-four* and *fifty-six* referred to as the amount underpaid.

(3) If the person convicted was an employee and the offence 35 consisted of the contravention of or failure to comply with any provision of any such agreement, award or licence relating to the giving of notice upon termination of employment and such agreement, award or licence provides for the payment or forfeiture by an employee of an amount in lieu of notice, the court convicting him shall enquire into and determine the difference between any amount which he paid or forfeited and the amount which he was required to pay or forfeit in terms of the relevant provision of the agreement, award or licence: 40 Provided that if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall to the best of its ability estimate that difference. If no amount has been paid or forfeited, the amount which the employee concerned was required to pay or forfeit in terms of the relevant provision of the agreement, award or licence shall 45 for the purposes of this sub-section be deemed to be the difference. The difference so determined or the amount at which it is so estimated is in this section and in sections *fifty-four* and *fifty-six* referred to as the amount to be paid. 50

(4) The court shall, when acting under sub-section (2), give 55 to the employer an opportunity of submitting evidence regarding the amount underpaid and the circumstances under which the underpayment took place, and, if the offence consisted of a contravention or a failure such as is referred to in paragraph (a) of that sub-section, give to the employee concerned a similar 60 opportunity.

(5) The proceedings of the court under the provisions of sub-sections (2), (3) and (4) shall take place before sentence is passed, and shall be deemed to form part of the trial.

(6) If the offence consisted of a contravention or failure 65 such as is referred to in sub-section (2), and the amount underpaid is greater than the maximum amount of the fine prescribed by paragraph (c) of sub-section (1) of section *eighty-two* the maximum amount of the fine to which the person convicted shall be liable in terms of that section shall be increased to an 70 amount equal to the amount underpaid.

(7) It shall not be a defence to any charge of a contravention or failure such as is referred to in sub-section (2) or (3) to prove that the act or omission with which the accused is charged was due to lack of means.

Bevel op werkgewer of werknemer om onderbetaalde bedrag of bedrag wat betaal moet word aan aangewese amptenaar te betaal.

54. (1) Wanneer iemand skuldig bevind is aan 'n in sub-artikel (1) van artikel *drie-en-vyftig* bedoelde misdryf, en die misdryf bestaan het uit 'n oortreding of versuim in sub-artikel (2) of (3) van daardie artikel bedoel, moet die hof wat hom skuldig bevind het, nadat die hof ingevolge daardie artikel die onderbetaalde bedrag of die bedrag wat betaal moet word, na gelang van die geval, vasgestel het so iemand beveel om binne 'n tydperk deur die hof vasgestel 'n bedrag gelyk aan die aldus vasgestelde bedrag aan 'n deur die hof aangewese amptenaar (hierna die aangewese amptenaar genoem) te betaal by wyse van paaie- 5
mente of andersins, soos deur die hof vasgestel. 10

(2) Die hof kan te eniger tyd op aansoek van 'n inspekteur, of van 'n werknemer of werkgewer aan wie 'n bedrag ingevolge sub-artikel (1) of (2) van artikel *vyf-en-vyftig* betaalbaar is, of die veroordeelde persoon, indien goeie gronde aangevoer word, die tydperk waarin so 'n bedrag aan die aangewese amptenaar betaal moet word verminder of verleng, of die bedrae van die paaie- 15
mente verander, of beveel dat enige onbetaalde balans in 'n enkele geldsom betaal moet word.

(3) 'n Bevel wat kragtens die bepalings van hierdie artikel uitgevaardig is het in alle opsigte die uitwerking van en kan ten uitvoer gelê word asof dit 'n siviele vonnis ten gunste van die Goewerment van die Unie is. 20

(4) 'n Bevel uitgevaardig kragtens die bepalings van artikel *vier-en-vyftig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), word by die toepassing van hierdie Wet geag kragtens hierdie artikel uitgevaardig te gewees het. 25

Besteding van bedrae aan aangewese amptenaar betaal.

55. (1) Wanneer 'n bevel kragtens artikel *vier-en-vyftig* ten opsigte van 'n in paragraaf (a) van sub-artikel (2) van artikel *drie-en-vyftig* bedoelde oortreding of versuim teen 'n werkgewer uitgevaardig word, moet die hof wat die bevel uitgevaardig 30
gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar betaal word as wat die hof, met inagneming van die omstandighede waaronder die oortreding of versuim plaasgevind het, billik ag, betaal word aan die werknemer 35
ten opsigte van wie die oortreding of versuim plaasgevind het: Met dien verstande dat—

(a) as die hof bevind dat die betrokke werknemer nie ingestem het om minder aan te neem as die minimum beloning wat hy kragtens die bepalings van die betrokke ooreenkoms, toekenning of sertifikaat geregtig was om te ontvang nie, of, indien hy aldus ingestem het, dat hy aldus ingestem het terwyl hy onbewus was van sy regte kragtens daardie bepalings, die hof moet 40
gelas dat die hele bedrag wat aldus aan die aangewese amptenaar betaal word aan daardie werknemer betaal moet word; 45

(b) as die hof, met inagneming van die omstandighede waaronder die oortreding of versuim plaasgevind het, dit billik ag, die hof, behalwe onder die in paragraaf (a) bedoelde omstandighede, kan gelas dat geen deel van die bedrag wat aldus aan die aangewese amptenaar betaal word aan die betrokke werknemer betaal moet word nie; 50

(c) as die hof gelas dat enige deel van die bedrag wat aldus aan die aangewese amptenaar betaal word, aan die betrokke werknemer betaal moet word, daardie deel minstens een-vierde daarvan moet wees. 55

(2) Wanneer 'n bevel kragtens artikel *vier-en-vyftig* ten opsigte van 'n in sub-artikel (3) van artikel *drie-en-vyftig* bedoelde oortreding of versuim teen 'n werknemer uitgevaardig word, moet die hof wat die bevel uitgevaardig gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar betaal word as wat die hof, met inagneming van die omstandighede waaronder die oortreding of versuim plaasgevind het, billik ag, betaal moet word aan die werkgewer ten opsigte van wie die oortreding of versuim plaasgevind het. 60
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(3) Daardie deel van die bedrag aldus aan die aangewese amptenaar betaal, wat nie ingevolge sub-artikel (1) of (2) aan die betrokke werknemer of werkgewer betaal word nie, moet in die Gekonsolideerde Inkomstefonds gestort word. 70

(4) Die hele bedrag wat aan die aangewese amptenaar betaal word ooreenkomstig 'n bevel wat kragtens artikel *vier-en-vyftig* teen 'n werkgewer uitgereik word ten opsigte van 'n in paragraaf (b) van sub-artikel (2) van artikel *drie-en-vyftig* bedoelde oortreding of versuim, moet in die Gekonsolideerde Inkomstefonds gestort word: Met dien verstande dat as die werkgewer ten opsigte van dieselfde feite ook skuldig bevind is aan 'n in paragraaf (a) van daardie sub-artikel bedoelde oortreding of versuim, die bepalings van hierdie sub-artikel alleen van toepassing 75
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54. (1) Whenever any person has been convicted of an offence under sub-section (1) of section *fifty-three*, and the offence consisted of a contravention or failure such as is referred to in sub-section (2) or (3) of that section, the court convicting him shall, after it has, in terms of that section, determined the amount underpaid, or to be paid, as the case may be, order him to pay an amount equal to the amount so determined to an officer specified by the court (hereinafter referred to as the specified officer) within a period fixed by the court, in instalment or otherwise as fixed by the court.

Order upon employer or employee to pay specified officer amount underpaid or to be paid.

(2) The court may at any time upon the application of an inspector or of any employee or employer to whom any amount is payable in terms of sub-section (1) or (2) of section *fifty-five* or of the person convicted, if good cause is shown, reduce or extend the period within which any such amount must be paid to the specified officer or vary the amounts of the instalments or order that any balance outstanding be paid in one lump sum.

(3) An order made under the provisions of this section shall have all the effects of, and may be executed as if it were, a civil judgment in favour of the Government of the Union.

(4) An order made under the provisions of section *fifty-four* of the Industrial Conciliation Act, 1937 (Act. No. 36 of 1937) shall for the purposes of this Act be deemed to have been made under this section.

55. (1) Whenever an order is made under section *fifty-four* against an employer in respect of a contravention or failure such as is referred to in paragraph (a) of sub-section (2) of section *fifty-three*, the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer as the court, having regard to the circumstances under which the contravention or failure occurred, deems equitable, shall be paid to the employee in respect of whom the contravention or failure occurred: Provided that—

Disposal of amounts paid to specified officer.

(a) if the court finds that the employee concerned did not agree to accept less than the minimum remuneration which under the provisions of the relative agreement, award or licence he was entitled to receive, or that if he did so agree, he so agreed not knowing of his rights under those provisions, the court shall direct that the whole of the amount so paid to the specified officer shall be paid to that employee;

(b) if the court, having regard to the circumstances under which the contravention or failure occurred, deems it equitable to do so, it may, except in the circumstances referred to in paragraph (a), direct that no portion of the amount so paid to the specified officer shall be paid to the employee concerned;

(c) if the court directs that any portion of the amount so paid to the specified officer shall be paid to the employee concerned, that portion shall not be less than one-fourth thereof.

(2) Whenever an order is made under section *fifty-four* against an employee in respect of a contravention or failure such as is referred to in sub-section (3) of section *fifty-three*, the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer as the court, as the court, having regard to the circumstances, under which the contravention or failure occurred, deems equitable, shall be paid to the employer in respect of whom the contravention or failure occurred.

(3) So much of the amount paid to the specified officer as is not, in terms of sub-section (1) or (2), paid to the employee or employer concerned, shall be paid into the Consolidated Revenue Fund.

(4) The whole of any amount paid to the specified officer pursuant to any order made under section *fifty-four* against an employer in respect of a contravention or failure such as is referred to in paragraph (b) of sub-section (2) of section *fifty-three* shall be paid into the Consolidated Revenue Fund: Provided that if the employer has also been convicted in respect of the same facts of a contravention or failure such as is referred to in paragraph (a) of that sub-section, the provisions of this sub-section shall apply only in respect of so much of the amount

is op daardie deel van die aan die aangewese amptenaar betaalde bedrag wat nie, volgens lasgewing van die hof ingevolge sub-artikel (1) van hierdie artikel, aan die betrokke werknemer betaal moet word nie.

Reg van werknemer of werkgewer om deur siviele regsgeleding te verhaal; in hoeverre deur Wet geraak.

56. (1) Indien iemand skuldig bevind is van 'n in sub-artikel (1) van artikel *drie-en-vyftig* bedoelde misdryf, en die misdryf bestaan het uit 'n in paragraaf (a) van sub-artikel (2) of in sub-artikel (3) van daardie artikel bedoelde oortreding of versuim, is die werknemer of werkgewer (na gelang van die geval) ten opsigte van wie die oortreding of versuim plaasgevind het nie geregtig om deur siviele geregtelike stappe enige gedeelte van die onderbetaalde bedrag of die bedrag wat betaal moet word op sy werkgewer of werknemer te verhaal nie, maar is ten opsigte van bedoelde bedrag alleen geregtig op die gelde wat op lasgewing van die hof ingevolge sub-artikel (1) of (2) van artikel *vyf-en-vyftig* aan hom betaal moet word uit die gelde wat kragtens 'n bevel kragtens artikel *vier-en-vyftig* uitgevaardig aan die aangewese amptenaar betaal word.

(2) Behoudens die bepalinge van sub-artikel (3), maak die bepalinge van artikels *drie-en-vyftig*, *vier-en-vyftig* en *vyf-en-vyftig* of van sub-artikel (1) van hierdie artikel geen inbreuk nie op enige reg wat enige werknemer mag hê om deur siviele geregtelike stappe op sy werkgewer te verhaal—

(a) waar sy werkgewer, of die bestuurder, agent of werknemer van sy werkgewer skuldig bevind is van 'n misdryf bestaande uit 'n in paragraaf (a) van sub-artikel (2) van artikel *drie-en-vyftig* bedoelde oortreding of versuim wat ten opsigte van daardie werknemer plaasgevind het, enige bedrag bo die onderbetaalde bedrag wat kragtens 'n ooreenkoms tussen hom en sy werkgewer aan hom verskuldig is;

(b) waar nóg sy werkgewer nóg die bestuurder, agent of werknemer van sy werkgewer aldus skuldig bevind is, enige bedrag wat sy werkgewer kragtens die bepalinge van 'n ooreenkoms, toekenning of vrystellingsertifikaat wat kragtens hierdie Wet op sy werkgewer bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkgewer verplig is om aan hom te betaal.

(3) 'n Werknemer aan wie sy werkgewer nie die volle beloning betaal het wat hy behoort te betaal het ingevolge enige ooreenkoms, toekenning of vrystellingsertifikaat wat kragtens hierdie Wet op hom bindend is of was nie, is nie geregtig om deur middel van siviele geregtelike stappe die aan hom onderbetaalde bedrag of 'n gedeelte van daardie bedrag op sy werkgewer te verhaal nie, tensy—

(a) die werknemer aan die hof 'n sertifikaat voorlê onderteken deur die Prokureur-generaal van die provinsie waarin die regsgebied van die hof geleë is, of ingeval daardie regsgebied geleë is in die gebied waaroor die Plaaslike Afdeling Oostelike Distrikte van die Hoogeregshof van Suid-Afrika regsmag uitoefen, deur die Solisiteur-generaal, wat meld dat hy weier om te vervolgten opsigte van die oortreding of versuim waarop die werknemer voornemens is om die grond van aksie te baseer; of

(b) die werkgewer of die bestuurder, agent of werknemer van die werkgewer op 'n aanklag weens daardie oortreding of versuim vrygespreek is.

(4) Die bepalinge van paragraaf (a) van sub-artikel (2) en van sub-artikel (3) is *mutatis mutandis* van toepassing op die reg van 'n werkgewer om deur middel van siviele geregtelike stappe enige bedrag op sy werknemer te verhaal wat die werknemer kragtens 'n ooreenkoms, toekenning of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkgewer aan sy werkgewer behoort te betaal het in plaas van kennisgewing van diensbeëindiging, of enige gedeelte van daardie bedrag.

Aantekeninge deur werkgewers, prinsipale en aannemers gehou te word.

57. (1) Elke werkgewer op wie 'n ooreenkoms of toekenning kragtens hierdie Wet bindend is met betrekking tot beloning wat betaal moet word, tyd wat gewerk moet word, of die ander besonderhede wat voorgeskryf word, moet te alle tye ten opsigte van alle persone by hom in diens aantekeninge in die vorm en op die wyse voorgeskryf hou van die beloning wat betaal is, die tyd wat gewerk is en van daardie ander besonderhede: Met dien verstande dat 'n inspekteur skriftelik onder sy handtekening so 'n werkgewer kan magtig om aantekeninge in 'n ander vorm te hou mits die aantekeninge wat in daardie vorm gehou word volgens oordeel van die inspekteur hom in staat sal stel om daaruit die vereiste besonderhede te wete te kom.

paid to the specified officer as the court does not in terms of sub-section (1) of this section direct shall be paid to the employee concerned.

56. (1) If any person has been convicted of an offence under sub-section (1) of section *fifty-three*, and the offence consisted of a contravention or failure such as is referred to in paragraph (a) of sub-section (2) or in sub-section (3) of that section, the employee or employer (as the case may be) in respect of whom the contravention or failure occurred shall not be entitled by civil legal proceedings to recover from his employer or employee any portion of the amount underpaid or to be paid, but shall be entitled to receive in respect of such amount only the moneys which the court in terms of sub-section (1) or (2) of section *fifty-five* directs shall be paid to him out of the moneys paid to the specified officer under an order made under section *fifty-four*.

Right of employee or employer to recover by civil proceedings; how far affected by Act.

(2) Subject to the provisions of sub-section (3), nothing contained in section *fifty-three*, *fifty-four* or *fifty-five* or in sub-section (1) of this section shall affect any right which any employee may have to recover by civil legal proceedings from his employer—

(a) where his employer, or the manager, agent or employee of his employer, has been convicted of an offence consisting of a contravention or failure such as is referred to in paragraph (a) of sub-section (2) of section *fifty-three*, which occurred in respect of that employee, any amount owing to him under any agreement between himself and his employer in excess of the the amount underpaid;

(b) where neither his employer nor the manager, agent or employee of his employer has been so convicted, any amount which his employer is bound to pay to him under the provisions of any agreement, award or licence of exemption which is or was binding upon his employer under this Act or in terms of any agreement between himself and his employer.

(3) An employee to whom his employer has not paid the full remuneration which he ought to have paid in terms of any agreement, award or licence of exemption which is or was binding upon him under this Act, shall not be entitled to recover from his employer by civil legal proceedings the amount he has been underpaid or any portion of that amount unless—

(a) the employee produces to the court a certificate signed by the Attorney-General of the province in which is situate the area of jurisdiction of the court, or where that area of jurisdiction is situate within the area of jurisdiction of the Eastern Districts Local Division of the Supreme Court of South Africa, by the Solicitor-General stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base the cause of action; or

(b) the employer or the manager, agent or employee of the employer has been acquitted on a charge of that contravention or failure.

(4) The provisions of paragraph (a) of sub-section (2) and of sub-section (3) shall *mutatis mutandis* apply to the right of an employer to recover from his employee by civil legal proceedings any amount which the employee ought to have paid to him in lieu of notice of termination of employment in terms of any agreement, award or licence which is or was binding upon the employee under this Act or in terms of any agreement between himself and the employee, or any portion of such amount.

57. (1) Every employer upon whom any agreement or award is binding under this Act which relates to remuneration to be paid, time to be worked or such other particulars as may be prescribed, shall at all times keep in the prescribed form and manner, in respect of all persons employed by him records of the remuneration paid, of the time worked and of those other particulars: Provided that an inspector may in writing signed by him authorize any such employer to keep records in some other form if the records kept in such other form will in the opinion of the inspector enable him to ascertain therefrom the required particulars.

Records to be kept by employers, principals and contractors.

(2) Wanneer 'n ooreenkoms of toekenning wat die skale waarteen of die grondslag of die beginsels waarop betaling deur 'n prinsipaal of aannemer gemaak moet word aan enige persoon aan wie werk op kontrak uitgegee word deur daardie prinsipaal of aannemer, bindend is op 'n prinsipaal of aannemer, moet elke sodanige prinsipaal of aannemer, hetsy hy 'n werk- 5 gewer is in, of betrokke is in daardie onderneming, nywerheid, bedryf of beroep, al dan nie, te alle tye aantekeninge hou van alle betalings wat deur hom gemaak is aan enige persoon aan wie hy aldus werk op kontrak uitgegee het en van sodanige 10 ander besonderhede wat voorgeskryf word, en elke sodanige persoon aan wie werk aldus op kontrak uitgegee is moet te alle tye aantekeninge hou van betalings deur hom van so 'n prinsipaal of aannemer ontvang ten opsigte van sodanige werk en van sodanige ander besonderhede wat voorgeskryf word. 15

(3) Elke persoon wat 'n werkgewer of prinsipaal of aannemer na gelang van die geval, is of was, moet die aantekening wat hy ingevolge sub-artikel (1) of (2) van 'n gebeurtenis gemaak het behou vir 'n tydperk van drie jaar na daardie gebeurtenis plaas- 20 gevind het, en moet op versoek van 'n inspekteur te eniger tyd binne bedoelde tydperk van drie jaar bedoelde aantekening vir insae voorlê.

(4) Die bepalinge van sub-artikel (3) is *mutatis mutandis* van toepassing ten opsigte van aantekeninge wat ingevolge artikel *sewe-en-veertig* van die Nywerheidsversoeningswet, 1937 (Wet 25 No. 36 van 1937) gehou is.

(5) Enigiemand wat hom veronreg voel deur 'n beslissing van 'n inspekteur kragtens sub-artikel (1) kan te eniger tyd binne sestig dae daarna by die Minister daarteen appelleer, en die Minister kan die beslissing van die inspekteur bekragtig of 30 sodanige ander beslissing gee as wat die inspekteur na sy mening behoort te gegee het; en die beslissing van die Minister word by die toepassing van hierdie Wet geag die beslissing van die inspekteur te wees.

(6) Enige persoon wat in gebreke bly om aan enigeen van die 35 bepalinge van hierdie artikel wat op hom van toepassing is te voldoen, of wat in so 'n aantekening 'n valse inskrywing maak wetende dat dit vals is, is aan 'n misdryf skuldig.

Kennisgewings
deur werkgewer
aangeplak te
word.

58. (1) Elke werkgewer op wie 'n ooreenkoms of toekenning kragtens hierdie Wet bindend is, moet op 'n in die oogvallende 40 plek op sy perseel deur hom bepaal te word en op ander plekke op sy perseel wat 'n inspekteur van tyd tot tyd mag aanwys, kennisgewings in die vorm voorgeskryf, in leesbare letters, in beide amptelike tale van die Unie, aanheg en aangeheg hou wat— 45

- (a) die voorgeskrewe opsommings van of uittreksels uit die bepalinge van hierdie Wet bevat;
- (b) die amptelike adres van die by regulasie bepaalde inspekteur en, in die geval van 'n werkgewer wat 'n party by 'n nywerheidsraad is of 'n lid is van 'n werk- 50 gewersorganisasie wat 'n party by 'n nywerheidsraad is, die adres van die sekretaris van daardie raad bevat;
- (c) 'n afskrif van bedoelde ooreenkoms of toekenning of sodanige opsommings van of uittreksels uit die bepalinge daarvan bevat as wat in daardie ooreenkoms of 55 toekenning voorgeskryf word; en
- (d) as die ooreenkoms of toekenning enige verwysing na beloning bevat, die dag van die week of datum waarop, die tyd wanneer en die plek vermeld waar beloning gewonerwys elke week of maand, na gelang van die 60 geval, betaal sal word.

(2) 'n Werkgewer wat in gebreke bly om enigeen van die bepalinge van hierdie artikel na te kom, is aan 'n misdryf skuldig.

Registrasie van
werkgewers.

59. (1) Elke werkgewer op wie 'n ooreenkoms of toekenning 65 kragtens hierdie Wet bindend is moet—

- (a) binne een maand vanaf die datum waarop 'n ooreenkoms of toekenning op hom bindend geword het, en, in geval hy na die publikasie kragtens artikel *agt-en-veertig*, of kragtens daardie artikel soos toegepas deur 70 artikel *nege-en-veertig*, van die kennisgewing ten gevolge waarvan die ooreenkoms of toekenning op hom bindend is, besigheid begin, binne een maand vanaf die datum waarop hy aldus besigheid begin, aan die by regulasie bepaalde inspekteur 'n skriftelike ver- 75 klaring verstrek in die vorm voorgeskryf waarin sy volle naam en, indien die werkgewer 'n vennootskap is, die volle name van al die vennote, en, indien die werkgewer 'n maatskappy is, die volle name van sy

(2) Whenever any agreement or award which regulates the rates at which, the basis of, or the principles upon which, payment shall be made by a principal or contractor to any person to whom any work is given out on contract by that principal or contractor for that work, is binding upon a principal or contractor, every such principal or contractor, whether or not he is an employer in or is engaged in the undertaking, industry, trade or occupation concerned, shall at all times keep records of payments made by him to any person to whom he has so given out work on contract and of such other particulars as may be prescribed and every such person to whom work has so been given out on contract shall at all times keep records of payments received by him from any such principal or contractor in respect of such work and of such other particulars as may be prescribed.

(3) Every person who is or has been an employer or principal or contractor, as the case may be, shall retain the record which in terms of sub-section (1) or (2) he has made of any event for a period of three years subsequent to the occurrence of that event, and shall on demand by an inspector made at any time during the said period of three years produce the said record for inspection.

(4) The provisions of sub-section (3) shall, *mutatis mutandis*, apply in respect of records kept in terms of section fifty-seven of the Industrial Conciliation Act, 1937, (Act No. 36 of 1937).

(5) Any person who feels aggrieved by any decision of an inspector under sub-section (1) may appeal at any time within sixty days thereafter, to the Minister who may confirm the inspector's decision or give such other decision as in his opinion the inspector ought to have given; and the decision of the Minister shall for the purpose of this Act be deemed to be the decision of the inspector.

(6) Any person who fails to comply with any of the provisions of this section applicable to him or who makes any false entry in any such record knowing the same to be false shall be guilty of an offence.

58. (1) Every employer upon whom any agreement or award is binding under this Act shall affix and keep affixed in some conspicuous place upon his premises to be determined by him, and in such other places upon his premises as an inspector may from time to time direct, notices in the prescribed form, in legible characters, in both official languages of the Union—

Notices to be posted by employer.

- (a) containing the prescribed summaries of or extracts from the provisions of this Act;
- (b) containing the official address of the inspector defined by regulation, and, in the case of an employer who is a party to an industrial council or is a member of an employers' organization which is a party to an industrial council, the address of the secretary of that council;
- (c) containing a copy of the said agreement or award or such summaries or extracts from the provisions thereof as may be prescribed in such agreement or award; and
- (d) if the agreement or award contains any reference to remuneration, specifying the day of the week or date on and the time and place at which remuneration will ordinarily be paid each week or month, as the case may be.

(2) Any employer who fails to comply with any of the provisions of this section shall be guilty of an offence.

59. (1) Every employer upon whom any agreement or award is binding under this Act shall—

Registration of employers.

- (a) within one month of the date on which an agreement or award has become binding upon him, and in the event of his starting business after the publication under section forty-eight, or under that section as applied by section forty-nine, of the notice by virtue of which the agreement or award is binding upon him within one month of the date on which he so starts business, furnish to the inspector defined by regulation a written statement in the prescribed form, setting forth his full name, and, if the employer is a partnership, the full names of all the partners, and, if the employer is a company, the full names of its secretary

sekretaris en sy direkteure en bestuurders, die naam waaronder en die adres of adresse waar hy besigheid dryf, en enige ander inligting wat voorgeskryf word, uiteengesit word: Met dien verstande dat as 'n ooreenkoms of toekenning deur 'n nuwe ooreenkoms of toekenning vervang word 'n werkgewer wat in besit is van 'n geldende registrasiesertifikaat wat kragtens hierdie artikel uitgereik is, geag word aan die bepalinge van hierdie sub-artikel te voldoen het;

- (b) in geval van 'n verandering in die naam waaronder, of die adres of adresse waar besigheid gedryf word, of onder die vennote, of, as die werkgewer 'n maatskappy is, in die naam van sy sekretaris of onder sy direkteure of bestuurders of in geval van die sekwestrasie van die werkgewer se boedel, of, as die werkgewer 'n maatskappy is, van die likwidasië van die maatskappy, of in die geval van die oordrag of verlating van die besigheid wat gedryf word, of die verkryging of begin van 'n ander besigheid, aan die by regulasie bepaalde inspekteur binne veertien dae vanaf die verandering, sekwestrasie, likwidasië, oordrag, verlating, verkryging of begin, 'n skriftelike verklaring in die vorm voorgeskryf verstrek waarin volledige besonderhede van die verandering, sekwestrasie, likwidasië, oordrag, verlating, verkryging of begin, 25 na gelang van die geval, uiteengesit word.

(2) By ontvangs van die in paragraaf (a) van sub-artikel (1) bedoelde verklaring, reik die inspekteur 'n registrasiesertifikaat in die vorm voorgeskryf aan die werkgewer uit: Met dien verstande dat so 'n sertifikaat nie uitgereik word nie aan 'n werkgewer teen wie 'n bevel kragtens artikel vier-en-veertig van hierdie Wet, artikel vier-en-veertig van die Nywerheidsversoeningswet, 1937 (Wet No. 36 van 1937), artikel een-en-twintig van die Loonwet, 1937 (Wet No. 44 van 1937), artikel een-en-twintig van die Wet op Naturellebouwerkers 1951 (Wet No. 27 van 1951), of artikel sestig van die Wet op Naturelle-arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953) uitgevaardig is tensy op die datum van ontvangs van bedoelde verklaring alle bedrae wat hy, behoudens enige verlenging of verandering kragtens die toepaslike bepaling toegestaan, volgens daardie bevel, op of voor daardie datum aan die aangewese amptenaar moet betaal, aldus betaal is.

(3) Indien die inspekteur weens die voorbehoudsbepaling by sub-artikel (2) nie by magte is om 'n registrasiesertifikaat aan 'n werkgewer uit te reik nie, stel hy die werkgewer van daardie feit in kennis by skriftelike kennisgewing wat afgelewer kan word aan die werkgewer of aan enige persoon wat blykbaar woonagtig of in diens is by die adres waar, volgens die jongste inligting deur die werkgewer ingevolge sub-artikel (1) verstrek, die werkgewer besigheid dryf of wat gepos kan word per aangetekende brief gerig aan die werkgewer in die naam waaronder en na die adres waar hy volgens bedoelde inligting besigheid dryf.

(4) Indien 'n werkgewer wat die houer is van 'n geldende registrasiesertifikaat kragtens hierdie artikel uitgereik in gebreke bly om aan die aangewese amptenaar enige bedrag te betaal wat hy volgens enige kragtens 'n in die voorbehoudsbepaling by sub-artikel (2) bedoelde wetsbepaling uitgevaardigde bevel aan daardie amptenaar moet betaal, op of voor die datum waarop hy, behoudens enige verlenging of verandering kragtens die toepaslike bepaling toegestaan, volgens daardie bevel dit moet betaal, moet die inspekteur by skriftelike kennisgewing aan hom gerig daardie sertifikaat kanselleer en hom aansê om dit aan die inspekteur terug te besorg. Elke sodanige kennisgewing kan op die in sub-artikel (3) voorgeskrewe wyse afgelewer of gepos word.

(5) Die persoon aan wie 'n kennisgewing ingevolge sub-artikel (4) gerig is moet binne sewe dae nadat hy dit ontvang of van die uitreiking daarvan bewus geword het, die registrasiesertifikaat wat aan hom uitgereik is aan die inspekteur terugbesorg.

(6) Indien 'n persoon wie se registrasiesertifikaat ingevolge sub-artikel (4) gekanselleer is, te eniger tyd aan die aangewese amptenaar die hele bedrag betaal wat hy volgens elke kragtens 'n in sub-artikel (2) bedoelde wetsbepaling teen hom uitgevaardigde bevel aan daardie amptenaar moet betaal, is hy, by nakoming van die bepalinge van sub-artikel (1), geregtig op die uitreiking aan hom van 'n nuwe registrasiesertifikaat.

(7) Op aansoek van enige persoon aan wie uit hoofde van die voorbehoudsbepaling by sub-artikel (2) nie 'n sertifikaat uitgereik is nie, of wie se registrasiesertifikaat ingevolge sub-

and its directors and managers, the name under and the address or addresses at which he carries on business and such other information as may be prescribed: Provided that if any agreement or award is superseded by a further agreement or award, an employer who is the holder of a current certificate of registration issued under this section shall be deemed to have complied with the provisions of this sub-section;

(b) in the event of any change in the name under which or the address or addresses at which business is carried on, or among the partners, or, if the employer is a company, in the name of its secretary or among its directors or managers, or in the event of the sequestration of the employers' estate, or, if the employer is a company, of the winding-up of the company, or in the event of the transfer or abandonment of the business carried on, or the acquisition or commencement of any other business, furnish to the inspector defined by regulation, within fourteen days of the change, sequestration, winding-up, transfer, abandonment, acquisition or commencement, a written statement in the prescribed form setting forth full particulars of the change, sequestration, winding-up, transfer, abandonment, acquisition or commencement, as the case may be.

(2) On receipt of the statement referred to in paragraph (a) of sub-section (1), the inspector shall issue to the employer a certificate of registration in the prescribed form: Provided that no such certificate shall be issued to an employer against whom an order has been made under section *fifty-four* of this Act, section *fifty-four* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), section *twenty-one* of the Wage Act, 1937 (Act No. 44 of 1937), section *twenty-one* of the Native Building Workers Act, 1951 (Act No. 27 of 1951), or section *sixteen* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953), unless on the date of receipt of the said statement all amounts which, subject to any extension or variation granted in terms of the relevant provision, he is required by that order to pay to a specified officer on or before that date, have been so paid.

(3) If the inspector is unable to issue a certificate of registration to an employer by reason of the proviso to sub-section (2), he shall notify the employer of that fact by written notice which may be delivered to him or to any person who apparently resides or is employed at the address at which, according to the latest information furnished by the employer in terms of sub-section (1), the employer carries on business, or may be posted by registered letter addressed to the employer in the name under and to the address at which according to the said information, he carries on business.

(4) If any employer who is the holder of a current certificate of registration issued under this section fails to pay to the specified officer any amount which by any order made under any provision referred to in the proviso to sub-section (2), he is required to pay to that officer on or before the date on which, subject to any extension or variation granted in terms of the relevant provision, he is by that order required to pay it, the inspector shall by written notice addressed to him cancel that certificate and call upon him to return the certificate to him. Every such notice may be delivered or posted in the manner provided in sub-section (3).

(5) The person to whom any notice has been addressed under sub-section (4) shall, within seven days after he receives it or becomes aware that it has been issued, return the certificate of registration issued to him to the inspector.

(6) If at any time any person whose certificate of registration has been cancelled in terms of sub-section (4) pays to the specified officer the whole amount which by every order made against him under any provision referred to in sub-section (2) he is required to pay to that officer, he shall be entitled, upon complying with the provisions of sub-section (1), to have issued to him a fresh certificate of registration.

(7) Upon the application of any person to whom a certificate has not been issued in consequence of the proviso to sub-section (2) or whose certificate of registration has been cancelled

artikel (4) gekanselleer is, kan die Minister te eniger tyd, na eie goeddunke, en as goeie redes aangevoer word, gelas dat 'n sertifikaat aan hom uitgereik word, onderhewig aan die voorwaardes wat die Minister mag oplê: Met dien verstande dat indien 'n nywerheidsraad bestaan ten opsigte van die onder- 5 neming, nywerheid, bedryf of beroep waarin die applikant betrokke is of was, die Minister daardie raad moet raadpleeg alvorens hy gelas dat 'n sertifikaat uitgereik word.

(8) 'n Werkgewer wat die houer is van 'n geldende registrasiesertifikaat kragtens artikel *nege-en-vyftig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), uitgereik, 10 word geag aan die bepalings van sub-artikel (1) te voldoen het en elke sodanige sertifikaat word geag kragtens hierdie artikel uitgereik te gewees het.

(9) Die bepalings van hierdie artikel word nagekom en is 15 van toepassing ten opsigte van elke afsonderlike ooreenkoms of toekenning wat kragtens hierdie Wet op 'n werkgewer bindend is.

(10) 'n Werkgewer op wie 'n ooreenkoms of toekenning kragtens hierdie Wet bindend is en wat— 20

(a) in gebreke bly om aan een of ander van die bepalings van sub-artikel (1) of (5) te voldoen; of

(b) na verstryking van die betrokke tydperk bedoel in paragraaf (a) van sub-artikel (1), besigheid dryf sonder dat hy aan die vereistes van daardie sub-artikel 25 voldoen het; of

(c) besigheid dryf nadat die by regulasie bepaalde inspekteur hom kragtens sub-artikel (3) in kennis gestel het dat 'n registrasiesertifikaat nie aan hom uitgereik kan word nie uit hoofde van die voorbehoudsbepaling by 30 sub-artikel (2), of die registrasiesertifikaat aan hom uitgereik kragtens sub-artikel (4) gekanselleer het,

is aan 'n misdryf skuldig.

Aanstelling van inspekteurs.

60. (1) Die Minister kan, met inagneming van die wetsbepalings op die staatsdiens, enige persoon as 'n inspekteur 35 kragtens hierdie Wet aanstel.

(2) Aan elke inspekteur word 'n sertifikaat verskaf onderteken deur 'n amptenaar wat deur die Minister daartoe aangewys is, en wat meld dat hy as inspekteur kragtens hierdie Wet 40 aangestel is.

(3) Elke persoon aangestel of wat geag word aangestel te gewees het as 'n inspekteur kragtens artikel *sestig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), en wat by die inwerkingtreding van hierdie Wet die amp van inspekteur beklee, word geag as 'n inspekteur kragtens hierdie 45 artikel aangestel te gewees het en 'n sertifikaat wat aan so 'n inspekteur kragtens sub-artikel (2) van daardie artikel verskaf is word geag 'n sertifikaat te wees wat aan hom kragtens hierdie artikel verskaf is.

Bevoegdheid van inspekteurs.

61. (1) 'n Inspekteur kan te eniger tyd sonder voorafgaande 50 kennisgewing enige perseel hoegenaamd betree, en kan, terwyl hy op of in die perseel is of op enige ander tydstip, enige persoon, wat op of in die perseel is of was, in die teenwoordigheid of afgesonder van andere ondervra, en kan eis dat daardie persoon daar en dan, of op 'n tyd en plek wat die inspekteur bepaal, 55 alle boeke en stukke voorlê wat op of in die perseel of in besit of bewaring of onder beheer van enige werkgewer deur wie die perseel geokkupeer of gebruik word, of van enige werknemer van daardie werkgewer, is of was, of kan te eniger tyd en op enige plek van iemand wat 'n boek of stuk betreffende die besigheid van iemand wat 'n werkgewer is of was, in sy besit of 60 bewaring of onder sy beheer het, daar en dan of op 'n tyd en plek deur die inspekteur bepaal, die voorlegging van daardie boek of dokument eis, en kan al sulke boeke en stukke ondersoek en daarvan uittreksels en afskrifte maak, en kan 'n uitleg 65 vorder van inskrywings in sulke boeke of stukke en beslag lê op sulke boeke of stukke wat na sy oordeel bewys mag lewer van 'n misdryf volgens hierdie Wet. 'n Inspekteur kan 'n tolk of ander assistent of enige lid van die polisiemag met hom in of op 'n perseel saamneem. 70

(2) 'n Werkgewer in verband met wie se besigheid 'n perseel geokkupeer of gebruik word, en elke persoon by hom in diens, moet te alle tye sodanige fasiliteite verskaf as wat die inspekteur vereis om die perseel te betree of om die boeke en stukke op of in die perseel te inspekteer of te ondersoek of om enige navraag 75 daaromtrent te doen.

(3) 'n Inspekteur kan van 'n werknemer vereis om enige houer waarin geld by wyse van beloning aan hom betaal is of moet word, gehou is of word, en enige staat wat in verband

in terms of sub-section (4), the Minister may at any time, in his discretion, and upon good cause shown, direct that a certificate be issued to him, subject to such conditions as the Minister may impose: Provided that if there is in existence an industrial council in respect of the undertaking, industry, trade or occupation in which the applicant is or was engaged the Minister shall consult that council before directing that a certificate be issued.

(8) An employer who is the holder of a current certificate of registration issued under section *fifty-nine* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) shall be deemed to have complied with the provisions of sub-section (1) and every such certificate shall be deemed to have been issued under this section.

(9) The provisions of this section shall be observed and shall be applicable in respect of each separate agreement or award which is binding upon an employer under this Act.

(10) Any employer upon whom any agreement or award is binding under this Act and who—

(a) fails to comply with any of the provisions of sub-section (1) or (5); or

(b) carries on business after the expiry of the relevant period referred to in paragraph (a) of sub-section (1) without having complied with the requirements of that sub-section; or

(c) carries on business after the inspector defined by regulation has notified him under sub-section (3) that a certificate of registration cannot be issued to him in consequence of the proviso to sub-section (2), or has cancelled the certificate of registration issued to him in terms of sub-section (4),

shall be guilty of an offence.

60. (1) The Minister may, subject to the laws governing the public service, appoint any person as an inspector under this Act. Appointment of inspectors.

(2) Every inspector shall be furnished with a certificate signed by an officer thereto designated by the Minister and stating that he has been appointed as an inspector under this Act.

(3) Every person appointed or deemed to have been appointed as an inspector under section *sixty* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), who holds office as an inspector at the commencement of this Act, shall be deemed to have been appointed as an inspector under this section and any certificate furnished to any such inspector under sub-section (2) of that section shall be deemed to be a certificate furnished to him under this section.

61. (1) Any inspector may, without previous notice, at any time enter any premises whatsoever and may, while he is upon or in the premises or at any other time, question any person who is or has been upon or in the premises, in the presence of or apart from others, and may require from any such person the production then and there, or at a time and place fixed by the inspector, of all books and documents which are or have been upon or in the premises or in the possession or custody or under the control of any employer by whom the premises are occupied or used, or of any employee of that employer, or may at any time and at any place require from any person who has the possession or custody or control of any book or document relating to the business of any person who is or was an employer, the production then and there or at a time and place fixed by the inspector, of that book or document, and may examine and make extracts from and copies of all such books and documents and may require an explanation of any entries in any such books or documents, and may seize any such books or documents as in his opinion may afford evidence of any offence under this Act. An inspector may take with him into or onto any premises any interpreter or other assistant or any member of a police force. Powers of inspectors.

(2) Any employer in connection with whose business any premises are occupied or used, and every person employed by him, shall at all times furnish such facilities as are required by the inspector for entering the premises or for inspecting or examining the books and documents upon or in the premises or for making any enquiry in relation thereto.

(3) Any inspector may require any employee to produce to him any container in which any money paid or to be paid to him by way of remuneration was or is contained, and any

met die betaling deur sy werkgewer aan hom verstrekkend is of moet word, aan hom voor te lê, en kan die inhoud van die houer ondersoek en die houer en die staat behou.

(4) 'n Inspekteur kan van 'n werknemer vereis om op 'n deur die inspekteur bepaalde tyd en plek voor hom te verskyn, 5 en kan daardie werknemer daar en dan ondervra.

(5) 'n Inspekteur kan van 'n werkgewer vereis om alle betalings wat aan enigeen van sy werknemers verskuldig is, in die teenwoordigheid van 'n inspekteur te maak.

(6) Wanneer werk deur 'n prinsipaal of aannemer aan enig- 10 iemand op kontrak uitgegee is, kan 'n inspekteur met betrekking tot daardie prinsipaal of aannemer al die bevoegdhede uitoefen wat deur hierdie artikel aan 'n inspekteur met betrekking tot 'n werkgewer verleen word.

(7) 'n Inspekteur wat 'n bevoegdheid uitoefen of 'n plig 15 uitvoer wat deur hierdie Wet aan hom verleen of opgedra word, moet op aanvraag, die sertifikaat vertoon wat ingevolge artikel *sestig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), of ingevolge sub-artikel (2) van artikel *sestig* van hierdie Wet aan hom verskaf is. 20

(8) Enigeen wat valslik voorgee dat hy 'n inspekteur is, is aan 'n misdryf skuldig.

(9) Enigeen wat—

(a) weier of in gebreke bly om enige vraag wat 'n inspek- 25 teur by die uitoefening van sy werksaamhede aan hom gestel het, na die beste van sy vermoë te beantwoord; of

(b) weier of in gebreke bly om na die beste van sy vermoë 'n vereiste deur 'n inspekteur by die uitoefening van sy werksaamhede gestel na te kom; of 30

(c) 'n inspekteur by die uitoefening van sy werksaamhede hinder,

is aan 'n misdryf skuldig.

(10) By die toepassing van hierdie artikel word 'n tolk, ter- 35 wyl hy optree volgens wettige opdrag van die inspekteur wat hy vergesel, geag 'n inspekteur te wees, en enige vraag gestel deur, antwoord gegee aan, of vereiste gestel deur, of hindering van 'n tolk terwyl hy aldus optree, word geag 'n vraag gestel deur, antwoord gegee aan, vereiste gestel deur of hindering van 'n inspekteur te wees. 40

Aanstelling en bevoegdhede van aangewese agente van nywerheidsrade.

62. (1) Die Minister kan, op versoek van 'n nywerheidsraad, en na goeddunke, enige deur die raad benoemde persoon as aangewese agent van die raad aanstel om die raad behulpzaam te wees met die uitoefening van sy werksaamhede, met inbegrip van die toepassing van enige ooreenkoms of toekenning wat 45 kragtens hierdie Wet bindend is.

(2) Aan elke aangewese agent van enige nywerheidsraad moet 'n deur die registrateur getekende sertifikaat verstrekkend word wat meld dat hy kragtens hierdie Wet as 'n aangewese agent van daardie raad aangestel is. 50

(3) Elke persoon aangestel as 'n aangewese agent kragtens artikel *twee-en-sestig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937) en wat by die inwerkingtreding van hierdie Wet die amp van aangewese agent beklee, word geag as 'n aangewese agent kragtens hierdie artikel aangestel te gewees 55 het en 'n sertifikaat wat aan so 'n aangewese agent kragtens sub-artikel (2) van daardie artikel verskaf is word geag 'n sertifikaat te wees wat aan hom kragtens hierdie artikel verskaf is.

(4) 'n Aangewese agent van 'n nywerheidsraad besit, ten opsigte van die onderneming, nywerheid, bedryf of beroep en 60 in die gebied ten opsigte waarvan daardie raad geregistreer is, al die bevoegdhede wat kragtens artikel *een-en-sestig* aan 'n inspekteur verleen word en die bepalinge van daardie artikel is *mutatis mutandis* van toepassing op die uitoefening van daardie bevoegdhede deur die aangewese agent. 65

(5) Die Minister kan te eniger tyd, om 'n rede wat na sy mening voldoende is, by 'n deur die registrateur getekende kennisgewing aan 'n nywerheidsraad, die sertifikaat wat kragtens sub-artikel (2) of sub-artikel (2) van artikel *twee-en-sestig* van die Nywerheids-versoeningswet, 1937 (Wet No. 36 van 1937), 70 aan 'n aangewese agent verskaf is intrek, en die persoon aan wie daardie sertifikaat verskaf is hou dan op om 'n aangewese agent van daardie raad te wees en moet onmiddellik bedoelde sertifikaat aan die registrateur terugbesorg.

(6) Enigeen wat valslik voorgee dat hy die aangewese agent 75 van 'n nywerheidsraad is, is aan 'n misdryf skuldig.

(7) Die bepalinge van hierdie artikel raak geensins die reg van 'n nywerheidsraad om enigeen wat nie 'n aangewese agent van daardie raad kragtens hierdie artikel is nie as sy agent aan te stel of die uitoefening deur daardie persoon van enige be- 80

statement furnished or to be furnished to him by his employer concerning the payment, and may examine the contents of the container and retain the container, and statement.

(4) Any inspector may require any employee to appear before him at any time and place fixed by the inspector and may then and there question that employee.

(5) Any inspector may require any employer to make all payments due to any of his employees in the presence of an inspector.

(6) Whenever any work has been given out on contract to any person by a principal or contractor, any inspector may exercise in relation to that principal or contractor all the powers conferred upon an inspector by this section in relation to an employer.

(7) Any inspector exercising any power or performing any duty conferred or imposed upon him by this Act shall, on demand, produce the certificate furnished to him in terms of section *sixty* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), or in terms of sub-section (2) of section *sixty* of this Act.

(8) Any person who falsely holds himself out to be an inspector shall be guilty of an offence.

(9) Any person who—

(a) refuses or fails to answer to the best of his ability any question which an inspector in the exercise of his functions has put to him; or

(b) refuses or fails to comply to the best of his ability with any requirement made by an inspector in the exercise of his functions; or

(c) hinders an inspector in the exercise of his functions, shall be guilty of an offence.

(10) For the purposes of this section an interpreter shall, while acting under the lawful directions of the inspector he accompanies, be deemed to be an inspector and any question put through, reply made to, requirement made by or hindering of an interpreter while so acting shall be deemed to be a question put by, reply made to, requirement made by or hindering of an inspector.

62. (1) The Minister may, at the request of an industrial council, and in his discretion, appoint any person nominated by the council, as a designated agent of the council to assist the council in carrying out its functions, including the enforcement of any agreement or award which is binding under this Act.

Appointment and powers of designated agents of industrial councils.

(2) Every designated agent of any industrial council shall be furnished with a certificate signed by the registrar and stating that he has been appointed as a designated agent of that council under this Act.

(3) Every person appointed as a designated agent under section *sixty-two* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) and who holds office as a designated agent at the commencement of this Act shall be deemed to have been appointed as a designated agent under this section and any certificate furnished to any such designated agent under sub-section (2) of that section shall be deemed to be a certificate furnished to him under this section.

(4) A designated agent of an industrial council shall, in respect of the undertaking, industry, trade or occupation and in the area in respect of which that council is registered, have all the powers conferred upon an inspector by section *sixty-one*, and the provisions of that section shall, *mutatis mutandis*, apply to the exercise of those powers by the designated agent.

(5) The Minister may at any time, for a cause which in his opinion is sufficient, by notification to an industrial council signed by the registrar cancel the certificate furnished to a designated agent in terms of sub-section (2), or sub-section (2) of section *sixty-two* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) and the person who was furnished with that certificate shall thereupon cease to be a designated agent of that council and shall forthwith return the said certificate to the registrar.

(6) Any person who falsely holds himself out to be the designated agent of an industrial council shall be guilty of an offence.

(7) Nothing contained in this section shall in any way affect the right of any industrial council to appoint as its agent any person who is not a designated agent of that council under this section or the exercise by that person of any powers con-

voegdhede wat deur die raad aan hom verleen word, vir sover daardie bevoegdhede alleen betrekking het op werkgewers of werkgewersorganisasies of vakverenigings wat partye by daardie raad is of persone wat lede is van so 'n werkgewersorganisasie of vakvereniging.

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Registrasie en
reëling van privaat
registrasiekantore.

63. (1) Niemand mag 'n privaat registrasiekantoor hou of dryf nie, of voorgee dat hy een hou of dryf nie, of in verband met werkverskaffing deur 'n privaat registrasiekantoor enige betaling of beloning vorder of verhaal nie, tensy daardie privaat registrasiekantoor kragtens hierdie Wet geregistreer is.

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(2) Aansoek om die registrasie van 'n privaat registrasiekantoor moet in die vorm voorgeskryf by die registrateur gedoen word en die registrateur kan, na goeëdunke, die aansoek toestaan en aan die applikant 'n registrasiesertifikaat uitreik ten opsigte van sodanige tydperk, gebied en klasse van persone of arbeid en onderhewig aan sodanige voorwaardes as wat hy daarin mag vermeld, of die aansoek weier.

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(3) Die registrateur kan, na goeëdunke, te eniger tyd 'n registrasiesertifikaat wat hy ten opsigte van 'n privaat registrasiekantoor uitgereik het, intrek of wysig.

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(4) Elke persoon wat die houer of bestuurder is of was van 'n kragtens hierdie Wet geregistreerde privaat registrasiekantoor behou die aantekening wat hy by regulasie vereis word om te maak vir 'n tydperk van twee jaar nadat die opgetekende gebeurtenis plaasgevind het en moet, op aanvraag deur 'n inspekteur te eniger tyd gedurende genoemde tydperk van twee jaar gedoen, die bedoelde aantekening vir insae voorlê; en hy moet te eniger tyd sodanige inligting verstrek aangaande die besigheid wat daar gedryf word as wat die inspekteur mag verlang dat hy moet verskaf.

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(5) Niemand moet ten opsigte van enigiets wat by 'n privaat registrasiekantoor gedoen is of gedoen gaan word, gelde of enige ander betaling of beloning teen 'n hoër skaal as dié wat van tyd tot tyd vir 'n besondere gebied en klas van besigheid voorgeskryf is vorder of ontvang nie, of gelde vorder of enige gelde of ander betaling of beloning ontvang ten opsigte van enigiets wat daar gedoen is of gedoen gaan word as so 'n skaal nie voorgeskryf is nie.

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(6) Iemand wat enigeen van die bepalings van hierdie artikel oortree of in gebreke bly om daaraan te voldoen, is aan 'n misdryf skuldig.

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(7) Enige privaat registrasiekantoor wat kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), geregistreer is, word, totdat die tydperk waarvoor 'n registrasiesertifikaat ten opsigte daarvan kragtens daardie Wet uitgereik is verstryk het, geag kragtens hierdie Wet geregistreer te gewees het.

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(8) Die bepalings van hierdie artikel raak nie die reg van die houer van enige lisensie wat kragtens die „Naturellearbeid Regeling Wet”, 1911 (Wet No. 15 van 1911), uitgereik is, om enige handeling te verrig wat daardie lisensie hom magtig om te verrig nie, nog die reg van enigeen wat 'n registrasiekantoor of 'n opleidingsinrigting vir naturelle-bediendes ingestel kragtens regulasies gemaak ingevolge paragraaf (h) van sub-artikel (3) van artikel *agt-en-dertig* van die Naturelle (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945), hou of dryf om enige handeling te verrig wat hy deur of kragtens daardie regulasies gemagtig is om te verrig nie.

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Minister kan
spesiale saak aan
die Appèlhof stel.

64. Wanneer ookal die Minister enige twyfel het omtrent die juistheid van 'n uitspraak deur 'n provinsiale of plaaslike afdeling van die Hooggeregshof wat betref die uitleg van enige bepaling van hierdie Wet gedoen, kan hy daardie beslissing by wyse van 'n spesiale saak of andersins aan die Appèl-afdeling van die Hooggeregshof voorlê en die aangeleentheid voor genoemde Afdeling laat beredeneer sodat hy die betrokke vraag vir die toekomstige leiding van alle howe kan beslis.

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Verbod op
stakings en
uitsluitings in
sekere omstan-
dighede.

65. (1) Geen werknemer of ander persoon mag 'n staking aanstig, of enige werknemer of ander persoon aanhits om aan 'n staking deel te neem of dit voort te sit of aan 'n staking of aan die voortsetting van 'n staking deelneem nie, en geen werkgewer of ander persoon mag 'n uitsluiting aanstig of enige werkgewer of ander persoon aanhits om aan 'n uitsluiting deel te neem of dit voort te sit of aan 'n uitsluiting of aan die voortsetting van 'n uitsluiting deelneem nie—

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(a) gedurende die tydperk van geldigheid van 'n ooreenkoms, toekenning of vasstelling wat kragtens hierdie Wet bindend is en enige bepaling waarvan die aangeleentheid wat aanleiding gee tot die staking of uitsluiting, behandel; of

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ferred upon him by the council, in so far as those powers concern only employers who, or employers' organizations or trade unions which, are parties to that council or persons who are members of any such employers' organization or trade union.

- 5 63. (1) No person shall keep or conduct, or hold himself out as keeping or conducting a private registry office, or charge or recover any payment or reward for or in connection with procuring employment through a private registry office, unless that private registry office is registered under this Act. Registration and regulation of private registry office.
- 10 (2) Application for the registration of a private registry office shall be made to the registrar in the prescribed form, and the registrar may, in his discretion, grant the application and issue to the applicant a certificate of registration for such period, area and classes of persons or labour and subject to
- 15 such conditions as he may specify therein, or refuse the application.
- (3) The registrar may, in his discretion, at any time withdraw or amend any certificate of registration issued by him in respect of any private registry office.
- 20 (4) Every person who is or has been the keeper or person in charge of a private registry office registered under this Act shall retain the record which by any regulation he is required to make for a period of two years subsequent to the occurrence of the event recorded and shall on demand by an inspector
- 25 made at any time during the said period of two years, produce the said record for inspection; and he shall at any time furnish such information as to the business carried on thereat as the inspector may require him to furnish.
- (5) No person shall charge or receive in respect of anything done or to be done at a private registry office fees or any other payment or reward at a higher rate than is prescribed from time to time for any particular area, and class of business, or charge a fee or receive any fee or any other payment or reward in respect of anything done or to be done thereat if no such
- 30 rate has been prescribed.
- (6) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence.
- (7) Any private registry office registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall, until the
- 40 expiry of the period for which a certificate of registration was issued in respect thereof under that Act, be deemed to have been registered under this Act.
- (8) The provisions of this section shall not affect the right of the holder of any licence issued under the Native Labour Regulation Act, 1911 (Act No. 15 of 1911), to do any act which by that licence he is authorized to do, or the right of any person who keeps or conducts any native servants' registry or institution for the training of native servants established under regulations made in terms of paragraph (h) of sub-section (3)
- 50 of section *thirty-eight* of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), to do any act which by or under those regulations he is authorized to do.

64. Whenever the Minister has any doubt as to the correctness of any decision given by any provincial or local division of the
- 55 Supreme Court as to the interpretation of any provision of this Act, he may submit that decision to the Appellate Division of the Supreme Court by way of a special case and cause the matter to be argued before the said Division in order that it may determine the said question for the future guidance of all
- 60 courts. Minister may state special case to Appellate Division.

65. (1) No employee or other person shall instigate a strike or incite any employee or other person to take part in or to continue a strike or take part in a strike or in the continuation of a strike, and no employer or other person shall instigate a
- 65 lock-out or incite any employer or other person to take part in or to continue a lock-out or take part in a lock-out or in the continuation of a lock-out—
- (a) during the period of the currency of any agreement, award or determination which is binding under this Act, and any provision of which deals with the matter giving occasion for the strike or lock-out; or
- 70 Prohibition of strike or lock-out in certain circumstances.

- (b) gedurende die tydperk van een jaar bereken vanaf die datum van publikasie van 'n kennisgewing kragtens sub-artikel (2) van artikel *sestien* van die Loonwet, 1937 (Wet No. 44 van 1937) ten opsigte van 'n kragtens daardie Wet gemaakte vasstelling, enige bepaling waarvan die aangeleentheid wat aanleiding gee tot die staking of uitsluiting, behandel; of
- (c) indien die bepalings van artikel *ses-en-veertig* van toepassing is, of kragtens sub-artikel (7) van daardie artikel van toepassing gemaak is, op die betrokke werknemers; of
- (d) wanneer nog paragraaf (a) nog paragraaf (b) nog paragraaf (c) van toepassing is nie—
- (i) as daar 'n nywerheidsraad wat regsbevoegdheid besit bestaan, tensy die aangeleentheid wat tot die staking of uitsluiting aanleiding gee deur daardie nywerheidsraad oorweeg is, en totdat—
- (aa) die nywerheidsraad skriftelik aan die Minister daarvoor verslag gedoen het; of
- (bb) 'n tydperk van dertig dae bereken vanaf die datum waarop die aangeleentheid aan die raad voorgelê is of sodanige verdere tydperk as wat die raad mag vasstel, verstryk het, na gelang die een of die ander gebeurtenis eerste plaasvind; of
- (ii) as daar geen sodanige raad bestaan nie, tensy kragtens artikel *vyf-en-dertig* aansoek gedoen is om die instelling van 'n versoeningsraad vir die oorweging van bedoelde aangeleentheid en totdat—
- (aa) 'n versoeningsraad wat ingestel word skriftelik aan die Minister daarvoor verslag gedoen het; of
- (bb) 'n tydperk van dertig dae bereken vanaf die datum waarop die Minister die instelling van 'n raad goedgekeur het of sodanige verdere tydperk as wat die raad mag vasstel, verstryk het; of
- (cc) die Minister geweier het om die instelling van 'n versoeningsraad goed te keur; of
- (dd) as die Minister nie binne 'n tydperk van dertig dae bereken vanaf die datum waarop die aansoek ingedien is die instelling van 'n versoeningsraad goedgekeur of geweier het, daardie tydperk verstryk het, na gelang die een of die ander gebeurtenis eerste plaasvind; of
- (iii) as dit ingevolge artikel *vyf-en-veertig* besluit is om die aangeleentheid na arbitrasie te verwys.
- (2) Geen geregistreerde vakvereniging of werkgewersorganisasie en geen ampsdraer, beampte of lid van so 'n vereniging of organisasie mag 'n staking of uitsluiting deur lede van die vereniging of organisasie uitroep of daaraan deelneem nie—
- (a) as die vereniging of organisasie, na gelang van die geval, 'n party is by 'n nywerheidsraad waarvan die konstitusie bepaal dat geskille wat nie deur die raad besleg kan word nie na arbitrasie verwys moet word; of
- (b) in 'n geval waarop paragraaf (a) nie van toepassing is nie, tensy twee-derdes van die lede van die vereniging of organisasie in goeie finansiële stand in die gebied en in die bepaalde onderneming, nywerheid, bedryf of beroep waarin die staking of uitsluiting plaasvind deur middel van 'n geheime stemming per stembriefie ten gunste van sodanige optrede gestem het.
- (3) Iemand wat die bepalings van sub-artikel (1) of (2) oortree is aan 'n misdryf skuldig.
- (4) Geen bepaling van hierdie artikel word geag die hou van 'n stemming per stembriefie ooreenkomstig die konstitusie van die betrokke vereniging of organisasie om uit te vind wat die menings van die lede met betrekking tot die uitroep van 'n staking of uitsluiting is, te verbied nie.

Viktimisasie verbied.

66. (1) 'n Werkgewer wat, hetsy 'n ooreenkoms, toekenning of vasstelling op hom kragtens hierdie Wet bindend is al dan nie, 'n werknemer uit sy diens verbied, ontslaan, of die skaal van sy beloning verminder, of die bedinge of voorwaardes van sy diens verander na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers in sy diens tot sy nadeel verander ten gevolge van die feit, of omrede hy vermoed of glo, hetsy die vermoede of geloof geregverdig en juis is al dan nie, dat—

- (b) during the period of one year reckoned from the date of publication of a notice under sub-section (2) of section *sixteen* of the Wage Act, 1937 (Act No. 44 of 1937) in respect of a determination made under that Act, any provision of which deals with the matter giving occasion for the strike or lock-out; or
- (c) if the provisions of section *forty-six* apply, or have been applied under sub-section (7) of that section, to the employees concerned.
- (d) when neither paragraph (a) nor paragraph (b) nor paragraph (c) applies—
- (i) if there is an industrial council having jurisdiction unless the matter giving occasion for the strike or lock-out has been considered by that council and until—
- (aa) the council has reported thereon to the Minister in writing; or
- (bb) a period of thirty days reckoned from the date on which the matter was submitted to the council, or such longer period as the council may fix has expired, whichever event occurs first; or
- (ii) if there is no such council, unless application has been made under section *thirty-five* for the establishment of a conciliation board for the consideration of the said matter and until—
- (aa) any board that may be established has reported thereon to the Minister in writing; or
- (bb) a period of thirty days reckoned from the date on which the Minister has approved of the establishment of a board or such longer period as the board may fix has expired; or
- (cc) the Minister has refused to approve of the establishment of a board; or
- (dd) if the Minister has not within a period of thirty days reckoned from the date on which the application was lodged approved or refused to approve of the establishment of a board, the expiration of that period, whichever event occurs first; or
- (iii) if it has been decided in terms of section *forty-five* to refer the matter to arbitration.
- (2) No registered trade union or employers' organization and no office-bearer, official or member of such union or organization shall call or take part in any strike or lock-out by members of the union or organization—
- (a) if the union or organization, as the case may be, is a party to an industrial council the constitution of which provides for the reference to arbitration of disputes which cannot be settled by the council; or
- (b) in any case to which paragraph (a) does not apply, unless two-thirds of the members of the union or organization in good financial standing in the area and in the particular undertaking, industry, trade or occupation in which the strike or lock-out takes place have voted by secret ballot in favour of such action.
- (3) Any person who contravenes the provisions of sub-section (1) or (2) shall be guilty of an offence.
- (4) Nothing in this section contained shall be deemed to prohibit the taking of a ballot in accordance with the constitution of the union or organization concerned, to ascertain the views of the members in regard to the calling of a strike or lock-out.
66. (1) Any employer who, whether or not any agreement, award or determination is binding upon him under this Act, dismisses any employee employed by him or reduces the rate of his remuneration or alters the terms or conditions of his employment to terms or conditions less favourable to him or alters his position relatively to other employees employed by him to his disadvantage, by reason of the fact, or because he suspects or believes, whether or not the suspicion or belief is justified or correct; that—

Victimisation
forbidden.

- (a) daardie werknemer aan die Minister of aan 'n amptenaar of aan 'n nywerheidsraad of uitvoerende of ander komitee van 'n nywerheidsraad, of aan die aangewese agent of ander beamppte van 'n nywerheidsraad of aan 'n versoeningsraad, of aan 'n bemiddelaar, 5
 assessor, arbiter of skeidsregter kragtens hierdie Wet aangestel, of aan die nywerheidshof, inligting verstrek het wat hy deur of kragtens hierdie Wet vereis word om te verstrek of wat betrekking het op die bedinge of voorwaardes van sy diens of op dié van ander 10
 werknemers van sy werkgever, of 'n wettige vereiste van 'n inspekteur of aangewese agent nagekom het, of voor 'n geregshof getuienis afgelê het; of
- (b) daardie werknemer geweier of nagelaat het om 'n handeling te verrig wat 'n werkgever ingevolge sub-artikel (2) of (3) van artikel twee-en-vyftig 'n werknemer nie mag verlang of toelaat om te verrig nie; of
- (c) daardie werknemer behoort of behoort het aan 'n vakvereniging of 'n ander dergelike vereniging van 20
 werknemers of buite werkure, of, met die goedkeuring van die werkgever, binne werkure, deelneem of deelgeneem het aan die stigting of wettige werksaamhede van so 'n vakvereniging of vereniging, 25
 is aan 'n misdryf skuldig.
- (2) Die hof wat iemand skuldig bevind aan 'n misdryf volgens sub-artikel (1), kan ook, benewens 'n vonnis wat hy mag oplê, beveel dat hy die werknemer, wie se ontslag of die vermindering van wie se skaal van beloning of die verandering van wie se posisie die onderwerp was van die aanklag waarop 30
 hy skuldig bevind is, in sy vorige posisie moet herstel vir die tydperk en onderworpe aan die voorwaardes wat die hof mag bepaal, of kan beveel dat hy aan daardie werknemer hoogstens tweehonderd pond as vergoeding moet betaal vir verlies wat daardie werknemer gely het, of kan beide daardie herstel en 35
 die betaling van daardie vergoeding beveel en so 'n bevel tot herstel of vergoeding het die uitwerking van 'n siviele vonnis ten gunste van daardie werknemer.

Geheimhouding
 bewaar te word.

67. Enige verteenwoordiger op 'n nywerheidsraad of versoeningsraad, of enige plaasvervanger van so 'n verteenwoordiger, of enige persoon wat op 'n vergadering van 'n nywerheidsraad of versoeningsraad voorgesit het, of enige lid van 'n komitee van 'n nywerheidsraad, of enige aangewese agent of ander beamppte van 'n nywerheidsraad, of enige lid van die nywerheidshof, of enige bemiddelaar, assessor, arbiter of 45
 skeidsregter kragtens hierdie Wet aangestel, of enige amptenaar wat, behalwe aan die Minister of aan 'n amptenaar of aan die nywerheidshof of aan die Raad van Handel en Nywerheid of aan die Loonraad ingestel ingevolge die Loonwet, 1937 (Wet No. 44 van 1937), of 'n dergelike liggaam of aan 'n nywerheidsraad of versoeningsraad wat in die aangeleentheid betrokke is, of aan 'n komitee van so 'n nywerheidsraad of versoeningsraad, of aan 'n geregshof of aan 'n ander persoon vir die doeleindes van hierdie Wet of om hom in staat te stel om op doeltreffende wyse se bedoelde bevoegdhede uit te oefen of sy 55
 bedoelde pligte te verrig, enige inligting openbaar wat hy in die uitoefening van sy bevoegdhede of die verrigting van sy pligte kragtens hierdie Wet of in die genoemde hoedanigheid met betrekking tot die sake van enige persoon, firma of besigheid verkry het, is aan 'n misdryf skuldig. 60

Insage van
 geskrifte.

68. Enige persoon kan na betaling van die gelde voorgeskryf enige konstitusie van 'n vakvereniging, werkgewersorganisasie, federasie of nywerheidsraad, of enige wysiging daarvan, en enige ooreenkoms of toekenning of enige vasstelling van die nywerheidshof of verslag van 'n versoeningsraad of van die 65
 nywerheidshof wat aan die Minister of aan die registrateur ooreenkomstig die bepalings van hierdie Wet voorgelê is besigtig en afskrifte daarvan neem.

Publikasie deur
 Minister van
 verslag, ooreen-
 koms of bepalings
 van beslegting.

69. Die Minister kan sodanige bekendmaking as wat hy raadsaam ag maak— 70

(a) van enige verslag van enige nywerheidsraad, versoeningsraad of bemiddelaar; of

(b) van enige ooreenkoms of van die bepalings van enige beslegting anders as by ooreenkoms tot stand gebring deur enige nywerheidsraad, versoeningsraad of be- 75
 middelaar; of

(c) van enige verslag van die werkgewers- of werknemers-vertteenwoordigers op 'n versoeningsraad as die versoeningsraad nie daarin geslaag het om 'n geskil te besleg nie. 80

- (a) that employee has given information which by or under this Act he is required to give, or which relates to the terms or conditions of his employment or those of other employees of his employer, to the Minister or to an officer, or to an industrial council or executive or other committee of an industrial council, or to the designated agent or other official of an industrial council or to a conciliation board, to a mediator, assessor, arbitrator or umpire appointed under this Act, or to the tribunal, or has complied with any lawful requirement of an inspector or designated agent, or has given evidence before a court of law; or
- (b) that employee has refused or omitted to do any act which an employer may not require or permit an employee to do in terms of sub-section (2) or (3) of section *fifty-two*; or
- (c) that employee belongs or has belonged to any trade union or any other like association of employees or takes or has taken part outside working hours, or, with the consent of the employer, within working hours, in the formation of or in the lawful activities of any such trade union or association,
- shall be guilty of an offence.

(2) The court which convicts any person of an offence under sub-section (1), may also, in addition to any sentence which it may impose, order him to reinstate, for such period and subject to such conditions as it may determine, the employee whose dismissal, or the reduction of the rate of whose remuneration, or the alteration of whose position, was the subject of the charge of which he was convicted, or may order him to pay to that employee compensation, not exceeding two hundred pounds, for loss suffered by that employee, or may order both such reinstatement and the payment of such compensation; and any such order for reinstatement or compensation shall have the effect of a civil judgment in favour of that employee.

67. Any representative on an industrial council or conciliation board, or any alternative of such a representative, or any person who has presided over any meeting of a council or board, or any member of a committee of an industrial council, or any designated agent or other official of an industrial council, or any member of the tribunal or any mediator, assessor, arbitrator or umpire appointed under this Act, or any officer who discloses any information in regard to the affairs of any person, firm or business acquired in the exercise of his powers or the performance of his duties under this Act or in the capacity stated, except to the Minister or to an officer or to the tribunal or to the Board of Trade and Industries or to the Wage Board established under the Wage Act, 1937 (Act No. 44 of 1937) or any like body or to an industrial council or conciliation board concerned in the matter, or to any committee of such an industrial council or conciliation board, or to a court of law or to any other person for the purposes of this Act or to enable him to exercise the said powers or to perform the said duties effectively, shall be guilty of an offence.

Secrecy to be observed.

68. Any constitution of a trade union, employers' organization, federation or industrial council, or any amendment thereto, and any agreement or award, or any determination by the tribunal or report of a conciliation board or of the tribunal submitted to the Minister or to the registrar in accordance with the provisions of this Act may be inspected or copied by any person on payment of the prescribed fees.

Inspection of documents.

69. The Minister may make such publication as he may deem expedient—

Publication by Minister of report, agreement and terms of settlement.

- (a) of any report by any industrial council, conciliation board or mediator; or
- (b) of any agreement or of the terms of any settlement otherwise than by agreement negotiated by any industrial council, conciliation board or mediator; or
- (c) of any report by the representatives of the employers or employees on a conciliation board, if the board has failed to settle a dispute.

Oorname deur
Minister onder
sekere omstandig-
hede, van werk-
saamhede van
plaaslike bestuur.

70. (1) Wanneer 'n plaaslike bestuur weens—

(a) 'n uitsluiting of 'n staking of gesamentlike optrede deur enige persone in sy diens; of

(b) 'n toeëiening van een of ander van sy bevoegdhede deur enige ongemagtigde persoon of persone,

nie in staat of onwillig is om enige diens of werksaamheid wat hy volgens Wet moet of kan verrig voort te sit kan die Minister op koste van, en nadat kennisgewing gediens is op, die plaaslike owerheid, die diens of werksaamheid self oorneem of laat oorneem deur enige persoon wat hy daartoe magtig en vir 'n tydperk wat hy raadsaam ag uitvoer, en vir daardie doel kan hy of 'n aldus gemagtigde persoon enige perseel van die plaaslike bestuur betree en alle ander nodige handelings verrig.

(2) Die Minister of enige aldus deur hom gemagtigde persoon besit al die bevoegdhede van die plaaslike owerheid om sodanige diens doeltreffend te verrig en daarvoor betaling te ontvang, en enige persoon wat die uitvoering van die diens of van enige werk wat daarmee in verband staan belemmer of hinder is aan 'n misdryf skuldig.

(3) Alle onkoste wat in verband met die voortsetting van enige diens kragtens hierdie artikel aangegaan word en wat enige inkomste wat ten opsigte daarvan ontvang word te bowe gaan is 'n skuld wat deur die plaaslike bestuur aan die Minister verskuldig is. Alle belastings, gelde en ander betalings wat enige persoon wettiglik aan die plaaslike owerheid verskuldig is ten opsigte van so 'n diens, is, vir sover hulle deur die Minister of persoon wat die diens voortsit nie ge-in word nie, deur die plaaslike owerheid inbaar van die persoon wat aanspreeklik is.

(4) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op enige ander bedrywigheid waarop die bepalings van artikel ses-en-veertig van toepassing is of kragtens sub-artikel (7) van daardie artikel van toepassing gemaak is.

Beweerde
vennootskappe.

71. (1) Wanneer daar in enige onderneming, nywerheid, bedryf of beroep ten opsigte waarvan 'n ooreenkoms of toekenning kragtens hierdie Wet bindend is of was, 'n persoon in enige besigheid of ander onderneming werksaam is wat deur 'n inspekteur of 'n aangewese agent van 'n nywerheidsraad vermoed word in daardie besigheid of onderneming in diens te wees, maar wat beweer of ten opsigte van wie beweer word dat sy posisie met betrekking tot daardie besigheid of onderneming nie dié van 'n werknemer is nie maar bepaal word deur 'n vennootskapsooreenkoms of deur 'n ander ooreenkoms wat die voortsetting daarvan ten doel het, kan die inspekteur of aangewese agent van enigeen wat aldus die bestaan van so 'n ooreenkoms beweer, die voorlegging van daardie ooreenkoms vereis, en kan 'n afskrif daarvan of uittreksels daaruit maak, of indien die ooreenkoms nie skriftelik of nie geheelal skriftelik is nie, van 'n persoon wat aldus beweer, vereis dat hy onder eed 'n verklaring aflê van al die bepalings van die ooreenkoms of van die bepalings daarvan wat nie skriftelik is nie, en kan verder van so 'n persoon vereis dat hy ten opsigte van 'n tydperk deur die inspekteur of aangewese agent vermeld te word onder eed 'n verklaring aflê aangaande die werklike bedrae kragtens daardie ooreenkoms ontvang of ontvangbaar en die werklike ure gewerk deur elke persoon wat beweer, of ten opsigte van wie beweer word, dat sy posisie aldus vasgestel is deur die ooreenkoms. So 'n persoon wat versuim, wanneer dit van hom vereis word, om so 'n ooreenkoms aan die inspekteur of aangewese agent voor te lê of om onder eed so 'n verklaring af te lê, is aan 'n misdryf skuldig.

(2) Wanneer kragtens 'n in sub-artikel (1) bedoelde ooreenkoms, die beloning van 'n party daarby geheelal of gedeeltelik uit 'n aandeel van die ontvangste of winste bestaan, en by enige verrigtinge kragtens hierdie Wet, waarby 'n vraag ontstaan aangaande die toepassing van 'n ooreenkoms of toekenning op 'n party wat so 'n aandeel ontvang, daar bewys word—

(a) dat die ooreenkoms deur 'n party daarby beëindig kan word deur minder as drie maande kennis te gee; of

(b) dat die bedrag wat 'n party daarby oor enige tydperk in die aanklag vermeld kragtens die bepalings daarvan ontvang het, minder was as die beloning wat hy geregtig sou gewees het om kragtens 'n ooreenkoms of toekenning wat kragtens hierdie Wet bindend is of was vir sy dienste vir dieselfde tydperk te ontvang, as hy 'n werknemer was,

word hy geag 'n werknemer, en enige ander party by die ooreenkoms geag 'n werkgewer te wees, tensy bewys word dat die ooreenkoms nie aangegaan is met die doel om enige bepaling van 'n ooreenkoms of toekenning wat kragtens hierdie Wet bindend is of was, te ontduik nie.

70. (1) Whenever any local authority is unable or unwilling by reason of—

Assumption by Minister of functions of local authority in certain circumstances.

- (a) any lock-out or any strike or concerted action of any persons in its employ; or
- 5 (b) any usurpation by any unauthorized person or persons of any of its powers,
- to continue any service or function which it is required or permitted by law to perform the Minister may, at the expense of the local authority, and after serving notice upon it, himself or
- 10 by any person whom he may authorize thereto, assume and, for such time as he deems fit, carry on such service or function and he or such authorized person may for that purpose enter upon any premises of the local authority and do all other acts necessary.

15 (2) The Minister or any person so authorized by him shall have all the powers of the local authority for the adequate rendering of such service and receiving payment therefor, and any person obstructing or hindering the carrying out of the service or any work incidental thereto shall be guilty of an

20 offence.

(3) All expenses incurred in carrying on any service under this section in excess of any revenue received in respect thereof shall be a debt due by the local authority to the Minister. All rates, fees and other payments which would lawfully have been

25 due by any person to the local authority in respect of any such service shall, in so far as they are not recovered by the Minister or person carrying on such service, be recoverable by the local authority from the person liable.

(4) The provisions of this section shall *mutatis mutandis* apply

30 to any other activity to which the provisions of section forty-six apply or have been applied under sub-section (7) of that section.

71. (1) Whenever in any undertaking, industry, trade or occupation in respect of which any agreement or award is or

35 was binding under this Act, there is working in any business or other concern any person who is suspected by an inspector or a designated agent of an industrial council to be employed in such business or concern but who claims or in respect of whom it is claimed that his position in relation to that business

40 or concern is not that of an employee but is determined by an agreement or partnership or by some other agreement for the carrying on thereof, the inspector or designated agent may require from any person so claiming the existence of such an agreement the production of that agreement, and may make a

45 copy thereof or make extracts therefrom, or if the agreement is not in writing, or is not wholly in writing may require any person so claiming to make a statement on oath of all the terms of the agreement or of such terms thereof as are not in writing, and may further require any such person to make a statement

50 on oath as to the actual amounts received or receivable under that agreement and the actual hours worked by every person who claims or in respect of whom it is claimed that his position is so fixed by the agreement in respect of any period to be specified by the inspector or designated agent. Any such person

55 failing, when required to do so, to produce to the inspector or designated agent any such agreement or to make any such statement on oath shall be guilty of an offence.

Alleged partnerships.

(2) Whenever under any such agreement as is referred to in sub-section (1) the remuneration of any party thereto consists

60 wholly or partly of a share in the takings or profits, and, in any proceedings under this Act in which any question is raised as to the application of any agreement or award to any party receiving such a share, it is proved—

- (a) that the agreement is terminable by any party thereto by giving less than three months' notice; or
- 65 (b) that the amount which any party thereto received under the terms thereof over any period specified in the charge was less than the remuneration which he would have been entitled to receive for his service for the same period under any agreement or award which
- 70 is or was binding under this Act, if he had been an employee,

he shall be presumed to be an employee and any other party to the agreement shall be presumed to be an employer, unless

75 it is proved that the agreement was not made with the object of evading any provisions of any agreement or award which is or was binding under this Act.

Dade of versuime van bestuurders, agente of werknemers.

72. (1) Wanneer 'n bestuurder, agent of werknemer van 'n werkgewer 'n daad verrig of versuim om dit te verrig, en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkgewer dit verrig of versuim om dit te verrig, dan, tensy dit bewys word dat—

- (a) by die verrigting van daardie daad of versuim om dit te verrig, die bestuurder, agent of werknemer sonder die oogluikende toelating of toestemming van die werkgewer gehandel het; en
- (b) die werkgewer alle redelike stappe gedoen het om 'n daad of versuim van die onderhawige soort te voorkom; en
- (c) 'n daad of versuim, hetsy wettig of onwettig, van die ten laste gelegde soort onder geen voorwaarde of onder geen omstandigheid binne die bestek van die bevoegdheid of in die loop van die diens van die bestuurder, agent of werknemer geval het nie,

word veronderstel dat die werkgewer self die daad verrig het of versuim het om dit te verrig, en kan hy ten opsigte daarvan skuldig bevind en gevonniss word; en die feit dat die werkgewer 'n daad of versuim van die onderhawige soort verbied het, is op sigself nie voldoende bewys dat hy alle redelike stappe gedoen het om die daad of versuim te voorkom nie.

(2) Wanneer 'n bestuurder, agent of werknemer van 'n werkgewer 'n daad verrig of versuim om dit te verrig en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkgewer dit verrig of versuim om dit te verrig, kan hy ten opsigte daarvan skuldig bevind en gevonniss word asof hy die werkgewer was.

(3) of die werkgewer of die bestuurder, agent of werknemer, of albei van hulle kan aldus skuldig bevind en gevonniss word.

(4) Wanneer die bestuurder, agent of werknemer van 'n werkgewer skuldig bevind word van 'n in sub-artikel (2) van artikel drie-en-veertig bedoelde misdryf, moet die hof kragtens artikel vier-en-veertig teen die werkgewer 'n bevel uitvaardig, en die bepalings van hierdie Wet met betrekking tot sulke bevele is *mutatis mutandis* van toepassing; en so 'n bevel word nie teen so 'n bestuurder, agent of werknemer uitgevaardig nie.

Valse verklarings.

73. Enige persoon wat enige staat of verklaring, hetsy skriftelik of andersins, ingevolge enige bepaling van hierdie Wet of vir die doeleindes van of in verband met enige aansoek, versoek, appél, verrigtinge of ondersoek kragtens hierdie Wet, verstrek of maak, of laat verstrek of maak, wat hy weet in enige besonderheid van wesenlike belang vals is, is aan 'n misdryf skuldig.

Bewyslewering.

74. (1) Bewys van die publikasie in die *Staatskoerant* van 'n kennisgewing kragtens artikel drie-en-veertig, ses-en-veertig, agt-en-veertig, nege-en-veertig, een-en-veertig, ses-en-sewentig of sewe-en-sewentig of dat 'n toekenning of vasstelling gemaak is, is afdoende bewys dat aan al die bepalings van hierdie Wet met betrekking tot aangeleenthede wat die publikasie van sodanige kennisgewing, en die aangaan van 'n ooreenkoms of die maak van 'n in sodanige kennisgewing bedoelde toekenning of vasstelling, of die maak van die toekenning of vasstelling, na gelang van die geval, voorafgaan of daarmee in verband staan, voldoen is.

(2) By ontstentenis van bevredigend bewys van ouderdom, word die ouderdom van 'n persoon, in enige verrigtinge ingevolge hierdie Wet vermoed die te wees wat deur 'n inspekteur verklaar word na sy mening die waarskynlike ouderdom van daardie persoon te wees; maar enige belanghebbende persoon wat ontevrede is met daardie verklaring van mening, kan, op eie koste, vereis dat die persoon wie se ouderdom in kwessie is, voor 'n distriksgeneesheer verskyn en deur hom ondersoek word, en 'n verklaring vervat in 'n sertifikaat deur die distriksgeneesheer wat daardie persoon ondersoek het, aangaande wat volgens sy mening die waarskynlike ouderdom van daardie persoon is, dog alleen vir die doel van bedoelde verrigtinge, afdoende bewys van die ouderdom van daardie persoon.

(3) Wanneer dit by verrigtinge ingevolge hierdie Wet bewys word dat 'n persoon teenwoordig was op enige perseel waar enige onderneming, nywerheid, bedryf of beroep ten opsigte waarvan enige ooreenkoms, toekenning of vasstelling kragtens hierdie Wet bindend is, voortgesit was, of toesig gehad het oor enige voertuig wat in so 'n onderneming, nywerheid, bedryf of beroep gebruik word, hetsy die voertuig op daardie tydstip bestuur is al dan nie, word daardie persoon, tensy die teendeel bewys word, vermoed 'n werknemer te wees.

72. (1) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence under this Act for the employer to do or omit to do, then, unless it is proved that—

Acts or omissions
by managers,
agents or
employees.

- 5 (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or permission of the employer; and
- (b) all reasonable steps were taken by the employer to prevent any act or omission of the kind in question; and
- 10 (c) it was not under any condition or in any circumstance within the scope of the authority or in the course of the employment of the manager, agent or employee to do or omit to do acts whether lawful or unlawful of the character of the act or omission charged,
- 15 the employer shall be presumed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof; and the fact that the employer issued instructions forbidding any act or omission of the kind in question
- 20 shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence under this Act for the employer to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer.

(3) Either the employer or the manager, agent or employee or both of them, may be so convicted and sentenced.

(4) Whenever the manager, agent or employee of an employer is convicted of an offence such as is referred to in subsection (2) of section *fifty-three*, the court shall make an order against the employer under section *fifty-four*, and the provisions of this Act relating to such orders shall, *mutatis mutandis*, be applicable, and no such order shall be made against any such manager, agent or employee.

73. Any person who furnishes or makes or causes to be furnished or made any return or statement, written or otherwise, in terms of any provision of this Act or for the purposes of or in connection with any application, request, appeal, proceedings or enquiry under this Act, which is false to his knowledge in any material particular shall be guilty of an offence.

False
statements.

74. (1) Proof of the application in the *Gazette* of any notice under section *forty-three*, *forty-six*, *forty-eight*, *forty-nine*, *fifty-one*, *seventy-six* or *seventy-seven*, or of the making of any award or determination shall be conclusive proof that all the provisions of this Act in respect of matters precedent and incidental to the publication of such notice and the entering into of any agreement or the making of any award or determination referred to in such notice, or the making of the award or determination, as the case may be, have been complied with.

Evidence.

(2) In the absence of satisfactory proof of age, the age of any person shall, in any proceedings under this Act, be presumed to be that stated by an inspector to be in his opinion the probable age of that person; but any interested person who is dissatisfied with that statement of opinion may, at his own expense, require that the person whose age is in question appear before and be examined by a district surgeon, and a statement contained in a certificate by the district surgeon who examined that person as to what in his opinion is the probable age of that person shall, but only for the purpose of the said proceedings, be conclusive proof of the age of that person.

(3) Whenever in any proceedings under this Act it is proved that any person was present in any premises in which any undertaking, industry, trade or occupation in respect of which any agreement, award or determination is binding under this Act was being carried on or was in charge of any vehicle used in any such undertaking, industry, trade or occupation, whether or not it was being driven at the time, that person shall, unless the contrary is proved, be presumed to be an employee.

(4) Benewens enige tydperk wanneer hy werklik aldus werksaam is, word 'n werknemer geag in die diens van 'n werk-gewer werksaam te wees—

- (a) gedurende enige tydperk waarin hy ooreenkomstig die vereistes van sy werk-gewer aanwesig is op of in enige perseel waarin die onderneming, nywerheid, bedryf of beroep waarin hy in diens is, voortgesit word; 5
- (b) gedurende enige ander tydperk wanneer hy op of in enige sodanige perseel aanwesig is; en
- (c) gedurende enige tydperk wanneer hy toesig het oor 'n voertuig wat gebruik word in die onderneming, nywerheid, bedryf of beroep waarin hy in diens is, hetsy die voertuig bestuur word al dan nie: 10

Met dien verstande dat as dit bewys word gedurende watter deel van enige in paragraaf (b) of (c) bedoelde tydperk so 'n werknemer werklik in sy diens gewerk het, die vermoede wat deur hierdie sub-artikel geskep word nie ten opsigte van daardie werknemer met betrekking tot daardie tydperk van toepassing is nie. 15

(5) By verrigtinge ingevolge hierdie Wet, is 'n verklaring of 20 inskrywing wat bevat is in enige boek of stuk wat deur enige werk-gewer, prinsipaal of aannemer of deur sy bestuurder, agent of werknemer gehou word, of wat gevind word op of in 'n perseel wat deur daardie werk-gewer, prinsipaal of aannemer geokkupeer word, of op of in 'n voertuig wat in die besigheid van daardie werk-gewer, prinsipaal of aannemer gebruik word, toelaatbaar by wyse van getuienis teen hom as 'n erkenning van die feite uiteengesit in daardie verklaring of inskrywing, tensy dit bewys word dat daardie verklaring of inskrywing nie deur daardie werk-gewer, prinsipaal of aannemer of deur 'n bestuurder, agent of werknemer van daardie werk-gewer, prinsipaal of aannemer in die loop van sy werk as bestuurder of in die loop van sy agentskap of diens gemaak is nie. 25

(6) As 'n werk-gewer versuim het om ten opsigte van een of ander tydperk die aantekeninge te hou wat hy volgens artikel 35 *sewe-en-vyftig* moet hou, of om sulke aantekeninge vir die in sub-artikel (3) van daardie artikel vermelde tydperk te behou, of sulke aantekeninge vervals of laat vervals het, dan word dit by verrigtinge ingevolge hierdie Wet vermoed, dat 'n werknemer wat by hom in diens was gedurende die tydperk ten opsigte waarvan die versuim of vervalsing plaasgevind het, elke week gedurende sy dienstyd wat binne die tydperk val ten opsigte waarvan die versuim of vervalsing plaasgevind het, in sy diens nie minder gewerk het nie as die gewone werkure wat neergelê word in enige ooreenkoms of toekenning wat kragtens hierdie Wet op daardie werknemer van toepassing is: Met dien verstande dat as dit bewys word watter ure so 'n werknemer werklik gedurende enige besondere week in sy diens gewerk het, die vermoede wat deur hierdie sub-artikel geskep word nie ten opsigte van daardie werknemer met betrekking tot daardie week van toepassing is nie. 30

(7) Wanneer dit by verrigtinge ingevolge hierdie Wet bewys word dat enige onware verklaring of inskrywing voorkom in 'n aantekening wat enige persoon gehou het word dit vermoed, totdat die teendeel bewys word, dat hy daardie aantekening opsetlik vervals het. 35

(8) Wanneer iemand ingevolge artikel *drie-en-vyftig* aangekla word weens versuim om aan 'n persoon wat gedurende enige tydperk in diens by hom was, die skaal van beloning te betaal wat hy volgens die bepalinge van 'n ooreenkoms of toekenning of vrystellingstifikaat wat kragtens hierdie Wet op hom bindend is verplig was om ten opsigte van daardie tydperk aan daardie persoon te betaal, en dit bewys word dat daardie persoon gedurende enige tydperk waaroor die aanklag handel, by die beskuldigde in diens was, en dat die beskuldigde volgens daardie ooreenkoms of toekenning of sertifikaat verplig was om ten opsigte van daardie tydperk 'n sekere bedrag aan daardie persoon as minimum skaal van beloning te betaal, word dit vermoed, totdat die teendeel bewys word, dat die beskuldigde nie daardie bedrag aan daardie persoon betaal het nie. 40

(9) Wanneer enige persoon ingevolge artikel *drie-en-vyftig* aangekla word weens versuim om aan enige persoon die bedrag te betaal wat hy kragtens die bepalinge van enige ooreenkoms of toekenning in verband met die in paragraaf (p) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde aangeleenthede aan daardie persoon moes betaal het vir enige werk wat deur hom aan daardie persoon op kontrak uitgegee is, en dit bewys word dat die in die aanklag bedoelde werk deur die beskuldigde aan die persoon op kontrak uitgegee is, en dat die beskuldigde kragtens daardie ooreenkoms of toekenning, 'n sekere bedrag aan daardie persoon vir daardie werk moes betaal het, word 45

(4) An employee shall be deemed to be working in the employment of an employer, in addition to any period during which he is actually so working—

- 5 (a) during any period during which in accordance with the requirements of his employer he is present upon or in any premises in which the undertaking, industry, trade or occupation in which he is employed is being carried on;
- 10 (b) during any other period during which he is present upon or in any such premises; and
- (c) during any period during which he is in charge of any vehicle used in the undertaking, industry, trade or occupation in which he is employed, whether or not it is being driven:

15 Provided that if it is proved during what portion of any such period as is referred to in paragraph (b) or (c) any such employee actually worked in his employment, the presumption established by this sub-section shall not apply in respect of that employee in relation to that period.

20 (5) In any proceedings under this Act, any statement or entry contained in any book or document kept by any employer, principal or contractor, or by his manager, agent or employee, or found upon or in any premises occupied by, or any vehicle used in the business of, that employer, principal or
25 contractor shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that employer, principal or contractor or by any manager, agent or employee of that employer, principal or contractor
30 in the course of his work as manager or in the course of his agency or employment.

(6) If an employer has, in respect of any period, failed to keep the records which, in terms of section *fifty-seven*, he is required to keep, or to retain such records for the period
35 specified in sub-section (3) of that section, or has falsified such records or caused them to be falsified, then in any proceedings under this Act, an employee employed by him during the period in respect of which the failure or the falsification has occurred shall be presumed to have worked in his employ-
40 ment each week, throughout the period of his employment falling within the period in respect of which the failure or the falsification occurred, not less than the ordinary hours of work specified in any agreement or award applicable to that employee under this Act: Provided that if it is proved what hours
45 any such employee actually worked in his employment during any particular week, the presumption established by this sub-section shall not apply in respect of that employee in relation to that week.

(7) Whenever in any proceedings under this Act it is proved
50 that any untrue statement or entry is contained in any record kept by any person, he shall be presumed, until the contrary is proved, wilfully to have falsified that record.

(8) Whenever any person is charged under section *fifty-three* with having failed to pay to any person employed by him
55 during any period the rate of remuneration which in respect of that period he was required to pay to that person under the provisions of any agreement or award or licence of exemption binding upon him under this Act, and it is proved that that person was employed by the accused during any period covered
60 by the charge and that under that agreement or award or licence the accused was required to pay to that person as minimum rate of remuneration a certain amount in respect of that period, the accused shall be presumed, until the contrary is proved, not to have paid that amount to that person.

(9) Whenever any person is charged under section *fifty-three*, with having failed to pay to any person the amount which, under the provisions of any agreement or award relating to any of the matters referred to in paragraph (p) of sub-section (1) of section *twenty-four*, he was required to pay to that person
70 for any work given out on contract by him to that person, and it is proved that the work referred to in the charge was given out on contract by the accused to that person, and that under that agreement or award the accused was required to pay to that person a certain amount for that work, the accused shall

dit vermoed, totdat die teendeel bewys word, dat die beskuldigde nie daardie bedrag aan daardie persoon betaal het nie.

(10) Wanneer enige werknemer of ander persoon kragtens artikel vyf-en-sestig aangekla word weens aanstigting van 'n staking, of weens aanhitsing van enige werknemer of ander persoon om aan 'n staking deel te neem of om dit voort te sit, of weens deelname aan 'n staking of aan die voortsetting van 'n staking en 'n weiering, versuim, vertraging, belemmering, verbreking of beëindiging bedoel in die woordomskrif van „staking” bevat in artikel een en in die aanklag vermeld, bewys word, word dit vermoed, totdat die teendeel bewys word, dat daardie weiering, versuim, vertraging, belemmering, verbreking of beëindiging na aanleiding van 'n samespanning, ooreenkoms of verstandhouding en vir 'n in daardie woordomskrif en in die aanklag vermelde doel plaasgevind het.

(11) Wanneer enige werkgewer of ander persoon kragtens artikel vyf-en-sestig aangekla word weens aanstigting van 'n uitsluiting of weens aanhitsing van enige werkgewer of ander persoon om aan 'n uitsluiting deel te neem of om dit voort te sit, of weens deelname aan 'n uitsluiting of aan die voortsetting daarvan, en 'n nietoelating, stopsitting, verbreking, beëindiging, weiering of versuim bedoel in die woordomskrif van „uitsluiting” bevat in artikel een en in die aanklag vermeld bewys word, word dit vermoed, totdat die teendeel bewys word, dat daardie nie-toelating, stopsitting, verbreking, beëindiging, weiering of versuim met 'n in daardie woordomskrif en in die aanklag vermelde doel plaasgevind het.

(12) Wanneer 'n persoon ingevolge sub-artikel (1) van artikel ses-en-sestig daarvan aangekla word dat hy 'n persoon uit sy diens ontslaan het of die skaal van sy beloning verminder het, of die bedinge of voorwaardes van sy diens verander het na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers tot sy nadeel verander het, ten gevolge van 'n in paragraaf (a), (b) of (c) van daardie sub-artikel bedoelde feit en in die aanklag vermeld, of ten gevolge van sy vermoede of geloof in die bestaan van so 'n feit in die aanklag vermeld, en bewys word dat die beskuldigde daardie persoon ontslaan het, of die skaal van sy beloning verminder het, of die bedinge of voorwaardes van sy diens verander het na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers tot sy nadeel verander het, word, totdat die teendeel bewys word, vermoed dat die beskuldigde dit gedoen het ten gevolge van die feit of vermoede of geloof, na gelang van die geval, in die aanklag vermeld.

(13) Wanneer 'n persoon kragtens artikel drie-en-sewentig daarvan aangekla word dat hy 'n staat of verklaring wat hy weet in enige besonderheid van wesenlike belang vals is verstrek of gemaak het of laat verstrek of maak het en dit bewys word dat bedoelde staat of verklaring in die besonderheid van 'n wesenlike belang in die aanklag vermeld vals is, word dit vermoed, totdat die teendeel bewys word, dat die beskuldigde te alle tye geweet het dat sodanige staat of verklaring in die besonderheid in die aanklag vermeld vals was.

(14) 'n Deur die registrateur getekende sertifikaat—
 (a) meldende dat 'n vakvereniging, werkgewersorganisasie of nywerheidsraad geregistreer is; of
 (b) wat die gebied, of belange of onderneming, nywerheid, bedryf of beroep ten opsigte waarvan 'n vakvereniging, werkgewersorganisasie of nywerheidsraad geregistreer is uiteensit; of
 (c) meldende dat die registrasie van 'n vakvereniging, werkgewersorganisasie of nywerheidsraad ingetrek is, is bloot by die vertoning daarvan deur enige persoon, en tensy bewys word dat dit herroep, gekanselleer of vervang is deur 'n latere sertifikaat deur die registrateur uitgereik, afdoende bewys—

(i) van die hierbo bedoelde aangeleenthede daarin vermeld; en

(ii) dat al die bepalinge van hierdie Wet ten opsigte van aangeleenthede wat die registrasie van 'n vakvereniging, werkgewersorganisasie of nywerheidsraad of die intrekking van sodanige registrasie, na gelang van die geval, voorafgaan of daarmee in verband staan, nagekom is.

75. Ondanks enige andersluidende bepaling in hierdie Wet of enige ander wet, het—

(a) enige gebrek in of weglating van die konstitusie van 'n vakvereniging of werkgewersorganisasie of nywerheidsraad; of

be presumed, until the contrary is proved, not to have paid that amount to that person.

(10) Whenever any employee or other person is charged under section *sixty-five* with having instigated a strike or with
5 having incited any employee or other person to take part in or to continue a strike or with having taken part in a strike or in the continuation of a strike and a refusal, failure, retardation, obstruction, breach or termination such as is referred to in the definition of "strike" contained in section *one* and
10 stated in the charge, is proved, it shall be presumed until the contrary is proved, that that refusal, failure, retardation, obstruction, breach or termination was in pursuance of a combination, agreement or understanding and for a purpose such as is referred to in the said definition and stated in the
15 charge.

(11) Whenever any employer or other person is charged under section *sixty-five* with having instigated a lock-out or with having incited any employer or other person to take
20 part in or to continue a lock-out or with having taken part in a lock-out or in the continuation of a lock-out and an exclusion, discontinuance, breach, termination, refusal or failure such as is referred to in the definition of the expression "lock-out" contained in section *one* and stated in the charge is proved, it shall be presumed, until the contrary is proved, that that
25 exclusion, discontinuance, breach, termination, refusal or failure was for a purpose such as is referred to in the said definition and stated in the charge.

(12) Whenever any person is charged under sub-section (1) of section *sixty-six* with having dismissed any person employed
30 by him, or reduced the rate of his remuneration, or altered the terms or conditions of his employment to terms or conditions less favourable to him, or altered his position relatively to other employees to his disadvantage, by reason of any fact referred to in paragraph (a), (b) or (c) of that sub-section and
35 stated in the charge, or by reason of his suspicion or belief in the existence of any such fact stated in the charge, and it is proved that the accused dismissed that person, or reduced the rate of his remuneration or altered the terms or conditions of his employment to terms or conditions less favourable to him,
40 or altered his position relatively to other employees to his disadvantage, the accused shall be presumed, until the contrary is proved, to have done so by reason of the fact or suspicion or belief, as the case may be, stated in the charge.

(13) Whenever any person is charged under section *seventy-three* with having furnished, made or caused to be furnished
45 or made any return or statement which to his knowledge is false in any material particular and it is proved that such return or statement is false in the material particular stated in the charge, the accused shall be presumed, until the contrary
50 is proved, at all relevant times to have known that such return or statement was false in the particular stated in the charge.

(14) A certificate signed by the registrar—

- (a) stating that a trade union, employers' organization or industrial council has been registered; or
- 55 (b) setting forth the area or interests or undertaking, industry, trade or occupation in respect of which a trade union, employers' organization or industrial council has been registered; or
- 60 (c) stating that the registration of a trade union, employers' organization or industrial council has been cancelled,

shall, on its mere production by any person and in the absence of proof that it has been withdrawn, cancelled or superseded by a later certificate issued by the registrar, be conclusive
65 proof—

- (i) of the matters above referred to stated therein; and
- (ii) that all the provisions of this Act in respect of matters precedent and incidental to the registration of the trade union, employers' organization or industrial council, or the cancellation of such registration, as
70 the case may be, have been complied with.

75. Notwithstanding anything to the contrary contained in this Act or in any other law—

- 75 (a) any defect in or omission from the constitution of any trade union or employers' organization or industrial council; or

Certain defects and irregularities not to invalidate constitution or registration of trade union, em-

of toekennings
of dade van
nywerheidsraad
of versoeningsraad
of arbiters nie
ongeldig weens
sekere gebreke
of onreëlmatighede
nie.

- (b) enige onreëlmatigheid in die verkiesing of aanstelling van enige verteenwoordiger op 'n nywerheidsraad of versoeningsraad, of van enige plaasvervanger van enige verteenwoordiger of van enige voorsitter of ondervoorsitter of ander persoon wat voorsit op enige vergadering van 'n nywerheidsraad of versoeningsraad of komitee van 'n nywerheidsraad, of van enige bemiddelaar, assessor, arbiter of skeidsregter; of
- (c) die bestaan van enige vakature in die lidmaatskap van 'n nywerheidsraad of versoeningsraad,
- nie die uitwerking dat dit—
- (i) die konstitusie of die registrasie van 'n vakvereniging of werkgewersorganisasie of nywerheidsraad; of
- (ii) enige ooreenkoms of toekenning wat, was dit nie vir daardie gebrek, weglating, onreëlmatigheid of vakature nie, bindend sou wees kragtens artikel *agt-en-veertig* of *nege-en-veertig*; of
- (iii) enige daad van 'n nywerheidsraad of versoeningsraad of komitee van so 'n nywerheidsraad of van enige bemiddelaar, arbiter of skeidsregter;
- ongeldig maak nie.

Afbakening tussen
ondernemings,
nywerhede, be-
drywe en beroepe.

76. (1) Die Minister kan, as hy dit raadsaam ag om dit te doen, enige aangeleentheid na die nywerheidshof verwys om vas te stel—

- (a) of enige werkgewer of werknemer of klas van werkgewers of werknemers betrokke of in diens in 'n besondere onderneming, nywerheid, bedryf of beroep is; of
- (b) of enige loonreëlende maatreël bindend is op enige werkgewer, werknemer, klas van werkgewers of werknemers, vakvereniging of werkgewersorganisasie of van toepassing is op enige onderneming, nywerheid, bedryf of beroep.
- (2) Wanneer 'n geskil tussen twee of meer nywerheidsrade in verband met 'n in sub-artikel (1) bedoelde aangeleentheid deur ooreenkoms tussen die rade besleg word, moet die bepaling van sodanige ooreenkoms onder die aandag van die Minister gebring word en die Minister kan, as hy dit nodig ag om dit te doen, 'n kennisgewing waarin die besonderhede van die ooreenkoms uiteengesit word, in die *Staatskoerant* laat publiseer.
- (3) Enige geregistreerde vakvereniging, werkgewersorganisasie, nywerheidsraad of 'n werkgewer by die aangeleentheid betrokke, kan by die nywerheidshof in die vorm en op die wyse voorgeskryf aansoek doen om die vasstelling van enige in sub-artikel (1) bedoelde vraag, hetsy sodanige vraag die onderwerp van 'n in sub-artikel (2) bedoelde ooreenkoms was, al dan nie.
- (4) (a) Wanneer in enige geregshof 'n in sub-artikel (1) bedoelde vraag geopper word, kan die persoon wat by die hof voorsit, die verrigtinge verdaag vir die doel om die nywerheidshof te raadpleeg.
- (b) Indien na sodanige raadpleging die hof oortuig is dat die geopperde vraag nie voorheen deur die nywerheidshof vasgestel is nie en een is wat aldus vasgestel behoort te word, moet hy die vraag na die nywerheidshof vir vasstelling verwys en die verrigtinge waarin die vraag geopper is, moet verdaag word totdat die aangeleentheid aldus vasgestel is.
- (5) By ontvangs van—
- (a) 'n verwysing kragtens sub-artikel (1) of paragraaf (b) van sub-artikel (4); of
- (b) 'n aansoek kragtens sub-artikel (3) wat na die mening van die nywerheidshof betrekking het op 'n aangeleentheid van aansienlike belang wat geskik is vir vasstelling kragtens hierdie artikel en nog nie deur 'n vorige vasstelling beslis is nie,
- moet die nywerheidshof 'n kennisgewing in die *Staatskoerant* laat publiseer wat besonderhede van die verwysing of aansoek uiteensit en wat die tydperk waarbinne, die amptenaar by wie en die adres waarby enige skriftelike vertoë ingedien moet word, meld.
- (6) Na oorweging van enige skriftelike vertoë aldus ingedien en na enige verdere ondersoek (wat die aanhoor van getuïenis en beredenering kan insluit) wat hy nodig ag, kan die nywerheidshof die aangeleentheid vasstel en moet so gou doenlik daarna die Minister en die hof wat die vraag na hom verwys het of die partye betrokke by die aansoek, na gelang van die geval, van die bepaling van sodanige vasstelling verwittig. By die vasstelling van 'n aangeleentheid kragtens hierdie sub-artikel moet die nywerheidshof, met inagneming van die omstandighede van elke besondere geval, sodanige beslissing gee as wat hy as billik ag.

- (b) any irregularity in the election or appointment of any representative on an industrial council or conciliation board, or of any alternate of any representative, or of any chairman or vice-chairman or other person presiding over any meeting of an industrial council or conciliation board or committee of an industrial council, or of any mediator, assessor, arbitrator or umpire; or
- (c) the existence of any vacancy in the membership of any industrial council or conciliation board, shall not invalidate—
- (i) the constitution or the registration of any trade union or employers' organization or industrial council; or
- (ii) any agreement or award which, but for that defect, omission, irregularity or vacancy, would be binding in terms of section *forty-eight* or *forty-nine*; or
- (iii) any act of any industrial council or conciliation board or committee of such industrial council or of any mediator, arbitrator or umpire.
76. (1) The Minister may, if he deems it expedient to do so, refer to the tribunal for determination any question as to—
- (a) whether any employer or employee, or class of employers or employees is engaged or employed in a particular undertaking, industry, trade or occupation; or
- (b) whether any wage regulating measure is binding on any employer, employee, class of employers or employees, trade union or employers' organization, or is applicable to any undertaking, industry, trade or occupation.
- (2) Whenever a dispute between two or more industrial councils in regard to a matter such as is referred to in sub-section (1) is settled by agreement between the councils, the provisions of such agreement shall be brought to the notice of the Minister and the Minister may, if he deems it necessary to do so, cause a notice to be published in the *Gazette* setting out the particulars of the agreement.
- (3) Any registered trade union, employers' organization, industrial council, or an employer concerned in the matter, may apply to the tribunal in the prescribed form and manner for the determination of any question such as is referred to in sub-section (1), irrespective of whether such question has been the subject of an agreement referred to in sub-section (2).
- (4) (a) Whenever, in any court of law, a question such as is referred to in sub-section (1) is raised, the person presiding over the court may adjourn the proceedings for the purpose of consultation with the tribunal.
- (b) If after such consultation, the court is satisfied that the question raised has not previously been determined by the tribunal and is one which should be so determined, it shall refer the question to the tribunal for determination, and the proceedings in which the question was raised shall be adjourned until after the question has been so determined.
- (5) Upon receipt of—
- (a) a reference under sub-section (1) or paragraph (b) of sub-section (4); or
- (b) an application under sub-section (3) which in the opinion of the tribunal refers to a matter of substantial importance which is capable of determination under this section and has not been settled by a previous determination,
- the tribunal shall cause to be published in the *Gazette* a notice setting forth particulars of the reference or application and stating the period within which, the officer with whom and the address at which any written representations shall be lodged.
- (6) Upon consideration of any written representations so lodged, and after any further investigation (which may include the hearing of evidence or argument) which it deems to be necessary, the tribunal may determine the matter and shall as soon as possible thereafter advise the Minister and the court which referred the question to it or the parties concerned in the application, as the case may be, of the terms of such determination. In determining a matter under this sub-section the tribunal shall give such decision as it deems equitable having regard to the circumstances of each particular case.

employers' organization or industrial council, or agreements or awards, or acts of industrial council or conciliation board or arbitrators.

Demarcation between undertakings, industries, trades and occupations.

(7) Indien die Minister van mening is dat die aangeleentheid in die vasstelling behandel, van voldoende belang is, kan hy die bepalings daarvan in die *Staatskoerant* laat publiseer.

(8) Die nywerheidshof kan deur dergelike prosedure enige vasstelling kragtens hierdie artikel gemaak, terugtrek of verander: Met dien verstande dat die nywerheidshof enige fout of weglating kan verbeter of enige bepaling van die vasstelling opklaar, sonder om die prosedure in sub-artikel (5) uiteengesit, te volg, as dit van mening is dat sodanige verbetering of opklaring nodig is. Die vasstelling soos verbeter of opgeklaar word geag 'n vasstelling kragtens sub-artikel (6) gemaak te wees.

(9) (a) Die nywerheidshof maak, ten opsigte van enige verrigtinge kragtens hierdie artikel, geen bevel wat van enige party by die verrigtinge vereis om die koste deur enige ander party aangegaan te betaal nie: Met dien verstande dat as die nywerheidshof van mening is dat die verskyning of toetrede van enige party in die verrigtinge ligsinnig was, en tot gevolg gehad het dat 'n ander party onnodiglik koste aangegaan het, hy sodanige bevel ten opsigte van betaling van koste kan maak as wat hy billik ag.

(b) Die partye by enige verrigtinge wat voortspruit uit enige aansoek kragtens sub-artikel (3) moet aan die Sekretaris van Arbeid sodanige gelde as wat voorgeskryf word in die verhoudings wat die nywerheidshof mag gelas, betaal.

(10) (a) 'n Vasstelling kragtens hierdie artikel gemaak is afdoende en bindend vanaf die datum in die vasstelling bepaal) wat 'n datum voor of na die datum van die vasstelling kan wees) en in die gebied in die vasstelling vermeld, en is van krag ondanks enige andersluidende bepalings in enige loonreëlende maatreël of in die konstitusie of registrasiesertifikaat van enige geregistreerde vakvereniging, werkgewersorganisasie of nywerheidsraad.

(b) So 'n registrasiesertifikaat kan deur die registrateur gewysig word om met die bedoelde vasstelling ooreen te stem, en vir hierdie doel moet die sekretaris van die betrokke vereniging, organisasie of raad die genoemde sertifikaat binne veertien dae nadat hy aldus aangesê is om dit te doen, aan die registrateur stuur en as die sekretaris sonder redelike oorsaak versuim om dit te doen, is hy aan 'n misdryf skuldig.

**Beskerming teen
rassemededinging**

77. (1) Behoudens die bepalings van hierdie artikel, wanneer dit vir die Minister voorkom dat maatreëls behoort gemeem te word ten einde die ekonomiese welvaart van werknemers van enige ras in enige onderneming, nywerheid, bedryf of beroep te beskerm, kan hy die nywerheidshof gelas om 'n ondersoek in te stel aangaande die wenslikheid om 'n vasstelling kragtens hierdie artikel te maak.

(2) 'n In sub-artikel (1) bedoelde ondersoek moet uitgevoer word ten opsigte van die onderneming, nywerheid, bedryf of beroep en ten opsigte van die gebied in die lasgewing vermeld.

(3) Die Minister moet assessore ooreenkomstig die bepalings van sub-artikel (14) van artikel vier-en-sestig ten opsigte van elke ondersoek deur die nywerheidshof kragtens hierdie artikel onderneem, aanstel.

(4) Die bepalings van 'n lasgewing kragtens sub-artikel (1) moet so gou moontlik na die uitreiking daarvan in die *Staatskoerant* gepubliseer word tesame met 'n kennisgewing wat belanghebbende persone uitnooi om verhoër tot die nywerheidshof te rig binne 'n tydperk in die kennisgewing vermeld, synde nie minder as veertien dae vanaf die datum daarvan nie.

(5) Na oorweging van enige verhoër ingevolge sub-artikel (4) ingedien en na oorlegpleging met—

(a) enige nywerheidsraad wat na sy mening by die aangeleentheid betrokke is; en

(b) enige geregistreerde werkgewersorganisasie of geregistreerde vakvereniging wat na sy mening by die aangeleentheid betrokke is en wat nie 'n party by 'n kragtens paragraaf (a) geraadpleegde nywerheidsraad is nie; en

(c) die Sentrale Naturelle-arbeidsraad kragtens artikel drie van die Wet op Naturelle-arbeid (Beslegting van Geskille) 1953 (Wet No. 48 van 1953) ingestel,

en na sodanige ander ondersoek as wat hy nodig ag, moet die nywerheidshof 'n verslag aan die Minister voorlê waarin die resultate van sy ondersoek uiteengesit word. By die voorlegging van sy verslag moet die nywerheidshof aanbeveel dat

(7) If the Minister is of opinion that the matter dealt with in the determination is of sufficient importance, he may cause the terms thereof to be published in the *Gazette*.

(8) The tribunal may by like procedure withdraw or vary any determination made under this section: Provided that the tribunal may without following the procedure set out in sub-section (5) correct any error or omission or clarify any provision in a determination if it considers such correction or clarification to be necessary. The determination as corrected or clarified shall be deemed to be a determination made under sub-section (6).

(9) (a) The tribunal shall not, in respect of any proceedings under this section, make any order requiring any party to the proceedings to pay costs incurred by any other party: Provided that if the tribunal is of opinion that the appearance or intervention in the proceedings of any party was frivolous and resulted in any other party incurring costs unnecessarily, it may make such order as to the payment of costs as it deems equitable.

(b) The parties to any proceedings arising from any application under sub-section (3), shall pay to the Secretary for Labour such fees as may be prescribed in such proportions as the tribunal may direct.

(10) (a) A determination made in terms of this section shall be final and binding from the date fixed in the determination (which may be a date prior or subsequent to the date of the determination) and in the area specified in the determination, and shall prevail over any conflicting provisions in any wage regulating measure or in the constitution or certificate of registration of any registered trade union, employers' organization or industrial council.

(b) Any such certificate of registration may be amended by the registrar to conform to the said determination and for this purpose the secretary of the union, organization or council concerned shall transmit the said certificate to the registrar within fourteen days of being called upon by the registrar to do so, and if without reasonable cause the secretary fails to do so, he shall be guilty of an offence.

77. (1) Subject to the provisions of this section, whenever it appears to the Minister that measures should be taken in order to safeguard the economic welfare of employees of any race in any undertaking, industry, trade or occupation, he may direct the tribunal to make an investigation into the desirability of making a determination under this section.

Safeguard against inter-racial competition.

(2) An investigation referred to in sub-section (1) shall be conducted in respect of the undertaking, industry, trade or occupation and in respect of the area specified in the direction.

(3) The Minister shall appoint assessors in accordance with the provisions of sub-section (14) of section *sixty-four* in respect of every investigation undertaken by the tribunal under this section.

(4) The terms of a direction under sub-section (1) shall as soon as possible after the issue thereof be published in the *Gazette*, together with a notice inviting interested persons to submit representations to the tribunal within a period specified in the notice, not being less than fourteen days from the date thereof.

(5) After consideration of any representations submitted in terms of sub-section (4) and after consultation with—

(a) any industrial council which in its opinion is concerned in the matter; and

(b) any registered employers' organization or registered trade union which in its opinion is concerned in the matter and which is not a party to any industrial council consulted under paragraph (a); and

(c) the Central Native Labour Board established under section *three* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953),

and after such other investigation as it deems necessary, the tribunal shall submit a report to the Minister setting out the results of its investigations. In submitting its report the tribunal shall recommend either that no further action be taken or that

of geen verdere stappe gedoen word nie of dat 'n vasstelling ooreenkomstig die bepalings van hierdie artikel gemaak word.

(6) 'n Aanbeveling dat 'n vasstelling ooreenkomstig die bepalings van hierdie artikel gemaak word, moet die bepalings van die voorgestelde vasstelling uiteensit, wat bepalings met betrekking tot almal of enige van die volgende aangeleenthede kan insluit—

(a) die reservering van diens in enige onderneming, nywerheid, bedryf of beroep in enige vermeldde gebied vir persone van 'n vermeldde ras en die verbod van die indiensneming daarin van persone van enige ander ras;

(b) enige aangeleentheid wat nodig is vir die uitvoering van die bepalings van die vasstelling of wat daarmee in verband staan.

(7) (a) Na ontvangs deur hom van 'n aanbeveling deur die nywerheidshof kragtens sub-artikel (5) dat 'n vasstelling gemaak word, kan die Minister, as hy na oorlegging met die Minister van Ekonomiese Sake dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant* 'n vasstelling ooreenkomstig die bedoelde aanbeveling maak.

(b) Na die maak van 'n vasstelling kragtens paragraaf (a), laat die Minister 'n kennisgewing in die *Staatskoerant* publiseer waarin die bepalings van die vasstelling uiteengesit word en wat die datum vanaf en die tydperk gedurende welke die vasstelling bindend is, vermeld.

(8) Op die aanbeveling van die nywerheidshof kan die Minister enige fout of weglating verbeter, of enige bepaling in 'n vasstelling opklaar, indien hy sodanige verbetering of opklaring as nodig ag, en laat hy 'n kennisgewing in die *Staatskoerant* publiseer wat die bepalings van sodanige verbetering of opklaring uiteensit. Die vasstelling soos verbeter of opgeklaar word geag die vasstelling wat kragtens sub-artikel (7) gemaak is te wees.

(9) Die Minister kan, as hy dit raadsaam ag om dit te doen, op aanbeveling van die nywerheidshof, van tyd tot tyd almal of enige van die bepalings van 'n vasstelling in die hele of enige gedeelte van die gebied waarop dit bindend is, intrek of skors, en laat 'n kennisgewing van elke sodanige intrekking of skorsing en die datum vanaf welke enige sodanige intrekking of skorsing in werking tree, in die *Staatskoerant* publiseer.

(10) (a) Die Minister kan vrystelling verleen van almal of enige van die bepalings van 'n vasstelling aan of ten opsigte van enige persoon of klas van persone op wie die vasstelling bindend is.

(b) Die bedinge en voorwaardes van 'n vrystelling kragtens paragraaf (a) verleen, moet ingelyf word in die vrystellingsertifikaat deur 'n amptenaar onderteken en 'n afskrif daarvan moet aan sodanige persoon of persone as wat die amptenaar nodig ag, gestuur word: Met dien verstande dat die Minister, in plaas van sodanige sertifikaat die publikasie in die *Staatskoerant* van 'n kennisgewing waarin die bedinge en voorwaardes van die vrystelling uiteengesit word, kan magtig.

(11) Geen vasstelling kragtens sub-artikel (7) gemaak is bindend nie in enige onderneming, nywerheid, bedryf of beroep in 'n gebied waarin 'n ooreenkoms deur die partye by 'n nywerheidsraad aangegaan bindend verklaar was voor die datum van die publikasie van die betrokke lasgewing kragtens sub-artikel (1), tensy die raad daartoe toestem.

(12) By die toepassing van hierdie artikel beteken—

(a) „werknemer”, ook 'n naturel;

(b) „ras”, blanke persone of gekleurde persone of naturelle;

(c) „klas van persone”, 'n klas van persone binne die bedoeling van daardie uitdrukking in sub-artikel (9) van artikel *een-en-vyftig* en die bepalings van daardie sub-artikel is *mutatis mutandis* van toepassing op die maak van enige vermelding of omskrywing van die betrokke klas van persone in die vrystellingsertifikaat of -kennisgewing.

(13) Enige persoon wat enige bepaling van 'n vasstelling ingevolge hierdie artikel gemaak, wat op hom bindend is, oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

(14) Geen vasstelling word kragtens hierdie artikel gemaak ten opsigte van enige beroep of klas van beroep waarop 'n kragtens die bepalings van paragraaf (n) van sub-artikel (1) van artikel vier van die „Mijnen en Bedrijven Wet, 1911” (Wet No. 12 van 1911), uitgevaardigde regulasie van toepassing 80 is nie.

a determination be made in accordance with the provisions of this section.

(6) A recommendation that a determination be made in accordance with the provisions of this section, shall set out the terms of the proposed determination which may include provisions relating to all or any of the following matters—

- (a) the reservation of employment in any undertaking, industry, trade or occupation in any specified area for persons of a specified race, and the prohibition of the employment therein of persons of any other race;
- (b) any matter necessary for or incidental to the carrying out of the provisions of the determination.

(7) (a) After the receipt by him of a recommendation by the tribunal under sub-section (5) that a determination be made, the Minister may if after consultation with the Minister of Economic Affairs if he deems it expedient to do so, by notice in the *Gazette* make a determination in accordance with the said recommendation.

(b) After making a determination under paragraph (a), the Minister shall cause to be published in the *Gazette* a notice setting forth the provisions of the determination and specifying the date from and the period during which the determination shall be binding.

(8) On the recommendation of the tribunal the Minister may correct any error or omission or clarify any provision in a determination, if he considers such correction or clarification to be necessary, and shall cause a notice setting out the terms of such correction or clarification to be published in the *Gazette*. The determination as corrected or clarified shall be deemed to be the determination made under sub-section (7).

(9) The Minister may, if he deems it expedient to do so, on the recommendation of the tribunal, cancel or suspend from time to time all or any of the provisions of a determination in the whole or any portion of the area in which it is binding and shall cause to be published in the *Gazette* a notice of every such cancellation or suspension and the date from which any such cancellation or suspension shall take effect.

(10) (a) The Minister may grant exemption from all or any of the provisions of a determination to or in respect of any person or class of persons on whom the determination is binding.

(b) The terms and conditions of an exemption granted under paragraph (a) shall be incorporated in a certificate of exemption signed by an officer and a copy thereof shall be transmitted to such person or persons as the officer considers necessary: Provided that in lieu of such certificate the Minister may authorize the publication in the *Gazette* of a notice setting out the terms and conditions of the exemption.

(11) No determination made under sub-section (7) shall be binding in any undertaking, industry, trade or occupation in an area in which an agreement entered into by the parties to an industrial council was declared binding before the date of the publication of the relevant direction under sub-section (1), unless the council consents thereto.

(12) For the purposes of this section—

- (a) "employee" includes a native;
- (b) "race" means white persons or coloured persons or natives;
- (c) "class of persons" means a class of persons within the meaning of that expression in sub-section (9) of section fifty-one and the provisions of that sub-section shall *mutatis mutandis* apply to the making of any specification or definition of the class of persons concerned in the certificate or notice of exemption.

(13) Any person who contravenes or fails to comply with any provision of a determination made in terms of this section which is binding upon him shall be guilty of an offence.

(14) No determination shall be made under this section in respect of any occupation or class of occupation to which any regulation made under the provisions of paragraph (n) of sub-section (1) of section four of the Mines and Works Act, 1911 (Act No. 12 of 1911), is applicable.

Werknemers vry
om te verenig.

78. (1) Geen werkgever mag van enige werknemer hetsy by wyse van 'n beding of voorwaarde van diens of andersins vereis dat daardie werknemer nie lid van 'n vakvereniging of enige ander dergelike vereniging van werknemers mag wees of word nie, en so 'n beding of voorwaarde in 'n dienskontrak aangegaan 5 voor of na die inwerkingtreding van hierdie Wet is nietig.

(2) Behoudens die bepalings van hierdie Wet en van die Wet op die Onderdrukking van Kommunisme, 1950 (Wet No. 44 van 1950), mag geen bepaling in enige wet vervat 'n werknemer verbied om lid van 'n vakvereniging of enige ander 10 dergelike vereniging van werknemers te wees of te word of hom aan enige straf vanweë sy lidmaatskap van 'n vakvereniging of ander dergelike vereniging van werknemers onderwerp nie.

(3) 'n Werkgever wat die bepalings van sub-artikel (1) oortree is aan 'n misdryf skuldig. 15

Beskerming van
vakverenigings en
werkgevers-
organisasies ten
opsigte van sekere
onregmatige dade
ter bevordering
van wettige staking
of uitsluiting.

79. Geen siviele geregtelike stappe word in enige geregshof teen 'n geregistreerde vakvereniging of werkgeversorganisasie, of teen 'n lid, ampsdraer of beampte van so 'n vereniging of organisasie ten opsigte van 'n onregmatige daad deur daardie vereniging of organisasie, of deur daardie lid, ampsdraer of 20 beampte namens daardie vereniging of organisasie tot bevordering van 'n staking of uitsluiting begaan, aanhangig gemaak nie: Met dien verstande dat hierdie artikel nie van toepassing is nie op enige daad begaan tot bevordering van 'n staking of uitsluiting waaraan, of aan die voortsetting waarvan, enige 25 werknemer, werkgever of ander persoon deur artikel vyf-en-sestig belet word om deel te neem, of op enige handeling die verrigting waarvan 'n kriminele oortreding is.

Federasies van
werkgevers-
organisasies of
vakverenigings.

80. (1) Behoudens die bepalings van sub-artikel (2) kan die registrateur, met die goedkeuring van die Minister, 'n federasie 30 wat geheel-en-al of gedeeltelik bestaan uit geregistreerde werkgeversorganisasies of vakverenigings of 'n federasie van enige sodanige federasies wat ten doel het of waarvan een van die vernaamste doeleindes is om die belange van werkgevers of werknemers, na gelang van die geval, te bevorder, registreer. 35

(2) 'n Federasie wat registrasie ingevolge sub-artikel (1) verlang, moet—

(a) in sy aansoek die naam en adres van die federasie en die name, titels en adresse van sy ampsdraers en beamptes vermeld; 40

(b) tesame met sy aansoek 'n afskrif van sy konstitusie indien; en

(c) sodanige verdere inligting aan die registrateur verstrek as wat hy mag verlang.

(3) Die Minister kan 'n ingevolge hierdie artikel geregistreerde federasie raadpleeg in verband met enige aangeleentheid wat die belange van werkgevers en werknemers oor die algemeen aangaan of raak. 45

(4) 'n Geregistreerde federasie moet—

(a) die registrateur in kennis stel van enige wysigings in sy konstitusie aangebring binne dertig dae nadat hulle aangebring is; en

(b) wanneer 'n verkiesing of aanstelling van ampsdraers of beamptes plaasvind, binne dertig dae na die verkiesing of aanstelling die registrateur voorsien van die name 55 en adresse van die verkose of aangestelde persone, of daar enige veranderinge onder die ampsdraers of beamptes plaasgevind het al dan nie.

(5) Die Minister kan, na goeë dunde, en na raadpleging met 'n geregistreerde federasie, die registrateur gelas om die registrasie van daardie federasie te kanselleer en daarna word daardie federasie geag nie kragtens hierdie artikel geregistreer te wees nie. 60

(6) Die Minister kan, na goeë dunde, weier om die registrasie goed te keur van 'n federasie waarvan die ledetal 'n liggaam 65 insluit wat natuurlike tot lidmaatskap toelaat; en indien so 'n federasie kragtens hierdie Wet geregistreer is of geag word geregistreer te wees kan die Minister die registrateur te eniger tyd gelas om die registrasie van so 'n federasie te kanselleer.

Regulasies.

81. (1) Die Goewerneur-generaal kan regulasies uitvaardig 70 wat voorskryf—

(a) enige aangeleentheid wat volgens hierdie Wet voorgeskryf moet of kan word; en

(b) oor die algemeen alle aangeleenthede wat hy nodig of dienstig ag om voor te skryf sodat die oogmerke van 75 hierdie Wet bereik kan word.

(2) Verskillende regulasies kan vir verskillende klasse van persone uitgevaardig word.

78. (1) No employer shall require of any employee whether by a term or condition of employment or otherwise that that employee shall not be or become a member of a trade union, or other like association of employees and any such term or condition in any contract of employment entered into before or after the commencement of this Act shall be void.

Freedom of association of employees.

(2) Subject to the provisions of this Act and of the Suppression of Communism Act, 1950 (Act No. 44 of 1950), nothing contained in any law shall prohibit any employee from being or becoming a member of any trade union, or any other like association of employees or subject him to any penalty by reason of his membership of any trade union or other like association of employees.

(3) Any employer who contravenes the provisions of sub-section (1) shall be guilty of an offence.

79. No civil legal proceedings shall be brought in any court of law against any registered trade union or employers' organization, or against any member, office-bearer or official of any such union or organization, in respect of any wrongful act committed by that union or organization, or by that member, office-bearer or official on behalf of that union or organization in furtherance of a strike or lock-out: Provided that this section shall not apply to any act committed in furtherance of any strike or lock-out in which, or in the continuation of which, any employee, employer or other person is by section *sixty-five* forbidden to take part, or to any act the commission of which is a criminal offence.

Protection of trade unions and employers' organizations in respect of certain wrongful acts in furtherance of lawful strike or lock-out.

80. (1) Subject to the provisions of sub-section (2), the registrar may with the approval of the Minister register any federation consisting wholly or partly of registered employers' organizations or trade unions or a federation of any such federations, which has as its object or as one of its principal objects the promotion of the interests of employers or employees, as the case may be.

Federations of employers' organizations or trade unions.

(2) Any federation seeking registration in terms of sub-section (1), shall—

- (a) set forth in its application the name and address of the federation and the names, designations and addresses of its office-bearers and officials;
- (b) submit, together with its application, a copy of its constitution; and
- (c) furnish such further information to the registrar as he may require.

(3) The Minister may consult any federation registered in terms of this section in connection with any matter concerning or affecting the interests of employers and employees in general.

(4) Any registered federation shall—

- (a) notify the registrar of any amendments made to its constitution within thirty days after they are made; and
- (b) whenever an election or appointment of office-bearers or officials takes place, furnish to the registrar within thirty days of the election or appointment the names and addresses of the persons elected or appointed, whether or not there have been any changes amongst the office-bearers or officials.

(5) The Minister may, in his discretion, after consultation with any registered federation, instruct the registrar to cancel the registration of that federation and thereafter that federation shall be deemed not to be registered under this section.

(6) The Minister may in his discretion withhold approval of the registration of any federation the membership of which includes any association which admits natives to membership and if any such federation is registered or deemed to be registered under this Act, the Minister may at any time instruct the registrar to cancel such registration.

81. (1) The Governor-General may make regulations prescribing—

Regulations.

- (a) any matter which by this Act is required or permitted to be prescribed; and
- (b) generally all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) Different regulations may be made for different classes of persons.

(3) Regulasies kragtens sub-artikel (1) uitgevaardig kan op enige oortreding daarvan of versuim om daaraan te voldoen, strawwe voorskryf van hoogstens 'n boete van vyftig pond of gevangenisstraf vir 'n tydperk van ses maande.

(4) Elke regulasie uitgevaardig kragtens die Nywerheids-versoeningswet 1937 (Wet No. 36 van 1937) wat by die inwerking-treding van hierdie Wet van krag is, word, vir sover dit nie met die bepalings van hierdie Wet onbestaanbaar is nie, geag kragtens hierdie Wet uitgevaardig te gewees het.

Strafbepalings.

82. (1) Enigiemand wat skuldig bevind word van 'n misdryf 10 volgens die bepalings van hierdie Wet is strafbaar—

(a) met 'n boete van hoogstens vyfhonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sodanige gevangenisstraf sonder die keuse van 'n boete of beide sodanige boete en sodanige gevangenisstraf, in die geval van 'n by artikel *vyf-en-sestig* of sub-artikel (2) van artikel *sewentig* bedoelde misdryf; 15

(b) met 'n boete van hoogstens driehonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar 20 of met sodanige gevangenisstraf sonder die keuse van 'n boete of met beide sodanige boete en sodanige gevangenisstraf, in die geval van 'n by sub-artikel (1) van artikel *ses-en-sestig* bedoelde misdryf; en

(c) met 'n boete van hoogstens honderd pond of gevangenisstraf vir 'n tydperk van hoogstens een jaar of met daardie gevangenisstraf sonder die keuse van 'n boete of met beide daardie boete en daardie gevangenisstraf, in die geval van enige ander misdryf waarop geen spesiale straf gestel is nie. 30

(2) 'n Werkgewer wat vir 'n tweede of volgende maal veroordeel word weens 'n oortreding of versuim soos bedoel in sub-artikel (2) van artikel *drie-en-vyftig* kan, benewens enige straf wat hom kragtens sub-artikel (1) opgelê kan word, gelas word om op 'n vasgestelde datum enige registrasiesertifikaat aan hom 35 ingevolge artikel *nege-en-vyftig* uitgereik, by die hof in te lewer.

(3) Iemand teen wie 'n lasgewing kragtens sub-artikel (2) uitgevaardig is, wat na die vasgestelde datum sy besigheid voortsit of 'n nuwe besigheid begin in dieselfde onderneming, 40 nywerheid, bedryf of beroep as dié ten opsigte waarvan die ooreenkoms of toekenning vir die oortreding of versuim van nakoming waarvan hy aldus veroordeel is, bindend is of was, is, wanneer hy enigeen in verband met sodanige besigheid in diens het, skuldig aan 'n misdryf en by veroordeling strafbaar 45 met gevangenisstraf van hoogstens een jaar sonder die keuse van 'n boete.

(4) Die feit dat so 'n werkgewer 'n lisensie besit kragtens die „Licenties Konsolidatiewet, 1925” (Wet No 32 van 1925), of die Drankwet, 1928 (Wet No. 30 van 1928) of enige ander 50 wet, is geen regsgeldige verweer teen 'n aanklag teen hom kragtens die bepalings van sub-artikel (3) nie.

Regsbevoegdheid van magistraats-howe.

83. Ondanks andersluidende wetsbepalings, besit 'n magistraatshof regsbevoegdheid om enige straf op te lê wat hierdie Wet voorskryf of om enige bevel uit te vaardig waarvoor 55 hierdie Wet voorsiening maak.

Artikel 358 van Wet 31 van 1917 nie van toepassing op sekere oortredings volgens hierdie Wet nie.

84. Die bepalings van artikel *driehonderd agt-en-vyftig* van die „Wet op de Kriminele Procedure en Bewijslevering, 1917” (Wet No. 31 van 1917) is ten opsigte van 'n misdryf wat bestaan uit 'n in sub-artikel (2) of (3) van artikel *drie-en-vyftig* bedoelde 60 oortreding of versuim, nie van toepassing nie.

Herroeping van wette.

85. Die Nywerheidsversoeningswet 1937 (Wet No. 36 van 1937) en artikel *ses-en-dertig* van die Wet op Naturelle-arbeid (Beslegting van Geskille) 1953 (Wet No. 48 van 1953) word hierby herroep. 65

Kort titel en inwerkingtreding.

86. Hierdie Wet heet die Wet op Nywerheidsversoening, 1954 en tree in werking op 'n datum wat deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* bepaal word.

(3) Any regulations made under sub-section (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of fifty pounds or imprisonment for a period of six months.

5 (4) Every regulation made under the Industrial Conciliation Act, 1937, (Act No. 36 of 1937) and in force at the date of commencement of this Act shall, in so far as it is not inconsistent with the provisions of this Act be deemed to have been made under this Act.

10 82. (1) Any person who is convicted of an offence under the Penalties provisions of this Act shall be liable—

(a) in the case of an offence under section *sixty-five* or sub-section (2) of section *seventy*, to a fine not exceeding five hundred pounds or imprisonment for a period not exceeding three years or such imprisonment without the option of a fine or both such fine and such imprisonment;

(b) in the case of an offence under sub-section (1) of section *sixty-six* to a fine not exceeding three hundred pounds or imprisonment for a period not exceeding two years or such imprisonment without the option of a fine or both such fine and such imprisonment; and

(c) in the case of any other offence for which no special penalty is prescribed, to a fine not exceeding one hundred pounds or imprisonment for a period not exceeding one year or such imprisonment without the option of a fine or both such fine and such imprisonment.

(2) Any employer on being convicted a second or subsequent time in respect of a contravention or failure such as is referred to in sub-section (2) of section *fifty-three*, shall be liable, in addition to any penalty that may be imposed under sub-section (1), to be ordered to surrender to the court by a specified date any certificate of registration issued to him in terms of section *fifty-nine*.

(3) Any person against whom an order has been made under sub-section (2) who, after the specified date, continues to carry on business or starts a new business in the same undertaking, industry, trade or occupation as that in respect of which the agreement or award for the contravention of which, or failure to comply with which, he was so convicted, is or was binding, shall if he employs any persons in connection with such business be guilty of an offence and liable on conviction to imprisonment for a period not exceeding one year without the option of a fine.

(4) The fact that any such employer holds a licence under the Licences Consolidation Act, 1925 (Act No. 32 of 1925), or the Liquor Act, 1928 (Act No. 30 of 1928), or any other law, shall not be a valid defence to a charge against him under the provisions of sub-section (3).

50 83. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by, or make any order provided for in this Act. Jurisdiction of Magistrates' Courts.

55 84. The provisions of section *three hundred and fifty-eight* of the Criminal Procedure and Evidence Act, 1917, (Act No. 31 of 1917) shall not apply in respect of any offence which consists of a contravention or failure such as is referred to in sub-section (2) or (3) of section *fifty-three*. Section 358 of Act 31 of 1917 not to apply to certain offences under this Act.

60 85. The Industrial Conciliation Act, 1937 (Act No. 36 of 1937) and section *thirty-six* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953) are hereby repealed. Repeal of laws.

86. This Act shall be called the Industrial Conciliation Act, 1954, and shall come into operation upon a date to be fixed by the Governor-General by proclamation in the *Gazette*. Short title and date of commencement.