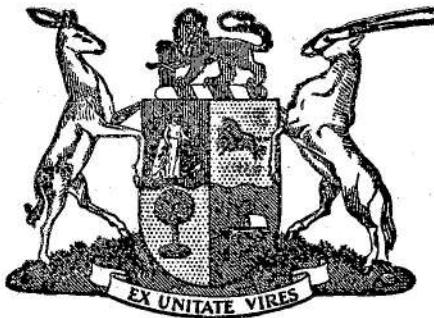


BUITENGEWONE

EXTRAORDINARY



# Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

THE UNION OF SOUTH AFRICA

# Government Gazette

[Geregistreer by die Hoofposkantoor as 'n Nuusblad.]

[Registered at the General Post Office as a Newspaper.]

VOL. CLXXXIV.] PRYS 6d.

KAAPSTAD, 11 MEI 1956.  
CAPE TOWN, 11TH MAY, 1956.

PRICE 6d. [No. 5679.

## KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer:—

No. 839.] [11 Mei 1956.

Hierby word bekendgemaak dat dit Sy Eksellensie die Goewerneur-generaal behaag het om sy goedkeuring te heg aan onderstaande Wette, wat hierby ter algemene inligting gepubliseer word:—

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## OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information:—

No. 839.]

[11th May, 1956.

It is hereby notified that His Excellency the Governor-General has been pleased to assent to the following Acts, which are hereby published for general information:—

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No. 22, 1956.]

# WET

## Tot wysiging van die Spesiale Spoorweg- en Hawepensioenwet, 1953.

*(Engelse teks deur die Goewerneur-generaal geteken.)  
(Goedgekeur op 28 April 1956.)*

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

**Vervanging  
van artikel  
2 van Wet  
41 van 1953.**

1. Artikel *twee* van die Spesiale Spoorweg- en Hawepensioenwet, 1953, word hiermee deur die volgende artikel vervang:
- „Lede van pensioen-en super-annuasie-fondse van die Spoorweë (b) en Hawens moet op bedrae wat hul werklike pensioendraende emolumente te bowe gaan, bydra.
2. (1) Die pensioendraende emolumente van 'n lid word, vir die doeleindes van—
- (a) die betaling van bydraes aan die fonds waarvan hy lid is; en
- (b) die berekening van enige voordeel wat aan hom, of aan iemand anders ten opsigte van sy dood, betaalbaar is uit die betrokke fonds of kragtens artikel *elf* of *elf bis* van die „Spoorwegen en Havens Dienst Wet, 1925” (Wet No. 23 van 1925), maar vir geen ander doel nie, geag 'n bedrag te wees gelyk aan die lid se werklike pensioendraende emolumente op enige gegewe tydstip, verhoog met die persentasie wat, ooreenkomsdig die Tabel wat hieronder verskyn, van toepassing is met betrekking tot die geldgroep waaronder sy werklike pensioendraende emolumente van tyd tot tyd ressorteer: Met dien verstande dat 'n lid se pensioendraende emolumente vir voormalde doeleindes in geen geval minder is nie as dié waarop hy bygedra het onmiddellik voor die datum van inwerkingtreding van hierdie sub-artikel met betrekking tot die kategorie van lid waartoe hy behoort.

TABEL.

*Werklike pensioendraende  
emolumente (per jaar).*

*Persentasie waar-  
mee werklike pen-  
sioendraende  
emolumente ver-  
hoog moet word.*

Groep: Minder dan £300 .. .	Geen verhoging.
„ £300 en meer maar minder as £350 .. ..	2½
„ £350 en meer maar minder as £400 .. ..	5
„ £400 en meer maar minder as £450 .. ..	7½
„ £450 en meer maar minder as £550 .. ..	10
„ £550 en meer maar minder as £700 .. ..	12½
„ £700 en meer maar minder as £1,300 .. ..	15
„ £1,300 en meer maar minder as £2,000 .. ..	17½
„ £2,000 en meer .. ..	20

(2) Sub-artikel (1) word geag in werking te getree het op die eerste dag van April 1956 in die geval van amptenare en werksmanne wat op grondslag van 'n kalendermaand betaal word, en op die sestiente dag van Maart 1956 in die geval van alle ander werksmanne.”.

**Toepassing  
van hierdie  
Wet op  
Suidwes-Afrika.**

**Kort titel.**

2. Hierdie Wet is van toepassing op die Gebied Suidwes-Afrika.

3. Hierdie Wet heet die Wysigingswet op Spoorweg- en Hawepensioene, 1956.

No. 22, 1956.]

# ACT

**To amend the Railways and Harbours Special Pensions Act, 1953.**

(*English text signed by the Governor-General.*)  
(Assented to 28th April, 1956.)

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

1. The following section is hereby substituted for section *two* Substitution of section 2 of the Railways and Harbours Special Pensions Act, 1953: of Act 41
- "Members of Railways and Harbours pension and super-annuation funds to contribute on amounts in excess of their actual pensionable emoluments shall, for the purposes of—
- (a) the payment of contributions to the fund of which he is a member; and
- (b) the calculation of any benefit payable to him, or to some other person in respect of his death, from the fund concerned or under section eleven or eleven bis of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), but for no other purpose, be deemed to be an amount equal to the member's actual pensionable emoluments at any given time, increased by the percentage which, in accordance with the Table hereunder set forth, is applicable in relation to the monetary group within which his actual pensionable emoluments from time to time fall: Provided that in no case shall a member's pensionable emoluments for the said purposes be less than those on which he was contributing immediately prior to the date of commencement of this sub-section in relation to the class of member to which he belongs.

**TABLE.**

<i>Actual pensionable emoluments (per annum).</i>	<i>Percentage by which actual pensionable emoluments to be increased.</i>
Group: Less than £300 .. ..	No increase.
" £300 and over but less than £350 .. ..	2½
" £350 and over but less than £400 .. ..	5
" £400 and over but less than £450 .. ..	7½
" £450 and over but less than £550 .. ..	10
" £550 and over but less than £700 .. ..	12½
" £700 and over but less than £1,300 .. ..	15
" £1,300 and over but less than £2,000 .. ..	17½
" £2,000 and over .. ..	20

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1956, in the case of officers and employees paid on a calendar month basis, and on the sixteenth day of March, 1956, in the case of all other employees.”.

2. This Act shall apply to the Territory of South-West Africa. Application of this Act to South-West Africa.
3. This Act shall be called the Railways and Harbours Pensions Amendment Act, 1956. Short title.

# WET

**Om voorsiening te maak vir die registrasie, inlywing, reëling en ontbinding van pensioenfondse en vir aangeleenthede wat daarvan in verband staan.**

*(Engelse teks deur die Gouverneur-generaal geteken.)*

*(Goedgekeur op 28 April 1956.)*

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

## HOOFSTUK I.

### UITVOERING EN TOEPASSING VAN WET EN WOORDOMSKRYWING.

**Woordomskrywing.**

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Wet—
  - (i) „aktuaris” ‘n „fellow” van ‘n deur die Minister goedgekeurde instituut, fakulteit, vereniging of kapittel van aktuarisse; (i)
  - (ii) „beampte”, met betrekking tot ‘n fonds, ‘n lid van ‘n komitee wat aangestel is om die sake van die fonds te bestuur, of ‘n aldus aangestelde individu, of ‘n bestuurder, hoofbeampte, tesorier, klerk of ander agent of werknemer van die fonds, maar nie ook ‘n kragtens artikel *nege* aangestelde ouditeur nie; (viii)
  - (iii) „boekjaar”, met betrekking tot ‘n fonds, elke tydperk van twaalf maande wat op die een-en-dertigste dag van Desember eindig, aan die einde waarvan die balans van sy rekenings volgens sy statute opgemaak moet word, of so ‘n ander tydperk as wat die registrar by ‘n besondere geleentheid op versoek van die fonds mag bepaal; (iii)
  - (iv) „fonds” ‘n pensioenfondsorganisasie; (iv)
  - (v) „Gebied” die Gebied Suidwes-Afrika; (xix)
  - (vi) „geregistreer”, met betrekking tot ‘n fonds, geregistreer of voorlopig geregistreer kragtens artikel *vier*, en het „registrasie” ‘n ooreenstemmende betekenis; (xiv)
  - (vii) „geregistreerde kantoor” die in artikel *sewe* bedoelde geregistreerde kantoor; (xv)
  - (viii) „hof” ‘n provinsiale of plaaslike afdeling van die Hooggereghof van Suid-Afrika en ook die Hooggereghof van Suidwes-Afrika; (ii)
  - (ix) „hoofbeampte” die in artikel *agt* bedoelde beampte; (xiii)
  - (x) „lid”, met betrekking tot—
    - (a) ‘n in paragraaf (a) van die omskrywing van „pensioenfondsorganisasie” bedoelde fonds, ‘n lid of vorige lid van die vereniging waardoor daardie fonds ingestel is;
    - (b) ‘n in paragraaf (b) van daardie omskrywing bedoelde fonds, ‘n werknemer of vorige werknemer van die werkgever wat aan die betrokke skema of reëling deelneem of deelgeneem het, indien bedoelde werknemer of vorige werknemer tot ‘n klas werknemers behoort of behoort het vir wie se voordeel die fonds ingestel is, maar nie ook ‘n lid of vorige lid of werknemer of vorige werknemer wat alle uit die fonds aan hom verskuldigde voordele ontvang het en wie se lidmaatskap daarna ooreenkomsdig die statute van die fonds beëindig is nie; (vi)
  - (xi) „Minister” die Minister van Finansies; (vii)
  - (xii) „pensioenfonds” ‘n pensioenfondsorganisasie; (ix)
  - (xiii) „pensioenfondsorganisasie”—
    - (a) ‘n vereniging van persone betrokke by enige beroep wat opgerig is met die oogmerk om voordele te verskaf aan lede of gewese lede van daardie vereniging wanneer hulle uit bedoelde beroep uittree, of aan afhanklikes van sodanige lede of gewese lede by die dood van daardie lede of gewese lede; of

No. 24. 1956.]

# ACT

**To provide for the registration, incorporation, regulation and dissolution of pension funds and for matters incidental thereto.**

*(English text signed by the Governor-General.)  
(Assented to 28th April, 1956.)*

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

## CHAPTER I.

### ADMINISTRATION AND APPLICATION OF ACT AND INTERPRETATION OF TERMS.

**1. (1)** In this Act, unless the context indicates otherwise— **Definitions.**

- (i) “actuary” means any Fellow of an institute, faculty, society or chapter of actuaries approved by the Minister; (i)
- (ii) “court” means a provincial or local division of the Supreme Court of South Africa, and includes the High Court of South-West Africa; (viii)
- (iii) “financial year”, in relation to a fund, means each period of twelve months ending on the thirty-first day of December, at the end of which the balance of its accounts is required to be struck in terms of its rules, or such other period as may on any particular occasion be determined by the registrar at the request of the fund; (iii)
- (iv) “fund” means a pension fund organization; (iv)
- (v) “Gazette”, in relation to a fund carrying on business in the Territory, means the *Official Gazette* of the Territory; (xvii)
- (vi) “member” means, in relation to—
  - (a) a fund referred to in paragraph (a) of the definition of “pension fund organization”, any member or former member of the association by which such fund has been established;
  - (b) a fund referred to in paragraph (b) of that definition, an employee or former employee of the employer who participates or participated in the scheme or arrangement in question, if such employee or former employee belongs or belonged to a class of employees for whose benefit that fund has been established,
 but does not include any member or former member or employee or former employee who has received all the benefits which may be due to him from the fund and whose membership has thereafter been terminated in accordance with the rules of the fund; (x)
- (vii) “Minister” means the Minister of Finance; (xi)
- (viii) “officer”, in relation to a fund, means any member of a committee appointed to manage the affairs of the fund, or any individual so appointed, or any manager, principal officer, treasurer, clerk or other agent or employee of the fund, but does not include an auditor appointed under section nine; (ii)
- (ix) “pension fund” means a pension fund organization; (xii)
- (x) “pension fund organization” means—
  - (a) any association of persons engaged in any occupation established with the object of providing benefits for members or former members of such association upon their retirement from such occupation, or for the dependants of such members or former members upon the death of such members or former members; or

- (b) enige besigheid wat gedryf word ingevolge 'n skema of reëling ingestel met die oogmerk om voordele te verskaf aan werknekmers of gewese werknekmers van 'n werkewer by hul aftreding weens ouderdom of swak gesondheid, of aan afhanklikes van werknekmers of gewese werknekmers van so 'n werkewer by die dood van sodanige werknekmers of gewese werknekmers; en ook so 'n vereniging of besigheid wat, benewens die dryf van besigheid in verband met enige van die oogmerke in paragraaf (a) of (b) genoem, ook besigheid dryf in verband met enige van die oogmerke waarvoor 'n onderlinge hulpvereniging soos in artikel *twee* van die Wet op Onderlinge Hulpverenigings, 1956, omskryf, ingestel mag word, of wat aanspreeklik is of mag word vir die betaling van enige voordele waarvoor sy statute voorsiening maak, hetsy hy aanhou om lede in te neem of bydraes van hulle in te vorder, al dan nie; (x)
- (xiv) „persoon” ook 'n komitee wat aangestel is om die sake van 'n fonds te bestuur; (xi)
- (xv) „regISTRATEUR” die Registrateur of die Assistant-registrateur van Pensioenfondse kragtens artikel *drie* aangestel; (xvi)
- (xvi) „regulasie” 'n regulasie wat kragtens hierdie Wet uitgevaardig en van krag is; (xvii)
- (xvii) „Staatskoerant”, met betrekking tot 'n fonds wat in die Gebied besigheid dryf, die *Offisiële Koerant* van die Gebied; (v)
- (xviii) „statute” die statute van 'n fonds, en ook—  
 (a) die wet, oktrooi, akte van ooreenkoms, akte van oprigting of ander dokument waardeur die fonds ingestel is;  
 (b) die statute of ander reëls in verband met die bestuur van die besigheid van die fonds; en  
 (c) die bepalings betreffende die voordele wat verleen kan word deur, en die bydraes wat betaalbaar mag word aan die fonds; (xviii)
- (xix) „Unie” ook die Gebied; (xx)
- (xx) „voorgeskryf” deur of kragtens hierdie Wet voorgeskryf; (xii)
- (xxi) „waardeerde” 'n aktuaris of ander persoon wat volgens die registrateur se oordeel voldoende aktuariele kennis besit om die werksaamhede wat ingevolge hierdie Wet na 'n fonds as 'n verwysing na daardie fonds of na die persoon of liggaaam in beheer van die sake van daardie fonds uitgelê, al na die omstandighede vereis. (xxi)
- (2) By die toepassing van die bepalings van hierdie Wet met betrekking tot 'n organisasie wat 'n pensioenfondsorganisasie volgens paragraaf (b) van die omskrywing van „pensioenfondsorganisasie” in sub-artikel (1) is, word 'n verwysing in hierdie Wet na 'n fonds as 'n verwysing na daardie fonds of na die persoon of liggaaam in beheer van die sake van daardie fonds uitgelê, al na die omstandighede vereis.

#### Toepassing van Wet.

2. (1) Die bepalings van hierdie Wet is nie van toepassing nie met betrekking tot 'n pensioenfonds ingestel ooreenkomstig 'n ooreenkoms gepubliseer of geag gepubliseer te wees kragtens artikel *agt-en-veertig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), behalwe dat so 'n fonds van tyd tot tyd die registrateur van sodanige statistiese inligting as wat deur die Minister voorgeskryf mag word, moet voorsien.
- (2) (a) Die bepalings van hierdie Wet, behalwe artikel *drie* en sub-artikels (1) en (2) van artikel *vier*, is nie met betrekking tot 'n pensioenfonds van toepassing nie, indien die hoofkantoor van die vereniging wat die besigheid van daardie fonds dryf, of, al na die geval, van elke werkewer wat 'n party by bedoelde fonds is, buite die Unie is, mits—  
 (i) die registrateur met inagneming van verskille in diensvoorraadtes oortuig is dat die statute van die fonds van toepassing op lede wat in die Unie woonagtig is, nie minder gunstig is nie as dié wat van toepassing is op lede woonagtig buite die Unie;  
 (ii) die registrateur oortuig is dat genoegsame reëlings bestaan om die gesondheid van die fonds uit 'n geldelike oogpunt te verseker; en

(b) any business carried on under a scheme or arrangement established with the object of providing benefits for employees or former employees of any employer upon their retirement on account of age or ill-health, or for dependants of employees or former employees of any such employer upon the death of such employees or former employees;

and includes any such association or business which in addition to carrying on business in connection with any of the objects specified in paragraph (a) or (b) also carries on business in connection with any of the objects for which a friendly society may be established, as specified in section *two* of the Friendly Societies Act, 1956, or which is or may become liable for the payment of any benefits provided for in its rules, whether or not it continues to admit or to collect contributions from members; (xiii)

(xi) "person" includes any committee appointed to manage the affairs of a fund; (xiv)

(xii) "prescribed" means prescribed by or under this Act;

(xx)

(xiii) "principal officer" means the officer referred to in section *eight*; (ix)

(xiv) "registered", in relation to a fund, means registered or provisionally registered under section *four*, and "registration" has a corresponding meaning; (vi)

(xv) "registered office" means the registered office referred to in section *seven*; (vii)

(xvi) "registrar" means the Registrar or the Assistant Registrar of Pension Funds appointed under section *three*; (xv)

(xvii) "regulation" means a regulation made and in force under this Act; (xvi)

(xviii) "rules" means the rules of a fund, and includes—

(a) the act, charter, deed of settlement, memorandum of association, or other document by which the fund is constituted;

(b) the articles of association or other rules for the conduct of the business of the fund; and

(c) the provisions relating to the benefits which may be granted by and the contributions which may become payable to the fund; (xviii)

(xix) "Territory" means the Territory of South-West Africa; (v)

(xx) "Union" includes the Territory; (xix)

(xxi) "valuator" means an actuary or any other person who, in the opinion of the registrar, has sufficient actuarial knowledge to perform the duties required of a valuator in terms of this Act. (xxi)

(2) For the purpose of the application of the provisions of this Act in relation to an organization which is a pension fund organization in terms of paragraph (b) of the definition of "pension fund organization" in sub-section (1), any reference in this Act to a fund shall be construed as a reference to that fund or to the person or body in control of the affairs of that fund, as the circumstances may require.

**2. (1)** The provisions of this Act shall not apply in relation to any pension fund which has been established in terms of an agreement published or deemed to have been published under section *forty-eight* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), except that such fund shall from time to time furnish the registrar with such statistical information as may be prescribed by the Minister.

**(2) (a)** The provisions of this Act, other than section *three* and sub-sections (1) and (2) of section *four*, shall not apply in relation to a pension fund if the head office of the association which carries on the business of that fund, or, as the case may be, of every employer who is a party to such fund, is outside the Union, provided—

(i) the registrar is satisfied that the rules of the fund applicable to members resident in the Union are not less favourable than those applicable to members resident outside the Union, taking into consideration differences in the conditions of service;

(ii) the registrar is satisfied that adequate arrangements exist for ensuring the financial soundness of the fund; and

- (iii) die fonds sodanige sekuriteit verskaf as wat die registrator van tyd tot tyd mag verlang vir die betaling van enige voordele wat aan lede woonagtig in die Unie, wat Suid-Afrikaanse burgers is, betaalbaar mag word, of die registrator andersins tevrede stel dat dit in staat sal wees om sodanige voordele te betaal.
- (b) Die registrator kan van tyd tot tyd enige persoon wat in die Unie die besigheid van 'n in paragraaf (a) bedoelde pensioenfonds dryf, gelas om aan die registrator die opgawes en inligting in verband met daardie besigheid te verstrek wat die registrator aandui, en indien die registrator te eniger tyd nie meer met betrekking tot enige van die in paragraaf (a) vermelde aangeleenthede oortuig is nie, kan hy daardie persoon by kennisgewing per geregistreerde pos aan hom gestuur, dienooreenkomsdig in kennis stel, en daarop is die bepalings van hierdie Wet met betrekking tot daardie fonds van toepassing.
- (3) (a) Indien die registrator oortuig is—
- (i) dat die sake van 'n pensioenfonds wat om registrasie ingevolge hierdie Wet aansoek gedoen het, aan 'n mate van beheer uitgaande van 'n Staatsdepartement, met inbegrip van die Suid-Afrikaanse Spoerweg- en Hawensadministrasie, 'n provinsiale administrasie en die Administrasie van die Gebied, onderhewig is, wat sal verseker dat die fonds, vir sover dit sy finansiële sterkte en die bestuur van sy besigheid betref, sal voldoen aan standaarde minstens so hoog as die standaarde deur hierdie Wet ten opsigte van geregistreerde fondse (ander as voorlopig geregistreerde fondse) opgelê; of
  - (ii) dat 'n pensioenfonds wat om registrasie ingevolge hierdie Wet aansoek gedoen het, uitsluitlik gedryf word by wyse van versekeringspolisse uitgereik deur iemand wat wettiglik versekeringsbesigheid binne die betekenis van die Versekeringswet, 1943 (Wet No. 27 van 1943), dryf,
- moet hy daardie fonds skriftelik van die toepassing van die bepalings van hierdie Wet vrystel op sodanige voorwaardes as wat hy mag bepaal.
- (b) Die registrator kan te eniger tyd by skriftelike kennisgewing aan die fonds enige kragtens paragraaf (a) verleende vrystelling intrek, indien hy nie meer soos in daardie paragraaf bepaal, oortuig is nie.

**Aanstelling van  
Registrator  
en Assistent-  
registrator van  
pensioenfondse.**

3. (1) Die Minister stel met inagneming van die wette op die Staatsdiens 'n amptenaar aan, genoem die Registrator van Pensioenfondse, wat, onder beheer van en onderworpe aan appèl na die Minister, al die bevoegdhede uitoefen en pligte uitvoer wat deur hierdie Wet aan die registrator toegewys word.

(2) Die Minister stel insgelyks 'n amptenaar, genoem die Assistent-registrator van Pensioenfondse, aan om die registrator by die verrigting van sy pligte soos voormeld behulpzaam te wees.

(3) Elke appèl na die Minister ingevolge sub-artikel (1) word op die wyse en binne die tyd wat by regulasie voorgeskryf is, voortgesit.

## HOOFSTUK II.

### REGISTRASIE EN INLYWING.

**Registrasie van  
pensioenfondse.**

4. (1) Elke pensioenfonds moet by die registrator om registrasie onder hierdie Wet aansoek doen.

(2) 'n Aansoek ingevolge sub-artikel (1) moet vergesel gaan van besonderhede van die naam en adres van die persoon belas met die bestuur van die sake van die fonds waarop die aansoek betrekking het, en 'n afskrif van die fonds se statute, tesame met 'n sertifikaat deur 'n waardeerder aangaande die gesondheid van bedoelde statute uit 'n geldelike oogpunt of, as geen waardeerder aangestel is nie, sodanige inligting aangaande die gesondheid daarvan uit 'n geldelike oogpunt as wat die applikant mag besit, en 'n registrasiegeld van een pond, en, in die geval van 'n fonds wat by die inwerkingtreding van hierdie Wet bestaan—

(a) 'n opgawe in besonderhede van die inkomste en uitgawes van die betrokke fonds vir die laaste boekjaar waarvoor rekenings opgemaak is, en 'n afskrif van sy balansstaat aan die end van daardie jaar; en

- (iii) the fund furnishes such security as the registrar may from time to time require for the payment of any benefits which may become payable to members resident in the Union who are South African citizens, or otherwise satisfies the registrar that it will be able to pay such benefits.
- (b) The registrar may from time to time require any person carrying on the business in the Union of a pension fund referred to in paragraph (a), to submit to the registrar such returns and information in connection with that business as the registrar may specify, and if at any time the registrar is no longer satisfied as regards any of the matters specified in paragraph (a) he may advise the person accordingly by notice transmitted to him by registered post, and thereupon the provisions of this Act shall apply in relation to such fund.
- (3) (a) If the registrar is satisfied—
  - (i) that the affairs of any pension fund which has applied for registration under this Act, are subject to such a measure of control issuing from any department of State, including the South African Railways and Harbours Administration, any provincial administration and the Administration of the Territory, as to ensure that the fund will as regards its financial strength and the conduct of its business conform to standards at least as high as those imposed under this Act in respect of registered funds (other than provisionally registered funds); or
  - (ii) that a pension fund which has applied for registration under this Act, operates exclusively by means of policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act, 1943 (Act No. 27 of 1943),

he shall in writing exempt that fund on such conditions as he may specify from the operation of the provisions of this Act.
- (b) The registrar may at any time by notice in writing addressed to the fund withdraw any exemption granted under paragraph (a) if he ceases to be satisfied as provided in that paragraph.

3. (1) The Minister shall, subject to the laws governing the public service, appoint an officer to be styled the Registrar of Pension Funds who shall, under the control of and subject to appeal to the Minister, exercise all such powers and perform all such duties as are assigned to him by this Act.

Appointment of  
registrar and  
assistant registrar  
of pension funds.

(2) The Minister shall similarly appoint an officer to be styled the Assistant Registrar of Pension Funds to assist the registrar in carrying out his duties as aforesaid.

(3) Every appeal to the Minister in terms of sub-section (1) shall be prosecuted in the manner and within the time prescribed by regulation.

## CHAPTER II.

### REGISTRATION AND INCORPORATION.

4. (1) Every pension fund shall apply to the registrar for registration under this Act.

Registration of  
pension funds.

(2) An application under sub-section (1) shall be accompanied by particulars of the name and address of the person charged with the management of the affairs of the fund to which the application relates, and a copy of the rules of such fund, together with a certificate by a valuator as to the soundness of such rules from a financial point of view or, if no valuator has been employed, such information regarding their financial soundness as the applicant may possess, and a registration fee of one pound, and, in the case of a fund in existence at the commencement of this Act—

(a) a statement in detail of the revenue and expenditure of the fund in question for the last financial year for which accounts have been prepared, and a copy of its balance sheet as at the end of that year; and

(b) 'n opgawe aantonende in besonderhede die jongste waardasie van bates en laste deur 'n waardeerder gedoen, tesame met besonderhede aangaande die beginsels by die opstel van bedoelde waardasie toegpas, of, as so 'n waardasie nie gedoen is nie, sodanige besonderhede aangaande die geldelike toestand van die fonds as wat die applikant besit.

(3) By ontvangs van die dokumente in sub-artikels (1) en (2) genoem, moet die registrateur die fonds voorlopig registreer en moet hy 'n sertifikaat van voorlopige registrasie aan die applikant stuur.

(4) Indien die registrateur na oorweging van so 'n aansoek oortuig is—

(a) in die geval van 'n fonds wat by die inwerkingtreding van hierdie Wet bestaan—

(i) dat die statute van die fonds nie met hierdie Wet onbestaanbaar is nie en op geldelik gesonde beginsels gebaseer is; en

(ii) dat die toestand van die fonds uit 'n geldelike oogpunt gesond is of dat genoegsame reëlings getref is om dit in 'n uit geldelike oogpunt gesonde toestand te bring binne 'n tydperk wat die registrateur bevredigend ag; of

(b) in die geval van 'n fonds na bedoelde inwerkingtreding opgerig, ten opsigte van die in sub-paragraaf (i) van paragraaf (a) vermelde aangeleenthede,

moet hy die fonds as 'n pensioenfonds registreer en 'n registrasiesertifikaat asook 'n afskrif van die statute van die fonds, waarop die datum van registrasie geëndosseer is, aan die applikant stuur, en daarop hou die fonds op om voorlopig geregistreer te wees.

(5) Indien die registrateur na oorweging van so 'n aansoek nie oortuig is betreffende al die aangeleenthede ten opsigte waarvan hy volgens sub-artikel (4) oortuig moet wees nie, moet hy die applikant skriftelik verwittig van die vereistes waaraan voldoen moet word ten einde hom aldus te oortuig.

(6) Die voorlopige registrasie van 'n fonds kragtens sub-artikel (3) is, behoudens die bepalings van sub-artikel (7), geldig vir 'n tydperk van vyf jaar.

(7) Wanneer 'n fonds wat kragtens hierdie artikel voorlopig geregistreer is, aan al die in sub-artikel (4) vermelde vereistes voldoen het, moet die registrateur die fonds registreer en aan hom 'n registrasiesertifikaat asook 'n afskrif van sy statute stuur waarop die datum van registrasie behoorlik geëndosseer is, en daarop hou die fonds op om voorlopig geregistreer te wees.

(8) Geen fonds word ingevolge hierdie Wet geregistreer of voorlopig geregistreer nie, behalwe volgens voorskrif van hierdie artikel.

#### Uitwerking van registrasie van pensioenfonds.

5. (1) By die registrasie ingevolge hierdie Wet—

(a) van 'n fonds wat 'n pensioenfondsorganisasie is volgens paragraaf (a) van die omskrywing van „pensioenfondsorganisasie“ in sub-artikel (1) van artikel een, word die fonds, onder die naam waaronder hy aldus geregistreer is, en vir sover sy bedrywigheid op enige van die in daardie omskrywing vermelde oogmerke betrekking het, met regpersoonlikheid beklee en bevoeg om in sy naam as regpersoon as eiser en verweerde in regte op te tree en om alle dinge te doen wat vir die uitoefening van sy bevoegdhede of die verrigting van sy werkzaamhede ingevolge sy statute nodig is of daarmee in verband staan;

(b) van 'n fonds wat 'n pensioenfondsorganisasie volgens paragraaf (b) van bedoelde omskrywing is, word, ondanks andersluidende bepalings van een of ander wet of van die akte van oprigting, statute, konstitusie of reëls van enige liggaam, hetsy met regpersoonlikheid beklee, al dan nie, wat die besigheid van die fonds beheer, al die bates, regte, laste en verpligtings wat aan die besigheid van die fonds verbonden is, geag die bates, regte, laste en verpligtings van die fonds te wees, tot uitsluiting van enige ander persoon, en het niemand enige aanspraak op die bates of regte of enige aanspreeklikheid ten opsigte van die laste of verpligtings van die fonds nie, behalwe vir sover die eis ontstaan of die aanspreeklikheid opgeloop het in verband met transaksies betreffende die besigheid van die fonds;

(c) van enige fonds, berus die bates, regte, laste en verpligtings van die fonds (met inbegrip van bates deur

(b) a statement showing in detail the latest valuation of assets and liabilities made by a valuator, including particulars as to the principles applied in making such valuation, or, if no such valuation has been made, such particulars regarding the financial condition of the fund as the applicant may possess.

(3) Upon receipt of the documents referred to in sub-sections (1) and (2) the registrar shall register the fund provisionally and shall forward to the applicant a certificate of provisional registration.

(4) If after considering any such application, the registrar is satisfied—

(a) in the case of a fund which is in existence at the commencement of this Act—

(i) that the rules of the fund are not inconsistent with this Act and are based on sound financial principles; and

(ii) that the fund is in a financially sound condition or that adequate arrangements have been made to bring it into a financially sound condition within a period which the registrar considers satisfactory; or

(b) in the case of a fund established after such commencement, in respect of the matters specified in sub-paragraph (i) of paragraph (a),

he shall register the fund as a pension fund and send to the applicant a certificate of registration as well as a copy of the rules of the fund bearing an endorsement of the date of registration, and thereupon the fund shall cease to be provisionally registered.

(5) If after considering any such application, the registrar is not satisfied as regards all the matters in respect of which he is in terms of sub-section (4) required to be satisfied, he shall in writing indicate to the applicant the requirements to be complied with in order that he may be so satisfied.

(6) Subject to the provisions of sub-section (7) the provisional registration of a fund under sub-section (3) shall be valid for a period of five years.

(7) Whenever a fund which is provisionally registered under this section has complied with all the requirements specified in sub-section (4), the registrar shall register the fund and transmit to it a certificate of registration as well as a copy of its rules with the date of registration duly endorsed thereon, and thereupon the fund shall cease to be provisionally registered.

(8) No fund shall be registered or provisionally registered under this Act except as provided in this section.

### 5. (1) Upon the registration under this Act—

Effect of  
registration of  
pension fund.

(a) of a fund which is a pension fund organization in terms of paragraph (a) of the definition of "pension fund organization" in sub-section (1) of section one, the fund shall, under the name by which it is so registered, and in so far as its activities are concerned with any of the objects set out in that definition, become a body corporate capable of suing and being sued in its corporate name and of doing all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of its rules;

(b) of a fund which is a pension fund organization in terms of paragraph (b) of the said definition, all the assets, rights, liabilities and obligations pertaining to the business of the fund shall, notwithstanding anything contained in any law or in the memorandum, articles of association, constitution or rules of any body corporate or unincorporate having control of the business of the fund, be deemed to be assets, rights, liabilities and obligations of the fund to the exclusion of any other person, and no person shall have any claim on the assets or rights or be responsible for any liabilities or obligations of the fund, except in so far as the claim has arisen or the responsibility has been incurred in connection with transactions relating to the business of the fund;

(c) of any fund, the assets, rights, liabilities and obligations of the fund (including any assets held by any person

**Verdeling van bates en laste tussen pensioenfondsgorganisasie en ander geassosieerde besigheid.**

enigiemand in trust vir die fonds gehou) soos dit onmiddellik voor sy registrasie bestaan, by en gaan dit oor op die geregistreerde fonds sonder enige formele oordrag of sessie.

(2) Alle gelde en bates behorende aan 'n pensioenfonds moet deur daardie fonds gehou word en elke fonds moet sodanige rekeningboeke en ander registers hou as wat vir die doeleindes van sodanige fonds nodig mag wees.

6. (1) Binne twaalf maande na die registrasie onder hierdie Wet van 'n pensioenfonds waarvan die besigheid gedryf word of was deur 'n onderneming as 'n deel van of tesame met enige ander besigheid waarmee daardie onderneming hom besig hou of gehou het, moet die persoon wat die besigheid van dié onderneming beheer by die registrator voorstelle indien met betrekking tot die verdeling van die bates, regte, laste en verpligtings van daardie onderneming tussen die fonds en bedoelde ander besigheid.

(2) Indien die voorstelle in sub-artikel (1) bedoel, nie binne die in daardie sub-artikel bepaalde tydperk ontvang word nie, stel die registrator voorstelle op vir die verdeling van die bates, regte, laste en verpligtings van daardie onderneming tussen die fonds en bedoelde ander besigheid op die wyse wat hy met behoorlike inagneming van al die omstandighede billik ag.

(3) Die registrator kan ten einde voorstelle ingevolge sub-artikel (2) op te stel, enigiemand wat die betrokke onderneming beheer, aansê om binne 'n deur hom vermelde tydperk enige inligting by hom in te dien met betrekking tot die besigheid of enige deel van die besigheid wat daardie onderneming dryf of gedryf het, met inbegrip van die besigheid van bedoelde pensioenfonds, tesame met sodanige verslae deur 'n waardeerde of (na goeddunke van die registrator), deur die ouditeur van daardie onderneming, soos die registrator gelas.

(4) So gou doenlik na die ontvangs van enige voorstelle ingevolge sub-artikel (1) of nadat hy enige voorstelle ingevolge sub-artikel (2) opgestel het, moet die registrator 'n afskrif daarvan aan die hoofbeampte van die fonds stuur en op rekening van die fonds in die *Staatskoerant* en in ten minste een Engelse en een Afrikaanse nuusblad in omloop in die distrik waarin die hoofkantoor van die onderneming geleë is, 'n kennisgewing publiseer—

(a) waarin vermeld word dat so 'n verdeling beoog word;  
 (b) waarin die plek of plekke vermeld word waar afskrifte van die betrokke voorstelle vir 'n tydperk van dertig dae vanaf 'n in die kennisgewing vermelde datum vir insae deur belanghebbende persone beskikbaar sal wees; en

(c) waarby belanghebbende persone aangesê word om binne bedoelde tydperk van dertig dae enige vertoë wat hulle nodig ag, by die registrator in te dien.

(5) By verstryking van die tydperk in paragraaf (c) van sub-artikel (4) genoem, moet die registrator daartoe oorgaan om enige skriftelike vertoë ingevolge die betrokke kennisgewing by hom ingedien, en enige mondeline vertoë wat iemand deur wie sodanige skriftelike vertoë ingedien is, of die persoon wat die besigheid van die onderneming beheer, aan hom wil voorle, te oorweeg, en daarna moet hy die betrokke voorstelle soos opgestel of met die wysigings wat hy nodig ag, goedkeur.

(6) 'n Beslissing van die registrator kragtens sub-artikel (5) s bindend vir alle persone wat daardeur geraak word.

### HOOFTUK III.

#### WYSE VAN ADMINISTRASIE EN BEVOEGDHEDDE VAN GEREGSTREERDE FONDSE.

**Geregistreerde kantoor.**

7. (1) Elke geregistreerde fonds moet 'n geregistreerde kantoor in die Unie hê.

(2) Die diening van prosesstukke in 'n regsgeding teen so 'n fonds kan geskied deur hulle op die geregistreerde kantoor te laat, en ingeval so 'n geregistreerde kantoor opgehou het om te bestaan, word diening op die registrator geag diening op die fonds te wees.

**Hoofbeampte.**

8. (1) Elke geregistreerde fonds moet 'n uitvoerende hoofbeampte hê.

(2) Die hoofbeampte van 'n geregistreerde fonds moet 'n indiwidu wees wat in die Unie woonagtig is, en indien hy uit die Unie afwesig is of om een of ander rede nie in staat is om 'n plig wat hom deur 'n bepaling van hierdie Wet

in trust for the fund), as existing immediately prior to its registration, shall vest in and devolve upon the registered fund without any formal transfer or cession.

(2) All moneys and assets belonging to a pension fund shall be kept by that fund and every fund shall maintain such books of account and other records as may be necessary for the purpose of such fund.

**6.** (1) Within twelve months after the registration under this Act of a pension fund the business whereof is or has been carried on by any undertaking as part of or in conjunction with any other business in which that undertaking is or has been engaged, the person having control of the business of that undertaking shall submit to the registrar proposals as to the apportionment of the assets, rights, liabilities and obligations of that undertaking between the fund and such other business.

Allocation of assets and liabilities between pension fund organization and other associated business.

(2) If the proposals mentioned in sub-section (1) are not received within the period specified in that sub-section the registrar shall prepare proposals for the apportionment of the assets, rights, liabilities and obligations of that undertaking between the fund and such other business in such a manner as he may with due regard to all the circumstances consider equitable.

(3) The registrar may for the purpose of preparing any proposals under sub-section (2), require any person having control of the undertaking in question, to lodge with him, within such period as he may specify, any information relating to the business or any part of the business which is or has been carried on by that undertaking, including the business of such pension fund, together with such reports by a valuator or (at the discretion of the registrar) by the auditor of that undertaking, as the registrar may direct.

(4) As soon as practicable after having received any proposals under sub-section (1) or after having prepared any proposals as provided in sub-section (2), the registrar shall transmit a copy thereof to the principal officer of the fund and publish at the expense of the fund in the *Gazette* and in at least one English and one Afrikaans newspaper circulating in the district in which the head office of the undertaking is situate, a notice—

- (a) indicating that such apportionment is contemplated;
- (b) stating the place or places where copies of the proposals in question will be available for inspection by interested persons for a period of thirty days from a date specified in the notice; and
- (c) calling upon interested persons to submit to the registrar whatever representations they may deem necessary within the said period of thirty days.

(5) Upon the expiration of the period mentioned in paragraph (c) of sub-section (4), the registrar shall proceed to consider any written representations lodged with him in pursuance of the relevant notice and any oral representations which any person who lodged such written representations or the person having control of the business of the undertaking may desire to submit to him, and shall thereafter approve of the proposals in question as drafted or with such modifications as he may deem necessary.

(6) A decision made by the registrar under sub-section (5) shall be binding upon all persons affected thereby.

### CHAPTER III.

#### MANNER OF ADMINISTRATION AND POWERS OF REGISTERED FUNDS.

**7.** (1) Every registered fund shall have a registered office Registered office, in the Union.

(2) Process in any legal proceedings against any such fund may be served by leaving it at the registered office, and in the event of such registered office having ceased to exist, service upon the registrar shall be deemed to be service upon the fund.

**8.** (1) Every registered fund shall have a principal executive Principal officer.

(2) The principal officer of a registered fund shall be an individual who is resident in the Union, and if he is absent from the Union or unable for any reason to discharge any duty imposed upon him by any provision of this Act, the fund shall,

opgelê word, uit te voer nie, moet die fonds op die deur sy statute voorgeskrewe wyse binne dertig dae iemand anders as sy hoofbeampte aanstel.

(3) Binne dertig dae vanaf die registrasie van 'n fonds kragtens hierdie Wet, moet die persoon wat die besigheid van die fonds bestuur die registrateur van die naam van die hoofbeampte van die fonds in kennis stel.

(4) Wanneer 'n geregistreerde fonds 'n nuwe hoofbeampte aangestel het, moet die persoon wat die besigheid van die fonds bestuur binne dertig dae vanaf so 'n aanstelling die registrateur skriftelik daarvan in kennis stel.

**Aanstelling van ouditeur.**

9. Elke geregistreerde fonds moet 'n ouditeur wat kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951, geregistreer is en wat nie 'n beampte van die fonds mag wees nie, aanstel soos voorgeskryf in sy statute behalwe waar die rekenings van so 'n fonds ingevolge een of ander wetsbepaling deur die Kontroleur en Ouditeur-generaal geouditeer moet word.

**Besigheid wat gedryf mag word.**

10. 'n Geregistreerde fonds mag geen ander besigheid as die besigheid van 'n pensioenfonds dryf nie: Met dien verstande dat die registrateur kan goedkeur dat 'n fonds sodanige ander besigheid op sodanige voorwaardes en vir sodanige tydperk as wat hy mag bepaal, dryf indien die registrateur tevrede is dat dit nodig is ten einde 'n belegging van die fonds te beskerm.

**Sake wat in statute opgeneem moet word.**

11. Die statute van 'n fonds moet in een van die offisiële tale van die Unie wees en moet voorsiening ten opsigte van die volgende aangeleenthede bevat, te wete—

- (a) die naam van die fonds en waar sy geregistreerde kantoor geleë is;
- (b) die oogmerke van die fonds;
- (c) die vereistes insake toelating tot lidmaatskap en die omstandighede waaronder lidmaatskap beëindig word;
- (d) die voorwaardes waarop 'n lid of ander persoon op voordele geregty word en die aard en omvang van sodanige voordele;
- (e) die aanstelling, ontslag, bevoegdhede en besoldiging (as daar is) van beampies van die fonds;
- (f) die bevoegdhede insake beleggings van fondse;
- (g) die wyse waarop winste en verliese vasgestel word en waarop sulke winste aangewend en vir sulike verliese voorsiening gemaak word;
- (h) die wyse waarop kontrakte en ander dokumente wat die fonds bind, verly moet word;
- (i) in die geval van 'n fonds met aandelekapitaal, die bedrag van sodanige aandelekapitaal en die verdeling daarvan in aandele van 'n bepaalde bedrag, of die aanspreeklikheid van 'n aandeelhouer vir die skulde van die fonds beperk of onbeperk is, die voorwaardes met betrekking tot deelneming deur die aandeelhouers in die winste van die fonds, onderworpe aan die voorwaarde dat sodanige deelneming nie in enige jaar 'n bedrag gelykstaande aan vyf persent van die opebetaalde aandelekapitaal te bove moet gaan nie, die voorwaardes van aflossing of terugbetaling van aandele, die voorwaardes insake vorderings op aandele, die wyse van oordrag en oorgang van aandele, die wyse van verbeurdverklaring van aandele, en die wyse van verandering van aandelekapitaal;
- (j) die wyse waarop die statute gewysig en herroep en addisionele statute gemaak word;
- (k) die aanstelling van die ouditeur van die fonds en die duur van so 'n aanstelling;
- (l) die wyse waarop geskille tussen die fonds en sy lede of tussen die fonds en enige persoon wie se eis van 'n lid afkomstig is, besleg moet word;
- (m) die bewaring van enige titelbewyse en ander sekuriteite wat aan die fonds behoort of deur hom gehou word;
- (n) behoudens die bepalings van hierdie Wet, die wyse waarop en die omstandighede waaronder die fonds beëindig of ontbind moet word;
- (o) die aanstelling van 'n likwidator in die geval van 'n vrywillige ontbinding; en
- (p) sodanige ander aangeleenthede as wat die registrateur mag goedkeur.

**Wysiging van statute.**

12. (1) 'n Geregistreerde fonds kan op die deur sy statute voorgeskrewe wyse 'n statuut verander of herroep, of 'n addisionele statuut maak, maar so 'n verandering, herroeping of byvoeging is nie geldig nie—

in the manner directed by its rules, appoint another person within thirty days to be its principal officer.

(3) Within thirty days of the registration of a fund under this Act, the person managing the business of the fund shall notify the registrar of the name of the principal officer of the fund.

(4) Whenever a registered fund has appointed a new principal officer, the person managing the business of the fund shall within thirty days as from such appointment give notice thereof in writing to the registrar.

9. Every registered fund shall in the manner prescribed by its rules appoint an auditor registered under the Public Accountants' and Auditors' Act, 1951, who shall not be an officer of the fund except where the accounts of such a fund are to be audited by the Controller and Auditor-General under the provisions of one or other law.

10. No registered fund shall carry on any business other than the business of a pension fund: Provided that the registrar may approve of a fund carrying on such other business on such conditions and for such period as he may determine if the registrar is satisfied that this is necessary in order to safeguard an investment made by the fund.

11. The rules of a fund shall be in either of the official languages of the Union and shall contain provision in regard to the following matters, that is to say—

- (a) the name of the fund and the situation of its registered office;
- (b) the objects of the fund;
- (c) the requirements for admission to membership and the circumstances under which membership is to cease;
- (d) the conditions under which any member or other person may become entitled to any benefit and the nature and extent of any such benefit;
- (e) the appointment, removal from office, powers and remuneration (if any) of officers of the fund;
- (f) the powers of investment of funds;
- (g) the manner of determining profits and losses and of disposing of such profits or providing for such losses;
- (h) the manner in which contracts and other documents binding the fund shall be executed;
- (i) in the case of a fund with share capital, the amount of such share capital and the division thereof into shares of a fixed amount, whether the liability of a shareholder for the debts of the fund is limited or unlimited, the conditions relating to participation in the profits of the fund by the shareholders, subject to the condition that such participation shall not in any one year exceed an amount equal to five per cent. of the paid-up share capital, the conditions of redemption or repayment of shares, the conditions relating to calls on shares, the manner of transfer and transmission of shares, the manner of forfeiture of shares, and the manner of alteration of share capital;
- (j) the manner of altering and rescinding any rules, and of making additional rules;
- (k) the appointment of the auditor of the fund and the duration of such appointment;
- (l) the manner in which any disputes between the fund and its members or between the fund and any person whose claim is derived from a member shall be settled;
- (m) the custody of any title deeds and other securities belonging to or held by the fund;
- (n) subject to the provisions of this Act, the manner in which and the circumstances under which the fund shall be terminated or dissolved;
- (o) the appointment of a liquidator in the case of a voluntary dissolution; and
- (p) such other matters as the registrar may approve.

12. (1) A registered fund may, in the manner directed by its rules, alter or rescind any rule or make any additional rule, but no such alteration, rescission or addition shall be valid—

- (a) indien dit 'n reg van 'n skuldeiser van die fonds, behalwe in sy hoedanigheid as lid of aandeelhouer, heet aan te tas; of
- (b) tensy dit deur die registerieur goedgekeur en volgens voorskrif van sub-artikel (4) geregistreer is.

(2) Binne een maand vanaf die datum waarop 'n besluit geneem is vir die verandering of herroeping van 'n statuut of vir die aanname van 'n addisionele statuut, moet deur die hoofbeampte 'n afskrif van die besluit aan die registerieur gestuur word, tesame met 'n sertifikaat onderteken deur die persoon wat die besigheid van die fonds bestuur ten effekte dat die besluit ooreenkomsdig die bepalings van die fonds se statute aangeneem is.

(3) Indien so 'n verandering, herroeping of byvoeging die geldelike toestand van die fonds raak, moet die hoofbeampte ook 'n sertifikaat deur 'n waardeerdeerder aangaande die gesondheid daarvan uit 'n geldelike oogpunt, aan die registerieur stuur, of, indien geen waardeerdeerder aangestel is nie, sodanige inligting aangaande die gesondheid daarvan uit 'n geldelike oogpunt as wat die fonds tot sy beskikking het.

(4) Indien die registerieur bevind dat so 'n verandering, herroeping of byvoeging nie met hierdie Wet onbestaanbaar is nie, en oortuig is dat dit uit 'n geldelike oogpunt gesond is, moet hy die verandering, herroeping of byvoeging registreer en 'n afskrif van die besluit aan die hoofbeampte terugstuur met die datum van registrasie daarop geëndosseer, en so 'n verandering, herroeping of byvoeging, na gelang van die geval, word van krag vanaf die datum deur die betrokke fonds bepaal of, indien geen datum aldus bepaal is nie, vanaf bedoelde datum van registrasie.

(5) 'n Geregistreerde fonds kan te eniger tyd sy statute konsolideer, en in so 'n geval moet die hoofbeampte aan die registerieur 'n afskrif van sodanige gekonsolideerde statute stuur, en indien die registerieur oortuig is dat die gekonsolideerde statute nie wesentlik van die bestaande statute van die fonds verskil nie, moet hy bedoelde gekonsolideerde statute registreer en 'n afskrif daarvan aan die hoofbeampte stuur met die datum van registrasie daarop geëndosseer, en bedoelde gekonsolideerde statute word daarop vanaf die datum van registrasie daarvan van krag.

**Bindende krag van statute.**

13. Behoudens die bepalings van hierdie Wet bind die statute van 'n geregistreerde fonds die fonds en die lede, aandeelhouers en beampies daarvan, en enige persoon wat 'n vordering kragtens die statute instel of wat sy vordering van 'n persoon wat aldus vorder, verkry het.

**Samesmeltings en oordragte.**

14. (1) 'n Transaksie vir die samesmelting van 'n besigheid gedryf deur 'n geregistreerde fonds met 'n besigheid gedryf deur enige ander persoon (ongeag of so 'n ander persoon 'n geregistreerde fonds is al dan nie), of vir die oordrag van enige besigheid van 'n geregistreerde fonds na 'n ander persoon of vir die oordrag van enige besigheid van 'n ander persoon na 'n geregistreerde fonds, is nie van krag nie tensy—

- (a) die skema insake die voorgestelde transaksie, met inbegrip van 'n afskrif van elke aktuariële of ander opgawe vir die doeleindes van die skema in aanmerking geneem, aan die registerieur voorgelê is;
- (b) sodanige aanvullende besonderhede of so 'n spesiale verslag deur 'n waardeerdeerder as wat die registerieur vir die doeleindes van hierdie sub-artikel nodig ag, aan hom verstrek is;
- (c) die registerieur oortuig is dat die voorgestelde transaksie dit nie vir 'n geregistreerde fonds wat 'n party daarby is en wat sal voortgaan om te bestaan as die voorgestelde transaksie voltooi word, onmoontlik sal maak om die vereistes van hierdie Wet na te kom of om in 'n gesonde finansiële toestand te bly nie of, in die geval van 'n fonds wat nie in 'n gesonde finansiële toestand is nie, om so 'n toestand binne 'n tydperk wat die registerieur as bevredigend beskou, te bereik nie;
- (d) die bewys wat die registerieur mag verlang, dat die bepalings van bedoelde skema en die bepalings, vir sover hulle van toepassing is, van die statute van elke geregistreerde fonds wat 'n party by die transaksie is, uitgevoer is, of dat voldoende reëlings getref is om daardie bepalings op die tye wat deur die bedoelde skema vereis mag word, uit te voer, aan hom verstrek is;
- (e) die registerieur 'n sertifikaat aan die hoofbeampte van elke sodanige fonds gestuur het ten effekte dat al die vereistes van hierdie sub-artikel nagekom is.

- (a) if it purports to affect any right of a creditor of the fund, other than as a member or shareholder thereof; or
  - (b) unless it has been approved by the registrar and registered as provided in sub-section (4).
- (2) Within one month from the date of the passing of a resolution for the alteration or rescission of any rule or for the adoption of any additional rule, a copy of such resolution shall be transmitted by the principal officer to the registrar, together with a certificate signed by the person managing the business of the fund to the effect that such resolution has been adopted in accordance with the provisions of the rules of the fund.

(3) If any such alteration, rescission or addition affects the financial position of the fund, the principal officer shall also transmit to the registrar a certificate by a valuator as to its financial soundness or, if no valuator has been employed, such information regarding its financial soundness as the fund may possess.

(4) If the registrar finds that any such alteration, rescission or addition is not inconsistent with this Act, and is satisfied that it is financially sound, he shall register the alteration, rescission or addition and return a copy of the resolution to the principal officer with the date of registration endorsed thereon, and such alteration, rescission or addition, as the case may be, shall take effect as from the date determined by the fund concerned or, if no date has been so determined, as from the said date of registration.

(5) A registered fund may at any time consolidate its rules, and in such event the principal officer shall forward to the registrar a copy of such consolidated rules and if the registrar is satisfied that the consolidated rules are not substantially different from the existing rules of the fund, he shall register such consolidated rules and return a copy thereof to the principal officer with the date of registration endorsed thereon, and such consolidated rules shall thereupon take effect from the date of registration thereof.

**13.** Subject to the provisions of this Act, the rules of a registered fund shall be binding on the fund and the members, shareholders and officers thereof, and on any person who claims under the rules or whose claim is derived from a person so claiming.

**14.** (1) No transaction involving the amalgamation of any business carried on by a registered fund with any business carried on by any other person (irrespective of whether that other person is or is not a registered fund), or the transfer of any business from a registered fund to any other person, or the transfer of any business from any other person to a registered fund shall be of any force or effect unless—

- Amalgamations  
and transfers.
- (a) the scheme for the proposed transaction, including a copy of every actuarial or other statement taken into account for the purposes of the scheme, has been submitted to the registrar;
  - (b) the registrar has been furnished with such additional particulars or such a special report by a valuator, as he may deem necessary for the purposes of this sub-section;
  - (c) the registrar is satisfied that the proposed transaction would not render any registered fund which is a party thereto and which will continue to exist if the proposed transaction is completed, unable to meet the requirements of this Act or to remain in a sound financial condition, or, in the case of a fund which is not in a sound financial condition, to attain such a condition within a period of time deemed by the registrar to be satisfactory;
  - (d) the registrar has been furnished with such evidence as he may require that the provisions of the said scheme and the provisions, in so far as they are applicable, of the rules of every registered fund which is a party to the transaction, have been carried out or that adequate arrangements have been made to carry out such provisions at such times as may be required by the said scheme;
  - (e) the registrar has forwarded a certificate to the principal officer of every such fund to the effect that all the requirements of this sub-section have been satisfied.

(2) Wanneer 'n skema insake 'n in sub-artikel (1) bedoelde transaksie ooreenkomstig die bepalings van hierdie artikel van krag geword het, berus die betrokke bates van die aldus saamgesmelte liggeme by en gaan hul betrokke laste oor op die daaruit voortspruitende liggaaam, of na gelang van die geval, berus die betrokke bates van die liggaaam wat sy bates en laste of 'n deel daarvan oordra, by en gaan sy betrokke laste oor onderskeidelik op die liggaaam waaraan hulle oorgedra word.

(3) Die amptenaar belas met die beheer oor 'n registrasiekantoor van aktes waarin 'n verbandakte of onroerende goed geregistreer is, wat ooreenkomstig die bepalings van sub-artikel (2) oorgedra word, moet by vertoning aan hom deur die betrokke persoon van bedoelde verband of van die titelbewyse van daardie onroerende goed en van die in paragraaf (e) van sub-artikel (1) bedoelde sertifikaat, sonder betaling van herereg of seëlbelaastings of registrasiegeld of koste, die aantekenings op daardie verband of titelbewyse en die veranderings in sy registers maak wat as gevolg van so 'n samesmelting of oordrag nodig geword het.

(4) 'n Transaksie ooreenkomstig hierdie artikel ontneem nie 'n skuldeiser van 'n party daarby (behalwe in sy hoedanigheid van lid of aandeelhouer van so 'n party), enige aanspraak of regsmiddel wat hy onmiddellik voor daardie datum teen een of ander party by die transaksie of teen 'n lid of aandeelhouer of beampie van so 'n party gehad het nie.

#### HOOFSTUK IV.

##### DOKUMENTE WAT BY DIE REGISTRATEUR INGEDIEN MOET WORD.

###### Rekenings.

15. (1) Elke geregistreerde fonds moet binne ses maande na afloop van elke boekjaar aan die registrator 'n inkomsterekkening wat die inkomste en uitgawes van die fonds vir daardie jaar, en 'n balansstaat wat die finansiële toestand van die fonds by die einde van daardie jaar aantoon, verstrek wat in elke geval deur die ouditeur van die fonds behoorlik gewaarmerk is.

(2) Elke geregistreerde fonds moet, wanneer die in sub-artikel (1) bedoelde dokumente aan die registrator verstrek word, ook aan die registrator verstrek—

- (a) 'n afskrif van enige spesiale verslag deur die ouditeur in verband met enige van die fonds se bedrywighede gedurende die boekjaar waarop daardie dokumente betrekking het;
- (b) 'n afskrif van 'n jaarverslag wat die fonds aan sy lede of aandeelhouders ten opsigte van genoemde boekjaar mag uitgereik het; en
- (c) 'n afskrif van enige ander staat wat die fonds aan sy lede of aandeelhouders ten opsigte van enige van sy bedrywighede gedurende bedoelde boekjaar mag voorgelê het.

(3) Indien die registrator van oordeel is dat 'n dokument wat ooreenkomstig sub-artikel (1) deur 'n geregistreerde fonds verstrek is, nie 'n juiste weergawe van die inkomste en uitgawes of, na gelang van die geval, van die finansiële toestand van die fonds bevat nie, kan hy bedoelde dokument verwerp, en in daardie geval—

- (a) stel hy die betrokke fonds in kennis van die redes vir so 'n verwering; en
- (b) word dit geag dat die fonds nie die bedoelde dokument aan die registrator verstrek het nie: Met dien verstande dat in so 'n geval die registrator die bepalings van artikel *drie-en-dertig* kan toepas, selfs al het die betrokke tydperk verstryk voordat aansoek om verlenging gedoen word.

###### Ondersoek deur 'n waardeerdeer.

16. (1) Behoudens die bepalings van artikel *sewentien* moet 'n geregistreerde fonds minstens eenmaal elke vyf jaar sy finansiële toestand laat ondersoek en 'n verslag daaroor deur 'n waardeerdeer laat lewer en 'n afskrif van so 'n verslag by die registrator indien.

(2) So 'n ondersoek moet ten opsigte van die toestand van sake by die beëindiging van 'n boekjaar gedoen word, en so 'n verslag moet binne twaalf maande na afloop van so 'n jaar by die registrator ingedien word.

(3) In die geval van 'n fonds wat by die inwerkingtreding van hierdie Wet pensioenfondsbesigheid gedryf het en die bepalings van sub-artikel (1) van artikel *vier* nagekom het, moet die eerste ondersoek gedoen word ten opsigte van die toestand van sake by die beëindiging van die boekjaar wat na die datum van inwerkingtreding van hierdie Wet aangevang het: Met dien verstande dat—

(2) Whenever a scheme for any transaction referred to in sub-section (1) has come into force in accordance with the provisions of this section, the relevant assets and liabilities of the bodies so amalgamated shall respectively vest in and become binding upon the resultant body, or as the case may be, the relevant assets and liabilities of the body transferring its assets and liabilities or any portion thereof shall respectively vest in and become binding upon the body to which they are to be transferred.

(3) The officer in charge of a deeds registry in which is registered any mortgage bond or any immoveable property which is transferred in accordance with the provisions of sub-section (2) shall upon production to him by the person concerned of such bond or of the title deeds of such immoveable property, and of the certificate referred to in paragraph (e) of sub-section (1) make such endorsements upon such bond or title deeds and such alterations in his registers as are rendered necessary by reason of such amalgamation or transfer, without payment of transfer or stamp duty or registration fees or charges.

(4) A transaction effected in terms of this section shall not deprive any creditor of a party thereto (other than in his capacity as a member or a shareholder of such party) of any right or remedy which he had immediately prior to that date against any party to the transaction or against any member or shareholder or officer of such party.

#### CHAPTER IV.

##### DOCUMENTS TO BE DEPOSITED WITH REGISTRAR.

15. (1) Every registered fund shall, within six months as Accounts. from the expiration of every financial year, furnish to the registrar a revenue account showing the revenue and expenditure of the fund for that year, and a balance sheet showing the financial position of the fund at the close of that year, duly certified in each case by the auditor of the fund.

(2) Every registered fund shall, when furnishing to the registrar the documents referred to in sub-section (1), also furnish to the registrar—

- (a) a copy of any special report by the auditor relating to any of the activities of the fund during the financial year to which such documents relate;
- (b) a copy of any annual report that the fund may have issued to its members or shareholders in respect of the said financial year; and
- (c) a copy of any other statement that the fund may have presented to its members or shareholders in respect of any of its activities during such financial year.

(3) If the registrar is of the opinion that any document furnished by a registered fund in terms of sub-section (1) does not correctly reflect the revenue and expenditure or the financial position (as the case may be) of the fund, he may reject the said document, and in that event—

- (a) he shall notify the fund concerned of the reasons for such rejection; and
- (b) the fund shall be deemed not to have furnished the said document to the registrar: Provided that in such event the registrar may apply the provisions of section *thirty-three*, even though the period concerned may have expired before application is made for extension.

16. (1) Save as provided in section *seventeen*, a registered fund shall, once at least in every five years, cause its financial condition to be investigated and reported upon by a valuator, and shall deposit a copy of such a report with the registrar.

(2) Such investigation shall be made in respect of the position as at the expiration of a financial year, and such report shall be deposited with the registrar within twelve months from the close of that year.

(3) In the case of a fund which was carrying on pension fund business at the commencement of this Act and has complied with the provisions of sub-section (1) of section *four*, the first investigation shall be made in respect of the position as at the expiration of the financial year which commenced after the date of commencement of this Act: Provided that—

- (a) in besondere omstandigheede die fonds met verlof van die registrateur so 'n eerste ondersoek vir so 'n tydperk van hoogstens drie jaar as wat die registrateur mag bepaal, kan uitstel; en
- (b) indien die fonds ooreenkomstig paragraaf (b) van sub-artikel (2) van artikel vier 'n opgawe verstrek het wat die uitslag van 'n waardasie van die laste en bates van die fonds aantoon, die registrateur kan gelas dat die eerste waardasie ingeval hierdie artikel gemaak moet word ten opsigte van die toestand van sake op 'n datum na die verstryking van bedoelde boekjaar, maar nie meer as vyf jaar na die datum waarop bedoelde opgawe betrekking het nie.

(4) In die geval van 'n ander fonds as 'n in sub-artikel (3) bedoelde fonds, moet die eerste ondersoek gedoen word ten opsigte van die toestand van sake by die verstryking van die vyfde boekjaar wat voltooi word na die datum van registrasie of by die verstryking van so 'n vorige boekjaar as wat die fonds mag kies.

(5) Die registrateur kan, ondanks enigiets in voorgaande sub-artikels vervat, met toestemming van die Minister, en na minstens een maand skriftelike kennisgewing aan 'n geregistreerde fonds, daardie fonds gelas om so 'n ondersoek ten opsigte van die toestand van sake aan die einde van enige boekjaar te laat doen, indien die registrateur van oordeel is dat 'n ondersoek sou aantoon dat die fonds nie in 'n gesonde finansiële toestand is nie: Met dien verstande dat in die geval van 'n fonds wat die bepalings van 'n deur die registrateur ooreenkomstig artikel *agtien* goedgekeurde skema uitvoer, die registrateur nie ooreenkomstig voorgaande bepalings handel nie, tensy hy van oordeel is dat 'n ondersoek sou aantoon dat dit onwaarskynlik is dat so 'n skema die doeleindes van daardie artikel sal versesenlik.

(6) Indien die statute van 'n fonds bepaal dat die voordele wat aan lede betaalbaar mag word aan die diskresie van die bestuur van die fonds onderhewig is, moet die registrateur, op versoek van die fonds en onderworpe aan die betaling deur die fonds van sodanige onkoste as wat die registrateur in dié verband mag aangaan, bepaal welke bedrag of skaal van voordele vir die doeleindes van die waardasie in aanmerking geneem moet word, en so 'n bepaling deur die registrateur bind die fonds.

(7) 'n Verslag ooreenkomstig een of ander van voorgaande sub-artikels deur 'n waardeerder gedoen, moet die volgende besonderhede bevat, te wete—

- (a) die verdiskonterde waarde van die laste en voorwaardelike laste van die fonds, vir sover daarvan 'n aktuariële waardasie gemaak kan word, asook 'n beskrywing van die aktuariële basis wat by die berekening van daardie waardasie gebruik is;
- (b) die aard en bedrag van enige ander laste en voorwaardelike laste van die fonds;
- (c) 'n beskrywing van die bates deur die fonds besit, met inbegrip van besonderhede wat hul waarde aandui;
- (d) die basis vir die doeleindes van die verslag by die waardasie van elkeen van die verskillende soorte bates aangeneem;
- (e) die totale waarde vir die doeleindes van die verslag aan die bates geheg;
- (f) besonderhede van 'n verpanding, verhipotekering of ander beswaring van die bates van die fonds;
- (g) 'n verklaring of die fonds volgens die oordeel van die waardeerder in 'n gesonde finansiële toestand is al dan nie;
- (h) indien die waardeerder van oordeel is dat die fonds nie in 'n gesonde finansiële toestand is nie—
  - (i) in welke opsigte die toestand van die fonds volgens sy oordeel ongesond is; en
  - (ii) die oorsake of waarskynlike oorsake van sodanige ongesonde toestand;
- (i) sodanige ander besonderhede as wat die waardeerder vir die doeleindes van hierdie Wet ter sake beskou.

(8) Wanneer 'n geregistreerde fonds 'n afskrif van 'n verslag deur 'n waardeerder ooreenkomstig hierdie artikel verstrek, by die registrateur indien, moet hy ook by die registrateur 'n sertificaat indien deur die persoon wat die besigheid van die fonds bestuur en deur die hoofbeampte dat die inligting vir die doeleindes van die verslag aan die waardeerder verstrek, na hul beste wete en geloof huis en in elke wesentlike opsig volledig was.

- (a) in special circumstances the fund may, with the permission of the registrar, defer such first investigation for such period, not exceeding three years, as the registrar may determine; and
- (b) if the fund has furnished a statement in terms of paragraph (b) of sub-section (2) of section *four*, showing the results of a valuation of the liabilities and assets of the fund, the registrar may direct that the first valuation under this section shall be made in respect of the position as at a date subsequent to the expiration of the said financial year, but not more than five years after the date to which the said statement relates.

(4) In the case of a fund other than a fund mentioned in sub-section (3), the first investigation shall be made in respect of the position as at the expiration of the fifth financial year which is completed after the date of registration or as at the expiration of such previous financial year as the fund may select.

(5) Notwithstanding anything contained in the preceding sub-sections, the registrar may, with the consent of the Minister, and after not less than one month's notice in writing to any registered fund, require that fund to cause such an investigation to be made in respect of the position as at the expiration of any financial year, if the registrar is of the opinion that an investigation would show that the fund is not in a sound financial condition: Provided that in the case of a fund which is carrying out the terms of a scheme approved by the registrar in terms of section *eighteen*, the registrar shall not act in accordance with the preceding provisions, unless he is of the opinion that an investigation would show that such scheme is unlikely to accomplish the objects of that section.

(6) If the rules of a fund provide that the benefits which may become payable to members are subject to the discretion of the management of the fund, the registrar shall, on the request of the fund and subject to the payment by the fund of such expenses as the registrar may incur in the matter, determine what amount or scale of benefits is to be taken into consideration for the purpose of the valuation, and such determination by the registrar shall be binding upon the fund.

(7) A report made by a valuator in terms of any of the preceding sub-sections shall include the following particulars, namely—

- (a) the discounted value of the liabilities and contingent liabilities of the fund, in so far as they are susceptible of actuarial valuation, together with a description of the actuarial basis employed in making such valuation;
- (b) the nature and amount of any other liabilities and contingent liabilities of the fund;
- (c) a description of the assets held by the fund, including particulars indicative of their value;
- (d) the basis of valuation of each of the various kinds of assets adopted for purposes of the report;
- (e) the aggregate value placed on the assets for purposes of the report;
- (f) particulars of any pledge, hypothecation or other encumbrance of the assets of the fund;
- (g) a statement as to whether or not, in the opinion of the valuator, the fund is in a sound financial condition;
- (h) if the valuator is of the opinion that the fund is not in a sound financial condition—
  - (i) in what respects the condition of the fund is in his opinion unsound; and
  - (ii) the causes or probable causes of such unsoundness;
- (i) such other particulars as the valuator deems relevant to the purposes of this Act.

(8) Whenever a registered fund deposits with the registrar a copy of a report made by a valuator in terms of this section, it shall also deposit with the registrar a certificate by the person managing the business of the fund and by the principal officer that to the best of their knowledge and belief the information furnished to the valuator for purposes of the report was correct and complete in every material respect.

Wysigings waar ondersoek deur 'n waardeerdeerder onnodig is.

17. (1) Indien die registrator oortuig is dat die finansiële metodes wat 'n geregistreerde fonds toepas van so 'n aard is dat periodieke ondersoeke deur 'n waardeerdeerder onnodig is, moet hy op versoek van so 'n fonds die fonds magtig om 'n opgawe van sy laste en bates op te stel en aan die registrator te verstrek, in plaas van sy finansiële toestand volgens artikel *sestien* deur 'n waardeerdeerder te laat ondersoek en verslag deur hom daaroor te laat lewer.

(2) Die bepalings van sub-artikels (2), (3), (4), (5) en (6) van artikel *sestien* is *mutatis mutandis* van toepassing op elke in sub-artikel (1) van hierdie artikel bedoelde fonds.

(3) 'n Opgawe kragtens sub-artikel (1) opgestel moet die volgende besonderhede bevat, te wete—

- (a) die aard en bedrag van die laste en voorwaardelike laste van die fonds;
- (b) 'n volledige beskrywing van elke bate deur die fonds besit, tesame met besonderhede ten opsigte van elke sodanige bate wat 'n onafhanklike persoon in staat sou stel om die waarde van daardie bate by 'n verkoeling tussen 'n gewillige verkoper en 'n gewillige koper te beraam: Met dien verstande dat indien nakoming van die vereistes van hierdie paragraaf buitensporig lywige opgawes tot gevolg sou hê, die betrokke fonds verskillende klasse bates bymekaar kan groepeer of die opgawe andersins kan verkort op die wyse wat die registrator goedkeur;
- (c) die basis vir die doeleindes van die opgawe by die waardasie van elkeen van die verskillende soorte bates aangeneem;
- (d) die totale waarde vir die doeleindes van die opgawe aan die bates geheg; en
- (e) besonderhede van 'n verpanding, verhipotekering of ander beswaring van die bates van die fonds.

(4) Bedoelde opgawe moet vergesel gaan van 'n verslag daaroor deur die ouditeur van die fonds en bedoelde ouditeur moet in sy verslag vermeld—

- (a) op watter wyse en in hoeverre hy homself van die bedrag van die laste en voorwaardelike laste wat in die opgawe voorkom, vergewis het;
- (b) op watter wyse en in hoeverre hy homself van die bestaan van die bates wat in die opgawe voorkom, vergewis het;
- (c) in hoeverre hy homself vergewis het dat die besonderhede van sodanige bates wat in die opgawe voorkom, juis is;
- (d) of na sy mening die waarderbasis ten opsigte van elkeen van die verskillende soorte bates deur die fonds toegepas, finansiell gesond is al dan nie;
- (e) of die fonds volgens sy oordeel in 'n gesonde finansiële toestand is al dan nie;
- (f) indien hy van oordeel is dat die fonds nie in 'n gesonde finansiële toestand is nie—
  - (i) in welke opsigte die toestand van die fonds volgens sy oordeel ongesond is; en
  - (ii) die oorsake of waarskynlike oorsake van sodanige ongesonde toestand;
- (g) sodanige ander besonderhede as wat hy vir die doeleindes van hierdie Wet ter sake beskou.

Fonds nie in 'n gesonde finansiële toestand nie.

18. (1) Wanneer 'n opgawe ingevolge hierdie Wet volgens die oordeel van die registrator aantoon dat 'n geregistreerde fonds nie in 'n gesonde finansiële toestand is nie, moet die registrator, behoudens die bepalings van artikel *nege-en-twintig*, gelas dat die fonds 'n skema voorlê waarin uiteengesit word die reëlings wat getref is of wat volgens voorneme getref sal word om die fonds binne 'n redelike tydperk in 'n finansiell gesonde toestand te bring, en die fonds moet so 'n skema binne drie maande vanaf die datum van ontvangs van bedoelde lasgewing by die registrator indien, tesame met 'n verslag daaroor deur 'n waardeerdeerder of, in die geval van 'n fonds waarop die bepalings van artikel *seventien* van toepassing is, deur die ouditeur van die fonds.

(2) Indien die registrator bevind dat so 'n skema nie met die bepalings van hierdie Wet onbestaanbaar is nie, en oortuig is dat die reëlings daarin uiteengesit voldoende behoort te wees om die doeleindes van hierdie artikel te verwesenlik, keur hy die skema goed.

(3) Indien die registrator nie aangaande die in sub-artikel (2) bedoelde sake oortuig is nie, versoek hy die fonds om sodanige wysigings van die skema aan te bring, of om so 'n nuwe skema voor te lê, as wat hom in staat sal stel om aldus oortuig te wees,

**17.** (1) If the registrar is satisfied that the financial methods adopted by a registered fund are such as to render periodical investigations by a valuator unnecessary, he shall, at the request of such fund, authorize the fund to prepare and furnish to the registrar a statement of its liabilities and assets in lieu of causing its financial condition to be investigated and reported upon by a valuator in terms of section *sixteen*.

Modifications where investigations by a valuator are unnecessary.

(2) The provisions of sub-sections (2), (3), (4), (5) and (6) of section *sixteen* shall *mutatis mutandis* apply to every fund referred to in sub-section (1) of this section.

(3) Any statement prepared in terms of sub-section (1) shall include the following particulars, namely—

- (a) the nature and amount of the liabilities and contingent liabilities of the fund;
- (b) a full description of each asset held by the fund together with such particulars in respect of each such asset as would enable an independent person to estimate the value of such asset on a sale between a willing seller and a willing buyer: Provided that if a compliance with the requirements of this paragraph would result in unduly voluminous returns, the fund concerned may group various classes of assets together, or otherwise abridge the statement in such manner as the registrar may approve;
- (c) the basis of valuation of each of the various kinds of assets adopted for purposes of the statement;
- (d) the aggregate value placed on the assets for purposes of the statement; and
- (e) particulars of any pledge, hypothecation or other encumbrance of the assets of the fund

(4) The said statement shall be accompanied by a report thereon by the auditor of the fund, and the said auditor shall in his report state—

- (a) in what manner and to what extent he has satisfied himself as to the amount of the liabilities and contingent liabilities shown on the statement;
- (b) in what manner and to what extent he has satisfied himself as to the existence of the assets shown on the statement;
- (c) to what extent he has satisfied himself that the particulars of such assets which are shown on the statement are correct;
- (d) whether or not in his opinion the basis of valuation of each of the various kinds of assets adopted by the fund is financially sound;
- (e) whether or not, in his opinion, the fund is in a sound financial condition;
- (f) if he is of the opinion that the fund is not in a sound financial condition—
  - (i) in what respects the condition of the fund is in his opinion unsound; and
  - (ii) the causes or probable causes of such unsoundness;
- (g) such other particulars as he deems relevant to the purposes of this Act.

**18.** (1) When any return under this Act indicates, in the opinion of the registrar, that a registered fund is not in a sound financial condition, the registrar shall, save as provided in section *twenty-nine*, direct the fund to submit a scheme setting out the arrangements which have been made or which it is intended to make to bring the fund into a financially sound condition within a reasonable period, and the fund shall deposit such scheme with the registrar within three months from the date of receipt of the said direction, together with a report thereon by a valuator or, in the case of a fund to which the provisions of section *seventeen* apply, by the auditor of the fund.

Fund not in a sound financial condition.

(2) If the registrar finds that such scheme is not inconsistent with the provisions of this Act and is satisfied that the arrangements set out therein should suffice to accomplish the objects of this section, he shall approve the scheme.

(3) If the registrar is not satisfied regarding the matters referred to in sub-section (2), he shall request the fund to make such amendments to the scheme, or to submit such new scheme, as will enable him to be so satisfied, and the fund shall comply

en die fonds moet binne 'n tydperk deur die registrateur voorgeskryf, wat nie minder as dertig dae vanaf die datum van die versoek moet wees nie, aan die versoek voldoen en gelyktydig aan die registrateur 'n verslag deur die in sub-artikel (1) vermelde waardeerdeur of ouditeur oor bedoelde wysigings of bedoelde nuwe skema verstrek, en die bepalings van sub-artikel (2) is van toepassing op so 'n gewysigde skema of nuwe skema wat die fonds mag voorlê.

(4) Die fonds moet die bepalings van 'n deur die registrateur kragtens hierdie artikel goedgekeurde skema uitvoer: Met dien verstande dat—

- (a) die registrateur bedoelde fonds kan toelaat om so 'n skema van tyd tot tyd te wysig, as hy oortuig is dat geen van die doeleindes van hierdie artikel daardeur benadeel sou word nie;
- (b) indien 'n opgawe gedurende die geldigheid van so 'n skema ingevolge hierdie Wet by die registrateur ingedien, volgens die registrateur se oordeel aantoon dat dit onwaarskynlik is dat die skema die doeleindes van hierdie artikel sal verwesenlik, hy sy goedkeuring van die skema kan intrek, en die betrokke fonds moet binne drie maande daarna 'n ander skema opstel waarop die bepalings van hierdie artikel van toepassing is; en
- (c) indien so 'n opgawe volgens die oordeel van die registrateur aantoon dat die finansiële toestand van die fonds nie meer ongesond is nie, hy die hoofbeampte van die fonds daarvan in kennis moet stel en by ontvangs van so 'n mededeling verval die verpligtings van die fonds ten opsigte van bedoelde skema onmiddellik.

#### Beleggings.

19. (1) 'n Geregistreerde fonds moet, behoudens die bepalings van sub-artikel (6), bates gelyk in waarde aan minstens veertig persent van die totale waarde van al die bates van die fonds in een of meer van die volgende klasse van bates in die Unie hou, te wete—

- (a) geld in kas in die Unie;
- (b) 'n batige saldo van die betrokke fonds in 'n rekening by 'n kantoor in die Unie van 'n bankinstelling soos in die Bankwet, 1942 (Wet No. 38 van 1942), omskryf of by 'n bouvereniging geregistreer kragtens die Bouverenigingswet, 1934 (Wet No. 62 van 1934), of by die Nasionale Finansiekorporasie van Suid-Afrika ingestel kragtens die Wet op die Nasionale Finansiekorporasie, 1949 (Wet No. 33 van 1949);
- (c) wissels, skuldbriewe of effekte wat deur die Unieregering uitgereik of gewaarborg is;
- (d) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur 'n plaaslike bestuur in die Unie wat regtens gemagtig is om belastings op onroerende goed te hef;
- (e) wissels, skuldbriewe of effekte uitgereik of gewaarborg deur die Randwaterraad of die Elektrisiteitsvoorsieningskommissie of deur 'n instelling wat volgens die registrateur se oordeel geldelik gesond is en wat deur hom goedgekeur is.

(2) By die toepassing van sub-artikel (1) word onder die totale waarde van al die bates van 'n fonds nie die waarde van enige versekeringspolisse uitgereik deur iemand wat wettiglik versekeringsbesigheid binne die bedoeling van die Versekeringswet, 1943 (Wet No. 27 van 1943), dryf, ingerek nie.

(3) 'n Geregistreerde pensioenfonds word nie geag 'n bate vir die doeleindes van sub-artikel (1) te hou nie indien sodanige bate enigsins beswaar is.

(4) Geen geregistreerde fonds mag enige van sy bates in die besigheid van 'n werkewer wat deelneem aan die skema of reëling waarby die fonds ingestel is, of in enige filiaalmaatskappy (soos in die Maatskappywet, 1926 (Wet No. 46 van 1926), omskryf) van so 'n werkewer se besigheid belê nie, of van sy bates aan so 'n werkewer of filiaalmaatskappy leen nie: Met dien verstande dat die Minister enige fonds opgerig of gedryf deur 'n statutêre liggaam of 'n nutsmaatskappy algheel of gedeeltelik van hierdie bepaling kan vrystel.

(5) 'n Geregistreerde fonds kan, indien sy statute aldus bepaal—

- (a) by wyse van belegging van sy fondse, lenings verseker deur 'n eerste verband op onroerende eiendom, aan enige van sy lede toestaan, indien die verhipotekteerde eiendom, eiendom is waarop 'n woonhuis opgerig is of staan te word: Met dien verstande dat so 'n lening in geen geval vyf-en-sewentig persent van die mark-

with the request within a period prescribed by the registrar, not being less than thirty days from the date of the request, and shall at the same time furnish to the registrar a report on such amendments or such new scheme by the valuator or auditor mentioned in sub-section (1), and the provisions of sub-section (2) shall apply to any such amended scheme or new scheme which the fund may submit.

(4) The fund shall carry out the terms of any scheme approved by the registrar under this section: Provided that—

- (a) the registrar may, if he is satisfied that none of the objects of this section would be thereby prejudiced, permit the said fund to amend such scheme from time to time;
- (b) if any return deposited with the registrar during the currency of such scheme in terms of this Act shows, in the opinion of the registrar, that the scheme is unlikely to accomplish the objects of this section, he may withdraw his approval of the scheme, and the fund concerned shall, within three months thereafter, prepare a further scheme, to which the provisions of this section shall apply; and
- (c) if any such return shows, in the opinion of the registrar, that the financial condition of the fund is no longer unsound, he shall communicate with the principal officer of the fund to that effect and on receipt of such communication the obligations of the fund in respect of that scheme shall terminate immediately.

**19.** (1) A registered fund shall, subject to the provisions of sub-section (6), hold in the Union assets equal in value to at least forty per cent. of the aggregate value of all the assets of the fund in one or more of the following classes of assets, namely—

Investments.

- (a) money in hand in the Union;
- (b) any amount standing to the credit of the fund concerned in an account with an office in the Union of a banking institution as defined in the Banking Act, 1942 (Act No. 38 of 1942), or with a building society registered under the Building Societies Act, 1934 (Act No. 62 of 1934), or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949);
- (c) bills, bonds or securities issued or guaranteed by the Government of the Union;
- (d) bills, bonds or securities issued or guaranteed by any local authority in the Union authorized by law to levy rates upon immovable property;
- (e) bills, bonds or securities issued or guaranteed by the Rand Water Board or the Electricity Supply Commission or by any institution which is, in the opinion of the registrar, financially sound and which has been approved by him.

(2) For the purposes of sub-section (1) the aggregate value of the assets of a fund shall not include the value of any policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act, 1943 (Act No. 27 of 1943).

(3) A registered pension fund shall not be deemed to hold an asset for the purposes of sub-section (1) if such asset is in any way encumbered.

(4) No registered fund shall invest any of its assets in the business of an employer who participates in the scheme or arrangement whereby the fund has been established or in any subsidiary company (as defined in the Companies Act, 1926 (Act No. 46 of 1926)) of such employer's business or lend any of its assets to such employer or subsidiary company: Provided that the Minister may exempt wholly or in part any fund established or conducted by a statutory body or a utility undertaking from this provision.

(5) A registered fund may, if its rules so provide—

- (a) grant loans, secured by a first mortgage of immovable property, by way of investment of its funds, to any of its members, if the mortgaged property is property on which a dwelling house has been or is to be erected: Provided that such a loan shall in no case exceed seventy-five per cent. of the market value of the property

waarde van die eiendom wat aangeskaf staan te word, plus die bedrag wat die betrokke lid op die datum van die lening sou ontvang het, as hy sy lidmaatskap vrywilliglik op daardie datum beëindig het, te bowe gaan nie;

- (b) sonder verdere sekerheidstelling lenings aan enigeen van sy lede toestaan: Met dien verstande dat die bedrag van die lening aan die betrokke lid hoogstens een-derde mag wees van die bedrag wat dié lid op die datum van die lening sou ontvang het as hy op dié datum vrywillig sy lidmaatskap beëindig het; en

- (c) tot 'n ander kragtens hierdie Wet geregistreerde pensioenfonds of 'n fonds van watter aard ook wat vir die voordeel van die werkneemers van bedoelde geregistreerde fonds gedryf word, bydra.

(6) Die Minister kan enige fonds opgerig of gedryf deur 'n godsdienstige inrigting algeheel of gedeeltelik vrystel van voldoening aan die bepalings van sub-artikel (1), en kan onder buitengewone omstandighede, en op die voorwaardes en vir die tydperke wat hy mag bepaal, enige fonds tydelik vrystel van voldoening aan daardie bepalings of aan enige bepaling van sub-artikel (4) of (5).

Vereistes insake stukke wat by registrateur ingedien moet word.

**20.** (1) 'n Geregistreerde fonds word geag nie aan 'n bepaling van hierdie Wet wat aan so 'n fonds die verpligting ople om aan die registrateur 'n deur die fonds opgestelde dokument te verstrek, te voldoen het nie, tensy so 'n dokument deur die hoofbeampte en een ander persoon ooreenkomsdig die statute van die fonds gemagtig om dokumente te teken, onderteken is.

(2) Indien 'n persoon (behalwe 'n ouditeur of 'n waardeerder) wat nie 'n natuurlike persoon is nie, deur 'n bepaling van hierdie Wet verplig is om 'n dokument wat aan die registrateur verstrek moet word, te onderteken, moet so 'n dokument as volg namens daardie persoon onderteken word, te wete—

- (a) indien bedoelde persoon 'n komitee van individu's is, deur die persoon wat dan aan die hoof van die komitee is en deur een ander lid daarvan;
- (b) indien bedoelde persoon 'n vereniging van persone is, deur die individu wat dan aan die hoof is van die raad van direkteure of ander komitee wat bedoelde vereniging beheer, en deur een ander lid van bedoelde raad of komitee;
- (c) in enige ander geval, deur individu's deur die registrateur aangewys, wat enige beheer oor die besigheid van bedoelde persoon uitoeft.

(3) Iemand wat ooreenkomsdig 'n bepaling van hierdie Wet aan die registrateur—

- (a) 'n oorspronklike dokument moet verstrek, moet ook die addisionele afskrifte daarvan, maar hoogstens drie, verstrek wat by regulasie voorgeskryf mag wees of wat die registrateur mag verlang;
- (b) 'n afskrif van 'n dokument moet verstrek, moet een afskrif daarvan verstrek wat as korrek gesertifiseer is—
  - (i) in die geval van 'n geregistreerde fonds, deur sy hoofbeampte; en
  - (ii) in enige ander geval, deur die persoon deur wie bedoelde afskrif verstrek moet word, tesame met soveel addisionele afskrifte, maar hoogstens drie, as wat by regulasie voorgeskryf mag wees of wat die registrateur mag verlang.

Registrateur kan aanvullende besonderhede in die geval van sekere aansoeke en opgawes verlang.

**21.** (1) Indien die registrateur van oordeel is dat—

- (a) 'n aansoek om registrasie van 'n fonds of van 'n wysiging of herroeping van statute, of van 'n aanvullende statutu; of
- (b) 'n opgawe of skema aangaande die finansiële toestand van 'n fonds,

nie genoegsame inligting verskaf om hom in staat te stel om die nodige beslissing te gee nie, moet die betrokke persoon sodanige verdere besonderhede verskaf as wat die registrateur nodig ag.

(2) Indien die registrateur van oordeel is dat 'n sertifikaat of spesiale verslag deur 'n waardeerder of deur die ouditeur van 'n fonds nodig is in verband met enige saak in sub-artikel (1) uiteengesit, moet die betrokke persoon sodanige sertifikaat of verslag as wat die registrateur verlang, verstrek.

Insae van dokumente.

**22.** (1) Iedereen kan, teen betaling van die by regulasie voorgeskrewe gelde, enige dokument wat in artikel vyf-en-dertig genoem word, by die kantoor van die registrateur insien en 'n afskrif daarvan of uittreksels daaruit maak of 'n afskrif daarvan of uittreksel daaruit van die registrateur verkry.

to be acquired plus the amount the member concerned would have received on the date of the loan had he terminated his membership voluntarily on that date;

(b) grant loans without further security to any of its members: Provided that the amount of the loan to the member concerned shall not exceed one-third of the amount which such member would have received on the date of the loan, had he terminated his membership voluntarily on that date; and

(c) contribute to any other pension fund registered under this Act or any fund of any kind whatsoever which is conducted for the benefit of the employees of the said registered fund.

(6) The Minister may exempt either wholly or in part any fund established or conducted by a religious institution from compliance with the provisions of sub-section (1), and may under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any fund from compliance with those provisions or with any provision of sub-section (4) or (5).

**20.** (1) A registered fund shall be deemed not to have complied with any provision of this Act, which imposes upon such fund the obligation to furnish to the registrar a document prepared by the fund, unless such document is signed by the principal officer and one other person authorized in accordance with the rules of the fund to sign documents.

Requirements in regard to documents to be deposited with registrar.

(2) If any person (other than an auditor or a valuator) who is not a natural person, is required by any provision of this Act to sign any document which is to be furnished to the registrar, such document shall be signed on behalf of such person as follows, that is to say—

- (a) if such person is a committee of individuals, by the person for the time being at the head of the committee and by one other member thereof;
- (b) if such person is an association of persons, by the individual who is for the time being at the head of the board of directors or other committee controlling such association, and by one other member of such board or committee;
- (c) in any other case, by individuals designated by the registrar, who exercise any control over the business of the said person.

(3) Any person who is required in terms of any provision of this Act to furnish to the registrar—

- (a) any original document, shall also furnish such additional copies thereof, not exceeding three in number, as may be prescribed by regulation or as the registrar may require;
- (b) a copy of any document, shall furnish one copy thereof certified as correct—
  - (i) in the case of a registered fund, by its principal officer; and
  - (ii) in any other case, by the person by whom such copy is required to be furnished, together with so many additional copies, not exceeding three, as may be prescribed by regulation or as the registrar may require.

**21.** (1) If the registrar is of opinion that—

- (a) any application for registration of a fund or of an alteration or rescission of rules or of an additional rule; or
- (b) any return or scheme relating to the financial condition of a fund,

Registrar may require additional particulars in case of certain applications and returns.

does not disclose sufficient information to enable him to make the necessary decision, the person concerned shall furnish such additional particulars as the registrar may deem necessary.

(2) If the registrar is of opinion that a certificate or special report by a valuator or by the auditor of a fund is necessary in regard to any matter set out in sub-section (1), the person concerned shall furnish such certificate or report as the registrar may require.

**22.** (1) Upon payment of the fees prescribed by regulation any person may inspect at the office of the registrar any document referred to in section thirty-five and make a copy thereof or take extracts therefrom, or obtain from the registrar a copy thereof or extract therefrom.

Inspection of documents.

(2) Die registrator kan enigeen vrystel van die verpligting om gelde ingevolge hierdie artikel te betaal, indien hy oortuig is dat die betrokke insae, afskrif of uittreksel ter bevordering van een of ander openbare belang verlang word.

(3) Die registrator verstrek sonder betaling aan iemand wat daarom aansoek doen besonderhede van die adres van die geregistreerde kantoor en die naam van die hoofbeampte van 'n geregistreerde fonds.

Uitwerking van sertifikaat van registrator op dokumente.

23. Elke dokument wat heet deur die registrator gesertificeer te wees as 'n dokument wat ingevolge die bepalings van hierdie Wet by sy kantoor ingedien is, of as 'n afskrif van so 'n dokument, word *prima facie* geag so 'n dokument of afskrif daarvan te wees, en elke sodanige afskrif is as bewyssuk toelaatbaar asof dit die oorspronklike dokument was.

## HOOFSTUK V.

### NAVRAE DEUR REGISTRATEUR, AANSOEK BY DIE HOF, KANSELLERING OF OPSKORTING VAN REGISTRASIE EN ONTBINDING VAN FONDSE.

Navrae.

Ondersoek na sake van 'n fonds.

24. Die registrator kan aan 'n geregistreerde fonds navrae rig met betrekking tot enige saak aangaande sy besigheid of transaksies, en dit is die plig van die fonds om binne 'n tydperk van dertig dae vanaf die datum waarop die registrator navraag gedoen het of binne so 'n verdere tydperk as wat die registrator mag toelaat, so 'n navraag skriftelik te beantwoord.

25. (1) Met toestemming van die Minister kan die registrator die sake of enige gedeelte van die sake van 'n geregistreerde fonds ondersoek, of 'n inspekteur aanstel om so 'n ondersoek te doen en om die uitslag van sy ondersoek aan die registrator te rapporteer—

(a) indien die fonds wanneer hy versuim het om 'n opgawe wat deur hierdie Wet vereis word, te verstrek, in gebreke gebly het om bedoelde opgawe te verstrek binne 'n tydperk van dertig dae vanaf die eerste datum waarop die registrator skriftelik die aandag van die fonds op sodanige versuim gevvestig het; of

(b) indien die fonds nie binne 'n tydperk van dertig dae vanaf 'n datum waarop die registrator skriftelik van hom enige gegewens geëis het wat die registrator kragtens hierdie Wet geregtig was om van hom te eis, daardie gegewens ten volle en op bevredigende wyse verstrek het nie; of

(c) indien enige opgawe deur die fonds aan die registrator verstrek, aandui dat die fonds versuim het om 'n belangrike bepaling van hierdie Wet na te kom; of

(d) indien die ouditeur die fonds in kennis gestel het van 'n onreëlmaticiteit wat verbeter moet word, en die fonds nie die bedoelde onreëlmaticiteit verbeter het nie binne 'n tydperk van dertig dae vanaf die datum waarop die registrator die fonds skriftelik aangesê het om die onreëlmaticiteit te verbeter; of

(e) indien die registrator oor inligting beskik wat volgens sy oordeel 'n ondersoek na die sake van die fonds vereis: Met dien verstande dat geen ondersoek uit hoofde van hierdie paragraaf gedoen word nie tensy die registrator aan die fonds 'n redelike geleentheid gegee het om 'n verklaring te verstrek omtrent enige aangeleentheid waarop die registrator se oordeel berus, en die fonds versuim het om so 'n verklaring te verstrek of 'n verklaring verstrek het wat die registrator as onbevredigend beskou.

(2) Die registrator verhaal op die betrokke fonds alle koste noodsaaklikwys in verband met die ondersoek aangegaan, tensy die registrator kragtens paragraaf (e) van sub-artikel (1) gehandel het en dit blyk dat die gegewens waarop hy aldus gehandel het, onjuis was.

(3) Wanneer hy 'n ondersoek kragtens hierdie artikel instel, kan die registrator of 'n inspekteur wat ingevolge sub-artikel (1) aangestel is, die oorlegging van enige van die effekte, boeke of dokumente van die fonds eis, en enige persoon wat 'n ouditeur, beampte, aandeelhouer of lid van die fonds is of voorheen was onder eed in verband met die besigheid van die fonds ondervra, en vir die doel van so 'n ondervraging aan so 'n persoon 'n eed ople.

(4) So 'n persoon is verplig om alle effekte, boeke of dokumente van die fonds wat vir hom beskikbaar is, op versoek aan die registrator of die inspekteur oor te lê, en om op versoek aan die registrator of die inspekteur alle inligting omtrent die sake van die fonds waaraan hy beskik, te verstrek.

(2) The registrar may exempt any person from the obligation to pay fees under this section if he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest.

(3) The registrar shall without charge furnish any applicant therefor with particulars of the address of the registered office and the name of the principal officer of any registered fund.

**23.** Every document which purports to have been certified by the registrar to be a document deposited at his office under the provisions of this Act, or to be a copy of such a document, shall *prima facie* be deemed to be such a document, or a copy thereof, and every such copy shall be admissible in evidence as if it were the original document.

Effect of registrar's certificate on documents.

## CHAPTER V.

### ENQUIRIES BY REGISTRAR, APPLICATIONS TO COURT, CANCELLATION OR SUSPENSION OF REGISTRATION AND DISSOLUTION OF FUNDS.

**24.** The registrar may address enquiries to any registered fund in relation to any matter connected with its business or transactions, and it shall be the duty of the fund to reply in writing thereto within a period of thirty days as from the date upon which the registrar addressed the enquiry to it or within such further period as the registrar may allow.

**25.** (1) The registrar may, with the consent of the Minister, investigate the affairs or any part of the affairs of a registered fund, or appoint an inspector to hold such an investigation and to report the result of his investigation to the registrar—

Investigation of the affairs of a fund.

- (a) if the fund, having failed to make a return required by this Act, has not made that return within a period of thirty days from the first date upon which the registrar drew the attention of the fund in writing to such failure; or
- (b) if the fund has not, within a period of thirty days as from a date upon which the registrar demanded from it in writing any information which the registrar was entitled under this Act to demand from it, furnished that information fully and satisfactorily; or
- (c) if any return furnished by the fund to the registrar shows that the fund has failed to comply with any material provision of this Act; or
- (d) if the auditor has informed the fund of an irregularity that needs correction and the fund has not corrected that irregularity within a period of thirty days as from the date upon which the registrar called upon the fund in writing to correct the irregularity; or
- (e) if the registrar is possessed of information which in his opinion calls for an investigation into the affairs of the fund: Provided that no investigation shall be held by virtue of this paragraph unless the registrar has afforded the fund a reasonable opportunity of furnishing an explanation of any matter which forms a ground for the registrar's opinion, and the fund has failed to furnish such explanation or has furnished an explanation which the registrar regards as unsatisfactory.

(2) The registrar shall recover from the fund concerned all expenses necessarily incurred in connection with the investigation, unless the registrar acted under paragraph (e) of sub-section (1) and the information on which he so acted is proved to have been incorrect.

(3) In making an investigation under this section the registrar or an inspector appointed under sub-section (1) may require from the fund the production of any of its securities, books or documents and may examine on oath in relation to its business any person who is or formerly was an auditor, officer, shareholder or member of the fund, and may administer an oath to any such person for the purpose of that examination.

(4) It shall be the duty of every such person to produce to the registrar or to the inspector at his request all the securities, books or documents of the fund which are available to him and to give to the registrar or to the inspector, at his request, any information at his disposal relating to the affairs of the fund.

Die hof kan die basis van die bestuur van 'n fonds wysig.

Kansellering of opskorting van registrasie.

Vrywillige ontbinding van fonds.

(5) Wanneer 'n ingevolge hierdie artikel aangestelde inspekteur sy ondersoek voltooi het, doen hy daaromtrent verslag aan die registrateur wat 'n afskrif van die verslag aan die fonds moet stuur, en indien die ondersoek deur die registrateur ingestel is, stuur hy aan die fonds 'n opsomming van die gevolgtrekings waartoe hy as gevolg van die ondersoek geraak het.

(26.) (1) Indien 'n geregistreerde fonds volgens die registrateur se oordeel nie in 'n gesonde finansiële toestand is nie, en indien so 'n fonds versuum het om ooreenkomsdig die bepalings van artikel *agtien* te handel of indien sodanige optrede nodig is as gevolg van 'n ondersoek kragtens artikel *vijf-en-twintig*, kan die registrateur by die hof aansoek doen om 'n bevel waarby gelas word dat die statute van die fonds met betrekking tot die aanstelling, bevoegdhede, besoldiging (as daar is) en ontslag van die persoon wat die besigheid van die fonds bestuur, of aangaande so 'n ander aangeleenthed as wat die registrateur gepas ag, gewysig word op 'n wyse deur die registrateur in die aansoek vermeld.

(2) Die hof moet die regmatige belang van die lede van die fonds (of van die verskillende klasse van lede, indien daar meer as een sodanige klas is) en van enige ander persoon wat aan die fonds finansiële hulp verleen het of voornemens is om dit te verleen, in aanmerking neem en moet, onderworpe aan die oorwegings voormeld, so 'n bevel uitvaardig as wat hy vir die lede van die fonds die voordeligste ag.

(3) Tensy die hof anders beveel, word die koste van die registrateur met of in verband met 'n aansoek kragtens hierdie artikel deur die fonds betaal, en geniet dit voorkeur bo ander laste teen die bates van so 'n fonds.

(27.) (1) Die registrateur moet die registrasie van 'n fonds kanselleer—

- (a) indien daar bewys gelewer word wat hom oortuig dat die fonds nie meer bestaan nie; of
- (b) indien die registrateur en die fonds saamstem dat die fonds per abuis geregistreer is onder omstandighede wat nie op bedrog neerkom nie:

Met dien verstande dat die registrateur onder die omstandighede in paragraaf (b) vermeld, die registrasie kan opskort instede van dit te kanselleer, as hy oortuig is dat die fonds daardeur 'n geleentheid sal kry om bedoelde fout te herstel op 'n wyse wat met die bepalings van hierdie Wet bestaanbaar is, en as die fonds daardie fout tot bevrediging van die registrateur herstel, moet laasgenoemde daarop bedoelde registrasie vanaf die opskortingsdatum herstel, maar indien die fout nie binne 'n tydperk deur die registrateur bepaal, herstel word nie, moet hy die registrasie van die fonds kanselleer.

(2) Die registrateur kan by die hof aansoek doen om die kansellering of opskorting van die registrasie van 'n fonds indien—

- (a) die fonds opsetlik en na kennisgewing van die registrateur 'n bepaling van hierdie Wet geskend het; of
- (b) die registrateur as gevolg van 'n ondersoek kragtens artikel *vijf-en-twintig*, van oordeel is dat die registrasie gekanselleer of opgeskort behoort te word.

(3) Die hof kan die registrasie van die fonds kanselleer, of sodanige registrasie vir so 'n tydperk as wat hy goedvind, opskort, en kan aan daardie kansellering of opskorting sulke voorwaardes heg as wat hy wenslik ag, of enige ander bevel uitvaardig wat hy onder die omstandighede wenslik ag.

(4) Tensy die hof anders beveel, is die koste van die registrateur met of in verband met die aansoek deur die fonds betaalbaar, en geniet dit voorkeur bo ander laste teen die bates van so 'n fonds.

(28.) (1) Behoudens die bepalings van hierdie artikel word 'n geregistreerde fonds beeindig of ontbind onder die omstandighede (as daar is) wat vir daardie doel in sy statute vermeld mag word en op die wyse deur daardie statute bepaal, en die bates van die fonds word in so 'n geval op die deur bedoelde statute bepaalde wyse verdeel.

(2) 'n Likwidateur word aangestel op die wyse deur die statute bepaal of, as die statute geen bepalings omtrent so 'n aanstelling bevat nie, deur die persoon wat die besigheid van die fonds bestuur, maar die aanstelling is onderworpe aan die goedkeuring van die registrateur, en die likwidasietermyn word geag op die datum van sodanige goedkeuring 'n aanvang te neem.

(3) Gedurende so 'n likwidasië bly die bepalings van hierdie Wet van toepassing op so 'n fonds asof die likwidateur die persoon is wat die besigheid van die fonds bestuur.

(4) Die likwidateur moet so spoedig doenlik 'n voorlopige rekening en 'n voorlopige balansstaat, deur hom onderteken en

(5) When an inspector appointed under this section has completed his investigation, he shall report thereon to the registrar, who shall transmit a copy of the report to the fund, and if the investigation was held by the registrar, he shall transmit a summary of the conclusions arrived at by him as a result of the investigation to the fund.

26. (1) If in the opinion of the registrar a registered fund is not in a sound financial condition, and if such fund has failed to act in accordance with the provisions of section *eighteen*, or if such action is necessary as a result of an investigation under section *twenty-five*, the registrar may apply to the court for an order directing that the rules of the fund relating to the appointment, powers, remuneration (if any) and removal from office of the person managing the business of the fund, or relating to such other matter as the registrar may regard as appropriate, be altered in a manner to be specified by the registrar in such application. The court may alter the basis of management of a fund.

(2) The court shall consider the equitable interests of the members of the fund (or of the several classes of members if there is more than one such class) and of any other person who has rendered or who intends to render financial assistance to the fund, and, subject to such considerations as aforesaid, shall make such order as it deems most advantageous to the members of the fund.

(3) Unless the court otherwise orders, the costs of the registrar in or in connection with an application in terms of this section shall be paid by the fund, and shall be a first charge upon the assets of such fund.

27. (1) The registrar shall cancel the registration of a fund— Cancellation or suspension of registration.  
 (a) on proof to his satisfaction that the fund has ceased to exist; or  
 (b) if the registrar and the fund are agreed that the fund was registered by mistake in circumstances not amounting to fraud:

Provided that in the circumstances stated in paragraph (b), the registrar may suspend the registration in lieu of cancelling it, if he is satisfied that by so doing the fund will be furnished with an opportunity of rectifying the said mistake in a manner consistent with the provisions of this Act, and if the fund does rectify such mistake to the satisfaction of the registrar, the latter shall thereupon reinstate the said registration, as from the date of suspension but if the mistake is not rectified within a period specified by the registrar he shall cancel the registration of the fund.

(2) The registrar may apply to the court for the cancellation or suspension of the registration of a fund if—  
 (a) the fund has wilfully and after notice from the registrar violated any provision of this Act; or  
 (b) the registrar is of opinion, as a result of an investigation under section *twenty-five*, that the registration should be cancelled or suspended.

(3) The court may cancel the registration of the fund or suspend such registration for such period as it thinks fit, and may attach to such cancellation or suspension such conditions as it thinks desirable, or may make any other order which in the circumstances it thinks desirable.

(4) Unless the court otherwise orders, the costs of the registrar in or in connection with the application shall be paid by the fund and shall be a first charge upon the assets of such fund.

28. (1) Subject to the provisions of this section, a registered fund may be terminated or dissolved in such circumstances (if any) as may be specified for that purpose in its rules and in the manner provided by such rules, and the assets of the fund shall in that event be distributed in the manner provided by the said rules. Voluntary dissolution of fund.

(2) A liquidator shall be appointed in the manner directed by the rules, or, if the rules do not contain directions as to such appointment, by the person managing the business of the fund, but such appointment shall be subject to the approval of the registrar, and the period of liquidation shall be deemed to commence as from the date of such approval.

(3) During such liquidation the provisions of this Act shall continue to apply to such fund as if the liquidator were the person managing the business of the fund.

(4) The liquidator shall as soon as may be deposit with the registrar a preliminary account and a preliminary balance sheet

as korrek gesertifiseer, by die registrator indien, wat die bates en laste van die fonds by die aanvang van die likwidasie en die wyse waarop voorgestel word om die bates tot geld te maak en die laste te vereffen, aantoon, met inbegrip van laste en voorwaardelike laste wat teenoor of ten opsigte van lede bestaan.

(5) Die registrator kan na goeddunke die likwidateur gelas om 'n verslag opgestel deur 'n onafhanklike waardeerdeer of ander bevoegde persoon deur die registrator benoem, oor die voorlopige rekening en voorlopige balansstaat te verstrek.

(6) Die in sub-artikel (5) bedoelde voorlopige rekening, voorlopige balansstaat en verslag (as daar is) word by die kantoor van die registrator en by die geregistreerde kantoor van so 'n fonds en wanneer die geregistreerde kantoor van die fonds in 'n ander distrik is as die distrik waarin die kantoor van die registrator geleë is, by die kantoor van die magistraat van die distrik waarin die geregistreerde kantoor van die fonds geleë is, beskikbaar gestel vir insae deur belanghebbende persone vir 'n tydperk van dertig dae.

(7) Die registrator laat op rekening van so 'n fonds, in die *Staatskoerant* en in een Engelse en een Afrikaanse nuusblad in omloop in die distrik waarin die geregistreerde kantoor van so 'n fonds geleë is, 'n kennisgewing publiseer wat die tydperk waarin en die plekke waar die voorlopige rekening, voorlopige balansstaat en verslag (as daar is) vir insae soos voormeld beskikbaar sal wees, vermeld, en so 'n kennisgewing moet alle belanghebbende persone wat enige beswaar het teen vermelde voorlopige rekening, voorlopige balansstaat en verslag (as daar is) aansê om hul besware skriftelik by die registrator in te dien binne 'n in die kennisgewing vermelde tydperk wat nie minder as veertien dae vanaf die laaste dag waarop voormalde dokumente vir insae beskikbaar is, moet wees nie.

(8) Indien geen besware ingevolge sub-artikel (7) by die registrator ingedien word nie, moet hy die likwidateur gelas om die likwidasie te voltooi.

(9) Indien ingevolge sub-artikel (7) besware by die registrator ingedien is, kan die registrator, nadat hy daardie besware oorweeg het, die likwidateur gelas om die voorlopige rekening en voorlopige balansstaat te wysig, of sodanige ander opdragte aangaande die likwidasie gee as wat hy goedvind, mits sulke opdragte nie met die statute van die fonds onbestaanbaar is nie, en so 'n opdrag bind die likwidateur.

(10) Binne veertien dae nadat hy 'n opdrag ingevolge sub-artikel (9) van die registrator ontvang het, moet die likwidateur 'n afskrif daarvan per pos aan elke lid, aandeelhouer en skuldeiser van die fonds stuur, en die likwidateur, of iemand wat hom deur so 'n opdrag van die registrator veronreg voel, kan binne agt-en-twintig dae nadat bedoelde opdrag aan die likwidateur megedeel is, die hof by mosie om 'n bevel versoek wat die registrator se beslissing ter syde stel, en die hof kan bedoelde beslissing bekratig, of die bevel uitreik wat hy goedvind.

(11) Indien die registrator oortuig is dat sy bevele vir sover hulle nie deur die hof gewysig of ter syde gestel is nie, uitgevoer is, moet hy die likwidateur gelas om die likwidasie te voltooi.

(12) Die likwidateur moet, binne dertig dae na die voltooiing van die likwidasie, by die registrator 'n finale rekening en 'n finale balansstaat deur hom onderteken en as korrek gesertifiseer, indien, wat die bates en laste van die fonds by die aanvang van die likwidasie, die wyse waarop die bates tot geld gemaak en die laste (met inbegrip van enige laste en voorwaardelike laste teenoor of ten opsigte van lede) vereffen is, aantoon.

(13) Die bepalings van artikels *honderd vyf-en-sewentig* tot en met *honderd agt-en-sewentig*, *honderd-en-tagtig* tot en met *honderd twee-en-tagtig*, *honderd vier-en-tagtig* tot en met *honderd ses-en-tagtig*, *honderd agt-en-tagtig*, *honderd-en-negentig* en *honderd een-en-negentig* van die Maatskappywet, 1926, is *mutatis mutandis* van toepassing op die ontbinding van 'n fonds ooreenkomsdig hierdie artikel, vir sover bedoelde artikels betrekking het op 'n vrywillige likwidasie ooreenkomsdig genoemde Wet en vir sover bedoelde bepalings toepaslik is en nie met die bepalings van hierdie Wet onbestaanbaar is nie.

(14) Alle vorderings teen die fonds moet tot bevrediging van die likwidateur bewys word, onderworpe aan 'n reg van appèl na die hof, en die likwidateur kan verlang dat 'n vordering beëdig word.

(15) Indien die registrator oortuig is dat bedoelde rekening en balansstaat korrek is en dat die likwidasie voltooi is, moet hy die registrasie van die fonds kanselleer, en daarop word die fonds geag onbind te wees.

signed and certified by him as correct, showing the assets and liabilities of the fund at the commencement of the liquidation and the manner in which it is proposed to realize the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of members.

(5) The registrar may, in his discretion, direct the liquidator to furnish a report, drawn up by an independent valuator or other competent person nominated by the registrar, upon the preliminary account and preliminary balance sheet.

(6) The preliminary account, preliminary balance sheet and report (if any) referred to in sub-section (5) shall lie open at the office of the registrar, and at the registered office of such fund, and where the registered office of the fund is in any district other than the district wherein the office of the registrar is situate, at the office of the magistrate of the district in which the registered office of the fund is situate, for inspection by interested persons for a period of thirty days.

(7) The registrar shall, at the cost of such fund, cause to be published in the *Gazette* and in one English and one Afrikaans newspaper circulating in the district in which the registered office of such fund is situate, a notice stating the period during which and the places at which the preliminary account, preliminary balance sheet and report (if any) shall lie open for inspection as aforesaid, and such notice shall call upon all interested persons who have any objection to the said preliminary account, preliminary balance sheet and report (if any) to lodge their objections in writing with the registrar within a period stated in the notice, not being less than fourteen days as from the last day on which the aforesaid documents lie open for inspection.

(8) If no objections are lodged with the registrar in terms of sub-section (7), he shall direct the liquidator to complete the liquidation.

(9) If objections are lodged with the registrar in terms of sub-section (7), the registrar may, after considering the said objections, direct the liquidator to amend the preliminary account and preliminary balance sheet, or give such other directions relating to the liquidation as he thinks fit, provided such directions are not inconsistent with the rules of the fund, and any such direction shall be binding upon the liquidator.

(10) The liquidator shall, within fourteen days of the receipt by him of any direction of the registrar in terms of sub-section (9), post a copy thereof to every member, shareholder and creditor of the fund, and the liquidator or any person aggrieved by any such direction of the registrar may apply by motion to the court within twenty-eight days after such direction has been communicated to the liquidator, for an order to set aside the registrar's decision, and the court may confirm the said decision or make such order as it thinks fit.

(11) If the registrar is satisfied that his directions, in so far as they have not been varied or set aside by the court, have been given effect to, he shall direct the liquidator to complete the liquidation.

(12) The liquidator shall, within thirty days after the completion of the liquidation, lodge with the registrar a final account and a final balance sheet, signed and certified by him as correct showing the assets and liabilities of the fund at the commencement of the liquidation and the manner in which the assets have been realized and the liabilities (including any liabilities and contingent liabilities to or in respect of members) have been discharged.

(13) The provisions of sections *one hundred and seventy-five to one hundred and seventy-eight*, inclusive, *one hundred and eighty to one hundred and eighty-two*, inclusive, *one hundred and eighty-four to one hundred and eighty-six*, inclusive, *one hundred and eighty-eight, one hundred and ninety and one hundred and ninety-one* of the Companies Act, 1926, shall apply *mutatis mutandis* to the dissolution of a fund in terms of this section, in so far as the said sections relate to a voluntary winding-up in terms of the said Act, and in so far as the said provisions are applicable and not inconsistent with any provision of this Act.

(14) All claims against the fund shall be proved to the satisfaction of the liquidator, subject to a right of appeal to the court, and the liquidator may require any claim to be made on affidavit.

(15) If the registrar is satisfied that the said account and balance sheet are correct and that the liquidation has been completed, he shall cancel the registration of the fund and thereupon the fund shall be deemed to be dissolved.

Likwidasie  
deur die hof.

29. (1) Indien die registrator van oordeel is dat 'n fonds in so 'n ongesonde finansiële toestand is dat 'n skema soos deur artikel *agtien* beoog ondoeltreffend, onuitvoerbaar of onbevredigend sou wees, kan hy by die hof aansoek doen om 'n bevel dat die besigheid of 'n gedeelte van die besigheid van die fonds gelikwideer word.

(2) 'n Skuldeiser van 'n geregistreerde fonds wat, nadat hy van sy gewone regsmiddels gebruik gemaak het, nie daarin geslaag het om betaling van sy vordering te verkry nie, kan by die hof aansoek doen om 'n bevel dat die besigheid of 'n gedeelte van die besigheid van die fonds gelikwideer word: Met dien verstande dat 'n skuldeiser nie aansoek mag doen nie behalwe met toestemming van die hof, en die hof nie sodanige toestemming verleen nie tensy die skuldeiser sekuriteit verskaf het tot 'n deur die hof vasgestelde bedrag vir betaling van die koste van die aansoek en van enige opposisie daarteen, en *prima facie* die wenslikheid van die bevel waarom hy aansoek wil doen, bewys het.

(3) Die hof kan 'n bevel uitrek soos ingevolge sub-artikel (1) of sub-artikel (2) aangevra, onderworpe aan die bepalings in die volgende sub-artikels vervat.

(4) Die bepalings van artikels *honderd-en-sewe* tot en met *honderd nege-en-yyftig bis* en *honderd sewe-en-sewentig* tot en met *honderd vier-en-negentig* van die Maatskappywet, 1926, is *mutatis mutandis* van toepassing op 'n likwidasie kragtens hierdie artikel, vir sover bedoelde bepalings betrekking het op 'n likwidasie deur die hof ooreenkomsdig genoemde Wet, en vir sover bedoelde bepalings toepaslik is en nie met die bepalings van hierdie Wet of van enige voorskrifte kragtens hierdie artikel deur die hof uitgereik, onbestaanbaar is nie.

(5) Die hof kan beveel dat voormalde bepalings van die Maatskappywet, 1926, vir die doeleindes van die likwidasie in 'n bepaalde geval na vereiste gewysig kan word indien die hof oortuig is dat met die oog op die omstandighede van die betrokke fonds, dit onprakties of onnodig beswarend sou wees om in elke besonderheid aan bedoelde bepalings te voldoen, en dat ondanks sodanige wysiging die belang van die skuldeisers van die fonds voldoende beskerm sal word.

(6) By die likwidasie van die hele besigheid of 'n gedeelte van die besigheid van 'n fonds, word die waarde van die belang van die lede of van die verskillende groepe lede van die fonds, en die waarde van enige voordele deur die fonds aan iemand anders as 'n lid verskuldig, op die deur die hof bepaalde wyse vasgestel.

(7) Sonder afbreuk te doen aan die bevoegdhede van die Meester wat ten opsigte van 'n likwidasie jurisdiksie het, moet die likwidator wat ooreenkomsdig sub-artikel (4) aangestel word, aan die registrator sodanige inligting as wat hy van tyd tot tyd mag verlang, verstrek, en moet hy wanneer hy voornemens is om by die hof om instruksies aansoek te doen, dienooreenkomsdig verslag doen aan die registrator wat geregtig is om by so 'n aansoek persoonlik of by monde van 'n verteenwoordiger aangehoor te word, en self 'n aansoek by die hof aangaande die likwidasie kan doen.

(8) Indien, waar die hof beveel het dat die hele besigheid van die fonds gelikwideer moet word, die registrator oortuig is dat die likwidasie van sodanige fonds voltooi is, moet hy die registrasie van die fonds kanselleer, en daarop word die fonds geag ontbind te wees.

Buitengewone  
bepalings  
aangaande  
likwidasie  
van fondse.

30. (1) By die toepassing van die bepalings van die Maatskappywet, 1926, ooreenkomsdig artikel *agt-en-twintig* of *nege-en-twintig*—

- (a) word die lede van 'n fonds as uitgestelde skuldeisers behandel, en word hul vorderings teen die fonds in hul hoedanigheid van lede nie vereffen nie totdat die skulde van gewone skuldeisers betaal is;
- (b) word 'n verwysing na die Gekonsolideerde Inkomstefonds, met betrekking tot 'n fonds wat in die Gebied besigheid dryf, geag 'n verwysing na die Inkomstefonds van die Gebied te wees.

(2) Indien 'n fonds 'n aandelekapitaal het, is die aanspreeklikheid van 'n aandeelhouer in die geval van likwidasie kragtens voormalde artikels of beperk tot die onbetaaldé bedrag (as daar is) op enige aandeel deur hom besit, of onbeperk, na gelang die statute van die fonds bepaal.

**29.** (1) If the registrar is of the opinion that a fund is in such an unsound financial condition that it cannot be wound up by section *eighteen* would be ineffective, impracticable or unsatisfactory, he may apply to the court for an order that the whole or any part of the business of the fund be wound up. Winding-up  
by the court.

(2) Any creditor of a registered fund who is unable to obtain payment of his claim after recourse to the ordinary process of law may apply to the court for an order that the whole or any part of the business of the fund be wound up: Provided that a creditor shall not make application except by leave of the court, and the court shall not grant such leave unless the creditor has given security to an amount specified by the court for the payment of the costs of the application and of any opposition thereto, and has established *prima facie* the desirability of the order for which he wishes to apply.

(3) The court may make an order as prayed in terms of sub-section (1) or sub-section (2), subject to the provisions contained in the following sub-sections.

(4) The provisions of sections *one hundred and seven to one hundred and fifty-nine bis*, inclusive, and *one hundred and seventy-seven to one hundred and ninety-four*, inclusive, of the Companies Act, 1926, shall apply *mutatis mutandis* to a winding-up under this section, in so far as the said provisions refer to a winding-up by the court in terms of the said Act, and in so far as the said provisions are applicable and not inconsistent with any provision of this Act or with any directions issued by the court under this section.

(5) The court may direct that the aforementioned provisions of the Companies Act, 1926, may, for the purposes of the winding-up be suitably modified in any particular case if the court is satisfied that having regard to the circumstances of the fund concerned it would be impracticable or unnecessarily onerous to comply with the said provisions in every particular and that in spite of such modification the interests of the creditors of the fund will be sufficiently safeguarded.

(6) In the winding-up of the whole or any part of the business of a fund, the value of the interests of the members or of the various groups of members of the fund, and the value of any benefits due by the fund to persons other than members, shall be ascertained in such manner as the court may direct.

(7) Without prejudice to the powers of the Master who has jurisdiction in respect of any winding-up, the liquidator appointed in terms of sub-section (4) shall give the registrar such information as the latter may require from time to time and shall, whenever he intends to apply to the court for instructions, report accordingly to the registrar who shall be entitled to be heard personally or by a representative at any such application, and may himself make an application to the court with reference to the winding-up.

(8) If, where the court has ordered that the whole business of the fund be wound up, the registrar is satisfied that the winding-up of such a fund has been completed, he shall cancel the registration of the fund and thereupon the fund shall be deemed to be dissolved.

**30.** (1) In applying the provisions of the Companies Act, 1926, in terms of section *twenty-eight* or *twenty-nine*—

Special  
provisions  
relating to  
liquidation  
of funds.

(a) the members of a fund shall be treated as deferred creditors, and their claims against the fund in their capacity as members shall not be settled until the debts of ordinary creditors have been paid;

(b) any reference to the Consolidated Revenue Fund shall, in relation to a fund carrying on business in the Territory, be deemed to be a reference to the Territory Revenue Fund.

(2) If a fund has a share capital, the liability of a shareholder in the case of liquidation under the aforementioned sections shall either be limited to the amount (if any) unpaid on any share held by him, or shall be unlimited, according as is provided by the rules of the fund.

## HOOFSTUK VI.

## ALGEMEEN EN DIVERSE.

Dryf van besigheid deur ongeregistreerde pensioenfondsorganisasie en gebruik van benaming „pensioenfonds”.

Registrateur kan inligting van ongeregistreerde fondse eis.

Registrateur kan sekere tydperke verleng.

Jaarlikse verslag deur registrateur.

Reg om sekere dokumente in te sien of afskrifte daarvan te verkry.

## 31. Niemand mag—

- (a) die besigheid van 'n pensioenfonds wat by die inwerkintreding van hierdie Wet bestaan, vir 'n langer tydperk as ses maande na bedoelde inwerkintreding dryf nie, tensy behoorlik ooreenkomstig artikel vier om die registrasie van daardie fonds aansoek gedoen is; of
- (b) die besigheid van 'n pensioenfonds wat na bedoelde inwerkintreding opgerig is, dryf nie, tensy daardie fonds behoorlik geregistreer is ooreenkomstig artikel vier; of
- (c) die besigheid van 'n pensioenfonds dryf nie vir 'n langer tydperk as twaalf maande na die datum waarop die persoon wat om registrasie van die fonds aansoek gedoen het deur die registrateur in kennis gestel is dat die aansoek van die hand gewys is; of
- (d) behalwe met toestemming van die registrateur na verloop van 'n tydperk van twaalf maande vanaf die inwerkintreding van hierdie Wet, op sy besigheid 'n naam wat die woord „pensioenfonds” insluit, of 'n ander naam wat bereken is om aan te dui dat hy die besigheid van 'n pensioenfonds dryf, toepas nie, tensy daardie besigheid kragtens hierdie Wet as 'n pensioenfonds geregistreer is.

32. (1) Die registrateur kan by skriftelike kennisgewing 'n persoon wat, na hy rede het om te vermoed, die besigheid dryf van 'n pensioenfonds wat nie ingevolge hierdie Wet geregistreer is nie, gelas om binne 'n in die kennisgewing vermelde tydperk aan hom 'n afskrif te stuur van die statute, as daar is, waarvolgens bedoelde persoon optree, tesame met 'n afskrif van die jongste jaarlikse rekenings deur bedoelde persoon aangeteken en die verdere inligting wat die registrateur mag verlang.

(2) Indien so 'n persoon versuim om tot bevrediging van die registrateur aan sy vereistes te voldoen, kan die registrateur met toestemming van die Minister die sake of enige deel van die sake van bedoelde persoon ondersoek, of 'n inspekteur aanstel om so 'n ondersoek te doen en die uitslag van sy ondersoek aan die registrateur te rapporteer, en die bepalings van sub-artikels (3) tot en met (5) van artikel vyf-en-twintig is mutatis mutandis op so 'n ondersoek van toepassing en die registrateur is geregtig om alle onkoste hoedsaaklikerwys in verband met die ondersoek aangegaan, op die betrokke persoon te verhaal, tensy so 'n ondersoek aantoon dat bedoelde persoon nie die besigheid van 'n pensioenfonds dryf nie.

(3) Indien uit navrae ooreenkomstig sub-artikel (1) deur die registrateur gedoen, of uit 'n ondersoek ooreenkomstig sub-artikel (2) gedoen, blyk dat die betrokke persoon die besigheid van 'n pensioenfonds dryf, moet die registrateur die betrokke fonds voorlopig registreer waarna die bepalings van hierdie Wet op genoemde fonds van toepassing sal wees.

33. (1) Wanneer iemand ooreenkomstig 'n bepaling van hierdie Wet verplig is om een of ander handeling binne 'n vermelde tydperk te verrig, kan die registrateur op versoek van so iemand sodanige tydperk in 'n besondere geval van tyd tot tyd verleng.

(2) Die registrateur kan in spesiale omstandighede so 'n vermelde tydperk verleng nadat dit verstryk het.

34. Die registrateur lê jaarliks aan die Minister 'n verslag voor aangaande sy werkzaamhede ingevolge hierdie Wet en bedoelde verslag word deur die Minister in albei Huise van die Parlement ter Tafel gelê binne veertien dae na ontvangs daarvan, indien die Parlement dan in gewone sitting is of, indien die Parlement nie dan in gewone sitting is nie, binne veertien dae van die aanvang van sy eersvolgende gewone sitting.

35. (1) Elke geregistreerde fonds moet aan 'n lid, op aanvraag deur so 'n lid en na betaling van 'n bedrag wat die statute van die fonds mag bepaal, 'n afskrif van enige van die volgende dokumente oorhandig, te wete—

- (a) die statute van die fonds;
- (b) die jongste inkomsterekening en die jongste balansstaat ooreenkomstig sub-artikel (1) van artikel vyftien opgestel.

## CHAPTER VI.

## GENERAL AND MISCELLANEOUS.

## 31. No person shall—

- (a) carry on the business of a pension fund which is in existence at the commencement of this Act, for a period of more than six months after such commencement unless application has been duly made under section four for the registration of that fund; or
- (b) carry on the business of a pension fund established after such commencement, unless that fund has been duly registered under section four; or
- (c) carry on the business of a pension fund for a period of more than twelve months after the date on which the person who applied for registration of the fund is advised by the registrar that the application for registration has been refused; or
- (d) after the expiration of a period of twelve months from the commencement of this Act, apply to his business a name which includes the words "pension fund" or any other name which is calculated to indicate that he carries on the business of a pension fund, unless such business is registered as a pension fund under this Act, except with the consent of the registrar.

Carrying on  
business of un-  
registered pension  
fund organization  
and use of  
designation  
"pension fund".

32. (1) The registrar may by notice in writing require any person whom he has reason to suspect is carrying on the business of a pension fund which is not registered under this Act, to transmit to him, within a period stated in such notice, a copy of the rules, if any, under which such person is operating, together with a copy of the last annual accounts recorded by such person, and such further information as the registrar may require.

Registrar may  
require unregis-  
tered funds to  
furnish infor-  
mation.

(2) If such person fails to comply with the requirements of the registrar to his satisfaction, the registrar may, with the consent of the Minister, investigate the affairs or any part of the affairs of the said person, or appoint an inspector to hold such an investigation and to report the result of his investigation to the registrar, and the provisions of sub-sections (3) to (5), inclusive, of section twenty-five shall *mutatis mutandis* apply to every such investigation, and the registrar shall be entitled to recover from the person concerned all expenses necessarily incurred in connection with the investigation, unless such investigation shows that such person is not carrying on the business of a pension fund.

(3) If it appears from enquiries made by the registrar in terms of sub-section (1) or of any investigation made in terms of sub-section (2), that the person concerned is carrying on the business of a pension fund, the registrar shall register the fund provisionally whereafter the provisions of this Act shall apply to the said fund.

33. (1) When any person is obliged in terms of any provision of this Act to perform any act within a specified period, the registrar may, at the request of such person, in any particular case extend that period from time to time.

Registrar may  
extend certain  
periods.

(2) The registrar may in special circumstances extend any such specified period after it has expired.

34. The registrar shall annually submit to the Minister a report on his activities under this Act and such report shall be laid by the Minister on the Tables of both Houses of Parliament within fourteen days after receipt thereof if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Annual report  
by registrar.

35. (1) Every registered fund shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the fund, a copy of any of the following documents, that is to say—

Right to obtain  
copies of or to  
inspect certain  
documents.

- (a) the rules of the fund;
- (b) the last revenue account and the last balance sheet prepared in terms of sub-section (1) of section fifteen.

(2) 'n Lid is geregtig om sonder betaling by die geregistreerde kantoor van 'n geregistreerde fonds 'n afskrif van enige van die volgende dokumente in te sien en uittreksels daaruit te maak, te wete—

- (a) die in sub-artikel (1) bedoelde dokumente;
- (b) die jongste verslag (as daar een is) deur 'n waardeerder ooreenkomstig artikel *sestien* opgestel;
- (c) die jongste opgawe (as daar een is) en verslag daaroor kragtens artikel *seventien* opgestel;
- (d) enige skema wat ooreenkomstig die bepalings van artikel *agtien* deur die fonds uitgevoer word.

**Regulasies.**

36. Die Goewerneur-generaal kan regulasies uitvaardig wat nie met die bepalings van hierdie Wet onbestaanbaar is nie—

- (a) in verband met alle sake wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word;
- (b) wat die vorm voorskryf van 'n in hierdie Wet bedoelde dokument waarvoor daar nie andersins in hierdie Wet voorsiening gemaak word nie of wat wysigings of aanvullings van so 'n vorm voorskryf;
- (c) in die algemeen in verband met alle aangeleenthede wat hy nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

**Strawwe.**

37. (1) Iemand wat—

- (a) die bepalings van artikel *nege* of *vyf-en-dertig* oortree of versuim om daaraan te voldoen; of
- (b) versuim om 'n opgawe te verstrek of 'n skema, verslag, rekening, staat of ander dokument te verstrek of in te dien wanneer dit ooreenkomstig hierdie Wet vereis word; of
- (c) die bepalings van artikel *negentien* of enige voorwaarde waarop hy van daardie bepalings vrygestel is, oortree; of
- (d) versuim of weier om inligting te verstrek of dokumente of rekenings oor te lê of ander hulp te verleen aan die registrator wanneer hy ooreenkomstig hierdie Wet versoek word aldus te doen; of
- (e) na die verstryking van 'n tydperk van ses maande vanaf die inwerkingtreding van hierdie Wet iemand beweeg of probeer beweeg om 'n lid te word van of 'n bydrae te doen tot 'n fonds wat nie kragtens hierdie Wet geregistreer is nie; of
- (f) die bepalings van artikel *tien* of *een-en-dertig* oortree, is aan 'n misdryf skuldig, en by veroordeling strafbaar—
  - (i) in die geval van 'n in paragraaf (a) bedoelde misdryf, met 'n boete van hoogstens tien pond;
  - (ii) in die geval van 'n in paragraaf (b) of (c) bedoelde misdryf, met 'n boete van hoogstens vyf-en-twintig pond;
  - (iii) in die geval van 'n in paragraaf (d) of (e) bedoelde misdryf, met 'n boete van hoogstens vyftig pond; en
  - (iv) in die geval van 'n in paragraaf (f) bedoelde misdryf, met 'n boete van hoogstens honderd pond, of indien die oortreder 'n indiwidu is, met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande, of met daardie boete sowel as daardie gevangenisstraf.

(2) Sonder dat daardeur aan die bepalings van sub-artikel (1) afgedoen word, kan 'n persoon wat versuim het om 'n opgawe te verstrek of 'n skema, verslag, rekening, staat of ander dokument te verstrek of in te dien binne die tydperk voorgeskryf in die betrokke bepaling van die Wet, daarna sodanige opgawe verstrek of sodanige skema, verslag, rekening, staat of ander dokument verstrek of indien onderworpe aan die betaling van 'n boete wat by regulasie voorgeskryf is.

(3) Enige boete wat by sub-artikel (2) voorgeskryf word, mag wissel na gelang van die tydperk wat verstryk het sedert die laaste dag waarop die betrokke opgawe, skema, verslag, rekening, staat of ander dokument verstrek of ingedien moes geword het.

(4) By die toepassing van sub-artikel (2) is die beslissing van die registrator afdoende aangaande die tydperk waarbinne 'n in daardie sub-artikel gemelde opgawe, skema, verslag, rekening, staat of ander dokument verstrek of ingedien moes geword het.

(5) Enige boete wat volgens sub-artikel (2) betaalbaar is, is 'n skuld aan die Unie-regering verskuldig en kan deur die registrator deur aksie in 'n bevoegde hof verhaal word.

38. Die Trustgelde Beskermings Wet, 1934 (Wet No. 34 van 1934), is nie op 'n kragtens hierdie Wet geregistreerde fonds van toepassing nie.

(2) Any member shall be entitled to inspect without charge at the registered office of a registered fund, a copy of any of the following documents and make extracts therefrom, that is to say—

- (a) the documents referred to in sub-section (1);
- (b) the last report (if any) by a valuator prepared in terms of section *sixteen*;
- (c) the last statement (if any) and report thereon prepared in terms of section *seventeen*;
- (d) any scheme which is being carried out by the fund in accordance with the provisions of section *eighteen*.

36. The Governor-General may make regulations, not inconsistent with the provisions of this Act—  
Regulations.

- (a) in regard to all matters which by this Act are required or permitted to be prescribed by regulation;
- (b) prescribing the form of any document referred to in this Act for which provision is not otherwise made in this Act, or prescribing alterations or additions to any such form;
- (c) generally, as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

37. (1) Any person who—

Penalties.

- (a) contravenes or fails to comply with the provisions of section *nine* or *thirty-five*; or
  - (b) fails to make a return or transmit or deposit a scheme, report, account, statement or other document when required to do so in terms of this Act; or
  - (c) contravenes the provisions of section *nineteen* or any condition on which he has been exempted from those provisions; or
  - (d) fails or refuses to furnish information, or produce documents or accounts, or render other assistance to the registrar when called upon to do so in terms of this Act; or
  - (e) after the expiration of a period of six months from the commencement of this Act, induces or attempts to induce any person to become a member of, or to contribute to a fund not registered under this Act; or
  - (f) contravenes the provisions of section *ten* or *thirty-one*, shall be guilty of an offence, and liable on conviction—
- (i) in the case of an offence referred to in paragraph (a) to a fine not exceeding ten pounds;
  - (ii) in the case of an offence referred to in paragraph (b) or (c) to a fine not exceeding twenty-five pounds;
  - (iii) in the case of an offence referred to in paragraph (d) or (e) to a fine not exceeding fifty pounds; and
  - (iv) in the case of an offence referred to in paragraph (f) to a fine not exceeding one hundred pounds, or, if the offender is an individual, to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

(2) Without derogation from the provisions of sub-section (1), a person who has failed to make a return or to transmit or deposit a scheme, report, account, statement or other document within the time prescribed in the appropriate provision of the Act, may thereafter furnish such return, or transmit or deposit such scheme, report, account, statement or other document subject to the payment of a penalty prescribed by regulation.

(3) Any penalty prescribed under sub-section (2) may vary according to the period which has elapsed since the last day on which the return, scheme, report, account, statement or other document in question was required to be made, transmitted or deposited.

(4) For the purpose of sub-section (2) the decision of the registrar as to the time within which a return, scheme, report, account, statement or other document referred to in that sub-section was required to be furnished, transmitted or deposited, shall be final.

(5) Any penalty payable under sub-section (2) shall be a debt due to the Union Government and may be recovered by the registrar by action in any competent court.

38. The Trust Moneys Protection Act, 1934 (Act No. 34 of 1934), shall not apply to a fund registered under this Act.  
Exemption from Act 34 of 1934.

Wysiging  
van Wet 27  
van 1943.

39. Artikel *een* van die Versekeringswet, 1943 (Wet No. 27 van 1943), word hiermee gewysig deur paragrawe (*f*) en (*f*)*bis* van die voorbehoudbepaling by die omskrywing van „versekeringsbesigheid” deur die volgende paragraaf te vervang:

„(*f*) die bedrywigheid van 'n pensioenfonds soos in die Wet op Pensioenfondse, 1956, omskryf;”.

Toepassing op  
Suidwes-Afrika.

40. Hierdie Wet is ook van toepassing op die Gebied.

Kort titel en  
datum van  
inwerking-  
treding.

41. Hierdie Wet heet die Wet op Pensioenfondse, 1956, en tree in werking op 'n datum wat deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* bepaal word.

39. Section one of the Insurance Act, 1943 (Act No. 27 of Amendment 1943), is hereby amended by the substitution for paragraphs (f) and (f) *bis* of the proviso to the definition of "insurance business" of the following paragraph:

"(f) the activities of a pension fund as defined in the Pension Funds Act, 1956;".

40. This Act shall apply also in the Territory.

Application to  
South-West  
Africa.

41. This Act shall be called the Pension Funds Act, 1956, Short title and and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*. date of commencement.

No. 25, 1956.]

# WET

**Om voorsiening te maak vir die registrasie, inlywing, reëling en ontbinding van onderlinge hulpverenigings en vir aangeleenthede wat daarmee in verband staan.**

*(Afrikaanse teks deur die Gouverneur-generaal geteken).  
(Goedgekeur op 28 April 1956.)*

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

## HOOFSTUK I.

### UITVOERING EN TOEPASSING VAN WET EN WOORDOMSKRYWING.

**Woordomskrywing.**

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Wet—
  - (i) „aktuaris” ’n „fellow” van ’n deur die Minister goedgekeurde instituut, fakulteit, vereniging of kapittel van aktuarisse; (i)
  - (ii) „bates”, met betrekking tot ’n onderlinge hulpvereniging, die bates van daardie vereniging soos dit in ’n opgawe van sy bates, opgestel ooreenkomsdig die vereistes uiteengesit in artikel *vyf-en-twintig* aangegee sou word; (ii)
  - (iii) „beampte”, met betrekking tot ’n vereniging, ’n lid van ’n komitee wat aangestel is om die sake van die vereniging te bestuur, of ’n aldus aangestelde indiwidu, of ’n bestuurder, hoofbeampte, tesourier, klerk of ander agent of werknemer van die vereniging, maar nie ook ’n ouditeur wat kragtens artikel *elf* aangestel is nie; (xii)
  - (iv) „boekjaar”, met betrekking tot ’n vereniging, elke tydperk van twaalf maande wat op die een-en-dertigste dag van Desember eindig aan die einde waarvan die balans van sy rekenings volgens sy statute opgemaak moet word, of so ’n ander tydperk as wat die registrator by ’n besondere geleentheid op versoek van die vereniging mag bepaal; (iv)
  - (v) „Gebied” die Gebied Suidwes-Afrika; (xxii)
  - (vi) „geregistreer”, met betrekking tot ’n vereniging, geregistreer of voorlopig geregistreer kragtens artikel *vyf*, en het „registrasie” ’n ooreenstemmende betekenis; (xvi)
  - (vii) „geregistreerde kantoor” die in artikel *nege* bedoelde geregistreerde kantoor; (xvii)
  - (viii) „hof” ’n provinsiale of plaaslike afdeling van die Hooggereghof van Suid-Afrika en ook die Hooggereghof van Suidwes-Afrika; (iii)
  - (ix) „hoofbeampte” die in artikel *tien* bedoelde beampte; (xv)
  - (x) „laste”, met betrekking tot ’n onderlinge hulpvereniging, die laste van daardie vereniging soos dit in ’n opgawe van sy laste opgestel ooreenkomsdig die vereistes uiteengesit in artikel *vier-en-twintig*, aangegee sou word; (viii)
  - (xi) „lid”, met betrekking tot ’n onderlinge hulpvereniging, iemand wat tot die vereniging bydra ten einde ’n in artikel *twee* bedoelde voordeel te verkry, hetsy vir homself of vir ’n ander in daardie artikel genoemde persoon, en ook ’n vereniging wat tot ’n in artikel *nege-en-dertig* bedoelde sentrale vereniging bydra; (x)
  - (xii) „markwaarde”, met betrekking tot ’n bate van ’n vereniging, die markwaarde in die Unie, of indien sodanige waarde nie vasgestel kan word nie, die prys wat by ’n verkoping in die Unie tussen ’n gewillige verkoper en ’n gewillige koper betaal sou word, soos deur die vereniging beraam en deur die registrator goedgekeur, of waar die registrator ’n beraming deur ’n vereniging gemaak, nie goedkeur nie, die waarde soos deur die registrator beraam; (ix)
  - (xiii) „Minister” die Minister van Finansies; (xi)
  - (xiv) „onderlinge hulpvereniging”—
    - (a) ’n vereniging van persone ingestel vir enige van die oogmerke in artikel *twee* vermeld; of

No. 25, 1956.]

# ACT

To provide for the registration, incorporation, regulation and dissolution of friendly societies and for matters incidental thereto.

*(Afrikaans text signed by the Governor-General.)  
(Assented to 28th April, 1956.)*

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

## CHAPTER I.

### ADMINISTRATION AND APPLICATION OF ACT AND INTERPRETATION OF TERMS.

1. (1) In this Act, unless the context indicates otherwise— Definitions.
  - (i) “actuary” means any Fellow of an institute, faculty, society or chapter of actuaries approved by the Minister; (i)
  - (ii) “assets”, in relation to a friendly society, means the assets of that society as they would be reflected in any statement of its assets prepared in accordance with the requirements set out in section *twenty-five*; (ii)
  - (iii) “court” means a provincial or local division of the Supreme Court of South Africa, and includes the High Court of South-West Africa; (viii)
  - (iv) “financial year”, in relation to a society, means each period of twelve months ending on the thirty-first day of December, at the end of which the balance of its accounts is required to be struck in terms of its rules, or such other period as may on any particular occasion be determined by the registrar at the request of the society; (iv)
  - (v) “friendly society” means—
    - (a) any association of persons established for any of the objects specified in section *two*; or
    - (b) any business carried on under a scheme or arrangement instituted for any of those objects, and includes any central society referred to in section *thirty-nine*, whether or not it is liable to provide any benefits mentioned in section *two*, and any central society, association or business as aforesaid which is or may become liable for any such benefits, whether or not it continues to admit or to collect contributions from members; (xiv)
  - (vi) “Gazette” in relation to a society carrying on business in the Territory, means the *Official Gazette* of the Territory; (xviii)
  - (vii) “Insurance Act” means the Insurance Act, 1943 (Act No. 27 of 1943); (xxii)
  - (viii) “liabilities”, in relation to a friendly society, means the liabilities of that society as they would be reflected in any statement of its liabilities prepared in accordance with the requirements set out in section *twenty-four*; (x)
  - (ix) “market value”, in relation to any asset of a society, means the market value in the Union or if such value cannot be ascertained, the price which would be obtained on a sale in the Union between a willing seller and a willing purchaser as estimated by the society and approved by the registrar, or, where the registrar does not approve of any estimate made by a society, the value estimated by the registrar; (xii)
  - (x) “member”, in relation to a friendly society, means any person who contributes to the society in order to obtain any benefit referred to in section *two*, either for himself or for any other person mentioned in that section, and includes any association which contributes to a central society referred to in section *thirty-nine*; (xi)
  - (xi) “Minister” means the Minister of Finance; (xiii)

- (b) 'n besigheid wat onder 'n skema of reëling vir enige van daardie oogmerke ingestel, gedryf word,
  - en ook 'n in artikel *nege-en-dertig* bedoelde sentrale vereniging, hetsy hy aanspreeklik is om enige in artikel *twee* vermelde voordele te voorsien, al dan nie, en 'n sentrale vereniging, vereniging of besigheid soos voormeld wat vir bedoelde voordele aanspreeklik is of mag word, hetsy hy voortgaan om lede in te neem of bydraes van hulle in te vorder, al dan nie; (v)
  - (xv) „persoon” ook 'n komitee wat aangestel is om die sake van 'n vereniging te bestuur; (xiii)
  - (xvi) „registrateur” die Registrateur of die Assistent-registrateur van Onderlinge Hulpverenigings kragtens artikel *vier* aangestel; (xviii)
  - (xvii) „regulasie” 'n regulasie wat kragtens hierdie Wet uitgevaardig en van krag is; (xix)
  - (xviii) „Staatskoerant”, met betrekking tot 'n vereniging wat in die Gebied besigheid dryf, die *Offisiële Koerant* van die Gebied; (vi)
  - (xix) „statute” die statute van 'n vereniging, en ook—
    - (a) die wet, oktrooi, akte van ooreenkoms, akte van oprigting of ander dokument waardeur die vereniging ingestel is;
    - (b) die statute of ander reëls in verband met die bestuur van die besigheid van die vereniging; en
    - (c) die bepalings betreffende die voordele wat verleen kan word deur, en die bydraes wat betaalbaar mag word aan die vereniging; (xx)
  - (xx) „Unie” ook die Gebied; (xxiii)
  - (xxi) „vereniging” 'n onderlinge hulpvereniging; (xxi)
  - (xxii) „Versekeringswet” die Versekeringswet, 1943 (Wet No. 27 van 1943); (vii)
  - (xxiii) „voorgeskryf” deur of kragtens hierdie Wet voorgeskryf; (xiv)
  - (xxiv) „waardeerde” 'n aktuaris of ander persoon wat volgens die registrateur se oordeel voldoende aktuariële kennis besit om die werksaamhede wat ingevolge hierdie Wet van 'n waardeerde vereis word, te verrig.
  - (xxv)
- (2) By die toepassing van die bepalings van hierdie Wet met betrekking tot 'n vereniging wat 'n onderlinge hulpvereniging volgens paragraaf (b) van die omskrywing van „onderlinge hulpvereniging” in sub-artikel (1) is, word 'n verwysing in hierdie Wet na 'n onderlinge hulpvereniging as 'n verwysing na daardie vereniging of na die persoon of liggaam in beheer van die sake van daardie vereniging uitgelê, al na die omstandighede vereis.

Oogmerke waarvoor onderlinge hulpverenigings opgerig kan word.

2. (1) 'n Onderlinge hulpvereniging kan, behoudens die bepalings van sub-artikel (2), vir een of meer van die volgende oogmerke opgerig word, te wete—
- (a) die ondersteuning of onderhoud gedurende minderjarigheid, ouderdom, weduweeskap, siekte of ander gebrek, hetsy liggaamlik of geestelik, van lede of hul mans, vrouens, weduwees, wewenaars, kinders of ander verwante of afhanklikes;
  - (b) die toekenning van jaargelde, hetsy onmiddellik of uitgestel, aan lede of genomineerdes van lede of die begiftiging van lede of genomineerdes van lede;
  - (c) die verskaffing of die betaling van bydraes tot die koste van mediese behandeling, verpleging, chirurgiese, optiese of tandheelkundige behandeling of medisyne of ander mediese benodigdhede of chirurgiese, optiese of tandheelkundige gereedskap of akkommodasie in hospitale, verpleeginrigtings, siekehuise of tuistes vir bejaardes, vir lede of ander in paragraaf (a) bedoelde persone;
  - (d) die versekering van 'n som geld wat uitbetaal word of ander voordeel wat verleen word—
    - (i) by die geboorte van 'n kind van 'n lid; of
    - (ii) by die dood van 'n lid of 'n ander in paragraaf (a) bedoelde persoon, of by wyse van 'n uitkeringsversekering op die lewe van 'n lid of so 'n persoon; of
    - (iii) tot die koste in verband met die dood of begrafnis van 'n lid of so 'n persoon; of
    - (iv) gedurende 'n tydperk van afgesonderde rou deur 'n lid of so 'n persoon;
  - (e) die versekering teen brand of ander gebeurlikhede van die ambags- of beroepsgereedskap van 'n lid;

- (xii) "officer", in relation to a society, means any member of a committee appointed to manage the affairs of the society, or any individual so appointed, or any manager, principal officer, treasurer, clerk or other agent or employee of the society, but does not include an auditor appointed under section *eleven*; (iii)
- (xiii) "person" includes any committee appointed to manage the affairs of a society; (xv)
- (xiv) "prescribed" means prescribed by or under this Act;
- (xxiii)
- (xv) "principal officer" means the officer referred to in section *ten*; (ix)
- (xvi) "registered" in relation to a society, means registered or provisionally registered under section *five*, and "registration" has a corresponding meaning; (vi)
- (xvii) "registered office" means the registered office referred to in section *nine*; (vii)
- (xviii) "registrar" means the Registrar or Assistant Registrar of Friendly Societies appointed under section *four*;
- (xvi)
- (xix) "regulation" means a regulation made and in force under this Act; (xvii)
- (xx) "rules" means the rules of a society, and includes—
  - (a) the act, charter, deed of settlement, memorandum of association, or other document by which the society is constituted;
  - (b) the articles of association or other rules for the conduct of the business of the society; and
  - (c) the provisions relating to the benefits which may be granted by and the contributions which may become payable to the society; (xix)
- (xxi) "society" means a friendly society; (xxi)
- (xxii) "Territory" means the Territory of South-West Africa; (v)
- (xxiii) "Union" includes the Territory; (xx)
- (xxiv) "valuator" means an actuary or any other person who, in the opinion of the registrar, has sufficient actuarial knowledge to perform the duties required of a valuator in terms of this Act. (xxiv)

(2) For the purpose of the application of the provisions of this Act in relation to a society which is a friendly society in terms of paragraph (b) of the definition of "friendly society" in sub-section (1), any reference in this Act to a friendly society shall be construed as a reference to that society or to the person or body in control of the affairs of that society, as the circumstances may require.

**2. (1)** A friendly society may, subject to the provisions of Objects for which friendly societies may be established.

- sub-section (2), be established for one or more of the following objects, namely—
- (a) the relief or maintenance during minority, old age, widowhood, sickness or other infirmity, whether bodily or mental, of members or their husbands, wives, widows, widowers, children or other relatives or dependants;
  - (b) the granting of annuities, whether immediate or deferred, to members or to nominees of members, or the endowment of members or nominees of members;
  - (c) the provision of or the payment of contributions towards the cost of medical, nursing, surgical, optical or dental attendance or medicines or other medical requirements or surgical, optical or dental appliances or accommodation in hospitals, nursing homes, infirmaries or homes for aged persons, for members or other persons mentioned in paragraph (a);
  - (d) the insurance of a sum of money to be paid or other benefit to be provided—
    - (i) on the birth of a member's child; or
    - (ii) on the death of a member or any other person mentioned in paragraph (a) or in the form of an endowment insurance on the life of a member or such a person; or
    - (iii) towards the expenses in connection with the death or funeral of any member or any such person; or
    - (iv) during a period of confined mourning by a member or such a person;
  - (e) the insurance against fire or other contingencies of the implements of the trade or calling of any member;

- (f) die voorsiening van 'n som geld ingeval 'n lid die diens van sy werkgewer weens ontslag, bedanking of andersins verlaat, tensy die hoofoogmerk volgens die registrator se oordeel is om 'n som geld te voorsien wanneer 'n lid bedoelde diens weens 'n huwelik of voorgenome huwelik verlaat;
  - (g) die ondersteuning of onderhoud van lede, of enige groep lede, wanneer hulle werkloos is of in behoeftige omstandighede verkeer andersins dan as gevolg van die bestaan van 'n staking of uitsluiting soos in artikel een van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), omskryf;
  - (h) die voorsiening van somme geld vir die bevordering van die opvoeding of opleiding van lede of van die kinders van lede;
  - (i) sodanige ander besigheid as wat die Goewerneur-generaal by proklamasie in die Staatskoerant mag verklaar as besigheid ten opsigte waarvan 'n onderlinge hulpvereniging opgerig kan word.
- (2) Geen vereniging of besigheid word as 'n onderlinge hulpvereniging beskou nie—
- (a) indien geen van die persone geregtig op die voordele in sub-artikel (1) vermeld tot bedoelde vereniging of besigheid bydra nie; of
  - (b) indien enige van sy bedrywigheede binne die oogmerke van 'n pensioenfondsorganisasie soos uiteengesit in paragraaf (a) of (b) van die omskrywing van „pensioenfondsorganisasie“ in artikel een van die Wet op Pensioenfondse, 1956, val; of
  - (c) indien volgens sy statute elke lid te alle tye geregtig is om die volle bedrag van sy bydraes op te eis, onderworpe aan sodanige kennisgewing as wat in sy statute voorgeskryf mag word; of
  - (d) indien die voordele in sub-artikel (1) vermeld uitsluitlik by wyse van lenings wat ingevolge sy statute terugbetaalbaar is, verleen word.

Toepassing  
van Wet.

3. (1) Die bepalings van hierdie Wet is nie van toepassing nie met betrekking tot 'n onderlinge hulpvereniging ingestel ooreenkomsdig 'n ooreenkoms gepubliseer of geag gepubliseer te wees kragtens artikel *agt-en-veertig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), behalwe dat so 'n vereniging van tyd tot tyd die registrator van sodanige statistiese inligting as wat deur die Minister voorgeskryf mag word, moet voorsien.
- (2) Indien die registrator oortuig is—
- (a) dat die totale waarde van die inkomste wat waarskynlik deur 'n onderlinge hulpvereniging wat om registrasie ingevolge hierdie Wet aansoek gedoen het, ontvang sal word, in die reël nie gedurende enige jaar 'n bedrag van vyfhonderd pond te boven sal gaan nie, kan hy by skriftelike kennisgewing aan daardie vereniging gerig, en op die voorwaardes in bedoelde kennisgewing uiteengesit, daardie vereniging van die toepassing van enige van of al die bepalings van hierdie Wet vrystel;
  - (b) dat 'n onderlinge hulpvereniging wat aldus om registrasie aansoek gedoen het, uitsluitlik by wyse van versekeringspolisse uitgereik deur 'n persoon wat wettiglike versekeringsbesigheid binne die bedoeling van die Versekeringswet dryf, sake doen, kan hy by skriftelike kennisgewing aan daardie vereniging gerig, en op die voorwaardes in bedoelde kennisgewing uiteengesit, daardie vereniging van die toepassing van enige van of al die bepalings van hierdie Wet vrystel;
  - (c) dat die sake van 'n onderlinge hulpvereniging wat aldus om registrasie aansoek gedoen het, aan 'n mate van beheer uitgaande van 'n Staatsdepartement, met inbegrip van die Suid-Afrikaanse Spoorweg- en Hawens-administrasie, 'n provinsiale administrasie en die Administrasie van die Gebied, onderhewig is wat sal verseker dat die vereniging, vir sover dit sy finansiële sterkte en die bestuur van sy besigheid betref, sal voldoen aan standarde minstens so hoog as die standarde deur hierdie Wet ten opsigte van ander geregistreerde verenigings as voorlopig geregistreerde verenigings opgelê, moet hy daardie vereniging op sodanige voorwaardes as wat hy mag bepaal skriftelik vrystel van die toepassing van die bepalings van hierdie Wet.
- (3) Die registrator kan te eniger tyd by skriftelike kennisgewing aan die betrokke vereniging gerig, enige vrystelling kragtens paragraaf (a), (b) of (c) van sub-artikel (2) ten opsigte van daardie vereniging verleen, intrek indien hy nie meer soos in die toepaslike paragraaf bepaal, oortuig is nie.

- (f) the provision of a sum of money on a member's leaving the service of his employer owing to dismissal, resignation or otherwise, unless in the opinion of the registrar the principal object is the provision of a sum of money on a member's leaving such service because of marriage or intended marriage;
- (g) the relief or maintenance of members, or any group of members, when unemployed or in distressed circumstances otherwise than in consequence of the existence of a strike or lockout as defined in section *one* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937);
- (h) the provision of sums of money for the advancement of the education or training of members or of the children of members;
- (i) such other business as the Governor-General may by proclamation in the *Gazette* declare to be business in respect of which a friendly society may be established.

**(2) No association or business shall be regarded as a friendly society—**

- (a) if none of the persons entitled to the benefits specified in sub-section (1) contributes to such association or business; or
- (b) if any of its activities fall within the objects of a pension fund organization as set out in paragraph (a) or (b) of the definition of "pension fund organization" in section *one* of the Pension Funds Act, 1956; or
- (c) if in terms of its rules each member is entitled at all times to withdraw the full amount of his contributions, subject to such notice as may be prescribed in its rules; or
- (d) if the benefits mentioned in sub-section (1) are provided exclusively by way of loans which in terms of its rules must be repaid.

**3. (1)** The provisions of this Act shall not apply in relation to any friendly society which has been established in terms of an agreement published or deemed to have been published under section *forty-eight* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), except that such society shall from time to time furnish the registrar with such statistical information as may be prescribed by the Minister.

Application of Act.

**(2) If the registrar is satisfied—**

- (a) that the aggregate value of the income likely to be received by a friendly society which has applied for registration under this Act, will not in general exceed during any year an amount of five hundred pounds, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act;
- (b) that a friendly society which has so applied for registration operates exclusively by means of policies of insurance, issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act;
- (c) that the affairs of any friendly society which has so applied for registration, are subject to such a measure of control issuing from any department of the State, including the South African Railways and Harbours Administration, any provincial administration and the Administration of the Territory, as to ensure that the society will as regards its financial strength and the conduct of its business conform to standards at least as high as those imposed under this Act in respect of registered societies (other than provisionally registered societies), he shall in writing exempt the society on such conditions as he may specify from the operation of the provisions of this Act.

**(3)** The registrar may at any time by notice in writing addressed to the society concerned, withdraw any exemption granted under paragraph (a), (b) or (c) of sub-section (2) in respect of that society if he ceases to be satisfied as provided in the appropriate paragraph.

Aanstelling van registrateur en assistent-registrateur van onderlinge hulpverenigings.

4. (1) Die Minister stel met inagneming van die wette op die Staatsdiens 'n amptenaar aan, genoem die Registrateur van Onderlinge Hulpverenigings, wat, onder beheer van en onderworpe aan appèl na die Minister, al die bevoegdhede uitoefen en pligte uitvoer wat deur hierdie Wet aan die registrateur toegewys word.

(2) Die Minister stel insgelyks 'n amptenaar, genoem die Assistent-registrateur van Onderlinge Hulpverenigings aan om die registrateur by die verrigting van sy pligte soos voormeld behulpsaam te wees.

(3) Elke appèl na die Minister ingevolge sub-artikel (1) word op die wyse en binne die tyd wat by regulasie voorgeskryf is, voortgesit.

## HOOFSTUK II.

### REGISTRASIE EN INLYWING.

Registrasie van onderlinge hulpverenigings.

5. (1) Elke onderlinge hulpvereniging moet by die registrateur om registrasie onder hierdie Wet aansoek doen.

(2) 'n Aansoek ingevolge sub-artikel (1) moet vergesel gaan van besonderhede van die naam en adres van die persoon belas met die bestuur van die sake van die vereniging waarop die aansoek betrekking het, en 'n afskrif van die vereniging se statute, tesame met 'n sertifikaat deur 'n waardeerder aangaande die gesondheid van bedoelde statute uit 'n geldelike oogpunt of, as geen waardeerder aangestel is nie, sodanige inligting aangaande die gesondheid daarvan uit 'n geldelike oogpunt as wat die applikant mag besit, en 'n registrasiegeld van een pond, en, in die geval van 'n vereniging wat by die inwerkingtreding van hierdie Wet bestaan—

(a) 'n opgawe in besonderhede van die inkomste en uitgawe van die betrokke vereniging vir die laaste boekjaar waarvoor rekenings opgemaak is, en 'n afskrif van sy balansstaat aan die end van daardie jaar; en

(b) 'n opgawe aantonende in besonderhede die jongste waardasie van bates en laste deur 'n waardeerder gedoen, tesame met besonderhede aangaande die beginsels by die opstel van bedoelde waardasie toegepas, of, as so 'n waardasie nie gedoen is nie, sodanige besonderhede aangaande die geldelike toestand van die vereniging as wat die applikant besit.

(3) By ontvangs van die dokumente in sub-artikels (1) en (2) genoem, moet die registrateur die vereniging voorlopig registreer en moet hy 'n sertifikaat van voorlopige registrasie aan die applikant stuur.

(4) Indien die registrateur na oorweging van so 'n aansoek oortuig is—

(a) in die geval van 'n vereniging wat by die inwerkingtreding van hierdie Wet bestaan—

(i) dat die statute van die vereniging nie met hierdie Wet onbestaanbaar is nie en op gesonde geldelike beginsels gebaseer is;

(ii) dat die metodese waarvolgens die vereniging besigheid dryf of voornemens is om dit te dryf, nie ongewens is nie;

(iii) dat die toestand van die vereniging uit 'n geldelike oogpunt gesond is; en

(iv) dat die statute van die vereniging met die oog op al die omstandighede, nie buitensporige onbillikhed tussen verskillende lede of groepe van die lede skep nie; of

(b) in die geval van 'n vereniging na bedoelde inwerkingtreding opgerig, ten opsigte van die in sub-paragrawe (i), (ii) en (iv) van paragraaf (a) vermelde aangeleenthede,

moet hy die vereniging as 'n onderlinge hulpvereniging registreer en 'n registrasiesertifikaat asook 'n afskrif van die statute van die vereniging, waarop die datum van registrasie geëndosseer is, aan die applikant stuur en daarop hou die vereniging op om voorlopig geregistreer te wees.

(5) Indien die registrateur na oorweging van so 'n aansoek nie oortuig is betreffende al die aangeleenthede ten opsigte waarvan hy volgens sub-artikel (4) oortuig moet wees nie, moet hy die applikant skriftelik verwittig van die vereistes waaraan voldoen moet word ten einde hom aldus te oortuig.

(6) Die voorlopige registrasie van 'n vereniging kragtens sub-artikel (3) is geldig vir 'n tydperk van vyf jaar, maar kan, behoudens die bepalings van sub-artikel (7), van tyd tot tyd hernuwe word, waar die registrateur oortuig is dat die vereniging alle redelike pogings aangewend het om aan sy vereistes, soos volgens sub-artikel (5) aangedui, en die in hierdie Wet voorgeskreve vereistes te voldoen.

4. (1) The Minister shall, subject to the laws governing the public service, appoint an officer to be styled the Registrar of Friendly Societies who shall, under the control of and subject to appeal to the Minister, exercise all such powers and perform all such duties as are assigned to the registrar by this Act.

(2) The Minister shall similarly appoint an officer to be styled the Assistant Registrar of Friendly Societies to assist the registrar in carrying out his duties as aforesaid.

(3) Every appeal to the Minister in terms of sub-section (1) shall be prosecuted in the manner and within the time prescribed by regulation.

## CHAPTER II.

### REGISTRATION AND INCORPORATION.

5. (1) Every friendly society shall apply to the registrar for registration under this Act. Registration of friendly societies.

(2) An application under sub-section (1) shall be accompanied by particulars of the name and address of the person charged with the management of the affairs of the society to which the application relates, and a copy of the rules of such society, together with a certificate by a valuator as to the soundness of such rules from a financial point of view or, if no valuator has been employed, such information regarding their financial soundness as the applicant may possess, and a registration fee of one pound, and, in the case of a society in existence at the commencement of this Act—

- (a) a statement in detail of the revenue and expenditure of the society in question for the last financial year for which accounts have been prepared, and a copy of its balance sheet as at the end of that year; and
- (b) a statement showing in detail the latest valuation of assets and liabilities made by a valuator, including particulars as to the principles applied in making such valuation, or, if no such valuation has been made, such particulars regarding the financial condition of the society as the applicant may possess.

(3) Upon receipt of the documents referred to in sub-section (1) and (2) the registrar shall register the society provisionally and shall forward to the applicant a certificate of provisional registration.

(4) If after considering any such application, the registrar is satisfied—

- (a) in the case of a society which is in existence at the commencement of this Act—
  - (i) that the rules of the society are not inconsistent with this Act and are based on sound financial principles;
  - (ii) that the methods according to which business is or is proposed to be transacted by the society are not undesirable;
  - (iii) that the society is in a financially sound condition; and
  - (iv) that, having regard to all the circumstances, the rules of the society are not unduly inequitable as between different members or groups of members;

or  
(b) in the case of a society established after such commencement, in respect of the matters specified in sub-paragraphs (i), (ii) and (iv) of paragraph (a),

he shall register the society as a friendly society and transmit to the applicant a certificate of registration as well as a copy of the rules of the society bearing an endorsement of the date of registration, and thereupon the society shall cease to be provisionally registered.

(5) If after considering any such application, the registrar is not satisfied as regards all the matters in respect of which he is in terms of sub-section (4) required to be satisfied, he shall in writing indicate to the applicant the requirements to be complied with in order that he may be so satisfied.

(6) The provisional registration of a society under sub-section (3) shall be valid for a period of five years, but may, subject to the provisions of sub-section (7), from time to time be renewed where the registrar is satisfied that the society has made all reasonable efforts to meet his requirements, as indicated in terms of sub-section (5), and the requirements prescribed in this Act.

(7) Die voorlopige registrasie van 'n vereniging kan hernuwe word in die geval van 'n vereniging wat aan al die vereistes in sub-artikel (4) vermeld, behalwe dié vervat in sub-paragraaf (iii) van paragraaf (a) van daardie sub-artikel, voldoen het en wat volgens die registrator se oordeel verwag kan word om binne 'n redelike tydperk uit 'n geldelike oogpunt in 'n gesonde toestand te wees, maar word nie hernuwe nie sodat dit—

- (a) vir 'n langer tydperk as twintig jaar duur vanaf die datum van inwerkingtreding van hierdie Wet, indien die hoofoogmerk of een van die hoofoogmerke van die vereniging die versekering is van somme geld wat by die dood van lede of ander persone betaal word, of die voorsiening van uitkeringsversekering op die lewens van lede of ander persone; of
- (b) vir 'n langer tydperk as twaalf jaar duur vanaf bedoelde datum indien geen van die in sub-paragraaf (a) genoemde oogmerke 'n hoofoogmerk van die vereniging uitmaak nie.

(8) Wanneer 'n vereniging wat kragtens hierdie artikel voorlopig geregistreer is, aan al die in sub-artikel (4) vermelde vereistes voldoen het, moet die registrator die vereniging registreer en aan hom 'n registrasiesertifikaat asook 'n afskrif van sy statute stuur waarop die datum van registrasie behoorlik geëndosseer is, en daarop hou die vereniging op om voorlopig geregistreer te wees.

(9) Die statute van 'n vereniging word nie geag op gesonde geldelike beginsels te berus nie, indien hulle enige deel van die besigheid van die vereniging wat volgens die registrator se oordeel aan aktuariële ondersoek onderhewig behoort te wees, van sodanige ondersoek uitsluit, tensy die registrator oortuig is dat die waarde van die voordele wat daaruit sou voortvloeи, nie opweeg teen die onkoste en praktiese moeilikhede wat waarskynlik met sodanige ondersoek gepaard sal gaan nie.

(10) Geen vereniging word ingevolge hierdie Wet geregistreer of voorlopig geregistreer nie, dan alleen volgens voorskrif van hierdie artikel.

Verenigings word nie onder die selfde of ooreenstemmende name geregistreer nie.

6. (1) Geen onderlinge hulpvereniging word geregistreer nie onder 'n naam wat dieselfde is as die naam waaronder 'n ander vereniging reeds geregistreer is of 'n naam wat soveel met so 'n naam ooreenkoms dat dit volgens die registrator se oordeel waarskynlik misleidend sal wees.

(2) Wanneer die registrator aansoeke om registrasie onder oorweging het van twee of meer verenigings wat dieselfde naam het of name wat soveel ooreenkoms dat dit volgens sy oordeel waarskynlik misleidend sal wees, regstreer hy onder die naam waaronder om registrasie aansoek gedoen is—

- (a) waar slegs een van die aansoeke by die registrator ingedien is—
  - (i) in die geval van verenigings wat by die inwerkingtreding van hierdie Wet bestaan het, binne ses maande na bedoelde inwerkingtreding; of
  - (ii) in die geval van verenigings na bedoelde inwerkingtreding opgerig, binne ses maande na die datum van oprigting daarvan, die vereniging ten opsigte waarvan die aansoek aldus ingedien is;
- (b) waar twee of meer aansoeke aldus ingedien is, die vereniging wat die naam aangeneem het waaronder hy om registrasie aansoek gedoen het, voordat enige van die ander verenigings die naam aangeneem het waaronder daardie ander vereniging aldus aansoek gedoen het; en
- (c) waar geen van die aansoeke aldus ingedien is nie, die vereniging waarvan die aansoek eerste by die registrator ingedien is,

en indien enige van die betrokke verenigings aldus geregistreer is, word geen van die oorblywende verenigings geregistreer nie, dan alleen onder 'n naam wat die registrator goedgekeur het.

(3) Die bepalings van sub-artikels (2), (3) en (4) van artikel drie-en-dertig van die Bankwet, 1942 (Wet No. 38 van 1942), is *mutatis mutandis* van toepassing met betrekking tot 'n verandering in die naam van 'n vereniging ingevolge hierdie artikel asof die vereniging 'n bankinstelling binne die bedoeling van daardie Wet was en asof die verandering 'n oordrag teweeggebring het van die bates en laste van die vereniging na 'n ander vereniging bekend onder die naam waaronder die registrasie van die vereniging geskied het.

(7) The provisional registration of a society may be renewed in the case of a society which has complied with all the requirements referred to in sub-section (4), other than those contained in sub-paragraph (iii) of paragraph (a) of that sub-section, and which may in the opinion of the registrar be expected to attain a sound financial condition within a reasonable period, but shall not be renewed so as to continue—

- (a) for a period exceeding twenty years from the date of commencement of this Act, if the principal object or one of the principal objects of the society is the insurance of sums of money payable on the death of members or other persons, or the provision of endowment insurance on the lives of members or other persons; or
- (b) for a period exceeding twelve years from such date if none of the objects mentioned in sub-paragraph (a) constitutes a principal object of the society.

(8) Whenever a society which is provisionally registered under this section has complied with all the requirements specified in sub-section (4), the registrar shall register the society and transmit to it a certificate of registration as well as a copy of its rules with the date of registration duly endorsed thereon, and thereupon the society shall cease to be provisionally registered.

(9) The rules of a society shall not be regarded as based on sound financial principles if they exclude from actuarial scrutiny any part of the business of the society which in the opinion of the registrar should be subject to such scrutiny, unless the registrar is satisfied that the expense and practical difficulties likely to be involved in such scrutiny would outweigh the value of the advantages to be derived therefrom.

(10) No society shall be registered or provisionally registered under this Act except as provided in this section.

**6. (1)** No friendly society shall be registered under a name identical with that under which any other society has already been registered or under a name so closely resembling such a name as in the opinion of the registrar to be likely to mislead. Societies not to be registered under identical or similar names.

(2) Whenever the registrar has under consideration applications for registration from two or more societies bearing identical names or names so closely resembling each other as in his opinion to be likely to mislead, he shall register under the name under which application for registration has been made—

- (a) where only one of the applications was lodged with the registrar—
  - (i) in the case of societies which were in existence at the commencement of this Act, within six months after such commencement; or
  - (ii) in the case of societies established after such commencement, within six months after the date on which they were established,

the society in respect of which the application was so lodged;
- (b) where two or more of the applications were so lodged, the society which adopted the name under which it has applied for registration before any of the other societies concerned had adopted the name under which such other society has so applied; and
- (c) where none of the applications was so lodged, the society whose application was first lodged with the registrar,

and if any of the societies concerned has been so registered, none of the remaining societies shall be registered except under a name which the registrar has approved.

(3) The provisions of sub-sections (2), (3) and (4) of section *thirty-three* of the Banking Act, 1942 (Act No. 38 of 1942), shall *mutatis mutandis* apply in relation to any change in the name of a society under this section as if the society were a banking institution within the meaning of that Act and as if the change had effected a transfer of the assets and liabilities of the society to another society known by the name under which the registration of the society has been effected.

**Uitwerking van registrasie van onderlinge hulpvereniging.**

- 7. (1)** By die registrasie ingevolge hierdie Wet—
- van 'n vereniging wat 'n onderlinge hulpvereniging is volgens paragraaf (a) van die omskrywing van „onderlinge hulpvereniging“ in sub-artikel (1) van artikel een, word die vereniging, onder die naam waaronder hy aldus geregistreer is, en vir sover sy bedrywighede op enige van die oogmerke vermeld in artikel twee betrekking het, met regspersoonlikheid beklee en bevoeg om in sy naam as regspersoon as eiser en verweerde in regte op te tree en om alle dinge te doen wat vir die uitoefening van sy bevoegdhede of die verrigting van sy werkzaamhede ingevolge sy statute nodig is of daarmee in verband staan;
  - van 'n vereniging wat 'n onderlinge hulpvereniging volgens paragraaf (b) van bedoelde omskrywing is, word, ondanks andersluidende bepalings van een of ander wet of van die akte van oprigting, statute, konstitusie of reëls van enige liggaam, hetsy met regspersoonlikheid beklee, al dan nie, wat die besigheid van die vereniging beheer, al die bates, regte, laste en verpligtings wat aan die besigheid van die vereniging verbonde is, geag die bates, regte, laste en verpligtings van die vereniging te wees, tot uitsluiting van enige ander persoon, en het niemand enige aanspraak op die bates of regte of enige aanspreeklikheid ten opsigte van die laste of verpligtings van die vereniging nie, behalwe vir sover die eis ontstaan of die aanspreeklikheid opgeloop het in verband met transaksies betreffende die besigheid van die vereniging;
  - van enige onderlinge hulpvereniging, berus die bates, regte, laste en verpligtings van die vereniging (met inbegrip van bates deur enigiemand in trust vir die vereniging gehou), soos dit onmiddellik voor sy registrasie bestaan, by en gaan dit oor op die geregistreerde vereniging sonder enige formele oordrag of sessie.

(2) Alle gelde en bates behorende aan 'n onderlinge hulpvereniging moet deur daardie vereniging gehou word en elke vereniging moet sodanige rekeningboeke en ander registers hou as wat vir die doeleindes van sodanige vereniging nodig mag wees.

**Verdeling van bates en laste tussen onderlinge hulpvereniging en ander geassosieerde besigheid.**

**8. (1)** Binne twaalf maande na die registrasie onder hierdie Wet van 'n onderlinge hulpvereniging waarvan die besigheid gedryf word of was deur 'n onderneming as 'n deel van of tesame met enige ander besigheid waarmee daardie onderneming hom besig hou of gehou het, moet die persoon wat die besigheid van dié onderneming beheer by die registrateur voorstelle indien met betrekking tot die verdeling van die bates, regte, laste en verpligtings van daardie onderneming tussen die vereniging en bedoelde ander besigheid.

(2) Indien die voorstelle in sub-artikel (1) bedoel, nie binne die in daardie sub-artikel bepaalde tydperk ontvang word nie, stel die registrateur voorstelle op vir die verdeling van die bates, regte, laste en verpligtings van daardie onderneming tussen die vereniging en bedoelde ander besigheid op die wyse wat hy met behoorlike inagneming van al die omstandighede billik ag.

(3) Die registrateur kan ten einde voorstelle ingevolge sub-artikel (2) op te stel, enigiemand wat die betrokke onderneming beheer, aansê om binne 'n deur hom vermelde tydperk enige inligting by hom in te dien met betrekking tot die besigheid of enige deel van die besigheid wat daardie onderneming dryf of gedryf het, met inbegrip van die besigheid van bedoelde onderlinge hulpvereniging, tesame met sodanige verslae deur 'n waardeerde of (na goedunke van die registrateur), deur die ouditeur van daardie onderneming, soos die registrateur gelas.

(4) So gou doenlik na die ontvangs van enige voorstelle ingevolge sub-artikel (1) of nadat hy enige voorstelle ingevolge sub-artikel (2) opgestel het, moet die registrateur 'n afskrif daarvan aan die hoofbeampte van die vereniging stuur en op rekening van die vereniging in die Staatskoerant en in ten minste een Engelse en een Afrikaanse nuusblad in omloop in die distrik waarin die hoofkantoor van die onderneming geleë is, 'n kennisgewing publiseer—

- waarin vermeld word dat so 'n verdeling beoog word;
- waarin die plek of plekke vermeld word waar afskrifte van die betrokke voorstelle vir 'n tydperk van dertig dae vanaf 'n in die kennisgewing vermelde datum vir insae deur belanghebbende persone beskikbaar sal wees; en
- waarby belanghebbende persone aangesê word om binne bedoelde tydperk van dertig dae enige vertoë wat hulle nodig ag, by die registrateur in te dien.

## 7. (1) Upon the registration under this Act—

- (a) of a society which is a friendly society in terms of paragraph (a) of the definition of "friendly society" in sub-section (1) of section one, the society shall, under the name by which it is so registered, and in so far as its activities are concerned with any of the objects set out in section two, become a body corporate capable of suing and being sued in its corporate name and of doing all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of its rules;
- (b) of a society which is a friendly society in terms of paragraph (b) of the said definition, all the assets, rights, liabilities and obligations pertaining to the business of the society shall, notwithstanding anything contained in any law or in the memorandum, articles of association, constitution or rules of any body corporate or unincorporate having control of the business of the society, be deemed to be assets, rights, liabilities and obligations of the society to the exclusion of any other person, and no person shall have any claim on the assets or rights or be responsible for any liabilities or obligations of the society, except in so far as the claim has arisen or the responsibility has been incurred in connection with transactions relating to the business of the society;
- (c) of any friendly society, the assets, rights, liabilities and obligations of the society (including any assets held in trust for the society by any person) as existing immediately prior to its registration, shall vest in and devolve upon the registered society, without any formal transfer or cession.

(2) All moneys and assets belonging to a friendly society shall be kept by that society and every society shall maintain such books of account and other records as may be necessary for the purposes of such society.

8. (1) Within twelve months after the registration under this Act of a friendly society the business whereof is or has been carried on by any undertaking as part of or in conjunction with any other business in which the undertaking is or has been engaged, the person having control of the business of that undertaking shall submit to the registrar proposals as to the apportionment of the assets, rights, liabilities and obligations of that undertaking between the society and such other business.

Allocation of assets and liabilities between friendly society and other associated business.

(2) If the proposals mentioned in sub-section (1) are not received within the period specified in that sub-section the registrar shall prepare proposals for the apportionment of the assets, rights, liabilities and obligations of that undertaking between the society and such business in such a manner as he may with due regard to all the circumstances consider equitable.

(3) The registrar may for the purpose of making any proposals under sub-section (2), require any person having control of the undertaking in question, to lodge with him, within such period as he may specify, any information relating to the business or any part of the business which is or has been carried on by that undertaking, including the business of such friendly society, together with such reports by a valuator or (at the discretion of the registrar) by the auditor of that undertaking, as the registrar may direct.

(4) As soon as practicable after having received any proposals under sub-section (1) or after having prepared any proposals as provided in sub-section (2), the registrar shall transmit a copy thereof to the principal officer of the society and publish at the expense of the society in the *Gazette* and in at least one English and one Afrikaans newspaper circulating in the district in which the head office of the undertaking is situate, a notice—

- (a) indicating that such apportionment is contemplated;
- (b) stating the place or places where copies of the proposals in question will be available for inspection by interested persons for a period of thirty days from a date specified in the notice; and
- (c) calling upon interested persons to submit to the registrar whatever representations they may deem necessary within the said period of thirty days.

Effect of registration of friendly society.

(5) By verstryking van die tydperk in paragraaf (c) van sub-artikel (4) genoem, moet die registrateur daartoe oorgaan om enige skriftelike vertoë ingevolge die betrokke kennisgewing by hom ingedien, en enige mondelinge vertoë wat iemand deur wie sodanige skriftelike vertoë ingedien is, of die persoon wat die besigheid van die onderneming beheer, aan hom wil voorlê, te oorweeg, en daarna moet hy die betrokke voorstelle soos opgestel of met die wysigings wat hy nodig ag, goedkeur.

(6) 'n Beslissing van die registrateur kragtens sub-artikel (5) is bindend vir alle persone wat daardeur geraak word.

### HOOFSTUK III.

#### BESTUUR EN BEVOEGDHEDDE VAN GERECHTIGE VERENIGINGS.

Geregistreerde kantoor.

9. (1) Elke geregistreerde vereniging moet 'n geregistreerde kantoor in die Unie hê.

(2) Die diening van prosesstukke in 'n regsgeding teen so 'n vereniging kan geskied deur hulle op die geregistreerde kantoor te laat, en ingeval so 'n geregistreerde kantoor opgehou het om te bestaan, word diening op die registrateur geag diening op die vereniging te wees.

Hoofbeampte.

10. (1) Elke geregistreerde vereniging moet 'n uitvoerende hoofbeampte hê.

(2) Die in sub-artikel (1) bedoelde beampte moet 'n individu wees wat in die Unie woonagtig is, en indien hy uit die Unie afwesig is of om een of ander rede nie in staat is om 'n plig wat hom deur 'n bepaling van hierdie Wet opgelê word, uit te voer nie, moet die vereniging op die wyse deur sy statute bepaal binne dertig dae 'n ander beampte aanstel om sy hoofbeampte te wees.

(3) Binne dertig dae na die registrasie van 'n vereniging kragtens hierdie Wet, moet die persoon wat die besigheid van die vereniging bestuur die registrateur van die naam van die hoofbeampte van die vereniging in kennis stel.

(4) Wanneer 'n geregistreerde vereniging 'n nuwe hoofbeampte aangestel het, moet die persoon wat die besigheid van die vereniging bestuur binne dertig dae vanaf so 'n aanstelling die registrateur skriftelik daarvan in kennis stel.

Aanstelling, bevoegdhede en pligte van ouditeur.

11. (1) Behalwe waar die rekenings van 'n vereniging ingevolge een of ander wetsbepaling deur die Kontroleur en Ouditeur-generaal geouditeer moet word, moet elke geregistreerde vereniging 'n ouditeur wat kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951, geregistreer is en wat nie 'n beampte van die vereniging mag wees nie, aanstel soos voorgeskryf in sy statute: Met dien verstande dat as 'n aldus geregistreerde ouditeur nie geredelik beskikbaar is nie die registrateur op versoek van die vereniging die aanstelling van 'n persoon deur die vereniging genomineer om as ouditeur van die vereniging op te tree, kan goedkeur, of, indien die registrateur nie oortuig is dat die genomineerde persoon geskik is om as ouditeur van die vereniging op te tree nie, kan hy enige ander persoon wat hy geskik ag, as ouditeur aanstel.

(2) By die waarmerking van 'n opgawe van laste ooreenkomsdig artikel vier-en-twintig opgemaak, word die ouditeur nie geag vir die juistheid van die bedrae waarteen die laste ooreenkomsdig artikel drie-en-twintig deur die waardeerde gewaardeer is, in te staan nie.

Besigheid wat gedryf kan word.

12. 'n Geregistreerde vereniging mag geen ander besigheid dryf nie as besigheid verbonde aan die oogmerke waarmee 'n onderlinge hulpvereniging opgerig kan word, soos in artikel twee uiteengesit: Met dien verstande dat die registrateur kan goedkeur dat 'n vereniging sodanige ander besigheid op sodanige voorwaardes en vir sodanige tydperk as wat hy mag bepaal, dryf indien die registrateur tevrede is dat dit nodig is ten einde 'n belegging van die vereniging te beskerm.

Sake wat in die statute opgeneem moet wees.

13. (1) Die statute van 'n onderlinge hulpvereniging moet in een van die offisiële tale van die Unie wees en moet voorseenig ten opsigte van onderstaande aangeleenthede bevat, te wete—

- (a) die naam van die vereniging en waar sy geregistreerde kantoor geleë is;
- (b) die oogmerke van die vereniging;
- (c) die wyse waarop fondse verkry en ingesamel moet word en die doeleindes waarvoor hulle aangewend gaan word;
- (d) die verskillende soorte (as daar is) van lede en die vereistes vir toelating tot lidmaatskap en die omstandighede waaronder lidmaatskap beëindig word;

(5) Upon the expiration of the period mentioned in paragraph (c) of sub-section (4), the registrar shall proceed to consider any written representations lodged with him in pursuance of the relevant notice and any oral representations which any person who lodged such written representations or the person having control of the business of the undertaking may desire to submit to him, and shall thereafter approve of the proposals in question as drafted or with such modifications as he may deem necessary.

(6) A decision made by the registrar under sub-section (5) shall be binding upon all persons affected thereby.

### CHAPTER III.

#### ADMINISTRATION AND POWERS OF REGISTERED SOCIETIES.

**9.** (1) Every registered society shall have a registered office Registered office.

(2) Process in any legal proceedings against any such society may be served by leaving it at the registered office, and in the event of such registered office having ceased to exist, service upon the registrar shall be deemed to be service upon the society.

**10.** (1) Every registered society shall have a principal executive officer Principal officer.

(2) The officer referred to in sub-section (1) shall be an individual who is resident in the Union, and if he is absent from the Union or unable for any reason to discharge any duty imposed upon him by any provision of this Act, the society shall, in the manner directed by its rules, appoint another officer within thirty days to be its principal officer.

(3) Within thirty days of the registration of a society under this Act, the person managing the business of the society shall notify the registrar of the name of the principal officer of the society.

(4) Whenever a registered society has appointed a new principal officer, the person managing the business of the society shall within thirty days as from such appointment give notice thereof in writing to the registrar.

**11.** (1) Except where the accounts of a society are to be audited by the Controller and Auditor-General under the provisions of one or other law, every registered society shall in the manner prescribed by its rules appoint an auditor registered under the Public Accountants' and Auditors' Act, 1951, who shall not be an officer of the society: Provided that if an auditor so registered is not readily available the registrar may at the request of the society approve of the appointment of a person nominated by the society, to act as auditor of the society, or if the registrar is not satisfied that the nominated person is suitable to act as auditor of the society, he may appoint as auditor any other person whom he considers suitable.

(2) In certifying a statement of liabilities prepared in terms of section *twenty-four* the auditor shall not be deemed to vouch for the correctness of the amounts at which the liabilities were assessed by the valuator in terms of section *twenty-three*.

**12.** No registered society shall carry on any business other than the business connected with the objects for which a friendly society may be established as set out in section *two*: Provided that the registrar may approve of a society carrying on such other business on such conditions and for such period as he may determine if the registrar is satisfied that this is necessary in order to safeguard an investment made by the society.

**13.** The rules of a friendly society shall be in one of the official languages of the Union and shall contain provision in regard to the following matters, that is to say—

- (a) the name of the society and the situation of its registered office;
- (b) the objects of the society;
- (c) the manner in which funds are to be raised and collected and the purposes for which they are to be applied;
- (d) the various classes (if any) of members and the requirements for admission to membership and the circumstances under which membership is to cease;

- (e) die voorwaardes waarop 'n lid of ander persoon op 'n voordeel geregtig word en die aard en omvang van so 'n voordeel;
- (f) die boetes en verbeurings (as daar is) wat lede opgelê kan word, en die gevolge van nie-betaling van 'n bydrae of boete;
- (g) die aanstelling, ontslag, bevoegdhede en besoldiging (as daar is) van beampies van die vereniging;
- (h) die bevoegdhede ten opsigte van die belegging van fondse;
- (i) of enige deel van die besigheid van die vereniging aan aktuariële ondersoek onderworpe is al dan nie, en indien wel, watter soorte besigheid aldus onderworpe is;
- (j) die hou van rekenings aangaande die soorte besigheid wat aan aktuariële ondersoek onderworpe is, afsonderlik van rekenings aangaande enige ander besigheid;
- (k) of 'n afsonderlike rekening ten opsigte van enige besondere soort besigheid gehou moet word al dan nie, behalwe soos deur voorgaande paragraaf vereis en, indien wel, ten opsigte van watter soorte van besigheid;
- (l) indien die vereniging geregtig is om bydraes tot die bestuurkoste van sy lede te ontvang, en indien sulke bydraes onder 'n afsonderlike tabel betaalbaar is, die hou van 'n afsonderlike rekening ten opsigte van bedoelde onkoste en bydraes;
- (m) indien afsonderlike rekenings ten opsigte van enige besondere soort besigheid, of ten opsigte van bestuurkoste en bydraes tot sodanige koste, gehou word, die omstandighede waaronder en die voorwaardes waarop bedrae van een sodanige rekening na 'n ander oor gedra kan word;
- (n) die wyse waarop winste en verliese vasgestel en sodanige winste aangewend of vir sodanige verliese voorsiening gemaak word;
- (o) die wyse waarop kontrakte en ander stukke wat die vereniging bind, verly moet word;
- (p) die bewaring van die sekuriteite, boeke, stukke en ander besittings van die vereniging;
- (q) die wyse waarop die statute gewysig of herroep of addisionele statute gemaak word;
- (r) die wyse waarop 'n geskil tussen 'n lid of vorige lid, of iemand wat sy aanspraak deur 'n lid of vorige lid verkry, en die vereniging of 'n beampie van die vereniging besleg moet word;
- (s) in die geval van 'n vereniging met aandelekapitaal, die bedrag van sodanige aandelekapitaal en die verdeling daarvan in aandele van 'n bepaalde bedrag, of die aanspreeklikheid van 'n aandeelhouer vir die skulde van die vereniging beperk of onbeperk is, die voorwaardes betreffende deelneming in die winste van die vereniging deur die aandeelhouders, onderworpe aan die voorwaarde dat sodanige deelneming nie in enige jaar 'n bedrag gelyk aan vyf persent van die opbetaalde aandelekapitaal moet oorskry nie, die voorwaardes van aflossing of terugbetaling van aandele, die voorwaardes insake vorderings op aandele, die wyse van oordrag en oorgang van aandele, die wyse van verbeurdverklaring van aandele, en die wyse van verandering van aandelekapitaal;
- (t) die aanstelling van die ouditeur van die vereniging en die duur van so'n aanstelling;
- (u) behoudens die bepalings van hierdie Wet, die wyse waarop en die omstandighede waaronder die vereniging beëindig of ontbind moet word;
- (v) die aanstelling van 'n likwidateur in die geval van 'n vrywillige ontbinding;
- (w) die wyse waarop die jaarlikse algemene vergadering en buitengewone algemene vergaderings van lede belê word, die kworum nodig vir die verrigting van sake by sodanige vergaderings, en die manier waarop by sodanige vergaderings gestem word;
- (x) sodanige ander aangeleenthede as wat die registrator mag goedkeur.

Wysiging van  
statute.

14. (1) 'n Geregistreerde vereniging kan op die deur sy statute voorgeskrewe wyse 'n statuut verander of herroep, of 'n addisionele statuut maak, maar so 'n verandering, herroeping of byvoeging is nie geldig nie—

- (a) indien dit 'n reg van 'n skuldeiser van die vereniging behalwe in sy hoedanigheid as lid of aandeelhouer daarvan heet aan te tas; of

- (e) the conditions under which any member or other person may become entitled to any benefit and the nature and extent of any such benefit;
- (f) the fines and forfeitures (if any) to be imposed on any member and the consequences of non-payment of any contribution or fine;
- (g) the appointment, removal from office, powers and remuneration (if any) of officers of the society;
- (h) the powers of investment of funds;
- (i) whether or not any part of the business of the society is subject to actuarial scrutiny, and, if so, which kinds of business are so subject;
- (j) the maintenance of accounts relating to such kinds of business as are subject to actuarial scrutiny separately from accounts relating to any other business;
- (k) whether or not a separate account is to be kept in respect of any particular kind of business other than as required in terms of the preceding paragraph, and, if so, in respect of which kinds;
- (l) if the society is entitled to receive contributions from its members towards the expenses of management, and if such contributions are payable under a separate table, the maintenance of a separate account of such expenses and contributions;
- (m) if separate accounts are kept in respect of any particular kind of business, or in respect of expenses of management and contributions towards such expenses, the circumstances in which and conditions upon which amounts may be transferred from one such account to another;
- (n) the manner of determining profits and losses and of disposing of such profits or providing for such losses;
- (o) the manner in which contracts and other documents binding the society shall be executed;
- (p) the custody of the securities, books, papers and other effects of the society;
- (q) the manner of altering and rescinding any rules, and of making any additional rule;
- (r) the manner of deciding disputes between a member or former member or any person whose claim is derived from a member or former member and the society or any officer of the society;
- (s) in the case of a society with share capital, the amount of such share capital and the division thereof into shares of a fixed amount, whether the liability of a shareholder for the debts of the society is limited or unlimited, the conditions relating to participation in the profits of the society by the shareholders (subject to the condition that such participation shall not in any one year exceed an amount equal to five per cent of the paid-up share capital), the conditions of redemption or repayment of shares, the conditions relating to calls on shares, the manner of transfer and transmission of shares, the manner of forfeiture of shares, and the manner of alteration of share capital;
- (t) the appointment of the auditor of the society and the duration of such appointment;
- (u) subject to the provisions of this Act, the manner in which and the circumstances under which a society shall be terminated or dissolved;
- (v) the appointment of a liquidator in the case of a voluntary dissolution;
- (w) the manner of calling the annual general meeting and special general meetings of members, the quorum necessary for the transaction of business at such meetings and the manner of voting thereat;
- (x) such other matters as the registrar may approve.

**14.** (1) A registered society may, in the manner directed by Amendment of its rules, alter or rescind any rule or make any additional rule, rules.  
but no such alteration, rescission or addition shall be valid—

- (a) if it purports to affect any right of a creditor of the society, other than as a member or shareholder thereof; or

(b) tensy dit deur die registrateur goedgekeur en volgens voorskrif van sub-artikel (4) geregistreer is.

(2) Binne een maand vanaf die datum waarop 'n besluit geneem is vir die verandering of herroeping van 'n statuut of vir die aanname van 'n addisionele statuut, moet deur die hoofbeampte 'n afskrif van die besluit aan die registrateur gestuur word, tesame met 'n sertificaat onderteken deur die persoon wat die besigheid van die vereniging bestuur ten effekte dat die besluit ooreenkomsdig die bepalings van die vereniging se statute aangeneem is.

(3) Indien so 'n verandering, herroeping of byvoeging die geldelike toestand van die vereniging raak, moet die hoofbeampte ook 'n sertificaat deur 'n waardeerdeer aangaande die gesondheid daarvan uit 'n geldelike oogpunt aan die registrateur stuur, of, indien geen waardeerdeer aangestel is nie, sodanige inligting aangaande die gesondheid daarvan uit 'n geldelike oogpunt as wat die vereniging tot sy beskikking het.

(4) Indien die registrateur bevind dat so 'n verandering, herroeping of byvoeging nie met hierdie Wet onbestaanbaar is nie, en oortuig is dat—

(a) dit op geldelik gesonde beginsels berus;

(b) die wyse waarop die sake van die vereniging verrig word soos daarin bepaal of daardeur teweeggebring, nie onwenslik is nie; en

(c) dit met inagneming van al die omstandighede nie buiten-sporige onbillikheid of onregverdigheid tussen verskillende lede of groepe lede sal bewerkstellig nie, moet hy die verandering, herroeping of byvoeging registreer en 'n afskrif van die besluit aan die hoofbeampte terugstuur met die datum van registrasie daarop geëndosseer, en so 'n verandering, herroeping of byvoeging, na gelang van die geval, word van krag vanaf die datum deur die betrokke vereniging bepaal of, indien geen datum aldus bepaal is nie, vanaf bedoelde datum van registrasie.

(5) 'n Geregistreerde vereniging kan te eniger tyd sy statute konsolideer, en in so 'n geval moet die hoofbeampte aan die registrateur 'n afskrif van sodanige gekonsolideerde statute stuur, en indien die registrateur oortuig is dat die gekonsolideerde statute nie wesentlik van die bestaande statute van die vereniging verskil nie, moet hy bedoelde gekonsolideerde statute registreer en 'n afskrif daarvan aan die hoofbeampte stuur met die datum van registrasie daarop geëndosseer, en bedoelde gekonsolideerde statute word daarop vanaf die datum van registrasie daarvan van krag.

**Bindende krag van statute.**

**15.** Behoudens die bepalings van hierdie Wet, bind die statute van 'n geregistreerde vereniging die vereniging en die lede, aandeelhouers en beamptes daarvan, en enige persoon wat 'n vordering kragtens die statute instel of wat sy vordering van 'n persoon wat aldus vorder, verkry het.

**Lidmaatskap van minderjariges.**

**16.** Indien die statute van 'n geregistreerde vereniging aldus bepaal, kan 'n minderjarige 'n lid wees, en so 'n lid kan as hy die leeftyd van sestien jaar bereik het, sonder bystand, of as hy daardie leeftyd nie bereik het nie, bygestaan deur sy ouer of voog, alle nodige stukke verly en alle nodige ontvangsbewyse gee, maar hy kan nie die sake van so 'n vereniging bestuur of hoofbeampte daarvan wees nie.

**Lidmaatskap van getroude vroue.**

**17.** 'n Getroude vrou, hetsy onder maritale mag al dan nie, kan sonder toestemming van haar eggenoot 'n lid van 'n vereniging wees, en kan sonder bystand alle nodige stukke verly en alle nodige ontvangsbewyse gee, en 'n voordeel aan haar verleen, is, tussen eggenoot en eggeneote, haar eie afsonderlike eindom, en nie aan sy beheer onderworpe nie, en, tensy die statute andersins bepaal, is sy ook bevoeg om 'n beampte van 'n vereniging te wees.

**Betaling van voordele aan benoemdes.**

**18.** (1) Indien die statute van 'n vereniging aldus bepaal, en onderworpe aan enige voorwaardes of beperkings wat in bedoelde statute vermeld mag word, kan 'n lid of vorige lid van 'n vereniging by wyse van 'n deur hom ondertekende stuk, wat by die geregistreerde kantoor van die vereniging afgelewer of daarheen gestuur word, enigiemand benoem aan wie geld betaalbaar deur die vereniging by die dood van so 'n lid of vorige lid by sy oorlye betaal moet word, en kan hy van tyd tot tyd so 'n benoeming herroep of verander deur middel van 'n deur hom ondertekende stuk wat op dieselfde wyse afgelewer of gestuur word.

(2) By bewys van die dood van 'n in sub-artikel (1) bedoelde lid of vorige lid, moet die betrokke vereniging aan die persoon

- (b) unless it has been approved by the registrar and registered as provided in sub-section (4).
- (2) Within one month from the date of the passing of a resolution for the alteration or rescission of any rule or for the adoption of any additional rule, a copy of such resolution shall be transmitted by the principal officer to the registrar, together with a certificate signed by the person managing the business of the society to the effect that such resolution has been adopted in accordance with the provisions of the rules of the society.

(3) If any such alteration, rescission or addition affects the financial condition of the society, the principal officer shall also transmit to the registrar a certificate by a valuator as to its financial soundness or, if no valuator has been employed, such information regarding its financial soundness as the society may possess.

(4) If the registrar finds that any such alteration, rescission or addition is not inconsistent with this Act, and is satisfied that—

- (a) it is based on financially sound principles;
- (b) the methods of transacting the business of the society as laid down therein or brought about thereby are not undesirable; and
- (c) it will not, having regard to all the circumstances, bring about undue inequity between different members or groups of members,

he shall register the alteration, rescission or addition and return a copy of the resolution to the principal officer with the date of registration endorsed thereon, and such alteration, rescission or addition, as the case may be, shall take effect as from the date determined by the society concerned or, if no date has been so determined, as from the said date of registration.

(5) A registered society may at any time consolidate its rules, and in such event the principal officer shall forward to the registrar a copy of such consolidated rules and if the registrar is satisfied that the consolidated rules are not substantially different from the existing rules of the society, he shall register such consolidated rules and return a copy thereof to the principal officer with the date of registration endorsed thereon, and such consolidated rules shall thereupon take effect from the date of registration thereof.

**15.** Subject to the provisions of this Act, the rules of a registered society shall be binding on the society and the members, shareholders and officers thereof, and on any person who claims under the rules, or whose claim is derived from a person so claiming.

**16.** If the rules of a registered society so provide, a minor may be a member, and any such member may, by himself if he has attained the age of sixteen years, or by his parent or guardian if he is under that age, execute all necessary documents and give all necessary acquittances, but he shall not manage the affairs or be the principal officer of such society.

**17.** A married woman, whether under marital power or not, may without her husband's consent be a member of a society, and may without assistance execute all necessary documents and give all necessary acquittances, and any benefit granted to her shall, as between the husband and the wife, be her sole and separate property free from his control, and she shall furthermore, unless otherwise provided by the rules, be qualified to be an officer of a society.

**18.** (1) If the rules of a society so provide, and subject to any conditions or limitations that may be specified in the said rules, a member or former member of a society may, by writing under his hand delivered at or sent to the registered office of the society, nominate any person to whom any money payable by the society on the death of such member or former member shall be paid at his decease, and may from time to time revoke or vary any such nomination by writing under his hand similarly delivered or sent.

(2) On proof of the death of a member or former member referred to in sub-section (1), the society concerned shall pay

deur die oorledene benoem die bedrag betaal wat kragtens bedoelde benoeming aan die benoemde verskuldig en betaalbaar is.

**Beperking op betaling by dood van kinders benede leeftyd van veertien jaar.**

19. (1) Geen vereniging mag die lewe van 'n kind benede die leeftyd van veertien jaar verseker nie vir 'n som geld wat of alleen of tesame met enige bedrag volgens die wete van daardie vereniging by die dood van bedoelde kind betaalbaar deur enige ander vereniging of deur 'n versekeraar wat versekeringsbesigheid binne die bedoeling van die Versekeringswet dryf, meer bedra as—

- (a) tien pond, as die kind by sy dood onder drie jaar is; of
- (b) vyftien pond, as die kind by sy dood drie jaar oud of ouer, maar onder ses jaar is; of
- (c) twintig pond, as die kind by sy dood ses jaar oud of ouer, maar onder tien jaar is; of
- (d) dertig pond, as die kind by sy dood tien jaar oud of ouer, maar onder veertien jaar is.

(2) Waar 'n vereniging of 'n versekeraar die lewe van 'n kind verseker het vir 'n voordeel wat nie uit 'n som geld bestaan nie, word hy by die toepassing van hierdie artikel geag die lewe van daardie kind vir 'n som geld gelyk aan die waarde van bedoelde voordeel te verseker het.

(3) Die bepalings van hierdie artikel word nie so uitgelê nie dat dit 'n versekering belet wat voorsiening maak vir die betaling by die dood van 'n kind benede die leeftyd van veertien jaar van 'n bedrag wat in die geheel nie die som van al die bydraes op so 'n versekering betaal, plus rente op elke bydrae teen 'n koers van hoogstens vyf persent per jaar, jaarliks saamgestel, oorskry nie.

**Beleggings.**

20. (1) Behoudens die bepalings van hierdie artikel, kan 'n geregistreerde vereniging sy fondse op enige deur sy statute bepaalde wyse belê.

(2) Bates gelyk in waarde aan minstens veertig persent van die totale waarde van al die bates van 'n geregistreerde vereniging moet behoudens die bepalings van sub-artikel (6) in een of meer van die volgende klasse van bates in die Unie gehou word, te wete—

- (a) geld in kas in die Unie;
- (b) 'n batige saldo van die betrokke vereniging in 'n rekening by 'n kantoor in die Unie van 'n bankinstelling soos in die Bankwet, 1942 (Wet No. 38 van 1942), omskryf of by 'n bouvereniging geregistreer kragtens die Bouverenigingswet, 1934 (Wet No. 62 van 1934), of by die Nasionale Finansiekorporasie van Suid-Afrika ingestel kragtens die Wet op die Nasionale Finansiekorporasie, 1949 (Wet No. 33 van 1949);
- (c) wissels, skuldbriefe of effekte deur die Unie-regering uitgereik of gewaarborg;
- (d) wissels, skuldbriefe of effekte uitgereik of gewaarborg deur 'n plaaslike bestuur in die Unie wat regtens beyoeg is om belastings op onroerende goed te hef;
- (e) wissels, skuldbriefe of effekte uitgereik of gewaarborg deur die Randwaterraad of die Elektrisietekvoorsieningskommissie of deur 'n instelling wat volgens die registrator se oordeel geldelik gesond is en wat deur hom goedgekeur is.

(3) By die toepassing van sub-artikel (2) word onder die totale waarde van al die bates van 'n vereniging nie die waarde van enige versekeringspolisse uitgereik deur iemand wat wettiglik versekeringsbesigheid binne die bedoeling van die Versekeringswet dryf, ingerek nie.

(4) 'n Geregistreerde onderlinge hulpvereniging word nie geag 'n bate vir die doeleinde van sub-artikel (2) te hou nie indien sodanige bate enigsins beswaar is.

(5) 'n Geregistreerde onderlinge hulpvereniging kan, indien sy statute aldus bepaal—

- (a) aan enige liefdadigheids-, godsdiensstige, voorsorgs-, sport- of kulturele inrigting, of aan enige hospitaal, verpleeginrigting, siekehuis of tehuis vir bejaardes skenkings maak;
- (b) by wyse van belegging van sy fondse lenings verseker deur eerste verbande op onroerende eiendom aan enige van sy lede toestaan indien die verhipotekeerde eiendom eiendom is waarop 'n woonhuis opgerig is of gaan word: Met dien verstande dat sodanige lenings in geen geval vyf-en-sewentig persent van die markwaarde van die eiendom wat aangeskaf sal word, te bove mag gaan nie;
- (c) lenings aan enige van sy lede toestaan of *ex gratia* betalings ten behoeve van lede maak ten einde sodanige lede te help om verpligtings in verband met enige

to the nominee of the deceased the amount due and payable to the nominee in terms of the said nomination.

**19.** (1) No society shall insure the life of a child which is under the age of fourteen years for any sum of money which either alone or together with any amount which to the knowledge of the said society is payable on the death of that child by any other society or by any insurer carrying on insurance business within the meaning of the Insurance Act, exceeds—

- (a) ten pounds, if the child is under three years of age at death ; or
- (b) fifteen pounds, if the child is three years old or older but is under six years of age at death ; or
- (c) twenty pounds, if the child is six years old or older but is under ten years of age at death ; or
- (d) thirty pounds, if the child is ten years old or older but is under fourteen years of age at death.

(2) Where a society or an insurer has insured the life of a child for a benefit not consisting of a sum of money, it shall for the purposes of this section be deemed to have insured the life of that child for a sum of money equal to the value of such benefit.

(3) The provisions of this section shall not be construed so as to prohibit an insurance which provides for the payment, on the death of any child which is under the age of fourteen years, of a sum not exceeding in the aggregate all the contributions paid in respect of such insurance, plus interest on each contribution at a rate not exceeding five per cent. per annum, compounded yearly.

**20.** (1) Subject to the provisions of this section, a registered Investments. society may invest its funds in any manner provided by its rules.

(2) Assets equal in value to at least forty per cent. of the aggregate value of all the assets of a registered society shall, subject to the provisions of sub-section (6), be held in the Union in one or more of the following classes of assets, namely—

- (a) money in hand in the Union ;
- (b) any amount standing to the credit of the society concerned in an account with an office in the Union of a banking institution as defined in the Banking Act, 1942 (Act No. 38 of 1942), or with a building society registered under the Building Societies Act, 1934 (Act No. 62 of 1934), or with the National Finance Corporation of South Africa established under the National Finance Corporation Act, 1949 (Act No. 33 of 1949);
- (c) bills, bonds or securities issued or guaranteed by the Government of the Union ;
- (d) bills, bonds or securities issued or guaranteed by any local authority in the Union authorized by law to levy rates upon immovable property ;
- (e) bills, bonds or securities issued or guaranteed by the Rand Water Board or the Electricity Supply Commission or by any institution which is, in the opinion of the registrar, financially sound and which has been approved by him.

(3) For the purposes of sub-section (2) the aggregate value of the assets of a society shall not include the value of any policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act.

(4) A registered friendly society shall not be deemed to hold an asset for the purposes of sub-section (2) if such asset is in any way encumbered.

(5) A registered friendly society may, if its rules so provide—

- (a) make donations to any charitable, religious, provident, sporting or cultural institution or to any hospital, nursing home, infirmary or home for aged persons;
- (b) grant loans secured by first mortgages of immovable property, by way of investment of its funds, to any of its members if the mortgaged property is property on which a dwelling house has been or is to be erected: Provided that such loans shall in no case exceed seventy-five per cent. of the market value of the property to be acquired;
- (c) grant loans to any of its members or make *ex gratia* payments on behalf of members in order to assist such members to meet commitments in regard to

- aangeleentheid vermeld in paragraaf (c) van sub-artikel (1) van artikel *twoe* na te kom; en
- (d) tot 'n ander kragtens hierdie Wet geregistreerde onderlinge hulpvereniging of 'n fonds van watter aard ook al, wat ten voordele van die werknemers van bedoelde geregistreerde vereniging gedryf word, bydra, of versekeringspolisse op die lewens van werknemers van die bedoelde geregistreerde vereniging uitneem en daarvoor betaal tot voordeel van sodanige werknemers of hulle afhanklikes.

(6) Die Minister kan enige vereniging opgerig of gedryf deur 'n godsdienstige inrigting algeheel of gedeeltelik vrystel van voldoening aan die bepalings van sub-artikel (2), en kan onder buitengewone omstandighede, en op die voorwaardes en vir die tydperke wat hy mag bepaal, enige vereniging tydelik vrystel van voldoening aan daardie bepalings of aan enige bepaling van sub-artikel (5).

**Samesmeltings  
en oordragte.**

(1) Geen transaksie vir die samesmelting van 'n besigheid deur 'n geregistreerde vereniging gedryf met 'n besigheid deur 'n ander persoon gedryf (onverskillig of so 'n ander persoon 'n geregistreerde vereniging is al dan nie), of vir die oordrag van enige besigheid van 'n geregistreerde vereniging aan 'n ander persoon of vir die oordrag van enige besigheid van 'n ander persoon aan 'n geregistreerde vereniging, is van krag nie, tensy die samesmelting of oordrag ooreenkomsdig die bepalings van hierdie artikel uitgevoer word.

(2) Die geregistreerde vereniging moet by die registrateur 'n afskrif van die skema insake die voorgestelde transaksie (in hierdie artikel die skema genoem) indien, asook 'n afskrif van elke aktuariële of ander opgawe vir die doeleindes van die skema in aanmerking geneem, en aan die registrateur besonderhede verstrek van die stemming by enige vergadering van sy lede of aandeelhouers waar die skema oorweeg is, en sodanige addisionele inligting as wat hy mag verlang: Met dien verstande dat as twee of meer geregistreerde verenigings by die voorgestelde transaksie betrokke is, slegs een van daardie verenigings 'n afskrif van die skema soos voormeld moet verstrek.

(3) As een of ander party by die voorgestelde transaksie nie 'n geregistreerde vereniging is nie, maar versekeringsbesigheid binne die bedoeling van die Versekeringswet in die Unie dryf, dien die registrateur by die Registrateur van Versekeringswese die in sub-artikel (2) bedoelde afskrif van die skema besonderhede en inligting in, en is die bepalings van sub-artikels (5) tot en met (10) van hierdie artikel nie van toepassing nie, maar geld die bepalings van artikel *vyf-en-twintig* van die Versekeringswet asof die vereniging 'n kragtens die Versekeringswet geregistreerde versekeraar was en asof die lede van die vereniging die eienaars van deur die vereniging uitgereikte versekeringspolisse was.

(4) Indien een of ander party by die voorgestelde transaksie nie 'n geregistreerde vereniging is nie en nie versekeringsbesigheid binne die bedoeling van die Versekeringswet in die Unie dryf nie, kan die registrateur daardie party gelas om enige inligting waaraan daardie party beskik en wat die registrateur mag vermeld, aan hom te verstrek.

(5) Die registrateur kan na goeddunke eis dat enige van of al die volgende bepalings nagekom word, naamlik—

- (a) dat 'n verslag omrent die skema op koste van die partye deur 'n onafhanklike waardeerder of ander bevoegde persoon benoem deur die registrateur opgestel en aan die registrateur verstrek word wat 'n afskrif daarvan aan elkeen van die partye by die voorgestelde transaksie moet stuur;
- (b) dat elkeen van bedoelde partye 'n afskrif van die skema en van die in paragraaf (a) bedoelde verslag (as daar een is) aan elke lid, aandeelhouer en skuldeiser van daardie party, of slegs aan die lede, aandeelhouers en skuldeisers wat die registrateur mag aanwys, moet stuur;
- (c) dat die partye by die voorgestelde transaksie besonderhede daarvan in 'n deur die registrateur goedgekeurde vorm in die *Staatskoerant* en in 'n nuusblad of nuusblaale wat die registrateur mag aanwys, bekend maak.

(6) Afskrifte van die skema en van die in paragraaf (a) van sub-artikel (5) bedoelde verslag (as daar een is), moet beskikbaar gestel word vir insae deur lede, aandeelhouers of skuldeisers van enige party by die voorgestelde transaksie vir so 'n tydperk van minstens een-en-twintig dae as wat die registrateur mag vasstel—

- (a) op die geregistreerde kantoor van enige geregistreerde vereniging wat betrokke is; en

- any matter specified in paragraph (c) of sub-section (1) of section two; and
- (d) contribute to any other friendly society registered under this Act or any fund of any kind whatsoever which is conducted for the benefit of the employees of the said registered society or take out and pay for insurance policies on the lives of employees of the said registered society for the benefit of such employees or their dependants.
- (6) The Minister may exempt either wholly or in part any society established or conducted by a religious institution from compliance with the provisions of sub-section (2), and may under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any society from compliance with those provisions or with any provision of sub-section (5).

**21.** (1) No transaction involving the amalgamation of any business carried on by a registered society with any business carried on by any other person (irrespective of whether that other person is or is not a registered society) or the transfer of any business from a registered society to any other person or the transfer of any business from any other person to a registered society, shall be of any force or effect unless the amalgamation or transfer is carried out in accordance with the provisions of this section.

Amalgamations  
and transfers.

(2) The registered society shall deposit with the registrar a copy of the scheme for the proposed transaction (in this section referred to as the scheme), including a copy of every actuarial or other statement taken into account for the purposes of the scheme, and shall furnish the registrar with particulars of the voting at any meeting of its members or shareholders at which the scheme was considered and with such additional information as he may require: Provided that if two or more registered societies are concerned in the proposed transaction, only one such society need furnish a copy of the scheme as aforesaid.

(3) If any party to the proposed transaction is not a registered society, but carries on insurance business in the Union within the meaning of the Insurance Act, the registrar shall deposit with the Registrar of Insurance the copy of the scheme, particulars and information referred to in sub-section (2), and the provisions of sub-sections (5) to (10), inclusive, of this section shall not apply, but the provisions of section twenty-five of the Insurance Act shall apply as if the society were an insurer registered under the Insurance Act, and as if the members of the society were the owners of policies of insurance issued by the society.

(4) If any party to the proposed transaction is not a registered society and does not carry on insurance business in the Union within the meaning of the Insurance Act, the registrar may require that party to furnish him with any information which is in possession of that party and which the registrar may specify.

(5) The registrar may, in his discretion, require any or all of the following provisions to be fulfilled, namely—

- (a) a report on the scheme to be drawn up by an independent valuator or other competent person nominated by the registrar at the expense of those parties and furnished to the registrar who shall send a copy thereof to each of the parties to the proposed transaction;
- (b) each of the said parties to send a copy of the scheme and of the report (if any) referred to in paragraph (a) to every member, shareholder and creditor of that party, or to such only of those members, shareholders and creditors as the registrar may direct;
- (c) the parties to the proposed transaction to publish particulars thereof, in a form approved by the registrar, in the *Gazette* and in such newspaper or newspapers as the registrar may direct.

(6) Copies of the scheme and of the report (if any) referred to in paragraph (a) of sub-section (5) shall, for such period of not less than twenty-one days as the registrar may specify, be made available for the inspection of any member, shareholder or creditor of any party to the proposed transaction—

- (a) at the registered office of any registered society concerned; and

(b) op die geregistreerde kantoor of ander hoofbesigheidsplek in die Unie van enige ander party.

(7) Wanneer die vereistes van sub-artikel (6) nagekom is, moet die registrateur die skema oorweeg, en daarna kan hy—

(a) die skema bekragtig; of

(b) voorstel dat die partye by die voorgestelde transaksie die skema in sekere opsigte wysig, en indien hulle die skema aldus wysig, kan hy die aldus gewysigde skema bekragtig; of

(c) weier om die skema te bekragtig.

(8) Indien die registrateur geweiер het om die skema te bekragtig, kan die partye by die voorgestelde transaksie na minstens veertien dae kennisgewing aan die registrateur by die hof om bekragtiging van die skema aansoek doen.

(9) Die registrateur is geregtig om by so 'n aansoek persoonlik of by monde van 'n verteenwoordiger aangehoor te word, en die hof kan die skema bekragtig soos aan hom voorgelê of met die wysigings wat die hof mag goedvind of bekragtiging van die skema weier.

(10) 'n Skema wat deur die registrateur of die hof ooreenkomsdig hierdie artikel bekragtig is, bind alle betrokke persone, en geld ondanks andersluidende bepalings vervat in die statute van enige betrokke geregistreerde vereniging of in die akte van oprigting of ander dokument waarkragtens enige ander party by die transaksie opgerig is of in die statute of ander reglemente van so 'n party.

(11) Wanneer die skema deur die registrateur of die hof bekragtig is, moet die persoon wat die saamgesmelte besigheid beheer of die persoon aan wie 'n besigheid ooreenkomsdig die transaksie oorgedra is, na gelang van die geval, binne veertien dae na sodanige bekragtiging by die registrateur—

(a) 'n verklaring indien, wat behoorlik ooreenkomsdig die bepalings van artikel ses-en-twintig namens elkeen van die partye by die transaksie onderteken is, dat na hulle beste wete elke betaling wat in verband met die samesmelting of oordrag gemaak is of moet word of ander teenprestasie wat in verband daar mee gegee is of moet word aan enige persoon hoegenaamd, volledig in die skema uiteengesit is; en

(b) indien die skema deur die hof bekragtig is, 'n gesertifiseerde afskrif indien van die skema soos bekragtig, en die bevel van die hof wat die skema bekragtig.

(12) Wanneer 'n skema ooreenkomsdig die bepalings van hierdie artikel bekragtig word, berus die betrokke bates van die partye by die samesmelting by, en gaan hul betrokke laste oor op die saamgesmelte liggaaam of, na gelang van die geval, berus die betrokke bates van die party wat die oordrag doen by en gaan sy betrokke laste oor op die party aan wie die oordrag geskied.

(13) Die amptenaar belas met die beheer oor 'n registrasiekantoor van aktes waarin 'n verbandakte of onroerende goed geregistreer is, wat ooreenkomsdig die bepalings van sub-artikel (12) oorgedra word, moet by vertoning aan hom deur die betrokke persoon van bedoelde verband of van die titelbewyse van daardie onroerende goed en van 'n sertifikaat deur die registrateur dat die skema insake samesmelting of oordrag, na gelang van die geval, bekragtig is, sonder betaling van hereg of seëlbelastings of registrasiegeldel of koste, die aantekening op daardie verband of titelbewyse en die veranderings in sy registers maak, wat as gevolg van so 'n samesmelting of oordrag nodig geword het.

(14) 'n Transaksie ooreenkomsdig hierdie artikel teweeggebring, ontnem nie 'n skuldeiser van 'n party daarby (behalwe in sy hoedanigheid van 'n lid of 'n aandeelhouer van so 'n party) enige aanspraak of regsmiddel wat hy onmiddellik voor daardie datum teen een of ander party by die transaksie of teen 'n lid of aandeelhouer of beampie van so 'n party gehad het nie.

#### HOOFTUK IV.

##### DOKUMENTE WAT BY DIE REGISTRATEUR INGEDIEN MOET WORD.

###### Rekenings.

22. (1) Elke geregistreerde vereniging moet, binne ses maande na afloop van elke boekjaar, by die registrateur indien—

(a) 'n inkomsterekening wat die inkomste en uitgawes vir daardie jaar aantoon, met inbegrip van die bestuurskoste van die vereniging en enige bydraes tot bedoelde koste: Met dien verstande dat indien volgens die statute van die vereniging 'n afsonderlike rekening vir 'n besondere soort besigheid of ten opsigte van vermelde koste en bydraes gehou moet word, voormalde:

(b) at the registered office or other principal place of business in the Union of any other party.

(7) When the requirements of sub-section (6) have been complied with, the registrar shall consider the scheme, and thereafter he may—

(a) confirm the scheme; or

(b) suggest that the parties to the proposed transaction modify the scheme in certain respects, and if they so modify the scheme he may confirm the scheme as modified; or

(c) decline to confirm the scheme.

(8) If the registrar has declined to confirm the scheme, the parties to the proposed transaction may after not less than fourteen days' notice to the registrar, apply to the court for confirmation of the scheme.

(9) The registrar shall be entitled to be heard personally or by a representative at any such application, and the court may confirm the scheme as submitted to it or with such modifications as the court may think fit or decline to confirm the scheme.

(10) A scheme confirmed by the registrar or the court in accordance with this section shall be binding on all persons concerned, and shall have effect notwithstanding any conflicting provision contained in the rules of any registered society concerned or in the memorandum or other document under which any other party to the transaction is constituted, or in the articles of association or other rules of such party.

(11) When the scheme has been confirmed by the registrar or the court, the person controlling the amalgamated business or the person to whom any business has been transferred in terms of the transaction, as the case may be, shall within fourteen days after such confirmation deposit with the registrar—

(a) a declaration, duly signed in accordance with the provisions of section twenty-six, on behalf of each of the parties to the transaction, that to the best of their belief every payment made or to be made or other valuable consideration given or to be given to any person whatsoever on account of the amalgamation or transfer is fully set forth in the scheme; and

(b) if the scheme has been confirmed by the court, a certified copy of the scheme as confirmed and the order of court confirming the scheme.

(12) Whenever a scheme is confirmed in accordance with the provisions of this section, the relevant assets and liabilities of the parties to the amalgamation shall vest in and become binding upon the amalgamated body or, as the case may be, the relevant assets and liabilities of the party effecting the transfer shall vest in and become binding upon the party to which transfer is effected.

(13) The officer in charge of a deeds registry in which is registered any mortgage bond or any immovable property, which is transferred in accordance with the provisions of sub-section (12), shall upon production to him by the person concerned of such bond or of the title deeds of such immovable property, and of a certificate by the registrar of the confirmation of the scheme of amalgamation or of transfer, as the case may be, make such endorsements upon such bond or title deeds and such alterations in his registers as are rendered necessary by reason of such amalgamation or transfer, without payment of transfer or stamp duty or registration fees or charges.

(14) A transaction effected in terms of this section shall not deprive any creditor of a party thereto (other than in his capacity as a member or a shareholder of such party) of any right or remedy which he had immediately prior to that date against any party to the transaction or against any member or shareholder or officer of such party.

#### CHAPTER IV.

##### DOCUMENTS TO BE DEPOSITED WITH REGISTRAR.

22. (1) Every registered society shall, within six months as Accounts from the expiration of every financial year, furnish to the registrar—

(a) a revenue account showing the revenue and expenditure for that year including the expenses of management of the society and any contributions towards such expenses: Provided that, if the rules of the society require a separate account to be maintained for a particular kind of business or in respect of the said expenses and

inkomsterekening in afdelings ingedeel moet word op so 'n wyse dat die transaksies van die vereniging ten opsigte van daardie besondere soort besigheid, of, na gelang van die geval, ten opsigte van vermelde koste en bydraes, afsonderlik aangetoon word; en

(b) 'n balansstaat wat die finansiële posisie van die vereniging by verstrykking van daardie jaar aantoon.

(2) Elke geregistreerde vereniging moet, wanneer die in sub-artikel (1) bedoelde dokumente aan die registrator verstrek word, ook aan die registrator verstrek—

(a) 'n afskrif van enige spesiale verslag deur die ouditeur aangaande die bedrywigheid van die vereniging gedurende die boekjaar waarop bedoelde dokumente betrekking het;

(b) 'n afskrif van enige jaarverslag wat die vereniging ten opsigte van bedoelde boekjaar aan sy lede of aandeelhouers mag uitgereik het; en

(c) 'n afskrif van enige ander opgawe wat die vereniging ten opsigte van enige van sy bedrywighede gedurende sodanige boekjaar voor sy lede of aandeelhouers mag gelê het.

Waardasies deur 'n waardeerdeerder ten opsigte van besigheid onderworpe aan aktuariële ondersoek.

23. (1) Elke geregistreerde vereniging wat enige soort besigheid dryf wat kragtens sy statute aan aktuariële ondersoek onderworpe is, moet minstens eenmaal elke vyf jaar 'n waardasie van die laste van die vereniging ten opsigte van daardie soort besigheid, vir sover daardie laste aktuarieel waardeer kan word, deur 'n waardeerdeerder laat maak, en 'n behoorlik deur die waardeerdeerde gewaarmerkte afskrif van die waardasie by die registrator indien.

(2) So 'n waardasie word gemaak ten opsigte van die toestand van sake by die beëindiging van 'n boekjaar en 'n afskrif daarvan moet binne twaalf maande na afloop van daardie jaar by die registrator ingedien word.

(3) In die geval van 'n vereniging wat by die inwerkingtreding van hierdie Wet onderlinge hulpverenigingsbesigheid gedryf het en wat die bepalings van sub-artikel (1) van artikel vyf nagekom het, word die eerste waardasie gedoen ten opsigte van die toestand van sake by die beëindiging van die boekjaar wat na die datum van inwerkingtreding van hierdie Wet begin het: Met dien verstande dat—

(a) in besondere omstandighede die vereniging met verlof van die registrator so 'n eerste waardasie vir so 'n tydperk van hoogstens drie jaar as wat die registrator mag bepaal, kan uitstel; en

(b) indien die vereniging ooreenkomsdig paragraaf (b) van sub-artikel (2) van artikel vyf 'n opgawe wat die uitslag van 'n waardasie van die laste en bates van die vereniging aantoon, verstrek het, die registrator kan gelas dat die eerste waardasie ingevolge hierdie artikel gemaak moet word ten opsigte van die toestand van sake op 'n datum na die beëindiging van bedoelde boekjaar, maar nie meer as vyf jaar na die datum waarop bedoelde opgawe betrekking het nie.

(4) In die geval van 'n ander vereniging as 'n in sub-artikel (3) bedoelde vereniging, word die eerste waardasie gedoen ten opsigte van die toestand van sake by beëindiging van die vyfde boekjaar wat verstryk het na die datum van registrasie, of by die beëindiging van so 'n vorige boekjaar as wat die vereniging mag kies.

(5) Ondanks enigiets in voorgaande sub-artikels vervat, kan die registrator, na minstens een maand se skriftelike kennisgewing aan 'n geregistreerde vereniging, met toestemming van die Minister daardie vereniging gelas om so 'n waardasie ten opsigte van die toestand van sake by die einde van enige boekjaar te laat maak, indien die registrator van oordeel is dat 'n waardasie sou aantoon dat enige soort besigheid van die vereniging nie in 'n gesonde finansiële toestand is nie.

(6) 'n Waardasie ooreenkomsdig een of ander van voorafgaande sub-artikels deur 'n waardeerdeerder gemaak, moet besonderhede, afsonderlik uiteengesit ten opsigte van elke soort besigheid waarvoor 'n afsonderlike rekening deur die statute van die vereniging vereis word, insluit van die bedrag van die laste en voorwaardelike laste van elke soort besigheid, tesame met 'n beskrywing van die aktuariële grondslag wat gebruik is om die waardasie te maak.

(7) Wanneer 'n geregistreerde vereniging 'n afskrif van 'n waardasie ooreenkomsdig hierdie artikel deur 'n waardeerdeerder gemaak by die registrator indien, moet hy ook by die registrator 'n sertificaat indien van die persoon wat die besigheid van die vereniging bestuur en van die hoofbeampte dat na hul beste wete en geloof die inligting vir die doeleindes van die waar-

contributions, the aforesaid revenue account shall be divided into sections in such a way as to show separately the transactions of the society in respect of that particular kind of business, or, as the case may be, in respect of the said expenses and contributions; and

- (b) a balance sheet showing the financial position of the society at the close of that year.

(2) Every registered society shall, when furnishing to the registrar the documents referred to in sub-section (1), also furnish to the registrar—

- (a) a copy of any special report by the auditor relating to the activities of the society during the financial year to which the documents relate;
- (b) a copy of any annual report that the society may have issued to its members or shareholders in respect of the said financial year; and
- (c) a copy of any other statement that the society may have presented to its members or shareholders in respect of any of its activities during such financial year.

**23.** (1) Every registered society carrying on any kind of business which in terms of its rules is subject to actuarial scrutiny shall, once at least in every five years, cause a valuation of the liabilities of the society in respect of that kind of business, in so far as such liabilities are capable of actuarial valuation, to be made by a valuator, and shall deposit with the registrar a copy of the valuation duly certified by the valuator.

(2) Such valuation shall be made in respect of the position as at the expiration of a financial year, and a copy thereof shall be deposited with the registrar within twelve months from the close of that year.

(3) In the case of a society which was carrying on friendly society business at the commencement of this Act and has complied with the provisions of sub-section (1) of section five, the first valuation shall be made in respect of the position as at the expiration of the financial year which commenced after the date of commencement of this Act: Provided that—

- (a) in special circumstances the society may, with the permission of the registrar, defer such first valuation for such period, not exceeding three years, as the registrar may determine; and
- (b) if the society has furnished a statement in terms of paragraph (b) of sub-section (2) of section five, showing the results of a valuation of the liabilities and assets of the society, the registrar may direct that the first valuation under this section shall be made in respect of the position as at a date subsequent to the expiration of the said financial year, but not more than five years after the date to which the said statement relates.

(4) In the case of a society other than a society mentioned in sub-section (3), the first valuation shall be made in respect of the position as at the expiration of the fifth financial year which is completed after the date of registration, or as at the expiration of such previous financial year as the society may select.

(5) Notwithstanding anything contained in the preceding sub-sections, the registrar may, with the consent of the Minister, and after not less than one month's notice in writing to any registered society, require that society to cause such a valuation to be made in respect of the position as at the expiration of any financial year, if the registrar is of opinion that a valuation would show that any kind of business of the society is not in a sound financial condition.

(6) A valuation made by a valuator in terms of any of the preceding sub-sections shall include particulars, set out separately in respect of each kind of business for which a separate account is required by the rules of the society, of the amount of the liabilities and contingent liabilities of each kind of business, together with a description of the actuarial basis employed in making such valuation.

(7) Whenever a registered society deposits with the registrar a copy of a valuation made by a valuator in terms of this section, it shall also deposit with the registrar a certificate by the person managing the business of the society and by the principal officer that to the best of their knowledge and belief the information

dasie aan die waardeerder verstrek, in elke wesentlike opsig juis en volledig was.

Opgawe van laste.

**24.** (1) Elke geregistreerde vereniging moet periodiek 'n opgawe opstel van al sy laste aan die einde van 'n boekjaar en so 'n opgawe binne ses maande na verstryking van daardie jaar by die registrateur indien.

(2) So 'n opgawe word opgestel—

(a) in die geval van 'n vereniging waarop die bepalings van artikel *drie-en-twintig* van toepassing is, by die geleenthede wanneer ooreenkomsdig daardie artikel 'n waardasie deur 'n waardeerder gedoen word; en

(b) in die geval van 'n ander vereniging, jaarliks.

(3) Die opgawe van laste omvat—

(a) die laste en voorwaardelike laste kragtens kontrakte tussen die vereniging en sy lede, met inbegrip van vorderings ingevolge sodanige kontrakte waarvan kennis gegee is maar wat nie uitbetaal is nie;

(b) 'n aantekening van elke verpanding, verhipotekering of ander beswaring van die bates van die vereniging;

(c) die bedrag van die gestorte aandelekapitaal;

(d) die bedrag van enige aanspreklikheid ten opsigte van belastings vir die betrokke jaar, en by gebrek aan 'n voltooide aanslag, 'n beraming van sulke belastings; en

(e) enige ander laste van die vereniging.

(4) Ondanks enigets in sub-artikels (1) en (3) vervat, word 'n las of 'n voorwaardelike las wat deur herversekerung gedek is, nie as 'n las in die opgawe aangetoon nie, indien die herversekerung aangegaan is met—

(a) 'n versekeraar wat kragtens die Versekeringswet gemagtig is om versekeringsbesigheid te dryf; of

(b) 'n geregistreerde vereniging, met inbegrip (indien die registrateur daartoe instem) van 'n voorlopige geregistreerde vereniging.

(5) Alle laste en voorwaardelike laste wat by wyse van herversekerung onderneem en aangegaan is, moet in die opgawe ingesluit word.

(6) (a) Indien enige van die laste of voorwaardelike laste wat volgens voorgaande sub-artikels in die opgawe ingesluit moet wees, van onbepaalde bedrag is en nie ooreenkomsdig artikel *drie-en-twintig* deur 'n waardeerder gewaardeer is nie, moet die betrokke vereniging die registrateur versoek om die basis waarop hulle waardeer moet word te bepaal, en 'n bepaling aldus deur die registrateur gedoen, bind daardie vereniging.

(b) Die registrateur kan alle uitgawes noodsaaklike wyls in verband met 'n bepaling onder paragraaf (a) aangegaan, op die betrokke vereniging verhaal.

(7) Sover doenlik moet die laste afsonderlik vermeld word ten opsigte van elke soort besigheid waarvoor 'n afsonderlike rekening ingevolge die statute van die vereniging vereis word.

Opgawe van bates.

**25.** (1) Elke geregistreerde vereniging moet jaarliks 'n opgawe van sy bates aan die einde van die boekjaar maak, en moet so 'n opgawe binne ses maande na verstryking van daardie jaar by die registrateur indien: Met dien verstande dat die registrateur, indien hy oortuig is dat daardeur geen afbreuk aan enige van die oogmerke van hierdie wet gedoen sal word nie, 'n vereniging waarop die bepalings van artikel *drie-en-twintig* van toepassing is, van die bepalings van hierdie artikel kan vrystel behalwe by die geleenthede wanneer ooreenkomsdig daardie artikel 'n waardasie deur 'n waardeerder gedoen word en so 'n vrystelling wat hy tevore toegestaan het, te eniger tyd kan intrek as hy nie meer soos voormeld oortuig is nie.

(2) Enige bate verteenwoordig deur 'n vordering wat agterstallig is moet as 'n afsonderlike bate aangetoon word.

(3) Geen onkoste van bestuur, organisasie of besigheidsuitbreiding en geen koopprys van 'n besigheid (afgesien van die waarde van daarby behorende eiendom) of van klandisiewaarde of iets dergeliks mag as 'n bate ingesluit word nie.

(4) Geen bate word bo sy markwaarde gewaardeer nie.

(5) Volledige besonderhede van elke bate, met inbegrip van die markwaarde daarvan, moet verstrek word: Met dien verstande dat indien nakoming van die vereistes van hierdie sub-artikel deur 'n besondere vereniging uitermate lywige opgawes sou veroorsaak, die betrokke vereniging verskillende soorte bates saam kan groepeer, of andersins die opgawe op 'n deur die registrateur goedgekeurde wyse kan verkort.

(6) 'n Volledige verduideliking van die metodes en grondslae wat aangeneem is om die markwaardes van verskillende soorte bates te bereken, moet ingesluit word, asook 'n verklaring of in verband met sodanige markwaardes rekening gehou is

furnished to the valuator for the purposes of the valuation was correct and complete in every material respect.

**24.** (1) Every registered society shall periodically prepare a Statement of liabilities at the close of a financial year, and shall deposit such statement with the registrar within six months from the close of that year.

(2) Such statement shall be prepared—

(a) in the case of a society to which the provisions of section *twenty-three* apply, on the occasions when a valuation by a valuator is made in terms of that section; and

(b) in the case of any other society annually.

(3) The statement of liabilities shall include—

(a) the liabilities and contingent liabilities under contracts between the society and its members, including claims under such contracts which have been intimated but not paid;

(b) a record of any pledge, hypothecation or other encumbrance of the assets of the society;

(c) the amount of the share capital which has been paid-up;

(d) the amount of any liability for taxes for the year concerned, and in the absence of a completed assessment the estimated amount of such taxes; and

(e) any other liabilities of the society.

(4) Notwithstanding anything contained in sub-sections (1) and (3), a liability or contingent liability which is covered by reinsurance shall not be shown as a liability on the statement if the reinsurance has been effected with—

(a) an insurer authorized to carry on insurance business under the Insurance Act; or

(b) a registered society, including (with the consent of the registrar) a provisionally registered society.

(5) All liabilities and contingent liabilities undertaken and entered into by way of reinsurance shall be included in the statement.

(6) (a) If any of the liabilities or contingent liabilities to be included in the statement in accordance with the preceding sub-sections are of indeterminate amount, and have not been valued by a valuator in terms of section *twenty-three*, the society concerned shall request the registrar to determine the basis upon which they shall be valued, and any determination so made by the registrar shall be binding upon that society.

(b) The registrar may recover from the society concerned all expenses necessarily incurred in making a determination under paragraph (a).

(7) So far as may be practicable, the liabilities shall be separately stated in respect of each kind of business for which a separate account is required by the rules of the society.

**25.** (1) Every registered society shall prepare annually a Statement of assets at the close of the financial year, and shall deposit such statement with the registrar within six months from the close of that year: Provided that the registrar may, if he is satisfied that none of the objects of this Act would be thereby prejudiced, exempt from the provisions of this section a society to which the provisions of section *twenty-three* apply, on the occasions other than those on which a valuation by a valuator is made in terms of that section and may at any time withdraw any such exemption which he has previously granted if he is no longer satisfied as aforesaid.

(2) Any asset represented by a claim which is overdue shall be shown as a separate asset.

(3) No expenses of administration, organization or business extension, and no purchase price of a business (apart from the value of any property belonging thereto) or of a goodwill or any item of a similar nature, shall be included as an asset.

(4) No asset shall be valued above its market value.

(5) Full particulars of each asset, including the market value thereof, shall be furnished: Provided that if compliance with the requirements of this sub-section by a particular society would result in unduly voluminous returns, the society concerned may group various classes of assets together, or otherwise abridge the statement in such manner as the registrar may approve.

(6) A full explanation shall be included in the statement of the methods and bases adopted in ascertaining the market values of the various kinds of assets, including a statement as to whether or not such market values include allowances for

met rente, diwidende of huurgelde wat opgeloop het sedert die jongste datum waarop rente, diwidende of huurgelde betaalbaar was.

Vereistes insake stukke wat by die registrator in gedien word.

26. (1) 'n Geregistreerde vereniging word geag nie aan 'n bepaling van hierdie Wet wat aan so 'n vereniging die verpligting ople om aan die registrator 'n deur die vereniging opgestelde dokument te verstrek, te voldoen het nie, tensy so 'n dokument deur die hoofbeampte en een ander persoon ooreenkomsdig die statute van die vereniging gemagtig om dokumente te teken, onderteken is.

(2) Indien 'n persoon (behalwe 'n ouditeur of 'n waardeerdeer) wat nie 'n natuurlike persoon is nie, deur 'n bepaling van hierdie Wet verplig word om 'n dokument wat aan die registrator verstrek moet word, te onderteken, moet so 'n dokument as volg namens daardie persoon onderteken word, te wete—

- (a) indien bedoelde persoon 'n komitee van indiwidu's is, deur die persoon wat dan aan die hoof van die komitee is, en deur een ander lid daarvan;
- (b) indien bedoelde persoon 'n vereniging van persone is, deur die indiwidu wat dan aan die hoof is van die raad van direkteure of ander komitee wat bedoelde vereniging beheer, en deur een ander lid van bedoelde raad of komitee;
- (c) in enige ander geval, deur indiwidu's deur die registrator aangewys, wat enige beheer oor die besigheid van bedoelde persoon uitoefen.

(3) 'n Geregistreerde vereniging word geag nie aan die toepaslike bepaling van sub-artikel (1) van artikel *twee-en-twintig* of artikel *vier-en-twintig* of *vyf-en-twintig* te voldoen het nie, tensy enige inkomsterekkening, balansstaat, opgawe van laste of opgawe van bates wat ingevolge een of ander van daardie bepaling verstrek moet word, deur die ouditeur van die vereniging gewaarmerk is.

(4) Iemand wat ooreenkomsdig 'n bepaling van hierdie Wet aan die registrator—

- (a) 'n oorspronklike dokument moet verstrek, moet ook die addisionele afskrifte daarvan, maar hoogstens drie, verstrek wat by regulasie voorgeskryf mag wees of wat die registrator mag verlang;
- (b) 'n afskrif van 'n dokument moet verstrek, moet een afskrif daarvan verstrek wat as korrek gesertifiseer is—
  - (i) in die geval van 'n geregistreerde vereniging, deur sy hoofbeampte; en
  - (ii) in enige ander geval, deur die persoon deur wie bedoelde afskrif verstrek moet word,
 tesame met soveel addisionele afskrifte, maar hoogstens drie, as wat by regulasie voorgeskryf mag wees of wat die registrator mag verlang.

Die registrator kan opgawes verwerp.

27. Indien die registrator van oordeel is dat 'n inkomsterekkening of balansstaat ooreenkomsdig sub-artikel (1) van artikel *twee-en-twintig* deur 'n geregistreerde vereniging verstrek, of 'n opgawe van laste of opgawe van bates ooreenkomsdig artikel *vier-en-twintig* of *vyf-en-twintig* deur 'n geregistreerde vereniging verstrek, nie aan die bepaling van hierdie Wet voldoen nie, of nie 'n juiste weergawe van die inkomste en uitgawes of (na gelang van die geval) van die geldelike toestand van die vereniging is nie, kan hy die betrokke dokument verwerp, en in daardie geval—

- (a) stel hy die betrokke vereniging in kennis van die redes vir so 'n verwerpking; en
- (b) word dit geag dat die vereniging nie die bedoelde dokument aan die registrator verstrek het nie, maar kan die registrator in so 'n geval die bepaling van artikel *vier-en-veertig* toepas, al het die betrokke tydperk verstryk voordat aansoek om verlenging gedoen word.

Registrator kan aanvullende besonderhede in die geval van sekere aansoeke en opgawes verlang.

28. (1) Indien die registrator van oordeel is dat—

- (a) 'n aansoek om registrasie van 'n vereniging of van 'n wysiging of herroeping van statute of van 'n addisionele statutu; of
- (b) 'n opgawe of skema aangaande die finansiële toestand van 'n vereniging,

nie genoegsame inligting verskaf om hom in staat te stel om die nodige beslissing te gee nie, moet die betrokke persoon sodanige verdere besonderhede verskaf as wat die registrator nodig ag.

(2) Indien die registrator van oordeel is dat 'n sertifikaat of spesiale verslag deur 'n waardeerdeer of deur die ouditeur van 'n vereniging nodig is in verband met enige saak in sub-artikel (1)

interest, dividends or rent accrued since the last date on which interest, dividends or rent fell due.

**26.** (1) A registered society shall be deemed not to have complied with any provision of this Act, which imposes upon such society the obligation to furnish to the registrar a document prepared by the society, unless such document is signed by the principal officer and one other person authorized in accordance with the rules of the society to sign documents.

Requirements in regard to documents to be deposited with registrar.

(2) If any person (other than an auditor or valuator) who is not a natural person, is required by any provision of this Act to sign any document which is to be furnished to the registrar, such document shall be signed on behalf of such person as follows, that is to say—

- (a) if such person is a committee of individuals, by the person for the time being at the head of the committee and by one other member thereof;
- (b) if such person is an association of persons, by the person who is for the time being at the head of the board of directors or other committee controlling such association, and by one other member of such board or committee;
- (c) in any other case by persons designated by the registrar, who exercise any control over the business of the said person.

(3) A registered society shall be deemed not to have complied with the applicable provisions of sub-section (1) of section *twenty-two* or section *twenty-four* or *twenty-five* unless any revenue account, balance sheet, statement of liabilities or statement of assets required to be submitted under one or other of those provisions is certified by the auditor of the society.

(4) Any person who is required in terms of any provision of this Act to furnish to the registrar—

- (a) any original document, shall also furnish such additional copies thereof, not exceeding three in number, as may be prescribed by regulation or as the registrar may require;
- (b) a copy of any document, shall furnish one copy thereof certified as correct—
  - (i) in the case of a registered society, by its principal officer; and
  - (ii) in any other case, by the person by whom such copy is required to be furnished,
 together with so many additional copies, not exceeding three, as may be prescribed by regulation or as the registrar may require.

**27.** If the registrar is of the opinion that any revenue account or balance sheet furnished by a registered society in terms of sub-section (1) of section *twenty-two*, or any statement of liabilities or statement of assets furnished by a registered society in terms of section *twenty-four* or *twenty-five*, is not in accordance with the provisions of this Act or does not correctly reflect the revenue and expenditure or financial position (as the case may be) of the society, he may reject the document in question, and in that event—

Registrar may reject returns.

- (a) he shall notify the society concerned of the reasons for such rejection; and
- (b) the society shall be deemed not to have furnished the said document to the registrar, but the registrar may in such case apply the provisions of section *forty-four*, even if the period concerned has expired before application is made for extension.

**28.** (1) If the registrar is of opinion that—

- (a) any application for registration of a society or of an alteration or rescission of rules or of an additional rule; or
- (b) any return or scheme relating to the financial condition of a society,

Registrar may require additional particulars in case of certain applications and returns.

does not disclose sufficient information to enable him to make the necessary decision, the person concerned shall furnish such additional particulars as the registrar may deem necessary.

(2) If the registrar is of opinion that a certificate or special report by a valuator or by the auditor of a society is necessary in regard to any matter set out in sub-section (1), the person

uiteengesit, moet die betrokke persoon sodanige sertifikaat of verslag as wat die registrator verlang, verstrek.

**Insae van dokumente.**

29. (1) Iedereen kan, teen betaling van die by regulasie voorgeskreve geld, enige in artikel *ses-en-veertig* bedoelde dokument by die kantoor van die registrator insien en 'n afskrif daarvan of uittreksels daaruit maak of 'n afskrif daarvan of uittreksel daaruit van die registrator verkry.

(2) Die registrator kan enigeen vrystel van die verpligting om geld te ingevolge hierdie artikel te betaal, indien hy oortuig is dat die betrokke insae, afskrif of uittreksel ter bevordering van een of ander openbare belang verlang word.

(3) Die registrator verstrek sonder betaling aan iemand wat daarom aansoek doen besonderhede van die adres van die geregistreerde kantoor en die naam van die hoofbeampte van enige geregistreerde vereniging.

**Uitwerking van sertifikaat van registrator op dokumente.**

30. Elke dokument wat heet deur die registrator gesertifiseer te wees as 'n dokument wat ingevolge die bepalings van hierdie Wet by sy kantoor ingedien is, of as 'n afskrif van so 'n dokument, word *prima facie* geag so 'n dokument of afskrif daarvan te wees, en elke sodanige afskrif is as bewyssuk toelaatbaar asof dit die oorspronklike dokument was.

## HOOFSTUK V.

### NAVRAE EN ONDERSOEKE, AANSOEK BY DIE HOF, KANSELLERING OF OPSKORTING VAN REGISTRASIE EN ONTBINDING VAN VERENIGINGS.

**Navrae.**

31. Die registrator kan aan 'n geregistreerde vereniging navrae rig met betrekking tot enige saak aangaande sy besigheid of transaksies, en dit is die plig van die vereniging om binne 'n tydperk van dertig dae vanaf die datum waarop die registrator die navraag aan hom gerig het of binne so 'n verdere tydperk as wat die registrator mag toelaat, so 'n navraag skriftelik te beantwoord.

**Ondersoek na sake van vereniging.**

32. (1) Met toestemming van die Minister kan die registrator die sake of enige gedeelte van die sake van 'n geregistreerde vereniging ondersoek, of 'n inspekteur aanstel om so 'n ondersoek te doen en om die uitslag van sy ondersoek aan die registrator te rapporteer—

(a) indien die vereniging wanner hy versuim het om 'n opgawe wat deur hierdie Wet vereis word te verstrek, ingebreke gebly het om bedoelde opgawe te verstrek binne 'n tydperk van dertig dae vanaf die eerste datum waarop die registrator skriftelik die aandag van die vereniging op sodanige versuim gevinstig het; of

(b) indien die vereniging nie binne 'n tydperk van dertig dae vanaf 'n datum waarop die registrator skriftelik van hom enige gegevens geëis het wat die registrator kragtens hierdie Wet geregtig was om van hom te eis, daardie gegevens ten volle en op bevredigende wyse verstrek het nie; of

(c) indien enige opgawe deur die vereniging aan die registrator verstrek, aandui dat die vereniging versuim het om 'n belangrike bepaling van hierdie Wet na te kom; of

(d) indien die ouditeur die vereniging in kennis gestel het van 'n onreëlmatriheid wat verbeter moet word, en die vereniging nie die bedoelde onreëlmatriheid verbeter het nie binne 'n tydperk van dertig dae vanaf die datum waarop die registrator die vereniging skriftelik aangesê het om die onreëlmatriheid te verbeter; of

(e) indien die registrator oor inligting beskik wat volgens sy oordeel 'n ondersoek na die sake van die vereniging vereis: Met dien verstande dat geen ondersoek uit hoofde van hierdie paragraaf gedoen word nie tensy die registrator aan die vereniging 'n redelike geleentheid gegee het om 'n verklaring te verstrek omtrent enige aangeleentheid waarop die registrator se oordeel berus, en die vereniging versuim het om so 'n verklaring te verstrek of 'n verklaring verstrek het wat die registrator as onbevredigend beskou.

(2) Die registrator verhaal op die betrokke vereniging alle koste noodsaaklikwys in verband met die ondersoek aangegaan, tensy die registrator kragtens paragraaf (e) van subartikel (1) gehandel het en dit blyk dat die gegevens waarop hy aldus gehandel het, onjuis was.

(3) Wanneer hy 'n ondersoek kragtens hierdie artikel instel, kan die registrator of 'n inspekteur wat ingevolge ub-artikel (1)

concerned shall furnish such certificate or report as the registrar may require.

29. (1) Upon payment of the fees prescribed by regulation any person may inspect at the office of the registrar any document referred to in section forty-six and make a copy thereof or take extracts therefrom or obtain from the registrar a copy thereof or extract therefrom. Inspection of documents.

(2) The registrar may exempt any person from the obligation to pay fees under this section, if he is satisfied that the inspection, copy or extract in question is desired for the purpose of furthering some public interest.

(3) The registrar shall without charge furnish any applicant therefor with particulars of the address of the registered office and the name of the principal officer of any registered society.

30. Every document which purports to have been certified by the registrar to be a document deposited at his office under the provisions of this Act, or to be a copy of such a document, shall *prima facie* be deemed to be such a document, or a copy thereof, and every such copy shall be admissible in evidence as if it were the original document. Effect of registrar's certificate on documents.

## CHAPTER V.

### ENQUIRIES AND INVESTIGATIONS, APPLICATIONS TO COURT, CANCELLATION OR SUSPENSION OF REGISTRATION AND DISSOLUTION OF SOCIETIES.

31. The registrar may address enquiries to any registered society in relation to any matter connected with its business or transactions, and it shall be the duty of the society to reply in writing thereto within a period of thirty days as from the date upon which the registrar addressed the enquiry to it or within such further period as the registrar may allow. Enquiries.

32. (1) The registrar may, with the consent of the Minister, investigate the affairs or any part of the affairs of a registered society, or appoint an inspector to hold such an investigation and to report the result of his investigation to the registrar— Investigation of the affairs of a society.

- (a) if the society, having failed to make a return required by this Act, has not made that return within a period of thirty days from the first date upon which the registrar drew the attention of the society in writing to such failure; or
- (b) if the society has not, within a period of thirty days as from a date upon which the registrar demanded from it in writing any information which the registrar was entitled under this Act to demand from it, furnished that information fully and satisfactorily; or
- (c) if any return furnished by the society to the registrar shows that the society has failed to comply with any material provision of this Act; or
- (d) if the auditor has informed the society of an irregularity that needs correction and the society has not corrected that irregularity within a period of thirty days as from the date upon which the registrar called upon the society in writing to correct the irregularity; or
- (e) if the registrar is possessed of information which in his opinion calls for an investigation into the affairs of the society: Provided that no investigation shall be held by virtue of this paragraph unless the registrar has afforded the society a reasonable opportunity of furnishing an explanation of any matter which forms a ground for the registrar's opinion, and the society has failed to furnish such explanation or has furnished an explanation which the registrar regards as unsatisfactory.

(2) The registrar shall recover from the society concerned all expenses necessarily incurred in connection with the investigation, unless the registrar acted under paragraph (e) of sub-section (1) and the information on which he so acted is proved to have been incorrect.

(3) In making an investigation under this section the registrar or an inspector appointed under sub-section (1) may

aangestel is, die oorlegging van enige van die effekte, boeke of dokumente van die vereniging eis, en enige persoon wat 'n ouditeur, beampete, aandeelhouer of lid van die vereniging is of voorheen was onder eed in verband met die besigheid van die vereniging ondervra, en vir die doel van so 'n ondervraging aan so 'n persoon 'n eed ople.

(4) So 'n persoon is verplig om alle effekte, boeke of dokumente van die vereniging wat aan hom beskikbaar is, op versoek aan die registrator of die inspekteur voor te lê, en om op versoek aan die registrator of die inspekteur alle inligting omtrent die sake van die vereniging waaroor hy beskik, te verstrek.

(5) Wanneer 'n ingevalle hierdie artikel aangestelde inspekteur sy ondersoek voltooi het, doen hy daaromtrent verslag aan die registrator wat 'n afskrif van die verslag aan die vereniging moet stuur, en indien die ondersoek deur die registrator ingestel is, stuur hy aan die vereniging 'n opsomming van die gevolgtrekkings waartoe hy as gevolg van die ondersoek geraak het.

#### Aansoek by die hof.

33. (1) Met toestemming van die Minister kan die registrator met betrekking tot 'n geregistreerde vereniging by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (c), (d) of (e) van sub-artikel (3), en 'n geregistreerde vereniging kan met betrekking tot homself by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (b), (d) of (e) van daardie sub-artikel, indien die registrator of die vereniging van oordeel is dat dit wenslik is, omdat die vereniging nie in 'n gesonde geldelike toestand is nie, of om 'n ander rede, dat so 'n bevel ten aansien van die vereniging uitgevaardig word: Met dien verstande dat 'n vereniging nie so 'n aansoek doen nie, dan alleen met verlof van die hof en dat die hof nie sodanige verlof verleen nie, tensy die vereniging sekerheid gestel het tot 'n bedrag deur die hof vasgestel ten opsigte van betaling van die koste van die aansoek en van enige opposisie daarteen, en *prima facie* bewys gelewer het van die wenslikheid van die bevel waarom hy aansoek wil doen.

(2) 'n Skuldeiser van 'n geregistreerde vereniging wat nadat hy van sy gewone regsmiddelle gebruik gemaak het, nie daarin geslaag het om betaling van sy vordering te verkry nie, kan ten aansien van daardie vereniging by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (b), (d) of (e) van sub-artikel (3), en die voorbehoudbepaling by sub-artikel (1) is *mutatis mutandis* van toepassing ten opsigte van so 'n aansoek.

(3) By 'n aansoek ooreenkomstig een of ander van die voorgaande sub-artikels kan die hof—

- (a) die aansoek weier; of
- (b) beveel dat 'n ondersoek ooreenkomstig artikel *twee-en-dertig* gedoen word, en sodanige voorskrifte aangaande so 'n ondersoek uitvaardig as wat die hof wenslik ag; of
- (c) beveel dat die statute van die vereniging met betrekking tot die aanstelling, bevoegdhede, besoldiging en ontslag van die persoon wat die sake van die vereniging bestuur, of met betrekking tot sodanige ander aangeleentheid as wat die hof paslik mag ag, op 'n wyse wat in so 'n bevel vermeld word, gewysig word; of
- (d) beveel dat die vereniging ooreenkomstig artikel *vier-en-dertig* onder geregtelike bestuur geplaas word; of
- (e) beveel dat die besigheid of 'n deel van die besigheid van die vereniging ooreenkomstig artikel *vyf-en-dertig* gelikwdeer word.

(4) By die uitoefening van sy diskresie kragtens sub-artikel (3), moet die hof rekening hou met die regmatige belang van die lede van die vereniging (of van die verskillende klasse van lede, indien daar meer as een sodanige klas is) en van enige ander persoon wat aan die vereniging geldelike bystand verleen het, of voornemens is om dit te doen, en maak hy, onderworpe aan bedoelde oorwegings, so 'n bevel as wat hy vir die lede van die vereniging die voordeeligste ag.

(5) Wanneer 'n hof ooreenkomstig paragraaf (b) van sub-artikel (3) ten opsigte van 'n vereniging 'n bevel uitgevaardig het, kan hy te eniger tyd daarna ooreenkomstig paragraaf (c), (d) of (e) van daardie sub-artikel of ooreenkomstig sub-artikel (3) van artikel *ses-en-dertig* ten opsigte van daardie vereniging 'n bevel uitvaardig, en wanneer 'n hof ooreenkomstig paragraaf (d) van sub-artikel (3) ten opsigte van 'n vereniging 'n bevel uitgevaardig het, kan hy te eniger tyd daarna ooreenkomstig paragraaf (e) van daardie sub-artikel of ooreenkomstig sub-artikel (3) van artikel *ses-en-dertig* ten opsigte van daardie vereniging 'n bevel uitvaardig.

(6) Ondanks andersluidende bepalings in die statute van die vereniging vervat, tree 'n bevel van die hof wat ooreenkomstig paragraaf (c) van sub-artikel (3) uitgevaardig is in werking vanaf

require from the society the production of any of its securities, books or documents and may examine on oath in relation to its business any person who is or formerly was an auditor, officer, shareholder or member of the society, and may administer an oath to any such person for the purpose of that examination.

(4) It shall be the duty of every such person to produce to the registrar or to the inspector at his request all the securities, books or documents of the society which are available to him and to give to the registrar or to the inspector, at his request, any information at his disposal relating to the affairs of the society.

(5) When an inspector appointed under this section has completed his investigation, he shall report thereon to the registrar, who shall transmit a copy of the report to the society, and if the investigation was held by the registrar, he shall transmit a summary of the conclusions arrived at by him as a result of the investigation to the society.

33. (1) The registrar may, with the consent of the Minister, Applications to court. in regard to any registered society, apply to the court for an order in terms of paragraph (c), (d) or (e) of sub-section (3), and a registered society may, in regard to itself, apply to the court for an order in terms of paragraph (b), (d) or (e) of that sub-section, if the registrar or the society is of the opinion that it is desirable, because the society is not in a sound financial condition or for any other reason, that such an order be made in regard to the society: Provided that a society shall not make such an application except by leave of the court, and the court shall not grant such leave unless the society has given security to an amount specified by the court for the payment of the costs of the application and of any opposition thereto, and has established *prima facie* the desirability of the order for which it wishes to apply.

(2) Any creditor of a registered society who is unable to obtain payment of his claim after recourse to the ordinary process of law may, in regard to such society, make an application to the court for an order in terms of paragraph (b), (d) or (e) of sub-section (3), and the proviso to sub-section (1) shall apply *mutatis mutandis* in regard to such an application.

(3) Upon any application in terms of either of the preceding sub-sections, the court may—

- (a) refuse the application; or
- (b) order that an investigation be made in terms of section thirty-two, and may issue such directions regarding such investigation as the court may deem desirable; or
- (c) order that the rules of the society relating to the appointment, powers, remuneration and removal from office of the person managing the business of the society, or relating to such other matter as the court may regard as appropriate, be altered in a manner to be specified in such order; or
- (d) order that the society be placed under judicial management in terms of section thirty-four; or
- (e) order that the whole or any part of the business of the society be wound up in terms of section thirty-five.

(4) In exercising its discretion under sub-section (3), the court shall consider the equitable interests of the members of the society (or of the several classes of members if there is more than one such class) and of any other person who has rendered or who intends to render financial assistance to the society, and, subject to such consideration as aforesaid, shall make such order as it deems most advantageous to the members of the society.

(5) When a court has made an order in terms of paragraph (b) of sub-section (3) in regard to a society, it may at any time thereafter make an order in terms of paragraph (c), (d) or (e) of that sub-section or of sub-section (3) of section thirty-six in regard to that society, and when a court has made an order in terms of paragraph (d) of sub-section (3) in regard to a society it may at any time thereafter make an order in terms of paragraph (e) of that sub-section or of sub-section (3) of section thirty-six, in regard to that society.

(6) Notwithstanding any conflicting provision contained in the rules of the society, an order of the court made in terms of paragraph (c) of sub-section (3) shall take effect as from

enige datum vir daardie doel in die bevel vermeld, of indien geen datum aldus vermeld is nie, vanaf die datum van daardie bevel, en daarop word bedoelde statute geag op die deur die hof bepaalde wyse gewysig te wees.

(7) Tensy die hof anders beveel, moet die koste van die registrator met of in verband met 'n aansoek ooreenkomsdig hierdie artikel deur die vereniging betaal word en sodanige koste geniet voorkeur bo ander laste teen die bates van die vereniging.

(8) 'n Geregistreerde vereniging word nie onder geregtelike bestuur geplaas of gelikwideer of ontbind nie, dan alleen kragtens die bepalings van hierdie Wet.

Geregtelike bestuur.

34. (1) 'n Bevel van die hof kragtens paragraaf (d) van sub-artikel (3) van artikel *drie-en-dertig* is onderworpe aan die bepalings in die volgende sub-artikels vervat:

(2) Die hof stel 'n geregtelike bestuurder aan wat sodanige besoldiging ontvang as wat die hof vasstel, en die hof kan te eniger tyd die aanstelling intrek en iemand anders as geregtelike bestuurder aanstel.

(3) Die geregtelike bestuurder wat vir 'n vereniging aangestel is, moet die hele bestuur van die vereniging oorneem, maar behalwe met die verlof van die hof mag hy nie meer lede inneem nie.

(4) Die hof gee aan die geregtelike bestuurder sulke voor-skrifte met betrekking tot sy bevoegdhede en pligte as wat die hof in die omstandighede wenslik ag.

(5) Die bepalings van artikels *honderd vyf-en-negentig* tot en met *honderd agt-en-negentig* van die Maatskappywet, 1926 (Wet No. 46 van 1926), is *mutatis mutandis* van toepassing in verband met die geregtelike bestuur van 'n vereniging kragtens hierdie Wet, behalwe vir sover daardie bepalings strydig is met enige bepaling van hierdie Wet of met enige voorskrif kragtens hierdie artikel deur die hof uitgevaardig.

(6) Die geregtelike bestuurder handel onder toesig van die hof, en kan te eniger tyd by die hof aansoek doen om instruksies aangaande die wyse waarop hy die geregtelike bestuur moet uitvoer.

(7) Die geregtelike bestuurder moet aan die registrator die inligting verstrek wat laasgenoemde van tyd tot tyd verlang, en moet wanneer hy voornemens is om by die hof om instruksies aansoek te doen die registrator dienooreenkomsdig in kennis stel en die registrator is geregtig om by so 'n aansoek persoonlik of by monde van 'n verteenwoordiger aangehoor te word en kan self 'n aansoek met betrekking tot die uitvoering van die geregtelike bestuur aan die hof doen.

(8) Die geregtelike bestuurder moet so spoedig moontlik aan die hof verslag doen aangaande welke van die volgende stappe hy die voordeelste vir lede van die vereniging beskou, te wete—

- (a) die oordrag van die hele besigheid of 'n gedeelte van die besigheid van die vereniging aan 'n ander persoon;
- (b) die voortsetting van die vereniging met sodanige wysigings aangaande voordele, bydraes of voorwaardes of in ander opsigte as wat hy raadsaam ag;
- (c) die likwidasie van die besigheid of 'n deel van die besigheid van die vereniging;
- (d) sodanige ander stappe as wat hy raadsaam ag.

(9) Die hof oorweeg die verslag van die geregtelike bestuurder en beslis oor die stappe wat volgens oordeel van die hof die voordeelste is vir lede van die vereniging, en 'n bevelskrif wat die beslissing van die hof behels, is bindend vir alle persone, en geld ondanks enige bepaling in die statute van die vereniging: Met dien verstande dat as die hof beveel dat die besigheid of enige deel van die besigheid van die vereniging gelikwideer moet word, die bepalings van artikel *ses-en-dertig* op so 'n likwidasie van toepassing is.

Likwidasie deur die hof.

35. (1) 'n Bevel van die hof kragtens paragraaf (e) van sub-artikel (3) van artikel *drie-en-dertig* of 'n bevel kragtens sub-artikel (9) van artikel *vier-en-dertig* vir die likwidasie van 'n vereniging is onderworpe aan die bepalings in die volgende sub-artikels vervat:

(2) Die bepalings van artikels *honderd-en-sewe* tot en met *honderd nege-en-vyftig bis* en *honderd sewe-en-sewentig* tot en met *honderd vier-en-negentig* van die Maatskappywet, 1926, is vir sover bedoelde bepalings op 'n likwidasie deur die hof ooreenkomsdig genoemde Wet betrekking het, en vir sover bedoelde bepalings toepaslik is en nie met een of ander bepaling van hierdie Wet of met 'n voorskrif deur die hof kragtens hierdie artikel uitgevaardig, onbestaanbaar is nie, *mutatis mutandis* op 'n likwidasie ingevolge hierdie artikel van toepassing.

(3) Die hof kan beveel dat voormalde bepalings van die Maatskappywet, 1926, vir die doeleindes van die likwidasie in

any date specified for that purpose in the order, or if no date has been so specified, as from the date of the order, and thereupon the said rules shall be deemed to have been amended in the manner specified by the court.

(7) Unless the court otherwise orders, the costs of the registrar in or in connection with an application in terms of this section shall be paid by the society and shall be a first charge upon the assets of such society.

(8) A registered society shall not be placed under judicial management or wound up or dissolved otherwise than under the provisions of this Act.

34. (1) An order of the court in terms of paragraph (d) of sub-section (3) of section *thirty-three* shall be subject to the provisions contained in the following sub-sections.

(2) The court shall appoint a judicial manager, who shall receive such remuneration as the court may direct, and the court may at any time cancel the appointment and appoint some other person as judicial manager.

(3) The judicial manager appointed to a society shall take over the whole management of the society, but except with the leave of the court he shall not admit any more members.

(4) The court shall issue such directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case.

(5) The provisions of sections *one hundred and ninety-five* to *one hundred and ninety-eight*, inclusive, of the Companies Act 1926 (Act No. 46 of 1926), shall apply *mutatis mutandis* in connection with the judicial management of a society under this Act, except in so far as those provisions are inconsistent with any provision of this Act or with any direction issued by the court under this section.

(6) The judicial manager shall act under the control of the court, and he may apply to the court at any time for instructions as to the manner in which he shall carry out the judicial management.

(7) The judicial manager shall give the registrar such information as the latter may require from time to time, and shall, whenever he intends to apply to the court for instructions, report accordingly to the registrar, who shall be entitled to be heard personally or by a representative at any such application, and may himself make an application to the court with reference to the conduct of the judicial management.

(8) The judicial manager shall as soon as possible report to the court which of the following courses he deems most advantageous to members of the society, that is to say—

- (a) the transfer of the whole or of a part of the business of the society to some other person;
- (b) the carrying on of the society with such alterations in benefits, contributions or conditions or in other respects as he may deem advisable;
- (c) the winding-up of the business or of a part of the business of the society;
- (d) such other course as he may deem advisable.

(9) The court shall consider the report of the judicial manager and shall decide upon the course it considers most advantageous to members of the society, and an order containing the decision of the court shall be binding on all persons, and shall have effect notwithstanding anything in the rules of the society: Provided that if the court orders the winding-up of the business or any part of the business of the society, the provisions of section *thirty-six* shall apply to such winding-up.

35. (1) An order of the court in terms of paragraph (e) of sub-section (3) of section *thirty-three*, or an order under sub-section (9) of section *thirty-four* for the winding-up of a society, shall be subject to the provisions contained in the following sub-sections.

(2) The provisions of sections *one hundred and seven* to *one hundred and fifty-nine bis*, inclusive, and sections *one hundred and seventy-seven* to *one hundred and ninety-four*, inclusive, of the Companies Act, 1926, shall apply *mutatis mutandis* to a winding-up under this section in so far as the said provisions refer to a winding-up by the court in terms of the said Act, and in so far as the said provisions are applicable and not inconsistent with any provision of this Act or with any direction issued by the court under this section.

(3) The court may direct that the aforementioned provisions of the Companies Act, 1926, may, for the purposes of the

'n bepaalde geval na vereiste gewysig kan word indien die hof oortuig is dat dit met inagneming van die omstandighede van die betrokke vereniging onprakties of onnodig beswarend sou wees om in elke besonderheid aan bedoelde bepalings te voldoen, en dat ondanks sodanige wysiging die belang van die skuldeisers van die vereniging voldoende beskerm sal word.

(4) Sonder om afbreuk te doen aan die bevoegdhede van die Meester wat ten opsigte van 'n likwidiasie jurisdiksie het, moet die likwidateur wat ingevolge sub-artikel (2) aangestel word, aan die registrateur sodanige inligting verstrek as wat laasgenoemde van tyd tot tyd verlang, en moet hy wanneer hy voornemens is om by die hof om instruksies aansoek te doen, die registrateur dienooreenkomsdig in kennis stel, en die registrateur is geregtig om persoonlik of by monde van 'n verteenwoordiger by so 'n aansoek aangehoor te word, en kan self met betrekking tot die likwidiasie by die hof 'n aansoek doen.

(5) By die likwidiasie van die hele besigheid of enige gedeelte van die besigheid van 'n vereniging word die waarde van die belang van die lede of van die verskillende groepe lede van die vereniging, en die waarde van enige voordele wat deur die vereniging aan ander persone as lede verskuldig is op 'n deur die hof voorgeskrewe wyse vasgestel.

(6) Indien, waar die hof beveel het dat die hele besigheid van die vereniging gelikwideer moet word, die registrateur oortuig is dat die likwidiasie van sodanige vereniging voltooi is, moet hy die registrasie van die vereniging kanselleer, en daarop word die vereniging geag ontbind te wees.

**Kansellering of  
opskorting van  
registrasie.**

36. (1) Die registrateur moet die registrasie van 'n vereniging kanselleer—

- (a) indien tot sy bevrediging bewys is dat die vereniging nie meer bestaan nie; of
- (b) indien die registrateur en die vereniging dit eens is dat die vereniging per abuis geregistreer is onder omstandighede wat nie op bedrog neerkom nie:

Met dien verstande dat die registrateur onder die omstandighede in paragraaf (b) vermeld, die registrasie kan opskort instede van dit te kanselleer, as hy oortuig is dat die vereniging daardeur 'n geleentheid sal kry om bedoelde fout op 'n wyse wat met die bepalings van hierdie Wet bestaanbaar is, te herstel, en as die vereniging daardie sout tot bevrediging van die registrateur herstel, moet laasgenoemde daarop bedoelde registrasie vanaf die opskortingsdatum herstel maar indien die sout nie binne 'n tydperk deur die registrateur bepaal, herstel word nie moet hy die registrasie van die vereniging kanselleer.

(2) Die registrateur kan by die hof om die kansellering of opskorting van die registrasie van 'n vereniging aansoek doen, indien—

- (a) die vereniging opsetlik en na kennisgewing van die registrateur 'n bepaling van hierdie Wet geskend het; of
- (b) die registrateur, as gevolg van 'n ondersoek kragtens artikel *twee-en-dertig*, van oordeel is dat die registrasie gekanselleer of opgeskort behoort te word.

(3) Die hof kan die registrasie van die vereniging kanselleer, of sodanige registrasies vir so 'n tydperk as wat hy goedvind opskort, en kan aan daardie kansellering of opskorting sulke voorwaardes heg as wat hy wenslik ag, of enige ander bevel uitvaardig wat hy onder die omstandighede wenslik ag.

(4) Tensy die hof anders beveel, is die koste van die registrateur met of in verband met die aansoek deur die vereniging betaalbaar en geniet dit voorkeur boander laste teen die bates van so 'n vereniging.

**Vrywillige of  
outomatiese  
ontbinding van  
vereniging.**

37. (1) Indien die statute van 'n geregistreerde vereniging bepaal dat so 'n vereniging ontbind of beëindig word wanneer 'n tydperk verstryk of 'n gebeurtenis plaasvind, of by besluit van die lede van die vereniging dat daardie vereniging beëindig moet word, word daardie vereniging, behoudens die bepalings van hierdie artikel, op die deur bedoelde statute bepaalde wyse gelikwideer wanneer bedoelde tydperk verstryk of bedoelde gebeurtenis plaasvind of bedoelde besluit geneem word, en word, onderworpe aan die bepalings van hierdie artikel, die bates van die vereniging verdeel op die wyse deur bedoelde statute bepaal.

(2) Sodra bedoelde tydperk verstryk het of bedoelde gebeurtenis plaasgevind het of bedoelde besluit geneem is, word 'n deur die registrateur goedgekeurde persoon as likwidateur aangestel op die wyse deur die statute bepaal of, as die statute geen bepalings omtrent so 'n aanstelling bevat nie, deur die persoon wat die besigheid van die vereniging bestuur, en die

winding-up, be suitably modified in any particular case if the court is satisfied that having regard to the circumstances of the society concerned, it would be impracticable or unnecessarily onerous to comply with the said provisions in every particular, and that in spite of such modification the interests of the creditors of the society will be sufficiently safeguarded.

(4) Without prejudice to the powers of the Master who has jurisdiction in respect of any winding-up, the liquidator appointed in terms of sub-section (2) shall give the registrar such information as the latter may require from time to time, and shall, whenever he intends to apply to the court for instructions, report accordingly to the registrar who shall be entitled to be heard personally or by a representative at any such application, and may himself make an application to the court with reference to the winding-up.

(5) In the winding-up of the whole or any part of the business of a society the value of the interests of the members or of the various groups of members of the society, and the value of any benefits due by the society to persons other than members, shall be ascertained in such manner as the court may direct.

(6) If, where the court has ordered that the whole business of the society be wound up, the registrar is satisfied that the winding-up of such a society has been completed, he shall cancel the registration of the society and thereupon the society shall be deemed to be dissolved.

36. (1) The registrar shall cancel the registration of a society—

- (a) on proof to his satisfaction that the society has ceased to exist; or
- (b) if the registrar and the society are agreed that the society was registered by mistake in circumstances not amounting to fraud:

Provided that in the circumstances stated in paragraph (b), the registrar may suspend the registration in lieu of cancelling it, if he is satisfied that by so doing the society will be furnished with an opportunity of rectifying the said mistake in a manner consistent with the provisions of this Act, and if the society does rectify such mistake to the satisfaction of the registrar, the latter shall thereupon reinstate the said registration, as from the date of suspension but if the mistake is not rectified within a period specified by the registrar he shall cancel the registration of the society.

(2) The registrar may apply to the court for the cancellation or suspension of the registration of a society if—

- (a) the society has wilfully and after notice from the registrar violated any provision of this Act; or
- (b) the registrar is of opinion, as the result of an investigation under section *thirty-two*, that the registration should be cancelled or suspended.

(3) The court may cancel the registration of the society or suspend such registration for such period as it thinks fit, and may attach to such cancellation or suspension such conditions as it thinks desirable, or may make any other order which in the circumstances it thinks desirable.

(4) Unless the court otherwise orders, the costs of the registrar in or in connection with the application shall be paid by the society and shall be a first charge upon the assets of such society.

37. (1) If the rules of a registered society provide for the dissolution or termination of such society upon the expiry of a period or upon the occurrence of an event, or upon a resolution by the members of the society that such society shall be terminated, then upon the expiry of such period, or the occurrence of such event, or the passing of such resolution, such society shall, subject to the provisions of this section, be liquidated in the manner provided by such rules, and the assets of the society shall, subject to the provisions of this section, be distributed in the manner provided by the said rules.

Voluntary or automatic dissolution of society.

(2) As soon as such period has expired or such event has occurred or such resolution has been passed a person approved by the registrar shall be appointed as liquidator in the manner directed by the rules, or, if the rules do not contain directions as to such appointment, by the person managing the business

likwidasie word geag vanaf die datum van sodanige goedkeuring te begin.

(3) Gedurende so 'n likwidasie bly die bepalings van hierdie Wet van toepassing op so 'n vereniging asof die likwidateur die persoon is wat die besigheid van die vereniging bestuur.

(4) Die likwidateur dien so spoedig doenlik by die registrateur 'n voorlopige rekening en 'n voorlopige balansstaat in wat deur hom onderteken en as korrek gesertifiseer is en wat die bates en laste van die vereniging by die aanvang van die likwidasie aantoon, en die wyse waarop voorgestel word om die bates tot geld te maak en die laste te vereffen, met inbegrip van enige laste en voorwaardelike laste wat teenoor of ten opsigte van lede bestaan.

(5) Die registrateur kan na goeddunke gelas dat die likwidateur 'n verslag oor die voorlopige rekening en voorlopige balansstaat lewer, wat deur 'n onafhanklike waardeerdeerder of 'n ander deur die registrateur benoemde bevoegde persoon opgestel is.

(6) Die in sub-artikel (5) bedoelde voorlopige rekening, voorlopige balansstaat en verslag (as daar is) word by die kantoor van die registrateur en by die geregistreerde kantoor van so 'n vereniging en wanneer die geregistreerde kantoor van die vereniging in 'n ander distrik is as die distrik waarin die kantoor van die registrateur geleë is, by die kantoor van die magistraat van die distrik waarin die geregistreerde kantoor van die vereniging geleë is, beskikbaar gestel vir insae deur belanghebbende persone vir 'n tydperk van dertig dae.

(7) Die registrateur laat op rekening van so 'n vereniging in die *Staatskoerant* of in 'n nuusblad in omloop in die distrik waarin die geregistreerde kantoor van so 'n vereniging geleë is of in beide die *Staatskoerant* en so 'n nuusblad, 'n kennisgewing publiseer waarin die tydperk gedurende welke en die plekke waar die voorlopige rekening, voorlopige balansstaat en verslag (as daar is) vir insae soos voormeld beskikbaar sal wees, bekend gemaak word, en sodanige kennisgewing moet alle belanghebbende persone wat enige beswaar teen bedoelde voorlopige rekening, voorlopige balansstaat en verslag (as daar is) het, aansé om hul besware skriftelik by die registrateur in te dien binne 'n in die kennisgewing vermelde tydperk, wat nie minder as veertien dae vanaf die laaste dag waarop voormalde dokumente vir insae beskikbaar is, moet wees nie.

(8) Indien geen besware ingevolge sub-artikel (7) by die registrateur ingedien word nie, moet hy die likwidateur gelas om die likwidasie te voltooi.

(9) Indien ingevolge sub-artikel (7) besware by die registrateur ingedien is, kan die registrateur, nadat hy daardie besware oorweeg het, die likwidateur beveel om die voorlopige rekening en voorlopige balansstaat te wysig, of sodanige ander opdragte aangaande die likwidasie gee as wat hy goed vind, mits sulke opdragte nie met die statute van die vereniging onbestaanbaar is nie, en so 'n opdrag bind die likwidateur.

(10) Binne veertien dae nadat hy 'n opdrag van die registrateur ingevolge sub-artikel (9) ontvang het, moet die likwidateur 'n afskrif daarvan per pos aan elke lid, aandeelhouer en skuldeiser van die vereniging stuur, en die likwidateur, of iemand wat teen so 'n opdrag van die registrateur beswaar het, kan binne agt-en-twintig dae nadat bedoelde opdrag aan die likwidateur meege-deel is, by mosie 'n bevel van die hof aanvra wat die registrateur se beslissing ter syde stel, en die hof kan bedoelde beslissing bekragtig of so 'n bevel uitreik as wat hy wenslik ag.

(11) Indien die registrateur oortuig is dat sy bevele vir sover hulle nie deur die hof gewysig of ter syde gestel is nie, uitgevoer is, moet hy die likwidateur gelas om die likwidasie te voltooi.

(12) Die likwidateur moet, binne dertig dae na die voltooiing van die likwidasie, by die registrateur 'n finale rekening en 'n finale balansstaat indien wat deur hom onderteken en as korrek gesertifiseer is en wat die bates en laste van die vereniging by die aanvang van die likwidasie aantoon, en die wyse waarop die bates tot geld gemaak en die laste, met inbegrip van laste en voorwaardelike laste teenoor of ten opsigte van lede, vereffen is.

(13) Die bepalings van artikels *honderd vyf-en-sewentig* tot en met *honderd agt-en-sewentig*, *honderd-en-tagtig* tot en met *honderd twee-en-tagtig*, *honderd vier-en-tagtig* tot en met *honderd ses-en-tagtig*, *honderd agt-en-tagtig*, *honderd-en-negentig* en *honderd een-en-negentig* van die Maatskappywet, 1926, is, vir sover bedoelde artikels op 'n vrywillige likwidasie ooreenkomsdig daardie Wet betrekking het en vir sover hulle nie met die bepalings van hierdie Wet onbestaanbaar is nie, *mutatis mutandis* op die ontbinding van 'n vereniging ooreenkomsdig hierdie artikel van toepassing.

of the society, and the liquidation shall be deemed to commence as from the date of such approval.

(3) During such liquidation the provisions of this Act shall continue to apply to such society as if the liquidator were the person managing the business of the society.

(4) The liquidator shall as soon as may be deposit with the registrar a preliminary account and a preliminary balance sheet signed and certified by him as correct, showing the assets and liabilities of the society at the commencement of the liquidation and the manner in which it is proposed to realize the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of members.

(5) The registrar may, in his discretion, direct the liquidator to furnish a report, drawn up by an independent valuator or other competent person nominated by the registrar, upon the preliminary account and preliminary balance sheet.

(6) The preliminary account, preliminary balance sheet and report (if any) referred to in sub-section (5), shall lie open at the office of the registrar, and at the registered office of such society, and where the registered office of the society is in any district other than the district wherein the office of the registrar is situate, at the office of the magistrate of the district in which the registered office of the society is situate, for inspection by interested persons for a period of thirty days.

(7) The registrar shall, at the cost of such society, cause to be published in the *Gazette* or in a newspaper circulating in the district in which the registered office of such society is situate, or in both the *Gazette* and such newspaper, a notice stating the period during which and the places at which the preliminary account, preliminary balance sheet and report (if any) shall lie open for inspection as aforesaid, and such notice shall call upon all interested persons who have any objection to the said preliminary account, preliminary balance sheet and report (if any) to lodge their objections in writing with the registrar within a period stated in the notice, not being less than fourteen days as from the last day on which the aforesaid documents lie open for inspection.

(8) If no objections are lodged with the registrar in terms of sub-section (7), he shall direct the liquidator to complete the liquidation.

(9) If objections are lodged with the registrar in terms of sub-section (7), the registrar may, after considering the said objections, direct the liquidator to amend the preliminary account and preliminary balance sheet, or give such other directions relating to the liquidation as he thinks fit, provided such directions are not inconsistent with the rules of the society, and any such direction shall be binding upon the liquidator.

(10) The liquidator shall, within fourteen days of the receipt by him of any direction of the registrar in terms of sub-section (9), post a copy thereof to every member, shareholder and creditor of the society, and the liquidator or any person aggrieved by any such direction of the registrar may apply by motion to the court within twenty-eight days after such direction has been communicated to the liquidator, for an order to set aside the registrar's decision, and the court may confirm the said decision, or make such order as it thinks fit.

(11) If the registrar is satisfied that his directions, in so far as they have not been varied or set aside by the court, have been given effect to, he shall direct the liquidator to complete the liquidation.

(12) The liquidator shall, within thirty days after the completion of the liquidation, lodge with the registrar a final account and a final balance sheet, signed and certified by him as correct, showing the assets and liabilities of the society at the commencement of the liquidation and the manner in which the assets have been realized and the liabilities, including any liabilities and contingent liabilities to or in respect of members, have been discharged.

(13) The provisions of sections *one hundred and seventy-five* to *one hundred and seventy-eight*, inclusive, *one hundred and eighty* to *one hundred and eighty-two*, inclusive, *one hundred and eighty-four* to *one hundred and eighty-six*, inclusive, *one hundred and eighty-eight*, *one hundred and ninety* and *one hundred and ninety-one* of the Companies Act, 1926, in so far as the said sections relate to a voluntary winding-up in terms of the said Act, and in so far as they are not inconsistent with the provisions of this Act, shall apply *mutatis mutandis* to the dissolution of a society in terms of this section.

(14) Alle eise teen die vereniging moet tot bevrediging van die likwidateur bewys word, behoudens 'n reg van appèl na die hof, en die likwidateur kan verlang dat enige eis beëdig moet wees.

(15) Indien die registrateur oortuig is dat bedoelde rekening en balansstaat korrek is en dat die likwidasie voltooi is, moet hy die registrasie van die vereniging kanselleer, en daarop word so 'n vereniging geag ontbind te wees.

Buitengewone  
bepalings  
aangaande  
likwidasie van  
verenigings.

38. (1) By die toepassing van die bepalings van die Maatskap-pywyet, 1926, ooreenkomsdig artikel *vyf-en-dertig* of *sewe-en-dertig*—

- (a) word die lede van die vereniging as uitgestelde skuldeisers behandel en word hul vorderings teen die vereniging in hul hoedanigheid van lede nie vereffen nie totdat die skulde van die gewone skuldeisers betaal is;
- (b) word 'n verwysing na die Gekonsolideerde Inkomstefonds met betrekking tot 'n vereniging wat in die Gebied besigheid dryf, geag 'n verwysing na die Inkomstefonds van die Gebied te wees.

(2) Indien 'n vereniging 'n aandelekapitaal het, is die aanspreeklikheid van 'n aandeelhouer in geval van likwidasie ingevolge voormelde artikels of beperk tot die onbetaalde bedrag (as daar is) op enige aandeel wat hy besit, of onbeperk, na gelang die statute van die vereniging bepaal.

## HOOFSTUK VI.

### BUITENGEWONE BEPALINGS VAN TOEPASSING OP GEAFFILIEERDE ONDERLINGE HULPVERENIGINGS.

Woordomskry-wing.

Besondere be-palings toepaslik op geaffilieerde verenigings en sentrale vereni-gings.

39. (1) Tensy uit die samehang anders blyk, beteken in hierdie Hoofstuk—

- „geaffilieerde vereniging” 'n vereniging wat onder die beheer van 'n sentrale vereniging staan en verplig is om by te dra tot 'n fonds wat deur bedoelde sentrale vereniging bestuur word;
- „sentrale vereniging” 'n vereniging wat twee of meer geaffilieerde verenigings beheer wat verplig is om bydraes tot sy fondse te betaal.

(2) Die verenigings wat tot die fondse van 'n sentrale vereniging bydra, word geag sy lede te wees, en 'n sentrale vereniging mag nie ander persone as sy geaffilieerde verenigings as lede aanneem nie.

40. (1) Ondanks enigets in artikel *vyf* of *ses* vervat—

- (a) kan 'n aansoek om registrasie ingevolge hierdie Wet van 'n geaffilieerde vereniging gedoen word deur die sentrale vereniging waarvan die geaffilieerde vereniging 'n lid is, en in so 'n geval is die inligting wat deur die sentrale vereniging verskaf moet word dieselfde asof die aansoek gedoen was deur die persoon wat die besigheid van die geaffilieerde vereniging dryf; en
- (b) kan 'n geaffilieerde vereniging kragtens hierdie Wet geregistreer word met dieselfde of 'n ooreenstemmende naam as dié waaronder die sentrale vereniging waarvan hy 'n lid is geregistreer is, maar so 'n geaffilieerde vereniging moet by die naam van die sentrale vereniging een of ander kenmerkende naam, letter of nommer voeg, wat hom van die ander geaffilieerde verenigings van bedoelde sentrale vereniging sal onderskei.

(2) Die bepalings van artikel *dertien* is *mutatis mutandis* van toepassing op 'n sentrale vereniging behalwe dat die volgende paragrawe in plaas van paragrawe (b), (c), (d), (e), (f) en (r) geld, te wete—

- (b) die oogmerke van die sentrale vereniging en van sy geaffilieerde verenigings, die samestelling en bevoegdhede van die sentrale vereniging en van sy geaffilieerde verenigings onderskeidelik en die wyse waarop geskille tussen die sentrale vereniging en enige van sy geaffilieerde verenigings besleg word;
- (c) die wyse waarop die fondse van die sentrale vereniging verkry moet word en die doeleindes waarvoor hulle aangewend moet word;
- (d) die voorwaardes (as daar is) waaronder, behoudens die bepalings van hierdie Wet, 'n geaffilieerde vereniging van die sentrale vereniging kan afskei of daaruit gesit kan word.

(3) Geen statuut of deel van 'n statuut van 'n geaffilieerde vereniging is geldig nie, as dit strydig is met die statute of enige

(14) All claims against the society shall be proved to the satisfaction of the liquidator, subject to a right of appeal to the court, and the liquidator may require any claim to be made on affidavit.

(15) If the registrar is satisfied that the said account and balance sheet are correct and that the liquidation has been completed, he shall cancel the registration of the society and thereupon such society shall be deemed to be dissolved.

**38.** (1) In applying the provisions of the Companies Act, 1926, in terms of section *thirty-five* or *thirty-seven*. Special provisions relating to liquidation of societies.

- (a) the members of a society shall be treated as deferred creditors, and their claims against the society in their capacity as members shall not be settled until the debts of ordinary creditors have been paid;
- (b) any reference to the Consolidated Revenue Fund shall, in relation to a society carrying on business in the Territory, be deemed to be a reference to the Territory Revenue Fund.

(2) If a society has a share capital, the liability of a shareholder in the event of liquidation under the aforementioned sections shall either be limited to the amount (if any) unpaid on any share held by him, or shall be unlimited according as is provided by the rules of the society.

## CHAPTER VI.

### SPECIAL PROVISIONS APPLICABLE TO AFFILIATED FRIENDLY SOCIETIES.

**39.** (1) In this Chapter, unless the context indicates otherwise— Definitions.

“affiliated society” means a society which is under the control of a central society and is bound to contribute to a fund administered by such central society;

“central society” means a society which controls two or more affiliated societies liable for the payment of contributions to its funds.

(2) The societies contributing to the funds of a central society shall be deemed to be its members, and a central society shall not admit as members any persons other than its affiliated societies.

**40.** (1) Notwithstanding anything contained in section *five* or *six*— Special provisions applicable to affiliated societies and central societies.

(a) an application for registration under this Act of an affiliated society may be made by the central society of which such affiliated society is a member, and in such event the information to be supplied by the central society shall be the same as if such application had been made by the person carrying on the business of the affiliated society; and

(b) an affiliated society may be registered under this Act by a name identical with or similar to the name under which the central society of which it is a member is registered, but such affiliated society shall add to the name of the central society some distinguishing name, letter or number which will differentiate it from other affiliated societies of the said central society.

(2) The provisions of section *thirteen* shall *mutatis mutandis* apply to a central society except that the following paragraphs shall apply instead of paragraphs (b), (c), (d), (e), (f) and (r), namely—

(b) the objects of the central society and of its affiliated societies, the composition and powers of the central society and of its affiliated societies respectively and the manner of settling disputes between the central society and any of its affiliated societies;

(c) the manner in which the funds of the central society are to be raised and the purposes for which they are to be applied;

(d) the conditions (if any) under which, subject to the provisions of this Act, an affiliated society may secede or be expelled from the central society.

(3) No rule or part of a rule of an affiliated society shall be valid if it conflicts with the rules, or any part of the rules of the

deel van die statute van die sentrale vereniging waarvan die geaffilieerde vereniging lid is, en iemand wat kragtens hierdie Wet geregtig is om 'n afskrif van die statute van 'n geaffilieerde vereniging te ontvang, is ook geregtig om 'n afskrif van die statute van die sentrale vereniging, waarvan die geaffilieerde vereniging lid is, te ontvang.

(4) Die registrator kan in plaas van om ooreenkomsdig artikel *twee-en-dertig* ondersoek in te stel of 'n inspekteur aan te stel om onderzoek in te stel na die sake of enige deel van die sake van 'n geaffilieerde vereniging, aan die sentrale vereniging waarvan die geaffilieerde vereniging lid is, die geleentheid gee om self 'n dergelike onderzoek in te stel en die sentrale vereniging moet, indien hy van die geleentheid gebruik maak, oor die uitslag van sy ondersoek aan die registrator verslag doen, en daarop kan die registrator ooreenkomsdig daardie artikel 'n ondersoek instel of laat instel, indien hy dit nodig ag.

**Afskeiding en uitsetting van geaffilieerde verenigings.**

41. (1) 'n Voorgestelde afskeiding deur of uitsetting van 'n geaffilieerde vereniging uit 'n sentrale vereniging is nie van krag nie, tensy—

- (a) die skema vir die voorgestelde afskeiding of uitsetting, met inbegrip van volledige besonderhede van die finansiële reëlings voorgestel om tussen die sentrale vereniging en die geaffilieerde vereniging getref te word, aan die registrator voorgelê is;
- (b) daar aan die registrator addisionele besonderhede, of 'n sertifikaat of spesiale verslag deur 'n waardeerdeer soos hy vir die doeleindes van hierdie sub-artikel nodig ag, verstrek is;
- (c) die registrator oortuig is dat die afskeiding of uitsetting dit nie vir bedoelde sentrale vereniging of bedoelde geaffilieerde vereniging onmoontlik sal maak om die vereistes van hierdie Wet na te kom, of om 'n gesonde finansiële toestand te handhaaf of, in die geval van 'n sentrale vereniging of 'n geaffilieerde vereniging wat nie in so 'n toestand is nie, om so 'n toestand binne 'n redelike tydperk te bereik nie;
- (d) daar aan die registrator die bewys wat hy verlang, verstrek is dat die bepalings van bedoelde skema en die bepalings, vir sover toepaslik, van die statute van die sentrale vereniging en van die geaffilieerde vereniging uitgevoer is; en
- (e) die registrator 'n sertifikaat aan die hoofbeampte van die sentrale vereniging en die hoofbeampte van die betrokke geaffilieerde vereniging gestuur het, ten effekte dat aan al die vereistes van hierdie sub-artikel voldoen is.

(2) Wanneer 'n geaffilieerde vereniging afgeskei het van of uitgesit is uit 'n sentrale vereniging kan die registrator so 'n geaffilieerde vereniging 'n redelike tydperk vergun, maar hoogstens drie maande vanaf die datum van so 'n afskeiding of uitsetting, om die naamverandering of wysigings in sy statute aan te bring wat as gevolg van so 'n afskeiding of uitsetting nodig mag wees, en gedurende so 'n tydperk word dit nie geag dat die geaffilieerde vereniging 'n bepaling van hierdie Wet oortree het slegs op grond van sy versuum om aldus sy naam te verander of sy statute te wysig nie.

(3) Die bepalings van sub-artikel (2) is *mutatis mutandis* van toepassing op die sentrale vereniging vir sover hy deur die afskeiding of uitsetting van die geaffilieerde vereniging geraak word.

(4) Die bepalings van sub-artikel (3) van artikel ses is *mutatis mutandis* van toepassing in verband met 'n naamverandering wat deur die afskeiding of uitsetting van 'n geaffilieerde vereniging genoodsaak word.

## HOOFSTUK VII.

### ALGEMEEN EN DIVERSE.

42. Niemand mag—

- (a) die besigheid van 'n onderlinge hulpvereniging wat by die inwerkingtreding van hierdie Wet bestaan, vir 'n langer tydperk as ses maande na bedoelde inwerkingtreding dryf nie, tensy behoorlik ooreenkomsdig artikel vyf om die registrasie van daardie vereniging aansoek gedoen is; of
- (b) die besigheid van 'n onderlinge hulpvereniging wat na bedoelde inwerkingtreding opgerig is, dryf nie, tensy daardie vereniging behoorlik geregistreer is ooreenkomsdig artikel vyf; of

**Dryf van besigheid deur onge-registreerde onderlinge hulp-verenigings en gebruik van be-naming „onder-linge hulpver-eniging“.**

central society of which the affiliated society is a member, and any person who is under this Act entitled to receive a copy of the rules of an affiliated society shall also be entitled to receive a copy of the rules of the central society of which the affiliated society is a member.

(4) The registrar may, instead of investigating or appointing an inspector to investigate the affairs or any part of the affairs of an affiliated society in terms of section *thirty-two*, give the central society of which the affiliated society is a member the option of itself making a similar investigation, and the central society shall, if it exercises such option, report to the registrar the results of its investigation, and thereupon the registrar may make an investigation or cause an investigation to be made in terms of that section, if he considers it necessary.

**41.** (1) A proposed secession or expulsion of an affiliated society from a central society shall be of no force or effect unless— Secessions and expulsions of affiliated societies.

- (a) the scheme for the proposed secession or expulsion, including full details of the financial arrangements which it is proposed to make between the central society and the affiliated society, has been submitted to the registrar;
- (b) the registrar has been furnished with such additional particulars or with such certificate or special report by a valuator, as he may deem necessary for the purposes of this sub-section;
- (c) the registrar is satisfied that such secession or expulsion would not render the said central society or the said affiliated society unable to meet the requirements of this Act or to remain in a sound financial condition or, in the case of a central society or an affiliated society which is not in such a condition, to attain such a condition within a reasonable period of time;
- (d) the registrar has been furnished with such evidence as he may require that the provisions of the said scheme and the provisions, in so far as they are applicable, of the rules of the central society and of the affiliated society have been carried out; and
- (e) the registrar has forwarded a certificate to the principal officer of the central society and the principal officer of the affiliated society concerned, to the effect that all the requirements of this sub-section have been satisfied.

(2) When an affiliated society has seceded or been expelled from a central society, the registrar may allow such affiliated society a reasonable period, not exceeding three months from the date of such secession or expulsion, in which to effect such change of name or such amendments to its rules as may be necessitated by such secession or expulsion, and during such period the affiliated society shall not be deemed, solely by reason of its failure so to change its name or to amend its rules, to have contravened any provision of this Act.

(3) The provisions of sub-section (2) shall *mutatis mutandis* apply to the central society in so far as it is affected by the secession or expulsion of the affiliated society.

(4) The provisions of sub-section (3) of section *six* shall *mutatis mutandis* apply in connection with any change of name necessitated by the secession or expulsion of an affiliated society.

## CHAPTER VII.

### GENERAL AND MISCELLANEOUS.

**42.** No person shall—

- (a) carry on the business of a friendly society which is in existence at the commencement of this Act, for a period of more than six months after such commencement unless application has been duly made under section *five* for the registration of that society; or Carrying on business of unregistered friendly society and use of designation "friendly society".
- (b) carry on the business of a friendly society established after such commencement, unless that society has been duly registered under section *five*; or

- (c) die besigheid van 'n onderlinge hulpvereniging dryf nie vir 'n langer tydperk as twaalf maande na die datum waarop die persoon wat om registrasie van die vereniging aansoek gedoen het deur die registrator in kennis gestel is dat die aansoek van die hand gewys is; of
- (d) behalwe met toestemming van die registrator na verloop van 'n tydperk van twaalf maande vanaf die inwerkingtreding van hierdie Wet, op sy besigheid 'n naam wat die woorde „onderlinge hulpvereniging“ insluit, of 'n ander naam wat bereken is om aan te dui dat hy die besigheid van 'n onderlinge hulpvereniging dryf, toepas nie, tensy daardie besigheid kragtens hierdie Wet as 'n onderlinge hulpvereniging geregistreer is.

Registrator kan  
inligting van  
ongeregistreerde  
verenigings eis.

**43.** (1) Die registrator kan by skriftelike kennisgewing 'n persoon wat, na hy rede het om te vermoed, die besigheid dryf van 'n onderlinge hulpvereniging wat nie ingevolge hierdie Wet geregistreer is nie, gelas om binne 'n in die kennisgewing vermelde tydperk aan hom 'n afskrif te stuur van die statute, as daar is, waarvolgens bedoelde persoon optree, tesame met 'n afskrif van die jongste jaarlikse rekenings deur bedoelde persoon aangeteken en die verdere inligting wat die registrator mag verlang.

(2) Indien so 'n persoon versuim om tot bevrediging van die registrator aan sy vereistes te voldoen, kan die registrator met toestemming van die Minister die sake of enige deel van die sake van bedoelde persoon ondersoek, of 'n inspekteur aanstel om so 'n ondersoek te doen en die uitslag van sy ondersoek aan die registrator te rapporteer, en die bepalings van sub-artikels (3) tot en met (5) van artikel *twee-en-dertig* is *mutatis mutandis* op so 'n ondersoek van toepassing, en die registrator is geregtig om alle onkoste noodsaklike wryns in verband met die ondersoek aangegaan, op die betrokke persoon te verhaal, tensy so 'n ondersoek aantoon dat bedoelde persoon nie die besigheid van 'n onderlinge hulpvereniging dryf nie.

(3) Indien uit navrae ooreenkomsdig sub-artikel (1) deur die registrator gedoen, of uit 'n ondersoek ooreenkomsdig sub-artikel (2) gedoen, blyk dat die betrokke persoon die besigheid van 'n onderlinge hulpvereniging dryf, moet die registrator die betrokke vereniging voorlopig regstreer waarna die bepalings van hierdie Wet op genoemde vereniging van toepassing sal wees.

Registrator kan  
sekere tydperke  
verleng.

**44.** (1) Wanneer iemand ooreenkomsdig 'n bepaling van hierdie Wet verplig is om een of ander handeling binne 'n vermelde tydperk te verrig, kan die registrator op versoek van so iemand daardie tydperk in 'n besondere geval van tyd tot tyd verleng.

(2) Die registrator kan in spesiale omstandighede enige sodanige vermelde tydperk verleng nadat dit verstryk het.

Jaarverslag  
deur registrator

**45.** Die registrator lê jaarliks aan die Minister 'n verslag voor aangaande sy werksaamhede ingevolge hierdie Wet en bedoelde verslag word deur die Minister in albei Huise van die Parlement ter Tafel gelê binne veertien dae na ontvangst daarvan as die Parlement dan in gewone sitting is of, indien die Parlement nie dan in gewone sitting is nie, binne veertien dae van die aanvang van sy eersvolgende gewone sitting.

Reg om doku-  
mente in te sien  
of afskrifte daar-  
van te verkry.

**46.** (1) Elke geregistreerde vereniging moet aan enige lid, op aanvraag deur so 'n lid en by betaling van so 'n bedrag as wat die statute van die vereniging mag vasstel, 'n afskrif van enigeen van die volgende dokumente oorhandig, te wete—

- (a) die statute van die vereniging;
- (b) die jongste inkomsterekening ooreenkomsdig paragraaf
  - (a) van sub-artikel (1) van artikel *twee-en-twintig* opgestel, tesame met die jongste balansstaat ooreenkomsdig paragraaf (b) van daardie sub-artikel opgestel.
- (2) 'n Lid is geregtig om sonder betaling by die geregistreerde kantoor van 'n geregistreerde vereniging, 'n afskrif van enigeen van die volgende dokumente in te sien en uittreksels daaruit te maak, te wete—
  - (a) die in sub-artikel (1) bedoelde dokumente;
  - (b) die jongste waardasie (as daar een is) ooreenkomsdig artikel *drie-en-twintig* deur 'n waardeerder opgestel;
  - (c) die jongste opgawe van laste ooreenkomsdig artikel *vier-en-twintig* opgestel;
  - (d) die jongste opgawe van bates ooreenkomsdig artikel *vyf-en-twintig* opgestel.

- (c) carry on the business of a friendly society for a period of more than twelve months after the date on which the person who applied for registration of the society is advised by the registrar that the application for registration has been refused; or
- (d) after the expiration of a period of twelve months from the commencement of this Act, apply to his business a name which includes the words "friendly society" or any other name which is calculated to indicate that he carries on the business of a friendly society, unless such business is registered as a friendly society under this Act, except with the consent of the registrar.

**43.** (1) The registrar may by notice in writing require any person whom he has reason to suspect is carrying on the business of a friendly society which is not registered under this Act, to transmit to him within a period stated in such notice, a copy of the rules, if any, under which such person is operating, together with a copy of the last annual accounts recorded by such person, and such further information as the registrar may require.

Registrar may require unregistered societies to furnish information.

(2) If such person fails to comply with the requirements of the registrar to his satisfaction, the registrar may, with the consent of the Minister, investigate the affairs or any part of the affairs of the said person, or appoint an inspector to hold such an investigation and to report the result of his investigation to the registrar, and the provisions of sub-sections (3) to (5), inclusive, of section *thirty-two* shall *mutatis mutandis* apply to every such investigation, and the registrar shall be entitled to recover from the person concerned all expenses necessarily incurred in connection with the investigation, unless such investigation shows that such person is not carrying on the business of a friendly society.

(3) If it appears from enquiries made by the registrar in terms of sub-section (1) or of any investigation made in terms of sub-section (2), that the person concerned is carrying on the business of a friendly society, the registrar shall register the society provisionally whereafter the provisions of this Act shall apply to the said society.

**44.** (1) When any person is obliged in terms of any provision of this Act to perform any act within a specified period, the registrar may, at the request of such person, in any particular case, extend that period from time to time.

Registrar may extend certain periods.

(2) The registrar may in special circumstances extend any such specified period after it has expired.

**45.** The registrar shall annually submit to the Minister a report on his activities under this Act and such report shall be laid by the Minister on the Tables of both Houses of Parliament within fourteen days after receipt thereof if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Annual report by registrar.

**46.** (1) Every registered society shall deliver to any member on demand by such member, and on payment of such sum as may be determined by the rules of the society, a copy of any of the following documents, that is to say—

Right to obtain copies of or to inspect certain documents.

- (a) the rules of the society;
- (b) the last revenue account prepared in terms of paragraph (a) of sub-section (1) of section *twenty-two*, together with the last balance sheet prepared in terms of paragraph (b) of that sub-section.

(2) Any member shall be entitled to inspect without charge at the registered office of a registered society, a copy of any of the following documents and make extracts therefrom, that is to say—

- (a) the documents referred to in sub-section (1);
- (b) the last valuation (if any) by a valuator prepared in terms of section *twenty-three*;
- (c) the last statement of liabilities prepared in terms of section *twenty-four*;
- (d) the last statement of assets prepared in terms of section *twenty-five*.

## Regulasies.

47. Die Goewerneur-generaal kan regulasies uitvaardig wat nie met die bepalings van hierdie Wet onbestaanbaar is nie—  
 (a) in verband met alle sake wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word;  
 (b) wat die vorm voorskryf van 'n in hierdie Wet bedoelde dokument waarvoor daar nie andersins in hierdie Wet voorsiening gemaak word nie, of wat wysigings of aanvullings van so'n vorm voorskryf;  
 (c) in die algemeen in verband met alle aangeleenthede wat hy nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

## Strawwe.

48. (1) Iemand wat—  
 (a) die bepalings van sub-artikel (1) van artikel *ses-en-veertig* oortree of versuim om daaraan te voldoen; of  
 (b) versuim om 'n opgawe te verstrek, of 'n skema, verslag, rekening, staat of ander dokument te verstrek of in te dien wanneer dit ooreenkomsdig hierdie Wet vereis word; of  
 (c) bates andersins as ooreenkomsdig die bepalings van hierdie Wet belê of enige voorwaarde waarop hy van die bepalings van artikel *twintig* vrygestel is, oortree; of  
 (d) die bepalings van artikel *negentien* oortree; of  
 (e) versuim of weier om inligting te verstrek of dokumente of rekenings oor te lê of ander hulp te verleen aan die registrator wanneer hy ooreenkomsdig hierdie Wet versoek word om dit te doen; of  
 (f) na verstrekking van 'n tydperk van ses maande vanaf die inwerkingtreding van hierdie Wet iemand beweeg of probeer beweeg om 'n lid te word van of 'n bydrae te doen tot 'n vereniging wat nie kragtens hierdie Wet geregistreer is nie; of  
 (g) die bepalings van artikel *twaalf* of *twee-en-veertig* oortree,  
 is aan 'n misdryf skuldig en by veroordeling strafbaar—  
 (i) in die geval van 'n in paragraaf (a) bedoelde misdryf met 'n boete van hoogstens tien pond;  
 (ii) in die geval van 'n in paragraaf (b) of (c) bedoelde misdryf met 'n boete van hoogstens vyf-en-twintig pond;  
 (iii) in die geval van 'n in paragraaf (d), (e) of (f) bedoelde misdryf met 'n boete van hoogstens vyftig pond; en  
 (iv) in die geval van 'n in paragraaf (g) bedoelde misdryf met 'n boete van hoogstens honderd pond, of indien die oortreder 'n indiwidu is, met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande, of met daardie boete sowel as daardie gevangenisstraf.  
 (2) Sonder dat daardeur aan die bepalings van sub-artikel (1) afgedoen word, kan 'n persoon wat versuim het om 'n opgawe te verstrek of 'n skema, verslag, rekening, staat of ander dokument te verstrek of in te dien binne die tydperk voorgeskryf in die betrokke bepaling van die Wet, daarna sodanige opgawe verstrek of sodanige skema, verslag, rekening, staat of ander dokument verstrek of indien onderworpe aan die betaling van 'n boete wat by regulasie voorgeskryf is.  
 (3) Enige boete wat by sub-artikel (2) voorgeskryf word, mag wissel na gelang van die tydperk wat verstrek het sedert die laaste dag waarop die betrokke opgawe, skema, verslag, rekening, staat of ander dokument verstrek of ingedien moes gewees het.  
 (4) By die toepassing van sub-artikel (2) is die beslissing van die registrator afdoende aangaande die tydperk waarbinne 'n in daardie sub-artikel gemelde opgawe, skema, verslag, rekening, staat of ander dokument verstrek of ingedien moes gewees het.  
 (5) Enige boete wat volgens sub-artikel (2) betaalbaar is, is 'n skuld aan die Unie-regering verskuldig en kan deur die registrator deur aksie in 'n bevoegde hof verhaal word.

Vrystelling van  
bepalings van  
Wet 34 van  
1934.

Wysiging van  
Wet 27  
van 1943.

49. Die Trustgelde Beskermings Wet, 1934 (Wet No. 34 van 1934), is nie op 'n kragtens hierdie Wet geregistreerde vereniging van toepassing nie.
50. Die Versekeringswet word hiermee gewysig—  
 (a) deur paragraaf (a) van die voorbehoudsbepaling by die omskrywing van „versekeringsbesigheid“ in artikel *een* deur die volgende paragraaf te vervang:  
 „(a) die werksaamhede van 'n onderlinge hulpvereniging tensy so 'n vereniging iemand in diens het wie se vernaamste besoldigde werksaamheid daar-

**47.** The Governor-General may make regulations, not inconsistent with the provisions of this Act— **Regulations.**

- (a) in regard to all matters which by this Act are required or permitted to be prescribed by regulation;
- (b) prescribing the form of any document referred to in this Act for which provision is not otherwise made in this Act, or prescribing alterations or additions to any such form;
- (c) generally, as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

**48.** (1) Any person who—

**Penalties.**

- (a) contravenes or fails to comply with the provisions of sub-section (1) of section *forty-six*; or
- (b) fails to make a return or transmit or deposit a scheme, report, account, statement or other document when required to do so in terms of this Act; or
- (c) invests assets otherwise than in accordance with the provisions of this Act or contravenes any condition on which he has been exempted from the provisions of section *twenty*; or
- (d) contravenes the provisions of section *nineteen*; or
- (e) fails or refuses to furnish information, or produce documents or accounts, or render other assistance to the registrar when called upon to do so in terms of this Act; or
- (f) after the expiration of a period of six months from the commencement of this Act, induces or attempts to induce any person to become a member of, or to contribute to a society not registered under this Act; or
- (g) contravenes the provisions of section *twelve* or *forty-two*,

shall be guilty of an offence, and liable on conviction—

- (i) in the case of an offence referred to in paragraph (a), to a fine not exceeding ten pounds;
- (ii) in the case of an offence referred to in paragraph (b) or (c), to a fine not exceeding twenty-five pounds;
- (iii) in the case of an offence referred to in paragraph (d), (e) or (f), to a fine not exceeding fifty pounds; and
- (iv) in the case of an offence referred to in paragraph (g) to a fine not exceeding one hundred pounds, or, if the offender is an individual, to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

(2) Without derogation from the provisions of sub-section (1), a person who has failed to make a return or to transmit or deposit a scheme, report, account, statement or other document within the time prescribed in the appropriate provision of the Act, may thereafter furnish such return or transmit or deposit such scheme, report, account, statement or other document subject to the payment of a penalty prescribed by regulation.

(3) Any penalty prescribed under sub-section (2) may vary according to the period which has elapsed since the last day on which the return, scheme, report, account, statement or other document in question was required to be made, transmitted or deposited.

(4) For the purpose of sub-section (2) the decision of the registrar as to the time within which a return, scheme, report, account, statement or other document referred to in that sub-section was required to be furnished, transmitted or deposited, shall be final.

(5) Any penalty payable under sub-section (2) shall be a debt due to the Union Government and may be recovered by the registrar by action in any competent court.

**49.** The Trust Moneys Protection Act, 1934 (Act No. 34 of 1934), shall not apply to a society registered under this Act.

**Exemption from  
Act 34 of  
1934.**

**50.** The Insurance Act is hereby amended—

**Amendment of  
Act 27 of  
1943.**

- (a) by the substitution for paragraph (a) of the proviso to the definition of "insurance business" in section *one* of the following paragraph:
- "(a) the activities of a friendly society, unless such society employs a person whose main remunerated occupation consists of inducing persons to

uit bestaan om persone te beweeg om lede van die vereniging te word, of om lede van die vereniging by hul woonplekke of hul werkplekke te besoek ten einde bydraes of intekengeldte tot die fondse van die vereniging van hulle in te vorder, of tensy so 'n onderlinge hulpvereniging 'n jaargeld van meer as twee-en-sewentig pond per jaar toeken of voorsiening maak ten opsigte van 'n lid of ander persoon vir betalings, hetby by die dood van so 'n lid of ander persoon of in die vorm van 'n begiftiging of uitkeringsverzekering op die lewe van so 'n lid of ander persoon, wat in die geheel die som van driehonderd pond (afgesien van bonusse) te bowe gaan, te eniger tyd na die datum van inwerkingtreding van die Wet op Onderlinge Hulpverenigings, 1956, en nie by wyse van vervulling van 'n verpligting wat voor bedoelde datum bestaan het nie;";

(b) deur in artikel *een* die omskrywing van „onderlinge hulpvereniging“ deur die volgende omskrywing te vervang:

„onderlinge hulpvereniging“ beteken 'n onderlinge hulpvereniging soos in artikel *een* van die Wet op Onderlinge Hulpverenigings, 1956, omskryf;"; en

(c) deur in artikel *vyftig* die woorde „en 'n onderlinge hulpvereniging“ te skrap.

**Herroeping van wette.**

51. Soveel van die „Friendly Societies Act, 1892“ (Wet No. 5 van 1892), as wat nie tevore herroep is nie, en die „Friendly Societies Amendment Act, 1895“ (Wet No. 26 van 1895), van die Kaap die Goeie Hoop, en Wet No. 20 van 1862 en Wet No. 7 van 1897 van Natal word hiermee herroep.

**Toepassing in Suidwes-Afrika.**

52. Hierdie Wet is ook van toepassing op die Gebied.

**Kort titel en inwerkingtreding.**

53. Hierdie Wet heet die Wet op Onderlinge Hulpverenigings, 1956, en tree in werking op 'n datum wat deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* vasgestel word.

No. 29, 1956.]

## WET

### Tot wysiging van die Wet op Groepsgebiede, 1950.

*(Afrikaanse teks deur die Goewerneur-generaal geteken.)  
(Goedgekeur op 8 Mei 1956.)*

**DIT WORD BEPAAL** deur Haar Majestiteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

**Wysiging van artikel 3 van Wet 41 van 1950 soos gewysig deur artikel 3 van Wet 65 van 1952 en artikel 2 van Wet 68 van 1955**

1. Artikel *drie* van die Wet op Groepsgebiede, 1950, word hierby gewysig—

- (a) deur in sub-paragraaf (i) van paragraaf (a) van sub-artikel (3) die woorde „in die provinsie die Kaap die Goeie Hoop of Natal“ te skrap, en deur sub-paragrawe (ii) en (iii) van bedoelde paragraaf te skrap;
- (b) deur in sub-paragraaf (ii) van paragraaf (c) van sub-artikel (3) die woorde „of 'n gebied wat kragtens paragraaf (h) van sub-artikel (2) van artikel *nege* van genoemde Wet as 'n woonplek vir naturelle goedkeur is“ te skrap.

**Kort titel.**

2. Hierdie Wet heet die Wysigingswet op Groepsgebiede, 1956.

become members of the society, or of calling on members of the society at their residences or places of work for the purpose of collecting from them contributions or subscriptions towards the society's funds, or unless such friendly society grants any annuity exceeding seventy-two pounds per annum, or provides in respect of any member or other person for payments either on the death of such member or other person or in the form of an endowment or endowment insurance on the life of such member or other person, exceeding in all the sum of three hundred pounds (exclusive of bonuses), at any time after the date of commencement of the Friendly Societies Act, 1956, and not in fulfilment of any obligation in existence before the said date;";

- (b) by the substitution in section *one* for the definition of "friendly society" of the following definition:  
"friendly society" means a friendly society as defined in section *one* of the Friendly Societies Act, 1956;"; and
- (c) by the deletion in section *fifty* of the words "and no friendly society".

**51.** So much of the Friendly Societies Act, 1892 (Act No. 5 Repeal of laws of 1892), as has not previously been repealed, and the Friendly Societies Amendment Act, 1895 (Act No. 26 of 1895), of the Cape of Good Hope, and Law No. 20 of 1862 and Law No. 7 of 1897 of Natal, are hereby repealed.

**52.** This Act shall apply also in the Territory.

Application to South-West Africa.

**53.** This Act shall be called the Friendly Societies Act, Short title 1956, and shall come into operation on a date to be fixed by and commencement. the Governor-General by proclamation in the *Gazette*.

No. 29, 1956.]

## ACT

To amend the Group Areas Act, 1950.

(Afrikaans text signed by the Governor-General.)  
(Assented to 8th May, 1956.)

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

1. Section *three* of the Group Areas Act, 1950, is hereby amended—
  - (a) by the deletion in sub-paragraph (i) of paragraph (a) of sub-section (3) of the words "in the province of the Cape of Good Hope or of Natal", and by the deletion of sub-paragraphs (ii) and (iii) of the said paragraph;
    - (b) by the deletion in sub-paragraph (ii) of paragraph (c) of sub-section (3) of the words "or any area approved for the residence of natives under paragraph (h) of sub-section (2) of section *nine* of the said Act".
2. This Act shall be called the Group Areas Amendment Act, 1956.

Amendment of section 3 of Act 41 of 1950 as amended by section 3 of Act 65 of 1952 and section 2 of Act 68 of 1955.

No. 28, 1956.]

# WET

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

(Engelse teks deur die Goewerneur-generaal geteken.)  
(Goedgekeur op 7 Mei 1956.)

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

**Woordbepaling**

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—
  - (i) „aangewese agent”, 'n aangewese agent van 'n nywerheidsraad wat aangestel is of geag word aangestel te gewees het kragtens artikel *twee-en-sestig*; (ix)
  - (ii) „ampsdraer”, 'n ander persoon as 'n beampete wat enige amp in 'n geregistreerde vakvereniging of werkgewersorganisasie beklee, en ook 'n ander lid as 'n lid *ex officio* van 'n komitee van so 'n vereniging of organisasie; (xxii)
  - (iii) „amptenaar”, 'n persoon op die vaste diensstaat van die Staatsdiens, of 'n inspekteur; (xxiii)
  - (iv) „arbiter”, 'n arbiter wat aangestel is of geag word aangestel te gewees het kragtens artikel *vyf-en-veertig* of *ses-en-veertig*; (ii)
  - (v) „beampete”, 'n werknemer van 'n geregistreerde vakvereniging of werkgewersorganisasie in diens as sekretaris, assistent-sekretaris of organiseerde van sodanige vereniging of organisasie of in enige ander voorgeskrewe hoedanigheid, hetsy sodanige werknemer in 'n voltydse hoedanigheid in diens is al dan nie; (xxiv)
  - (vi) „beloning”, 'n betaling in kontant of in natura of beide in kontant en in natura gemaak of verskuldig aan enige persoon, en wat op enige wyse hoegenaamd uit diens ontstaan; en het „beloon” 'n ooreenstemmende betekenis; (xxxiii)
  - (vii) „blanke”, 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; (xlii)
  - (viii) „gebied”, ook 'n aantal gebiede, aangrensend al dan nie; (iii)
  - (ix) „gekleurde”, iemand wat nie 'n blanke of 'n naturel is nie; (vi)
  - (x) „geserveerde beroep”, 'n beroep bedoel in 'n sertifikaat of kennisgewing wat kragtens sub-artikel (10) van artikel *vyf-en-dertig* uitgereik of gepubliseer is; (xxxiv)
  - (xi) „hierdie Wet”, ook enige regulasie; (xxxvii)
  - (xii) „inspekteur”, 'n inspekteur wat aangestel is of geag word aangestel te gewees het kragtens artikel *sestig*; (xv)
  - (xiii) „loonreëlende maatreël”—
    - (a) 'n ooreenkoms, kennisgewing of toekenning wat ingevolge hierdie Wet bindend is;
    - (b) 'n vasstelling wat gemaak is of geag word gemaak te gewees het kragtens die Loonwet, 1937 (Wet No. 44 van 1937);
    - (c) 'n vasstelling kragtens die Wet op Naturellebouwerks, 1951 (Wet No. 27 van 1951), gemaak; of
    - (d) 'n order kragtens die Wet op Naturelle-arbeid (Beslektiging van Geskille), 1953 (Wet No. 48 van 1953), gemaak; (xliii)
  - (xiv) „Minister”, die Minister van Arbeid; (xix)

No. 28, 1956.]

# ACT

**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 inter-racial competition; and to provide for other incidental matters.**

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

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

**1. (1) In this Act, unless the context otherwise indicates— Definitions.**

- (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)
- (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)
- (iv) "award" means an award made or deemed to have been made under section *forty-five*, *forty-six* or *forty-nine*; (xxxiii)
- (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; (xl)
- (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; (xxxviii)
- (viii) "council" means an industrial council; (xxvii)
- (ix) "designated agent" means a designated agent of an industrial council appointed or deemed to have been appointed under section *sixty-two*; (i)
- (x) "determination" means a determination made under section *seventy-six* or *seventy-seven*, as the case may be; (xxxvi)
- (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 (other than a native) who in any manner assists in the carrying on or conducting of the business of an employer; and "employed" and "employment" have corresponding meanings; (xliv)
- (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; (xlvi)
- (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; (xlvi)

- (xv) „naturel”, iemand wat inderdaad 'n lid van 'n inboorlingras of -stam van Afrika is of gewoonlik daarvoor deurgaan; (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 bedoelde Wet, die geregistreerde eienaar, soos omskryf in artikel *nege-en-veertig* van bedoelde Wet is, en alle grond in 'n oopgestelde gebied binne die bedoeling van bedoelde Wet wat op naam van 'n naturel, soos in artikel *nege-en-veertig* van bedoelde Wet omskryf, geregistreer staan of van so 'n naturel wat oorlede is of van enige persoon ten behoeve van of in trust vir 'n naturelestam 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 afgesonder is;
- (c) enige dorp of nedersetting wat bestuur word kragtens 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 'n woonplek vir naturelle goedkeur 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 die Minister na oorlegpleging met die Minister van Naturellesake as 'n naturellegebied vir die doeleindes van hierdie Wet beskou; (xxi)
- (xvii) „nywerheidshof”, die nywerheidshof deur artikel *sewentien* ingestel of met betrekking tot enige aanleentheid wat ingevolge hierdie Wet na 'n afdeling daarvan verwys is, die afdeling van die nywerheidshof waarna die aanleentheid aldus verwys is; (xxxix)
- (xviii) „nywerheidsraad”, 'n nywerheidsraad wat geregistreer is of geag word geregistreer te wees, kragtens hierdie Wet; (xiv)
- (xix) „onderneming, nywerheid, bedryf of beroep”, ook enige afdeling of gedeelte van 'n onderneming, nywerheid, bedryf of beroep; (xli)
- (xx) „organisasie”, 'n werkgewersorganisasie; (xxv)
- (xxi) „ooreenkoms”, 'n ooreenkoms wat deur partye by 'n nywerheidsraad of versoeningsraad kragtens hierdie Wet aangegaan is of geag word aldus 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); (xxx)
- (xxiii) „passasiërsvervoer”, die vervoer van persone deur middel van 'n voertuig teen vergoeding volgens 'n rooster; (xxvi)
- (xxiv) „perseel”, enige grond en enige gebou of struktuur bo of onder die oppervlakte van enige grond en ook enige voertuig, vliegtuig of vaartuig; (xxvii)
- (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 ingestel kragtens die Ordonnansie op die Kommissie vir Plaaslike Gesondheid (Beheer oor Openbare Gesondheidsgebiede), 1941 (Ordonnansie No. 20 van 1941) van Natal, en enige ander soortgelyke instelling of liggaam wat in paragraaf (vi) van artikel *vyf-en-tigtig* van die „Zuid-Afrika Wet”, 1909, beoog word; (xvii)

- (xiv) "industrial council" means an industrial council registered or deemed to be registered under this Act;
- (xviii)
- (xv) "inspector" means an inspector appointed or deemed to have been appointed under section *sixty*; (xii)
- (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; (xli)
- (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 established under 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 other similar institution or body contemplated in paragraph (vi) of section *eighty-five* of the South Africa Act, 1909; (xxv)
- (xviii) "lock-out" means any one or more of the following acts or omissions by a person who is or has been an employer—
  - (a) the exclusion by him of any body or number of persons who are or have been in his employ from any premises on or in which work provided by him is or has been performed; or
  - (b) the total or partial discontinuance by him of his business or of the provision of work; or
  - (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,
 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—
  - (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
  - (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;
 (xxxiv)
- (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—
  - (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;
  - (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);
  - (c) any town, village or settlement administered under regulations made under section *thirty* of the Native Administration Act, 1927 (Act No. 38 of 1927);

- (xxvi) „private registrasiekantoor”, 'n besigheid vir wins gedryf waarin betrekkings vir blankes of gekleurdes of beide blankes en gekleurdes wat werk van enige aard hoegenaamd soek, gevind word of waarin raad in verband met die vind van werk aan sodanige persone gegee word; (xxix)
- (xxvii) „raad”, 'n nywerheidsraad; (viii)
- (xxviii) „registrateur”, die nywerheidsregister wat aangestel is of geag word aangestel te gewees het kragtens artikel *drie*; (xxx)
- (xxix) „regulasie”, 'n regulasie wat ingevolge hierdie Wet uitgevaardig is of geag word aldus uitgevaardig te gewees het en van krag is; (xxxii)
- (xxx) „sekretaris”, met betrekking tot 'n vakvereniging of werkgewersorganisasie of 'n nywerheidsraad of versoeningsraad, ook enige persoon wat verantwoordelik is vir die verrigting van enigeen van die pligte wat gewoonlik deur 'n sekretaris verrig word; (xxxv)
- (xxxi) „skeidsregter”, 'n skeidsregter wat aangestel is of geag word aangestel te gewees het kragtens artikel *vyf-en-veertig* of *ses-en-veertig*; (xl)
- (xxxii) „staking”, een of meer van onderstaande handelinge of versuime deur enige liggaam of aantal persone wat in diens is of was ð by dieselfde werkewer ð by verskillende werkewers—  
 (a) die weiering of versuim deur hulle om aan te hou met werk (hetsy die stopsetting volkome of gedeeltelik 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 belemmering deur hulle van werk; of  
 (b) die verbreking of beëindiging deur hulle van hul dienskontrakte,  
 indien—  
 (i) daardie weiering, versuim, vertraging, belemmering, verbreking of beëindiging plaasvind na aanleiding van 'n samespanning, ooreenkoms of verstandhouding, hetsy uitgedruk of nie, tussen hulle; en  
 (ii) die doel van daardie weiering, versuim, vertraging, 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 voorwaardes van diens of ander aangeleenthede wat gestel of gemaak is deur of namens hulle of enigeen van hulle of enige ander persone wat in diens is of was; of  
 (bb) na te laat om gevolg te gee aan enige voorname om bedinge of voorwaardes van diens te verander, of, as so 'n verandering aangebring is, die bedinge of voorwaardes te herstel tot wat hulle gewees het voor die verandering aangebring is; of  
 (cc) enige persoon in diens te neem of te skors of sy diens te beëindig; (xxxvi)
- (xxxiii) „toekenning”, 'n toekenning wat gemaak is of geag word gemaak te gewees het kragtens artikel *vyf-en-veertig*, *ses-en-veertig* of *nege-en-veertig*; (iv)
- (xxxiv) „uitsluiting”, een of meer van onderstaande handelinge of versuime deur 'n persoon wat 'n werkewer is of was—  
 (a) die nie-toelating deur hom van 'n liggaam of aantal persone wat in sy diens is of was tot 'n perseel waarop of waarin werk deur hom verskaf, verrig word of verrig is; of  
 (b) die algehele of gedeeltelike stopsetting deur hom van sy besigheid of van die verskaffing van werk; of  
 (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 diens te neem,  
 indien die doel van daardie nie-toelating, stopsetting, verbreking, beëindiging, weiering of versuim is

- (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);
- (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
- (f) any area which the Minister after consultation with the Minister of Native Affairs deems to be a native area for the purposes of this Act; (xvi)
- (xxii) "office-bearer" means a person, other than an official, who holds any office in a registered trade union or employers' organization, and includes a member, other than a member *ex officio*, of a committee of such a union or organization; (ii)
- (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)
- (xxv) "organization" means an employers' organization; (xx)
- (xxvi) "passenger transportation" means the conveyance of persons by means of any vehicle for reward according to a time-table; (xxiii)
- (xxvii) "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)
- (xxviii) "prescribed" means prescribed by or under this Act; (xxxix)
- (xxix) "private registry office" means any business carried on for gain in which engagements for white persons or coloured persons or both white persons and coloured persons seeking work of any nature whatsoever are procured or in which advice in regard to the procurement of employment is given to such persons; (xxvi)
- (xxx) "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)
- (xxxi) "registrar" means the industrial registrar appointed or deemed to have been appointed under section *three*; (xxviii)
- (xxxii) "regulation" means a regulation made or deemed to have been made and in force under this Act; (xxix)
- (xxxiii) "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)
- (xxxiv) "reserved occupation" means an occupation referred to in any certificate or notice issued or published under sub-section (10) of section *thirty-five*; (x)
- (xxxv) "secretary", in relation to a trade union or an 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; (xxx)
- (xxxvi) "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—
  - (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

om persone wat in sy diens of in die diens van ander persone is of was te beweeg 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 aangeleenthede wat gestel of gemaak is deur of namens hom of deur of namens enige ander persoon wat 'n werkewer is of was;
  - (ii) 'n verandering in die bedinge of voorwaardes van diens te aanvaar; of
  - (iii) toe te stem tot die indiensneming of die skorsing of beëindiging van diens van 'n persoon; (xviii)
  - (xxxv) „vakvereniging”, enige aantal 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 werkewers of party van hul werkewers in daardie onderneming, nywerheid, bedryf of beroep te reël; (xxxviii)
  - (xxxvi) „vasstelling”, 'n vasstelling kragtens artikel *ses-en-sewentig* of *sewe-en-sewentig*, na gelang van die geval, gemaak; (x)
  - (xxxvii) „vereniging”, 'n vakvereniging; (xl)
  - (xxxviii) „versoeningsraad”, 'n versoeningsraad wat ingestel is of geag word ingestel te gewees het kragtens hierdie Wet; (vii)
  - (xxxix) „voorgeskrewe” of „voorgeskryf”, deur of kragtens hierdie Wet voorgeskryf; (xxviii)
  - (xl) „voorsitter”, met betrekking tot 'n vakvereniging, werkewersorganisasie, nywerheidsraad of versoeningsraad, of die nywerheidshof, ook enige persoon wat verantwoordelik is vir die verrigting van enigeen van die pligte wat gewoonlik deur 'n voorsitter verrig word; (v)
  - (xli) „vrystellingsertifikaat”, 'n sertifikaat wat uitgereik is of geag word uitgereik te gewees het kragtens artikel *een-en-vyftig* en ook 'n kennisgiving van vrystelling kragtens daardie artikel in die *Staatskoerant* gepubliseer; (xvi)
  - (xlii) „werkewer”, 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 het „in diens hê”, „in diens neem” en „diens” ooreenstemmende betekenisse; (xii)
  - (xliii) „werkewersorganisasie”, enige aantal werkewers 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)
  - (xliv) „werknemer”, enige persoon (behalwe 'n naturel) wat in diens is by of werk verrig vir enige werkewer en beloning ontvang of geregtig is om dit te ontvang, en enige ander persoon hoegenaamd (uitgesonderd 'n naturel) wat op enige wyse help om die besigheid van 'n werkewer voort te sit of te drywe; en het „in diens” en „diens” ooreenstemmende betekenisse. (xi)
- (2) (a) By die toepassing van hierdie Wet word 'n lid van 'n vakvereniging of 'n werkewersorganisasie geag volwaardig te wees as hy enige intreegeld wat in die konstitusie van die vereniging of organisasie, na gelang van die geval, voorgeskryf word, betaal het en nie meer as drie maande agterstallig is nie met die betaling van die ledegeld, indien enige, wat volgens bedoelde konstitusie betaalbaar is: Met dien verstande dat 'n lid wat vrygestel is van die verpligting om so 'n geld te betaal, geag word volwaardig te wees as die registrator oortuig is dat hy nie aldus vrygestel is met die doel om die bepalings van hierdie sub-artikel te ontdui nie.
- (b) By die toepassing van hierdie sub-artikel beteken „ledegeld” daardie geld waarvan die periodieke betaling 'n voorwaarde van lidmaatskap is, maar nie ook enige aparte geld, subskripsiegeld of bydrae wat 'n lid op enige finansiële voordeel geregtig maak nie, nòg enige spesiale heffing vir 'n besondere doel opgeleë.

- (b) the breach or termination by them of their contracts of employment,  
 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  
 (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—  
 (aa) to agree to or to comply with any demands or proposals concerning terms or conditions 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  
 (bb) to refrain from giving effect to any 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  
 (cc) to employ or to suspend or terminate the employment of any person; (xxxii)  
 (xxxvii) "this Act" includes any regulation; (xi)  
 (xxxviii) "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; (xxxv)  
 (xxxix) "tribunal" means the industrial tribunal established by section *seventeen* or in relation to any matter which has been referred to any division thereof in terms of this Act, the division of the industrial tribunal to which the matter has been so referred; (xvii)  
 (xl) "umpire" means an umpire appointed or deemed to have been appointed under section *forty-five* or *forty-six*; (xxxi)  
 (xli) "undertaking, industry, trade or occupation" includes a section or a portion of an undertaking, industry, trade or occupation; (xix)  
 (xlii) "union" means a trade union; (xxxvii)  
 (xliii) "wage regulating measure" means—  
 (a) an agreement, notice or award 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);  
 (c) a determination made under the Native Building Workers Act, 1951 (Act No. 27 of 1951); or  
 (d) an order made under the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953); (xiii)  
 (xliv) "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)  
 (2) (a) For the purposes of this Act a member of a trade union or an employers' organization shall be deemed to be in good 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 said constitution: Provided that a member who has been exempted from the obligation to pay any such fee, shall be deemed to be in good standing if the registrar is satisfied that he has not been so exempted for the purpose of evading the provisions of this sub-section.  
 (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.

**Toepassing  
van Wet.**

**2.** (1) Behoudens die bepalings 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 boerderybedrywighede of in huishoudelike diens in private huishoudings nie, nog op amptenare van die Parlement ten opsigte van hul diens as sodanig, nog behoudens die bepalings van sub-artikels (3) en (9), op persone in diens van die Staat ten opsigte van hul diens as sodanig, nog op enige werknemer van 'n plaaslike owerheid wat deur daardie owerheid as administratiewe hoofamptenaar van die plaaslike owerheid ingevolge een of ander wetsbepaling aangewys is, ten opsigte van sy diens as sodanig, nog op die verrigting van werk in 'n liefdadigheidsinrigting waarvoor die persone wat dit verrig geen beloning ontvang nie, nog op werk wat aan of in verband met enige universiteit, kollege, skool of ander opvoekundige inrigting wat geheel en al of gedeeltelik uit staatsfondse onderhou word, verrig word as deel van die opvoeding of opleiding van die persone wat dit verrig, nog op universiteitsstudente 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) (a) 'n Liggaam wat geheel en al bestaan uit persone in diens van die Staat, wat kragtens die „Nijverheid Verzoenings Wet, 1924” (Wet No. 11 van 1924), of die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), as 'n vakvereniging geregistreer is en waarvan die registrasie nie voor die inwerkingtreding van hierdie Wet ingetrek is nie, word geag kragtens hierdie Wet as 'n vakvereniging geregistreer te wees, en die bepalings van sub-artikel (4) vir sover hulle op die konstitusie van 'n vakvereniging van toepassing is, is *mutatis mutandis* op die konstitusie van so 'n liggaam van toepassing.

(b) 'n Liggaam wat geheel en al bestaan uit persone in diens van die Staat, hetsy die liggaam by die inwerkingtreding van hierdie Wet bestaan of na daardie inwerkingtreding ingestel word, en wat by daardie inwerkingtreding nie geag word kragtens hierdie Wet geregistreer te wees nie, kan ooreenkomsdig die bepalings van artikel vier by die registrateur aansoek doen om registrasie kragtens hierdie Wet, en die registrateur kan, met inagneming van die bepalings van daardie artikel, daardie liggaam as 'n vakvereniging registreer.

(c) Die bepalings van artikels *vif*, *sewe tot sestien*, *agt-en-sestig*, paragraaf (d) van artikel *nege-en-sestig* en paragraaf (a) van artikel *vif-en-sewentig* is van toepassing op 'n liggaam wat ingevolge paragraaf (a) geag word kragtens hierdie Wet geregistreer te wees en 'n liggaam wat kragtens paragraaf (b) geregistreer is.

(d) 'n Liggaam wat geheel en al bestaan uit persone in diens van die Staat, kan beswaar maak teen die registrasie van 'n soortgelyke liggaam in dieselfde omstandighede waarin 'n vakvereniging ingevolge artikel vier geregtyig sou wees om teen die registrasie van 'n ander vakvereniging beswaar te maak, of teen die verandering van die bestek van registrasie van 'n soortgelyke liggaam in dieselfde omstandighede waarin 'n vakvereniging ingevolge artikel vier, soos deur artikel *sewe* toegepas, geregtyig sou wees om teen die verandering van die bestek van registrasie van 'n ander vakvereniging beswaar te maak.

(4) Enige vakvereniging, werkgewersorganisasie of nywerheidsraad wat by die inwerkingtreding van hierdie Wet kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), geregistreer is, of geag word aldus geregistreer te wees, word geag kragtens hierdie Wet geregistreer te wees; en sy konstitusie, soos van tyd tot tyd kragtens die bepalings van daardie Wet of van die „Nijverheid Verzoenings Wet, 1924” (Wet No. 11 van 1924), gewysig, bly, behoudens die bepalings van sub-artikels (3), (5) en (6) van artikel *agt*, as sy kragtens hierdie Wet goedgekeurde konstitusie van krag totdat dit kragtens hierdie Wet verander word: Met dien verstande dat indien dit te eniger tyd aan die registrateur blyk dat bedoelde konstitusie nie voorsiening maak vir 'n bepaalde aangeleentheid waarvoor dit volgens hierdie Wet voorsiening moet maak nie of dat een of ander bepaling daarvan wat nie kragtens hierdie Wet deur hom goedgekeur is nie, met hierdie Wet strydig is of nie daaraan voldoen nie, of strydig is met enige wetsbepalings of bereken

**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 any employee of any local authority designated by such authority in terms of any law as chief administrative officer of the local authority, in respect of his 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) (a) Any association composed wholly of persons employed by the State which was registered as a trade union under the Industrial Conciliation Act, 1924 (Act No. 11 of 1924), or the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), and the registration of which was not cancelled prior to the commencement of this Act, shall be deemed to be registered as a trade union under this Act and the provisions of sub-section (4) in so far as they apply to the constitution of a trade union shall *mutatis mutandis* apply to the constitution of any such association.

(b) 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 deemed to be registered under this Act, 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.

(c) The provisions of sections *five*, *seven* to *sixteen*, *sixty-eight*, paragraph (d) of section *sixty-nine* and paragraph (a) of section *seventy-five* shall apply to any association which in terms of paragraph (a) is deemed to be registered under this Act and any association which is registered under paragraph (b).

(d) An association composed wholly of persons employed by the State may object to the registration of any similar association in the same circumstances in which a trade union would be entitled to object in terms of section *four* to the registration of another trade union or to the variation of the scope of registration of any similar association in the same circumstances in which a trade union would be entitled to object in terms of section *four*, as applied by section *seven*, to the variation of the scope of registration of another 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-sections (3), (5) and (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 it appears to the registrar that the said constitution does not provide for any particular matter for which it is required by this Act to provide or that any provision thereof which has not been approved by him under this Act, is inconsistent or not in compliance with this Act or is contrary to the provisions of any law or is calculated

is om die bereiking van die oogmerke van enige wetsbepalings te verhinder of, in die geval van 'n vakvereniging of werkgewersorganisasie, onredelik is teenoor die lede of die publiek, die registrateur van die betrokke vereniging, organisasie of raad kan vereis om sy konstitusie te verander om vir daardie bepaalde aangeleentheid voorsiening te maak of om die betrokke bepaling uit die konstitusie te verwijder of andersins te verander om dit in ooreenstemming met hierdie Wet of daardie ander wetsbepalings te bring, en 'n tydperk van hoogstens een jaar kan vasstel waarin die verandering aangebring moet word, en ondanks andersluidende bepalings in die konstitusie van daardie vereniging, organisasie of raad vervat, die verandering aangebring kan word op sodanige wyse en deur sodanige orgaan van die vereniging, organisasie of raad as wat die registrateur gelas.

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

(6) Enige assessor, arbiter, bemiddelaar of skeidsregter wat kragtens een of ander van die bepalings van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), aangestel is of enige persoon wat kragtens die eerste voorbehoudsbepaling by sub-artikel (2) van artikel *vier-en-dertig* van bedoelde Wet aangewys is, en wat by die inwerkingtreding van hierdie Wet nie *functus officio* is nie, word geag kragtens die ooreenstemmende bepalings van hierdie Wet aangestel of aangewys te gewees het.

(7) Enige vrystellingsertifikaat uitgereik, ooreenkoms aangaan, toekenning gemaak of kennisgewing gepubliseer kragtens een of ander van die bepalings van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), word geag kragtens die ooreenstemmende bepalings van hierdie Wet uitgereik, aangaan, 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 Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), geregistreer is, word geag kragtens artikel *tagtig* van hierdie Wet geregistreer te gewees het.

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

**Nywerheidsregister en assistent-nywerheidsregister.**

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

(2) Met inagneming van bedoelde wetsbepalings, kan die Minister 'n amptenaar aanstel, bekend te staan as die assistent-nywerheidsregister, wat die registrateur by die verrigting van sy werkzaamhede en die uitvoering van sy pligte moet blystaan en wat, onderworpe aan enige algemene of spesiale opdragte wat die registrateur uitrek, bevoeg is om enige werkzaamheid of handeling te verrig wat die nywerheidsregister bevoeg is om te verrig.

(3) 'n Amptenaar wat kragtens die bepalings van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), as nywerheidsregister of as assistent-nywerheidsregister aangestel is en wat by die inwerkingtreding van hierdie Wet sy amp as sodanig beklee, word geag kragtens die bepalings van hierdie artikel aangestel te gewees het.

**Registrasie van vakverenigings en werkgewersorganisasies.**

4. (1) (a) Elke vakvereniging wat voor die inwerkingtreding van hierdie Wet ingestel is en wat nie by daardie inwerkingtreding geag word kragtens hierdie Wet geregistreer te wees nie, kan, nie vroeër nie as drie maande na die datum waarop hy ingestel is, en elke vakvereniging wat na die inwerkingtreding van hierdie Wet ingestel word, kan, nie vroeër nie as drie maande na die datum waarop hy ingestel word, by die registrateur in die vorm en op die wyse voorgeskryf om registrasie aansoek doen.

to hinder the attainment of the objects of any law, or, in the case of a trade union or employers' organization, is unreasonable in relation to the members or the public, the registrar may require the union, organization or council concerned to alter its constitution so as to provide for that particular matter or so as to remove the provision concerned from the constitution or otherwise to alter it 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 alteration shall be effected, and notwithstanding anything to the contrary contained in the constitution of that union, organization or council, it shall be competent for the 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), or any person designated under the first proviso to sub-section (2) of section *thirty-four* of the said Act, who is not *functus officio* at the commencement of this Act, shall be deemed to have been appointed or designated 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) 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 or the alternate to 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 assigned to or imposed on him by this Act.

Industrial re-  
gistrar and  
assistant indus-  
trial 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 and which at that commencement is not deemed to be registered under this Act may, not earlier than three months after the date on which it was established, and every trade union which is established after the commencement of this Act may, not earlier than three months after the date on which it is established, apply in the prescribed form and manner, to the registrar for registration.

Registration  
of trade unions  
and employers'  
organizations.

- (b) Elke sodanige aansoek moet vergesel wees van drie afskrifte van die konstitusie van die vereniging wat aansoek doen (behoorlik gewaarmerk deur die handtekening van die voorstitter en die sekretaris van die vereniging wat aansoek doen) en van sodanige ander stukke of inligting as wat voorgeskryf word.
- (c) Elke aansoek wat voor die inwerkingtreding van hierdie Wet deur 'n vakvereniging gedoen is om registrasie kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), en nie by daardie inwerkingtreding afgehandel is nie, word geag kragtens hierdie sub-artikel gedoen te gewees het.
- (d) 'n Vereniging wat om registrasie aansoek doen, moet aan die registrateur enige nadere inligting wat hy vereis, binne die deur hom vasgestelde tydperk verstrek.
- (2) (a) So gou doenlik—
- (i) na die inwerkingtreding van hierdie Wet, in die geval van 'n aansoek wat geag word kragtens sub-artikel (1) gedoen te gewees het; of
  - (ii) nadat hy dit ontvang het, in die geval van 'n aansoek wat ingevolge sub-artikel (1) ingedien is, laat die registrateur in die *Staatskoerant* 'n kennisgewing publiseer wat sodanige besonderhede van die aansoek bevat as wat hy nodig ag en wat enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, uitnooi om sy beswaar op die in die kennisgewing vermelde wyse binne een maand vanaf die datum van die kennisgewing in te dien.
- (b) Sodanige beswaar moet die gronde aangee waarop die beswaar steun en moet ingedien word op die wyse vermeld in die toepaslike kennisgewing kragtens paragraaf (a) gepubliseer.
- (c) Indien die registrateur, voordat hy kragtens sub-artikel (3) met betrekking tot 'n aansoek tot 'n besluit geraak het, 'n aansoek (hieronder die tweede aansoek genoem) ontvang wat deur 'n ander vereniging ingedien is, om registrasie ten opsigte van belang en 'n gebied wat na sy mening wesenlik dieselfde is as die geheel of enige gedeelte van die belang en gebied ten opsigte waarvan eersgenoemde aansoek gedoen is, of die geheel of enige gedeelte van laasbedoelde belang en gebied insluit, kan die vereniging wat die eersgenoemde aansoek ingedien het, 'n beswaar kragtens paragraaf (a) teen die tweede aansoek indien asof hy 'n geregistreerde vakvereniging was, en as hy 'n beswaar aldus indien, moet die registrateur die beswaar oorweeg asof die vereniging wat dit ingedien het 'n vereniging was wat geregistreer is ten opsigte van bedoelde belang en gebied, of bedoelde gedeelte daarvan: Met dien verstande dat indien, voordat die registrateur kragtens sub-artikel (3) met betrekking tot die tweede aansoek tot 'n beslissing geraak het—
- (i) eersgenoemde aansoek geweier word, hierdie paragraaf ophou om van toepassing te wees ten opsigte van die beswaar aldus ingedien; of
  - (ii) eersgenoemde aansoek toegestaan word, die beswaar aldus ingedien, oorweeg moet word alleen ten opsigte van daardie belang en daardie gebied ten opsigte waarvan daardie aansoek toegestaan is.
- (d) 'n Vereniging wat kragtens hierdie sub-artikel 'n beswaar indien, moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van die beswaar aan die vereniging wat aansoek doen, per geregistreerde pos gestuur of afgelewer het.
- (e) Die vereniging wat beswaar maak, moet aan die registrateur enige nadere inligting wat hy vereis, binne die deur hom vasgestelde tydperk verstrek.
- (f) Die vereniging wat aansoek doen, moet enige vertoe wat hy verlang om in antwoord op die beswaar te maak, aan die registrateur voorlê binne twee maande vanaf die datum van die toepaslike kennisgewing kragtens paragraaf (a) gepubliseer, en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van die vertoe aan die vereniging wat beswaar maak, per geregistreerde pos gestuur of afgelewer het.
- (g) Die vereniging wat beswaar maak, moet enige verdere vertoe wat hy verlang om in antwoord op die in paragraaf (f) bedoelde vertoe te maak, aan die registrateur voorlê binne drie maande vanaf die datum van die

- (b) Every such application shall be accompanied by three copies of the constitution of the applicant union (duly authenticated by signature of the chairman and the secretary of the applicant union) and by such other documents or information as may be prescribed.
  - (c) 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 have been made under this sub-section.
  - (d) Any union applying for registration shall furnish the registrar with any further information he may require, within the period fixed by him.
- (2) (a) As soon as practicable—
- (i) after the commencement of this Act, in the case of an application deemed to have been made under sub-section (1); or
  - (ii) after he has received it, in the case of an application lodged in terms of sub-section (1),  
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 in the manner specified in the notice within one month of the date of such notice.
  - (b) Such objection shall state the grounds of the objection and shall be lodged in the manner specified in the relevant notice published under paragraph (a).
  - (c) 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 or include the whole or any part 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) 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 part 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.
  - (d) 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 to the applicant union.
  - (e) The objecting union shall furnish the registrar with any further information he may require, within the period fixed by him.
  - (f) The applicant union shall submit any representations it wishes to make in answer to such objection to the registrar 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.
  - (g) The objecting union shall submit any further representations it wishes to make in answer to any representations referred to in paragraph (f) to the registrar within three months of the date of the relevant notice

toepaslike kennisgewing kragtens paragraaf (a) gepubliseer, en moet tegelykertyd bewys tot bevrediging van die registrator lewer dat hy 'n afskrif van die verdere vertoë aan die vereniging wat aansoek doen, per geregistreerde pos gestuur of afgelewer het. Die laasgenoemde vereniging is nie geregtig om 'n antwoord op die verdere vertoë voor te lê sonder die voorafgaande goedkeuring van die registrator nie, maar die registrator kan na goeddunke die vereniging wat aansoek doen, uitnooi om binne die deur hom vasgestelde tydperk hom te voorsien van enige kommentaar wat hy verlang om te maak in antwoord op die verdere vertoë.

- (3) (a) Indien geen beswaar binne die voorgeskrewe tydperk ingedien word nie, of indien na oorweging van enige besware aldus ingedien, enige vertoë binne die voorgeskrewe tydperke gemaak, enige nadere inligting binne die deur hom vasgestelde tydperk verstrek en sodanige addisionele aangeleenthede as wat hy ter sake ag, hy oortuig is dat paragraaf (b) van hierdie sub-artikel nie van toepassing is nie, kan die registrator, behoudens die bepalings van hierdie artikel, die vereniging wat aansoek doen, regstreer ten opsigte van die belang en ten opsigte van die gebied waarvoor hy om registrasie aansoek gedoen het, of ten opsigte van sodanige kleiner belang of gebied as wat na sy mening deur die vereniging gedien word.
- (b) Behoudens die bepalings van paragraaf (c), indien die registrator, na oorweging van enige besware ingedien en enige vertoë gemaak binne die voorgeskrewe tydperke, enige nadere inligting binne die deur hom vasgestelde tydperk verstrek en sodanige addisionele aangeleenthede as wat hy ter sake ag, oortuig is dat 'n geregistreerde vereniging of 'n in paragraaf (c) van sub-artikel (2) bedoelde vereniging wat 'n beswaar aldus ingedien het, in die hele gebied ten opsigte waarvan die vereniging wat aansoek doen, registrasie verlang, of in enige gedeelte daarvan, voldoende verteenwoordigend is van al die belang ten opsigte waarvan hy registrasie verlang, of van enige gedeelte daarvan, kan hy weier om die vereniging wat aansoek doen te regstreer, of, behoudens die bepalings van hierdie artikel, die vereniging wat aansoek doen, regstreer ten opsigte van sodanige gebied en belang as wat na sy mening deur daardie vereniging gedien word en ten opsigte waarvan daardie geregistreerde of ander vereniging na sy mening nie voldoende verteenwoordigend is nie.
- (c) Indien 'n beswaar teen die registrasie van 'n vakvereniging waarvan die lidmaatskap ingevolge sy konstitusie beperk is tot blankes, ingedien word deur 'n vakvereniging waarvan die lidmaatskap oop is vir beide blankes en gekleurdes, en eersgenoemde vereniging die registrator oortuig dat op die datum waarop sy aansoek om registrasie ingedien is die getal van sy volwaardige lede wat in diens is in die onderneming, nywerheid, bedryf of beroep en in gebied ten opsigte waarvan die vereniging wat beswaar maak, geregistreer is, word daardie beswaar nie deur die registrator in aanmerking geneem nie.
- (d) Die bepalings van paragraaf (c) is *mutatis mutandis* van toepassing op die aansoek om registrasie deur 'n vakvereniging waarvan die konstitusie sy lidmaatskap tot gekleurdes beperk.
- (4) By die bepaling van die mate waarin 'n vakvereniging vir die doeleindes van sub-artikel (3) verteenwoordigend is—
  - (a) moet die registrator die feite soos hulle bestaan het op die datum waarop die betrokke aansoek ingedien is, in aanmerking neem;
  - (b) moet die registrator, vir sover die getal lede ter sake is, alleen lede wat op die in paragraaf (a) bedoelde datum volwaardig was, in aanmerking neem; Met dien verstande dat in die geval van 'n vakvereniging op die lede waarvan 'n in paragraaf (x) van sub-artikel (1) van artikel vier-en-twintig bedoelde bepaling of 'n soortgelyke bepaling bindend is, die registrator 'n lid van

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. The last-mentioned union shall not be entitled to submit a reply to such further representations without the prior approval of the registrar, but the registrar may in his discretion invite the applicant union to furnish him with any comments it wishes to make in answer to such further representations within the period fixed by him.

- (3) (a) If no objection is lodged within the period prescribed, or if after considering any objections 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, he is satisfied that paragraph (b) of this subsection is not applicable, the registrar may, subject to the provisions of this section, register the applicant 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.
  - (b) Subject to the provisions of paragraph (c), if after considering any objections lodged and 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 any registered union or any union such as is referred to in paragraph (c) of sub-section (2) 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 are served by such union and in respect of which such registered or other union is not in his opinion sufficiently representative.
  - (c) If an objection to the registration of a trade union, the membership of which is in terms of its constitution limited to white persons, is lodged by a trade union, the membership of which is open to both white persons and coloured persons, and the first-mentioned union satisfies the registrar that at the date on which its application for registration was lodged the number of its members in good standing employed in the undertaking, industry, trade or occupation and in the area in respect of which such objecting union is registered exceeded one half of the number of white persons who at that date were employed in the whole of the undertaking, industry, trade or occupation and area in respect of which the objecting union is registered, such objection shall not be taken into consideration by the registrar.
  - (d) The provisions of paragraph (c) shall *mutatis mutandis* apply to the application for registration by any trade union the constitution of which limits its membership to coloured persons.
- (4) In determining the representativeness of a trade union for the purposes of sub-section (3), the registrar—
- (a) shall have regard to the facts as they existed at the date on which the application concerned was lodged;
  - (b) shall, in so far as the number of members is relevant, have regard only to members who were in good standing at the date referred to in paragraph (a): Provided that in the case of a trade union upon the members of which a provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* or a similar provision is binding the registrar may

sodanige vereniging wat ook 'n lid is van die vereniging wat aansoek doen, kan verontgaam indien die registrateur oortuig is dat as dit nie vir die bestaan van bedoelde bepaling was nie, daardie lid uit sodanige vereniging sou bedank het;

- (c) kan die registrateur, 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 of 'n in paragraaf (c) van sub-artikel (2) bedoelde vereniging as voldoende verteenwoordigend beskou ten opsigte van bedoelde onderneming, nywerheid, bedryf of beroep in daardie gebied, afgesien van die getal van sy lede in daardie gebied.

(5) (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 doen met hierdie Wet bestaanbaar is en nie bepalings bevat nie wat strydig is met enige wetsbepalings of bereken is om die bereiking van die oogmerke van enige wetsbepalings te verhinder of onredelik is teenoor die lede of die publiek; en
- (iii) die vereniging nie in die lewe geroep is met die doel om enige wetsbepalings te ontdui nie.

(b) 'n Vereniging wat aansoek doen, kan, behoudens die bepalings van paragraaf (c), te eniger tyd nadat hy sy konstitusie ingevolge sub-artikel (1) ingedien het, sodanige konstitusie wysig, of dit deur '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 tevreden te stel.

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

(6) Na die inwerkintreding van hierdie Wet word geen vakvereniging kragtens hierdie artikel geregistreer nie—

- (a) ten opsigte van beide blankes en gekleurdes; of
- (b) indien lidmaatskap van sodanige vereniging oop is vir beide blankes en gekleurdes:

Met dien verstande dat die Minister op aansoek van 'n in paragraaf (b) bedoelde vereniging en indien hy oortuig is dat die getal blankes of gekleurdes wat lede daarvan kan word te klein is om 'n effektiewe aparte vereniging te stig, die registrateur kan magtig om behoudens die ander bepalings van hierdie artikel, bedoelde vereniging te registreer ten opsigte van beide blankes en gekleurdes.

(7) Wanneer die registrateur 'n vereniging kragtens hierdie artikel geregistreer het, moet hy aan die vereniging 'n registrasiesertifikaat in die voorgeskrewe vorm stuur, saam met een afskrif van die konstitusie met 'n deur hom ondertekende sertifikaat daarop geskryf waarin die feit dat hy dit goedkeur het, gemeld word.

(8) Die bepalings van hierdie artikel, uitgesonderd die bepalings van paragrawe (c) en (d) van sub-artikel (3) en sub-artikel (6), is *mutatis mutandis* op die registrasie van werkgewersorganisasies van toepassing.

**Uitwerking  
van registrasie  
van vak-  
verenigings  
en werkgewers-  
organisasies,**

5. (1) Elke vakvereniging of werkgewersorganisasie wat by die inwerkintreding van hierdie Wet geag word kragtens hierdie Wet geregistreer te wees, bly na daardie inwerkintreding, en elke ander vakvereniging of werkgewersorganisasie word by registrasie kragtens hierdie Wet, met regspersoonlikheid beklee en is bevoeg om in regte as eiser of verweerde op te tree, en, behoudens die bepalings van hierdie Wet, en van enige ander wet wat die verkryging of besit van grond soos omskryf vir die doeleindes van daardie ander wet verbied of beperk, om roerende of onroerende eiendom te koop of andersins te verkry,

disregard any member of such union who is also a member of the applicant union if the registrar is satisfied that but for the existence of the said provision such member would have resigned from such union;

(c) may, having regard to the nature of the undertaking, industry, trade or occupation concerned and the situation of any area in respect of which registration is sought, regard an existing registered union or any union such as is referred to in paragraph (c) of sub-section (2) as sufficiently representative in respect of the said undertaking, industry, trade or occupation in such area, irrespective of the number of its members in that area.

(5) (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 lodged its constitution in terms of sub-section (1) amend such 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.

(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.

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

- (a) in respect of both white persons and coloured persons; or
- (b) if membership of such union is open to both white persons and coloured persons:

Provided that the Minister may on the application of a union referred to in paragraph (b) and if he is satisfied that the number of white persons or coloured persons eligible for membership thereof is too small to enable them to form an effective separate union, authorize the registrar to register the said union in respect of both white persons and coloured persons, subject to the other provisions of this section.

(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, and signed by him, stating the fact that he has approved thereof.

(8) The provisions of this section, other than the provisions of paragraphs (c) and (d) of sub-section (3) and sub-section (6), shall *mutatis mutandis* apply to the registration of employers' organizations.

5. (1) Every trade union or employers' organization which at the commencement of this Act is deemed to be registered under this Act, 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 this Act, and of any other law prohibiting or restricting the acquisition or holding of land as defined for the purposes of such other law, of purchasing or otherwise ac-

Effect of  
registration of  
trade unions  
and employers'  
organizations.

te besit en te vervreem en om enige ander handeling te verrig wat hy volgens sy konstitusie moet of kan verrig.

(2) By die registrasie kragtens hierdie Wet van 'n vakvereniging of 'n werkgewersorganisasie, berus alle bates, regte, skulde en verpligtings van die ongeregistreerde vakvereniging of werkgewersorganisasie (met inbegrip van bates deur enigmant in trust vir die ongeregistreerde vereniging of organisasie gehou) soos hulle onmiddellik voor sy registrasie bestaan het, by, en gaan hulle oor op, die geregistreerde vereniging of organisasie.

(3) Tensy die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie anders bepaal, is niemand vir enige van die skulde en verpligtinge van daardie vereniging of organisasie aanspreeklik bloot om rede van die feit dat hy 'n lid, ampsdraer of beampete van daardie vereniging of organisasie is nie.

(4) Indien op die datum waarop 'n vakvereniging of werkgewersorganisasie geregistreer word, sy lede persone insluit op wie 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling bindend is op grond van hul lidmaatskap van 'n ander vakvereniging of werkgewersorganisasie, word enige verwysing in sodanige bepaling na sodanige ander vereniging of organisasie of sy lede, in die geval van sodanige persone, geag 'n verwysing na onderskeidelik die eersgenoemde vereniging of organisasie of sy lede in te sluit.

Verdeling van bates van sekere vakverenigings in sekere omstandighede.

6. (1) (a) In hierdie artikel beteken „oorspronklike vereniging“ 'n vakvereniging waarvan die konstitusie sy lidmaatskap nie tot blankes of tot gekleurdes beperk nie en wat voor die inwerkingtreding van hierdie Wet geregistreer is; en beteken „nuwe vereniging“ 'n vakvereniging waarvan die konstitusie sy lidmaatskap tot blankes of tot gekleurdes beperk en wat na die inwerkingtreding van hierdie Wet geregistreer word.

(b) Die bepalings van hierdie artikel is van toepassing wanneer op die datum waarop 'n nuwe vereniging kragtens sub-artikel (1) van artikel *vier* aansoek gedoen het om registrasie—

(i) sy lede persone ingesluit het wat in diens is in 'n onderneming, nywerheid, bedryf of beroep en wat terwyl hulle aldus in diens was te eniger tyd gedurende die tydperk van vyf jaar wat die inwerkingtreding van hierdie Wet onmiddellik voorafgegaan het, lede was van 'n oorspronklike vereniging op die lede waarvan 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling te eniger tyd gedurende bedoelde tydperk terwyl hulle aldus in diens was, bindend was ingevolge 'n ooreenkoms of toekennung kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937); en

(ii) die getal van sy volwaardige lede in diens in die onderneming, nywerheid, bedryf of beroep en in die gebied ten opsigte waaryan die oorspronklike vereniging geregistreer is, meer was as die helfte van die totale getal blankes, indien die lidmaatskap van die nuwe vereniging beperk is tot blankes, of van die totale getal gekleurdes, indien sy lidmaatskap beperk is tot gekleurdes, wat op daardie datum in diens was in die hele onderneming, nywerheid, bedryf of beroep en gebied ten opsigte waaryan die oorspronklike vereniging geregistreer is.

By die toepassing van hierdie paragraaf word 'n persoon wat na die mening van die registerateur normaalweg in 'n bepaalde onderneming, nywerheid, bedryf of beroep in diens is, geag te alle ter sake dienende tye aldus in diens te wees of te gewees het, sonder te let op die feit dat hy te eniger tyd tydelik werkloos is of was.

(c) Indien 'n in paragraaf (b) bedoelde nuwe vereniging kragtens hierdie Wet geregistreer word, is die nuwe vereniging, ondanks enige andersluidende bepaling in die konstitusie van die betrokke oorspronklike vereniging of in enige wetsbepaling vervat, geregtig om, met inagneming van die bydraes wat die lede van die nuwe vereniging aan die oorspronklike vereniging betaal het, 'n ooreenkoms met die oorspronklike vereniging aan te gaan aangaande die verdeling tussen hulle van die bates van die oorspronklike vereniging.

(d) 'n Ooreenkoms wat deur 'n nuwe vereniging en 'n oorspronklike vereniging kragtens paragraaf (c) aan-

quiring, holding and alienating property, movable or immovable, and of doing any other act which its constitution requires or permits it to do.

(2) Upon the registration under this Act of any trade union or employers' organization, all assets, rights, liabilities and obligations of the unregistered trade union or employers' organization (including any assets held in trust for the unregistered trade union or employers' organization) as existing immediately prior to its registration shall vest in and devolve upon the registered 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 any of the liabilities and obligations of that union or organization.

(4) If at the date on which any trade union or employers' organization is registered, its members include persons upon whom any provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* is binding by reason of their membership of another trade union or employers' organization, any reference in such provision to such other union or organization or its members shall, in the case of such persons, be deemed to include a reference to such first-mentioned union or organization or its members respectively.

**6. (1)** (a) In this section "original union" means a trade union the constitution of which does not limit its membership to white persons or to coloured persons 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 or to coloured persons and which is registered after the commencement of this Act.

(b) The provisions of this section shall apply whenever, on the date on which a new union applied for registration under sub-section (1) of section *four*—

(i) its members included persons employed in an undertaking, industry, trade or occupation who, while so employed at any time during the period of five years immediately preceding the commencement of this Act, were members of an original union, on the members of 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 said period when they were so employed, binding in terms of an agreement or award under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937); and

(ii) the number of its members in good standing employed in the undertaking, industry, trade or occupation and in the area in respect of which the original union is registered exceeded one half of the total number of white persons, if the membership of the new union is limited to white persons, or of the total number of coloured persons, if its membership is limited to coloured persons, who at that date were employed in the whole of the undertaking, industry, trade or occupation and area in respect of which the original union is registered.

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.

(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 an agreement with the original union as to the division between them of the assets of the original union.

(d) An agreement entered into by a new union and an original union under paragraph (c) may include

gegaan word, kan bepalings met betrekking tot een of meer van die volgende aangeleenthede insluit—

- (i) die reg van lede van die nuwe vereniging om lede te bly van 'n siekte-, voorsienings- of soortgelyke 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 ooreenkomsdig die statute van so 'n fonds tot die fonds by te dra;
  - (ii) die oordrag aan die nuwe vereniging in een som of in paaiemende van 'n bedrag wat na die mening van die partye by die ooreenkoms 'n redelike kontant-ekwivalent van die belang van die lede van die nuwe vereniging in so 'n fonds sal voorstel;
  - (iii) die oordrag aan die nuwe vereniging van sodanige bates, regte, skulde en verpligtings as wat na die mening van die partye by die ooreenkoms 'n redelike ekwivalent van die belang van die lede van die nuwe vereniging in die bates, regte, skulde en verpligtings van die oorspronklike vereniging sal voorstel;
  - (iv) die oordrag aan die nuwe vereniging in een som of in paaiemende van 'n bedrag wat na die mening van die partye by die ooreenkoms die redelike kontant-ekwivalent van die belang van die lede van die nuwe vereniging in die bates van die oorspronklike vereniging sal voorstel;
  - (v) in die algemeen enige aangeleenthed wat nodig geag word vir die doel om 'n billike verdeling van die bates van die oorspronklike vereniging tussen hom en die nuwe vereniging te verseker.
- (e) Indien die nuwe vereniging en die oorspronklike vereniging nie binne 'n tydperk van twaalf maande vanaf die datum van registrasie van die nuwe vereniging met betrekking tot die verdeling tussen hulle van die bates van die oorspronklike vereniging, tot 'n ooreenkoms geraak het nie, kan die nuwe vereniging binne 'n tydperk van ses maande na verstryking van bedoelde tydperk by die registrateur aansoek doen om 'n bevel kragtens sub-artikel (2).
- (f) Wanneer hy 'n aansoek oorweeg wat ingevolge paragraaf (e) gedoen is, kan die registrateur 'n openbare rekenmeester of 'n aktuaris raadpleeg en die geld betaalbaar aan daardie openbare rekenmeester of aktuaris moet betaal word uit gelde wat deur die Parlement beskikbaar gestel word: Met dien verstande dat die registrateur, na hy die betrokke verenigings 'n geleenthed gegee het om daaromtrent skriftelik vertoe aan hom voor te lê, kan beveel dat die bedrag van die geld wat betaalbaar is of sodanige gedeelte daarvan as wat hy bepaal op die betrokke verenigings verhaal word in sodanige dele as wat deur hom beveel word.
- (g) By ontvangs van 'n in paragraaf (e) bedoelde aansoek, moet die registrateur die applikant en die oorspronklike vereniging 'n geleenthed gee om binne 'n tydperk deur hom vasgestel skriftelik vertoe aan hom voor te lê.
- (h) Die sekretaris van 'n vakvereniging wat betrokke is by 'n aansoek wat ingevolge paragraaf (e) gedoen word, moet aan die registrateur sodanige inligting verstrek en sodanige boeke en stukke vir ondersoek deur hom benoem, voorlê as wat die registrateur van tyd tot tyd vereis, binne sodanige tydperk as wat hy vasstel of binne sodanige verlengde tydperk as wat hy om goeie redes skriftelik toelaat.
- (2) (a) Na oorweging van 'n aansoek kragtens paragraaf (e) van sub-artikel (1) gedoen, enige vertoe aan hom voorgelê en inligting verstrek binne 'n tydperk kragtens paragraaf (g) of (h) van daardie sub-artikel vasgestel en enige ander aangeleenthede wat hy ter sake ag, kan die registrateur 'n bevel uitvaardig aangaande watter van die bates, indien enige, van die oorspronklike vereniging tussen die oorspronklike vereniging en die nuwe vereniging verdeel moet word en aangaande die basis waarop die verdeling gemaak moet word. Vir sover die getal lede ter sake mag wees, moet die registrateur in aanmerking neem die getal volwaardige lede van die nuwe vereniging twaalf maande na

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 such fund while they continue to contribute to such fund in accordance with the rules of such fund;
- (ii) the transfer to the new union in one sum or in instalments of an amount which would in the opinion of the parties to the agreement represent a reasonable cash equivalent of the interests of members of the new union in any such fund;
- (iii) the transfer to the new union of such assets, rights, liabilities and obligations as would in the opinion of the parties to the agreement represent a reasonable equivalent of the interests of the members of the new union in the assets, rights, liabilities and obligations of the original union;
- (iv) the transfer to the new union in one sum or in instalments of an amount which would in the opinion of the parties to the agreement represent a reasonable cash equivalent of the interests of the members of the new union in the assets of the original union;
- (v) generally any matter which may be considered necessary for the purpose of ensuring an equitable division of the assets of the original union between it and the new union.
- (e) 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 within a period of six months after the expiry of the said period apply to the registrar for an order under sub-section (2).
- (f) When considering an application made in terms of paragraph (e) the registrar may consult a public accountant or an actuary and the fees payable to such public accountant or actuary shall be paid from moneys appropriated by Parliament: Provided that the registrar may, after giving the unions concerned an opportunity to submit representations to him in writing 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.
- (g) On the receipt of any application such as is referred to in paragraph (e) 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.
- (h) The secretary of any trade union concerned in any application made in terms of paragraph (e) shall furnish to the registrar such information, and produce for examination by the registrar or any public accountant nominated by him such books and documents, as the registrar may from time to time require within such period as he may fix or within such extended period as he may for good cause in writing allow.
- (2) (a) After considering an application made under paragraph (e) of sub-section (1), any representations submitted and information furnished to him within any period fixed under paragraph (g) or (h) of that sub-section and 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 number of members may be relevant the registrar shall have regard to the number of members of the new union in good standing twelve

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 voorafgegaan het lede van die oorspronklike vereniging was terwyl 'n in paragraaf (b) van sub-artikel (1) bedoelde bepaling op die lede van daardie vereniging bindend was.

(b) 'n Bevel kragtens die bepalings van paragraaf (a) uitgevaardig, kan bepalings met betrekking tot een of meer van die volgende aangeleenthede insluit—

- (i) die reg van lede van die nuwe vereniging om lede te bly van 'n siekte-, voorsienings- of soortgelyke 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 ooreenkomsdig die statute van so 'n fonds tot die fonds by te dra;
- (ii) die oordrag aan die nuwe vereniging in een som of in paaiemende van 'n bedrag wat die registrator as 'n redelike kontant-ekwivalent van die belang van die lede van die nuwe vereniging in so 'n fonds beskou;
- (iii) die oordrag aan die nuwe vereniging van sodanige bates, regte, skulde en verpligtings as wat na die mening van die registrator 'n redelike ekwivalent van die belang van die lede van die nuwe vereniging in die bates, regte, skulde en verpligtings van die oorspronklike vereniging sal voorstel;
- (iv) die oordrag aan die nuwe vereniging in een som of in paaiemende van 'n bedrag wat na die mening van die registrator 'n redelike kontant-ekwivalent van die belang van die lede van die nuwe vereniging in die bates van die oorspronklike vereniging sal voorstel;
- (v) in die algemeen enige aangeleenthed wat die registrator nodig ag ten einde 'n billike verdeling van die bates van die oorspronklike vereniging tussen hom en die nuwe vereniging te verseker.

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

(b) Die registrator kan om goeie redes deur of die nuwe vereniging of die oorspronklike vereniging aangevoer, die bepalings van 'n in paragraaf (a) bedoelde bevel 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 blankes beperk en alleen een nuwe vereniging waarvan die konstitusie sy lidmaatskap tot gekleurdes beperk, en daarna is geen verdere vereniging bloot op grond van die bepalings van hierdie artikel geregtig op 'n deel van die bates van die betrokke oorspronklike vereniging nie.

Verandering van bestek van registrasie van vakvereniging of werkgewersorganisasie.

7. (1) As die registrator te eniger tyd oortuig is dat die gebied of die belang ten opsigte waarvan 'n vakvereniging of werkgewersorganisasie geregistreer is nie ooreenstem met die gebied of belang 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 voorgeskrewe wyse, die gebied of belang ten opsigte waarvan hy geregistreer is, verander en moet hy, in daardie geval, die nodige veranderings in sy registers aanbring.

(2) (a) As die registrator te eniger tyd oortuig is dat—

- (i) die bestek van registrasie van 'n vakvereniging waarvan die lidmaatskap oop is vir beide blankes en gekleurdes dieselfde is as die bestek van registrasie van 'n vakvereniging waarvan die lidmaatskap ingevolge sy konstitusie tot blankes beperk is, of die bestek van registrasie van 'n laasbedoelde vakvereniging insluit; en
- (ii) dat die getal volwaardige lede van laasbedoelde vereniging wat in diens is in die onderneming,

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 while a provision such as is referred to in paragraph (b) of sub-section (1) was binding upon the members of such 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 such fund while they continue to contribute to such fund in accordance with the rules of 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 transfer to the new union of such assets, rights, liabilities and obligations as would in the opinion of the registrar represent a reasonable equivalent of the interests of the members of the new union in the assets, rights, liabilities and obligations 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 the interests of the members of the new union in the assets of the original union;
- (v) generally any matter which the registrar deems necessary for the purpose of ensuring an equitable division of the assets of the original union between it and the new union.

(3) (a) The terms of an order made by the registrar under paragraph (f) of sub-section (1) or paragraph (a) of sub-section (2) shall be notified to the unions concerned in writing. On any such order being filed with the clerk or registrar of any court of competent jurisdiction, it 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.

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 or employers' organization.

(2) (a) If at any time the registrar is satisfied—

- (i) that the scope of registration of a trade union, the membership of which is open to both white persons and coloured persons, is the same as or includes the scope of registration of a trade union, the membership of which is in terms of its constitution limited to white persons; and
- (ii) that the number of members in good standing of the last-mentioned union who are employed in

nywerheid, bedryf of beroep en gebied waarvoor laasbedoelde vereniging geregistreer is, meer as die helfte is van die getal blankes wat in daardie onderneming, nywerheid, bedryf of beroep en gebied in diens is,

moet hy, behoudens die bepalings van artikel *veertien*, uit eie beweging na oorlegpleging met eersbedoelde vereniging, of op versoek van een van beide verenigings, die bestek van registrasie van eersbedoelde vereniging verander, deur blankes wat aldus in diens is daaruit uit te sluit, en in daardie geval moet hy die nodige veranderings in sy register aanbring.

- (b) Die bepalings van paragraaf (a) is *mutatis mutandis* van toepassing indien die bestek van registrasie van 'n vakvereniging waarvan die lidmaatskap oop is vir beide blankes en gekleurdes dieselfde is as die bestek van registrasie van 'n vakvereniging waarvan die lidmaatskap ingevolge sy konstitusie tot gekleurdes beperk is, of die bestek van 'n laasbedoelde vakvereniging insluit.

(3) Die registrator kan te eniger tyd die sekretaris van die betrokke vereniging of organisasie aansê om die registrasiesertifikaat wat aan die vereniging of organisasie uitgereik is aan hom te stuur en die sekretaris moet binne dertig dae nadat hy aldus aangesê is, die registrasiesertifikaat aan die registrator stuur.

(4) By ontvangs van die registrasiesertifikaat deur die registrator, moet hy die nodige veranderings daarin aanbring en dit daarna aan die vereniging of organisasie terug besorg, of 'n nuwe sertifikaat aan die vereniging of organisasie uitrek.

(5) Die bepalings van sub-artikel (2), paragrawe (a) en (b) van sub-artikel (3), sub-artikel (4) en, alleen ten opsigte van 'n vakvereniging, sub-artikel (6) van artikel *vier* is *mutatis mutandis* van toepassing ten opsigte van enige verandering voorgestel om kragtens hierdie artikel aangebring te word, waarvan die uitwerking sal wees om die gebied of die belang van die vakvereniging of werkgewersorganisasie te vergroot of uit te brei. Vir die doeleindes van die toepassing van sub-artikel (4) van artikel *vier*, indien die registrator uit eie beweging handel, word die datum waarop die registrator besluit om aldus te handel, geag die datum te wees waarop die aansoek binne die bedoeling van daardie sub-artikel ingedien is.

#### Konstitusie 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 onderstaande aangeleenthede—

- (a) die vereistes vir lidmaatskap en die ledelike en ander gelde (indien enige) deur lede betaalbaar of die metode van vasstelling van sodanige gelde;
- (b) die omstandighede waarin en die wyse waarvolgens die lidmaatskap van 'n lid beëindig kan word;
- (c) die wyse waarvolgens 'n lid sy lidmaatskap kan beëindig;
- (d) die omstandighede waarin 'n lid ophou om op die voordele van lidmaatskap geregtig te wees;
- (e) die liggam of liggame waarna 'n lid die reg het om te appelleer teen 'n beslissing gegee deur 'n komitee of 'n ander soortgelyke liggam, wat ingevolge die konstitusie die bevoegdheid besit om so 'n beslissing te gee oor enige in paragraaf (b) of (d) bedoelde aangeleenthed, en die wyse waarvolgens sodanige appèl voortgesit en afgehandel moet word;
- (f) die verkryging en beheer van eiendom;
- (g) die verandering van die konstitusie;
- (h) die belê en bestuur van vergaderings van lede of verteenwoordigers van lede en die hou van notule van die verrigtinge by sodanige vergaderings;
- (i) die verkiesing van verteenwoordigers op enige nywerheidsraad of versoeningsraad, behalwe in die geval van die in sub-artikel (3) van artikel *twee* bedoelde liggame;
- (j) die doeleindes waarvoor sy fondse gebruik kan word;
- (k) die prosedure wat gevolg moet word by die nominasie van kandidate vir verkiesing as ampsdraers;
- (l) die hou van 'n stemming 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 die registrator van mening is dat die hou van 'n stemming per stembriefie van lede nie doenlik is nie, 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 liggam ingevolge die konstitusie ingestel, kan goedkeur;

the undertaking, industry, trade or occupation and area for which the last-mentioned union is registered, exceeds one half of the number of white persons employed in such undertaking, industry, trade or occupation and area,

he shall, subject to the provisions of section *fourteen*, of his own motion, after consultation with the first-mentioned union, or at the request of either union, vary the scope of registration of the first-mentioned union by the exclusion therefrom of white persons who are so employed, and shall in that event make the necessary alterations in his register.

- (b) The provisions of paragraph (a) shall *mutatis mutandis* apply if the scope of registration of a trade union, the membership of which is open to both white persons and coloured persons, is the same as or includes the scope of registration of a trade union, the membership of which is in terms of its constitution limited to coloured persons.

(3) 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 the secretary shall within thirty days of being so required transmit to the registrar the certificate of registration.

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

(5) The provisions of sub-section (2), paragraphs (a) and (b) of sub-section (3), sub-section (4) and, in respect of a trade union only, sub-section (6) 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-section (4) 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 that sub-section.

8. (1) The constitution of every registered trade union shall contain provisions not inconsistent with this section in regard to the following matters—

- (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 and the manner in which the membership of a member may be terminated;
- (c) the manner in which a member may terminate his membership;
- (d) the circumstances in 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 or representatives 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 the associations referred to in sub-section (3) of section *two*;
- (j) the purposes for which its funds may be used;
- (k) the procedure to be followed in the nomination of candidates for election as office-bearers;
- (l) 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;

Constitution of  
trade unions  
and employers'  
organizations.

- (m) die prosedure wat by die aanstelling of verkiesing van beampies gevvolg moet word;
  - (n) die bevoegdhede en pligte van ampsdraers en beampies;
  - (o) die omstandigheid waarin en die wyse waarvolgens ampsdraers en beampies uit hul amp onthef kan word: Met dien verstaande dat, benewens enige ander bepaling ingevolge hierdie paragraaf gemaak, voor-siening gemaak moet word vir die hou van 'n stemming per stembriefie op skriftelike versoek van 'n vermelde getal of gedeelte van die lede, om vas te stel of 'n ampsdraer of beampie in die versoek genoem, uit sy amp onthef moet word of indien 'n ampsdraer of verkose beampie uit sy amp onthef is, of hy weer herstel moet word;
  - (p) die wyse waarvolgens 'n stemming per stembriefie gehou moet word;
  - (q) die likwidasie van die vereniging; en
  - (r) enige ander aangeleenthed wat voorgeskryf word.
- (2) Die bepalings van paragrawe (a) tot (j) en paragrawe (p) tot (r) van sub-artikel (1) is *mutatis mutandis* van toepassing ten opsigte van die konstitusie van elke geregistreerde werkgewersorganisasie.
- (3) (a) Indien lidmaatskap van 'n geregistreerde vakvereniging oop is vir beide blankes en gekleurdes—
- (i) moet die konstitusie van sodanige vereniging vanaf 'n datum nie later nie as twaalf maande vanaf die inwerkingtreding van hierdie Wet voorsiening maak—
    - (aa) vir die instelling van afsonderlike takke vir onderskeidelik blankes en gekleurdes;
    - (bb) vir die hou van afsonderlike vergaderings deur die afsonderlike takke; en
    - (cc) dat sy uitvoerende bestuur uit slegs blankes moet bestaan;
  - (ii) mag geen lid van sodanige vereniging wat nie 'n beampie of ampsdraer van die vereniging is nie, na die verstryking van twaalf maande vanaf die inwerkingtreding van hierdie Wet enige vergadering van 'n ander tak as 'n tak wat vir hom ingevolge die konstitusie ooreenkomsdig die voorskrifte van hierdie sub-artikel ingestel is, bywoon of daaraan deelneem nie;
  - (iii) mag geen lid van sodanige vereniging wat 'n gekleurde is na die verstryking van twaalf maande vanaf die inwerkingtreding van hierdie Wet enige vergadering van die uitvoerende bestuur bywoon of daaraan deelneem nie behalwe vir ondervraging deur sodanige uitvoerende bestuur of, met toestemming van sodanige bestuur, vir die verstrekking van 'n verduideliking of die maak van vertoë in verband met enige bewering teen hom wat deur sodanige bestuur ingevolge die vereniging se konstitusie, ondersoek word.
- (b) Die Minister kan vrystelling verleen van almal of enigeen van die bepalings van hierdie sub-artikel as hy, met inagneming van die mate waarin die ledetal van die betrokke vereniging uit blankes en gekleurdes saamgestel is, dit raadsaam ag om dit te doen; en hy kan te eniger tyd na goeddunke so 'n vrystelling intrek.
- (4) (a) Benewens die in sub-artikels (1), (2) en (3) bedoelde aangeleenthede en onderworpe aan die bepalings van hierdie artikel, kan die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie vir enige een of meer van die volgende aangeleenthede voorsiening maak—
- (i) die voordele waarop lede geregtig is of kan word;
  - (ii) die boetes, heffings en verbeurings waaraan lede vir oortredings van die konstitusie onderhewig is of kan word;
  - (iii) die instelling en die bevoegdhede, pligte en werk-saamhede van 'n uitvoerende komitee en ander komitees;
  - (iv) enige ander aangeleenthed wat na die mening van die registrateur geskik is om in die konstitusie van 'n vakvereniging of werkgewersorganisasie, na gelang van die geval, behandel te word.
- (b) Indien die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie vir die ople van die in sub-paragraaf (ii) van paragraaf (a) bedoelde boetes, heffings en verbeurings voorsiening maak, kan sodanige vereniging of organisasie daardie gelde in 'n geregshof verhaal sonder om skade te bewys.

- (m) the procedure to be followed in the appointment or election of officials;
- (n) the powers and duties of office-bearers and officials;
- (o) the circumstances 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 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 an office-bearer or elected official has been removed from office, whether he shall be reinstated;
- (p) the manner in which a ballot shall be conducted;
- (q) the winding-up of the union; and
- (r) any other prescribed matter.

(2) The provisions of paragraphs (a) to (j) and paragraphs (p) to (r) 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 is open to both white persons and coloured persons—
  - (i) the constitution of such union shall as from a date not later than twelve months from the commencement of this Act provide—
    - (aa) for the establishment of separate branches for white persons and coloured persons, respectively;
    - (bb) for the holding of separate meetings by the separate branches; and
    - (cc) that its executive body shall consist only of white persons;
  - (ii) no member of such union, not being an official or office-bearer of the union, shall after the expiry of a period of twelve months from the commencement of this Act attend or take part in any meeting of a branch other than a branch established for him in terms of the constitution of such union in accordance with the provisions
  - (iii) no member of such union who is a coloured person shall after the expiry of a period of twelve months from the commencement of this Act attend or take part in any meeting of the executive body of such union except for the purpose of interrogation by such executive body or, with the consent of such body, of furnishing any explanation or making representations in regard to any allegation against him which is being investigated by such body in terms of the union's constitution.
- (b) The Minister may grant exemption from all or any of the provisions of this sub-section if, having regard to the extent to which the membership of the union concerned is composed of white persons 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 subparagraph (ii) of paragraph (a), it shall be competent for such union or organization to recover such moneys in a court of law without proving damages.

- (5) (a) Elke geregistreerde vakvereniging of werkgewersorganisasie moet—
- (i) 'n lederegister in stand hou wat die name van lede, ledegelede (indien enige) deur elke lid betaal, die tydperke waarop daardie betalings betrekking het en sodanige ander besonderhede as wat voor- geskryf word, aantoon;
  - (ii) behoorlike rekeningboeke hou;
  - (iii) minstens eenmaal per jaar 'n staat van inkomste en uitgawes gedurende sy laaste voorafgaande boekjaar en 'n balansstaat wat sy finansiële toestand aan die end van daardie boekjaar aantoon, opmaak;
  - (iv) sy rekeningboeke minstens eenmaal per jaar laat ouditeer deur 'n openbare rekenmeester of, indien die registrateur dit goedkeur, deur 'n ander persoon;
  - (v) die in sub-paragraaf (iii) bedoelde staat van inkomste en uitgawes en balansstaat en die in paragraaf (b) bedoelde verslag minstens eenmaal elke kalenderjaar aan 'n vergadering of vergaderings van lede of verteenwoordigers van lede ingevolge sy konstitusie voorlê en afskrifte van bedoelde staat van inkomste en uitgawes, balansstaat en verslag deur publikasie of andersins beskikbaar stel vir ondersoek deur volwaardige lede.
- (b) Die openbare rekenmeester of ander persoon in sub-paragraaf (iv) van paragraaf (a) bedoel, moet aan die vereniging of organisasie 'n verslag verstrek waarin gemeld word of—
- (i) hy homself van die bestaan van die effekte oortuig het en die rekeningboeke en rekords van die vereniging of organisasie ondersoek het;
  - (ii) behoorlike rekeningboeke gehou is;
  - (iii) hy alle gevraagde inligting en verduidelikings gekry het;
  - (iv) die staat van inkomste en uitgawes en die balansstaat wat deur hom geouditeer is na sy mening behoorlik opgemaak is om 'n ware en korrekte weergawe van die toestand van die vereniging of organisasie te gee na die beste van sy wete en volgens die verduidelikings wat aan hom gegee is en soos deur die boeke van die vereniging of organisasie op die datum van die balansstaat aange toon;
  - (v) die bepalings van die konstitusie van die vereniging of organisasie vir sover hulle op finansiële sake betrekking het, na sy mening nagekom 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 werkgewersorganisasie nie geregig om op enige vergadering van 'n uitvoerende komitee ingevolge die 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 organisasie 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 vir 'n tydperk van drie jaar in veilige bewaring gehou word;
  - (c) mag geen sodanige vereniging of organisasie met enige politieke party affilieer nie of indien aldus geaffilieer by die inwerkingtreding van hierdie Wet, aldus geaffilieer bly nie vir 'n tydperk van meer as ses maande vanaf die datum van daardie inwerkingtreding;
  - (d) mag geen sodanige vereniging of organisasie geldelike steun verleen aan of enige uitgawes aangaan met die doel om hulp te verleen aan enige politieke party of enige kandidaat vir verkiesing tot die Parlement of tot enige provinsiale raad of plaaslike overheid nie.
- (7) By die toepassing van paragrawe (c) en (d) van subartikel (6), beteken „politieke party“ enige liggaam of groep persone wat as sy oogmerk het of as een van sy oogmerke het, hetsy uitgedruk of andersins—
- (i) die nominasie van kandidate vir verkiesing tot die Parlement of tot 'n provinsiale raad of plaaslike overheid; of

- (5) (a) Every registered trade union or employers' organization shall—
- (i) maintain a register of members showing their names, the membership fees (if any) paid by each member, the periods to which those payments relate and such other details as may be prescribed;
  - (ii) keep proper books of account;
  - (iii) prepare at least once a year a statement of income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year;
  - (iv) cause its books of account to be audited at least once a year by a public accountant or, if the registrar approves, by some other person;
  - (v) submit the statement of income and expenditure and balance sheet referred to in sub-paragraph (iii) and the report referred to in paragraph (b) at least once every calendar year to a meeting or meetings of members or representatives of members in terms of its constitution and make available by publication or otherwise for examination by members in good standing copies of the said statement of income and expenditure, balance sheet and report.

- (b) The public accountant or other person referred to in sub-paragraph (iv) of paragraph (a) shall furnish the union or organization with a report stating whether—
- (i) he has satisfied himself of the existence of the securities and has examined the books of account and records of the union or organization;
  - (ii) proper books of account have been kept;
  - (iii) he has obtained all the information and explanations required;
  - (iv) in his opinion the statement of income and expenditure and the balance sheet audited by him have been properly drawn up so as to exhibit a true and correct reflection of the state of affairs of the union or organization according to the best of his knowledge and according to the explanations given to him and as shown by the books of the union or organization as at the date of the balance sheet;
  - (v) in his opinion, the provisions of the constitution of the union or organization 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 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 or if so affiliated at the commencement of this Act, shall continue to be so affiliated for a period exceeding six months from the date of such commencement;
- (d) no such union or organization shall 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.

(7) For the purposes of paragraphs (c) and (d) of subsection (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

Verandering van konstitusie en naam van vakvereniging of werkgewersorganisasie.

(ii) die beïnvloeding van die openbare mening om so 'n liggaam of groep te ondersteun of teen te staan.

**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 registerateur gestuur word deur die sekretaris van die vereniging of organisasie saam met 'n deur hom en deur die voorsitter van die vereniging of organisasie ondertekende sertifikaat, waarin gemeld word dat die bepalings van die konstitusie wat die verandering van die konstitusie reël, nagekom is of, as die registerateur kragtens die voorbehoudsbepaling by sub-artikel (4) van artikel *twoe* lasgewings gegee het wat betref die wyse waarvolgens of die orgaan waardeur die verandering aangebring moet word, dat sy lasgewings nagekom is.

(3) As enige geregistreerde vakvereniging of werkgewersorganisasie deur middel van so 'n besluit voorstel om sy bestaande konstitusie deur 'n nuwe konstitusie te vervang of om bepaalde bepalings van sy konstitusie te verander, en die registerateur 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 (5) 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 ondertekende sertifikaat daarop geskryf waarin die feit dat hy dit goedkeur het en die datum waarop sy goedkeuring verleen is, gemeld word; en die nuwe konstitusie of die 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-versoenningswet, 1937 (Wet No. 36 van 1937), voorgelê is, wat die registerateur by daardie inwerkingtreding nie goedkeur 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 registerateur 'n nuwe registrasiesertifikaat uitrek en die nodige veranderings in sy registers aanbring.

Oordrag van sekere bevoegdhede van vakverenigings en werkgewersorganisasies belet.

**10.** Wanneer kragtens die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie die bevoegdheid om 'n stemming per stembrieftjie te hou, uitgeoefen kan word deur die vereniging of organisasie of 'n komitee of ampsdraer of beamppte daarvan, mag die vereniging of organisasie of sodanige komitee, ampsdraer of beamppte daardie bevoegdheid aan geen ander persoon of liggaam oordra nie.

Geregistreerde vakverenigings en werkgewersorganisasies moet stukke behou en inligting aan registerateur verstrek.

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

- (a) vir 'n tydperk van drie jaar bereken vanaf die jongste datum waarop hulle betrekking het—
  - (i) alle rekeningboeke, state van inkomste en uitgawes, balansstate en ouditeursverslae;
  - (ii) alle lederegisters en aantekeninge van geld (indien enige) deur elke lid betaal; en
  - (iii) alle notule van vergaderings; en
- (b) alle stawende bewyssukkies, korrespondensie en ander stukke wat betrekking het op die sake van die vereniging of organisasie, vir 'n tydperk van drie jaar vanaf die datum van ontstaan van elke sodanige stuk, behou.

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

- (a) nie later nie as die laaste dag van Maart van elke jaar aan die registerieur in die voorgeskrewe vorm, 'n staat, deur die voorsitter en die sekretaris van die betrokke vereniging of organisasie gesertifiseer as synde in ooreenstemming met sy stukke, stuur wat op die een-en-dertigste dag van Desember van die vorige jaar en in die geval van 'n vakvereniging, ten opsigte van blankes en gekleurdes afsonderlik, die totale getal lede, die getal lede wat volgens die lederegister nie volwaardig is nie, en sodanige ander besonderhede as wat voorgeskryf word, aantoon;

(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 em-  
ployers'  
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 subsection (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 (5) 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 of registration and make the necessary alterations in his registers.

**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—

(a) for a period of three years reckoned from the latest date to which they relate—  
 (i) all books of account, statements of income and expenditure, balance sheets and auditor's reports;  
 (ii) all registers of members and records of moneys (if any) paid by each member; and  
 (iii) all minutes of meetings; and

Registered trade  
unions and  
employers' or-  
ganizations to  
retain records  
and to furnish  
information to the  
registrar.

(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 each such document.

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

(a) not later than the last day of March in each year forward to the registrar in the prescribed form, a statement, certified by the chairman and the secretary of the union or organization concerned to be in accordance with its records, 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 standing according to the register of members and such other details as may be prescribed;

- (b) binne dertig dae na ontvangs deur hom van 'n skrifte-like versoek van die registrateur, 'n skrifte-like staat, gesertifiseer op die wyse in paragraaf (a) uiteengesit, aan die registrateur stuur wat aantoon op die datum in sodanige versoek vermeld, die totale getal lede en die getal lede wat nie volgens die lederegister volwaardig 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;
- (c) binne dertig dae na ontvangs deur hom van 'n ouditeursverslag, 'n getroue afskrif van sodanige verslag en van die staat van inkomste en uitgawes en van die balansstaat waarop sodanige verslag betrekking het, aan die registrateur stuur; en
- (d) binne dertig dae na ontvangs deur hom van 'n skrifte-like versoek van die registrateur, aan die registrateur skriftelik 'n verduideliking gee van enige aangeleentheid wat betrekking het op 'n in paragraaf (a) of (b) bedoelde staat of 'n in paragraaf (c) bedoelde verslag, staat of balansstaat waarop die registrateur 'n verduideliking vereis.

(3) Wanneer enige verkiesing of aanstelling van ampsdraers of beampies van 'n geregistreerde 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, hetsy daar enige veranderings onder die ampsdraers of beampies was al dan nie.

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

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

**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 geregistreerde vakvereniging of werkgewersorganisasie nie nagekom is nie, en dat as gevolg van sodanige nie-nakoming die vereniging of organisasie nie in staat is om ooreenkomsdig sy konstitusie te funksioneer nie, te wyte, of geheel en al of gedeeltelik, aan—

- (a) die nie-bestaan van sy uitvoerende liggaam;
- (b) die versuim om 'n vakature ooreenkomsdig 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 bly funksioneer, sodanige opdragte uitrek 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 waaraan 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 die bepalings van sy konstitusie aangaande die aangeleentheid waarop sodanige opdrag betrekking het, na te gekom het.

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

- (a) 'n onreëlmattigheid van wesenlike belang in verband met 'n verkiesing gehou ingevolge die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie, geskied het; of
- (b) 'n beample, ampsdraer, komitee of ander liggaam van 'n geregistreerde vakvereniging of werkgewersorganisasie versuim het om 'n bepaling van die konstitusie

- (b) within thirty days after the receipt by him of a written request by the registrar forward 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 standing according to the register of members, either in respect of the total membership or in respect of the classes or groups of members and the area specified in such request;
  - (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 the secretary thereof and of particulars of its membership.

**12. (1)** If at any time the registrar has reason to believe Special powers that any provision of the constitution of a registered trade union or employers' organization has not been observed, and that as a result of such non-observance the union or organization is unable to function in accordance with its constitution due, either wholly or in part, to—

(a) the non-existence of its executive body;  
 (b) the failure to fill a vacancy in accordance with the requirements of the constitution; or  
 (c) any other circumstance arising from the non-observance of the requirements of the constitution,  
 the registrar may, if in his opinion a substantial number of the 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 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 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 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 has occurred in connection with any election held in terms of the constitution of a 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 constitu-

van sodanige vereniging of organisasie 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 aantal van die volwaardige lede veroorsaak het,  
kan hy, sonder afbreuk te doen aan enige regsmiddel wat enige belanghebbende persoon mag hê, 'n ondersoek aangaande daardie aangeleentheid instel.

(4) Vir die doel van 'n in sub-artikel (3) bedoelde ondersoek kan die registrateur—

- (a) enige wat na sy mening moontlik in staat is om inligting van wesenlike belang te verstrek omtrent die onderwerp wat ondersoek word, of wat hy vermoed of glo enige boek, stuk of ding wat betrekking het op die onderwerp wat ondersoek word, in sy besit of bewaring of onder sy beheer het, 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: Met dien verstande dat as 'n betrokke persoon of liggaaam die registrateur oortuig dat daar redelike grond bestaan om te veronderstel dat 'n 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;
- (b) enige boek, stuk or ding wat aldus voorgelê is vir ondersoek behou;
- (c) te eniger tyd sonder voorafgaande kennisgewing enige perseel hoegenaamd betree met die doel om daarop of daarin 'n inspeksie ter plaatse uit te voer, en die eienaar of okkuperdeer van so 'n perseel en elke persoon by hom in diens moet te alle tye sodanige fasiliteite verskaf as wat die registrateur vereis om sodanige perseel te betree en om sodanige inspeksie uit te voer.

(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 of van hom 'n bevestiging aanneem 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 te bevestig of versuim om op alle aan hom wettiglik gestelde vrae volledig 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 wat versuim om aanwesig te bly totdat die registrateur hom van verdere bywoning vrystel, is aan 'n misdryf skuldig: Met dien verstande dat die regssreëls betreffende privilegie soos van toepassing op 'n getuie wat as getuie gedagvaar is om voor 'n gereghof getuenis 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 agter gesloten deure plaasvind, tensy die registrateur anders besluit: Met dien verstande dat op versoek van 'n getuie die ondervraging van daardie getuie agter gesloten deure moet plaasvind: Met dien verstande voorts dat die registrateur, na goeddunke en met toestemming van die getuie, die teenwoordigheid van 'n vermelde 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 voor 'n amptenaar deur hom vir dié doel aangewys, voorgelê word; en so 'n amptenaar kan aan enige getuie wat voor hom verskyn 'n eed oplê of van hom 'n bevestiging aanneem; 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 voor en die ondersoek daarvan deur 'n gemagtigde of aangewese amptenaar, behalwe dat die verslag van so 'n amptenaar aan die registrateur gestuur moet word.

tion of such union or organization, 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 number of the members in good standing, he may, without prejudice to any legal remedy any interested person may have, conduct an enquiry into such matter.

(4) For the purpose of any enquiry referred to in sub-section (3) the registrar may—

- (a) subpoena any person who in his opinion may be able to give 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 or to produce that book, document or thing: Provided that if any person or body 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 such book, document or thing, he shall so subpoena that person;
- (b) retain for examination any book, document or thing so produced;
- (c) at any time, without previous notice, enter any premises whatsoever for the purpose of making an inspection *in loco* thereon or therein and the owner or occupier of any such premises, and every person employed by him, shall at all times furnish such facilities as the registrar may require for entering such premises and for making such inspection.

(5) The registrar may call and administer an oath to or accept an affirmation from any person present at the enquiry who was or might have been 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 or to affirm as a witness or fails 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 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 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.

(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 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 officer designated for the purpose by him; and any such officer may administer an oath to or accept an affirmation from 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 and the examination thereof by any authorized or designated officer, save that the report of any such officer shall be submitted to the registrar.

(9) Aan enige persoon wat as getuie gedagvaar is om voor die registrator of 'n amptenaar te verskyn, kan, as die registrator oortuig is dat hy weens sy verskyning in gehoorsaamheid aan die subpoena enige geldelike verlies gely het of enige onkoste moes aangaan, die voorgeskrewe toelae of die bedrag van sodanige verlies en onkoste, na gelang van watter die minste is, uit gelde deur die Parlement beskikbaar gestel, betaal word: Met dien verstande dat indien die persoon wat as getuie gedagvaar is, in die voltydse diens van die Staat is, die toelae of die bedrag aan hom betaalbaar ooreenkomsdig die wetsbepalings wat sy diens reël, bepaal moet word.

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

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

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

(b) 'n verkose 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 aantal van die volwaardige lede veroorsaak het,

kan hy, in sy verslag aan die Minister ingevolge sub-artikel (10), of as sy enigste aanbeveling of benewens enige ander aanbeveling wat hy 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 onder 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 goedvind, 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, wat nie minder as dertig dae moet wees nie, deur hom vastgestel, enige vertoe 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 vertoe ingevolge sub-artikel (12) gemaak, kan die Minister gelas dat uitvoering gegee word aan almal of enige gedeelte van bedoelde aanbevelings.

(14) Enige verdere verkiesing gehou ooreenkomsdig 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 van die beampete, ampsdraer, komitee of ander liggaam wie se verkiesing, versuim of handeling die onderwerp van die verslag uitgemaak het, nietig en van geen krag nie.

(15) Enige persoon wat die registrator of enige ingevolge sub-artikel (8) gemagtigde of aangewese amptenaar in die uitvoerking van enige van die bevoegdhede of die uitvoering van enige van die 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 van 'n kragtens sub-artikel (13) gegewe lasgewing uitmaak of opsetlik die uitvoering daarvan belemmer, is aan 'n misdryf skuldig.

### 13. (1) 'n Geregistreerde vakvereniging of werkgewersorganisasie moet gelikwideer word—

(a) indien 'n besluit op die likwidasië van die vereniging of organisasie ingevolge sy konstitusie aangeneem is; of

(b) indien die vereniging of organisasie nie in staat is om te bly funksioneer nie weens 'n rede wat na die mening van die registrator nie kragtens sub-artikel (1) van artikel twaalf verhelp kan word nie.

(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 any pecuniary loss or been put to any expense, be paid from moneys appropriated by Parliament the prescribed allowances or the amount of such loss and expense, whichever is the lesser: Provided that if the person subpoenaed is in the full-time employment of the State the allowances or amount payable to him shall be determined in accordance with the laws governing his employment.

(10) On the completion of an enquiry under this section, the registrar shall submit to the Minister a report setting out the 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—

- (a) any material irregularity has occurred in connection with any election held in terms of the constitution of the union or organization concerned; or
- (b) any elected 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 number of the members in good standing,

he may, in his report to the Minister in terms of sub-section (10), either as his only recommendation or 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 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 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 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 concerned; and as from the date on which the result of the further election is known, the election of the official, office-bearer, committee or other body whose election, failure or action 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 the exercise of any of the powers or the performance of any of the 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 the carrying into effect of a recommendation which forms the subject of a direction under sub-section (13), shall be guilty of an offence.

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

Winding up of  
trade unions or  
employers'

- (a) if a resolution for the winding up of the union or organization has been adopted in terms of its constitution; or
- (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.

(2) Wanneer 'n geregistreerde vakvereniging of werkgewersorganisasie gelikwideer moet word, kan die registrator vir sover hy die bepalings van die konstitusie met betrekking tot likwidiasie as onvoldoende beskou, sodanige lasgewings uitreik as wat hy nodig ag om te verseker dat die vereniging of organisasie met behoorlike inagneming van die belang van die betrokke partye gelikwideer word en kan hy vir hierdie doel enige persoon as likwidateur aanstel onderhewig aan sodanige voorwaardes as wat hy bepaal.

(3) (a) 'n Likwidateur ingevolge sub-artikel (2) aangestel, is geregtig op sodanige gelde as waarop tussen hom en die beskikbare volwaardige lede van die laasaangestelde uitvoerende liggaam ooreengekom word, of, by ontstentenis van sodanige ooreenkoms, as wat deur die registrator bepaal word.

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

(c) 'n Likwidateur wat in die voltydse diens van die Staat is moet enige gelde wat hy ontvang in die Gekonsolideerde Inkomstefonds stort: Met dien verstande dat aan 'n likwidateur wat aldus sy gelde in die Gekonsolideerde Inkomstefonds gestort het, op aanbeveling van die Staatsdienskommissie, uit gelde wat deur die Parlement beskikbaar gestel word, 'n bedrag betaal kan word wat bedoelde Kommissie as redelik ag maar wat nie die bedrag wat in bedoelde Fonds gestort is te bowe mag gaan nie.

(4) Indien nadat alle skulde en verpligtings van die vereniging of organisasie vereffen is, daar bates oorbly waaraan 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 volwaardig was toe so 'n besluit aangeneem is, beskik kan word nie, kan die registrator na goeddunke te eniger tyd en van tyd tot tyd gelas dat enige sodanige bates gelikwideer word en dat die gelde wat daardeur opgelewer word of enige gedeelte daarvan, betaal word aan 'n ander geregistreerde vakvereniging of werkgewersorganisasie, na gelang van die geval, wat geregistreer is ten opsigte van belang wat na die mening van die registrator geheel en al of gedeeltelik dieselfde is as die geheel of gedeelte van die belang ten opsigte waarvan die vereniging of organisasie wat gelikwideer word, geregistreer is. Enige gedeelte van sodanige gelde waaraan nie binne twee jaar vanaf die datum waarop die likwidiasie voltooi is, aldus beskik is nie, moet in die Gekonsolideerde Inkomstefonds gestort word.

(5) Die registrator kan gelas dat enige in sub-artikel (4) bedoelde gelde by die Openbare Skuldkommissarisse 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).

#### Intrekking van registrasie van vakvereniging of werkgewersorganisasie.

14. (1) Wanneer die registrator rede het om te vermoed dat 'n geregistreerde vakvereniging of werkgewersorganisasie gelikwideer is of nie as 'n vakvereniging of werkgewersorganisasie funksioneer nie, of dat 'n geregistreerde vakvereniging nie aan die voorskrifte van sub-paragraaf (i) van paragraaf (a) van sub-artikel (3) van artikel *agt* voldoen het nie, of wanneer die registrator voornemens is om ingevolge sub-artikel (2) van artikel *sewe* die bestek van registrasie te verander van 'n vakvereniging wat geregistreer is vir blankes of gekleurdes alleen deur die uitsluiting daaruit van blankes of gekleurdes, na gelang van die geval, in die gehele onderneming, nywerheid, bedryf of beroep en gebied ten opsigte waarvan daardie vereniging geregistreer is, moet hy 'n kennisgiving in die *Staatskoerant* publiseer en per geregistreerde pos aan die vereniging of organisasie stuur dat by verstryking van die tydperk in daardie kennisgiving vermeld, wat nie minder as dertig dae vanaf die datum van daardie kennisgiving moet wees nie, die registrasie van die vakvereniging of werkgewersorganisasie daarin vermeld, tensy redes daarteen aangevoer word, ingetrek sal word.

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

(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 persoon belas met die likwidiasie van 'n vereniging of organisasie

(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 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 standing or, failing such agreement, as may be determined by the registrar.
- (b) Any fees payable to a liquidator shall be a first charge on the assets of the union or organization concerned.
- (c) A liquidator who is in the full-time employment of the State shall pay any fees received by him into the Consolidated Revenue Fund: Provided that a liquidator who has so paid his fees into the Consolidated Revenue Fund may on the recommendation of the Public Service Commission be paid from moneys appropriated by Parliament an amount which the said Commission considers reasonable but which shall not exceed the amount paid into the said Fund.

(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 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 realized or any portion thereof, be paid to any other 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 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).

**14.** (1) Whenever the registrar has reason to believe that a Cancellation of registered trade union or employers' organization has been registration of wound up or is not functioning as a trade union or employers' organization, or that a trade union has not complied with the requirements of sub-paragraph (i) of paragraph (a) of sub-section (3) of section *eight*, or whenever the registrar proposes in terms of sub-section (2) of section *seven* to vary the scope of registration of a trade union which is registered for white persons or coloured persons only by the exclusion therefrom of white persons or coloured persons, as the case may be, in the whole of the undertaking, industry, trade or occupation and area in respect of which such union is registered, he shall publish in the *Gazette* and send to the union or organization by registered post a notice that at the expiry 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 be shown to the contrary, be cancelled.

(2) At the expiry of the period mentioned in any notice such as is referred to in sub-section (1), the registrar shall, 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,

en van elke ampsdraer, beamppte en lid van die vereniging of organisasie bly voortbestaan 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 aan die vereniging of organisasie by sy laasbekende hoofkantoor.

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

Oortredings deur vakverenigings en werkgewersorganisasies en hul beampetes.

Appelle teen beslissings van die registrator.

**15.** 'n Vakvereniging of werkgewersorganisasie of enigiemand wat, sonder redelike verontskuldiging, enige bepaling van, of enige vereiste, versoek of eis van die registrator kragtens die voorbehoudsbepaling by sub-artikel (4) van artikel *twee*, sub-artikel (1) van artikel *vier*, paragraaf (*h*) van sub-artikel (1) van artikel *ses*, sub-artikel (3) van artikel *sewe*, sub-paragraaf (ii) of (iii) van paragraaf (*a*) van sub-artikel (3) of sub-artikel (5) of (6) van artikel *agt*, artikel *tien*, artikel *elf* of sub-artikel (5) van artikel *veertien* oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

**16.** (1) Enigiemand (hieronder die appellant genoem) wat veronreg voel deur enige vereiste, versoek, beslissing of bevel van, of enige intrekking van die registrasie van 'n vakvereniging, werkgewersorganisasie of nywerheidsraad deur, die registrator kragtens artikel *twee*, *vier*, *ses*, *sewe*, *agt*, *nege*, *veertien*, *negentien*, *een-en-twintig*, *twee-en-twintig* of *vier-en-dertig* 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 die registrator 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 Minister,

teen sodanige vereiste, versoek, beslissing, bevel of intrekking binne sestig dae vanaf die datum waarop die registrator sodanige redes verstrek, of as hy nie om 'n uiteensetting van die registrator se redes aansoek gedoen het nie, binne sestig dae vanaf die datum van bedoelde vereiste, versoek, beslissing of bevel of van die publikasie van die in sub-artikel (2) van artikel *veertien* bedoelde kennisgewing: Met dien verstande dat waar 'n tydperk van minder as sestig dae voorgeskryf of deur die registrator kragtens hierdie Wet vasgestel is vir die uitvoering van so 'n vereiste of versoek, sodanige persoon die registrator binne daardie korter tydperk skriftelik moet laat weet van sy voorname om te appelleer.

(2) (a) 'n Appèl kragtens sub-artikel (1) moet in die vorm en op die wyse voorgeskryf ingedien word, en moet van sodanige skriftelike vertoë as wat die appellant verlang om in verband daarmee te maak, vergesel wees. Daarna en in elk geval nie later as veertien dae daarna nie, moet die registrator 'n uiteensetting van sy redes vir die vereiste, versoek, beslissing, bevel of intrekking waarteen geappelleer word, saam met sodanige skriftelike vertoë 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 party by die verrigtinge waaruit die appèl ontstaan het wat na die mening van die Minister of die nywerheidshof, na gelang van die geval, deur die appèl geraak word, word 'n geleentheid gegee om skriftelike vertoë daaromtreent voor te lê aan die Minister of die nywerheidshof, na gelang van die geval, binne die tydperk wat die Minister of die nywerheidshof vasstel.

(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 gemeld.

(d) Die Minister of die nywerheidshof, na gelang van die geval, kan die appèl op die in paragrawe (a) en (b) bedoelde stukke beslis sonder om enige party by die appèl persoonlik aan te hoor, maar die nywerheidshof kan uit eie beweging en moet, indien aldus versoek deur die appellant, die registrator of enige ander party wat na die mening van die nywerheidshof deur die appèl geraak word, reël dat die aangeleentheid

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 organization 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 person who, without reasonable excuse, contravenes or fails to comply with any provision 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*, paragraph (h) of sub-section (1) of section *six*, sub-section (3) of section *seven*, sub-paragraph (ii) or (iii) of paragraph (a) of sub-section (3) or sub-section (5) or (6) of section *eight*, section *ten*, section *eleven* or sub-section (5) of section *fourteen*, shall be guilty of an offence.

**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, employers' organization or industrial council by, the registrar under section *two*, *four*, *six*, *seven*, *eight*, *nine*, *fourteen*, *nineteen*, *twenty-one*, *twenty-two* or *thirty-four* 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—

(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 the registrar furnishes 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 (2) 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 such person shall advise the registrar in writing within such shorter period of his intention to appeal.

(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 party to the proceedings which gave rise to the appeal who in the opinion of the Minister or the tribunal, as the case may be, is affected by the appeal, shall be afforded an opportunity to submit written representations in regard thereto, to the Minister or the tribunal, as the case may be, within such period as the Minister or the tribunal may fix.

(c) In any such appeal any party who 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

voor hom beredeneer word. Die aanhoor deur die nywerheidshof van die beredenering kan van tyd tot tyd tot enige tyd en datum wat gerieflik 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 voorgeskrewe datum bestaan het, word 'n appèl teen sy beslissing beslis op die feite soos hulle op daardie datum bestaan het, vir sover hulle by die appèl ter sake is.

(4) (a) Die Minister of die nywerheidshof, na gelang van die geval, kan die registrateur se vereiste, versoek, beslissing, bevel of intrekking bevestig of ter syde stel.

(b) Wanneer hy 'n vereiste of versoek van die registrateur ter syde stel, kan die Minister of die nywerheidshof, na gelang van die geval, sodanige vereiste of versoek in die plek daarvan stel as wat hy nodig ag; en die vereiste of versoek van die Minister of die nywerheidshof word by die toepassing van hierdie Wet geag 'n vereiste of versoek van die registrateur te wees.

(c) Wanneer hy 'n beslissing of bevel van die registrateur ter syde stel, gee die Minister of die nywerheidshof, na gelang van die geval, sodanige ander beslissing of vaardig sodanige ander bevel uit as wat na sy mening die registrateur behoort te gegee of uit te gevraagd 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.

(d) Wanneer hy die intrekking van die registrasie van 'n vakvereniging, werkgewersorganisasie of nywerheidsraad ter syde stel, kan die Minister sodanige lasgewings gee as wat na sy mening nodig is om die vereniging, organisasie of raad so na moontlik in dieselfde posisie te plaas asof die registrasie van die vereniging, organisasie of raad nie ingetrek was nie.

(e) Die nywerheidshof kan sodanige bevel aangaande koste van 'n appèl na hom en die verhaal daarvan uitvaardig as wat hy regverdig ag.

(5) (a) Enigiemand wat veronreg voel deur 'n 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 Hooggereghof binne die regsgebied waarvan hy woonagtig is, nadat hy tot bevrediging van die griffrer van daardie afdeling sekerheid gestel het vir enige koste wat moontlik deur die Minister in verband met die appèl aangegaan word, en moet die appèl binne ses weke vanaf die datum van die beslissing voortsit.

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

**Instelling en  
werksaamhede  
van nywer-  
heidshof.**

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 wat kennis dra van nywerheidsaangeleenthede en procedure deur die Minister as voorsitter aangewys word;

(b) die ander lede persone moet wees wat onderskeidelik vanweë hul kennis van die belangte van—

(i) plaaslike owerhede;

(ii) werknekmers in diens by plaaslike owerhede;

(iii) werkgewers (behalwe plaaslike owerhede); en

(iv) werknekmers in diens by werkgewers (behalwe plaaslike owerhede),

aangestel word en by die doen van so 'n aanstelling raadpleeg die Minister sodanige organisasies verteenwoordigende bedoelde plaaslike owerhede, werkgewers of werknekmers as wat hy bevoeg ag om die betrokke belangte verteenwoordig.

(2) (a) 'n Lid van die nywerheidshof beklee sy amp vir 'n tydperk van vyf jaar onderworpe aan die nakoming van die aanstellingsvoorraades deur die Minister bepaal, en kan by verstryking van 'n tydperk waarvoor hy aangestel is, weer aangestel word.

(b) 'n Toevallige vakature wat in die nywerheidshof ontstaan, word gevul deur die aanstelling van 'n ander lid ooreenkomsdig die bepalinge van sub-artikel (1).

matter be argued before it. The hearing by the tribunal 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 his decision under any provision referred to in sub-section (1) on facts as they existed at a prescribed date, any appeal against his decision shall be decided on the facts as they existed 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 confirm or set aside the registrar's requirement, request, decision, order or cancellation.

(b) When setting aside a requirement or request by the registrar the Minister or the tribunal, as the case may be, may substitute such requirement or request as he or it may consider necessary; and the requirement or request of the Minister or the tribunal shall for the purposes of this Act be deemed to be a requirement or request of the registrar.

(c) When setting aside a decision or order of the registrar 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 purposes of this Act be deemed to be the decision or order of the registrar.

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

(e) 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 within whose area of jurisdiction he resides, on giving security to the satisfaction of the registrar of that division for any costs that may be incurred by the Minister in connection with the appeal, 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 who shall be acquainted with industrial matters and procedure;

(b) the remaining members shall be persons appointed by reason of their knowledge of the interests of—

- (i) local authorities;
- (ii) employees employed by local authorities;
- (iii) employers (other than local authorities); and
- (iv) employees employed by employers (other than local authorities),

respectively, and in making any such appointment the Minister shall consult such organizations representing the said local authorities, employers or employees as he deems qualified to represent the interests concerned.

(2) (a) A member of the tribunal shall hold office for a period of five years subject to observance of the conditions of appointment determined by the Minister, and may be re-appointed on the termination of any period for which he has been appointed.

(b) Any casual vacancy that occurs on the tribunal shall be filled by the appointment of another member in accordance with the provisions of sub-section (1) and

en 'n aldus aangestelde persoon beklee sy amp vir die onverstreke gedeelte van die ampstermy van sy voorganger.

(3) Die Minister kan van tyd tot tyd 'n persoon as adjunk-voorsitter van die nywerheidshof aanstel om as voorsitter van die nywerheidshof of 'n afdeling daarvan op te tree as die voorsitter om een of ander rede nie in staat is om aldus op te tree nie.

(4) Elke aanstelling kragtens sub-artikel (1), (2) of (3) word in die *Staatskoerant* bekend gemaak.

(5) Aan 'n lid (met inbegrip van 'n tydelike lid en die adjunk-voorsitter) van die nywerheidshof word sodanige besoldiging en toelaes ten opsigte van sy dienste betaal as wat die Minister, in oorleg met die Minister van Finansies, van tyd tot tyd bepaal.

(6) Die werksaamhede en pligte van die nywerheidshof kan verrig en uitgeoefen word—

- (a) deur die nywerheidshof; of
- (b) met inagneming van die bepalings van sub-artikel (11)—
  - (i) deur die eerste afdeling bestaande uit die voor-  
sitter en die lede ingevolge sub-paragrawe (i) en  
(ii) van paragraaf (b) van sub-artikel (1) aangestel;  
of
  - (ii) deur die tweede afdeling bestaande uit die voor-  
sitter en die lede ingevolge sub-paragrawe (iii)  
en (iv) van paragraaf (b) van sub-artikel (1)  
aangestel; of
  - (c) deur 'n spesiale afdeling ingestel ingevolge sub-artikel  
(18).

(7) Die Minister kan—

- (a) enige persoon as tydelike voorsitter of adjunk-voor-  
sitter van die nywerheidshof; en
- (b) enige persoon as 'n tydelike lid van die nywerheidshof,  
aanstel terwyl die voorsitter of die adjunk-voorsitter of 'n  
lid van die nywerheidshof, na gelang van die geval, om een of  
ander rede nie in staat is om op te tree nie of terwyl die amp van  
voorsitter of adjunk-voorsitter of van enige lid tydelik vakant  
is. Die bepalings van paragraaf (b) van sub-artikel (1) word,  
vir sover dit doenlik is, by die aanstelling van 'n tydelike lid  
nagekom.

(8) Die werksaamhede en pligte van die nywerheidshof is—

- (a) om enige appèl 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 van raad oor enige in paragraaf (c)  
van sub-artikel (7) van artikel *ses-en-veertig* bedoelde  
aangeleenthed te dien;
- (d) om enige aangeleenthed wat ingevolge artikel *ses-en-  
sewentig* na hom verwys is, vas te stel;
- (e) om ingevolge artikel *sewe-en-sewentig* ondersoek in  
te stel en aanbevelings aan die Minister te doen;
- (f) om met enige ander aangeleenthed te handel waarmee  
hy kragtens hierdie Wet moet of kan handel;
- (g) om ondersoek in te stel na en verslag te doen oor enige  
aangeleenthed wat die Minister na hom verwys in  
verband met die oogmerke van hierdie Wet; en
- (h) om oor die algemeen met alle aangeleenthede te handel  
wat noodsaklik is vir die verrigting van sy werk-  
saamhede kragtens hierdie Wet of wat daarmee in  
verband staan.

(9) Geen verrigtinge van die nywerheidshof is ongeldig nie  
bloot omrede van die feit dat 'n vakature in sy ledetal bestaan  
het of dat die aanstelling van enige lid, tydelike lid of assessor  
om een of ander rede gebrekkig was of dat enige lid, tydelike lid  
of assessor nie gedurende die geheel of enige gedeelte van die  
verrigting teenwoordig was nie.

(10) Die nywerheidshof kan besluit dat enige ondersoek wat  
hy kragtens hierdie Wet kan of moet onderneem of wat hy  
nodig ag in verband met enige aangeleenthed wat deur die  
nywerheidshof oorweeg word, namens hom deur enige lid of  
lede daarvan uitgevoer word.

(11) Met enige aangeleenthed waarmee die nywerheidshof  
ingevolge hierdie Wet kan of moet handel, kan die afdeling  
van die nywerheidshof handel waarna sodanige aangeleenthed  
deur die voorsitter verwys word.

(12) Die beslissing van die meerderheid van die lede van die  
nywerheidshof word by die toepassing van hierdie Wet geag die  
beslissing van die nywerheidshof te wees.

any person so appointed shall hold office for the unexpired portion of the period of office of his predecessor.

(3) The Minister may from time to time appoint a person to be deputy-chairman of the tribunal to act as chairman of the tribunal or a division thereof, if the chairman is for any reason unable so to act.

(4) Every appointment under sub-section (1), (2) or (3) shall be notified in the *Gazette*.

(5) There shall be payable to a member (including a temporary member and the deputy-chairman) 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.

(6) The functions and duties of the tribunal may be exercised and performed—

(a) by the tribunal; or

(b) subject to the provisions of sub-section (11)—

(i) by the first division consisting of the chairman and the members appointed in terms of sub-paragaphs (i) and (ii) of paragraph (b) of sub-section (1); or

(ii) by the second division consisting of the chairman and the members appointed in terms of sub-paragaphs (iii) and (iv) of paragraph (b) of sub-section (1); or

(c) by a special division established in terms of sub-section (18).

(7) The Minister may appoint—

(a) any person to be temporary chairman or deputy-chairman of the tribunal; and

(b) any person to be a temporary member of the tribunal, while the chairman, or the deputy-chairman, or any member of the tribunal, as the case may be, is unable for any reason to act or while the office of chairman or deputy-chairman or of any member is temporarily vacant. The provisions of paragraph (b) of sub-section (1) shall as far as it is practicable be observed in appointing a temporary member.

(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;

(g) to investigate and report upon any matter referred to it by the Minister in connection with the objects of this Act; and

(h) 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, temporary member or assessor was defective for any reason, or that any member, temporary member or assessor 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 on its behalf 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) Die nywerheidshof, of 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) en (7) van artikel *twaalf* aan die registerieur verleen en die bepalings van sub-artikels (6), (7), (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.
- (b) 'n Subpoena wat by die uitoefening van bedoelde bevoegdhede uitgereik word, moet deur die voorsitter of deur 'n amptenaar wat deur die voorsitter daar toe gemagtig is of deur 'n lid van die nywerheidshof onderteken word.
- (c) Wanneer 'n getuie voor die nywerheidshof, of voor enige lid wat enige ondersoek ingevolge sub-artikel (10) uitvoer, verskyn, kan die eed hom opgelê word of 'n bevestiging van hom aangeneem word deur die voorsitter of deur daardie lid, na gelang van die geval.
- (d) Die voorsitter en enige lid wat op 'n vergadering waarop 'n 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 goeddunke, enige vraag kan afwyk 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 raadsaam ag om dit te doen en na raadpleging van die partye wat na sy mening hoofsaaklik by enige aangeleentheid wat deur die nywerheidshof oorweeg word, betrokke is, sodanige aantal assessore as wat na sy mening nodig is om redelike verteenwoordiging van bedoelde partye te verseker, aanstel om die nywerheidshof in 'n raadgewende hoedanigheid behulp saam te wees wanneer die nywerheidshof met die aangeleentheid ten opsigte waarvan hulle aangestel is, handel.
- (b) Assessore ingevolge paragraaf (a) aangestel, is op sodanige toelaes as wat voorgeskryf word, geregtig.
- (15) In verband met die uitvoering van enigeen van sy werksaamhede of pligte kragtens hierdie Wet, kan die nywerheidshof oorleg pleeg met, en enige ter sake dienende inligting wat verstrek word deur, die Raad van Handel en Nywerheid, die Loonraad, enige Staatsdepartement of enige soortgelyke owerheid, in oorweging neem.
- (16) (a) Die nywerheidshof kan uit eie beweging of op versoek van enige party by enige appèl of ander verrigtinge voor die nywerheidshof enige regsvraag wat by enige sodanige appèl of verrigtinge ontstaan vir die beslissing van die Afdeling van Appèl van die Hooggeregshof voorbehou en moet sodanige vraag in die vorm van 'n spesiale saak stel. Die vraagstuk aldus gestel kan voor die Afdeling van Appèl beredeneer word en daardie Afdeling gee sodanige beslissing, en reik sodanige bevel uit wat betref koste as wat hy regverdig ag.
- (b) Indien 'n spesiale saak soos voormeld op versoek van 'n ander party as die registerieur gestel word, moet hy vir enige koste wat hy beveel mag word om te betaal, by die griffier van die Afdeling van Appèl van die Hooggeregshof sodanige sekerheid stel as wat bedoelde griffier bepaal.
- (c) In afwagting van die beslissing van die Afdeling van Appèl op enige regsvraag ingevolge paragraaf (a) voorbehou, moet die nywerheidshof sy beslissing van die aangeleentheid in verband waarmee die spesiale saak gestel is, uitstel.
- (17) Behoudens die bepalings van hierdie Wet en onderworpe aan die goedkeuring van die Minister, kan die nywerheidshof reëls maak vir die bestuur van die verrigtinge van die nywerheidshof, die wyse waarop vertoë aan hom voorgelê kan word, die verteenwoordiging van partye wanneer getuenis 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 die nywerheidshof met dergelike goedkeuring enige sodanige reëls herroep of verander.

- (13) (a) The tribunal or 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) and (7) of section twelve and the provisions of sub-sections (6), (7), (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) A subpoena issued in the exercise of the said powers shall be signed by the chairman or by an officer authorized by the chairman to do so, or by a member of the tribunal.
- (c) Whenever a witness appears before the tribunal, or before any member carrying out any investigation in terms of sub-section (10), the oath may be administered to him or an affirmation may be accepted from him by the chairman, or by that member, as the case may be.
- (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 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 who 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.
- (b) Assessors appointed in terms of paragraph (a) shall be entitled to such allowances as may be prescribed.
- (15) In connection with the performance of any of its functions or duties under this Act, 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 similar authority.
- (16) (a) The tribunal may, of its own motion, or 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 Appellate Division and that Division shall give such decision and may make such order as to costs as it thinks right.
- (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.
- (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.
- (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 repeal or alter any such rules.

- (18) (a) Indien die Minister na oorlegpleging met die voorstitter van die nywerheidshof dit raadsaam ag om dit te doen, kan hy 'n spesiale afdeling van die nywerheidshof instel om te handel met 'n aangeleentheid wat ingevolge hierdie Wet na die nywerheidshof verwys moet word.
- (b) So 'n spesiale afdeling bestaan uit drie lede deur die Minister aangestel te word, van wie—
- (i) een deur die Minister as voorsitter van die spesiale afdeling aangewys word;
  - (ii) die ander lede, vir sover dit doenlik is, aangestel word ooreenkomsdig die bepalings van of sub-paragrawe (i) en (ii) van paragraaf (b) van sub-artikel (1) of sub-paragrawe (iii) en (iv) van bedoelde paragraaf, soos die Minister met inagneming van die belang van die persone wat geraak word deur die aangeleentheid ten opsigte waarvan die spesiale afdeling ingestel word, bepaal.
- (c) 'n Spesiale afdeling aldus ingestel, word met betrekking tot die aangeleentheid wat na hom verwys word, geag die nywerheidshof te wees en vir die doeleindes van die uitoefening van sy werksaamhede word enige verwysing in hierdie Wet na die voorsitter of 'n lid van die nywerheidshof geag onderskeidelik die voorstitter of 'n lid van bedoelde spesiale afdeling in te sluit.
- (d) Die bepalings van sub-artikels (5), (7), (9) en (14) is *mutatis mutandis* van toepassing ten opsigte van 'n spesiale afdeling van die nywerheidshof wat kragtens paragraaf (a) ingestel word.

Stigting van nywerheidsraad.

**18. (1) Enige—**

- (a) werkgewer (as die registrator dit goedkeur); of
- (b) groep werkgewers (as die registrator 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 registrator dit goedkeur); of
- (f) groep werkgewers en een of meer geregistreerde werkgewersorganisasies (as die registrator dit goedkeur), 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 onderteken of dit namens hulle te laat onderteken, en die registrasie van die raad kragtens hierdie Wet te verkry: Met dien verstande dat die registrator nie kragtens paragraaf (a), (b), (e) of (f) goedkeuring mag verleen nie indien die betrokke werkgewer of die individuele werkgewers wat die betrokke groep 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 onderteken 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 aan die raad onttrek het nie, word in hierdie Wet die partye by die raad genoem.

Registrasie van nywerheidsraad.

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

- (a) die konstitusie van die raad, deur of namens hulle onderteken, saam met drie afskrifte daarvan; en
- (b) aansoeke om die registrasie van die raad in die voorgeskrewe vorm en bevattende die voorgeskrewe inligting,

stuur en moet aan die registrator sodanige nadere inligting verstrek as wat hy vereis.

(2) (a) So gou doenlik na hy 'n aansoek ingevolge sub-artikel (1) en sodanige nadere inligting as wat hy vereis, ontvang het, laat die registrator 'n kennisgewing in die *Staatskoerant* publiseer wat sodanige besonderhede van die aansoek bevat as wat hy nodig ag en waarin enigiemand wat teen die aansoek beswaar maak, uitgenooi word om sy beswaar op die wyse in die kennisgewing vermeld binne een maand vanaf die datum van sodanige kennisgewing in te dien.

- (18) (a) If after consultation with the chairman of the tribunal, the Minister deems it expedient to do so, he may establish a special division of the tribunal to deal with any matter to be referred to the tribunal in terms of this Act.
- (b) Any such special division shall consist of three members to be appointed by the Minister of whom—
- one shall be designated by the Minister as chairman of the special division;
  - the remaining members shall, as far as it is practicable, be appointed in accordance with the provisions of either sub-paragraphs (i) and (ii) of paragraph (b) of sub-section (1) or sub-paragraphs (iii) and (iv) of the said paragraph, as the Minister may determine having regard to the interests of the persons who are affected by the matter in respect of which the special division is established.
- (c) A special division so established shall in relation to the matter referred to it be deemed to be the tribunal and for the purposes of exercising its functions any reference in this Act to the chairman or a member of the tribunal shall be deemed to include the chairman or a member, respectively, of the said special division.
- (d) The provisions of sub-sections (5), (7), (9) and (14) shall *mutatis mutandis* apply in respect of a special division of the tribunal established under paragraph (a).

**18. (1) Any—**

- (a) employer (if the registrar approves); or
  - (b) group of employers (if the registrar approves); or
  - (c) registered employers' organization; or
  - (d) group of registered employers' organizations; or
  - (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), together with any—
- registered trade union; or
  - group of registered trade unions,

Formation of  
industrial  
council.

may form an industrial council by signing the constitution 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), (e) or (f) if the employer or the individual employers comprising the group of employers concerned are eligible for membership of an employers' organization which is a party to the council.

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

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

and shall furnish to the registrar such further information as he 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 containing such particulars of the application as he deems necessary and inviting any person who objects to the application to lodge his objection in the manner specified in the notice within one month of the date of such notice.

- (b) Sodanige beswaar moet die gronde aangee waarop die beswaar berus en moet ingedien word op die wyse vermeld in die toepaslike kennisgewing kragtens paraaf (a) gepubliseer.
- (c) Iemand wat kragtens hierdie sub-artikel 'n beswaar indien, moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van die beswaar aan elkeen van die partye by die raad per geregistreerde pos gestuur of afgelewer het.
- (d) Die persoon wat die beswaar ingedien het, moet aan die registrateur enige nadere inligting wat hy vereis, binne die deur hom vasgestelde tydperk verstrek.
- (e) Die partye by die raad moet enige vertoe wat hulle verlang om in antwoord op die beswaar te maak, aan die registrateur voorlê binne twee maande vanaf die datum van die toepaslike kennisgewing kragtens paraaf (a) gepubliseer, en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hulle 'n afskrif van die vertoe aan die persoon wat die beswaar ingedien het, per geregistreerde pos gestuur of afgelewer het.
- (f) Die persoon wat die beswaar ingedien het, moet enige verdere vertoe wat hy verlang om in antwoord op die in paragraaf (e) bedoelde vertoe te maak, aan die registrateur voorlê binne drie maande vanaf die datum van die toepaslike kennisgewing kragtens paraaf (a) gepubliseer, en moet tegelykertyd bewys tot bevrediging van die registrateur lewer dat hy 'n afskrif van die verdere vertoe aan elkeen van die partye by die raad per geregistreerde pos gestuur of afgelewer het. Bedoelde partye by die raad is nie geregtig om 'n antwoord op die verdere vertoe voor te lê sonder die voorafgaande toestemming van die registrateur nie, maar die registrateur kan na goeddunke bedoelde partye of enige van hulle uitnooi om hom binne die deur hom vasgestelde tydperk te voorseen van enige kommentaar wat hulle verlang om te maak in antwoord op die verdere vertoe.
- (3) Indien na oorweging van die aansoek, enige besware ingedien en enige vertoe gemaak binne die voorgeskrewe tydperke, enige nadere inligting binne die deur hom vasgestelde tydperk verstrek en sodanige addisionele aangeleenthede wat hy ter sake ag, die registrateur oortuig is dat—
  - (a) die vereistes van hierdie artikel nagekom is; en
  - (b) die voorgestelde konstitusie met hierdie Wet bestaanbaar is en nie bepalings bevat wat met enige wetsbepalings strydig is of bereken is om die bereiking van die oogmerke van enige wetsbepalings te verhinder nie; en
  - (c) daar nie 'n nywerheidsraad bestaan wat ten opsigte van die betrokke onderneming, nywerheid, bedryf of beroep en ten opsigte van die betrokke gebied geregistreer is nie; en
  - (d) die partye by die raad binne 'n gebied voldoende verteenwoordigend van die betrokke onderneming, nywerheid, bedryf of beroep is,  
kan hy die raad ten opsigte van die in paragraaf (d) bedoelde gebied en onderneming, nywerheid, bedryf of beroep regstreer.
- (4) By die bepaling van die mate waarin die partye by die raad verteenwoordigend is—
  - (a) moet die registrateur, vir sover die getal lede van enige vakvereniging of werkgewersorganisasie ter sake is, slegs volwaardige lede op die datum waarop die betrokke aansoek op die voorgeskrewe wyse ingedien is, in aanmerking neem; en
  - (b) kan die registrateur, 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
  - (c) kan die registrateur, nieteenstaande die feit dat die vakverenigings wat partye by die raad is nie geregistreer is nie ten opsigte van alle klasse van persone in diens in die betrokke onderneming, nywerheid, bedryf of beroep of, indien aldus geregistreer, geen lede het wat tot sekere klasse van sodanige persone behoort nie, die partye by die raad as voldoende verteen-

- (b) Such objection shall state the grounds of the objection and shall be lodged in the manner specified in the relevant notice published under paragraph (a).
- (c) Any person who lodges an objection under this subsection shall at the same time furnish proof to the satisfaction of the registrar that he has sent by registered post or delivered a copy of the objection to each of the parties to the council.
- (d) The person who lodged the objection shall furnish the registrar with such further information as he may require, within the period fixed by him.
- (e) The parties to the council shall submit any representations they wish to make in answer to such objection to the registrar 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 they have sent by registered post or delivered a copy of such representations to the person who lodged the objection.
- (f) The person who lodged the objection shall submit any further representations he wishes to make in answer to any representations referred to in paragraph (e) to the registrar 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 he has sent by registered post or delivered a copy of such further representations to each of the parties to the council. The said parties to the council shall not be entitled to submit a reply to such further representations without the prior approval of the registrar, but the registrar may in his discretion invite the said parties or any of them to furnish him with any comments they wish to make in answer to such further representations within the period fixed by him.

(3) If after considering the application, any objections lodged and any representations made within the periods prescribed, any further information furnished within a period fixed by him and such 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 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; and
- (c) 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) the parties to the council are sufficiently representative, within any area, of the undertaking, industry, trade or occupation concerned,

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

(4) In determining the representativeness of the parties to the 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 standing at the date on which the relevant application was lodged in the manner prescribed; and
- (b) may, having regard to the nature of the undertaking, industry, trade or occupation and the situation 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
- (c) may, notwithstanding the fact that the trade unions which are parties to the 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

woordigend van die onderneming, nywerheid, bedryf of beroep beskou, mits die werkgewers wat in die raad verteenwoordig is, persone in hul diens het wat tot al daardie klasse behoort.

- (5) (a) Indien die registrator voornemens is om nie die raad te registreer nie of om hom ten opsigte van 'n kleiner gebied of onderneming, nywerheid, bedryf of beroep as dié waarvoor aansoek gedoen is, te registreer, moet hy die partye by die raad in kennis laat stel van sy voorneme en van die redes daarvoor en moet hy hulle 'n geleenthed gee om skriftelike vertoë aan hom voor te lê of om die aansoek om registrasie van die raad te wysig.
- (b) By ontvangs van so 'n gewysigde aansoek, kan die registrator, indien hy oortuig is ten opsigte van die in sub-artikel (3) bedoelde aangeleenthede, die raad ooreenkomsdig die gewysigde aansoek registreer.

(6) Wanneer die registrator 'n raad geregistreer het, moet hy aan die raad 'n sertifikaat van sy registrasie in die voorgeskrewe vorm stuur, saam met een afskrif van die konstitusie met 'n deur hom ondertekende sertifikaat daarop geskryf wat die feit meld dat hy dit goedgekeur het.

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

(8) Wanneer die registrator 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
- (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
- (c) dat 'n ooreenkoms aangegaan is deur 'n nywerheidsraad en 'n werkewer, geregistreerde werkewersorganisasie of vakvereniging wat nie 'n party by die raad is nie vir die toelating van daardie werkewer, organisasie of vereniging as 'n party by die raad, en dat indien daardie werkewer, organisasie of vereniging aldus toegelaat sou word, die raad voldoende verteenwoordigend sal wees binne 'n gebied of van 'n onderneming, nywerheid, bedryf of beroep ten opsigte waarvan hy nie geregistreer is nie,
- kan hy uit eie beweging na oorlegpleging met die raad of op versoek van die raad, die gebied of onderneming, nywerheid, bedryf of beroep ten opsigte waarvan die raad geregistreer is, met ingang van 'n deur hom bepaalde datum, verander.

(9) Die bepalings van sub-artikels (1), (2), (3), (4) en (5) is *mutatis mutandis* van toepassing ten opsigte van enige voorgenome verandering kragtens sub-artikel (8). Vir die doeleindes van die toepassing van die bepalings van paragraaf (a) van sub-artikel (4), indien die registrator uit eie beweging optree, word die datum waarop hy besluit om aldus op te tree, geag die datum te wees waarop die aansoek ingedien is binne die bedoeling van bedoelde paragraaf.

(10) Indien die registrator 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 nadat hy aldus deur die registrator aangesê is om dit te doen die registrasiesertifikaat wat aan die raad uitgereik is, aan die registrator stuur; en as die sekretaris, sonder redelike verontskuldigung, versium om dit te doen, is hy aan 'n misdryf skuldig.

(11) Die registrator moet by ontvangs deur hom van die registrasiesertifikaat die nodige veranderingen daarin aanbring en dit aan die raad terugborsorg, of 'n nuwe sertifikaat aan die raad uitreik.

20. (1) Elke nywerheidsraad wat by die inwerkingtreding van hierdie Wet geag word kragtens hierdie Wet geregistreer te wees, bly na daardie inwerkingtreding, en elke ander nywerheidsraad word by registrasie kragtens hierdie Wet, met regspersoonlikheid beklee en is bevoeg om in regte as eiser of

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.

(5) (a) If the registrar proposes not to register the council, or to register it in respect of an area or an undertaking, industry, trade or occupation which is 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.

(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.

(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.

(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—

(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

(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

(c) that an agreement has been entered into by 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 be sufficiently representative, within an area or of an undertaking, industry, trade or occupation, in respect of which it is not registered,

he may 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.

(9) The provisions of sub-sections (1), (2), (3), (4) and (5) shall *mutatis mutandis* apply in respect of any proposed variation under sub-section (8). For the purposes of the application of the provisions of paragraph (a) of sub-section (4), 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 the said paragraph.

(10) If the registrar has varied the area or the 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 excuse, the secretary fails to do so, he shall be guilty of an offence.

(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.

**20.** (1) Every industrial council which at the commencement of this Act is deemed to be registered under this Act, shall after that commencement continue to be, and every other industrial council shall upon registration under this Act become to be limited. Industrial councils to be bodies corporate and liability of parties

verweerde op te tree, en, behoudens die bepalings van hierdie Wet, en van enige ander wet wat die verkryging of besit van grond soos omskryf vir die doeleindes van daardie ander wet verbied of beperk, om roerende of onroerende eiendom te koop of andersins te verkry, te besit en te vervaam en om enige ander handeling te verrig wat hy volgens sy konstitusie moet of kan verrig.

(2) Tensy die konstitusie van 'n nywerheidsraad anders bepaal, is geen werkewer, werkewersorganisasie of vakvereniging vir enige van die verpligtings van daardie raad aanspreeklik bloot om rede van 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 onderstaande aangeleenthede voorsiening maak—

- (a) die aanstelling as lede van die raad van verteenwoordigers van die partye by die raad, van wie die helfte aangestel moet word deur die werkewers en werkewersorganisasies wat partye by die raad is (hieronder die verteenwoordigers van die werkewers genoem) en die helfte deur die vakverenigings wat partye by die raad is (hieronder die verteenwoordigers van die werknemers genoem), en die aanstelling deur die betrokke werkewers en werkewersorganisasies en vakverenigings van plaasvervangers vir elkeen of enigeen van die verteenwoordigers wat hulle aangestel het;
- (b) behoudens die bepalings van artikel *nege-en-twintig*, die aanstelling, ontslag, pligte en bevoegdhede van ampsdraers en beampies;
- (c) die tye wanneer of die omstandighede waarin verteenwoordigers van die werkewers en werknemers hul setels moet ontruim;
- (d) die belê en bestuur van vergaderings van die raad;
- (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 werkewers (as die registrator dit goedkeur) of geregistreerde werkewersorganisasies 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 registrator dit goedkeur, deur 'n ander persoon en die beskikbaarstelling aan die partye by die raad of aan hul verteenwoordigers van afskrifte van die rekeninge en state en die ouditeursverslag daaroor, ingevolge sub-artikel (2) van artikel *twee-en-dertig* aan die registrator deurgestuur;
- (i) die doeleindes waarvoor die raad se fondse aangewend kan word;
- (j) die wyse waarop die raad se fondse wat die raad se benodigdhede vir uitgawes te bowe gaan, belê moet word;
- (k) die verandering van die konstitusie;
- (l) die likwidasie van die raad; en
- (m) enige ander aangeleenthed wat voorgeskryf word.

(2) Benewens die in sub-artikel (1) bedoelde aangeleenthede en behoudens die bepalings van hierdie artikel kan die konstitusie van 'n nywerheidsraad voorsiening maak behoudens die bepalings van artikel *vijf-en-twintig*, vir die instelling van 'n uitvoerende komitee en ander komitees, die belê en bestuur van vergaderings van komitees en vir enige aangeleenthed wat na die mening van die registrator 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) Effekte van die Unieregering of van 'n plaaslike bestuur;
- (ii) Unie-leningsertifikate;
- (iii) Posspaarbankrekeninge of -sertifikate;
- (iv) Spaarrekeninge, permanente aandele of vaste deposito's in bougenootskappe of banke;

of op enige ander deur die registrator goedgekeurde wyse.

any other law prohibiting or restricting the acquisition or holding of land, as defined for the purposes of such other law, of purchasing or otherwise acquiring, holding and alienating property, movable or immovable, and of doing any other act which its constitution requires or permits it to do.

(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.

- (a) the appointment as members of the council of representatives of the parties to the council, of whom one half shall be appointed by the employers and employers' organizations which are parties to the council (hereinafter referred to as the representatives of the employers) and one half by the 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;
- (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 of the employers and employees shall vacate their seats;
- (d) the calling and conduct of meetings of the council;
- (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;
- (g) the admission of additional employers (if the registrar approves) or registered employers' organizations or registered trade unions as parties to the council;
- (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*;
- (i) the purposes to which the funds of the council may be applied;
- (j) the manner of investment of funds of the council in excess of its requirements for expenses;
- (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 subject to the provisions of section *twenty-five* for the establishment of an executive committee and other committees, the calling and conduct of meetings of committees and for any other 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, permanent shares or fixed deposits in building societies or banks;

or in any other manner approved by the registrar.

(4) Elke nywerheidsraad moet sy konstitusie aan die partye by die raad in albei amptelike tale beskikbaar stel.

**Verandering van konstitusie of naam van nywerheidsraad.**

**Pligte van nywerheidsraade.**

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

**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 paraagraaf (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.

**23.** (1) 'n Nywerheidsraad moet in die onderneming, nywerheid, bedryf of beroep en in die gebied ten opsigte waarvan hy geregistreer is, streef om deur die totstandbrenging van ooreenkoms 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 teweeg te bring.

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

**24.** (1) 'n Ooreenkoms wat kragtens artikel *agt-en-veertig* bindend verklaar kan word, kan bepalings bevat aangaande almal of sommige of enigeen van onderstaande aangeleenthede—

- (a) die minimum skaal waarteen beloning deur 'n werkewer aan elk van sy werknemers of aan elke lid van 'n klas van sy werknemers betaal moet word;
- (b) die minimum gemiddelde skaal van beloning wat deur 'n werkewer aan sy werknemers of aan die lede van 'n klas van sy werknemers betaal moet word: Met dien verstaande dat verskillende minimum gemiddelde skale bepaal kan word vir verskillende onderdele van 'n klas van werknemers;
- (c) die minimum skaal waarteen beloning deur 'n werkewer betaal moet word aan elke werknemer of aan elke lid van 'n klas van werknemers agtereenvolgens na verloop van vermelde tydperke of tussenpose, of wat aan 'n werknemer of 'n 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 werkewer ingevolge die ooreenkoms of enige wetsbepaling of bevel van 'n bevoegde hof moet of kan maak;
- (e) die verbod of beperking van skuldvergelyking van skulde wedersyds verskuldig tussen 'n werkewer en sy werknemer;
- (f) die metode van berekening van minimum skale van beloning of minimum gemiddelde skale van beloning;
- (g) die dag van die week, datum, tyd, plek en wyse van betaling van beloning, die state deur die werkewer aangaande die betaling aan die werknemer verstrek te word, die houer waarin die geld wat betaal moet word, geplaas moet word, die inligting op die houer geskryf te word, en oor die algemeen, enige ander bepalings aangaande die wyse van betaling;
- (h) die betaling deur 'n werkewer aan 'n werknemer, wat gedurende enige tydperk stukwerk (afgesien van die hoeveelheid daarvan) verrig het, van 'n beloning vir 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;
- (i) die hou deur 'n werkewer van aantekeninge van werk deur 'n stukwerker verrig en die vorm van sodanige aantekeninge;
- (j) die verbod of die reëling van die uitgee van stukwerk of taakwerk aan of die verrigting daarvan deur 'n werknemer;
- (k) die verbod van die verrigting van werk op of in persele of by plekke van 'n vermelde beskrywing of soort of wat vir 'n vermelde doel gebruik word, of elders as op of in sodanige persele of by sodanige plekke;

(4) Every industrial council shall make its constitution available to the parties to the council in both official languages.

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 subsection (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 the 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 an 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-off 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 contained, 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 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;
- (i) the keeping by an employer of records of work performed by a piece-worker, and the form of such records;
- (j) the prohibition or the regulation of the giving out to, or the performance by, an employee of piece-work or taskwork;
- (k) the prohibition of the performance of work on or in premises or at places of a specified description or type or used for a specified purpose, or elsewhere than on or in such premises or at such places;

- (l) die maksimum getal werknemers van enige klas wat deur 'n werkewer in diens geneem kan word in verhouding tot die getal werknemers van enige ander klas of tot die totale getal werknemers in sy diens;
- (m) die verbod van enige betaling aan, of die aanname van enige betaling deur, 'n werkewer of regstreeks of onregstreeks, ten opsigte van die indiensneming of opleiding van 'n werknemer;
- (n) kennisgewings deur werkewers vertoon te word;
- (o) die verbod van die indiensneming van enige persoon onder 'n vermelde ouderdom;
- (p) wanneer enige werk aan 'n persoon op kontrak uitgegee word deur 'n prinsipaal of aannemer, hetsy daardie prinsipaal of aannemer self 'n werkewer is in of betrokke is by die betrokke onderneming, nywerheid, bedryf of beroep al dan nie, die skale waarteen, of die grondslag waarop of beginsels waarvolgens betaling aan daardie persoon gemaak moet word vir die werk;
- (q) die bydraes betaal te word deur werkewers en werknemers of lede van vermelde klasse van werknemers, in die betrokke onderneming, nywerheid, bedryf of beroep tot die onkoste van die raad in die verrigting van sy werksaamhede;
- (r) die instelling van pensioen-, siekte-, mediese, werkloosheids-, vakansie-, voorsienings-, en ander versekeringsfondse en die heffing op werkewers en werknemers van bydraes tot sodanige fondse of tot soortgelyke fondse deur of ingevolge die konstitusie van die raad ingestel;
- (s) die verbod van die betaling van beloning behalwe met geld;
- (t) die verbod of beperking of reëling van oortydwerk;
- (u) die gradering deur die raad van werknemers volgens grondslae of beginsels in die ooreenkoms voorgeskryf;
- (v) die uitreiking deur 'n werkewer aan 'n lid van 'n vermelde 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, uiteensit;
- (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;
- (x) die verbod van die indiensneming deur 'n werkewer wat 'n party by die ooreenkoms is, of wat 'n lid is van 'n werkewersorganisasie wat 'n party by die ooreenkoms is, van werknemers of werknemers van 'n bepaalde klas wat, terwyl hulle tot lidmaatskap van 'n 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 of deur lede van 'n bepaalde klas van sodanige lede van diens by 'n werkewer wat nog 'n party by sodanige ooreenkoms is nog 'n lid van 'n werkewersorganisasie wat 'n party by sodanige ooreenkoms is;
- (y) die betaling deur 'n werkewer aan 'n werknemer en die betaling of verbeuring deur 'n werknemer aan 'n werkewer van 'n bedrag in plaas van kennisgewing van diensbeëindiging;
- (z) die verbod van die verrigting van werk op 'n kontrakbasis op of in die persele van die prinsipaal; en, oor die algemeen, aangaande enige aangeleenthed rakende of wat 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 aangeleenthed hoegenaamd van onderlinge belang vir werkewers en werknemers. Die bestek van hierdie artikel word op generlei wyse beperk deur die vermelding in hierdie sub-artikel van besondere aangeleenthede nie.

(2) By die toepassing van hierdie artikel beteken „klas van werknemers,” „klas van sy werknemers” en „werknemers van 'n bepaalde klas” ook sodanige groep of afdeling of tipe van werknemers as wat in die ooreenkoms 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 dienstyd of tipe van werk of tipe of klas van perseel of die gebied waarop of waarin werk verrig word of enige ander metode wat raadsaam geag word, toegepas word: Met dien verstande dat geen differensiasie

- (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;
- (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 any employee;
- (n) notices to be exhibited by employers;
- (o) the prohibition of the employment of any person under a specified age;
- (p) when 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 or the basis or the principles upon which, payment shall be made to that person for the work;
- (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;
- (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 or in terms of the constitution of the council;
- (s) the prohibition of the payment of remuneration otherwise than in money;
- (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;
- (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;
- (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 or employees of a particular class, 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 or by members of a particular class of such members 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;
- (y) the payment by an employer to an employee and the payment or forfeiture by an employee to an employer of an amount in lieu of notice of termination of employment;
- (z) the prohibition of the performance of work on a contract basis on or in the principal's premises;

and, generally, as to any matter affecting or connected with 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, the scope of this provision not being limited in any way by the mention in this sub-section of particular matters.

(2) For the purposes of this section, "class of employees", "class of his employees" and "employees of a particular class" 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 or the area on or in which work is performed or any other method which is deemed to be advisable may be applied: Provided that no

of diskriminasie op die grondslag van ras of kleur gemaak mag word nie.

(3) 'n Nywerheidsraad kan by besluit enige ampsdraer, beampte of werknemer van die raad of van enigeen van die vakverenigings of werkgewersorganisasies wat partye by die raad is, tot lidmaatskap van 'n in paragraaf (r) van sub-artikel (1) bedoelde fonds toelaat, in watter geval die raad, vereniging of organisasie en 'n persoon aldus toegelaat by die toepassing van die betrokke bepalings van die ooreenkoms of konstitusie waardeur of ingevolge waarvan die fonds ingestel is, geag word onderskeidelik 'n werkewer en werknemer te wees in die onderneming, nywerheid, bedryf of beroep ten opsigte waarvan die raad geregistreer is.

**Instelling en werksaamhede van komitees van nywerheidsraade.**

**25.** (1) 'n Nywerheidsraad kan van tyd tot tyd ingevolge hierdie artikel of ingevolge sy konstitusie komitees instel en kan, onderworpe aan sodanige voorwaardes as wat hy bepaal, enigeen van sy werksaamhede aan so 'n komitee oordra: Met dien verstande dat enige beslissing van so 'n komitee te eniger tyd deur die raad ter syde 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 sodanige raad kan—

- (a) geheel en al uit lede van die raad of hul plaasvervangers; of
- (b) gedeeltelik uit sodanige persone as wat in paragraaf (a) bedoel word, en gedeeltelik uit werkewers 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 werkewers 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 getalle verteenwoordigers van werkewers en werknemers en, as hy nie uit die lede gekies is nie, die voorsitter.

(4) By die toepassing van sub-artikel (2)—

- (a) word 'n 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 'n lid, ampsdraer of beampte van 'n werkewersorganisasie wat 'n party by die raad is of 'n direkteur van 'n maatskappy wat 'n werkewer in die betrokke onderneming, nywerheid, bedryf of beroep is, of 'n persoon wat in diens is as 'n bestuurder of in enige ander toesighoudende hoedanigheid by 'n werkewer in die betrokke onderneming, nywerheid, bedryf of beroep, indien aangestel as 'n verteenwoordiger van die werkewers, geag 'n werkewer 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 die werkewers, geag 'n werkewer 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 uit die lede van die komitee of andersins, soos die raad bepaal.
- (b) Indien die voorsitter van so 'n komitee nie uit die verteenwoordigers van die werkewers of werknemers in die komitee gekies word nie, is hy nie geregtig om te stem nie.

**Voorsitter en ondervoorsitter van nywerheidsraad.**

**26.** (1) Die voorsitter en die ondervoorsitter van 'n nywerheidsraad kan deur die raad uit sy lede of andersins gekies word.

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

(3) Die voorsitter, of by sy afwesigheid, die ondervoorsitter, moet, behoudens die bepalings van sub-artikel (2) van artikel

differentiation or discrimination on the basis of race or colour shall be made.

(3) Any industrial council may by resolution admit to membership of any fund such as is referred to in paragraph (r) of sub-section (1) any office-bearer, official or employee of the council or of any of the trade unions or employers' organizations which are parties to the council, in which event such council, union or organization and any person so admitted shall, for the purposes of the relative provisions of the agreement or constitution by which or in terms of which such fund has been established, be deemed to be an employer and employee respectively in the undertaking, industry, trade or occupation in respect of which the council is registered.

**25.** (1) An industrial council may from time to time establish committees in terms of this section or in terms of its constitution 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 numbers of representatives of employers and employees and, if he is not chosen from amongst the members, the chairman.

(4) For the purposes of sub-section (2)—

- (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 or any director of a company which is an employer in the undertaking, industry, trade or occupation concerned or any person employed as a manager or in any other supervisory capacity by an employer in the undertaking, industry, trade or occupation concerned 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 or 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 and  
vice-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 expiry 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, or in his absence, the vice-chairman, shall, subject to the provisions of sub-section (2) of section *forty-four*,

*vier-en-veertig*, op alle vergaderings van die raad voorsit; en as die voorsitter en die ondervoorsitter albei van enige vergadering afwesig is, moet, behoudens bedoelde bepalings, 'n persoon wat deur die aanwesige lede uit hul midde gekies word, op daardie vergadering voorsit.

(4) As die voorsitter of ondervoorsitter nie uit die lede gekies of aangestel 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 raad of die voor- sitter van tyd tot tyd bepaal, op sodanige kennisgewing aan lede as wat deur sy konstitusie voorgeskryf word.

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

(3) As die getal lede wat aanwesig is op die tyd en plek wat vir 'n vergadering bepaal is onvoldoende is om 'n kworum uit te maak, moet 'n vergadering van die raad op sodanige kennis- gewing aan lede as wat voorgeskryf 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 al die verteenwoordigers van die werkgewers of al die verteen- woordigers van die werknemers in 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 getuenis af te neem en daaroor verslag te doen en vir hierdie doel die bevoegdhede kan uitoefen wat deur artikel *dertig* aan 'n nywerheidsraad verleent 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: Met dien verstande dat indien enige verteenwoordiger van die werkgewers of van die werknemers van enige vergadering afwesig is, enige plaasvervanger van 'n verteenwoordiger van die werk- gewers of van die werknemers, na gelang van die geval, op daardie vergadering in sy plek kan optree; en op daardie ver- gadering word hy in alle oopsigte as 'n verteenwoordiger van die werkgewers of van die werknemers, na gelang van die geval, beskou.

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

(6) As enige verteenwoordiger van die werknemers van enige vergadering afwesig is en 'n plaasvervanger van 'n verteenwoor- diger 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 verteenwoordigers wat aanwesig is op die vergadering waarop die besluit geneem word en wat ingevolge hierdie artikel geregtig is om te stem, gestem het, is die besluit van die raad.

(8) Die sekretaris van elke nywerheidsraad moet aan die by regulasie bepaalde inspekteur sodanige kennis van elke ver- gadering van die raad gee as wat voorgeskryf word.

(9) 'n Inspekteur (of 'n amptenaar wat deur 'n inspekteur skriftelik 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.

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

(11) Behoudens die bepalings van sub-artikel (9) van hierdie artikel en van sub-artikel (7) van artikel *twaalf*, soos deur artikel *dertig* toegepas en van artikel *nege* van die Wet op Naturelle- arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953), moet elke vergadering van 'n raad agter geslote deure gehou word, tensy die raad anders besluit.

Notule van verrigtinge van nywerheidsrade,

28. (1) Elke nywerheidsraad moet notule van alle verrig- tinge van elke vergadering van die raad laat hou, en die sekretaris 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 getal afskrifte wat by regulasie voorgeskryf word) van die notule van daardie vergadering aan die by regulasie bepaalde inspekteur stuur.

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) If the chairman or vice-chairman has not been chosen or appointed 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 to a representative 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 to a representative 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 to a representative 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*, and of section *nine* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953), 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) Die sekretaris moet die notule van 'n vergadering van die raad aan die daaropvolgende gewone vergadering van die raad voorlê; en die raad moet, nadat hy sodanige verbeterings as wat hy nodig ag daarin laat aanbring het, die notule by besluit bekragtig; en die persoon wat by die vergadering voorsit, moet die aldus bekragtigde notule onderteken; en die ondertekende 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 gehou word.

(3) Behalwe in gevalle waar die registerateur 'n ander prosedure goedgekeur 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 nie as een-en-twintig dae na sodanige bekragtiging, 'n afskrif (of die getal 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 registerateur aan hom enige inligting of verduidelikend deur hom versoek en wat in verband staan met enige aangeleenthed wat in enige in sub-artikel (3) bedoelde notule voorkom, verstrek.

(5) Indien die sekretaris sonder redelike verontskuldiging versuim om enige plig wat deur hierdie artikel hom opgeleë word, na te kom, is hy aan 'n misdryf skuldig.

(6) Enige notule wat heet onderteken te wees deur iemand wat homself die voorsitter noem, word by blete voorlegging deur wie ook al, aangeneem as *prima facie* bewys van die verrigtinge wat daarin opgeteken is.

**Bevoegdheid van Minister om sekretaris en ander personeel van nywerheidsraad aan te stel.**

29. Die Minister kan, as hy dit raadsaam ag om dit te doen, op versoek van 'n nywerheidsraad of van die partye wat ooreengekom het om 'n nywerheidsraad te stig, enige persoon (wat 'n amptenaar in die staatsdiens kan wees) aanstel as sekretaris van 'n nywerheidsraad en kan ook sodanige ander klerklike hulp voorsien as wat hy vir die doeltreffende verrigting van die werkzaamhede van die raad nodig ag. Wanneer sekretariële en klerklike hulp aldus voorsien word, moet die uitgawes daarin betrokke, soos deur die Minister bepaal, of die gedeelte daarvan waarop ooreengekom word, deur die Minister en die raad of die partye, na gelang van die geval, op die voorgeskrewe wyse en voorwaardes, uit die fondse van die raad betaal word, en die balans, indien enige, moet betaal word uit fondse wat deur die Parlement beskikbaar gestel 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 ingevolge sub-artikel (2) deur die registerateur vir die doeleinades van hierdie artikel aangewys is, al die bevoegdhede wat deur sub-artikels (4), (5), (7) en (8) van artikel *twaalf* aan die registerateur verleen word 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 raad of komitee: Met dien verstande dat 'n persoon nie kragtens sub-artikel (4) van artikel *twaalf* soos toegepas deur hierdie sub-artikel, gedagvaar mag word nie as die doel is om ondersoek in te stel of sodanige persoon 'n misdryf begaan het: Met dien verstande voorts dat enige bedrag betaalbaar kragtens sub-artikel (9) van artikel *twaalf*, soos toegepas deur hierdie sub-artikel, uit die fondse van die raad betaal moet word.

(2) Die registerateur 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 na goeddunke so 'n aanwysing terugtrek.

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

(4) Die eed kan opgelê word op, of 'n bevestiging kan aangeneem word van, 'n getuie 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 wat op daardie vergadering teenwoordig is, kan deur bedoelde voorsitter, enige vraag aan die getuie stel: Met dien verstande dat bedoelde voorsitter na goeddunke enige vraag kan awys wat na sy mening nie by die ondersoek wat deur die raad of komitee ingestel word, ter sake is nie.

(2) The secretary shall submit the minutes of any meeting of the council to the next succeeding ordinary 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) 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 a 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 fails without reasonable excuse, to comply with any duty imposed upon him by this section, he shall be guilty of an offence.

(6) Any minutes purporting to be signed by a person describing himself as chairman, shall upon its mere production by any person, be received as *prima facie* evidence of the proceedings recorded therein.

29. The Minister may, if he deems it expedient to do so, 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 may 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 by 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 paid from moneys appropriated by Parliament.

Power of  
Minister to  
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 twelve, as applied by this sub-section, 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 twelve 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 in his discretion 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 may be administered to or an affirmation may be accepted from any witness 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.

Ooreenkomste deur nywerheidsraad tot stand gebring aan Minister gestuur te word.

**31.** Wanneer 'n nywerheidsraad 'n in artikel *vier-en-twintig* bedoelde ooreenkoms tot stand bring 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 onderteken en aan die Minister gestuur word.

Jaarlike rekening van nywerheidsraad.

**32.** (1) Elke nywerheidsraad moet, minstens eenmaal in elke kalenderjaar, 'n rekening laat opmaak van al die inkomste en uitgawes van die raad sedert die end van die tydperk deur die laaste voorafgaande rekening gedeck, 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-ondersteek word en moet binne drie maande na die end van die tydperk wat daardeur gedeck word deur die raad aan die registrator gestuur word, saam met enige verslag wat bedoelde ouditeur daaroor gelewer het.

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

(4) Alle in sub-artikels (1) en (2) bedoelde rekeninge en state en alle stukke wat daarop betrekking het, moet deur die sekretaris van die raad in veilige bewaring in die kantoor van die raad gehou 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.

Likwidasie van nywerheidsrade.

**33.** (1) Vir sover die bepalings van die konstitusie van enige nywerheidsraad met betrekking tot die likwidasie daarvan ontoereikend is, is die bepalings van sub-artikels (2) en (3) van artikel *dertien mutatis mutandis* van toepassing.

(2) By die voltooiing van die likwidasie van 'n nywerheidsraad moet alle stukke van die raad aan die by regulasie bepaalde inspekteur gestuur word tensy die registrator gelas dat enige sodanige stukke gestuur moet word aan 'n in paragrawe (b) en (e) van sub-artikel (4) van artikel *vier-en-dertig* bedoelde nywerheidsraad.

Intrekking van registrasie van nywerheidsraad.

**34.** (1) Wanneer die registrator ten opsigte van 'n nywerheidsraad rede het om te vermoed dat—

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

(c) meer as die helfte van die verteenwoordigers van die werkgewers of meer as die helfte van die verteenwoordigers van die werknemers deur hul onderskeie 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 raad by sy hoofkantoor of laasbekende hoofkantoor rig waarin die raad aangesê 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 verstryking van die ingevolge sub-artikel (1) vasgestelde tydperk kan die registrator, tensy redes daarteen tot sy bevrediging eerder aangevoer is, die registrasie van die raad intrek en moet hy '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 'n ooreenkoms wat aangegaan is deur almal of sommige van die partye by die raad en vir 'n vermelde tydperk by 'n kragtens artikel *agt-en-veertig* gepubliseerde kennisgewing bindend verklaar is, bindend bly op die persone op wie hulle aldus bindend verklaar is, totdat daardie tydperk verstryk het, 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 registrator aanwys: Met dien verstande voorts dat die aanspreeklikheid (indien enige) van elke persoon wat met die likwidasie 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 was nie.

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

Annual accounts of industrial council.

(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 accounts 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.

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

Winding-up of industrial councils.

(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 industrial council such as is referred to in paragraphs (b) and (e) of sub-section (4) of section *thirty-four*.

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

Cancellation of registration of industrial council.

- (a) it has been wound up; or
- (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
- (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,

he may send a registered letter addressed to the council at its head office or last known 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.

(2) At the expiry of the period fixed in terms of sub-section (1), 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: Provided that notwithstanding such cancellation, the provisions of any agreement entered into by all or some of the parties to the council, and declared by any notice published under section *forty-eight* to be binding for a specified period, shall until the expiry of that period remain binding upon the persons 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-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) Die persoon wat die amp van sekretaris van 'n nywerheidsraad waarvan die registrasie kragtens hierdie artikel ingetrek is, beklee of laas beklee het, moet binne veertien dae vanaf die versoek van die registrator die registrasiesertifikaat wat aan die raad uitgereik is aan hom stuur of laat 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 ooreenkommstig onderstaande bepalings beskik word—

- (a) een-derde van sodanige fondse moet betaal word aan die werkgewers en die werkgewersorganisasies wat by sy ontbinding partye by die raad was en een-derde aan die vakverenigings wat by sy ontbinding partye by die raad was; en die aandeel wat aan elke sodanige werkewer, werkgewersorganisasie en vakvereniging betaal moet word, moet bepaal word by 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 registrator vasstel voor of na verstryking van so 'n tydperk, bereik word nie, by beslissing van die registrator;
- (b) die registrator kan gelas dat die balans van sodanige fondse, of enige gedeelte daarvan, betaal word aan enige nuwe nywerheidsraad wat geregistreer 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, moet sodanige balans of daardie gedeelte daarvan wat nie die onderwerp van so 'n lasgewing uitgemaak het nie, vir tydelike belegging hangende die beskikking daaroor ingevolge hierdie sub-artikel, by die Openbare Skuldkommisarisse gestort word, en die geldie aldus gestort, word beskou as „deposito's" ingevolge artikel *nege* van die „Openbare Schuld Kommissarissen Wet, 1911" (Wet No. 18 van 1911). Die registrator kan daarna gelas dat sodanige geldie, of enige gedeelte daarvan, aan 'n in paragraaf (b) bedoelde nuwe nywerheidsraad betaal word;
- (d) na verstryking van twee jaar vanaf die datum waarop enige sodanige geldie by die Openbare Skuldkommisarisse gestort is, kan die registrator gelas dat bedoelde geldie 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 „dieselde onderneming, nywerheid, bedryf of beroep" 'n onderneming, nywerheid, bedryf of beroep waarvan die nuwe raad na die mening van die registrator 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 bepalings van sub-artikel (4) is nie van toepassing nie op enige fonds deur 'n raad ingestel vir 'n ander doel as dié in paragraaf (q) 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, waaroer beskik moet word ooreenkommstig die bepalings van die konstitusie of ooreenkoms waarkragtens hulle ingestel is, of, indien daardie konstitusie of ooreenkoms nie enige bepalings daaromtreant bevat nie, dan ooreenkommstig die lasgewings van die registrator.

#### Instelling van versoeningsraad.

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 een kant, 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 ander kant (hieronder die partye by die geskil genoem), kan so 'n party by die Minister in die vorm en op die wyse

(3) The person who holds or last held the office of secretary of an industrial council 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 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 to the trade unions which were parties to the council at its dissolution; and the share which shall be paid to each such employer, employers' organization or 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, 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, industry, 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 under-taking, industry, trade or occupation in any area, and the conciliation board. Establishment of parties to the alleged dispute are—

- (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

voorgeskryf, aansoek doen om die instelling van 'n versoeningsraad om die beweerde geskil te oorweeg en, indien moontlik, te besleg.

- (2) (a) Wanneer 'n aansoek ingevolge sub-artikel (1) gedoen word, moet die applikant tegelykertyd bewys tot bevrediging van die Minister lewer dat 'n afskrif van die aansoek aan die ander party of partie by die geskil per geregistreerde pos gestuur of afgeliever is.
  - (b) Indien die applikant of een van die applikante 'n vakvereniging of 'n werkgewersorganisasie is, moet die aansoek vergesel wees van 'n deur die president of voorsitter en die sekretaris van daardie vereniging of organisasie ondertekende sertifikaat wat meld dat by die doen van die stappe wat tot die geskil aanleiding gegee het en by die doen van die aansoek die vereniging of organisasie en die ampsdraers of beampies wat by die aangeleenthed betrokke is, al die ter sake dienende bepalings van die konstitusie van die vereniging of organisasie, na gelang van die geval, nagekom het.
  - (3) Enige ander in paragraaf (a) van sub-artikel (2) bedoelde party of partie by die geskil kan op die voorgeskrewe wyse 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 vasstel, vertoë aan die Minister daaromtrent voorlê.
  - (4) Indien na oorweging van die aansoek en enige vertoë aan hom deur die ander party of partie 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 aangeleenthed betreffende die verhouding tussen werkgever en werknemer bestaan; en
    - (b) dat daar geen nywerheidsraad is watregsbevoegheid ten opsigte van die geskilpunt besit 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 werkgever wat na die mening van die Minister die enigste werkgever is wat deur die geskil geraak word, dat die applikant voldoende verteenwoordigend van die werkgevers 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 wat kragtens hierdie Wet aangegaan of gemaak is of geag word aldus aangegaan of gemaak te gewees het en wat op die partie by die geskil bindend is, of enige vasstelling wat kragtens die Loonwet, 1937 (Wet No. 44 van 1937), gemaak is of geag word aldus gemaak te gewees het wat op die partie by die geskil bindend is en ten opsigte waarvan 'n kennisgewing kragtens sub-artikel (2) van artikel *sestien* van bedoelde Wet minder as een jaar voor die datum van die aansoek gepubliseer is, nie bepalings bevat wat oor die onderwerp van die geskil handel nie; en
    - (f) indien die geskil ten opsigte van 'n in sub-artikel (1) van artikel *drie-en-veertig* bedoelde aangeleenthed is, dat die aansoek binne 'n redelike tydperk gedoen is, met inagneming van die onderhandelings wat voor die aansoek plaasgevind het, of van ander faktore wat na die mening van die Minister ter sake is; en
    - (g) indien die aansoek deur of namens 'n individuele werknemer gedoen 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 tussen 'n in sub-artikel (1) van artikel *ses-en-veertig* bedoelde werkgever en werknemer, 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 individuele werknemer gedoen word tensy die Minister oortuig is—

form and manner prescribed for the establishment of a conciliation board to consider and, if possible, settle the alleged dispute.

- (2) (a) Whenever an application is made in terms of sub-section (1) the applicant shall at the same time furnish proof to the satisfaction of the Minister that a copy of the application has been sent by registered post or delivered to the other party or parties to the dispute.
- (b) If the applicant or one of the applicants is a trade union or an 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) Any other party or parties to the dispute referred to in paragraph (a) of sub-section (2) 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 fix from time to time either before or after the expiry of any such period, 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 upon the parties to the dispute, or any determination made or deemed to have been made under the Wage Act, 1937 (Act No. 44 of 1937), which is binding upon the parties to the dispute and in respect of which a notice under sub-section (2) of section *sixteen* of the said Act was published less than one year before 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 sub-section (1) of section *forty-three*, that the application was made within a reasonable time, having regard to the 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 employee, 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 between any employer and employee referred to in sub-section (1) of section *forty-six*, 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 employee unless the Minister is satisfied—

- (a) dat die betrokke indiwidu te alle ter sake dienende tye in 'n gereserveerde beroep in diens was, of, in alle ander gevalle, dat die aansoek namens hom gedoen word deur 'n geregistreerde vakvereniging—
- (i) waarvan hy 'n volwaardige lid was te alle ter sake dienende tye tot en met die datum waarop die aansoek ingedien is; en
  - (ii) wat op bedoelde datum voldoende verteenwoordigend was van werknemers wat by die betrokke werkgever in diens was in die klas van diens waarin die betrokke indiwidu in diens was; en
  - (iii) wat voor bedoelde datum deur die betrokke indiwidu gemagtig is om namens hom aansoek te doen; en
- (b) indien die onderwerp van die geskil is die besluit of voorstel van 'n werkgever om die diens van die betrokke indiwidu te skors of te beëindig of die skorsing of beëindiging van die diens van daardie indiwidu, of die weiering of versuim van die werkgever om daardie indiwidu weer in diens te neem, dat die applikant bewys gelewer het dat daar redelike gronde bestaan om te vermoed dat bedoelde besluit, voorstel, skorsing, beëindiging, weiering of versuim nie te wyte is aan wangedrag aan die kant van bedoelde indiwidu of aan ander omstandighede wat sodanige besluit, voorstel, skorsing, beëindiging, weiering of versuim regverdig nie; en
- (c) indien die betrokke indiwidu by 'n plaaslike owerheid in diens is, dat die geskil nie betrekking het nie op 'n eis om bevoordele behandeling wat 'n afwyking van die bedinge of voorwaardes van diens of pensioenering van toepassing op werknemers in diens by sodanige plaaslike owerheid in die klas van diens waarin die betrokke indiwidu in diens is, sal meebring.
- (6) Neteenstaande 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 die instelling van 'n versoeningsraad goedkeur op 'n aansoek deur of namens 'n indiwiduele werknemer gedoen, as hy van mening is dat spesiale omstandighede bestaan wat dit wenslik maak dat 'n versoeningsraad ingestel word sodat die oogmerke van hierdie Wet bereik kan word.
- (7) (a) 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 aangeleenthed betreffende die verhouding tussen werkgever en werknemer ontvang het, almal of enigeen van die voorstelle of besluite in sodanige eis, versoek of kennisgewing vervat, verwerp het of daarteen beswaar gemaak het of versuim het om enigeen van bedoelde voorstelle of besluite binne 'n tydperk deur die Minister as redelik geag, te verwerp of toe te staan.
- (b) By die bepaling van die mate waarin 'n vakvereniging of werkgewersorganisasie verteenwoordigend is vir die doeleindes van paragraaf (c) van sub-artikel (4) of sub-paragraaf (ii) van paragraaf (a) van sub-artikel (5), neem die Minister vir sover die getal lede van die vereniging of organisasie ter sake is, in aanmerking alleen lede wat volwaardig was op die datum waarop die betrokke aansoek op die voorgeskrewe wyse ingedien is.
- (8) (a) Wanneer hy die instelling van 'n versoeningsraad kragtens hierdie artikel goedkeur, bepaal die Minister die opdrag aan die raad en die gebied ten opsigte waarvan hy ingestel moet word: Met dien verstande dat albei partye by die geskil skriftelik ooreen kan kom, onderworpe aan die goedkeuring van die Minister, om die opdrag aan die raad te verander of uit te brei.
- (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 bedoelde verenigings of organisasies geregistreer is nie, aldus ingesluit mag word nie.

- (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 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 employed by the employer concerned in the class of employment in which the said individual was employed; 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 suspension or termination of the employment of that individual or the refusal or failure of the employer to re-employ that individual, that the applicant has established that there are reasonable grounds for believing that the said decision, proposal, suspension, termination, refusal or failure is not due to misconduct on the part of the said individual or to other circumstances which justify such decision, proposal, suspension, termination, refusal or failure; and
  - (c) if the individual concerned is employed by a local authority, that the dispute does not concern a demand for preferential treatment which would involve a departure from the terms or conditions of employment or superannuation applicable to employees employed by such local authority in the class of employment in which the said individual is employed.
- (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 approve of the establishment of a conciliation board on an application made by or on behalf of an individual employee if he is of opinion that special circumstances exist which make it desirable that a conciliation board be established in order that the objects of this Act may be achieved.
- (7) (a) 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 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.
- (b) In determining the representativeness of a trade union or employers' organization for the purposes of paragraph (c) of sub-section (4) or sub-paragraph (ii) of paragraph (a) of sub-section (5), the Minister shall, in so far as the number of members of the union or organization is relevant, take into consideration only members in good standing as at the date on which the relevant application was lodged in the manner prescribed.
- (8) (a) When he approves of the establishment of 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: Provided that both parties to the dispute may, subject to the approval of the Minister, agree in writing to an alteration or extension of the terms of reference of the board.
- (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 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 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) Die Minister kan te eniger tyd sy goedkeuring van die instelling van 'n versoeningsraad intrek indien om enige rede die noodsaklikheid vir die instelling van die raad na sy mening weggeval het.

(10) (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 van so 'n vakvereniging geweier is of uit so 'n vakvereniging gesit is, of dat dit onbehoorlik of belemmerend vir hom sou wees om 'n lid van so 'n vakvereniging te wees, kan hy 'n sertifikaat uitrek waarin verklaar word dat bedoelde werknemer in 'n gereserveerde beroep in diens is; en hy kan te eniger tyd na goeddunke 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 enigeen van die in paragraaf (a) beskrewe kategorieë val, kan hy 'n kennisgewing in die *Staatskoerant* laat publiseer, waarin verklaar word dat alle werknemers wat in daardie gebied tot daardie klas behoort, in 'n gereserveerde beroep in diens is; en hy kan te eniger tyd na goeddunke op dergelike wyse so 'n kennisgewing intrek of verander.

(c) 'n Kragtens paragraaf (a) uitgereikte sertifikaat moet in die voorgeskrewe vorm wees en moet die voorgeskrewe besonderhede 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 diens bly in die beroep of bly behoort tot die klas van werknemers wat in die sertifikaat of kennisgewing vermeld word, 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.

(11) (a) Wanneer die Minister rede het om te vermoed dat 'n geskil bestaan ten opsigte van 'n in paragraaf (a) van sub-artikel (4) bedoelde aangeleenthed tussen 'n in sub-artikel (1) van artikel *ses-en-veertig* bedoelde werkewer en werknemer, en hy oortuig is dat daar geen nywerheidsraad is watregsbevoegdheid ten opsigte van die onderwerp van die geskil besit nie, kan hy almal of enigeen van die partye by die geskil aansê om binne 'n vermelde tydperk aan hom verklarings voor te lê wat volledig uiteensit die aangeleenthede wat die onderwerp van die geskil uitmaak, hul menings daaromtrent en enige addisionele inligting wat die Minister nodig ag. Die Minister kan te eniger tyd daarna almal of enigeen van sodanige partye aansê om aan hom binne 'n vermelde tydperk, enige addisionele inligting wat hy nodig ag, te verstrek. Enige tydperk deur die Minister 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 'n bedrywigheid waarby die in paragraaf (a) bedoelde werkewer en werknemer betrokke of in diens is, waarskynlik in gevaar gebring sal word tensy die geskil besleg word, kan hy, as hy dit raadsaam ag om dit te doen, en nieteenstaande 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.

(9) 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.

(10) (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 in the area in which he is employed, or that he has been refused membership of or has been expelled from such a 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; and he may at any time in his discretion 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 *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 his discretion 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 or to belong to the class of employees specified in the certificate or notice, be deemed, until such certificate or notice is withdrawn or cancelled, to be employed in a reserved occupation.

(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.

(11) (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) between any employer and employee referred to in sub-section (1) of section forty-six and if he is satisfied that there is no industrial council having jurisdiction in respect of the matter in dispute, he may require all or any of the parties to the dispute to submit to him, within a specified period, statements setting out fully the matters which are the subject of the dispute, their views in connection therewith and any additional information he may consider necessary. The Minister may at any time thereafter 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 under this sub-section may be extended by him from time to time either before or after the expiry of any such period.

(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 activity in which the employer and employee referred to in paragraph (a) is engaged or employed, 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.

(c) Enige persoon wat weier of versuim om te voldoen aan enige vereiste van die Minister kragtens paragraaf (a) is aan 'n misdryf skuldig.

(12) Enige persoon wat geraak word deur enige beslissing van die Minister kragtens sub-artikel (4) met betrekking tot 'n aansoek om die instelling van 'n versoeningsraad ten opsigte van 'n geskil tussen 'n in sub-artikel (1) van artikel *ses-en-veertig* bedoelde werkewer en werknemer, of kragtens paragraaf (b) van sub-artikel (11) kan binne dertig dae vanaf sodanige beslissing appèl aanteken by die provinsiale of plaaslike afdeling van die Hooggereghof binne die regsgebied waarvan hy woonagtig is, nadat hy sekerheid tot bevrediging van die griffler van daardie afdeling gestel het vir enige koste wat moontlik deur die Minister in verband met die appèl aangegaan word, en moet sodanige appèl binne 'n tydperk van ses weke vanaf die datum van sodanige beslissing voortsit.

(13) Die afdeling van die Hooggereghof waarna geappelleer word, 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 versoeningsraad 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 in die versoeningsraad verteenwoordig is.

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

**Samestelling van versoeningsraad.**

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

(2) Die helfte van die getal verteenwoordigers moet deur die vakverenigings en die werknemers wat partye by die geskil is (hieronder die werknemerspartye by die geskil genoem), aangestel word en die helfte deur die werkewersorganisasies en werkewers wat partye by die geskil is (hieronder die werkewerspartye by die geskil genoem).

(3) Die werknemers- en werkewerspartye by die geskil kan plaasvervangers aanstel vir elkeen of enige van die verteenwoordigers wat deur hulle aangestel is; en die bepalings van hierdie artikel wat op verteenwoordigers van toepassing is, 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 werkewerspartye by die geskil op die versoeningsraad te verteenwoordig: Met dien verstande dat—

- (a) die verteenwoordigers van 'n vakvereniging of werkewersorganisasie lede, ampsdraers of beampies van die betrokke vereniging of organisasie moet wees; en vir die doeleindes van hierdie paragraaf word onder „jede”, in die geval van 'n werkewersorganisasie, 'n direkteur van 'n maatskappy wat 'n lid van sodanige organisasie is en 'n persoon wat by sodanige maatskappy as 'n bestuurder of in enige ander toesighoudende hoedanigheid in diens is, inbegryp;
- (b) die verteenwoordigers van enige werknemers wat nie lede van 'n vakvereniging is nie of lede is van 'n vakvereniging wat nie 'n party by die geskil is nie, ampsdraers of beampies van 'n geregistreerde vakvereniging, of werknemers in die betrokke onderneming, nywerheid, bedryf of beroep, moet wees;
- (c) die verteenwoordigers van enige werkewers wat nie lede van 'n werkewersorganisasie is nie of lede is van 'n werkewersorganisasie wat nie 'n party by die geskil is nie, ampsdraers of beampies van 'n geregistreerde werkewersorganisasie, of werkewers in die betrokke onderneming, nywerheid, bedryf of beroep, moet wees;
- (d) minstens die helfte van die getal verteenwoordigers van die werknemerspartye by die geskil, en minstens

(c) Any person who refuses or fails to comply with any requirement of the Minister under paragraph (a), shall be guilty of an offence.

(12) 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 a dispute between any employer and employee referred to in sub-section (1) of section *forty-six*, or under paragraph (b) of sub-section (11), may within thirty days of such decision note an appeal to the provincial or local division of the Supreme Court within whose area of jurisdiction he resides, on giving security to the satisfaction of the registrar of that division for any costs that may be incurred by the Minister in connection with the appeal, and shall prosecute such appeal within a period of six weeks from the date of such decision.

(13) 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.

**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 into by the parties represented on the conciliation board.

Functions of conciliation board and contents 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 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.

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

Composition of conciliation board.

(2) One half of the number of representatives shall be appointed by the trade unions which, and the employees who, are parties to the dispute (hereinafter referred to as the employee parties to the dispute) and one half by the employers' organization which, and the employers 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 appoint alternates to each or any of the representatives appointed by them; and the provisions of this section applicable to representatives 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 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; and for the purposes of this paragraph "members" shall, in the case of an employers' organization, include any director of a company which is a member of such organization and any person employed by such company as a manager or in any other supervisory capacity;

(b) the representatives of any employees who are not members of a trade union or are members of a trade union which is not a party to the dispute shall be office-bearers or officials of any registered trade union or employees in the undertaking, industry, trade or occupation concerned;

(c) the representatives of any employers who are not members of an employers' organization or are members of an employers' organization which is not a party to the dispute shall be office-bearers or officials of any registered employers' organization or employers in the undertaking, industry, trade or occupation concerned;

(d) at least one half of the number of representatives of the employee parties to the dispute, and at least one

die helfte van die getal verteenwoordigers van die werkgewerspartye by die geskil, onderskeidelik werkemers en werkgewers in die betrokke onderneming, nywerheid, bedryf of beroep moet wees;

(e) by die toepassing van sub-paragraaf (d)—

(i) word 'n lid, ampsdraer of beampie van 'n vereniging wat 'n party by die geskil is, indien hy as 'n verteenwoordiger van die werkemerspartye by die geskil aangestel is, geag 'n werkemmer in die betrokke onderneming, nywerheid, bedryf of beroep te wees;

(ii) word 'n lid, ampsdraer of beampie van 'n werkgewersorganisasie wat 'n party by die geskil is, of 'n direkteur van 'n maatskappy wat 'n party by die geskil is of 'n persoon wat as bestuurder of in enige ander toesighoudende hoedanigheid in diens is by 'n werkewer in die betrokke onderneming, nywerheid, bedryf of beroep, indien hy as 'n verteenwoordiger van die werkgewerspartye by die geskil aangestel is, geag 'n werkewer in die betrokke onderneming, nywerheid, bedryf of beroep te wees;

(iii) word enige lid van 'n plaaslike owerheid wat 'n party by die geskil is, indien hy as 'n verteenwoordiger van die werkgewerspartye by die geskil aangestel is, geag 'n werkewer 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, die werkemers- en werkgewerspartye by die geskil, behoudens die bepalings van paragrawe (d) en (e), enige persone as verteenwoordigers kan aanstel.

(5) Indien 'n party by die geskil wat kragtens sub-artikel (2) geregtig is om 'n verteenwoordiger op die versoeningsraad aan te stel, versuum 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 vasstel, hetsy voor of na die verstryking van so 'n tydperk, kan die Minister self 'n verteenwoordiger ten behoeve van daardie party aanstel.

Sekretariële en klerklike hulp aan versoeningsraad.

Prosedure van versoeningsraad.

Dagvaarding en ondervraging van getuies deur versoeningsraad.

Onkoste van versoeningsraad.

Verslag deur en ontslag van versoeningsraad.

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.

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), (2), (3) en (6) van artikel *agt-en-twintig* is *mutatis mutandis* ten opsigte van versoeningsrade van toepassing.

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 registrator 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* op die uitoefening van daardie bevoegdhede van toepassing.

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 dit aangegaan is, word uit gelde wat deur die Parlement beskikbaar gestel word, betaal.

42. (1) 'n Versoeningsraad moet so gou doenlik aan die Minister 'n verslag van sy beraadslagings voorlê waarin uiteengeset word—

(a) of hy die geskil besleg het, en indien wel, die bepalings van die besleeting;

(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 besleeting tot gevolg sal hê nie;

(c) of hy ingevolge artikel *vijf-en-veertig* besluit het dat die geskil na 'n arbiter, of na arbiters en 'n skeidsregter, of na die nywerheidshof verwys moet word.

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;

(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;
- (ii) any member, office-bearer or official of an employers' organization which is a party to the dispute and any director of a company which is a party to the 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 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 subsection (2) to appoint a representative to the conciliation board fails to do so within fourteen days of the approval of the establishment of the board 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, the Minister may himself appoint a representative on behalf of that party.

38. The Minister shall provide every conciliation board with Secretarial and such secretarial and clerical assistance as he may deem necessary clerical assistance for the effectual performance of the functions of the conciliation board. for conciliation board.

39. The provisions of section twenty-six, sub-sections (1) to (7) and sub-sections (9) and (11) of section twenty-seven, and sub-sections (1), (2), (3) and (6) of section twenty-eight shall Procedure of conciliation boards. *mutatis mutandis* apply in respect 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 conciliation board as are approved by the Secretary for Labour before or after their incurrence, shall be paid from moneys appropriated by Parliament. Expenses of conciliation board.

42. (1) A conciliation board shall as soon as practicable submit to the Minister a report of its deliberations, setting forth— Report by and discharge of 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.

(2) 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 vir sy instelling weggeval het.

(3) 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.

(4) 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* voor bedoelde datum in die *Staatskoerant* gepubliseer was, laat die Minister 'n verdere kennisgewing in die *Staatskoerant* publiseer waarin die bepalings van die wysiging of van die ooreenkoms soos gewysig, uiteengesit word en die datum van wanneer af daardie wysiging of die ooreenkoms, soos gewysig, bindend word op die in die eersgenoemde kennisgewing bedoelde persone.

Bevoegdheid van Minister om herstel in diens van werknemers of herstel van bedinge en voorwaardes an diens te b eveel.

**43.** (1) In hierdie artikel beteken die uitdrukking „geskil“ 'n geskil aangaande—

- (a) die skorsing of beëindiging van diens van 'n werknemer of werknemers of die besluit of voorstel van 'n werkgewer om die diens van 'n werknemer of werknemers te skors of te beëindig; of
- (b) 'n verandering of voorgestelde verandering in die bedinge of voorwaardes van diens van 'n werknemer of werknemers behalwe om uitvoering te gee aan 'n toepaslike wetsbepaling of loonreëlende maatreël.

(2) Enige party by 'n geskil wat—

- (a) bedoelde geskil verwys na 'n nywerheidsraad wat ten opsigte van die geskilregsbevoegdheid besit; of
- (b) kragtens sub-artikel (1) van artikel *vyf-en-dertig* aansoek doen om die instelling van 'n versoeningsraad ten opsigte van die geskil,

kan tegelykertyd of binne sewe dae vanaf die datum van die verwysing of aansoek in die vorm en op die wyse voorgeskryf by die Minister aansoek doen om 'n bevel kragtens sub-artikel (4).

(3) (a) Wanneer 'n aansoek ingevolge sub-artikel (2) gedoen word, moet die applikant tegelykertyd bewys tot bevrediging van die Minister lewer dat 'n afskrif van die aansoek per geregistreerde pos gestuur of afgeliever is aan die ander party of partie by die geskil en indien daar 'n nywerheidsraad is watregsbevoegdheid ten opsigte van die geskil besit, aan die sekretaris van daardie raad.

(b) Die in paragraaf (a) bedoelde party of partie en die nywerheidsraad (indien enige) kan op die voorgeskrewe wyse en binne veertien dae vanaf die datum van die aansoek of sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd of voor of na verstryking van so'n tydperk vasstel, vertoë daaromtrent aan die Minister voorlê.

(4) (a) Geen bevel word kragtens hierdie sub-artikel uitgevaardig nie indien die betrokke aansoek kragtens sub-artikel (2) nie gedoen is nie 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 werkgewer 'n plaaslike owerheid is.

(b) Na oorweging van die aansoek en enige vertoë aan hom voorgelê binne die in paragraaf (b) van sub-artikel (3) bedoelde tydperk en enige ander aangeleenthede wat hy ter sake ag, kan die Minister, as hy dit raadsaam ag om dit te doen, en indien in die geval van 'n geskil wat die onderwerp van 'n aansoek om 'n versoeningsraad uitgemaak het, hy besluit het om die instelling van die raad goed te keur, 'n bevel uitvaardig waarin die betrokke werkgewer of werkgewers gelas word—

- (i) om in 'n in paragraaf (a) van sub-artikel (1) 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 werk-

(2) 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.

(3) Notwithstanding the fact that a conciliation board has been discharged, the Minister may at the request of the parties who were represented on the conciliation board, and if he deems it expedient to do so, approve of the amendment of any agreement negotiated by the conciliation board prior to its discharge.

(4) From the date of approval of such amendment, the agreement as amended shall be deemed to be the agreement negotiated by the conciliation board, and if a notice in regard to such agreement had been published in the *Gazette* in terms of section *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 first-mentioned notice.

**43.** (1) In this section, the term "dispute" means a dispute concerning—

Power of Minister to order reinstatement of employees or restoration of terms and conditions of employment.

- (a) the suspension or termination of the employment of an employee or employees or the decision or proposal of an employer to suspend or terminate the employment of an employee or employees; or
- (b) 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.

(2) Any party to a dispute who—

- (a) refers the said dispute to an industrial council having jurisdiction in respect of the dispute; or
- (b) applies under sub-section (1) of section *thirty-five* for the establishment of a conciliation board in respect of the dispute,

may at the same time or within seven days of the date of such reference or application apply to the Minister in the form and manner prescribed for an order under sub-section (4).

(3) (a) Whenever an application is made in terms of sub-section (2) the applicant shall at the same time furnish proof to the satisfaction of the Minister that a copy of the application has been sent by registered post or delivered to the other party or parties to the dispute, and if there is an industrial council having jurisdiction in respect of the dispute, to the secretary of that council.

(b) The party or parties and the industrial council (if any) referred to in paragraph (a) may, in the manner prescribed and within fourteen days of the date of the 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) (a) No order may be made under this sub-section if the relevant application under sub-section (2) was not made within thirty days of the 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 employer concerned is a local authority.

(b) After considering the application and any representations submitted to him within the period referred to in paragraph (b) of sub-section (3), and any other matters which he considers relevant, the Minister may, if he deems it expedient to do so, and if, in the case of a dispute which has formed the subject of an application for the establishment of a conciliation board, he has decided to approve of the establishment of such board, make an order requiring the employer or employers concerned—

- (i) in a case referred to in paragraph (a) of sub-section (1), 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 reinstate the employee or employees concerned in

nemer of werknemers weer in sy diens te herstel op bedinge en voorwaardes nie minder gunstig vir hom of hulle nie as dié wat sy of hulle diens voor sodanige beëindiging gereël het; of

- (ii) om in 'n in paragraaf (b) van sub-artikel (1) 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 na goeddunke so 'n bevel terugtrek of wysig.

(5) Wanneer hy 'n bevel kragtens sub-artikel (4) uitvaardig stel die Minister 'n datum vas van wanneer af die bevel van krag word en kan hy dit terugwerkend maak na 'n datum nie vroeër nie as dié waarop die diens van die werknemer of werknemers geskors of beëindig is of waarop die bedinge of voorwaardes van diens verander is.

(6) 'n Bevel deur die Minister kragtens sub-artikel (4) uitgevaardig, is van krag ondanks enige daarmee strydige bepalings van 'n wet of loonreëlende maatreël en bly van krag, tensy dit eerder teruggetrek word—

- (a) totdat die geskilpunt deur die nywerheidsraad of die versoeningsraad, of as dit na arbitrasie verwys word, deur 'n toekening besleg is; of
- (b) totdat 'n tydperk van dertig dae vanaf die datum waarop die geskilpunt na die betrokke nywerheidsraad (indien enige) verwys is of waarop die Minister die instelling van die versoeningsraad goedgekeur het, na gelang van die geval, of sodanige verdere tydperk of tydperke as wat die Minister na oorlegpleging met die nywerheidsraad of versoeningsraad, na gelang van die geval, vasstel, verstryk het,

na gelang van watter gebeurtenis die eerste plaasvind: Met dien verstande dat geen sodanige bevel vir langer as ses maande vanaf die datum van inwerkingtreding deur die Minister kragtens sub-artikel (5) vasgestel, van krag bly nie.

(7) Indien 'n bevel uitgevaardig word ten opsigte van 'n in paragraaf (a) van sub-artikel (1) bedoelde aangeleentheid, word 'n werkewer 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 gegee het.

(8) Die partye by die geskil moet skriftelik deur 'n amptenaar in kennis gestel word van die bepalings van 'n bevel wat kragtens hierdie artikel uitgevaardig word of van die terugtrekking of wysiging van so 'n bevel.

(9) Indien die nywerheidsraad of versoeningsraad wat 'n in paragraaf (a) van sub-artikel (1) bedoelde aangeleentheid onder oorweging gehad het, of 'n arbiter na wie die aangeleentheid ingevolge hierdie Wet verwys word die skorsing of beëindiging of die besluit of voorstel wat tot die geskil aanleiding gegee het, bekragtig, of indien die besluit van die Minister om die instelling van 'n versoeningsraad ten opsigte van daardie aangeleentheid goed te keur ter syde gestel word kragtens sub-artikel (13) van artikel *yvf-en-dertig*, is 'n werkewer wat kragtens die bepalings van sub-artikel (7) enige beloning aan 'n werknemer betaal het ter voldoening aan 'n bevel wat kragtens sub-artikel (4) uitgevaardig is ten opsigte van dieselfde aangeleentheid, geregtig om die beloning aldus betaal op die werknemer deur siviele geregteleke stappe te verhaal, mits die hof wat die geding om die verhaal van sodanige beloning verhoor, oortuig is dat die skorsing of beëindiging of voorgestelde skorsing of beëindiging van die diens van die werknemer as gevolg van wangedrag van die werknemer geregverdig was.

#### 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 beraadsblaag, sodanige navrae doen en ondersoeke instel as wat hy nodig ag, probeer

his employ on terms and conditions not less favourable to him or them than those which governed his or their employment prior to such termination; or

- (ii) in a case referred to in paragraph (b) of subsection (1), 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;

and he may at any time in his discretion withdraw or vary any such order.

(5) When making an order under sub-section (4) the Minister shall fix the date from which the order shall operate and may 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.

(6) An order made by the Minister under sub-section (4) shall prevail over any contrary provisions in any law or wage regulating measure and shall, unless it is withdrawn sooner, remain operative—

- (a) until the matter in dispute has been settled by the industrial council or the conciliation board or, if it is referred to arbitration, by an award; or
- (b) until the expiry of a period of thirty days from the date on which the matter in dispute was referred to the industrial council concerned (if any), or on which the Minister approved of the establishment of the conciliation board, as the case may be, or such further period or periods as the Minister, after consultation with the industrial council or conciliation board, as the case may be, may fix,

whichever event occurs first: 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 (5).

(7) If an order is made in respect of any matter referred to in paragraph (a) of sub-section (1) 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 with the order.

(8) The parties to the dispute shall be notified in writing by an officer of the terms of an order made under this section or of the withdrawal or variation of any such order.

(9) If the industrial council or conciliation board which has had under consideration a matter referred to in paragraph (a) of sub-section (1), or an arbitrator to whom the matter is referred in terms of this Act confirms the suspension or termination or the decision or proposal which gave rise to the dispute, or if the decision of the Minister to approve of the establishment of a conciliation board in respect of such matter is set aside under sub-section (13) of section *thirty-five*, any employer who under the provisions of sub-section (7) has paid any remuneration to an employee in satisfaction of an order made under sub-section (4) 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 employment of the employee was justified by reason of misconduct of the employee.

**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 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 industrial council or conciliation board at which the 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

om die beslegting van die geskil teweeg te bring en aan die Minister verslag doen aangaande die resultate van sy bemiddeling en vir hierdie doeleteindes besit 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 dit aangegaan is, word uit gelde wat deur die Parlement beskikbaar gestel word, 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 ooreenkomsdig die bepalings van hierdie artikel verwys word, en kan hy verder besluit of die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke getal arbiters en 'n skeidsregter, of deur die nywerheidshof onderneem moet word.

(2) Wanneer 'n nywerheidsraad of 'n versoeningsraad besluit het dat die arbitrasie deur 'n gelyke getal 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 werkemers op die nywerheidsraad of versoeningsraad, en 'n meerderheid van al die verteenwoordigers van die werkgewers in die nywerheidsraad of versoeningsraad gestem het.

(4) As die nywerheidsraad of versoeningsraad besluit het dat die arbitrasie deur 'n gelyke getal arbiters en 'n skeidsregter onderneem moet word, moet die helfte van die getal arbiters deur die verteenwoordigers van die werkemers in die nywerheidsraad of versoeningsraad, en die helfte deur die verteenwoordigers van die werkgewers in 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 werkemers in die nywerheidsraad of versoeningsraad en 'n meerderheid van al die verteenwoordigers van die werkgewers in die nywerheidsraad of versoeningsraad gestem het.

(5) 'n Meerderheid van al die verteenwoordigers van die werkemers en 'n meerderheid van al die verteenwoordigers van die werkgewers in die nywerheidsraad of versoeningsraad kan elk nie meer nie as twee assessorre aanstel om die arbiter of die arbiters en die skeidsregter of die nywerheidshof, na gelang van die geval, in 'n raadgewende hoedanigheid behulpzaam te wees; en die versuum van die verteenwoordigers van die werkemers 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.

(7) Indien meer arbiters as een aangestel is—

- (a) moet die skeidsregter voorsit op alle vergaderings van die arbiters waarop hy teenwoordig is;
- (b) is die beslissing van die meerderheid van die arbiters die beslissing van die arbiters; en
- (c) indien 'n meerderheid van die arbiters op 'n punt nie saamstem nie, moet die skeidsregter die beslissing oor daardie punt gee.

(8) Indien 'n nywerheidsraad of 'n 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 vasstel, te besluit of die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke getal 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 getal 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 vasstel, die arbiter of arbiters en die skeidsregter, na gelang van die geval, aan te stel,

word die arbitrasie deur die nywerheidshof onderneem.

(9) Enige party by die geskil is geregtig—

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 paid from moneys appropriated by Parliament.

**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 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.

(2) Whenever an industrial council or a conciliation board has decided that the 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, 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 industrial council or conciliation board have voted.

(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, one half of the number of arbitrators shall be appointed by the representatives of the employees on the industrial council or conciliation board, and one half by the representatives of the employers on the industrial council or conciliation 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 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 on the industrial council or conciliation board 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 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*.

(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) If more arbitrators than one have been appointed—

- (a) the umpire shall preside at all meetings of the arbitrators at which he is present;
- (b) the decision of the majority of the arbitrators shall be the decision of the arbitrators; and
- (c) 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 a conciliation board has decided that a dispute shall be referred to arbitration but—

- (a) 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 the umpire, as the case may be, the arbitration shall be conducted by the tribunal.

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

Voluntary arbitration.

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

(b) indien die geskil deur 'n nywerheidsraad of '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 nywerheidsraad of versoeningsraad, na gelang van die geval, is of was, verteenwoordig te word; of

(c) behoudens die bepalings van paragraaf (b), indien al die ander partye by die geskil instem, om by daardie verrigtinge verteenwoordig te word deur een of meer regspraktisyne of deur een of meer lede, ampsdraers of beampies 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 dieselfde 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 hul werkzaamhede 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 bevoegdheede deur die arbiter of die arbiters en die skeidsregter, na gelang van die geval.

(b) 'n Subpoena wat by die uitoefening van bedoelde bevoegdhede uitgereik word, moet deur 'n arbiter of die skeidsregter onderteken word.

(c) Die eed kan opgelê word op, of 'n bevestiging kan aangeneem word van, 'n getuie deur 'n arbiter of deur die skeidsregter.

(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 daarvan aan die Minister en aan die betrokke partye stuur.

(12) 'n Toekenning moet alleenlik oor die onderwerp van die geskil handel en oor 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 versoeningsraad wat ontslaan is, die partye wat in 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 behandel word;

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

(13) Behoudens die bepalings van sub-artikel (12), is die bepalings van artikel *vier-en-twintig* op 'n toekenning van toepassing.

(14) Ondanks andersluidende wetsbepalings, is 'n toekenning wat kragtens hierdie artikel gemaak word, van seëlregte vrygestel.

(15) As 'n geskil wat ingevolge hierdie artikel na arbitrasie verwys is, geskik word voordat 'n toekenning gemaak is en al die partye by die geskil skriftelik te kenne gee dat arbitrasie nie langer verlang word nie, moet die arbiters, die arbiters en die skeidsregter of die nywerheidshof dienooreenkomsdig aan die Minister verslag doen en moet die arbitrasieverrigtinge gestaak word.

- (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 an industrial council or 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 is or was a member of that industrial council or conciliation board, as the case may be; 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 the same 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 shall be signed by an arbitrator or the umpire.
- (c) The oath may be administered to or an affirmation may be accepted from any witness 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.

- (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 has been discharged the parties who were represented on the conciliation 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

- (13) Subject to the provisions of sub-section (12), the provisions of section *twenty-four* shall apply to any award.

- (14) Notwithstanding anything to the contrary in any law contained, an award made in terms of this section shall be exempt from stamp duty.

- (15) If any dispute which has been referred to arbitration in terms of this section is settled before an award has been made and all the parties to the dispute signify in writing that arbitration is no longer desired, the arbitrator, arbitrators and umpire, or the tribunal, as the case may be, shall report accordingly to the Minister and the arbitration proceedings shall cease.

Verpligte  
arbitrasie.

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

- (a) enige plaaslike owerheid; of
  - (b) enige werkewer behalwe 'n plaaslike owerheid wat binne die gebied van 'n plaaslike owerheid lig, krag, water, sanitasie, passasiersvervoer of 'n brandweerdiens verskaf; of
  - (c) enige werkewer op wie die bepalings van hierdie artikel kragtens sub-artikel (7) toegepas is; of
  - (d) enige geregistreerde werkewersorganisasie wat namens een of meer van die in paragraaf (a), (b) of (c) bedoelde werkewers wat 'n lid of wat lede van daardie organisasie is, optree;
- en beteken die uitdrukking „in sub-artikel (1) bedoelde werkewer”—
- (e) enige werknemer by 'n plaaslike owerheid in diens; of
  - (f) enige werknemer by 'n in paragraaf (b) bedoelde werkewer in diens in verband met die verskaffing van 'n in daardie paragraaf bedoelde diens; of
  - (g) enige werknemer wat by 'n in paragraaf (c) bedoelde werkewer in diens is en op wie die bepalings van hierdie artikel kragtens sub-artikel (7) toegepas is; 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 is, optree.

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

- (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 goedkeur het, na gelang van die geval, of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd vasstel, die geskil te besleg nie; of
- (b) voor die verstryking van daardie tydperk of verdere tydperk of tydperke besluit het dat verdere beraadsdagings nie die beslegting van die geskil tot gevolg sal hê nie,

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

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

- (a) moet die nywerheidsraad of versoeningsraad, na gelang van die geval, binne veertien dae vanaf die verstryking van die laaste van die in paragraaf (a) van daardie sub-artikel bedoelde tydperke, of binne veertien dae vanaf 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 vasstel, besluit of die arbitrasie deur 'n enkele arbiter, of 'n gelyke getal arbiters en 'n skeidsregter, 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 getal arbiters en 'n skeidsregter onderneem moet word, moet die arbiter of die arbiters en die skeidsregter binne 'n tydperk van veertien dae vanaf sodanige besluit of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd vasstel, aangestel word.

(4) Indien die in paragraaf (a) van sub-artikel (3) bedoelde besluit nie geneem is nie, 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) Die bepalings van sub-artikels (2), (3), (4), (5), (6), (7), (9), (10), (11), (12), (13), (14) en (15) van artikel *vijf-en-veertig* is *mutatis mutandis* op arbitrasie en die maak van aanstellings kragtens hierdie artikel van toepassing.

(6) (a) Ondanks andersluidende bepalings in hierdie artikel vervat, wanneer daar geen nywerheidsraad is wat regsvvoegdheid ten opsigte van 'n in sub-artikel (2) bedoelde geskil, besit nie, kan die partye by die geskil ooreenkomen om aan die Minister verslag te doen

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 to whom 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 who is employed by an employer referred to in paragraph (c) and to whom the provisions of this section have been applied 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 of 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 of such decision, or within such further period or periods as the Minister may from time to time fix.

(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-sections (2), (3), (4), (5), (6), (7), (9), (10), (11), (12), (13), (14) and (15) 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 respect of a dispute referred to in sub-section (2), the parties to the dispute may agree to report to the Minister that they are

dat hulle oortuig is dat enige versoeningsraad wat ingestel word, nie in staat sal wees om die geskil te besleg nie, en of hulle ooreengekom het op die arbiter of die arbiters en die skeidsregter, of dat die arbitrasie deur die nywerheidshof onderneem moet word.

- (b) By ontvangs van 'n in paragraaf (a) bedoelde verslag, kan die Minister, indien hy dit raadsaam ag om dit te doen, en indien hy oortuig is met betrekking tot die in paragrawe (a), (d) en (e) van sub-artikel (4) van artikel *vyf-en-dertig* bedoelde aangeleenthede, gelas dat die bepalings van hierdie artikel van toepassing is asof 'n versoeningsraad ingevolge bedoelde artikel 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 onderneem word deur die arbiter, of die arbiters en die skeidsregter of die nywerheidshof soos deur die partye by die geskil ooreengekom, of, by ontstentenis van sodanige ooreenkoms binne een maand vanaf die Minister se lasgewing, deur die nywerheidshof.
- (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.
- (d)
  - (i) Indien die geskil betrekking het op 'n in sub-artikel (1) van artikel *drie-en-veertig* bedoelde aangeleentheid, kan enige party by die geskil ten tyde van die verslag kragtens paragraaf (a) of binne sewe dae daarna die Minister versoek om 'n in sub-artikel (4) van daardie artikel bedoelde bevel uit te vaardig.
  - (ii) Indien die Minister kragtens paragraaf (b) gelas dat die bepalings van hierdie artikel op 'n in sub-paragraaf (i) bedoelde geskil toegepas moet word, kan hy, na oorweging van 'n versoek kragtens bedoelde sub-paragraaf en na oorplegpling met enige party wat na sy mening daardeur geraak kan word en as hy dit raadsaam ag om dit te doen, 'n in bedoelde sub-paragraaf bedoelde bevel uitvaardig asof hy die instelling van 'n versoeningsraad goedgekeur het.
  - (iii) Die bepalings van paragraaf (a) van sub-artikel (4) en sub-artikels (5) tot (9) van artikel *drie-en-veertig* is *mutatis mutandis* van toepassing ten opsigte van 'n bevel kragtens hierdie paragraaf uitgevaardig.
  - (iv) By die toepassing van hierdie paragraaf word die verwysing in paragraaf (b) van sub-artikel (6) van artikel *drie-en-veertig* na die datum waarop die Minister die instelling van die versoeningsraad goedgekeur het, geag 'n verwysing te wees na die datum van die lasgewing kragtens paragraaf (b) van hierdie sub-artikel.
- (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 werkgewers en werknemers betrokke of in diens by of in die bedrywigheide in verband met—
    - (i) die voorsiening of distribusie van enige bederfbare voedselware; of
    - (ii) die voorsiening of distribusie van petrol of ander brandstowwe vir gebruik deur plaaslike overhede of ander werkgewers in verband met die voorseening van enige in paragraaf (b) van sub-artikel (1) bedoelde diens,
 wat in die kennisgewing vermeld word.
  - (b) 'n Kennisgewing ingevolge paragraaf (a) gepubliseer, moet enige persoon wat enige besware het teen sodanige toepassing, uitnooi om sodanige besware binne dertig dae vanaf die datum van sodanige kennisgewing by die Sekretaris van Arbeid in te dien.
  - (c) Na oorweging van enige besware kragtens paragraaf (b) ingedien, en na oorplegpling 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 werkgewers en werknemers betrokke of in diens by of in die geheel of enige gedeelte van die gebied vermeld in die ingevolge paragraaf (a) gepubliseerde kennisgewing.

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 the 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 as to the matters referred to in paragraphs (a), (d) and (e) of sub-section (4) of section *thirty-five*, direct that the provisions of this section shall apply as though a conciliation board had been appointed in terms of the said section and had reported to him that it had failed to settle the dispute; and thereupon the arbitration shall be conducted by the arbitrator or the arbitrators and the umpire or the tribunal as agreed upon by the parties to the dispute, or, in the absence of such agreement within one month of the Minister's direction, 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.
- (d)
  - (i) If the dispute concerns a matter such as is referred to in sub-section (1) of section *forty-three*, any party to the dispute may at the time of the report under paragraph (a) or within seven days thereafter request the Minister to make an order such as is referred to in sub-section (4) of the said section.
  - (ii) If the Minister directs under paragraph (b) that the provisions of this section shall be applied to any dispute such as is referred to in sub-paragraph (i), he may, after considering any request under the said sub-paragraph and after consultation with any party who in his opinion may be affected thereby and if he deems it expedient to do so, make an order such as is referred to in the said sub-paragraph as if he had approved of the establishment of a conciliation board.
  - (iii) The provisions of paragraph (a) of sub-section (4) and sub-sections (5) to (9) of section *forty-three* shall *mutatis mutandis* apply in respect of any order made under this paragraph.
  - (iv) For the purposes of this paragraph the reference in paragraph (b) of sub-section (6) of section *forty-three* to the date on which the Minister approved of the establishment of the conciliation board shall be deemed to be a reference to the date of the direction under paragraph (b) of this sub-section.
- (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 employers and employees engaged or employed in such activities connected with—
  - (i) the supply or distribution of any perishable food-stuffs; or
  - (ii) the supply or 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 any objections to such application to lodge such objections with the Secretary for Labour within thirty days of the date of such notice.
- (c) After considering any objections 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 employers and employees engaged or employed in 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) 'n Kennisgewing ingevolge paragraaf (c) gepubliseer kan op dergelike wyse gewysig of teruggetrek word.

**Arbitrasiekoste.**

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

(2) Indien die geskil onder oorweging van 'n nywerheidsraad was, word die koste, met inbegrip van die voorgeskrewe gelde indien die arbitrasie deur die nywerheidshof onderneem word, deur die raad 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 bepalings van toepassing:

(a) as slegs een arbiter aangestel is, moet die helfte van sy gelde deur die werknemers en vakverenigings wat partye by die geskil is (in hierdie artikel die werknemers genoem) en die 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 die werkgewers onderskeidelik die gelde van die arbiter of arbiters deur hulle aangestel, betaal;

(c) as 'n skeidsregter aangestel is, moet die helfte van sy gelde deur die werknemers en die helfte deur die werkgewers betaal word;

(d) as die arbitrasie deur die nywerheidshof onderneem word, moet die helfte van die voorgeskrewe gelde deur die werknemers en die helfte deur die werkgewers betaal word;

(e) as assesseure aangestel is, moet die werknemers en werkgewers onderskeidelik die gelde of uitgawes, indien enige, van die assessor of assesseure deur hulle aangestel, betaal;

(f) die helfte van alle ander arbitrasiekoste, met inbegrip van die betalings (indien enige) gemaak aan getuies ingevolge sub-artikel (9) van artikel *twaalf* soos toegepas deur paragraaf (a) van sub-artikel (13) van artikel *seventien*, sub-artikel (10) van artikel *vijf-en-veertig* of sub-artikel (5) van artikel *ses-en-veertig*, moet deur die werknemers betaal word en die helfte deur die werkgewers: Met dien verstande dat die koste van enige sekretariële of klerklike hulp deur die Minister voorsien uit gelde wat deur die Parlement beskikbaar gestel word, betaal moet word: Met dien verstande voorts dat enige koste regstreeks deur die werknemers of die werkgewers aangegaan, deur die werknemers of die werkgewers, na gelang van die geval, betaal moet word tensy die werknemers en die werkgewers anders ooreengekom het.

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

**Inwerkstelling van ooreenkomste.**

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

(a) by kennisgewing in die *Staatskoerant* verklaar dat vanaf 'n datum en vir 'n tydperk deur hom in daardie kennisgewing vasgestel, al die bepalings 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 bepalings van die ooreenkoms of sodanige bepalings daarvan as wat hy vermeld, bindend is op alle ander werkgewers en werknemers as dié vermeld in enige toepaslike kennisgewing gepubli-

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

**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 by the council.

(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 who and trade unions which are parties to the dispute (in this section called the employees) and one half by the employers who 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 paragraph (a) of sub-section (13) of section *seventeen*, sub-section (10) of section *forty-five* or sub-section (5) of section *forty-six*, 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 moneys appropriated by Parliament: Provided further that any costs incurred directly by the employees or the employers shall, unless the employees and the employers have otherwise agreed, be paid by the employees or the employers, as the case may be.
- (4) That portion of the costs of the arbitration which 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 by some 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

seer kragtens paragraaf (a), wat betrokke of in diens is by of 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:

(c) in 'n kennisgewing gepubliseer kragtens paragraaf (a) of (b) 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 vermeld, bindend is op alle werkgewers en werknemers of op 'n vermelde klas of klasse van werkgewers en werknemers betrokke by 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 dié ten opsigte waarvan die raad geregistreer is: Met dien verstande dat—

- (i) voordat hy 'n kennisgewing kragtens hierdie paragraaf publiseer, die Minister 'n voorlopige kennisgewing in die *Staatskoerant* laat publiseer waarin die strekking van die kennisgewing wat hy voornemens is om kragtens hierdie paragraaf te publiseer, uiteengesit word en waarin alle belanghebbende persone wat enige besware teen die voorgestelde kennisgewing of die voorgestelde bepalings daarvan het, aangesê word om sodanige besware by 'n amptenaar by 'n in die kennisgewing gemelde adres in te dien binne 'n vermelde tydperk van minstens dertig dae vanaf die datum van die publikasie van die voorlopige kennisgewing;
- (ii) 'n kennisgewing nie kragtens hierdie paragraaf gepubliseer word nie ten opsigte van 'n gebied waarin die betrokke onderneming, nywerheid, bedryf of beroep onder die jurisdiksie van 'n ander nywerheidsraad val of 'n ooreenkoms of toekenning wat ingevolge hierdie Wet bindend is, vir die betrokke onderneming, nywerheid, bedryf of beroep geld.

(2) (a) 'n In sub-artikel (1) bedoelde nywerheidsraad kan of op dieselfde tydstip 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.

(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 by of in diens in die onderneming, nywerheid, bedryf of beroep waarop die ooreenkoms betrekking het in die gebied waarin die ooreenkoms ingevolge sodanige kennisgewing bindend gemaak gaan word.

(c) 'n Kennisgewing word nie kragtens paragraaf (c) van sub-artikel (1) gepubliseer nie tensy—

- (i) 'n kennisgewing kragtens paragraaf (b) van daardie sub-artikel ten opsigte van dieselfde ooreenkoms gepubliseer is of gelykydig gepubliseer word; en
- (ii) weens die nabyheid van die gebied wat in die kennisgewing vermeld gaan word aan die gebied ten opsigte waarvan die nywerheidsraad geregistreer is, dit na die mening van die Minister raadsaam is vir die doel om onregverdige mededinging te verhoed dat die toepaslike bepalings van die betrokke ooreenkoms bindend moet wees in die gebied wat aldus vermeld gaan word.

(3) (a) Indien die Minister van mening is dat enige 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 of onder ander bedinge of voorwaardes van diens as dié wat in die ooreenkoms vermeld word, 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

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 a notice published under paragraph (a) or (b) 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 provisionsthereof 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: Provided that—

(i) before publishing a notice under this paragraph the Minister shall cause to be published in the *Gazette* a provisional notice setting forth the purport of the notice he proposes to publish under this paragraph and calling upon all interested persons who have any objections to the proposed notice or the proposed provisions thereof, to lodge such objections with an officer at an address stated in the notice within a specified period of not less than thirty days from the date of the publication of the provisional notice;

(ii) a notice shall not be published under this paragraph in respect of any area in which the undertaking, industry, trade or occupation concerned is under the jurisdiction of another industrial council or is subject to an agreement or award which is binding in terms of this Act.

(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.

(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 published or is published simultaneously in respect of the same agreement; and

(ii) owing to the proximity of the area to be specified in the notice to the area in respect of which the council is registered, it is in the opinion of the Minister desirable for the purpose of preventing unfair competition that the relevant provisions of the agreement concerned should be binding in the area to be so specified.

(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 or 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

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 vermeld, *mutatis mutandis* bindend is op alle naturelle in diens in bedoelde onderneming, nywerheid, bedryf of beroep of in enige afdeling of gedeelte daarvan in die kennisgewing vermeld by dié werkgewers op wie enige sodanige bepalings ten opsigte van werknemers bindend is en op daardie werkgewers ten opsigte van naturelle in hul diens.

- (b) Die gebied aldus vasgestel mag 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.
- (c) In sub-artikel (2) van artikel *vier-en-dertig*, en in artikels *een-en-vyftig* tot *nege-en-vyftig*, *een-en-sestig*, *twee-en-sestig*, *ses-en-sestig* (behalve paragraaf (c) van sub-artikel (1)), *een-en-sewentig*, *twee-en-sewentig* en *vier-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.
- (4) (a) Wanneer die Minister 'n kennisgewing kragtens paragraaf (a), (b) of (c) van sub-artikel (1) of kragtens sub-artikel (3) gepubliseer het, kan hy van tyd tot tyd, 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 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, en indien hy dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant* en met ingang van 'n datum deur hom in sodanige kennisgewing vasgestel, 'n kragtens sub-artikel (1), (3) of (4) gepubliseerde kennisgewing in die geheel of gedeeltelik intrek.
- (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 enige prinsipale, aannemers of ander persone in daardie paragraaf bedoel.
- (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 onderteken is, die getal werknemers in die beroepe ten opsigte waarvan die bepaling van toepassing is, wat op daardie datum volwaardige lede van 'n in sodanige bepaling bedoelde vakvereniging was, meer was as die helfte van die totale getal werknemers in diens in sodanige beroepe in die gebied waarin 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.

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 in respect of employees, and upon those employers in respect of natives in their employ.

(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 sub-section (2) of section *thirty-four* and in sections *fifty-one* to *fifty-nine*, *sixty-one*, *sixty-two*, *sixty-six* (excluding paragraph (c) of sub-section (1)), *seventy-one*, *seventy-two* and *seventy-four* 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-section (3), he may from time to time, 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*—

- (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.

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

(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, and 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, cancel in whole or in part any notice published under sub-section (1), (3) or (4).

(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.

(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.

(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 in respect of which the provision applies who were at that date members in good standing of a trade union referred to in such provision was more than one half of the total number of employees employed in such occupations in the area in 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.

(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 doelendes van 'n in sub-artikel (1), (2), (3), (4) of (5) bedoelde versoek of oorlegpleging, geag word die betrokke nywerheidsraad te wees en die gebied bepaal 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 fondse wat deur 'n nywerheidsraad opgegaar is uit bydraes betaalbaar ingevolge 'n in paragraaf (q) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling van 'n ooreenkoms of toekenning die bedrag oorskry wat nodig is om in die administratiewe uitgawes van die raad te voorsien, kan hy, na oorlegpleging met daardie raad en indien hy dit raadsaam ag om dit te doen, gelas dat bedoelde bydraes verminder word tot sodanige bedrae as wat hy bepaal, en publiseer hy 'n kennisgewing in die *Staatskoerant* wat die toepaslike bepalings van die ooreenkoms ooreenkomstig sy lasgewing wysig en 'n datum vasstel van wanneer af 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 dergelyke wyse enige kennisgewing ingevolge hierdie sub-artikel gepubliseer, intrek of wysig.

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

(a) neem die Minister vir sover die ledetal van enige vakvereniging of werkgewersorganisasie ter sake is, slegs daardie lede wat volwaardig was op die datum waarop die toepaslike versoek kragtens sub-artikel (1) gedoen is, in aanmerking;

(b) kan die Minister, 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 partye 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 het nie; en

(c) kan die Minister, ondanks die feit dat die vakverenigings wat partye by die ooreenkoms is, nie ten opsigte van alle klasse van werknekmers 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 werknekmers 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 werknekmers behorende tot alle sodanige klasse in hul diens het.

(12) By die toepassing van paragraaf (c) van sub-artikel (1) beteken „klas van werkgewers“ en „klas van werknekmers“ ook sodanige groep of afdeling of tipe van werkgewer of werknekmer as wat in die toepaslike kennisgewing vermeld of omskryf 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 dienstyd of tipe van werk of tipe of klas van perseel of die gebied 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 mag word nie.

**49.** (1) Enige toekenning gemaak kragtens artikel *vyf-en-veertig* of *ses-en-veertig* is afdoende en bindend op die werknekmers en werkgewers en die vakverenigings en werkgewersorganisasies wat partye by die geskil is en op die werknekmers en werkgewers wat lede van daardie verenigings of organisasies is: Met dien verstande dat indien so 'n toekenning 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling bevat, daardie bepaling nie bindend is nie totdat die Minister, nadat hy homself oortuig het dat op die datum waarop

(9) The provisions of this section shall *mutatis mutandis* apply to any agreement transmitted, 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-section (1), (2), (3), (4) or (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.

(10) (a) Notwithstanding anything to the contrary in this section contained, whenever the Minister is of opinion that the funds accumulated by an industrial council from contributions payable in terms of any provision of an agreement or award such as is referred to in paragraph (g) of sub-section (1) of section *twenty-four*, 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 the said contributions 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.

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

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

(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 standing at the date on which the relevant request under sub-section (1) was made;

(b) may, having regard to the nature of the undertaking, industry, trade or occupation and the situation 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

(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 the employers represented by the parties to the agreement have in their employ employees belonging to all such classes.

(12) For the purposes of paragraph (c) of sub-section (1) "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 or the area 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.

**49.** (1) Any award made under section *forty-five* or *forty-six* Effect of arbitration awards. 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 such award contains any provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four*, that provision shall not be binding until the Minister, after he has

die toekenning gemaak is, die getal werknemers in die beroep ten opsigte waarvan die bepaling van toepassing is, wat op daardie datum volwaardige lede van 'n in sodanige bepaling bedoelde vakvereniging was, meer was as die helfte van die totale getal werknemers in diens in sodanige beroep in die gebied waarin bedoelde bepaling van toepassing is, by die werkgewers wat partye by die geskil was of wat lede is van werkgewersorganisasies wat partye by die geskil was, by kennisgewing in die *Staatskoerant* bedoelde bepaling as bindend verklaar het.

(2) (a) Te eniger tyd nadat 'n toekenning gemaak is, kan die Minister die verbetering van 'n weglatting 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 wat ten opsigte van so 'n toekenning in die *Staatskoerant* gepubliseer is ingevolge enige bepaling van artikel *agt-en-veertig*, soos toegepas deur sub-artikel (12) van hierdie artikel, of ingevolge die voorbehoudsbepaling by sub-artikel (1) van hierdie artikel, geraak word deur so 'n verbetering of opklaring, laat die Minister 'n verdere kennisgewing in die *Staatskoerant* publiseer waarin die bepalings van sodanige verbetering of opklaring en die datum van wanneer af sodanige verbetering of opklaring 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 van wanneer af die toekenning bindend is, en sodanige datum kan die datum wees waarop die toekenning gemaak word of 'n vroeër of later datum wat vir hom of hulle billik voorkom: Met dien verstande dat—

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

(b) geen bepaling van 'n toekenning bindend gemaak word nie vanaf 'n datum vroeër as ses maande voor die datum waarop die toekenning gemaak word 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 van watter datum die jongste is; en

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

(4) Die bepalings van sub-artikels (5), (6) en (7) kan, na goeddunke van die Minister, toegepas word ten opsigte van die geheel of enige gedeelte van 'n toekenning, of ten opsigte van enige afdeling of gedeelte van die onderneming, nywerheid, bedryf of beroep ten opsigte waarvan die toekenning bindend is, of ten opsigte van enige gedeelte van die gebied waarin die toekenning bindend is.

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

(6) (a) In hierdie sub-artikel beteken—

„werknemers“ die werknemers en vakverenigings op wie 'n oorspronklike toekenning bindend is of sodanige getal van hulle as wat na die mening van die Minister voldoende verteenwoordigend is van die werknemers op wie die toekenning bindend is;

„werkgewers“ die werkgewers en werkgewersorganisasies op wie 'n oorspronklike toekenning bindend is of sodanige getal van hulle as wat na die mening van die Minister voldoende verteenwoordigend is van die werkgewers op wie die toekenning bindend is; en

satisfied himself that at the date on which the award was made, the number of employees in the occupations in respect of which the provision applies who were at that date members in good standing of a trade union referred to in such provision, was more than one half of the total number of employees employed in such occupations in the area in 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.

(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.

(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 which has in respect of such an award been published in the *Gazette* in terms of any provision of section *forty-eight* as applied by sub-section (12) of this section or in terms of the proviso to sub-section (1) of this section, is affected by any such correction or clarification, the Minister shall cause to be published in the *Gazette* a further notice setting forth the terms of such correction or clarification and the date from which such correction or clarification shall become binding upon the persons referred to in such first-mentioned 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 in respect of any section or portion of the undertaking, industry, trade or occupation in respect of which the award is binding, or in respect of 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 as from the date specified in such notice.

(6) (a) In this sub-section—

"employees" means the employees and trade unions upon whom an original award is binding or such number of them as are in the opinion of the Minister sufficiently representative of the employees upon whom the award is binding;

"employers" means the employers and employers' organizations upon whom an original award is binding or such number of them as are in the opinion of the Minister, sufficiently representative of the employers upon whom the award is binding; and

„oorspronklike toekenning“ 'n geldende toekenning wat ingevolge sub-artikel (1) of (11) bindend is en wat aldus bindend gewees het vir 'n tydperk van minstens vyftien maande.

- (b) Die werknemers of die werkgewers kan te eniger tyd die Minister in kennis stel van hul begeerte dat 'n oorspronklike toekenning moet ophou om op hulle bindend te wees.
- (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—
  - (i) indien daar geen nywerheidsraad is watregsbevoegdheid besit nie, om 'n versoeningsraad in te stel om die aangeleenthede wat die onderwerp van die toepaslike oorspronklike toekenning uitmaak, te oorweeg; of
  - (ii) indien die toepaslike oorspronklike toekenning bindend is op werknemers en werkgewers in sub-artikel (1) van artikel *ses-en-veertig* bedoel, om die nywerheidshof te gelas om 'n nuwe toekenning te maak.
- (d) Die werknemers of werkgewers wat 'n versoek kragtens of sub-paragraaf (i) of (ii) van paragraaf (c) kan doen, kan ook 'n versoek kragtens die alternatiewe sub-paragraaf doen mits die eerste versoek teruggetrek word.
- (e) Die werknemers of werkgewers wat die Minister ingevolge paragraaf (b) in kennis stel of wat 'n versoek kragtens paragraaf (c) doen, moet tegelykertyd bewys tot bevrediging van die Minister lewer dat 'n afskrif van die kennisgewing of versoek aan die ander partye op wie die toepaslike oorspronklike toekenning bindend is per geregistreerde pos gestuur of afgelewer is of dat die kennisgewing of versoek andersins onder die aandag van daardie partye gebring is.
- (f) Bedoelde werknemers of werkgewers moet aan die Minister enige nadere inligting wat hy vereis, binne die deur hom vasgestelde tydperk verstrek.
- (g) 'n Party wat kennis van 'n kennisgewing kragtens paragraaf (b) of van 'n versoek kragtens paragraaf (c) ontvang of geregtig is om dit te ontvang, kan skriftelik vertoe&gt; daaromtrent aan die Minister voorlē binne dertig dae vanaf die datum van die kennisgewing of versoek of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd 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 vertoe&gt; per geregistreerde pos gestuur of afgelewer is aan die werknemers of werkgewers wat die betrokke kennisgewing of versoek gedoen het of aan die persoon deur wie die kennisgewing of versoek namens hulle aan die Minister deurgestuur is.
- (h) 'n Werknemer of werkgewer wat 'n afskrif van die vertoe&gt; kragtens paragraaf (g) ontvang of geregtig is om 'n afskrif daarvan te ontvang, kan skriftelik 'n antwoord daarop aan die Minister voorlē binne dertig dae vanaf die datum van bedoelde vertoe&gt; of binne sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd 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 sodanige antwoord per aangetekende pos gestuur of afgelewer is aan elke party wat vertoe&gt; kragtens paragraaf (g) aan die Minister voorgelê het of aan die persoon deur wie die vertoe&gt; namens hom aan die Minister deurgestuur is. So 'n party is nie geregtig om verdere vertoe&gt; in antwoord op sodanige antwoord voor te lê sonder die voorafgaande goedkeuring van die Minister nie, maar die Minister kan na goedkeuring so 'n party uitnooi om binne die deur hom vasgestelde tydperk hom te voorsien van enige kommentaar wat hy verlang om te maak in antwoord op sodanige antwoord.
- (7) (a) Na oorweging van 'n kennisgewing kragtens paragraaf (b) van sub-artikel (6), enige nadere inligting verstrek, enige vertoe&gt; en antwoorde voorgelê kragtens en binne die tydperke voorgeskryf of vasgestel ingevolge paragrawe (f), (g) en (h) van daardie sub-artikel en enige ander aangeleenthede wat hy ter sake ag, kan die Minister na goedkeuring, indien geen versoek

"original award" means any current award which is binding in terms of sub-section (1) or (11) and has been so binding for a period of at least fifteen months.

- (b) The employees or the employers may at any time notify the Minister of their desire that an original award shall cease to be binding upon them.
- (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) if there is no industrial council in existence having jurisdiction, to establish a conciliation board to consider the matters which form the subject of the relevant original award; or
  - (ii) if the relevant original award is binding upon employees and employers referred to in sub-section (1) of section *forty-six*, to direct the tribunal to make a new award.
- (d) The employees or employers who may make a request under either 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 of such notification or request has been sent by registered post or delivered to the other parties on whom the original award is binding or that such notification or request has otherwise been brought to the notice of such parties.
- (f) The said employees or employers shall furnish the Minister with any further information he may require, within a period fixed by him.
- (g) Any party who receives or is entitled to receive notice of a notification under paragraph (b) or of 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 employees or employers who gave the notice or made the request concerned or to the person by whom such notice or request was transmitted to the Minister on their behalf.
- (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 who submitted representations to the Minister under paragraph (g) or to the person by whom such representations were transmitted to the Minister on his behalf. Any such party shall not be entitled to submit further representations in answer to such reply without the prior approval of the Minister, but the Minister may in his discretion invite any such party to furnish him with any comments it wishes to make in answer to such reply within the period fixed by him.
- (7) (a) After considering a notification under paragraph (b) of sub-section (6), any further information furnished, any representations and replies submitted under and within the periods prescribed or fixed in terms of paragraphs (f), (g) and (h) of that sub-section and any other matters which he considers relevant, the Minister may, in his discretion, if no request has been

ingevolge paragraaf (c) van daardie sub-artikel gedoen is nie, 'n kennisgewing in die *Staatskoerant* laat publiseer waarin verklaar word dat die betrokke oorspronklike toekenning ophou om bindend te wees vanaf 'n datum in sodanige kennisgewing vermeld.

- (b) Na oorweging van 'n kennisgewing kragtens paragraaf (b) van sub-artikel (6), enige versoek gedoen, enige nadere inligting verstrek, enige vertoe en antwoorde voorgelê kragtens en binne die tydperke voorgeskryf of vasgestel ingevolge paragrawe (c), (f), (g) en (h) van daardie sub-artikel en enige ander aangeleenthede wat hy ter sake ag, kan die Minister na goeddunke ðf—
  - (i) '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 waarin verklaar word dat die betrokke oorspronklike toekenning ophou om bindend te wees vanaf 'n datum in sodanige kennisgewing vermeld.

(8) Indien die Minister na aanleiding van 'n versoek kragtens sub-paragraaf (i) van paragraaf (c) van sub-artikel (6) die instelling van 'n versoeningsraad goedkeur, word sodanige versoeningsraad geag 'n versoeningsraad te wees wat kragtens artikel *vyf-en-dertig* ingestel is, en al die bepalings van hierdie Wet wat van toepassing is op 'n versoeningsraad wat kragtens bedoelde artikel ingestel is, 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 wat betrekking het op die onderneem van arbitrasies en die maak van toekennings deur die nywerheidshof *mutatis mutandis* van toepassing.

(10) Ondanks andersluidende bepalings in sub-artikel (6) vervat, kan die Minister op versoek van beide die werknemers en die werkgewers in paragraaf (a) van bedoelde sub-artikel bedoel, gedoen na die verstryking van die tydperk in bedoelde paragraaf bedoel, goedkeur dat die onderwerp van die betrokke oorspronklike toekenning na arbitrasie verwys word en daarop moet die arbitrasie onderneem word deur die arbiter of die arbiters en die skeidsregter of die nywerheidshof soos deur bedoelde werknemers en werkgewers ooreengekom word of, by ontstentenis van sodanige ooreenkoms binne een maand vanaf die datum van die Minister se goedkeuring, deur die nywerheidshof.

(11) (a) 'n Toekenning gemaak kragtens sub-artikel (9) of (10) of ingevolge 'n arbitrasie wat ontstaan uit verrigtinge kragtens sub-artikel (8), in hierdie sub-artikel die nuwe toekenning genoem, is, behoudens die bepalings van paragraaf (c), afdoende en bindend op die werknemers en werkgewers en die vakverenigings en werkgewersorganisasies op wie die betrokke oorspronklike toekenning bindend was anders dan as gevolg van die publikasie van 'n kennisgewing kragtens artikel *agt-en-veertig* soos toegepas deur sub-artikel (12) van hierdie artikel.

- (b) Die voorbehoudbepaling by sub-artikel (1) en die bepalings van sub-artikels (2) en (3) is *mutatis mutandis* van toepassing op 'n nuwe toekenning en by die toepassing van hierdie sub-artikel word die verwysing in paragraaf (b) van sub-artikel (3) na die datum waarop die geskil ontstaan het, geag 'n verwysing te wees na die datum van die kennisgewing kragtens paragraaf (b) van sub-artikel (6) of die datum van die versoek kragtens sub-artikel (10), na gelang van die geval.
- (c) Die betrokke oorspronklike toekenning hou op om bindend te wees met ingang van 'n datum vasgestel ingevolge sub-artikel (3) soos toegepas deur paragraaf (b) van hierdie sub-artikel op die nuwe toekenning: Met dien verstande dat waar verskillende datums ten opsigte van verskillende bepalings van die nuwe toekenning aldus vasgestel word, die bepalings van die oorspronklike toekenning ophou om bindend te wees op die onderskeie datums vasgestel ten opsigte van die ooreenstemmende bepaling van die nuwe toekenning.
- (d) Indien 'n kennisgewing ten opsigte van die betrokke oorspronklike toekenning in die *Staatskoerant*

made in terms of paragraph (c) of that sub-section, cause to be published in the *Gazette* a notice declaring that the original award concerned shall cease to be binding as from the date specified in such notice.

- (b) After considering a notification under paragraph (b) of sub-section (6), any request made, any further information furnished, any representations and replies submitted under and within the periods prescribed or fixed in terms of paragraphs (c), (f), (g) and (h) of that sub-section and any other matters which he considers relevant, the Minister may in his discretion either—
  - (i) 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
  - (ii) cause to be published in the *Gazette* a notice declaring that the original award concerned shall cease to be binding as from the date specified in such notice.

(8) If the Minister approves of the establishment of a conciliation board in pursuance of a request under sub-paragraph (i) of paragraph (c) of sub-section (6), such conciliation board shall be deemed to be a conciliation board established under section *thirty-five*, and all the provisions of this Act applying to a conciliation board established under the said section shall *mutatis mutandis* apply to that conciliation board.

(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.

(10) Notwithstanding anything to the contrary contained in sub-section (6), the Minister may at the request of both the employees and the employers referred to in paragraph (a) of the said sub-section, made after the expiry of the period referred to in the said paragraph, approve of the subject matter of the original award concerned being referred to arbitration and thereupon the arbitration shall be conducted by the arbitrator or the arbitrators and the umpire or the tribunal as agreed upon by the said employees and employers or, in the absence of such agreement within one month from the date of the Minister's approval, by the tribunal.

(11) (a) An award made under sub-section (9) or (10) or pursuant to any arbitration arising from proceedings under sub-section (8), in this sub-section referred to as the new award, shall, subject to the provisions of paragraph (c), be final and binding upon the employees and employers upon whom and the trade unions and employers' organizations upon which the original award concerned was binding otherwise than by reason of the publication of any notice under section *forty-eight* as applied by sub-section (12) of this section.

(b) The proviso to sub-section (1) and the provisions of sub-sections (2) and (3) shall *mutatis mutandis* apply to any new award and for the purposes of this sub-section the reference in paragraph (b) of sub-section (3) to the date on which the dispute came into existence shall be deemed to be a reference to the date of the notification under paragraph (b) of sub-section (6) or the date of the request under sub-section (10), as the case may be.

(c) The original award concerned shall cease to be binding with effect from the date fixed in terms of sub-section (3) as applied by paragraph (b) of this sub-section to the new award: Provided that where different dates are so fixed in respect of different provisions of the new award, the provisions of the original award shall cease to be binding as from the respective dates fixed in respect of the corresponding provisions of the new award.

(d) If a notice in respect of the original award concerned has been published in the *Gazette* in terms of any

publiseer is ingevolge 'n bepaling van artikel *agt-en-veertig*, soos toegepas deur sub-artikel (12) van hierdie artikel, laat die Minister 'n verdere kennisgewing in die *Staatskoerant* publiseer waarin uiteengesit word die datum of datums van wanneer af die oorspronklike toekenning of die verskillende bepalings daarvan ingevolge paragraaf (c) ophou om bindend te wees.

(12) Die bepalings van paragrawe (b) en (c) van sub-artikels (1) en (2) en sub-artikels (3), (5), (7), (11) en (12) van artikel *agt-en-veertig* is *mutatis mutandis* van toepassing op 'n in sub-artikel (1) of (11) van hierdie artikel bedoelde toekenning: Met dien verstande dat vir die doeleindes van 'n in bedoelde bepalings bedoelde versoek of oorlegpleging en vir die doel om die mate waarin die partye verteenwoordigend is te bepaal, die partye op wie die toekenning ingevolge sub-artikel (1) of (11) bindend is, geag word die betrokke nywerheidsraad of die partye by die ooreenkoms, na gelang van die geval, te wees, en die gebied waarin die toekenning bindend is, word geag die gebied ten opsigte waarvan die raad geregistreer is te wees: 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 van 'n versoek kragtens sub-artikel (1) van daardie artikel, soos toegepas deur hierdie sub-artikel, gewees het al dan nie.

Diverse bepalings  
ten opsigte van  
ooreenkoms en  
toekennings.

50. (1) Enige ooreenkoms of toekenning wat kragtens hierdie Wet bindend is op die lede van 'n werkgewersorganisasie of vakvereniging, is bindend op elke werkewer 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 daarna 'n lid geword het, gedurende die hele tydperk waarin sodanige ooreenkoms of toekenning bindend is op die lede van sodanige organisasie of vereniging, hetsy hy 'n lid van sodanige organisasie of vereniging bly al dan nie: Met dien verstande dat—

(a) 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling in sodanige ooreenkoms of toekenning opgeneem, 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

(b) in die geval van 'n werkewer of werknemer wat 'n lid word van sodanige organisasie of vereniging, na gelang van die geval, na die datum waarop die ooreenkoms of toekenning ingevolge 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*, of kragtens die een of die ander van bedoelde paragrawe soos toegepas deur sub-artikel (9) van artikel *agt-en-veertig* of deur sub-artikel (12) van artikel *nege-en-veertig*, gepubliseer, op hom bindend is vanaf die datum waarop hy 'n lid word.

(2) Indien 'n geskil deur 'n nywerheidsraad na arbitrasie verwys is, kan die toekenning, benewens die behandeling van enige aangeleenthede wat die onderwerp van die geskil uitgemaak het, voorsiening maak vir die administrasie daarvan deur sodanige raad en vir die betaling aan die raad van bydraes deur werkewers en werknemers tot die koste van die administrasie van die toekenning, of die bereiking van die oogmerke daarvan; en in daardie geval word sodanige toekenning by die toepassing van die eerste voorbehoudsbepaling by sub-artikel (2) van artikel *vier-en-dertig* en van artikel *een-en-vyftig* geag 'n ooreenkoms te wees wat deur partye by daardie raad aangegaan en ingevolge hierdie Wet bindend is.

Vrystellings en die  
uitsluiting van  
naturellegebied.

51. (1) Wanneer aansoek in die vorm en op die wyse voor- geskryf gedoen word om die vrystelling van enige persoon of klas van persone van almal of enigeen van die bepalings van 'n ooreenkoms aangegaan deur die partye by 'n versoeningsraad wat ingevolge hierdie Wet bindend is, of van almal of enigeen van die bepalings van 'n toekenning en die Minister van mening is dat—

(a) die bedinge en voorwaardes van diens van sodanige persoon of klas van persone vir hom of 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 swakheid ly en in staat is om alleen deel van die werk te verrig wat van 'n liggaamlik geskikte persoon vereis word; of

provision of section *forty-eight* as applied by sub-section (12) of this section, the Minister shall cause to be published in the *Gazette* a further notice setting forth the date or dates from which the original award or the different provisions thereof shall cease to be binding in terms of paragraph (c).

(12) The provisions of paragraphs (b) and (c) of sub-sections (1) and (2), and sub-sections (3), (5), (7), (11) and (12) of section *forty-eight* shall *mutatis mutandis* apply to an award referred to in sub-section (1) or (11) 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 upon whom the award is binding in terms of sub-section (1) or (11), 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.

**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 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

- (a) any provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* included in such agreement or award shall cease to be binding upon 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
- (b) 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 in terms of this Act, the agreement or award shall, subject to the provisions of any notice published under paragraph (b) or (c) of sub-section (1) of section *forty-eight*, or under either of the said paragraphs as applied by sub-section (9) of section *forty-eight* or by sub-section (12) of section *forty-nine*, be binding upon him from the date on which he becomes a member.

(2) If a dispute was referred to arbitration by an industrial council, the award may, in addition to dealing with any 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 for the purposes of the first proviso to sub-section (2) of section *thirty-four* and of section *fifty-one* be deemed to be an agreement entered into by parties to that council which is binding in terms of this Act.

**51.** (1) Whenever application is made in the prescribed form and manner for the exemption of any person or class of persons from all or any of the provisions of an agreement entered into by the parties to a conciliation board, which is binding in terms of this Act, or from all or any of the provisions of an award and the Minister is of opinion that—

Exemptions and the exclusion of native area.

- (a) the terms and conditions of employment of such person or class of persons are substantially not less favourable to him or 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

(c) besondere omstandighede bestaan wat in belang van sodanige persoon of klas van persone 'n vrystelling van daardie persoon of klas van persone kragtens hierdie artikel regverdig,  
kan hy, as hy dit raadsaam ag om dit te doen, vrystelling verleen van almal of enigeen van die bepalings van die betrokke ooreenkoms of toekenning aan of ten opsigte van daardie persoon of klas van persone vir sodanige tydperk en onderworpe aan sodanige bedinge en voorwaardes as wat hy bepaal. Die tydperk waarvoor vrystelling verleen word, kan op 'n datum begin vroeër as dié waarop vrystelling verleen word maar nie vroeër nie as die datum waarop aansoek ingevolge hierdie sub-artikel gedoen is.

(2) Die Minister kan, na goeddunke, van tyd tot tyd deur 'n deur hom ondertekende 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 enigeen van die bepalings van 'n ooreenkoms deur partye by 'n nywerheidsraad aangegaan en wat ingevolge hierdie Wet bindend is, kan by die betrokke nywerheidsraad gedoen word, of by enige komitee waaraan die bevoegdhede van die raad kragtens hierdie artikel ingevolge artikel *vyf-en-twintig* oorgedra is; en die bevoegdhede deur sub-artikel (1) aan die Minister verleent, kan *mutatis mutandis* deur sodanige raad of komitee uitgeoefen word.

(4) Die bedinge en voorwaardes van 'n vrystelling wat kragtens sub-artikel (1) of (3) verleent 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 gestuur word as wat die amptenaar of sekretaris, na gelang van die geval, nodig ag: Met dien verstande dat in plaas van sodanige sertifikaat die Minister die publikasie in die *Staatskoerant* kan magtig van 'n kennisgiving waarin die bedinge en voorwaardes van sodanige vrystelling ingelyf word; en in daardie geval moet die persoon of klas van persone aan of ten opsigte van wie, die tydperk waarvoor en die datum van wanneer af die vrystelling verleent word, in sodanige kennisgiving vermeld word.

(5) Enige persoon wat veronreg voel deur enige beslissing van 'n komitee—

(a) kragtens sub-artikel (3) op 'n aansoek om vrystelling; of

(b) kragtens sub-artikel (8) om 'n vrystelling terug 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 word, daardie beslissing bekratig 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 'n raad—

(i) kragtens sub-artikel (3) op 'n aansoek om vrystelling; of

(ii) kragtens sub-artikel (8) om 'n vrystelling terug te trek; of

(iii) op 'n appèl kragtens sub-artikel (5), kan te eniger tyd na die Minister teen daardie beslissing appelleer: Met dien verstande dat geen werkewer, werkewersorganisasie 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 besit nie, behalwe ten opsigte van 'n aansoek om vrystelling van 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling.

(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 vir sy beslissing te verskaf. Die Minister kan na oorweging van die redes wat deur die raad verskaf word en enige ander aangeleenthede wat hy ter sake beskou, daardie beslissing bekratig of sodanige ander beslissing gee as wat die raad na sy mening behoort te gegee het; en sodanige beslissing word by die toepassing van hierdie Wet geag die beslissing van die raad te wees.

(7) 'n Vrystelling wat kragtens hierdie artikel aan of ten opsigte van 'n persoon of klas van persone verleent word, word geag 'n werkewer wat daardie persoon of 'n lid van daardie klas van persone in diens neem, vry te stel van die toepaslike bepalings van die betrokke ooreenkoms of toekenning in die mate in die vrystellingsertifikaat vermeld, en die bedinge en voorwaardes

(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 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 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 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 is binding in terms of this Act may be made to the industrial council concerned, or to any committee to which the powers of the council under this section 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 incorporating the terms and conditions of such exemption; and in that event the person or class of persons to or in respect of whom, the period for and the date from which the exemption is granted, shall be specified in such notice.

(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 who or 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 such as is referred to in 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 or in respect of any person or class of persons under this section shall be deemed to exempt any employer who employs such person or a member of such class of persons, from the relevant provisions of the agreement or award concerned to the extent specified in the licence of exemption, and the terms and conditions incorporated in the

ingelyf in die vrystellingsertifikaat is bindend op die persoon of elke lid van die klas van persone aan of ten opsigte van wie vrystelling verleen is, en indien daardie persoon of 'n lid van daardie klas 'n werkneimer is, op elke persoon wat hom in diens neem.

(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 teruggetrek word; of
- (b) deur 'n amptenaar aan wie bevoegdhede aldus oorgedra is, kan te eniger tyd teruggetrek word deur daardie amptenaar of deur enige ander amptenaar aan wie bevoegdhede aldus oorgedra is; of
- (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 teruggetrek word; of
- (d) deur 'n komitee van 'n raad, 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 enige ander komitee waaraan die bevoegdheid deur sub-artikel (3) verleen ingevolge artikel *vyf-en-twintig* oorgedra is, of deur die raad teruggetrek word.

(9) By die toepassing van hierdie artikel beteken „klas van persone” ook sodanige groep of seksie of tipe van persoon as wat in die vrystellingsertifikaat 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 dienstyd of tipe van werk of tipe of klas van perseel of die gebied waarop of waarin werk verrig word, of enige ander metode wat raadsaam geag word, toegepas word.

(10) (a) Indien 'n persoon uitgesit word uit 'n vakvereniging of 'n werkgewersorganisasie op die lede waarvan 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling ingevolge hierdie Wet bindend is, is so 'n bepaling, behoudens die bepalings van hierdie sub-artikel, vir 'n tydperk van dertig dae vanaf die datum van sy bedoelde uitsetting of indien aansoek by die Minister ingevolge paragraaf (b) gedoen word, hangende die Minister se beslissing oor sodanige aansoek, nie ten opsigte van sodanige persoon bindend nie.

(b) Enigiemand wat lidmaatskap geweiер is van of uitgesit is uit 'n in paragraaf (a) bedoelde vakvereniging of werkgewersorganisasie, kan binne dertig dae vanaf die datum waarop hy van sodanige weiering of uitsetting in kennis gestel word, op die voorgeskrewe wyse by die Minister om 'n lasgewing ingevolge paragraaf (c) aansoek doen.

(c) Indien, na sodanige ondersoek as wat hy nodig ag, die Minister oortuig is dat die weiering of uitsetting wat die onderwerp van sodanige aansoek uitmaak onredelik was en dat die applikant as gevolg van sodanige weiering of uitsetting nadelig geraak word deur 'n in paragraaf (a) bedoelde bepaling, kan die Minister gelas dat so 'n bepaling, met ingang van die datum van sodanige lasgewing, nie ten opsigte van die applikant van toepassing is nie totdat hy tot lidmaatskap van 'n in paragraaf (a) bedoelde vakvereniging of werkgewersorganisasie toegelaat of her-toegelaat word.

(d) Die Minister kan te eniger tyd na goeddunke 'n lasgewing wat ingevolge paragraaf (c) gegee is, intrek.

(e) 'n Ampsdraer, beampete of lid van 'n vakvereniging of werkgewersorganisasie wat enige stap doen wat bereken is om 'n persoon se indiensneming deur of diens by 'n werkewer te verhoed of te beëindig terwyl sodanige indiensneming of diens deur of ingevolge hierdie sub-artikel toegelaat word, is aan 'n misdryf skuldig.

(11) (a) 'n Aansoek kragtens sub-artikel (1) of (3) om vrystelling van 'n in paragraaf (x) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde bepaling kan ook gedoen word deur 'n werkewer ten opsigte van werkemers of aanstaande werkemers op wie so 'n bepaling ingevolge hierdie Wet bindend is.

(b) Indien 'n werkewer uit 'n werkgewersorganisasie bedank het op die lede waarvan 'n in paragraaf (a)

licence of exemption shall be binding upon the person or every member of the class of persons to or in respect of whom the exemption was granted, and, if that person or any member of that class 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 committee 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 the area on or in which work is performed, or any other method which is deemed to be advisable may be applied.

(10) (a) If any person is expelled from a trade union or an employers' organization upon the members of which a provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* is binding in terms of this Act, any such provision shall, subject to the provisions of this sub-section, not be binding in respect of such person for a period of thirty days from the date of his said expulsion or if application is made to the Minister in terms of paragraph (b), pending the decision of the Minister on such application.

(b) Any person who has been refused membership of or has been expelled from any trade union or employers' organization referred to in paragraph (a), may within thirty days of the date on which he is notified of such refusal or expulsion, apply in the prescribed form to the Minister for a direction in terms of paragraph (c).

(c) If, after such enquiry as he deems necessary, the Minister is satisfied that the refusal or expulsion which forms the subject of such application was unreasonable and that the applicant is by reason of such refusal or expulsion adversely affected by a provision such as is referred to in paragraph (a), the Minister may direct that any such provision shall, with effect from the date of such direction, not apply in respect of the applicant until he is admitted or re-admitted to membership of a trade union or employers' organization such as is referred to in paragraph (a).

(d) The Minister may at any time in his discretion cancel any direction given in terms of paragraph (c).

(e) Any office-bearer, official or member of any trade union or employers' organization who takes any action which is calculated to prevent or terminate the employment of any person by any employer while such employment is permitted by or in terms of this sub-section, shall be guilty of an offence.

(11) (a) An application under sub-section (1) or (3) for exemption from a provision such as is referred to in paragraph (x) of sub-section (1) of section *twenty-four* may also be made by any employer in respect of employees or prospective employees upon whom such a provision is binding in terms of this Act.

(b) If any employer has resigned from an employers' organization upon the members of which a provision such as is referred to in paragraph (a) is binding in

bedoelde bepaling ingevolge hierdie Wet bindend is, is so 'n bepaling, behoudens die bepalings van hierdie sub-artikel, vir 'n tydperk van dertig dae vanaf die datum waarop hy opgehou het om 'n lid van so 'n organisasie te wees, nie ten opsigte van so 'n werkewer bindend nie, of indien aansoek ingevolge paraagraaf (a) binne bedoelde tydperk gedoen word, hangende die verstryking van 'n tydperk van dertig dae vanaf die datum waarop hy in kennis gestel word van—

- (i) 'n beslissing van die Minister kragtens sub-artikel (1) of (6); of
- (ii) 'n beslissing van 'n nywerheidsraad of 'n komitee daarvan kragtens sub-artikel (3) of (5) waarteen hy nie binne dertig dae vanaf die datum waarop hy van so 'n beslissing in kennis gestel word, geappelleer het nie.
- (c) 'n Ampsdraer, beampot of lid van 'n vakvereniging of werkgewersorganisasie wat enige stap doen wat bereken is om 'n persoon se indiensneming deur of diens by 'n werkewer te verhoed of te beëindig terwyl sodanige indiensneming of diens deur of ingevolge hierdie sub-artikel toegelaat word, is aan 'n misdryf skuldig.

(12) Wanneer die Minister beskou dat dit in belang sal wees van persone wat in 'n naturellegebied woonagtig is, dat enige ooreenkoms of toekenning nie in daardie gebied of ten opsigte van enige besondere klas van werk in daardie gebied van toepassing behoort te wees nie, kan hy, na goedunke, te eniger tye, 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 kennisgiving in die *Staatskōrant* daardie gebied of daardie besondere klas van werk in daardie gebied van die toepassing van daardie ooreenkoms of toekenning vir sodanige tydperk en onderworpe aan sodanige voorwaardes as wat hy goed dink, uitsluit.

**Bepalings van ooreenkoms, toekenning of vrystellingssertifikaat kan nie deur ooreenkoms verander word nie nog kan daarvan afstand gedaan 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 ingevolge hierdie Wet bindend is in werking getree het, of enige vrystellingssertifikaat uitgereik is, het die uitwerking dat dit die betaling aan enige werknemer van minder beloning as dié wat deur daardie ooreenkoms, toekenning of sertifikaat voorgeskryf word, of die toepassing op enige werknemer van enige behandeling of die toekenning aan hom van enige voordele wat vir hom minder gunstig is as die aldus voorgeskrewe behandeling of voordele, veroorloof nie, nog bewerkstellig dit 'n afstand deur enige werknemer van die toepassing van enige bepaling van daardie ooreenkoms, toekenning of sertifikaat op hom nie. Enige persoon wat 'n ooreenkoms aangaan wat so 'n betaling, toepassing of toekenning heet te veroorloof of om so 'n afstand heet te bewerkstellig, is aan 'n misdryf skuldig, en elke sodanige ooreenkoms is nietig.

(2) 'n Werkewer wat vereis of toelaat dat enige werknemer enige beloning aan hom betaal of terugbetaal wat kragtens enige ooreenkoms of toekenning wat ingevolge hierdie Wet bindend is of was, of kragtens enige vrystellingssertifikaat, of ooreenkomstig 'n lasgewing wat kragtens sub-artikel (1) van artikel *vyf-en-vyftig* gegee is aan daardie werknemer betaalbaar of betaal is, of enige handeling verrig of toelaat dat enige handeling verrig word waarvan 'n regstreekse of onregstreekse gevolg is dat daardie werknemer die voordeel of enige gedeelte van die voordeel van enige aldus betaalde beloning ontnem word, is aan 'n misdryf skuldig.

(3) 'n Werkewer wat vereis of toelaat dat 'n werknemer 'n kwitansie uitreik vir of andersins voorgee dat hy ontvang het, meer as wat hy werklik by wyse van beloning ontvang het, is aan 'n misdryf skuldig.

(4) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing ten opsigte van enige bepaling van enige ooreenkoms of toekenning met betrekking tot enigeen van die in paraagraaf (p) van sub-artikel (1) van artikel *vier-en-twintig* bedoelde aangeleenthede en ten opsigte van enige principaal of aannemer of ander persoon op wie daardie bepaling kragtens hierdie Wet bindend is of was.

terms of this Act, such provision shall, subject to the provisions of this sub-section, not be binding in respect of such employer for a period of thirty days from the date on which he ceased to be a member of such organization, or if application is made in terms of paragraph (a) within the said period, pending the expiry of a period of thirty days from the date on which he is notified of—

- (i) any decision of the Minister under sub-section (1) or (6); or
- (ii) any decision of an industrial council or a committee thereof under sub-section (3) or (5) against which he has not appealed within a period of thirty days from the date on which he was notified of such decision.
- (c) Any office-bearer, official or member of any trade union or employers' organization who takes any action which is calculated to prevent or terminate the employment of any person by any employer while such employment is permitted by or in terms of this sub-section, shall be guilty of an offence.

(12) 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 conciliation board has been discharged, with the parties who were represented on the conciliation 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 in terms of 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 any 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 every such agreement shall be void.

Provisions of  
agreement,  
award or licence of  
exemption cannot  
be varied by agree-  
ment 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 any principal or contractor or other person upon whom that provision is or was binding under this Act.

Versuim om aan bepalings van ooreenkoms, toekekening, vrystellingsertifikaat of bevel te voldoen.

53. (1) Iemand wat 'n bepaling van 'n ooreenkoms, toekekening of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is of 'n bevel uitgevaardig kragtens sub-artikel (4) van artikel *drie-en-veertig* of kragtens bedoelde sub-artikel soos toegepas deur paragraaf (d) van sub-artikel (6) van artikel *ses-en-veertig* (in hierdie artikel 'n bevel genoem) oortree, of versuim om daarana te voldoen, is aan 'n misdryf skuldig.

(2) Indien die veroordeelde persoon 'n werkewer was en die misdryf bestaan het uit die oortreding van, of versuim om te voldoen aan, 'n bepaling van so 'n ooreenkoms, toekekening, vrystellingsertifikaat of bevel 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 vrystellingsertifikaat of 'n bevel, 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, moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is 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, of die betrokke werknemer ingestem het of nie ingestem het nie, om minder te ontvang as die beloning, wat hy kragtens die bepalings van die betrokke ooreenkoms, toekekening, vrystellingsertifikaat of bevel geregtig was om te ontvang, en, indien hy aldus ingestem het, of hy bewus was of nie bewus was nie, van sy regte kragtens daardie bepalings, en, indien hy van daardie regte bewus was, die omstandighede waarin 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 die 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 bestaan het uit die oortreding van, of versuim om te voldoen aan, 'n bepaling van so 'n ooreenkoms, toekekening of vrystellingsertifikaat met betrekking tot die gee van kennis by beëindiging van diens en sodanige ooreenkoms, toekekening of vrystellingsertifikaat voorsiening maak vir die betaling of verbeuring deur 'n werknemer van 'n bedrag in plaas van kennisgewing, moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is tussen enige bedrag wat hy betaal of verbeur het en die bedrag wat hy ingevolge die toepaslike bepaling van die ooreenkoms, toekekening of vrystellingsertifikaat moes betaal of verbeur 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 die 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, toekekening of vrystellingsertifikaat 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 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 werkewer 'n geleentheid gee om getuienis voor te lê aangaande die onderbetaalde bedrag en die omstandighede waarin 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 (b) van sub-artikel (1) van artikel *twee-en-tigtig*, moet die maksimum bedrag van die geldboete waarmee di

53. (1) Any person who contravenes or fails to comply with any provision of any agreement, award or licence of exemption binding upon him in terms of this Act or with any order made under sub-section (4) of section *forty-three* or under the said sub-section as applied by paragraph (d) of sub-section (6) of section *forty-six* (in this section referred to as an order), shall be guilty of an offence.

(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, licence of exemption or order relating—

(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 or an order, 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*,

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, licence of exemption or order 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 in which he so agreed: 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 the 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. 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 consisted of the contravention of or failure to comply with any provision of any such agreement, award or licence of exemption relating to the giving of notice upon termination of employment and such agreement, award or licence of exemption 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 of exemption: 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 the 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 of exemption shall 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 sections *fifty-four* and *fifty-six* referred to as the amount to be paid.

(4) The court shall, when acting under sub-section (2), give to the employer an opportunity of submitting evidence regarding the amount underpaid and the circumstances in 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 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 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 (b) of sub-section (1) of section *eighty-two* the maximum amount of the fine to which the person convicted

Failure to observe provisions of agreement, award, licence of exemption or order.

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 wye was nie.

(8) (a) 'n Werkewer wat deur die by regulasie bepaalde inspekteur of die nywerheidsraad watregsbevoegdheid besit skriftelik in kennis gestel word dat enige gelde soos deur sodanige inspekteur of nywerheidsraad vasgestel aan 'n persoon deur daardie werkewer betaalbaar is ingevolge 'n ooreenkoms, toekennings, vrystellingssertifikaat of bevel wat kragtens hierdie Wet bindend is of was en wat erken dat die gelde aldus vasgestel aldus betaalbaar is, kan die gelde betaal aan bedoelde inspekteur of nywerheidsraad, na gelang van die geval, vir betaling aan die persoon wat daarop geregtig is.

(b) Indien enige gelde aldus betaal aan die by regulasie bepaalde inspekteur of die nywerheidsraad by die verstryking van 'n tydperk van ses maande vanaf die datum van ontvangs daarvan nie aan die persoon wat daarop geregtig is betaal is nie, moet die betrokke inspekteur of nywerheidsraad onverwyld daardie gelde aan die Sekretaris van Arbeid deurstuur vir inbetaling in die Gekonsolideerde Inkomstefonds.

(c) Op aansoek van die Sekretaris van Arbeid gedoen te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van inbetaling in die Gekonsolideerde Inkomstefonds kragtens paragraaf (b), moet die betrokke gelde terugbetaal word aan die Sekretaris van Arbeid vir betaling aan die persoon wat daarop geregtig is.

**Bevel aan werkewer 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 misdryf kragtens sub-artikel (1) van artikel *drie-en-vyftig*, 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 bepaal 'n bedrag wat gelykstaan aan die aldus vasgestelde bedrag aan 'n deur die hof aangewese amptenaar (hieronder die aangewese amptenaar genoem) te betaal by wyse van paaiememente of andersins, soos deur die hof bepaal.

(2) Die hof kan te eniger tyd op aansoek van 'n inspekteur, of van 'n werknemer of werkewer aan wie 'n bedrag ingevolge sub-artikel (1) of (2) van artikel *vyf-en-vyftig* betaalbaar is, of van die veroordeelde persoon, indien goeie redes aangevoer word, die tydperk waarin so 'n bedrag aan die aangewese amptenaar betaal moet word, verminder of verleng, of die bedrae van die paaiememente 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 uitgevoer word asof dit 'n siviele vonnis ten gunste van die Regering van die Unie was.

(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.

**Beskikkings oor 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 werkewer uitgevaardig word, moet die hof wat die bevel uitvaardig, gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar betaal word as wat die hof billik ag, met inagneming van die omstandighede waarin die oortreding of versuim plaasgevind het, betaal word aan die werknemer 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, toekennings of vrystellingssertifikaat 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 gelas dat die hele bedrag wat aldus aan die aangewese amptenaar betaal word, aan daardie werknemer betaal moet word;

shall be liable in terms of that section shall be increased to an 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.

- (8) (a) Any employer who is notified in writing by the inspector defined by regulation or the industrial council having jurisdiction that any moneys as determined by such inspector or industrial council are payable to any person by such employer in terms of any agreement, award, licence of exemption or order which is or was binding in terms of this Act and who admits that the moneys so determined are so payable may pay such moneys to the said inspector or industrial council, as the case may be, for payment to the person entitled thereto.
- (b) If any moneys so paid to the inspector defined by regulation or the industrial council have at the expiry of a period of six months as from the date of receipt thereof not been paid to the person entitled thereto, the inspector or industrial council concerned shall forthwith transmit such moneys to the Secretary for Labour for payment into the Consolidated Revenue Fund.
- (c) On the application of the Secretary for Labour made at any time within a period of three years from the date of payment into the Consolidated Revenue Fund under paragraph (b) the moneys concerned shall be refunded to the Secretary for Labour for payment to the person entitled thereto.

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 the amount 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 instalments or otherwise as determined by the court.

Order upon employer or employee to pay to 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 in 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 of exemption 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) as die hof, met inagneming van die omstandighede waarin die oortreding of versuim plaasgevind het, dit billik ag om dit te doen, die hof, behalwe in die in paragraaf (a) bedoelde omstandighede, kan gelas dat geen gedeelte van die bedrag wat aldus aan die aangewese amptenaar betaal word aan die betrokke werknemer betaal moet word nie;
- (c) as die hof gelas dat 'n gedeelte van die bedrag wat aldus aan die aangewese amptenaar betaal word, aan die betrokke werknemer betaal moet word, daardie gedeelte minstens een-vierde daarvan moet wees.

(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 uitvaardig, gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar betaal word as wat die hof billik ag, met inagneming van die omstandighede waarin die oortreding of versuim plaasgevind het, betaal moet word aan die werkgever ten opsigte van wie die oortreding of versuim plaasgevind het.

(3) Daardie gedeelte van die bedrag aldus aan die aangewese amptenaar betaal, wat nie ingevolge sub-artikel (1) of (2) aan die betrokke werknemer of werkgever betaalbaar is nie, moet in die Gekonsolideerde Inkomstefonds inbetaal word.

(4) Die hele bedrag wat aan die aangewese amptenaar betaal word ooreenkomsdig 'n bevel wat kragtens artikel *vier-en-vyftig* teen 'n werkgever uitgevaardig 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 inbetaal word: Met dien verstande dat as die werkgever 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 is ten opsigte van daardie gedeelte 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.

(5) Die bepalings van paragrawe (b) en (c) van sub-artikel (8) van artikel *drie-en-vyftig* is *mutatis mutandis* van toepassing ten opsigte van enige geldie wat aan 'n aangewese amptenaar betaal word en wat ingevolge sub-artikel (1) of (2) aan 'n werknemer of werkgever betaalbaar is.

**Reg van werknemer of werkgever om deur siviele stappe te verhaal; in hoeverre deur Wet geraak.**

56. (1) Indien iemand skuldig bevind is aan 'n misdryf kragtens sub-artikel (1) van artikel *drie-en-vyftig*, 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 werkgever (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 werkgever of werknemer te verhaal nie, maar is hy geregtig om ten opsigte van bedoelde bedrag alleen die geldie te ontvang wat die hof ingevolge sub-artikel (1) of (2) van artikel *vyf-en-vyftig* gelas aan hom betaal moet word uit die geldie wat aan die aangewese amptenaar betaal word ingevolge 'n bevel kragtens artikel *vier-en-vyftig* uitgevaardig.

(2) Behoudens die bepalings van sub-artikel (3), maak die bepalings van artikels *drie-en-vyftig*, *vier-en-vyftig* of *vyf-en-vyftig* of van sub-artikel (1) van hierdie artikel geen inbreuk nie op enige reg wat enige werknemer besit om deur siviele geregtelike stappe op sy werkgever te verhaal—

(a) waar sy werkgever, of die bestuurder, agent of werknemer van sy werkgever skuldig bevind is aan '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 wat bo die onderbetaalde bedrag kragtens 'n ooreenkoms tussen hom en sy werkgever aan hom verskuldig is;

(b) waar nog sy werkgever nog die bestuurder, agent of werknemer van sy werkgever aldus skuldig bevind is, enige bedrag wat sy werkgever kragtens die bepalings van 'n ooreenkoms, toekenning of vrystellingsertifikaat wat ingevolge hierdie Wet op sy werkgever bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkgever verplig is om aan hom te betaal.

(3) 'n Werknemer aan wie sy werkgever nie die volle beloning wat hy behoort te betaal het ingevolge enige ooreenkoms, toekenning of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is of was of ingevolge 'n in sub-artikel (1) van artikel *drie-en-vyftig* bedoelde bevel, betaal het nie, is nie geregtig

- (b) if the court, having regard to the circumstances in 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, having regard to the circumstances in 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 so paid to the specified officer as is not, in terms of sub-section (1) or (2), payable 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 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.

(5) The provisions of paragraphs (b) and (c) of sub-section (8) of section *fifty-three* shall *mutatis mutandis* apply in respect of any moneys paid to a specified officer which in terms of sub-section (1) or (2) are payable to any employee or employer.

**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 in terms of 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 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 in terms of 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 in terms of this Act or in terms of any order such as is referred to in sub-section (1) of section *fifty-three*, shall not be entitled to recover from his employer by civil legal

tig om deur middel van siviele geregtelike stappe die aa hom onderbetaalde bedrag of 'n gedeelte van daardie bed ag op sy werkgever te verhaal nie, tensy—

- (a) die werknemer aan die hof 'n sertifikaat voorlê onderteken deur die Prokureur-generaal van die provinsie waarin die regssgebied van die hof geleë is, of in geval daardie regssgebied binne die regssgebied van die Plaaslike Afdeling Oostelike Distrikte van die Hoogereghof van Suid-Afrika geleë is, deur die Sollisiteur-generaal, waarin gemeld word dat hy weier om te vervolg ten opsigte van die oortreding of versuim waarop die werknemer voornemens is om die grond van aksie te baseer; of
- (b) die werkgever of die bestuurder, agent of werknemer van die werkgever op 'n aanklag weens daardie oortreding of versuim vrygespreek is.

(4) Die bepalings van paragraaf (a) van sub-artikel (2) en van sub-artikel (3) is *mutatis mutandis* van toepassing op die reg van 'n werkgever om deur siviele geregtelike stappe enige bedrag wat die werknemer ingevolge 'n ooreenkoms, toekenning of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkgever, aan sy werkgever behoort te betaal het in plaas van kennisgewing van diensbeëindiging, of enige gedeelte van daardie bedrag, op sy werknemer te verhaal.

**Aantekeninge  
deur werkgewers,  
principale en  
aannemers gehou  
te word.**

57. (1) Elke werkgever op wie 'n ooreenkoms of toekenning ingevolge hierdie Wet bindend is, wat betrekking het op beloning wat betaal moet word, tyd wat gewerk moet word, of sodanige ander besonderhede as 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 werkgever kan magtig om aantekeninge in 'n ander vorm te hou mits die aantekeninge wat in daardie ander vorm gehou word na die mening van die inspekteur hom in staat sal stel om daaruit die vereiste besonderhede te wete te kom.

(2) Wanneer 'n ooreenkoms of toekenning wat die skale waarteen, die grondslag waarop, of die beginsels waarvolgens, betaling deur 'n principaal of aannemer gemaak moet word aan enige persoon aan wie werk op kontrak uitgegee word deur daardie principaal of aannemer vir daardie werk, bindend is op 'n principaal of aannemer, moet elke sodanige principaal of aannemer, hetsy hy 'n werkgever is in, of betrokke is by die betrokke onderneming, nywerheid, bedryf of beroep, al dan nie, te alle tye aantekeninge hou van betalings wat deur hom gemaak is aan enige persoon aan wie hy aldus werk op kontrak uitgegee het en van sodanige ander besonderhede as 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 principaal of aannemer ontvang ten opsigte van sodanige werk en van sodanige ander besonderhede as wat voorgeskryf word.

(3) Elke persoon wat ingevolge sub-artikel (1) of (2) 'n aantekening van 'n gebeurtenis moet hou, moet daardie aantekening behou vir 'n tydperk van drie jaar na daardie gebeurtenis plaasgevind het, en moet op versoek van 'n inspekteur te eniger tyd binne bedoelde tydperk van drie jaar gedoen, bedoelde aantekening vir insae voorlê.

(4) Die bepalings van sub-artikel (3) is *mutatis mutandis* van toepassing ten opsigte van aantekeninge wat ingevolge artikel *sewe-en-vyftig* van die Nywerheid-versoeningswet, 1937 (Wet 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 na die Minister appelleer, en die Minister kan die beslissing van die inspekteur bekratig of 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 versuim om aan enigeen van die bepalings 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 werkgever  
aangeplak te  
word.**

58. (1) Elke werkgever op wie 'n ooreenkoms of toekenning ingevolge hierdie Wet bindend is, moet op 'n in die oog vallende plek op sy perseel deur hom bepaal te word en op sodanige ander plekke op sy perseel as wat 'n inspekteur van tyd tot tyd

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 of exemption 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 in terms of 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 em-  
ployers, principals  
and contractors.

(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 in terms of sub-section (1) or (2) is required to keep a record of any event, shall retain such record 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 purposes 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 in terms of 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 Notices to be  
posted by em-  
ployer.

aanwys, kennisgewings in die voorgeskrewe vorm, in leesbare letters, in beide amptelike tale van die Unie, aanheg en aangeheg hou wat—

- (a) die voorgeskrewe opsommings van of uittreksels uit die bepalings van hierdie Wet bevat;
- (b) die amptelike adres van die by regulasie bepaalde inspekteur en, in die geval van 'n werkewer wat 'n party by 'n nywerheidsraad is of 'n lid is van 'n werkewersorganisasie 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 bepalings daarvan bevat as wat in daardie ooreenkoms of toekenning voorgeskryf word; en
- (d) as die ooreenkoms of toekenning enige verwysing na beloning bevat, die dag van die week of datum waarop, en die tyd wanneer en die plek waar beloning gewoonlik elke week of maand, na gelang van die geval, betaal sal word, vermeld.

(2) 'n Werkewer wat versuim om aan enigeen van die bepalings van hierdie artikel te voldoen, is aan 'n misdryskuldig.

59. (1) Elke werkewer op wie 'n ooreenkoms of toekenning ingevolge hierdie Wet bindend is, moet—

- (a) binne een maand vanaf die datum waarop die ooreenkoms of toekenning op hom bindend geword het, en, ingeval hy na die publikasie kragtens artikel *agt-en-veertig*, of kragtens daardie artikel soos toegepas deur artikel *nege-en-veertig*, van die kennisgewing uit hoofde 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 verklaring verstrek in die voorgeskrewe vorm waarin sy volle naam en, indien die werkewer 'n venootskap is, die volle name van al die vennote, en, indien die werkewer 'n maatskappy is, die volle name van sy sekretaris en sy direkteure en bestuurders, die naam waaronder en die adres of adresse waar hy besigheid dryf, en sodanige ander inligting as wat voorgeskryf word, uiteengesit word: Met dien verstande dat as 'n ooreenkoms of toekenning deur 'n verdere ooreenkoms of toekenning vervang word 'n werkewer wat in besit is van 'n geldende registrasiesertifikaat wat kragtens hierdie artikel uitgereik is, geag word aan die bepalings van hierdie sub-artikel te voldoen het;
- (b) in die geval van 'n verandering in die naam waaronder, of die adres of adresse waar besigheid gedryf word, of onder die vennote, of, as die werkewer 'n maatskappy is, van sy sekretaris of onder sy direkteure of bestuurders of in die geval van die sekwestrasie van die werkewer se boedel, of, as die werkewer 'n maatskappy is, van die likwidasie 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, likwidasie, oordrag, verlating, verkryging of begin, 'n skriftelike verklaring in die voorgeskrewe vorm verstrek waarin volledige besonderhede van die verandering, sekwestrasie, likwidasie, oordrag, verlating, verkryging of begin, na gelang van die geval, uiteengesit word.

(2) By ontvangs van die in paragraaf (a) van sub-artikel (1) bedoelde verklaring, moet die inspekteur 'n registrasiesertifikaat in die voorgeskrewe vorm aan die werkewer uitrek: Met dien verstande dat so 'n sertifikaat nie uitgereik mag word nie aan 'n werkewer teen wie 'n bevel kragtens artikel *vier-en-yyftig* van hierdie Wet, artikel *vier-en-vyftig* van die Nywerheid-versoeningswet, 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 Naturellebouwers, 1951 (Wet No. 27 van 1951), of artikel *sesien* van die Wet op Natuelle-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, met inagneming van enige verlenging of verandering ingevolge die toepaslike bepaling toegestaan, volgens daardie bevel, op of voor daardie datum aan 'n aangewese amptenaar moet betaal, aldus betaal is.

(3) Indien die inspekteur vanweë die voorbehoudsbepaling by sub-artikel (2) nie by magte is om 'n registrasiesertifikaat aan 'n werkewer uit te reik nie, moet hy die werkewer van

#### Registrasie van werkewers.

may from time to time direct, notices in the prescribed form, in legible characters, in both official languages of the Union—

- (a) containing the prescribed summaries 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 in terms of this Act shall— Registration of employers.

- (a) within one month of the date on which the 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 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 or the address or addresses at which business is carried on, or among the partners, or, if the employer is a company, of its secretary or among its directors or managers, or in the event of the sequestration of the employer's 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

daardie feit in kennis stel by skriftelike kennisgewing wat afgelewer kan word aan hom of aan enige persoon wat blybaar woonagtig of in diens is by die adres waar, volgens die jongste inligting deur die werkewer ingevolge sub-artikel (1) verstrek, die werkewer besigheid dryf of wat gepos kan word per aangetekende brief gerig aan die werkewer in die naam waaronder en na die adres waar hy volgens bedoelde inligting besigheid dryf.

(4) Indien 'n werkewer wat die houer is van 'n geldende registrasiesertifikaat kragtens hierdie artikel uitgereik versuim 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, met inagneming van 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 intrek en hom aansê om die sertifikaat aan hom terug te besorg. Elke sodanige kennisgewing kan op die in sub-artikel (3) voorgeskrewe wyse afgelweer of gepos word.

(5) Die persoon aan wie 'n kennisgewing kragtens 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) ingetrek is, te eniger tyd aan die aangewese amptemaar 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 bepalings van sub-artikel (1), geregtig op die uitreiking aan hom van 'n nuwe registrasiesertifikaat.

(7) Op aansoek van enige persoon aan wie vanweë die voorbehoudsbepaling by sub-artikel (2) nie 'n sertifikaat uitgereik is nie, of wie se registrasiesertifikaat ingevolge sub-artikel (4) ingetrek is, kan die Minister te eniger tyd, na goeddunke, en as goeie redes aangevoer word, gelas dat 'n sertifikaat aan hom uitgereik word, onderworpe aan die voorwaardes wat die Minister oplê: Met dien verstande dat indien daar 'n nywerheidsraad bestaan ten opsigte van die onderneming, 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 Werkewer wat die houer is van 'n geldende registrasiesertifikaat kragtens artikel *nege-en-vyftig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), uitgereik, 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 moet nagekom word en is van toepassing ten opsigte van elke afsonderlike ooreenkoms of toekenning wat ingevolge hierdie Wet op 'n werkewer bindend is.

(10) 'n Werkewer op wie 'n ooreenkoms of toekenning ingevolge hierdie Wet bindend is en wat—

- (a) versuim om aan enige van die bepalings van sub-artikel (1) of (5) te voldoen; of
- (b) na verstryking van die toepaslike tydperk bedoel in paragraaf (a) van sub-artikel (1), besigheid dryf sonder dat hy aan die vereistes van daardie sub-artikel 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 vanweë die voorbehoudsbepaling by sub-artikel (2), of die registrasiesertifikaat aan hom uitgereik ingevolge sub-artikel (4) ingetrek 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 kragtens hierdie Wet aanstel.

(2) Aan elke inspekteur aldus aangestel moet 'n sertifikaat verskaf word wat onderteken is deur 'n amptenaar wat deur die Minister daartoe aangewys is, en waarin gemeld word dat hy as 'n inspekteur kragtens hierdie Wet 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

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 subsection (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 by reason of the proviso to sub-section (2) or whose certificate of registration has been cancelled 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 in terms of this Act.

(10) Any employer upon whom any agreement or award is binding in terms of 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 by reason of the proviso to sub-section (2), or has in terms of sub-section (4) cancelled the certificate of registration issued to him,
- shall be guilty of an offence.

**60.** (1) The Minister may, subject to the laws governing the Appointment of public service, appoint any person as an inspector under this Act.

(2) Every inspector so appointed 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

artikel aangestel te gewees het en 'n sertifikaat wat aan so 'n inspekteur ingevolge sub-artikel (2) van daardie artikel of ingevolge artikel *dertien* van die Nywerheids-Versoeningswysigingswet, 1930 (Wet No. 24 van 1930), verskaf is, word geag 'n sertifikaat te wees wat aan hom ingevolge hierdie artikel verskaf is.

**Bevoegdhede van inspekteurs.**

61. (1) 'n Inspekteur kan te eniger tyd sonder voorafgaande 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 van so 'n persoon vereis om daar en dan, of op 'n tyd en plek wat die inspekteur bepaal, alle boeke en stukke voor te lê wat op of in die perseel of in besit of bewaring of onder beheer van enige werkewer deur wie die perseel geokkupeer of gebruik word, of van enige werknemer van daardie werkewer, is of was, of kan te eniger tyd en op enige plek van iemand wat 'n boek of stuk betreffende die besigheid van enige persoon wat 'n werkewer is of was, in sy besit of bewaring of onder sy beheer het, die voorlegging daar en dan of op 'n tyd en plek deur die inspekteur bepaal, van daardie boek of stuk eis, en kan al sulke boeke en stukke ondersoek en uittreksels daaruit en afskrifte daarvan maak, en kan 'n uitleg vorder van enige inskrywings in sulke boeke of stukke en kan beslag lê op sulke boeke of stukke wat na sy oordeel bewys kan lewer van 'n misdryf ingevolge hierdie Wet. 'n Inspekteur kan 'n tolk of ander assistent of enige lid van 'n polisiemag met hom in of op 'n perseel saamneem.

(2) 'n Werkewer 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 deur die inspekteur vereis word 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 daaromtrent te doen.

(3) 'n Inspekteur kan van 'n werknemer vereis om enige houer waarin geld wat by wyse van beloning aan hom betaal is of moet word, gehou is of word, en enige staat wat aangaande die betaling deur sy werkewer aan hom verstrek 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, en kan daardie werknemer daar en dan ondervra.

(5) 'n Inspekteur kan van 'n werkewer 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 enigiemand 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 werkewer verleen word.

(7) 'n Inspekteur wat 'n bevoegdheid uitoefen of 'n plig uitvoer wat deur hierdie Wet aan hom verleent of opgelê word, moet op aanvraag die sertifikaat vertoon wat ingevolge artikel *dertien* van die Nywerheids-Versoeningswysigingswet, 1930 (Wet No. 24 van 1930), of 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.

(8) Enigiemand wat valslik voorgee dat hy 'n inspekteur is, is aan 'n misdryf skuldig.

(9) Enigiemand wat—

- (a) weier of versuim om enige vraag wat 'n inspekteur by die uitoefening van sy werksaamhede aan hom gestel het, na die beste van sy vermoë te beantwoord;
  - (b) weier of versuim om na die beste van sy vermoë aan 'n vereiste deur 'n inspekteur by die uitoefening van sy werksaamhede gestel, te voldoen; of
  - (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, terwyl hy optree kragtens die wettige bevele 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.

62. (1) Die Minister kan, op versoek van 'n nywerheidsraad, en na goedgunke, enige deur die raad benoemde persoon wat, na die mening van die Minister, bedrewe is in die gebruik van beide die amptelike tale, as 'n aangewese agent van die raad

any certificate furnished to any such inspector in terms of sub-section (2) of that section or in terms of section *thirteen* of the Industrial Conciliation Amendment Act, 1930 (Act No. 24 of 1930), shall be deemed to be a certificate furnished to him in terms of 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.

(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 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 *thirteen* of the Industrial Conciliation (Amendment) Act, 1930 (Act No. 24 of 1930), or 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, who, in the opinion of the Minister, is proficient in the use of both official languages, as a designated agent of the councils.

Appointment and  
powers of de-  
signated agents  
of industrial  
councils.

aanstel om die raad behulpsaam te wees by die uitoefening van sy werkzaamhede, met inbegrip van die toepassing van enige ooreenkoms of toekenning wat ingevolge hierdie Wet bindend is.

(2) Aan elke aangewese agent van 'n nywerheidsraad aldus aangestel moet 'n deur die registrateur ondertekende sertifikaat verskaf word waarin gemeld word dat hy kragtens hierdie Wet as 'n aangewese agent van daardie raad aangestel is.

(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 het en 'n sertifikaat wat aan so 'n aangewese agent ingevolge sub-artikel (2) van daardie artikel verskaf is, word geag 'n sertifikaat te wees wat aan hom ingevolge hierdie artikel verskaf is.

(4) 'n Aangewese agent van 'n nywerheidsraad besit, ten opsigte van die onderneming, nywerheid, bedryf of beroep en in die gebied ten opsigte waarvan daardie raad geregistreer is en in 'n gebied waarin enigeen van die bepalings van 'n ooreenkoms van die raad bindend is ingevolge 'n kennisgewing gepubliseer kragtens paragraaf (c) van sub-artikel (1) van artikel *agt-en-veertig*, al die bevoegdhede wat deur artikel *een-en-sestig* aan 'n inspekteur verleen word en die bepalings van daardie artikel is *mutatis mutandis* van toepassing op die uitoefening van daardie bevoegdhede deur 'n aangewese agent.

(5) Die Minister kan te eniger tyd, om 'n rede wat na sy mening voldoende is, by 'n deur die registrateur ondertekende kennisgewing aan 'n nywerheidsraad, die sertifikaat wat ingevolge sub-artikel (2) of sub-artikel (2) van artikel *twee-en-sestig* van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), 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 onverwyld bedoelde sertifikaat aan die registrateur terugbesorg.

(6) Enigiemand wat valslik voorgee dat hy 'n aangewese agent van 'n nywerheidsraad is, is aan 'n misdryf skuldig.

(7) Die bepalings van hierdie artikel raak op generlei wyse die reg van 'n nywerheidsraad om enigiemand 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 bevoegdhede 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.

#### **Registrasie en reëling van private registrasiekantore.**

63. (1) Niemand mag 'n private registrasiekantoor hou of dryf nie, of voorgee dat hy 'n private registrasiekantoor hou of dryf nie, of vir of in verband met die vind van werk deur 'n private registrasiekantoor enige betaling of beloning vorder of invorder nie, tensy daardie private registrasiekantoor kragtens hierdie Wet geregistreer is.

(2) Aansoek om die registrasie van 'n private registrasiekantoor moet in die voorgeskrewe vorm by die registrateur gedoen word en die registrateur kan na goeddunke die aansoek toestaan en aan die applikant 'n registrasiesertifikaat uitreik vir sodanige tydperk, gebied en klasse van persone of arbeid en onderworpe aan sodanige voorwaardes as wat hy daarin vermeld, of die aansoek weier.

(3) Die registrateur kan, na goeddunke, te eniger tyd 'n registrasiesertifikaat wat hy ten opsigte van 'n private registrasiekantoor uitgereik het, intrek of wysig.

(4) Elke persoon wat die houer of bestuurder is of was van 'n kragtens hierdie Wet geregistreerde private registrasiekantoor moet die aantekeninge wat hy deur een of ander regulasie vereis word om te maak, vir 'n tydperk van drie jaar nadat die opgetekende gebeurtenis plaasgevind het, behou en moet op versoek van 'n inspekteur te eniger tyd gedurende bedoelde tydperk van drie jaar gedoen, bedoelde aantekeninge vir insae voorlê; en hy moet te eniger tyd sodanige inligting verstrek aangaande die besigheid wat daar gedryf word as wat die inspekteur hom aansê om te verskaf.

(5) Niemand mag ten opsigte van enigiets wat by 'n private registrasiekantoor gedoen is of gedoen gaan word, geld of enige ander betaling of beloning teen 'n hoër skaal vorder of ontvang as dié wat van tyd tot tyd vir 'n bepaalde gebied en klas

council to assist the council in carrying out its functions, including the enforcement of any agreement or award which is binding in terms of this Act.

(2) Every designated agent of an industrial council so appointed 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 in terms of sub-section (2) of that section shall be deemed to be a certificate furnished to him in terms of 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 and in any area in which any of the provisions of an agreement of such council are binding in terms of any notice published under paragraph (c) of sub-section (1) of section *forty-eight*, 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 a 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 a 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 conferred 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.

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 offices.

(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 such conditions as he may specify therein, or refuse the application.

(3) The registrar may, in his discretion, at any time cancel or amend any certificate of registration issued by him in respect of any private registry office.

(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 three years subsequent to the occurrence of the event recorded and shall on demand by an inspector made at any time during the said period of three 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

van besigheid voorgeskryf is of geld vorder of enige geld of ander betaling of beloning ontvang nie ten opsigte van enigets wat daar gedoen is of gedoen gaan word as so 'n skaal nie voorgeskryf is nie.

(6) Iemand wat enigeen van die bepalings van hierdie artikel oortree of versum om daaraan te voldoen, is aan 'n misdryf skuldig.

(7) Enige private registrasiekantoor wat kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), geregistreer is en wat 'n private registrasiekantoor is soos omskryf vir die doeleindes van hierdie Wet, word, totdat die tydperk verstryk het waarvoor 'n registrasiesertifikaat ten opsigte daarvan kragtens daardie Wet uitgereik is, geag kragtens hierdie Wet geregistreer te gewees het.

**Minister kan spesiale saak aan die Appèlhof stel.**

**Verbod op stakings en uitsluitings in sekere omstandighede.**

64. Wanneer die Minister enige twyfel het omtrent die juistheid van 'n uitspraak deur 'n provinsiale of plaaslike afdeling van die Hooggeregshof aangaande die uitleg van enige bepaling van hierdie Wet gedoen, kan hy daardie beslissing by wyse van 'n spesiale saak aan die Afdeling van Appèl van die Hooggeregshof voorlê en die aangeleentheid voor bedoelde Afdeling laat beredeneer sodat hy die betrokke vraag vir die toekomstige leiding van alle Howe kan beslis.

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 werkgever of ander persoon mag 'n uitsluiting aanstig of enige werkgever 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—

- (a) gedurende die tydperk van geldigheid van 'n ooreenkoms, toekenning of vasstelling wat ingevolge hierdie Wet bindend is op die werknemers of werkgewers wat by die staking of uitsluiting betrokke is of sal wees en enige bepaling waarvan die aangeleentheid wat aanleiding gee tot die staking of uitsluiting, behandel; of
- (b) gedurende die tydperk van een jaar bereken vanaf die datum van publikasie van 'n kennisgiving 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 wat bindend is op die werknemers of werkgewers wat by die staking of uitsluiting betrokke is of sal wees en enige bepaling waarvan die aangeleentheid wat aanleiding gee tot die staking of uitsluiting, behandel; of
- (c) indien die werknemers of werkgewers wat by die staking of uitsluiting betrokke is of sal wees, in sub-artikel (1) van artikel *ses-en-veertig* bedoelde werknemers of werkgewers is; of
- (d) wanneer nog paragraaf (a) nog paragraaf (b) nog paragraaf (c) van toepassing is—
  - (i) as daar 'n nywerheidsraad bestaan wat regsvoegdheid besit, tensy die aangeleentheid wat tot die staking of uitsluiting aanleiding gee deur daardie raad oorweeg is, en totdat—
    - (aa) die raad skriftelik aan die Minister daaroor verslag gedoen het; of
    - (bb) 'n tydperk van dertig dae bereken vanaf die datum waarop die aangeleentheid aan die raad voorgelê is of sodanige langer tydperk as wat die raad vastel, verstryk het, na gelang van watter gebeurtenis die 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) die versoeningsraad wat ingestel word skriftelik aan die Minister daaroor verslag gedoen het; of
    - (bb) 'n tydperk van dertig dae bereken vanaf die datum waarop die Minister die instelling van 'n versoeningsraad goedgekeur het of sodanige verdere tydperk as wat die versoeningsraad 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

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 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), and which is a private registry office as defined for the purposes of this Act, shall, until the 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.

**64.** Whenever the Minister has any doubt as to the correctness of any decision given by any provincial or local division of the 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 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 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—

Prohibition of  
strikes or lock-outs  
in certain cir-  
cumstances.

- (a) during the period of the currency of any agreement, award or determination which in terms of this Act is binding on the employees or employers who are or would be concerned in the strike or lock-out and any provision of which deals with the matter giving occasion for the strike or lock-out; or
- (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, which is binding upon the employees or employers who are or would be concerned in the strike or lock-out, and any provision of which deals with the matter giving occasion for the strike or lock-out; or
- (c) if the employees or employers who are or would be concerned in the strike or lock-out, are employees or employers referred to in sub-section (1) of section *forty-six*; or
- (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) the conciliation board that is 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 conciliation board or such longer period as the conciliation board may fix has expired; or
    - (cc) the Minister has refused to approve of the establishment of a conciliation board; or
    - (dd) if the Minister has not within a period of thirty days reckoned from the date on which

- die aansoek ingedien is die instelling van 'n versoeningsraad goedgekeur of geweier het nie, daardie tydperk verstryk het,  
na gelang van watter gebeurtenis die eerste plaasvind; of  
(iii) as ingevolge artikel *vyf-en-veertig* besluit is om die aangeleenthed na arbitrasie te verwys, hangende die skikking van die geskil en die staking van die arbitrasieverrigtinge ingevolge sub-artikel (15) van artikel *vyf-en-veertig* of die maak van 'n toekenning, na gelang van watter gebeurtenis die eerste plaasvind.

(2) Geen geregistreerde vakvereniging of werkgewersorganisasie en geen ampsdraer, beampie 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 waar paragraaf (a) nie van toepassing is nie, tensy die meerderheid van die volwaardige lede van die vereniging of organisasie in die gebied en in die besondere onderneming, nywerheid, bedryf of beroep waarin die staking of uitsluiting uitgeroep word of die deelname aan die staking of uitsluiting plaasvind, deur middel van 'n stemming per stembriefie ten gunste van sodanige optrede gestem het.

(3) Iemand wat enigeen van 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 om uit te vind wat die menings van die lede met betrekking tot die uitroep van, die deelname aan, of die voortsetting van, 'n staking of uitsluiting is, te verbied nie.

Victimisasie  
en bevoegdheid  
van Minister om  
bepalings van  
hierdie Wet aan-  
gaande verplichte  
arbitrasie toe  
te pas.

**66.** (1) 'n Werkgewer wat, hetsy 'n ooreenkoms, toekenning of vasstelling op hom ingevolge hierdie Wet bindend is al dan nie, 'n werknemer uit sy diens 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 as gevolg van die feit, of omrede hy vermoed of glo, hetsy die vermoede of geloof geregtig of juis is al dan nie, dat—

- (a) daardie werknemer aan die Minister of aan 'n amptenaar of aan 'n nywerheidsraad of uitvoerende of ander komitee van 'n nywerheidsraad, of aan 'n aangewese agent of ander beampie van 'n nywerheidsraad of aan 'n versoeningsraad, of aan 'n bemiddelaar, assessor, arbiter of skeidsrechter kragtens hierdie Wet aangestel, of aan die nywerheidshof, of aan 'n lid van 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 werknemers van sy werkgewer, of 'n wettige vereiste van 'n inspekteur of aangewese agent nagekom het, of voor 'n gereghof getuenis afgelê het; of  
(b) daardie werknemer geweier of nagelaat het om 'n handeling te verrig wat 'n werkgewer ingevolge sub-artikel (2) of (3) van artikel *twee-en-vyftig* 'n werknemer nie mag vereis of toelaat om te verrig nie; of  
(c) daardie werknemer behoort of behoort het tot 'n vakvereniging of 'n ander soortgelyke liggaam van werknemers of buite werkure, of, met die goedkeuring van die werkgewer, binne werkure, deelneem of deelgeneem het aan die stigting of wettige werksaamhede van so 'n vakvereniging of liggaam,  
is aan 'n misdryf skuldig.

(2) Indien 'n nywerheidsraad of 'n versoeningsraad nie daar-in geslaag het om 'n in sub-artikel (1) van artikel *drie-en-veertig* bedoelde geskil (behalwe 'n geskil tussen 'n in sub-artikel (1) van artikel *ses-en-veertig* bedoelde werkgewer en werknemer) te besleg nie en nie besluit het om sodanige geskil na arbitrasie te verwys nie, kan die Minister, as hy dit raadsaam ag om dit te doen, en indien na sy mening die werknemers of die vakvereniging wat die geskil na die nywerheidsraad verwys het of op wie se aansoek die versoeningsraad ingestel is, redelike gronde gehad het om te glo dat die optrede van die werkgewer wat die geskil tot gevolg gehad het, uit 'n in paragraaf (a), (b) of (c) van sub-artikel (1) of in paragraaf (a) of (b) van sub-

the application was lodged approved or refused to approve of the establishment of a conciliation board, the expiry 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 pending the settlement of the dispute and the cessation of the arbitration proceedings in terms of sub-section (15) of section *forty-five* or the making of an award, whichever event occurs first.

(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 that disputes which cannot be settled by the council shall be referred to arbitration; or
- (b) in any case where paragraph (a) does not apply, unless the majority of the members of the union or organization in good standing in the area and in the particular undertaking, industry, trade or occupation in which the strike or lock-out is called or the taking part in the strike or lock-out takes place, have voted by ballot in favour of such action.

(3) Any person who contravenes any of 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 to ascertain the views of the members in regard to the calling of, the taking part in, or the continuation of, a strike or lock-out.

**66.** (1) Any employer who, whether or not any agreement, award or determination is binding upon him in terms of 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—

Victimization  
and power of  
Minister to apply  
provisions of this  
Act as to compul-  
sory arbitration.

- (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 a designated agent or other official of an industrial council or to a conciliation board, or to a mediator, assessor, arbitrator or umpire appointed under this Act, or to the tribunal or to a member of 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 similar 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) If an industrial council or a conciliation board has failed to settle a dispute such as is referred to in sub-section (1) of section *forty-three* (other than a dispute between any employer and employee referred to in sub-section (1) of section *forty-six*) and has not decided to refer such dispute to arbitration, the Minister may, if he deems it expedient to do so, and if in his opinion the employees or the trade union by whom or which the dispute was referred to the industrial council or on the application of whom or which the conciliation board was established had reasonable grounds for believing that the action taken by the employer which resulted in the dispute arose from a matter such as is referred to in paragraph (a), (b) or (c) of sub-section (1) or in paragraph (a) or (b) of sub-section (1) of

artikel (1) van artikel *vyf-en-twintig* van die Loonwet, 1937 (Wet No. 44 van 1937), bedoelde aangeleentheid ontstaan het, gelas dat die bepalings van artikel *ses-en-veertig* met betrekking tot arbitrasie ten opsigte van sodanige geskil van toepassing is asof dit 'n in sub-artikel (2) van laasgenoemde artikel bedoelde geskil is en daarna is al die bepalings van laasgenoemde artikel aldus van toepassing.

**Geheimhouding bewaar te word.**

67. Enige verteenwoordiger op 'n nywerheidsraad of 'n versoeningsraad, of enige plaasvervanger van so 'n verteenwoordiger, of enige persoon wat op 'n vergadering van 'n nywerheidsraad of 'n versoeningsraad voorgesit het, of enige lid van 'n komitee van 'n nywerheidsraad, of enige aangewese agent of ander beampete van 'n nywerheidsraad, of enige beampete of ampsdraer van enigeen van die partye by 'n nywerheidsraad of 'n versoeningsraad wat toegelaat is om 'n vergadering van 'n nywerheidsraad of 'n komitee daarvan of van 'n versoeningsraad by te woon, of enige lid van die nywerheidshof, of enige bemiddelaar, assessor, arbiter of skeidsregter wat kragtens hierdie Wet aangestel is of geag word aldus aangestel te gewees het, of enige amptenaar wat, behalwe aan die Minister of aan 'n amptenaar of aan die nywerheidshof of aan 'n lid van 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 soortgelyke liggaaom aan 'n nywerheidsraad of 'n versoeningsraad wat by die aangeleentheid betrokke is, of aan 'n komitee van so 'n nywerheidsraad, of aan 'n gereghof of aan 'n ander persoon vir die doeleindes van hierdie Wet of om hom in staat te stel om op doeltreffende wyse bedoelde bevoegdhede uit te oefen of 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.

**Insaac van stukke.**

68. Enige persoon kan na betaling van die voorgeskrewe geld enige konstitusie of registrasiesertifikaat 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 nywerheidshof wat aan die Minister of aan die registrator ooreenkomstig die bepalings van hierdie Wet voor-gelê is, besigtig of afskrifte daarvan maak.

**Publikasie deur Minister van verslag, ooreenkoms of bepalings van beslegting.**

69. Die Minister kan sodanige bekendmaking as wat hy raadsaam ag, maak—

- (a) van enige verslag van enige nywerheidsraad, versoeningsraad of bemiddelaar; of
- (b) van enige ooreenkoms of van die bepalings van enige beslegting anders as deur ooreenkoms tot stand gebring deur enige nywerheidsraad, versoeningsraad of bemiddelaar; of
- (c) van enige verslag van die verteenwoordigers van die werkgewers of werknemers op 'n versoeningsraad as die versoeningsraad nie daarin geslaag het om 'n geskil te besleg nie; of
- (d) van enige verslag van die registrator ingevolge sub-artikel (10) van artikel *twaalf*; of
- (e) van enige toekenning en verslag van 'n arbiter of enige arbiters of skeidsregter of die nywerheidshof ingevolge artikel *vyf-en-veertig*, *ses-en-veertig* of *nege-en-veertig*.

**Oornname deur Minister in sekere omstandighede, van werkzaamhede van plaaslike owerheid of sekere ander werkgewers.**

70. (1) Wanneer 'n plaaslike owerheid as gevolg van—  
 (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 is nie of onwillig is om enige diens of werkzaamheid wat hy volgens Wet moet of kan verrig, voort te sit, kan die Minister op koste van, en nadat hy kennisgewing gedien het op die plaaslike owerheid, die diens of werkzaamheid self oorneem of laat oorneem deur enige persoon wat hy daartoe magtig en vir 'n tydperk wat hy raadsaam ag, voortsit en vir daardie doel kan hy of sodanige gemagtigde persoon enige perseel van die plaaslike owerheid betree en alle ander nodige handelinge verrig.

(2) Die Minister of enige aldus deur hom gemagtigde persoon besit al die bevoegdhede van die plaaslike owerheid wat nodig is 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.

section twenty-five of the Wage Act, 1937 (Act No. 44 of 1937), direct that the provisions of section forty-six relating to arbitration shall apply in respect of such dispute as though it were a dispute referred to in sub-section (2) of the last-mentioned section and thereupon all the provisions of the last-mentioned section shall so apply.

67. Any representative on an industrial council or a conciliation board, or any alternate to such a representative, or any person who has presided over any meeting of an industrial council or a conciliation board, or any member of a committee of an industrial council, or any designated agent or other official of an industrial council or any official or office-bearer of any of the parties to an industrial council or a conciliation board who has been permitted to attend any meeting of an industrial council or a committee thereof or of a conciliation board, or any member of the tribunal or any mediator, assessor, arbitrator or umpire appointed or deemed to have been 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 a member of 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 similar body or to an industrial council or a conciliation board concerned in the matter, or to any committee of such an industrial council, 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 or certificate of registration 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 or 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; or
- (d) of any report by the registrar in terms of sub-section (10) of section twelve; or
- (e) of any award and report by an arbitrator or any arbitrators or umpire or the tribunal in terms of section forty-five, forty-six or forty-nine.

70. (1) Whenever any local authority is unable or unwilling by reason of—

Assumption by Minister of functions of local authority or certain other employers in certain circumstances.

- (a) any lock-out or any strike or concerted action of any persons in its employ; or
- (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 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.

(2) The Minister or any person so authorized by him shall have all the powers of the local authority necessary for the adequate performance 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 offence.

(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 deur die plaaslike owerheid aan die Minister verskuldig. Alle belastings, gelde en ander betalings wat wettiglik deur enige persoon aan die plaaslike owerheid verskuldig sou gewees het ten opsigte van so 'n diens, is, vir sover dit deur die Minister of persoon wat die diens voortsit nie geïn word nie, deur die plaaslike owerheid inbaar van die persoon wat aanspreeklik is.

(4) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing ten opsigte van 'n in paragraaf (b) of (c) van sub-artikel (1) van artikel *ses-en-veertig* bedoelde werkewer.

**Beweerde  
vennootskappe.**

71. (1) Wanneer daar in enige onderneming, nywerheid, bedryf of beroep ten opsigte waarvan 'n ooreenkoms of toekenning ingevolge 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 een of ander ooreenkoms vir die voortsetting daarvan, kan die inspekteur of aangewese agent van enigiemand wat aldus die bestaan van so 'n ooreenkoms beweer, die voorlegging van daardie ooreenkoms vereis, en kan 'n afskrif daarvan maak of uittreksels daaruit maak, of indien die ooreenkoms nie skriftelik is nie of nie in sy geheel skriftelik is nie, van 'n persoon wat aldus beweer, vereis dat hy onder eed 'n verklaring afle van al die bepalings van die ooreenkoms of van die bepalings daarvan wat nie skriftelik is nie, en kan voorts 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 afle 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 bepaal word deur die ooreenkoms. So 'n persoon wat versuim, wanneer van hom vereis word om dit te doen, 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 geheel en al of gedeeltelik uit 'n aandeel van die ontvangste of winste bestaan, en by enige verrigtinge ingevolge 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 geregty sou gewees het om kragtens 'n ooreenkoms of toekenning wat ingevolge hierdie Wet bindend is of was vir sy dienste vir dieselfde tydperk te ontvang, as hy 'n werknemer was,

word hy vermoed 'n werknemer te wees, en enige ander party by die ooreenkoms word vermoed 'n werkewer te wees, tensy bewys word dat die ooreenkoms nie aangegaan is met die doel om enige bepaling van 'n ooreenkoms of toekenning wat ingevolge hierdie Wet bindend is of was, te onduik nie.

**Handelinge of  
versuime van  
bestuurders, agente  
of werknemers.**

72. (1) Wanneer 'n bestuurder, agent of werknemer van 'n werkewer 'n handeling verrig of versuim om dit te verrig, en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkewer dit verrig of versuim om dit te verrig, dan, tensy bewys word dat—

- (a) by die verrigting van daardie handeling of versuim om dit te verrig, die bestuurder, agent of werknemer sonder die oogluikende toelating of toestemming van die werkewer gehandel het; en
- (b) die werkewer alle redelike stappe gedoen het om 'n handeling of versuim van die onderhawige soort te voorkom; en
- (c) 'n handeling of versuim, hetby wettig of onwettig, van die ten laste gelegde soort onder geen voorwaarde of in 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 vermoed dat die werkewer self daardie handeling verrig het of versuim het om dit te verrig, en kan hy ten opsigte daarvan skuldig bevind en gevonnis word; en die feit dat die werk-

(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 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 in respect of any employer referred to in paragraph (b) or (c) of sub-section (1) of section forty-six.

**71.** (1) Whenever in any undertaking, industry, trade or occupation in respect of which any agreement or award is or was binding in terms of 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 or concern is not that of an employee but is determined by an agreement of 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 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 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 determined by the agreement, in respect of any period to be specified by the inspector or designated agent. Any such person 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.

(2) Whenever under any agreement such as is referred to in sub-section (1) the remuneration of any party thereto consists 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
- (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 services for the same period under any agreement or award which is or was binding in terms of 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 it is proved that the agreement was not made with the object of evading any provision of any agreement or award which is or was binding in terms of this Act.

**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—

- (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
- (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 an act, whether lawful or unlawful, of the character of the act or omission charged,

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 instruc-

Alleged partnerships.

Acts or omissions  
by managers,  
agents or  
employees.

gewer bevele uitgereik het wat 'n handeling of versuim van die onderhawige soort verbied het, word op sigself nie aangeneem as voldoende bewys dat hy alle redelike stappe gedoen het om die handeling of versuim te voorkom nie.

(2) Wanneer 'n bestuurder, agent of werknemer van 'n werk-gewer 'n handeling verrig of versuim om dit te verrig en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werk-gewer dit verrig of versuim om dit te verrig, kan hy ten opsigte daarvan skuldig bevind en gevonnis word asof hy die werk-gewer was.

(3) Of die werk-gewer of die bestuurder, agent of werknemer, of albei van hulle kan aldus skuldig bevind en gevonnis word.

(4) Wanneer die bestuurder, agent of werknemer van 'n werk-gewer skuldig bevind word aan 'n in sub-artikel (2) van artikel *drie-en-vyftig* bedoelde misdryf, moet die hof kragtens artikel *vier-en-vyftig* teen die werk-gewer 'n bevel uitvaardig, en die bepalings van hierdie Wet met betrekking tot sulke bevele is *mutatis mutandis* van toepassing; maar so 'n bevel mag nie teen so 'n bestuurder, agent of werknemer uitgevaardig word nie.

#### Valse verklarings.

73. Enige persoon wat enige opgawe of verklaring, hetsy skriftelik of andersins, ingevolge enige bepaling van hierdie Wet of vir die doeleindes van of in verband met enige aansoek, versoek, appèl, verrigtinge of ondersoek kragtens hierdie Wet, verstrek of maak, of laat verstrek of maak, wat hy weet in enige wesenlike besonderheid vals is, is aan 'n misdryf skuldig.

#### Beweislewering.

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-vyftig*, *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 voldoen is 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.

(2) By ontstentenis van bevredigende bewys van ouderdom, word die ouderdom van 'n persoon, by enige verrigtinge ingevolge hierdie Wet vermoed dié 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 onder besprekking 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, is afdoende bewys van die ouderdom van daardie persoon, dog alleen vir die doel van bedoelde verrigtinge.

(3) Wanneer by verrigtinge ingevolge hierdie Wet bewys word dat 'n persoon teenwoordig was op of in enige perseel waar enige onderneming, nywerheid, bedryf of beroep ten opsigte waarvan 'n ooreenkoms, toekenning of vasstelling ingevolge hierdie Wet bindend is, besig was om voortgesit te word, of toesig gehad het oor enige voertuig wat in so 'n onderneming, nywerheid, bedryf of beroep gebruik is, hetsy die voertuig op daardie tydstip bestuur is al dan nie, word daardie persoon, tensy die teendeel bewys word, vermoed 'n werknemer te wees.

(4) Benewens enige tydperk waarin hy werklik aldus werkzaam is, word 'n werknemer geag in die diens van 'n werk-gewer werkzaam 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;
- (b) gedurende enige ander tydperk waarin hy op of in enige sodanige perseel aanwesig is; en
- (c) gedurende enige tydperk waarin 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:

Met dien verstande dat as bewys word gedurende watter gedeelte 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.

(5) By enige verrigtinge ingevolge hierdie Wet, is 'n verklaring of inskrywing wat voorkom in enige boek of stuk wat deur enige

tions forbidding any act or omission of the kind in question shall not, of itself, be 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; but 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 publication 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 to 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 on or in which any undertaking, industry, trade or occupation in respect of which any agreement, award or determination is binding in terms of 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) 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—

- (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;
- (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:

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.

(5) In any proceedings under this Act, any statement or entry contained in any book or document kept by any em-

werkgever, prinsipaal of aannemer of deur sy bestuurder, agent of werknemer gehou word, of wat gevind word op of in 'n perseel wat deur daardie werkgever, prinsipaal of aannemer geokkuper word, of op of in 'n voertuig wat in die besigheid van daardie werkgever, prinsipaal of aannemer gebruik word, toelaatbaar by wyse van getuenis teen hom as 'n erkenning van die feite in daardie verklaring of inskrywing uiteengesit, tensy bewys word dat daardie verklaring of inskrywing nie deur daardie werkgever, prinsipaal of aannemer of deur 'n bestuurder, agent of werknemer van daardie werkgever, prinsipaal of aannemer in die loop van sy werk as bestuurder of in die loop van sy agentskap of diens gemaak is nie.

(6) As 'n werkgever versuim het om ten opsigte van een of ander tydperk die aantekeninge te hou wat hy volgens artikel *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 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 dwarsdeur 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 vermeld in 'n ooreenkoms of toekennung wat ingevolge hierdie Wet op daardie werknemer van toepassing is: Met dien verstande dat as 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.

(7) Wanneer by enige verrigtinge ingevolge hierdie Wet bewys word dat enige onware verklaring of inskrywing voorkom in 'n aantekenung wat deur enige persoon gehou is, word vermoed, totdat die teendeel bewys word, dat hy daardie aantekenung opsetlik vervals het.

(8) Wanneer iemand ingevolge artikel *drie-en-vyftig* aangekla word weens versuim om aan 'n persoon wat gedurende enige tydperk by hom in diens was, die skaal van beloning te betaal wat hy kragtens die bepalings van 'n ooreenkoms of toekennung of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is, ten opsigte van daardie tydperk aan daardie persoon moes betaal het, en bewys word dat daardie persoon gedurende enige tydperk wat deur die aanklag gedek word, by die beskuldigde in diens was, en dat die beskuldigde kragtens daardie ooreenkoms of toekennung of vrystellingsertifikaat ten opsigte van daardie tydperk 'n sekere bedrag aan daardie persoon as minimum skaal van beloning moes betaal het, word vermoed, totdat die teendeel bewys word, dat die beskuldigde nie daardie bedrag aan daardie persoon betaal het nie.

(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 bepalings van enige ooreenkoms of toekennung met betrekking tot een of ander van 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 bewys word dat die in die aanklag bedoelde werk deur die beskuldigde aan daardie persoon op kontrak uitgegee is, en dat die beskuldigde kragtens daardie ooreenkoms of toekennung, 'n sekere bedrag aan daardie persoon vir daardie werk moes betaal het, word 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 uitroeping van of deelname aan 'n staking of aan die voortsetting van 'n staking en 'n weiering, versuim, vertraging, belemmering, verbreking of beëindiging bedoel in die woordomskrywing van „staking“ in artikel *een* vervat en in die aanklag vermeld, bewys word, word 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 woordomskrywing en in die aanklag vermelde doel plaasgevind het.

(11) Wanneer enige werkgever of ander persoon kragtens artikel *vyf-en-sestig* aangekla word weens aanstigting van 'n uitsluiting of weens aanhitsing van enige werkgever of ander persoon om aan 'n uitsluiting deel te neem of om dit voort te sit, of weens uitroeping van of deelname aan 'n uitsluiting of aan die voortsetting van 'n uitsluiting, en 'n nie-toelating, stopsetting,

ployer, 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 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 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 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 employment 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 in terms of this Act: Provided that if it is proved what hours 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 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 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 in terms of this Act, and it is proved that that person was employed by the accused during any period covered by the charge and that under that agreement or award or licence of exemption 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 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 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 having incited any employee or other person to take part in or to continue a strike or with having called or 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 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 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 part in or to continue a lock-out or with having called or taken part in a lock-out or in the continuation of a lock-out and an exclusion, discontinuance, breach, termination, refusal or failure

verbreking, beëindiging, weiering of versuim bedoel in die woordomskrywing van „uitsluiting” in artikel *een* vervat en in die aanklag vermeld, bewys word, word vermoed, totdat die teendeel bewys word, dat daardie nie-toelating, stopsetting, verbreking, beëindiging, weiering of versuim met ‘n in daardie woordomskrywing en in die aanklag vermelde doel plaasgevind het.

(12) Wanneer iemand kragtens artikel *vyf-en-sestig* aangekla word weens uitroeping van of deelname aan ‘n staking of uitsluiting in oortreding van paragraaf (b) van sub-artikel (2) van daardie artikel en bewys word, met inagneming van sub-artikel (10) of (11), dat ‘n staking of uitsluiting uitgeroep is of ‘n deelname aan ‘n staking of uitsluiting plaasgevind het, word ‘n verklaring van ‘n inspekteur dat na hy ondersoek ingestel het hy oortuig is dat die meerderheid van die volwaardige lede van die betrokke vakvereniging of werkgewersorganisasie in die gebied en in die besondere onderneming, nywerheid, bedryf of beroep waarin die staking of uitsluiting uitgeroep is of die deelname aan ‘n staking of uitsluiting plaasgevind het, nie per stembriefie ten gunste van daardie optrede gestem het nie, aangeneem as bewys van die feit aldus verklaar, totdat die teendeel bewys word.

(13) Wanneer ‘n persoon kragtens 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, as gevolg van ‘n in paragraaf (a), (b) of (c) van daardie sub-artikel bedoelde feit en in die aanklag vermeld, of as gevolg 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 vermoed, totdat die teendeel bewys word, dat die beskuldigde dit gedoen het as gevolg van die feit of vermoede of geloof, na gelang van die geval, in die aanklag vermeld.

(14) Wanneer ‘n persoon kragtens artikel *drie-en-sewentig* daarvan aangekla word dat hy ‘n opgawe of verklaring wat hy weet in enige wesenlike besonderheid vals is, verstrek of gemaak het of laat verstrek of maak het en bewys word dat bedoelde opgawe of verklaring in ‘n wesenlike besonderheid in die aanklag vermeld vals is, word vermoed, totdat die teendeel bewys word, dat die beskuldigde te alle ter sake dienende tye geweet het dat sodanige opgawe of verklaring in die besonderheid in die aanklag vermeld vals was.

(15) ‘n Deur die registrator ondertekende sertifikaat—

- (a) wat meld dat ‘n vakvereniging, werkgewersorganisasie of nywerheidsraad geregistreer is; of
- (b) wat die gebied, of belang of onderneming, nywerheid, bedryf of beroep uiteensit ten opsigte waarvan ‘n vakvereniging, werkgewersorganisasie of nywerheidsraad geregistreer is; of
- (c) wat meld 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 teruggetrek, ingetrek of vervang is deur ‘n latere sertifikaat deur die registrator uitgereik, afdoende bewys—
  - (i) van die hierbo bedoelde aangeleenthede daarin gemeld; en
  - (ii) dat al die bepalings 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 vervat, het—

- (a) enige gebrek in of weglatting uit die konstitusie van ‘n vakvereniging of werkgewersorganisasie of nywerheidsraad; of
- (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

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 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 section *sixty-five* with having called or taken part in a strike or lock-out in contravention of paragraph (b) of sub-section (2) of that section and it is proved, subject to sub-section (10) or (11), that a strike or lock-out was called or a taking part in a strike or lock-out took place, a statement by an inspector that after making an investigation he is satisfied that the majority of the members of the trade union or employers' organization concerned in good standing in the area and in the particular undertaking, industry, trade or occupation in which the strike or lock-out was called or the taking part in a strike or lock-out took place, did not vote by ballot in favour of such action shall, until the contrary is proved, be accepted as proof of the fact so stated.

(13) Whenever any person is charged under sub-section (1) of section *sixty-six* with having dismissed any person employed 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 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, 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.

(14) Whenever any person is charged under section *seventy-three* with having furnished, made or caused to be furnished 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 is proved, at all relevant times to have known that such return or statement was false in the particular stated in the charge.

(15) A certificate signed by the registrar—

- (a) stating that a trade union, employers' organization or industrial council has been registered; or
- (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
- (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 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 the case may be, have been complied with.

#### 75. Notwithstanding anything to the contrary contained in this Act or in any other law—

- (a) any defect in or omission from the constitution of any trade union or employers' organization or industrial council; or
- (b) any irregularity in the election or appointment of any representative on an industrial council or conciliation board, or of any alternate to any representative, or of any chairman or vice-chairman or other person

Certain defects and irregularities not to invalidate constitution or registration of trade union, employers' organization or industrial council, or agreements or awards, or acts of

ongeldig weens sekere gebreke of onreëlmagtigheid nie.

- 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 ledetal van 'n nywerheidsraad of versoeningsraad, of komitee van 'n nywerheidsraad,
- 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, weglatting, onreëlmagtigheid of vakature nie, bindend sou wees ingevolge artikel *agt-en-veertig* of *nege-en-veertig*; of
  - (iii) enige handeling 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, bedrywe en beroepe

- 76.** (1) Die Minister kan, as hy dit raadsaam ag om dit te doen, na die nywerheidshof vir vasstelling verwys, 'n vraag—
- (a) of enige werkewer of werknemer of klas van werkewers of werknemers betrokke by of in diens in 'n bepaalde onderneming, nywerheid, bedryf of beroep is; of
  - (b) of enige loonreëlende maatreël bindend is op enige werkewer, werknemer, klas van werkewers 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 bepalings 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 kennisgeving waarin die besonderhede van die ooreenkoms uiteengesit word, in die *Staatskoerant* laat publiseer.

(3) Enige geregistreerde vakvereniging, werkgewersorganisasie, nywerheidsraad of 'n werkewer 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, afgesien daarvan of sodanige vraag die onderwerp van 'n in sub-artikel (2) bedoelde ooreenkoms was, al dan nie.

(4) Wanneer in enige gereghof 'n in sub-artikel (1) bedoelde vraag geopper word, en die hof oortuig is dat die geopperde vraag nie voorheen deur die nywerheidshof vasgestel is nie en dat die vasstelling daarvan vir die doeleindes van die verrigtinge nodig is, moet hy die vraag na die nywerheidshof vir vasstelling verwys en moet hy die verrigtinge waarby die vraag geopper is, verdaag tot nadat die vraag aldus vasgestel is.

(5) By ontvangs van—

- (a) 'n verwysing kragtens sub-artikel (1) of (4); of
- (b) 'n aansoek kragtens sub-artikel (3) wat na die mening van die nywerheidshof betrekking het op 'n aangeleentheid van wesenlike belang wat geskik is vir vasstelling kragtens hierdie artikel en nog nie deur 'n vorige vasstelling beslis is nie,

moet die nywerheidshof 'n kennisgeving in die *Staatskoerant* laat publiseer waarin besonderhede van die verwysing of aansoek uiteengesit word en waarin die tydperk waarbinne, die amptenaar by wie en die adres waar enige skriftelike vertoe ingedien moet word, vermeld word.

(6) Na oorweging van enige skriftelike vertoe ingevolge sub-artikel (5) ingedien en na enige nadere ondersoek (wat die aanhoor van getuienis of beredenering kan insluit) wat hy nodig ag, kan die nywerheidshof die vraag vasstel en moet hy 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 bepalings van sodanige vasstelling verwittig. By die vasstelling van 'n vraag kragtens hierdie sub-artikel moet die nywerheidshof, met inagneming van die omstandighede van elke besondere geval, sodanige beslissing gee as wat hy billik ag.

(7) Indien die Minister van mening is dat die aangeleentheid wat behandel word in 'n vasstelling kragtens sub-artikel (6) gemaak, van voldoende belang is, kan hy die bepalings daarvan in die *Staatskoerant* laat publiseer.

(8) Die nywerheidshof kan volgens 'n dergelike prosedure enige vasstelling kragtens hierdie artikel gemaak, terugtrek of

- 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 or committee of an industrial council,
- 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 any question to the tribunal for determination 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 forth the particulars of the agreement.

(3) Any registered trade union, employers' organization, industrial council, or 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) Whenever, in any court of law, a question such as is referred to in sub-section (1) is raised, and the court is satisfied that the question raised has not previously been determined by the tribunal and that the determination thereof is necessary for the purposes of the proceedings, it shall refer the question to the tribunal for determination, and shall adjourn the proceedings in which the question was raised until after the question has been so determined.

(5) Upon receipt of—

- (a) a reference under sub-section (1) or (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) After considering any written representations lodged in terms of sub-section (5), 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 question 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 question under this sub-section the tribunal shall give such decision as it deems equitable having regard to the circumstances of each particular case.

(7) If the Minister is of opinion that the matter dealt with in a determination made under sub-section (6) 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

verander: Met dien verstande dat die nywerheidshof enige fout of weglatting kan verbeter of enige bepaling in 'n vasstelling kan opklaar, sonder om die procedure in sub-artikel (5) uiteengesit te volg, as hy sodanige verbetering of opklaring nodig ag. Die vasstelling soos verbeter of opgeklaar, word geag 'n vasstelling kragtens sub-artikel (6) gemaak te wees.

- (9) (a) Die nywerheidshof mag, ten opsigte van enige verrigtinge kragtens hierdie artikel, geen bevel uitvaardig wat enige party by die verrigtinge gelas om die koste deur enige ander party aangegaan te betaal nie: Met dien verstande dat as die nywerheidshof van mening is dat 'n party op beuselagtige gronde verskyn of tot die verrigtinge toegetree het en dat by gevolg 'n ander party koste aangegaan het wat anders nie aangegaan sou gewees het nie, hy sodanige bevel aangaande die betaling van koste kan uitvaardig as wat hy billik ag.
- (b) Die partye by enige verrigtinge wat voortspruit uit 'n aansoek kragtens sub-artikel (3) moet aan die Sekretaris van Arbeid ten behoeve van die Gekonsolideerde Inkomstefonds sodanige geldie as wat voorgeskryf word in die dele wat die nywerheidshof 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 'n toepaslike loonreëlende maatreël of 'n konstitusie of registrasiesertifikaat van 'n geregtreerde vakvereniging, werkgewersorganisasie of nywerheidsraad en die bepalings van artikel *veertien* van die Wet op Naturellebouwers, 1951 (Wet No. 27 van 1951), word toegepas ooreenkomsdig daardie vasstelling.
- (b) In paragraaf (a) bedoelde registrasiesertifikaat kan deur die registrator gewysig word om dit met bedoelde vasstelling in ooreenstemming te bring, en vir hierdie doel moet die sekretaris van die betrokke vereniging, organisasie of raad bedoelde sertifikaat binne veertien dae vandat hy deur die registrator aangesê word om dit te doen, aan die registrator stuur en as die sekretaris sonder redelike verontskuldiging versium om dit te doen, is hy aan 'n misdryf skuldig.

(11) By die toepassing van hierdie artikel sluit „werkemmer“ 'n naturel in.

#### Voorsorgsmaatreël teen inter-rasse-mededinging.

77. (1) Behoudens die bepalings van hierdie artikel, wanneer dit vir die Minister voorkom dat maatreëls getref behoort te word ten einde die ekonomiese welvaart van werkemers van enige ras in enige onderneming, nywerheid, bedryf of beroep te beskerm, kan hy die nywerheidshof gelas om 'n ondersoek in te stel na die wenslikheid om 'n vasstelling kragtens hierdie artikel te maak.

(2) 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 stel assessore ooreenkomsdig die bepalings van sub-artikel (14) van artikel *sewentien* aan ten opsigte van elke ondersoek wat deur die nywerheidshof kragtens hierdie artikel onderneem word: Met dien verstande dat hierdie sub-artikel nie van toepassing is nie indien na raadpleging van die partye wat na sy mening hoofsaaklik betrokke is, die Minister oortuig is dat dit nie doenlik is om assessor ooreenkomsdig bedoelde bepalings aan te stel nie of dat die aanstelling van assessor nie deur bedoelde party verlang word nie.

(4) Die bepalings van 'n lasgewing kragtens sub-artikel (1) moet so gou moontlik nadat dit gegee is in die *Staatskoerant* gepubliseer word saam met 'n kennisgewing wat belanghebbende persone uitnooi om vertoe aan die nywerheidshof voor te lê binne 'n tydperk in die kennisgewing vermeld, wat nie minder as veertien dae vanaf die datum daarvan moet wees nie.

(5) Na oorweging van enige vertoe ingevolge sub-artikel (4) voorgelê en na oorlegpleging met—

- (a) enige nywerheidsraad wat na sy mening by die aangeleentheid betrokke is; en
- (b) enige geregistreerde werkgewersorganisasie of geregtreerde 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 va Geskille), 1953 (Wet No. 48 van 1953), ingestel,

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 any party appeared or intervened in the proceedings on frivolous grounds and that as a result any other party incurred costs which would not otherwise have been incurred, 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, for the benefit of the Consolidated Revenue Fund, such fees as may be prescribed in such proportions as the tribunal may direct.
- (10) (a) A determination made under 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 any relevant wage regulating measure or any constitution or certificate of registration of any registered trade union, employers' organization or industrial council and the provisions of section *fourteen* of the Native Building Workers Act, 1951 (Act No. 27 of 1951), shall operate in accordance with such determination.
- (b) Any certificate of registration referred to in paragraph (a) may be amended by the registrar to bring it into conformity with 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 excuse the secretary fails to do so, he shall be guilty of an offence.

- (11) For the purposes of this section "employee" includes a native.

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 *seventeen* in respect of every investigation undertaken by the tribunal under this section: Provided that this sub-section shall not apply if after consultation with the parties who in his opinion are principally concerned the Minister is satisfied that it is not practicable to appoint assessors in accordance with the said provisions, or that the appointment of assessors is not desired by the said parties.

(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),

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 voerlegging van sy verslag moet die nywerheidshof aanbeveel of dat geen verdere stappe gedoen word nie of dat 'n vasstelling kragtens hierdie artikel gemaak word.

(6) 'n Aanbeveling dat 'n vasstelling kragtens hierdie artikel gemaak word, moet die bepalings van die voorgestelde vasstelling uiteensit, wat bepalings met betrekking tot almal of enigeen van die volgende aangeleenthede kan insluit—

- (a) die reservering of in sy geheel of in die mate in die aanbeveling uiteengesit van werk of enige vermelde klas van werk of werk behalwe 'n vermelde klas van werk in die betrokke onderneming, nywerheid, bedryf of beroep in die vermelde gebied of enige gedeelte daarvan of op of in 'n vermelde tipe of klas van perseel in die vermelde gebied, vir persone van 'n vermelde ras of vir persone wat behoort tot 'n vermelde klas van sodanige persone of vir sodanige persone behalwe 'n vermelde klas van persone en die verbod op die verrigting van sodanige werk deur enige ander persoon;
- (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 oorlegpleging met die Minister van Ekonomiese Sake dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant* 'n vasstelling ooreenkomsdig bedoelde aanbeveling maak.

(b) 'n Vasstelling kragtens paragraaf (a) gemaak, is bindend vanaf 'n datum en vir 'n tydperk in bedoelde kennisgewing vermeld.

(8) Op aanbeveling van die nywerheidshof kan die Minister enige fout of weglatting verbeter, of enige bepaling in 'n vasstelling opklaar, indien hy sodanige verbetering of opklaring nodig ag, en laat hy 'n kennisgewing in die *Staatskoerant* publiseer waarin die bepalings van sodanige verbetering of opklaring uiteengesit word. 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 enigeen van die bepalings van 'n vasstelling in die geheel of enige gedeelte van die gebied waarin dit bindend is, intrek of opskort, en laat 'n kennisgewing van elke sodanige intrekking of opskorting en die datum van wanneer af so 'n intrekking of opskorting in werking tree, en die tydperk van so 'n opskorting, in die *Staatskoerant* publiseer.

(10) (a) Die Minister kan vrystelling verleen van almal of enigeen van die bepalings van 'n vasstelling aan of ten opsigte van enige persoon of klas van persone op wie die vasstelling bindend is vir sodanige tydperk en onderworpe aan sodanige voorwaardes as wat hy bepaal; en hy kan te eniger tyd na goeddunke so 'n vrystelling intrek.

(b) Die bedinge en voorwaardes van 'n vrystelling kragtens paragraaf (a) verleen, moet ingelyf word in 'n 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 ingelyf word, kan magtig; en in daardie geval moet die persoon of klas van persone aan of ten opsigte van wie, die tydperk waarvoor en die datum van wanneer af die vrystelling verleen word in sodanige kennisgewing vermeld word.

(11) Geen vasstelling kragtens sub-artikel (7) gemaak, is in 'n onderneming, nywerheid, bedryf of beroep in 'n gebied bindend nie terwyl 'n ooreenkoms deur die partye by 'n nywerheidsraad aangegaan in daardie onderneming, nywerheid, bedryf of beroep, en gebied bindend is, tensy die raad daartoe instem.

(12) By die toepassing van hierdie artikel beteken—

- (a) „werkneemter”, ook 'n naturel;
- (b) „ras”, blankes of gekleurdes of naturelle;
- (c) „klas van persone”, 'n klas van persone binne die bedoeling van daardie uitdrukking in sub-artikel (9)

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 a determination be made under this section.

(6) A recommendation that a determination be made under this section, shall set forth the terms of the proposed determination which may include provisions relating to all or any of the following matters—

- (a) the reservation either wholly or to the extent set out in the recommendation of work or any specified class of work or work other than a specified class of work in the undertaking, industry, trade or occupation concerned, in the specified area or any portion thereof or on or in any specified type or class of premises in the specified area, for persons of a specified race or for persons belonging to a specified class of such persons or for such persons other than a specified class of persons, and the prohibition of the performance of such work by any other person;
- (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, he deems it expedient to do so, by notice in the *Gazette* make a determination in accordance with the said recommendation.

(b) Any determination made under paragraph (a) shall be binding from a date and for a period specified in the said notice.

(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 forth 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 and the period of any such suspension.

(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 upon whom the determination is binding, for such period and subject to such terms and conditions as he may determine; and he may at any time in his discretion withdraw any such exemption.

(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 incorporating the terms and conditions of the exemption; and in that event the person or class of persons to or in respect of whom, the period for and the date from which the exemption is granted, shall be specified in such notice.

(11) No determination made under sub-section (7) shall be binding in any undertaking, industry, trade or occupation in any area while an agreement entered into by the parties to an industrial council is binding in that undertaking, industry, trade or occupation and area, 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

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 'n aanbeveling, kragtens sub-artikel (6) of in 'n vrystellingsertifikaat of -kennisgewing.

(13) Behoudens die bepalings van sub-artikel (10), is enigmant wat in 'n gebied waarin 'n vasstelling ingevolge hierdie artikel bindend is—

- (a) iemand in diens neem in werk wat deur sodanige vasstelling gereserveer is vir 'n ras of klas van persone waartoe die laasbedoelde persoon nie behoort nie; of
- (b) werk verrig wat deur sodanige vasstelling gereserveer is vir 'n ras of klas van persone waartoe hy nie behoort nie; of
- (c) andersins 'n bepaling van die vasstelling wat op hom bindend is, oortree of versuim om daaraan te voldoen, skuldig aan 'n misdryf.

(14) Geen vasstelling word kragtens hierdie artikel gemaak ten opsigte van enige beroep of enige bepaalde werk waarmontrent die Goewerneur-generaal kragtens die bepalings van paragraaf (n) van sub-artikel (1) van artikel *vier* van die „Mynen en Bedrijven Wet, 1911“ (Wet No. 12 van 1911), regulasies kan uitvaardig nie.

(15) Elke verslag en aanbeveling van die nywerheidshof kragtens hierdie artikel moet in beide Huise van die Parlement ter Tafel gelê word binne dertig dae na ontvangs daarvan deur die Minister, as 'n sessie van die Parlement dan aan die gang is, of as 'n sessie van die Parlement nie dan aan die gang is nie, binne dertig dae na die aanvang van sy eersvolgende sessie.

**78.** (1) Geen werkewer 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 soortgelyke liggaam van werknemers mag wees of word nie, en so 'n beding of voorwaarde in 'n dienskontrak aangegaan 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 wetsbepaling 'n werknemer verbied om lid van 'n vakvereniging of enige ander soortgelyke liggaam van werknemers te wees of te word of hom aan enige straf vanweë sy lidmaatskap van 'n vakvereniging of ander soortgelyke liggaam van werknemers onderwerp nie.

(3) 'n Werkewer wat die bepalings van sub-artikel (1) oortree, is aan 'n misdryf skuldig.

**79.** Geen siviele geregtelike stappe word in enige gereghof teen 'n geregistreerde vakvereniging of werkewersorganisasie, of teen 'n lid, ampsdraer of beampot van so 'n vereniging of organisasie ten opsigte van 'n onregmatige handeling deur daardie vereniging of organisasie, of deur daardie lid, ampsdraer of beampot namens daardie vereniging of organisasie ter bevordering van 'n staking of uitsluiting verrig, aanhangig gemaak nie: Met dien verstande dat hierdie artikel nie van toepassing is nie op enige handeling verrig ter bevordering van 'n staking of uitsluiting waaraan, of aan die voortsetting waarvan, enige werknemer, werkewer of ander persoon deur artikel *vyf-en-sestig* belet word om deel te neem, of op enige handeling waarvan die verrigting 'n kriminele oortreding is.

**80.** (1) Behoudens die bepalings van sub-artikel (2) kan die registrator, met die goedkeuring van die Minister, 'n federasie wat geheel en al of gedeeltelik bestaan uit geregistreerde werkewersorganisasies of vakverenigings of 'n federasie van enige sodanige federasies wat as sy oogmerk het of waarvan een van sy vernaamste oogmerke is om die belang van werkewers of werknemers, na gelang van die geval, te bevorder, registrator.

(2) 'n Federasie wat registrasie kragtens 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 beampots vermeld;
- (b) saam met sy aansoek 'n afskrif van sy konstitusie indien; en
- (c) sodanige nadere inligting aan die registrator verstrek as wat hy vereis.

(3) Die Minister kan 'n kragtens hierdie artikel geregistreerde federasie raadpleeg in verband met enige aangeleentheid wat die belang van werkewers en werknemers in die algemeen aangaan of raak.

(4) 'n Geregistreerde federasie moet—

**Werknemers vry om te verenig.**

Beskerming van vakverenigings en werkewersorganisasies ten opsigte van sekere onregmatige handelinge ter bevordering van wettige staking of uitsluiting.

Federasies van werkewersorganisasies of vakverenigings.

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 a recommendation under sub-section (6) or in a certificate or notice of exemption.

(13) Subject to the provisions of sub-section (10), any person who in an area in which a determination is binding in terms of this section—

- (a) employs any person on work which has been reserved by such determination for a race or class of persons to which such last-mentioned person does not belong; or
- (b) performs work which has been reserved by such determination for a race or class of persons to which he does not belong; or
- (c) otherwise contravenes or fails to comply with any provision of the determination 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 any particular work in regard to which the Governor-General may make regulations 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).

(15) Every report and recommendation of the tribunal under this section shall be laid on the Tables of both Houses of Parliament within thirty days after the receipt thereof by the Minister if Parliament is then in session, or if Parliament is not then in session, within thirty days after the commencement of its next ensuing session.

**78.** (1) No employer shall require of any employee whether by a term or condition of employment or otherwise that that association of employees shall not be or become a member of a trade union, or other similar 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.

(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 similar association of employees or subject him to any penalty by reason of his membership of any trade union or other similar 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.

(2) Any federation seeking registration under 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 under this section in connection with any matter concerning or affecting the interests of employers and employees in general.

(4) Any registered federation shall—

Federations of employers' organizations or trade unions.

- (a) die registrateur in kennis stel van enige wysings in sy konstitusie aangebring binne dertig dae nadat hulle aangebring is; en
- (b) wanneer 'n verkiesing of aanstelling van ampsdraers of beampetes plaasvind, binne dertig dae vanaf die verkiesing of aanstelling die registrateur voorsien van die name en adresse van die verkose of aangestelde persone, hetsy daar enige veranderings onder die ampsdraers of beampetes plaasgevind het, al dan nie.

(5) Die Minister kan na goeddunke en na raadpleging met 'n geregistreerde federasie, die registrateur gelas om die registrasie van daardie federasie in te trek.

(6) Die Minister kan na goeddunke weier om die registrasie goed te keur van 'n federasie waarvan die ledetal 'n liggaam insluit wat naturelle tot lidmaatskap toelaat; en indien so 'n federasie kragtens hierdie Wet geregistreer is of geag word aldus geregistreer te wees, kan die Minister die registrateur te eniger tyd gelas om die registrasie in te trek.

(7) Elke geregistreerde federasie moet nie later nie as die laaste dag van Maart van elke jaar aan die registrateur in die voorgeskrewe vorm 'n staat stuur wat op die een-en-dertigste dag van Desember van die vorige jaar—

- (a) die name en adresse van sy lede; en
  - (b) die getal persone wat elke lid in die federasie verteenwoordig,
- aantoon.

#### **Regulasies.**

**81.** (1) Die Goewerneur-generaal kan regulasies uitvaardig wat voorskryf—

- (a) enige aangeleentheid wat volgens hierdie Wet voorskryf 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 hierdie Wet bereik kan word.

(2) Verskillende regulasies kan vir verskillende klasse van persone uitgevaardig word.

(3) Regulasies kragtens sub-artikel (1) uitgevaardig, kan vir enige oortreding daarvan of versuim om daaraan te voldoen, strawwe voorskryf van hoogstens 'n boete van vyftig pond of gevengenisstraf vir 'n tydperk van ses maande.

(4) Elke regulasie uitgevaardig kragtens die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), wat by die inwerkting 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 aan 'n misdryf ingevolge die bepalings van hierdie Wet is strafbaar—

- (a) met 'n boete van hoogstens driehonderd pond of met gevengenisstraf vir 'n tydperk van hoogstens twee jaar of met sodanige gevengenisstraf sonder die keuse van 'n boete of met beide sodanige boete en sodanige gevengenisstraf, in die geval van 'n in sub-artikel (1) van artikel *ses-en-sestig* bedoelde misdryf; en
- (b) met 'n boete van hoogstens honderd pond of gevengenisstraf vir 'n tydperk van hoogstens een jaar of met daardie gevengenisstraf sonder die keuse van 'n boete of met beide daardie boete en daardie gevengenisstraf, in die geval van enige ander misdryf waarvoor geen spesiale straf voorgeskryf word nie.

(2) 'n Werkewer wat vir 'n tweede of volgende maal skuldig bevind word aan 'n oortreding of versuim bedoel in sub-artikel (2) van artikel *drie-en-vyftig* kan, benewens enige straf wat kragtens sub-artikel (1) opgelê kan word, beveel word om op of voor 'n vermelde datum enige registrasiesertifikaat aan hom ingevolge artikel *nege-en-vyftig* uitgereik, by die hof in te lever.

(3) Iemand teen wie 'n bevel kragtens sub-artikel (2) uitgevaardig is, wat na die vermelde datum sy besigheid voortsit of 'n nuwe besigheid begin in dieselfde onderneming, nywerheid, bedryf of beroep as dié ten opsigte waarvan die ooreenkoms of toekennung vir die oortreding of versuim van nakoming waarvan hy aldus skuldig bevind is, bindend is of was, is, wanneer hy enigiemand in verband met sodanige besigheid in diens het, skuldig aan 'n misdryf en by skuldigbevinding strafbaar met gevengenisstraf van hoogstens een jaar sonder die keuse van 'n boete.

(4) Die feit dat so 'n werkewer 'n lisensie besit kragtens die „Licenties Konsolidatiewet, 1925“ (Wet No 23 van 1925), of die Drankwet, 1928 (Wet No. 30 van 1928), of enige ander wet, is geen geldige verweer teen 'n aanklag teen hom ingevolge die bepalings van sub-artikel (3) nie.

- (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.

(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.

(7) Every registered federation shall not later than the last day of March in each year forward to the registrar, in the prescribed form, a statement showing as at the thirty-first day of December of the previous year—

- (a) the names and addresses of its members; and
- (b) the number of persons each member represents in the federation.

**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 objects of this Act may be achieved.

(2) Different regulations may be made for different classes of persons.

(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.

(4) Every regulation made under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), and in force at the 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.

**82. (1)** Any person who is convicted of an offence under the provisions of this Act shall be liable—  
Penalties.

- (a) in the case of an offence referred to in 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
- (b) 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 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 person 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).

**Verbode diens.**

**83.** (1) Wanneer 'n werkewer deur 'n hof skuldig bevind is aan 'n oortreding van 'n bepaling van hierdie Wet of enige ander Wet of 'n loonreëlene maatreël wat die diens belet van 'n persoon of 'n lid van 'n klas van persone in 'n onderneming, nywerheid, bedryf of beroep—

- (a) in enige werk of klas of tipe van werk;
- (b) op of in enige klas of tipe van perseel;
- (c) op enige dag of gedurende enige gedeelte van 'n dag of gedurende enige tydperk;
- (d) vir meer as 'n getal ure op 'n dag of gedurende enige tydperk; of
- (e) in enige ander omstandighede van watter aard hoege-naamd,

moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is tussen die bedrag wat hy aan bedoelde persoon ten opsigte van sodanige diens betaal het en enige hoër bedrag bereken ooreenkomsdig die toepaslike skaal vir sodanige werk volgens 'n wetsbepaling of loonreëlene maatreël van toepassing op bedoelde onderneming, nywerheid, bedryf of beroep.

(2) Indien die hof uit al die getuienis, hetsy dit voor skuldig-bevinding afgelê is of daarna, nie in staat is om die presiese bedrag van die in sub-artikel (1) bedoelde verskil vas te stel nie, moet hy die verskil na die beste van sy vermoë beraam. As geen bedrag deur die werkewer betaal is nie, word die totale bedrag bereken ooreenkomsdig die in sub-artikel (1) bedoelde skaal, geag die verskil te wees.

(3) Die bepalings van artikel *vier-en-vyftig* is *mutatis mutandis* van toepassing ten opsigte van die verskil bereken of beraam ingevolge sub-artikel (1) of (2), en enige bedrag wat ingevolge 'n bevel wat uitgevaardig word kragtens bedoelde artikel, soos deur hierdie artikel toegepas, aan die aangewese amptenaar betaal word, moet in die Gekonsolideerde Inkomstefonds inbetaal word.

**Regsbevoegdheid van magistraats-howe.**

**84.** Ondanks andersluidende wetsbepalings, besit 'n magistraatshofregsbevoegdheid om enige straf op te lê wat hierdie Wet voorskryf of om enige bevel uit te vaardig waarvoor hierdie Wet voorsiening maak.

**Artikel 351 van Wet 56 van 1955 nie van toepassing op sekere oor-tredings volgens hierdie Wet nie.****Herroeping van wette.**

**85.** Die bepalings van artikel *driehonderd een-en-vyftig* van die Strafproseswet, 1955 (Wet No. 56 van 1955), is nie ten opsigte van 'n misdryf wat bestaan uit 'n in sub-artikel (2) of (3) van artikel *drie-en-vyftig* bedoelde oortreding of versuim, van toe-passing nie.

**86.** Die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), sub-artikel (2) van artikel *vyf-en-twintig* en artikel *vier-en-dertig* van die Loonwet, 1937 (Wet No. 44 van 1937), artikel *agtien* van die Finansiewet, 1943 (Wet No. 37 van 1943), en artikel *ses-en-dertig* van die Wet op Naturelle-arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953), word hiermee her-roep.

**Kort titel en datum van inwerkingtreding.**

**87.** Hierdie Wet heet die Wet op Nywerheidsversoening, 1956, en tree in werking op 'n datum wat deur die Goewerneur-generaal by proklamasie in die Staatskoerant bepaal word.

83. (1) Whenever any employer has been convicted by any court of a contravention of any provision of this Act or any other Act or any wage regulating measure prohibiting the employment of any person or any member of a class of persons in any undertaking, industry, trade or occupation—

- (a) on any work or any class or type of work;
- (b) on or in any class or type of premises;
- (c) on any day or during any portion of any day or during any period;
- (d) in excess of any number of hours on any day or during any period; or

(e) in any other circumstances of whatsoever nature, the court convicting him shall enquire into and determine the difference between the amount which he paid to the said person in respect of such employment and any higher amount calculated in accordance with the appropriate rates for such work under any law or wage regulating measure applicable to the said undertaking, industry, trade or occupation.

(2) If the court is unable on all the evidence, whether given before or after conviction, to determine the exact amount of the difference referred to in sub-section (1), it shall to the best of its ability estimate the difference. If no amount has been paid by the employer, the total amount calculated in accordance with the rates referred to in sub-section (1) shall be deemed to be the difference.

(3) The provisions of section *fifty-four* shall *mutatis mutandis* apply in respect of the difference calculated or estimated in terms of sub-section (1) or (2), and any amount paid to the specified officer in terms of an order made under the said section, as applied by this sub-section, shall be paid into the Consolidated Revenue Fund.

84. 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.

85. The provisions of section *three hundred and fifty-one* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), 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*.

86. The Industrial Conciliation Act, 1937 (Act No. 36 of 1937), sub-section (2) of section *twenty-five* and section *thirty-four* of the Wage Act, 1937 (Act No. 44 of 1937), section *eighteen* of the Finance Act, 1943 (Act No. 37 of 1943), and section *thirty-six* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953), are hereby repealed.

87. This Act shall be called the Industrial Conciliation Act, 1956, and shall come into operation upon a date to be fixed by the Governor-General by proclamation in the *Gazette*.