

EXTRAORDINARY



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KAAPSTAD, 22 FEBRUARIE, 1957.

DEPARTMENT OF THE PRIME MINISTER.

The following Government Notice is published for general information:—

No. 295.] [22nd February, 1957.

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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DEPARTEMENT VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer:—

No. 295.] [22 Februarie 1957.

Hierby word bekend gemaak 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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No. 3, 1957.]

ACT

To provide for the suppression of the practice of witchcraft and similar practices.

*(English text signed by the Governor-General.)
(Assented to 19th February, 1957.)*

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:—

Offences relating to the practice of witchcraft and similar practices.

1. Any person who—

- (a) imputes to any other person the use of supernatural means in causing any disease in or injury or damage to any person or thing, or who names or indicates any other person as a wizard;
- (b) employs or solicits any witch-doctor, witch-finder or any other person to name or indicate any person as a wizard;
- (c) professes a knowledge of witchcraft, or the use of charms, and who advises any person how to bewitch, injure or damage any person or thing, or who supplies any person with any pretended means of witchcraft;
- (d) on the advice of any witch-doctor, witch-finder or other person or on the ground of any pretended knowledge of witchcraft, uses or causes to be put into operation any means or process which, in accordance with such advice or his own belief, is calculated to injure or damage any person or thing;
- (e) for gain pretends to exercise or use any kind of supernatural power, witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill in or knowledge of any occult science to discover where and in what manner anything supposed to have been stolen or lost may be found,

shall be guilty of an offence and liable on conviction—

- (i) in the case of an offence referred to in paragraph (a), in consequence of which the person in respect of whom such offence was committed, has been killed or where the accused has been proved to be by habit or repute a witch-doctor or witch-finder, to imprisonment for a period not exceeding twenty years or to a whipping not exceeding ten strokes or to both such imprisonment and such whipping;
- (ii) in the case of any other offence referred to in the said paragraph, to one or more of the following penalties, namely, a fine not exceeding five hundred pounds, imprisonment for a period not exceeding ten years and a whipping not exceeding ten strokes;
- (iii) in the case of an offence referred to in paragraph (b), (c) or (d), to a fine not exceeding two hundred and fifty pounds or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment;
- (iv) in the case of an offence referred to in paragraph (e), to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding two years.

Presumption.

2. Where any person in respect of whom an offence referred to in paragraph (a) of section one was committed, is killed it shall be presumed until the contrary is proved, that such person was killed in consequence of the commission of such offence.

Repeal of laws.

3. The laws mentioned in the Schedule to this Act are hereby repealed to the extent set out in the fourth column of that Schedule.

Short title.

4. This Act shall be called the Witchcraft Suppression Act, 1957.

No. 3, 1957.]

WET

Om vir die onderdrukking van die beoefening van toorkuns en dergelyke bedrywighede voorsiening te maak.

*(Engelse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 19 Februarie 1957.)*

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

1. Iemand wat—

- (a) aan iemand anders die gebruik van bonatuurlike middels toeskryf by die veroorsaking van 'n siekte in of leed of skade aan enigiemand of enigets, of wat iemand anders as 'n towenaar bestempel of uitwys;
 - (b) 'n toordokter, towenaaruitwyser of iemand anders gebruik of versoek om iemand as 'n towenaar te bestempel of uit te wys;
 - (c) voorgee dat hy oor kennis van toorkuns of die gebruik van toormiddels beskik, en wat iemand raad gee hoe om enigiemand of enigets te toor, leed aan te doen of te beskadig, of wat iemand van beweerde toormiddels voorsien;
 - (d) op raad van 'n toordokter, towenaaruitwyser of iemand anders, of op grond van beweerde kennis van toorkuns, 'n middel of maatreël gebruik of in werking laat stel wat volgens daardie raad of sy eie oortuiging bereken is om enigiemand of enigets leed aan te doen of te beskadig;
 - (e) vir wins voorgee dat hy enige soort bonatuurlike mag, toorkuns, toordery, betowering of beswering uitoeft of gebruik, of onderneem om waar te sê, of voorgee dat hy uit hoofde van sy bedrewenheid in of kennis van 'n geheime wetenskap ontdek waar en op watter manier enigets wat veronderstel word gesteel of verloor te gewees het, gevind kan word,
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar—
- (i) in die geval van 'n by paragraaf (a) bedoelde misdryf, ten gevolge waarvan die persoon ten aansien van wie die misdryf gepleeg was, gedood is, of waar dit bewys is dat die beskuldigde uit gewoonte of volgens gerugte 'n toordokter of towenaaruitwyser is, met gevangenisstraf vir 'n tydperk van hoogstens twintig jaar of met lyfstraf van hoogstens tien houe of met beide daardie gevangenisstraf en daardie lyfstraf;
 - (ii) in die geval van enige ander by genoemde paragraaf bedoelde misdryf, met een of meer van die volgende strawwe, naamlik, 'n boete van hoogstens vyfhonderd pond, gevangenisstraf vir 'n tydperk van hoogstens tien jaar en lyfstraf van hoogstens tien houe;
 - (iii) in die geval van 'n by paragraaf (b), (c) of (d) bedoelde misdryf, met 'n boete van hoogstens tweehonderd-en-vyftig pond of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met beide daardie boete en daardie gevangenisstraf;
 - (iv) in die geval van 'n by paragraaf (e) bedoelde misdryf, met 'n boete van hoogstens honderd pond of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar.

Misdrywe met betrekking tot die beoefening van toorkuns en dergelyke bedrywighede.

2. Waar iemand ten aansien van wie 'n by paragraaf (a) Vermoede. van artikel een bedoelde misdryf gepleeg is, gedood word, word dit vermoed totdat die teendeel bewys word, dat so iemand ten gevolge van die pleeg van daardie misdryf gedood is.

3. Die wette in die Bylae by hierdie Wet vermeld, word Herroeping van hiermee herroep vir sover in die vierde kolom van daardie wette. Bylae aangetoon word.

4. Hierdie Wet heet die Wet op Onderdrukking van Toorkuns, Kort titel. 1957.

Schedule.**LAWS REPEALED.**

Province or territory.	No. and year of law.	Title or subject of law.	Extent of repeal.
Cape of Good Hope.	Act No. 24 of 1886.	The Native Territories' Penal Code.	Chapter XI.
	Act No. 2 of 1895.	The Witchcraft Suppression Act, 1895.	The whole.
Natal.	Law No. 19 of 1891.	Natal Code of Native Law.	Section <i>one hundred and twenty-nine</i> of the Schedule as substituted by Union Proclamation No. 168 of 1932.
Transvaal.	Ordinance No. 26 of 1904.	The Crimes Ordinance, 1904.	Sections <i>twenty-nine to thirty-four</i> inclusive.
Zululand.	Proclamation No. II of 1887.	Laws and Regulations for the Government of Zululand.	Regulations <i>nine and ten</i> .

Bylae.
WETTE HERROEP.

Provinsie of gebied.	No. en jaar van wet.	Titel of onderwerp van wet.	In hoeverre her- roep.
Kaap die Goeie Hoop.	Wet No. 24 van 1886.	„The Native Territories' Penal Code”.	Hoofstuk XI.
”	Wet No. 2 van 1895.	„The Witchcraft Sup- pression Act, 1895”.	Die geheel.
Natal.	Wet No. 19 van 1891.	Natalse Wetboek van Naturellereg.	Artikel honderd <i>nege-en-twintig</i> van die Skedule soos deur Unie- Proklamasie No. 168 van 1932 vervang.
Transvaal.	Ordonnansie No. 26 van 1904.	„The Crimes Ordinance 1904”.	Artikels <i>nege-en-</i> <i>twintig</i> tot en met <i>vier-en-</i> <i>dertig</i> .
Zoeloeland.	Proklamasie No. II van 1887.	„Laws and Regulations for the Government of Zululand”.	Regulasies <i>nege</i> <i>en tien</i> .

No. 4, 1957.]

ACT

To amend the Prisons and Reformatories Act, 1911.

(Afrikaans text signed by the Governor-General.)

(Assented to 19th February, 1957.)

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

Amendment of section 2 of Act 13 of 1911, as amended by section 1 of Act 46 of 1920, section 2 of Act 27 of 1934, section 88 of Act 31 of 1937, and section 1 of Act 11 of 1955.

Amendment of section 3 of Act 13 of 1911, as amended by section 1 of Act 46 of 1920, and section 88 of Act 31 of 1937.

Amendment of section 4 of Act 13 of 1911, as amended by section 3 of Act 27 of 1934.

Substitution of section 9 of Act 13 of 1911.

1. Section *two* of the Prisons and Reformatories Act, 1911 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "prisoner" of the following definition:

"'prisoner' shall mean any person, whether convicted or not, who is detained in any institution mentioned in paragraph *(b)* of section *nine*, section *thirteen* or section *fifty*";.

2. Section *three* of the principal Act is hereby amended by the substitution for sub-section (3) of the following sub-section:

"(3) The duties of the Prisons Department shall be—

- (a) The performance of all work necessary for, arising from, or incidental to, the detention in maximum security, or in medium security, or in open institutions, as circumstances may warrant, of persons committed to its care;
- (b) as far as practicable to train convicts and prisoners in agriculture or in any trade or occupation with a view to their reformation and rehabilitation;
- (c) to keep such statistics as the Minister may from time to time prescribe; and
- (d) to perform such other duties as the Minister may from time to time assign to the department.".

3. Section *four* of the principal Act is hereby amended—

- (a) by the substitution for sub-section (1) of the following sub-section:

"(1) The Minister may appoint any officer, other than a subordinate officer, as an inspector of prisons or as a deputy-inspector of prisons, and such inspector or deputy-inspector shall perform the duties assigned to him by this Act or, subject to the provisions of this Act, by regulation or by administrative instruction.";

- (b) by the substitution in sub-section (2) for the word "Minister" wherever it occurs of the word "Director".

4. The following section is hereby substituted for section *nine* of the principal Act:

"Establish-
ment of
convict
prisons and
hospital
prisons.

9. (1) The Minister may, by notice in the *Gazette*, establish—

- (a) convict prisons for the purposes of the imprisonment and confinement in accordance with the provisions of this Act and the regulations, of persons convicted of any offence and sentenced to any period of imprisonment; and
- (b) chronic sick or hospital prisons for the treatment of convicts and prisoners.

(2) The Governor-General may make special regulations for the control of chronic sick or hospital prisons. In the absence of such special regulations, the convict prison regulations shall apply.".

No. 4, 1957.]

WET

Tot wysiging van die „Wet op Gevangenissen en Verbeter-gestichten, 1911”.

*(Afrikaanse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 19 Februarie 1957.)*

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

- | | |
|---|--|
| <p>1. Artikel <i>twoe</i> van die Wet op „Gevangenissen en Verbetergestichten, 1911” (hieronder die Hoofwet genoem), word hierby gewysig deur die woordbepaling van „gevangene” deur die volgende woordbepaling te vervang:</p> <p>„gevangene” een al dan niet veroordeelde die aangehouden wordt in een in paragraaf (b) van artikel <i>negen</i>, artikel <i>dertien</i> of artikel <i>vijftig</i> genoemde inrichting.”</p> | <p>Wysiging van artikel 2 van Wet 13 van 1911, soos gewysig deur artikel 1 van Wet 46 van 1920, artikel 2 van Wet 27 van 1934, artikel 88 van Wet 31 van 1937, en artikel 1 van Wet 11 van 1955.</p> |
| <p>2. Artikel <i>drie</i> van die Hoofwet word hierby gewysig deur sub-artikel (3) deur die volgende sub-artikel te vervang:</p> <p>„(3) De plichten van het Departement van Gevangenissen omvatten—</p> <ul style="list-style-type: none"> (a) het verrichten van alle werkzaamheden vereist voor, voortvloeiende uit, of rakende de aanhouding, naar vereiste van omstandigheden, in maximum zekerheid of in medium zekerheid of in open inrichtingen, van personen aan zijn zorg toevertrouwd; (b) het opleiden zo ver doenlik van bandieten en gevangenen in de landbouw of in een of ander bedrijf of beroep met het oog op hun verbetering en rehabilitatie; (c) het verzamelen van zulke statistiese gegevens als de Minister van tijd tot tijd mocht voorschrijven; en (d) het verrichten van zulke andere werkzaamheden als de Minister van tijd tot tijd aan het departement mocht opdragen.”. | <p>Wysiging van artikel 3 van Wet 13 van 1911, soos gewysig deur artikel 1 van Wet 46 van 1920, en artikel 88 van Wet 31 van 1937.</p> |
| <p>3. Artikel <i>vier</i> van die Hoofwet word hierby gewysig—</p> <ul style="list-style-type: none"> (a) deur sub-artikel (1) deur die volgende sub-artikel te vervang: <p>„(1) De Minister is bevoegd enige beambte, behalve een ondergeschikte beambte, tot inspekteur van gevangenissen of tot adjunkt-inspekteur van gevangenissen te benoemen, en zulk een inspekteur of adjunkt-inspekteur verricht de plichten die hem bij deze Wet of, onderworpen aan de bepalingen van deze Wet, bij regulaties of administratieve voorschriften opgedragen worden.”;</p> <p>en</p> <ul style="list-style-type: none"> (b) deur in sub-artikel (2) die woord „Minister” orals waar dit voorkom deur die woord „Direkteur” te vervang. | <p>Wysiging van artikel 4 van Wet 13 van 1911, soos gewysig deur artikel 3 van Wet 27 van 1934.</p> |
| <p>4. Artikel <i>nege</i> van die Hoofwet word hierby deur die volgende artikel vervang:</p> <p>„Oprichting van bandietetronken en hospitaaltronken in die Staatskoerant, op te richten—</p> <ul style="list-style-type: none"> (a) bandietetronken voor de gevangenzetting en opsluiting, overeenkomstig het bepaalde bij deze Wet en de regulaties, van personen die wegens een misdrijf schuldig bevonden en tot gevangenisstraf veroordeeld zijn; en (b) chronies zieke- of hospitaaltronken voor de verpleging van bandieten en gevangenen. <p>(2) De Goewerneur-generaal is bevoegd biezondere regulaties uit te vaardigen voor ‘t beheer van chronies zieke- of hospitaaltronken. Bij ontstentenis van zulke regulaties worden de bandietetronk-regulaties toegepast.”.</p> | <p>Vervanging van artikel 9 van Wet 13 van 1911.</p> |

Amendment of
section 13 of
Act 13 of 1911.

5. Section *thirteen* of the principal Act is hereby amended by the substitution for sub-sections (1) and (2) of the following sub-sections:

"(1) The Minister may, by notice in the *Gazette*, establish—

(a) local gaols to serve one or more districts for the detention, confinement, and treatment of persons liable to detention in custody, whether under sentence of court, or prior to sentence, or otherwise requiring by law to be detained, confined, or treated; and

(b) road camps for the treatment of persons sentenced to imprisonment for such petty offences as may from time to time be specified by him.

(2) The Governor-General may make special regulations for the control of local gaols and road camps respectively. In the absence of such special regulations, the convict prison regulations shall apply.”.

Insertion of
section 49bis
in Act 13 of 1911.

6. The following section is hereby inserted in the principal Act after section *forty-nine*:

"Release of 49bis. Any convict or prisoner who is detained sick convicts in any institution mentioned in section *nine*, or prisoners. *thirteen* or *fifty* under sentence of court and who is suffering from a dangerous infectious disease or whose life is endangered by his detention in such institution may on the recommendation of the medical officer, be released by the Minister in anticipation of the Governor-General's approval.”.

Substitution of
section 50 of Act
13 of 1911, as
amended by section
391 of Act 31 of
1917.

7. The following section is hereby substituted for section *fifty* of the principal Act:

Establish-
ment of
farm
colonies
and other
institutions
for the
classifica-
tion and
training of
convicts and
prisoners.

50. (1) The Minister may, by notice in the *Gazette*, establish—

(a) farm colonies to which persons found idle and undesirable in terms of the Natives (Urban Areas) Consolidation Act, 1945, may be sent to learn habits of industry and labour;

(b) training centres for the confinement of persons under the age of twenty-one years liable to detention in custody and for such other convicts and prisoners over that age who, on account of their immaturity, are better classified with juveniles;

(c) observation centres for the purpose of determining the age, health, mental condition, character traits, previous conduct, ability to work, aptitudes, and training of long term convicts and prisoners, that is, convicts and prisoners sentenced to imprisonment or detention for a period of more than one year, with a view to their classification and training; and

(d) such other types of institutions as he may from time to time deem necessary for the confinement and training with a view to their reformation and rehabilitation, of persons convicted of any offence and sentenced to any period of imprisonment or detention.

(2) Any convict prison, chronic sick or hospital prison, local gaol, road camp or other institution established under this Act before or after the commencement of the Prisons and Reformatories Amendment Act, 1957, or any portion thereof, may be used for any of the purposes envisaged in sub-section (1).

(3) The Minister may apply to any institution established under this section before or after the commencement of the Prisons and Reformatories Amendment Act, 1957, such of the provisions of this Act and of the regulations, with such modifications thereof as he may deem expedient.”.

5. Artikel *dertien* van die Hoofwet word hierby gewysig deur Wysiging van sub-artikels (1) en (2) deur die volgende sub-artikels te vervang: van Wet 13

„(1) De Minister is bevoegd, bij kennisgeving in die van 1911.
Staatskoerant, op te richten—

- (a) plaatselike tronken ten dienste van een of meer distrikten, voor de aanhouding, gevangenzetting en behandeling van personen die in bewaring aangehouden moeten worden, hetzij uit hoofde van een vonnis van een hof of vóór veroordeling, of die anderszins op grond van een wettelik voorschrift aangehouden, gevangengezet of behandeld moeten worden; en
 - (b) wegkampen voor de behandeling van personen veroordeeld wegens die geringe overtredingen van tijd tot tijd door hem bepaald.
- (2) De Gouverneur-generaal is bevoegd biezondere regulaties onderscheidelik voor 't beheer van plaatselike tronken en wegkampen uit te vaardigen. Bij ontstentenis van zulke regulaties wordende bandietetronk-regulaties toegepast.”.

6. Die volgende artikel word hierby in die Hoofwet na artikel *nege-en-veertig* ingevoeg: Invoeging van artikel 49bis in Wet 13 van 1911.

„Invrijheidstelling van zieke bandieten of gevangenens. **49bis.** Enige bandiet of gevangene die ingevolge vonnis in een in artikel *negen*, *dertien* of *vijftig* genoemde inrichting aangehouden word en die aan een gevaarlike besmettelike ziekte lijdt, of wiens leven door zijn aanhouding in zulk inrichting in gevaar gesteld wordt, kan op aanbeveling van de geneeskundige beambte door de Minister in afwachting van de goedkeuring van de Gouverneur-generaal in vrijheid gesteld worden.”.

7. Artikel *vyftig* van die Hoofwet word hierby deur die volgende artikel vervang: Vervanging van artikel 50 van Wet 13 van 1911, soos gewysig deur artikel 391 van Wet 31 van 1917.

„Oprichting van boerderijkoloniës en ander inrichtingen voor de klassifikasie en het onderricht van bandieten en gevangenens. **50.** (1) De Minister is bevoegd bij kennisgeving in die *Staatskoerant* op te richten—

- (a) boerderijkolonies waarheen diegenen die ingevolge de „Naturelle (Stadsgebiede) Konsolidasiewet, 1945”, ledige of ongewenste personen bevonden word, verwezen kunnen worden ten einde aan arbeid en vlijt gewend te kunnen worden;
- (b) opleidingscentra voor de gevangenzetting van personen beneden de leeftijd van een en twintig jaren die in bewaring aangehouden moet word en voor de andere bandieten en gevangenens boven die leeftijd die wegens hun onrijpheid beter bij jeugdige personen geklassifiseerd worden;
- (c) waarnemingscentra voor het bepalen van de ouderdom, gezondheidstoestand, geestesgesteldheid en karaktertrekken, het vorig gedrag en werkvermogen en de aanleg en opleiding van langtermyn bandieten en gevangenens, te weten, bandieten en gevangenens veroordeeld tot gevangenisstraf of aanhouding voor een tijdsperk van meer dan één jaar, met het oog op hun klassifikasie en opleiding; en
- (d) zulk andere soorten inrichtingen als hij van tijd tot tijd nodig acht voor de aanhouding en opleiding, met het oog op hun verbetering en rehabilitasie, van personen aan een misdrijf schuldig bevonden en tot een tijdsperk van gevangenisstraf of aanhouding veroordeeld.

(2) Enige bandietetronk, chronies zieke- of hospitaaltronk, plaatselike tronk, wegkamp of andere inrichting krachtens deze Wet opgericht vóór of na de inwerkingtreding van de „Wysigingswet op Gevangenis en Verbetergestigte, 1957”, of enig gedeelte daarvan, kan voor enige van de in sub-artikel (1) beoogde doeleinden gebruikt word.

(3) De Minister kan die bepalingen van deze Wet en van de regulaties, met zulke wijzigingen, als hij goed vindt, op een inrichting vóór of na de inwerkingtreding van de „Wysigingswet op Gevangenis en Verbetergestigte, 1957”, krachtens dit artikel opgericht, toepasselik verklaren.”.

Amendment of
section 90 of
Act 13 of 1911,
as amended by
section 2 of
Act 46 of 1920.

8. Section *ninety* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

- "(1) (a) Any convict or prisoner detained in any institution mentioned in section *nine, thirteen* or *fifty* may, in the interests of discipline or of such convict or prisoner be removed by or on the authority of the Director to any other institution under the control of the department or, in the case of serious illness or of a female who is about to give birth to a child and if adequate facilities do not exist for the treatment of such convict or prisoner in such institution, to any other place.
- (b) If any convict or prisoner detained as aforesaid is removed to any institution under the control of the department the order, judgment or warrant under which he has been detained at the place from which he is being removed, together with all information relative to that convict or prisoner, shall be transmitted by the officer in charge of that place to the officer in charge of the institution to which the removal is being made."

Short title.

9. This Act shall be called the Prisons and Reformatories Amendment Act, 1957.

8. Artikel *negentig* van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) (a) Enige bandiet of gevangene die in een in artikel *negen, dertien of vijftig* genoemde inrichting aangehou-

Wysiging van
artikel 90 van
Wet 13 van 1911,
soos gewysig
deur artikel 2
van Wet 46
van 1920.

den wordt, kan ter wille van de discipline of in het belang van zulk bandiet of gevangene, door of op gezag van de Directeur naar enige ander inrichting onder het beheer van het departement overgebracht worden, of, in geval van ernstige ziekte of van een vrouwspersoon die op 't punt staat aan een kind geborre te geven, en waar voldoende faciliteiten voor het behandelen van die bandiet of gevangene in bedoelde inrichting niet bestaan, naar enige ander plaats.

(b) Ingeval een bandiet of gevangene die zoals voormeld aangehouden wordt, naar een inrichting onder het beheer van het departement overgebracht wordt, wordt het bevelschrift of vonnis of de lastbrief uit krachte waarvan hij op de plaats vanwaar hij overgebracht wordt, aangehouden is, te zamen met alle gegevens betrekkelik die bandiet, door de aldaar gezaghebbende beambte gezonden aan de gezaghebbende beambte van de inrichting waarheen de overbrenging geschiedt.”.

9. Hierdie Wet heet die Wysigingswet op Gevangenis en Kort titel. Verbetergestigte, 1957.

No. 5, 1957.]

ACT

To consolidate and amend the law relating to the establishment of a wage board, the determination of terms and conditions of employment and other incidental matters.

*(English text signed by the Governor-General.)
(Assented to 19th February, 1957.)*

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:—

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) “area” includes any number of areas whether or not contiguous; (v)
 - (ii) “board” means the wage board established by section *three* or in relation to any function which has been assigned to a division in terms of this Act, the division to which such function has been so assigned; (x)
 - (iii) “determination” means a determination made or deemed to have been made under section *fourteen* and includes any determination as amended or deemed to have been amended under section *fifteen* or as extended or deemed to have been extended under section *seventeen*; (xiii)
 - (iv) “division” means a division of the board established or deemed to have been established under section *three*; (i)
 - (v) “employee” means any person employed by, or working for any employer, and receiving, or being entitled to receive, any remuneration and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer; and “employed” and “employment” have corresponding meanings; (xvii)
 - (vi) “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; (xvi)
 - (vii) “employers’ organization” means an employers’ organization registered or deemed to have been registered under the Industrial Conciliation Act; (xvii)
 - (viii) “Industrial Conciliation Act” means the Industrial Conciliation Act, 1956 (Act No. 28 of 1956); (xix)
 - (ix) “inspector” means an inspector appointed or deemed to have been appointed under section *twenty-six*; (vii)
 - (x) “licence of exemption” means a licence issued or deemed to have been issued under section *nineteen*; (xv)
 - (xi) “Minister” means the Minister of Labour; (viii)
 - (xii) “officer” means a person on the fixed establishment of the public service or an inspector; (ii)
 - (xiii) “premises” means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel; (ix)
 - (xiv) “prescribed” means prescribed by or under this Act; (xiv)
 - (xv) “regulation” means a regulation made or deemed to have been made and in force under this Act; (xi)
 - (xvi) “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; (iv)
 - (xvii) “this Act” includes any regulation; (vi)

No. 5, 1957.]

WET

Tot samevatting en wysiging van die wetsbepalings met betrekking tot die instelling van 'n loonraad, die vasstelling van bedinge en voorwaardes van diens en ander in verband staande aangeleenthede.

(Engelse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 19 Februarie 1957.)

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

1. In hierdie Wet, tensy uit die samehang anders blyk, Woordbepaling.

beteken—

- (i) „afdeling”, 'n afdeling van die raad wat kragtens artikel *drie* ingestel is of geag word aldus ingestel te gewees het; (iv)
- (ii) „amptenaar”, 'n persoon op die vaste diensstaat van die staatsdiens en ook 'n inspekteur; (xii)
- (iii) „bedryf”, ook enige werkverrigting, proses, nywerheid, besigheid, werk, onderneming (met inbegrip van 'n openbare utiliteitsonderneming), beroep, professie of roeping, en ook 'n groep bedrywe of 'n afdeling van 'n bedryf; (xviii)
- (iv) „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; (xvi)
- (v) „gebied”, ook 'n aantal gebiede, hetsy aangrensend al dan nie; (i)
- (vi) „hierdie Wet”, ook 'n regulasie; (xvii)
- (vii) „inspekteur”, 'n inspekteur wat kragtens artikel *ses-en-twintig* aangestel is of geag word aldus aangestel te gewees het; (ix)
- (viii) „Minister”, die Minister van Arbeid; (xi)
- (ix) „perseel”, enige grond en enige gebou of struktuur bo of onder die oppervlakte van grond en ook enige voertuig, vliegtuig of vaartuig; (xiii)
- (x) „raad”, die loonraad ingestel by artikel *drie* of, met betrekking tot enige werksaamheid wat aan 'n afdeling ingevolge hierdie Wet opgedra is, die afdeling waaraan sodanige werksaamheid aldus opgedra is; (ii)
- (xi) „regulasie”, 'n regulasie wat ingevolge hierdie Wet uitgevaardig is of geag word aldus uitgevaardig te gewees het en van krag is; (xv)
- (xii) „vakvereniging”, 'n vakvereniging wat kragtens die Wet op Nywerheidsversoening geregistreer is of geag word aldus geregistreer te gewees het; (xix)
- (xiii) „vasstelling”, 'n vasstelling wat kragtens artikel *veertien* gemaak is of geag word aldus gemaak te gewees het en ook 'n vasstelling soos kragtens artikel *vyftien* gewysig of geag word aldus gewysig te gewees het of soos kragtens artikel *seventien* uitgebrei of geag word aldus uitgebrei te gewees het; (iii)
- (xiv) „voorgeskrewe” of „voorgeskryf”, by of kragtens hierdie Wet voorgeskryf; (xiv)
- (xv) „vrystellingsertifikaat”, 'n sertifikaat wat kragtens artikel *negenentien* uitgereik is of geag word aldus uitgereik te gewees het; (x)
- (xvi) „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 betekenis; (vi)

- (xviii) "trade" includes any function, process, industry, business, work, undertaking (including a public utility undertaking), occupation, profession or calling, and includes a group of trades or a section of any trade; (iii)
- (xix) "trade union" means a trade union registered or deemed to have been registered under the Industrial Conciliation Act. (xii)

Application of Act and determination.

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

(2) This Act 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 to persons employed by the State in respect of their employment as such, nor to the performance of work in a charitable institution for which the persons performing it receive no remuneration, nor to work 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 trade as part of their university training if such employment is required for the completion of their curricula.

(3) A determination shall not apply—

(a) to any person in respect of any matter regulated by any agreement, notice or award which is binding on such person in terms of the Industrial Conciliation Act; or

(b) to any apprentice to whom the Apprenticeship Act, 1944 (Act No. 37 of 1944), applies.

Establishment and functions of wage board.

3. (1) There is hereby established a board to be known as the wage board which shall, subject to the provisions of sub-section (4), consist of three members to be appointed by the Minister.

(2) One of the members of the board shall be designated by the Minister as chairman of the board.

(3) (a) A member of the board shall hold office for such period and subject to such conditions as the Minister may determine 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 board shall be filled by the appointment by the Minister of another member and any person so appointed shall hold office for the unexpired portion of the period of office of his predecessor.

(4) The Minister may at any time appoint one or more additional members of the board for such period or for the purpose of such investigation as he may deem necessary, and in respect of such period or in relation to any matter connected with or arising out of such investigation, any reference in this Act to a member of the board shall, unless the context otherwise indicates, include a reference to such an additional member.

(5) (a) The Minister may at any time, if after consultation with the chairman of the board, he deems it expedient to do so, establish a division of the board for the purpose of performing such function of the board as the Minister may assign to it.

(b) Any division shall consist of three members to be appointed by the Minister of whom at least one shall be a member (other than an additional member) of the board and such member or, if two or more such members have been appointed, then such one of them as the Minister may designate, shall be the chairman of the division.

(c) A division so established shall in relation to any function assigned to it, have all the powers conferred by this Act upon the board, and in relation to any such power, any reference in this Act to a member of the board, shall include a reference to a member of a division.

(d) The Minister may, if he deems it expedient to do so, refer any recommendation of a division to the board for confirmation or any amendments which the board may consider necessary and any recommendation so

- (xvii) „werkgewersorganisasie”, ‘n werkgewersorganisasie wat kragtens die Wet op Nywerheidsversoening geregistreer is of geag word aldus geregistreer te gewees het; (vii)
- (xviii) „werkneemter”, enige persoon 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 wat op enige wyse help om die besigheid van ‘n werkewer voort te sit of te drywe; en het „in diens” en „diens” ooreenstemmende betekenis; (v)
- (xix) „Wet op Nywerheidsversoening”, die Wet op Nywerheidsversoening, 1956 (Wet No. 28 van 1956). (viii)

2. (1) Behoudens die bepalings van sub-artikel (2) is hierdie Wet op elke bedryf van toepassing.

Toepassing van Wet en vasstelling.

(2) Hierdie Wet 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 op persone in diens van die Staat ten opsigte van hul 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 opvoedkundige 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 universiteitstudente ten opsigte van hul diens in enige bedryf as deel van hul universiteitsopleiding as daardie diens vereis word vir die voltooiing van hul leergange.

(3) ‘n Vasstelling is nie van toepassing nie—

- (a) op ‘n persoon ten opsigte van enige aangeleentheid wat gereel word deur ‘n ooreenkoms, kennisgewing of toekenning wat vir so ‘n persoon ingevolge die Wet op Nywerheidsversoening bindend is; of
- (b) op ‘n vakleerling op wie die Wet op Vakleerlinge, 1944 (Wet No. 37 van 1944), van toepassing is.

3. (1) Hierby word ‘n raad, genoem die loonraad, ingestel Instelling en wat, behoudens die bepalings van sub-artikel (4), bestaan uit werksaamhede van loonraad. drie lede wat deur die Minister aangestel word.

(2) Een van die lede van die raad word deur die Minister as voorzitter van die raad aangewys.

- (3) (a) ‘n Lid van die raad beklee sy amp vir die tydperk en onderworpe aan die voorwaardes wat die Minister bepaal, en kan by verstryking van enige tydperk waarvoor hy aangestel is, weer aangestel word.
- (b) ‘n Toevallige vakature wat in die raad ontstaan, word aangevul deur die aanstelling deur die Minister van ‘n ander lid, en ‘n aldus aangestelde persoon beklee sy amp vir die onverstreke gedeelte van die ampstermyn van sy voorganger.

(4) Die Minister kan te eniger tyd een of meer addisionele lede van die raad vir die tydperk of vir die doel van die ondersoek wat hy nodig ag, aanstel, en ten opsigte van so ‘n tydperk of met betrekking tot enige aangeleentheid wat in verband staan met of ontstaan uit so ‘n ondersoek, sluit ‘n verwysing in hierdie Wet na ‘n lid van die raad, tensy uit die samehang anders blyk, ‘n verwysing na so ‘n addisionele lid in.

- (5) (a) Die Minister kan te eniger tyd, indien hy na oorlegpleging met die voorzitter van die raad, dit raadsaam ag om dit te doen, ‘n afdeling van die raad instel met die doel om sodanige werksaamheid van die raad te verrig as wat die Minister aan hom opdra.
- (b) ‘n Afdeling bestaan uit drie lede wat deur die Minister aangestel word, waarvan minstens een ‘n lid (behalwe ‘n addisionele lid) van die raad moet wees en daardie lid of, indien twee of meer sodanige lede aangestel is, dan dié een van hulle wat die Minister aanwys, is die voorzitter van die afdeling.
- (c) ‘n Afdeling aldus ingestel, het, met betrekking tot enige werksaamheid wat aan hom opgedra word, al die bevoegdhede wat by hierdie Wet aan die raad verleen word, en met betrekking tot so ‘n bevoegdheid, sluit ‘n verwysing in hierdie Wet na ‘n lid van die raad ‘n verwysing na ‘n lid van ‘n afdeling in.
- (d) Die Minister kan, indien hy dit raadsaam ag om dit te doen, enige aanbeveling van ‘n afdeling na die raad vir goedkeuring of enige wysigings wat die raad nodig ag, verwys, en ‘n aanbeveling wat aldus

confirmed or amended shall be deemed to be a recommendation submitted by the board in terms of this Act.

(6) The Minister may appoint—

(a) any person to be temporary chairman of the board; and

(b) any person to be a temporary member of the board, while the chairman or any member of the board, as the case may be, is for any reason unable to perform his functions: Provided that the temporary chairman of any division shall be a member of the board (other than an additional member).

(7) There shall be payable to a member of the board (including an additional and temporary member) such remuneration and allowances in respect of his services as the Minister may, in consultation with the Minister of Finance, determine.

(8) (a) If after consultation with the chairman of the board, the Minister is of opinion that it will assist the board if the employees and employers in any particular trade are represented on the board during any investigation into that trade, the Minister may, after consultation with such trade unions and employers' organizations as in his opinion are principally concerned in such investigation, appoint one or more assessors to represent the employees and an equal number of assessors to represent the employers on the board during such investigation.

(b) Any assessors so appointed may serve on the board in an advisory capacity until completion of the investigation in respect of which they were appointed.

(c) Any such assessor shall be entitled to such allowances as may be prescribed.

(9) If any person in the fulltime employment of the State is appointed a member, additional member or temporary member of the board, the period of his service as a member, additional member or temporary member of the board shall, for the purposes of any rights in respect of pension which he derives from any law, be reckoned as part of, and continuous with, the period of his employment in the service of the State, and the conditions of his employment during the period of his service as a member, additional member or temporary member of the board shall be governed by the same provisions by which the conditions of his employment would have been governed in the service of the State had he not been so appointed: Provided that the Minister may, on the recommendation of the Public Service Commission and with the approval of the Minister of Finance, approve of the payment to him during the period of his service as a member, additional member or temporary member of the board, in addition to his emoluments as a person in the fulltime employment of the State, of an allowance which shall not form part of his pensionable emoluments.

(10) No proceedings of the board shall be invalid by reason only of the fact that a vacancy existed in its membership or that any member, additional member, temporary member or assessor was not present, during the whole or any part of the proceedings.

(11) The functions and duties of the board shall be—

(a) to make investigations and submit reports to the Minister when requested to do so in terms of section four;

(b) to submit recommendations to the Minister in terms of this Act; and

(c) to deal with all matters necessary or incidental to the performance of its functions under this Act.

Investigation by the board.

4. (1) The Minister may at any time request the board to make an investigation into and to submit a report concerning any trade.

(2) The Minister shall determine the terms of reference of the board for the purpose of any such investigation and shall specify therein—

(a) the trade and area concerned; and

(b) whether the investigation is to be conducted in respect of all employees or any one or more classes of employees in such trade.

goedgekeur of gewysig word, word geag 'n aanbeveling te wees wat deur die raad ingevolge hierdie Wet voorgelê is.

(6) Die Minister kan—

- (a) enige persoon as tydelike voorsitter van die raad; en
- (b) enige persoon as 'n tydelike lid van die raad,

aanstel terwyl die voorsitter of 'n lid van die raad, na gelang van die geval, om enige rede nie in staat is om sy werksaamhede te verrig nie: Met dien verstande dat die tydelike voorsitter van 'n afdeling 'n lid van die raad (behalwe 'n addisionele lid) moet wees.

(7) Aan 'n lid van die raad (met inbegrip van 'n addisionele en tydelike lid) word die besoldiging en toelaes ten opsigte van sy dienste betaal wat die Minister in oorleg met die Minister van Finansies bepaal.

(8) (a) Indien die Minister, na oorlegpleging met die voorsteller van die raad, van oordeel is dat dit die raad van hulp sal wees indien die werknemers en werkgewers in 'n bepaalde bedryf gedurende 'n ondersoek na daardie bedryf in die raad verteenwoordig word, kan die Minister, na oorlegpleging met die vakverenigings en werkgewersorganisasies wat na sy mening hoofsaaklik by sodanige ondersoek betrokke is, een of meer assessore aanstel om die werknemers, en 'n gelyke aantal assessore om die werkgewers gedurende so 'n ondersoek in die raad te verteenwoordig.

- (b) Assessore aldus aangestel kan in 'n raadgewende hoedanigheid in die raad dien totdat die ondersoek ten opsigte waarvan hulle aangestel is, voltooi is.
- (c) So 'n assessor is op sodanige toelaes as wat voor-geskryf word, geregtig.

(9) As iemand in die voltydse diens van die Staat aangestel word as lid, addisionele lid of tydelike lid van die raad word sy dienstyd as lid, addisionele lid of tydelike lid van die raad vir die doel van enige pensioenregte wat hy kragtens enige wetsbepaling ontvang, gereken as deel van en aaneenlopend met sy dienstyd in die diens van die Staat, en sy diensvoorraardes gedurende sy dienstyd as lid, addisionele lid of tydelike lid van die raad word beheer deur dieselfde bepalings waardeur sy diensvoorraardes in die diens van die Staat beheer sou gewees het as hy nie aldus aangestel was nie: Met dien verstande dat die Minister, op aanbeveling van die Staatsdienskommissie en met goedkeuring van die Minister van Finansies, kan goedkeur dat daar, benewens sy besoldiging as iemand in die voltydse diens van die Staat, gedurende sy dienstyd as lid, addisionele lid of tydelike lid van die raad 'n toelaag aan hom betaal word wat nie deel van sy pensioendraende besoldiging uitmaak nie.

(10) Geen verrigtinge van die raad is ongeldig bloot op grond van die feit dat 'n vakature in sy ledetal bestaan het, of dat 'n lid, addisionele lid, tydelike lid of assessor nie aanwesig was nie, gedurende die geheel of enige gedeelte van die verrigtinge.

(11) Die werksaamhede en pligte van die raad is—

- (a) om ondersoeke in te stel en verslae aan die Minister voor te lê wanneer hy ingevolge artikel vier versoek word om dit te doen;
- (b) om aanbevelings ingevolge hierdie Wet aan die Minister voor te lê; en
- (c) om met alle aangeleenthede te handel wat nodig is vir of in verband staan met die verrigting van sy werksaamhede kragtens hierdie Wet.

4. (1) Die Minister kan die raad te eniger tyd versoek om Ondersoek 'n ondersoek in te stel na en 'n verslag voor te lê aangaande deur raad. enige bedryf.

(2) Die Minister bepaal die opdrag aan die raad vir die doel van so 'n ondersoek en vermeld daarin—

- (a) die betrokke bedryf en gebied; en
- (b) of die ondersoek ten opsigte van alle werknemers of een of meer klasse werknemers in bedoelde bedryf, ingestel moet word.

(3) In specifying any class of employees under paragraph (b) of sub-section (2), the Minister may apply 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 he may deem advisable: Provided that the Minister shall not differentiate or discriminate on the basis of race or colour.

(4) (a) The board may, unless the Minister has directed otherwise, decide that any investigation and report in pursuance of a request under sub-section (1) shall be carried out and made by any member of the board (other than an additional member) either alone or in conjunction with any additional member, as the board may decide.

(b) The provisions of sections *five* and *ten* shall *mutatis mutandis* apply in respect of any such investigation by a member of the board or such member and an additional member, and for the purposes of those provisions as applied by this paragraph such member or members, as the case may be, shall be deemed to be the board, and the reference in sub-section (5) of section *ten* to the person presiding at a meeting of the board, shall be deemed to be a reference to the member of the board who is carrying out the investigation either alone or in conjunction with an additional member.

(5) If, after consultation with the board, the Minister is of the opinion—

- (a) that any investigation in respect of which a request has been made to the board under sub-section (1) should not be proceeded with; or
- (b) that the terms of reference determined under sub-section (2) should be amplified or altered in any respect, he may withdraw the request made to the board in respect of such investigation and in the case of a withdrawal in pursuance of paragraph (b), make a new request to the board.

Contents of report.

5. A report submitted in connection with any investigation made under section *four*, shall contain information showing—

- (a) as at the time of the investigation and, in so far as the information is available and is considered relevant by the board, at any previous time the terms and conditions of employment in the trade concerned, in respect of all employees or the class or classes of employees specified in the board's terms of reference; and
- (b) the class or classes of employees to whom it would be equitable, having regard to the matters referred to in paragraphs (c) to (g) of section *seven*, that remuneration should be paid at such rates as will enable them to support themselves in accordance with civilized standards of life,

and may contain information as to any other matter which, in the opinion of the board, is relevant to the investigation.

Minister may direct board to submit a recommendation.

6. (1) The Minister may direct the board to submit to him, in addition to any report under section *four*, a recommendation as to the terms and conditions of employment to be applied in respect of the employees concerned.

(2) Any such direction may be given at the same time as the request for an investigation is made or at any time thereafter, and may be withdrawn at any time before the submission of a recommendation.

(3) If a direction under sub-section (1) is given after the submission of the relevant report, the Minister may direct that the recommendation shall be submitted in respect of such portion of the trade concerned or such class or classes of employees or such portion of the area concerned as he may specify.

7. The board shall, before it makes any recommendation, take into consideration—

- (a) any representations made to it in terms of section *nine*;
- (b) any report and reservation submitted to it in terms of sub-section (2) of section *eleven*, in relation to the trade concerned;
- (c) any information made available to it in relation to the trade concerned, by the Board of Trade and Industries, the Industrial Tribunal established under the Industrial Conciliation Act, any department of State or any similar authority;
- (d) the ability of employers in the trade concerned to carry on their businesses successfully should any recommendation proposed to be made by the board, be carried into effect, regard being had to distance from

Matters to be considered by the board before it makes a recommendation.

(3) By die vermelding van 'n klas werknemers kragtens paragraaf (b) van sub-artikel (2), kan die Minister enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van dienstyd of soort werk of soort of klas perseel of die gebied waarop of waarin werk verrig word of enige ander metode wat hy raadsaam ag, toepas: Met dien verstande dat geen differensiasie of diskriminasie op grond van ras of kleur deur die Minister gemaak mag word nie.

(4) (a) Die raad kan, tensy die Minister anders gelas het, besluit dat 'n ondersoek en verslag na aanleiding van 'n versoek kragtens sub-artikel (1), deur 'n lid van die raad (behalwe 'n addisionele lid) hetsy alleen of tesame met 'n addisionele lid, soos die raad besluit, ingestel en gedoen word.

(b) Die bepalings van artikels *vyf* en *tien* is *mutatis mutandis* van toepassing ten opsigte van so 'n ondersoek deur 'n lid van die raad of so 'n lid en 'n addisionele lid, en by die toepassing van daardie bepalings soos by hierdie paragraaf toegepas, word so 'n lid of lede, na gelang van die geval, geag die raad te wees, en die verwysing in sub-artikel (5) van artikel *tien* na die persoon wat op 'n vergadering van die raad voorsit, word geag 'n verwysing te wees na die lid van die raad wat die ondersoek instel, hetsy alleen of tesame met 'n addisionele lid.

(5) Indien die Minister, na oorlegpleging met die raad, van oordeel is—

(a) dat 'n ondersoek ten opsigte waarvan 'n versoek kragtens sub-artikel (1) aan die raad gedoen is, nie voortgesit behoort te word nie; of

(b) dat die kragtens sub-artikel (2) bepaalde opdrag in enige opsig aangevul of gewysig behoort te word, kan hy die versoek wat aan die raad ten opsigte van so 'n ondersoek gedoen is, terugtrek en, in die geval van 'n terugtrekking ingevolge paragraaf (b), 'n nuwe versoek aan die raad doen.

5. 'n Verslag wat in verband met 'n ingevolge artikel *vier* ingestelde ondersoek voorgelê word, moet gevawens bevat wat— Inhoud van verslag.

(a) die bedinge en voorwaardes van diens in die betrokke bedryf ten tyde van die ondersoek en, vir sover die gevawens beskikbaar is en deur die raad ter sake geag word, op enige vorige tydstip, ten opsigte van alle werknemers of die klas of klasse werknemers vermeld in die raad se opdrag; en

(b) met inagneming van die in paragrawe (c) tot (g) van artikel *sewe* bedoelde aangeleenthede, die klas of klasse werknemers aan wie dit billik sou wees dat beloning betaal behoort te word teen skale wat hulle in staat sal stel om hulself ooreenkomsdig beskaafde lewenspeile te onderhou, aantoon, en kan gevawens aangaande enige ander aangeleentheid bevat wat na die raad se oordeel by die ondersoek ter sake is.

6. (1) Die Minister kan die raad gelas om benewens 'n verslag kragtens artikel *vier*, 'n aanbeveling aan hom voor te lê, betreffende die bedinge en voorwaardes van diens wat ten opsigte van die betrokke werknemers toegepas moet word.

(2) So 'n lasgewing kan op dieselfde tydstip uitgereik word as dié waarop die versoek om 'n ondersoek gedoen word of te eniger tyd daarna, en kan te eniger tyd voor die voorlegging van 'n aanbeveling teruggetrek word.

(3) Indien 'n lasgewing kragtens sub-artikel (1) na die voorlegging van die toepaslike verslag uitgereik word, kan die Minister gelas dat die aanbeveling ten opsigte van die gedeelte van die betrokke bedryf of die klas of klasse werknemers of die gedeelte van die betrokke gebied wat hy aandui, voorgelê word.

7. Voordat hy 'n aanbeveling doen, moet die raad in oorweging neem—

(a) enige vertoë wat ingevolge artikel *nege* tot hom gerig word;

(b) enige verslag en voorbehoud in verband met die betrokke bedryf wat ingevolge sub-artikel (2) van artikel *elf* aan hom voorgelê word;

(c) enige gevawens wat in verband met die betrokke bedryf tot sy beskikking gestel word deur die Raad van Handel en Nywerheid, die Nywerheidshof kragtens die Wet op Nywerheidsversoening ingestel, enige Staatsdepartement of enige soortgelyke owerheid;

(d) of werkgewers in die betrokke bedryf, met inagneming van afstande van markte, vervoerkoste en enige ander omstandighede wat die saak raak, in staat sal wees om hul besighede met goeie gevolg voort te sit as

Aangeleenthede wat die raad moetoorweeg voordat hy 'n aanbeveling doen.

markets, cost of transport and any other relevant circumstances;

- (e) the cost of living in any area in which the trade concerned is being carried on;
- (f) the value of any board, rations, lodging or other benefits supplied by employers to employees in the trade concerned or to the class or classes of employees concerned; and
- (g) every other prescribed matter.

Matters on which board may make recommendations.

8. (1) A recommendation submitted by the board in pursuance of any direction under section six may include provisions as to all or some or any of the following matters—

- (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 and any increase or reduction thereof or, in addition to such minimum rate, any payment at such rate or upon such basis or principles or by reference to such factors or circumstances (including cost of living) as may be specified in the recommendation;
- (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 expiry 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 recommendation or of any law or order of a competent court;
- (e) the prohibition or restriction 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 payable shall be contained, the information to be written upon the container, and generally, any other provision 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) 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 an employee;
- (n) notices to be exhibited by employers;
- (o) the prohibition of the employment of any person under a specified age;

- 'n aanbeveling wat die raad voornemens is om te doen toegepas word;
- (e) die lewenskoste in 'n gebied waarin die betrokke bedryf beoefen word;
 - (f) die waarde van etes, rantsoene, huisvesting of ander voordele wat deur werkgewers aan werknemers in die betrokke bedryf, of aan die betrokke klas of klasse werknemers verskaf word; en
 - (g) elke ander voorgeskrewe aangeleenthed.

8. (1) 'n Aanbeveling wat deur die raad ingevolge 'n las- Aangeleenthede gewing kragtens artikel *ses* voorgelê word, kan bepalings bevat waaroer raad aangaande almal of sommige of enige van onderstaande aanbevelings aangeleenthede—

- (a) die minimum skaal waarteen beloning deur 'n werk- gewer aan elk van sy werknemers of aan elke lid van 'n klas van sy werknemers betaal moet word en enige verhoging of vermindering daarvan of, benewens so 'n minimum skaal, enige betaling teen so 'n skaal of op so 'n grondslag of volgens sulke beginsels of met verwysing na sulke faktore of omstandighede (in- sluitende lewenskoste) as wat in die aanbeveling vermeld 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 verstande dat verskillende minimum gemiddelde skale bepaal kan word vir verskillende onderdele van 'n klas werknemers;
- (c) die minimum skaal waarteen beloning deur 'n werk- gewer betaal moet word aan elke werknemer of aan elke lid van 'n klas werknemers agtereenvolgens na verloop van vermelde tydperke of tussenpose, of wat aan 'n werknemer of 'n lid van 'n klas werknemers volgens ervaring of enige ander maatstaf betaal moet word;
- (d) die verbod op aftrekings van beloning betaalbaar aan enige werknemer of klas werknemers behalwe aftrek- kins wat die werkewer ingevolge die aanbeveling of enige wetsbepaling of bevel van 'n bevoegde hof moet of kan maak;
- (e) die verbod op 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 bepaling 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 op die reëling van die uitgee van stukwerk of taakwerk aan of die verrigting daarvan deur 'n werknemer;
- (k) die verbod op 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;
- (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 op 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 werkgewers vertoon te word;
- (o) die verbod op die indiensneming van enige persoon onder 'n vermelde ouderdom;

- (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 trade concerned, the rates at which, the basis of or the principles upon which, payment shall be made to that person for the work;
- (q) the prohibition of the payment of remuneration otherwise than in money;
- (r) the prohibition, restriction or regulation of overtime work;
- (s) 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 recommendation;
- (t) the keeping by a member of a specified class of employees of a record containing such particulars as may be prescribed in the recommendation;
- (u) 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;
- (v) 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, the scope of this provision not being limited in any way by the mention in this sub-section of particular matters.

(2) The board may recommend varying provisions in respect of any matter referred to in sub-section (1) for different classes of employees or for different areas.

(3) Notwithstanding anything to the contrary in this Act, a recommendation—

- (a) may provide that the provisions or any specified provisions thereof shall not apply to such portion of the trade covered by the terms of reference of the board, or such class of employees or type of work or class of premises or area so covered, as may be specified in the recommendation;
- (b) may contain provisions in respect of persons or any class of persons on whom any determination is binding in terms of this Act and may provide for the exclusion of such persons from such determination.

(4) For the purposes of this section, "class of employees" and "class of his employees" includes such group or section or type of employees as may be specified or defined by the board, and the board may, in so specifying or defining, apply 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 it may deem advisable: Provided that the board shall not differentiate or discriminate on the basis of race or colour.

**Representations
to board by
interested persons.**

9. (1) The board shall, in connection with every investigation, give to persons interested an opportunity of making representations to it, and shall, for that purpose, publish in the *Gazette* a notice setting forth its terms of reference and stating the period within which, the persons with whom and the address at which such representations shall be lodged.

(2) Whenever the board is directed by the Minister to submit to him a recommendation, it shall, unless the direction was contained in the terms of reference in respect of which a notice has already been published under sub-section (1), or, if not so contained, was given before publication of any such notice and is referred to therein, give to all persons interested an opportunity of making representations to it; and to that end the procedure prescribed in sub-section (1) shall *mutatis mutandis* apply.

(3) The representations referred to in sub-sections (1) and (2) shall be submitted in writing: Provided that the board may in its discretion permit oral representations to be made in lieu of or in addition to any written representations.

**Collection of
information.**

10. (1) Every person engaged or employed in or connected with any trade which is being investigated by the board shall,

- (p) wanneer 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 bedryf 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 verbod op die betaling van beloning behalwe met geld;
 - (r) die verbod op of beperking of reëling van oortydwerk;
 - (s) 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 die ander besonderhede wat in die aanbeveling vermeld word, uiteensit;
 - (t) die hou deur 'n lid van 'n vermelde klas werknemers van 'n aantekening wat die besonderhede wat in die aanbeveling voorgeskryf word, bevat;
 - (u) 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;
 - (v) die verbod op die verrigting van werk op 'n kontrakbasis op of in die persele van die prinsipaal;
- en, oor die algemeen, aangaande enige aangeleentheid 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 werknemers, hetsy hulle beloon word volgens tyd gewerk of werk verrig of op enige ander grondslag. Die bestek van hierdie bepaling word op generlei wyse beperk deur die vermelding in hierdie sub-artikel van besondere aangeleenthede nie.

(2) Die raad kan ten opsigte van 'n in sub-artikel (1) bedoelde aangeleentheid verskillende bepalinge vir verskillende klasse werknemers of vir verskillende gebiede aanbeveel.

(3) Ondanks andersluidende bepalinge van hierdie Wet, kan 'n aanbeveling—

- (a) bepaal dat die bepalinge of enige vermelde bepalinge daarvan nie van toepassing is nie op die gedeelte van die bedryf wat in die raad se opdrag ingesluit is, of die klas werknemers of soort werk of klas persele of gebied aldus ingesluit, wat in die aanbeveling vermeld word;
- (b) bepalinge bevat ten opsigte van persone of enige klas persone vir wie 'n vasstelling ingevalgelyk hierdie Wet bindend is en kan voorsiening maak vir die uitsluiting van sulke persone uit so 'n vasstelling.

(4) By die toepassing van hierdie artikel beteken „klas werknemers“ en „klas van sy werknemers“ ook die groep of afdeling of soort werknemers wat deur die raad vermeld of omskrywe word, en by so 'n vermelding of omskrywing kan die raad enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van dienstyd of soort werk of soort of klas perseel of die gebied waarop of waarin werk verrig word of enige ander metode wat hy raadsaam ag, toepas: Met dien verstande dat geen differensiasie of diskriminasie op grond van ras of kleur deur die raad gemaak mag word nie.

9. (1) Die raad moet in verband met elke ondersoek aan belanghebbende persone 'n geleentheid gee om vertoe tot hom te rig en moet vir daardie doel in die *Staatskoerant* 'n kennisgewing publiseer wat sy opdrag uiteensit en waarin vermeld word die tydperk waarin, die persone by wie en die adres waar sulke vertoe ingedien moet word. Vertoe tot raad deur belanghebbende persone.

(2) Wanneer die raad deur die Minister gelas word om 'n aanbeveling aan hom voor te lê, moet die raad, tensy die lasgewing vervat is in die opdrag ten opsigte waarvan 'n kennisgewing alreeds kragtens sub-artikel (1) gepubliseer is, of, indien nie aldus vervat nie, gegee is voor die publikasie van so 'n kennisgewing en daarin genoem word, aan alle belanghebbende persone 'n geleentheid gee om vertoe tot die raad te rig; en vir daardie doel is die prosedure wat in sub-artikel (1) voorgeskryf word *mutatis mutandis* van toepassing.

(3) Die in sub-artikels (1) en (2) bedoelde vertoe moet skriftelik voorgelê word: Met dien verstande dat die raad na goeddunke kan toelaat dat mondelinge vertoe in plaas van of benewens enige skriftelike vertoe gemaak word.

10. (1) Elke persoon wat betrokke of in diens is by of verbonde is aan 'n bedryf wat deur die raad ondersoek word, van gegewens.

if required by the board to do so, furnish to the board, within a period and in a form specified by the board, the information indicated by the board.

(2) Any person who fails to comply with any requirement of the board under sub-section (1) shall be guilty of an offence.

(3) The board may subpoena or direct to be subpoenaed, any person who in its opinion may be able to give material information concerning the subject of any investigation which is being carried out by it, or who it 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 investigation, to appear before it at a time and place specified in the subpoena, to be interrogated or to produce that book, document or thing. The board may retain for examination any book, document or thing so produced.

(4) A subpoena issued in the exercise of the powers conferred by sub-section (3) shall be signed by a member of the board or by an officer directed by the board to do so.

(5) The person presiding at any meeting of the board may call and administer an oath to or accept an affirmation from any person present at the meeting who was or might have been subpoenaed in terms of sub-section (3); and the person so presiding and any other member of the board may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control: Provided that the person presiding at the meeting may in his discretion disallow any question which in his opinion is not relevant to the investigation which is being carried out by the board.

(6) If any person, being duly subpoenaed under sub-section (3), fails, without sufficient cause, to attend at the time and place specified in the subpoena, or to remain in attendance until excused by the board from further attendance, or if any person called in terms of sub-section (5) refuses to be sworn or to affirm as a witness, or fails without sufficient cause 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, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing before, the board, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or produce any book, document or thing before a court of law, shall apply.

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

(8) The board may, for any reason which it may deem sufficient, order that any interrogation be made by or that any book, document or thing be produced before, a member of the board or an officer designated for the purpose by the board; and any such member of the board or officer may administer an oath to or accept an affirmation from any witness so appearing before him; and the provisions of this section shall *mutatis mutandis* apply to such interrogation or the production or retention of any such book, document or thing and the member or officer so designated by the board shall for the purposes of the application of this sub-section be deemed to be a member of the board presiding at a meeting of the board.

(9) Any person subpoenaed to appear before the board or a member of the board or an officer designated in terms of sub-section (8), may, if the board, member or officer, as the case may be, 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 out of 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) The board or any member of the board or any officer designated thereto by the board, may at any time, without previous notice, for the purposes of any investigation enter any

moet, indien hy deur die raad aangesê word om dit te doen, binne 'n tydperk en in 'n vorm deur die raad vermeld, aan die raad die deur die raad aangeduide gegewens verstrek.

(2) Iemand wat versuim om te voldoen aan 'n vereiste van die raad kragtens sub-artikel (1), is aan 'n misdryf skuldig.

(3) Die raad kan enigiemand wat volgens sy oordeel moontlik in staat is om gegewens van wesenlike belang te verstrek omtrent die onderwerp wat deur die raad 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, of gelas dat hy as getuie gedagvaar word, om voor hom op 'n tyd en plek in die subpoena vermeld te verskyn, om ondervra te word, of om daardie boek, stuk, of ding voor te lê. Die raad kan enige boek, stuk of ding wat aldus voorgelê is, vir ondersoek behou.

(4) 'n Subpoena uitgereik by die uitoefening van die by sub-artikel (3) verleende bevoegdhede moet deur 'n lid van die raad of deur 'n amptenaar wat deur die raad gelas is om dit te doen, onderteken word.

(5) Die persoon wat by 'n vergadering van die raad voorsit, kan enige op die vergadering aanwesige persoon wat kragtens sub-artikel (3) as getuie gedagvaar is of kon geword het, oproep en hom 'n eed oplê of van hom 'n bevestiging afneem; en die persoon wat aldus voorsit en enige ander lid van die raad kan hom ondervra en van hom verlang dat hy enige boek, stuk of ding wat in sy besit of bewaring is, of waaroor hy beheer het, voorlê: Met dien verstande dat die persoon wat by die vergadering voorsit na goeddunke 'n vraag kan belet wat volgens sy oordeel nie op die ondersoek wat deur die raad gedoen word, betrekking het nie.

(6) As 'n persoon wat kragtens sub-artikel (3) behoorlik as getuie gedagvaar is, sonder voldoende rede versuim om op die in die subpoena vermelde tyd en plek te verskyn, of om aanwesig te bly totdat die raad hom van verdere bywoning vrystel, of as 'n persoon wat kragtens sub-artikel (5) opgeroep is, weier om as 'n getuie ingesweer of bevestig te word of sonder voldoende rede versuim om op alle aan hom wettiglik gestelde vrae ten volle en op bevredigende wyse volgens sy hele kennis en oortuiging te antwoord, of om 'n boek, stuk of ding wat hy in besit of bewaring het, of waaroor hy beheer het, voor te lê, is hy aan 'n misdryf skuldig: Met dien verstande dat die regssreëls betreffende privilegie, soos van toepassing op 'n getuie wat gedagvaar is om voor 'n gereghof getuienis af te lê, of 'n boek, stuk of ding voor te lê, in verband met die ondervraging van so 'n persoon deur, of die voorlegging van so 'n boek, stuk of ding aan, die raad van toepassing is.

(7) Die ondervraging van 'n getuie deur die raad moet in die openbaar geskied, tensy die raad anders besluit: Met dien verstande dat op versoek van 'n getuie die ondervraging van daardie getuie agter geslote deure moet geskied: Met dien verstande voorts dat die raad, na goeddunke en met die toestemming van die getuie, die teenwoordigheid van enige vermelde persoon by die ondervraging van daardie getuie kan magtig.

(8) Die raad kan, om enige rede wat hy voldoende ag, gelas dat 'n ondervraging gedoen word deur, of dat 'n boek, stuk of ding voorgelê word aan, 'n lid van die raad of 'n amptenaar wat vir daardie doel deur die raad aangewys word; en so 'n lid van die raad of amptenaar kan 'n getuie wat aldus voor hom verskyn, 'n eed oplê of van hom 'n bevestiging afneem; en die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op bedoelde ondervraging of die voorlegging of behoud van so 'n boek, stuk of ding, en die lid of amptenaar wat aldus deur die raad aangewys word, word by die toepassing van hierdie sub-artikel geag 'n lid van die raad te wees wat by 'n vergadering van die raad voorsit.

(9) Aan iemand wat as getuie gedagvaar is om voor die raad of 'n lid van die raad of 'n ingevolge sub-artikel (8) aangewese amptenaar te verskyn kan, as die raad, lid of amptenaar, na gelang van die geval, oortuig is dat hy as gevolg van 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, betaal moet word.

(10) Die raad of enige lid van die raad of enige amptenaar wat deur die raad daartoe aangewys is, kan te eniger tyd sonder voorafgaande kennisgewing, vir die doeleindes van enige

premises occupied or used by any employer engaged in or suspected by the board or such member or officer of being engaged in the trade being investigated, and every such employer and every person employed by him shall at all times furnish such facilities as are required by the board or such member or such officer for entering such premises and for making such inspections on or in the premises as may be deemed advisable by the board or such member or such officer.

(11) Any person who wilfully hinders the board or any member of the board or an officer designated in terms of sub-section (8) in the exercise of any of the powers conferred upon it or him by this section, shall be guilty of an offence.

Submission of reports and recommendations.

11. (1) A report or a recommendation signed by the majority of the members of the board shall be the report or recommendation, as the case may be, of the board: Provided that any member of the board who has taken part in any investigation may submit to the board a separate report or a reservation to any report on that investigation, and any member of the board may submit to the board a reservation to any recommendation.

(2) (a) Whenever any investigation has been carried out under sub-section (4) of section *four* by any member of the board, or such member and any additional member, the report by such member or members in respect of such investigation shall be submitted to the board and any such report in respect of an investigation which has been carried out by a member and an additional member may be submitted in the form of a joint report or separate reports by such members, and any such member may submit to the board a reservation to any such joint report.

(b) The board shall transmit every such report and reservation to the Minister together with its observations thereon.

(3) The board shall as soon as possible submit to the Minister every report or recommendation in pursuance of any request or direction under this Act, and shall transmit with such report or recommendation any report or reservation referred to in the proviso to sub-section (1) together with its observations thereon: Provided that the board may at any time prior to the publication under section *thirteen* of any recommendation made by it, alter that recommendation.

(4) The board may, if for any reason it considers it desirable to do so, submit interim reports to the Minister and the provisions of this section shall *mutatis mutandis* apply to any such report.

(5) A recommendation may be submitted at the same time as a report or at any time thereafter.

(6) Any recommendation may be submitted in separate parts either simultaneously or successively and, subject to the provisions of this section, every part so submitted shall for the purposes of this Act be deemed to be a recommendation by the board: Provided that the board shall submit a separate report in relation to each such part of a recommendation.

(7) Every report and recommendation and every reservation thereto 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.

Secrecy to be observed.

12. (1) Any person who is or was a member of the board or any officer or any interpreter or assistant referred to in sub-section (1) of section *twenty-seven* who discloses, except to the Minister or to an officer or to the board or to the Board of Trade and Industries or to the Industrial Tribunal established under the Industrial Conciliation Act or any similar body which is concerned with the matter or to a court of law, or, save for the purposes of this Act or any other law, to any other person, 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, shall be guilty of an offence.

(2) The Minister may, notwithstanding the provisions of sub-section (1), make public, in such manner or form as he may think fit, any report of the board and any report or reservation transmitted to him under section *eleven*, and any observations made thereon by the board, and any information as to

ondersoek, enige perseel wat geokkupeer of gebruik word deur 'n werkewer wat by die bedryf wat ondersoek word, betrokke is of deur die raad of so 'n lid of amptenaar vermoed word aldus betrokke te wees, betree en iedere sodanige werkewer en iedere persoon by hom in diens, moet te alle tye die fasiliteite verskaf wat die raad of so 'n lid of amptenaar vereis om bedoelde perseel te betree en om die inspeksies op of in die perseel uit te voer wat die raad of so 'n lid of amptenaar raadsaam ag.

(11) Iemand wat die raad of enige lid van die raad of 'n amptenaar aangewys kragtens sub-artikel (8) by die uitvoering van enigeen van die bevoegdhede aan hom by hierdie artikel verleen, opsetlik hinder, is aan 'n misdryf skuldig.

11. (1) 'n Verslag of 'n aanbeveling onderteken deur die meerderheid van die lede van die raad is die verslag of aanbeveling, na gelang van die geval, van die raad: Met dien verstande dat enige lid van die raad wat aan 'n ondersoek deelgeneem het, 'n afsonderlike verslag of 'n voorbehoud by enige verslag oor daardie ondersoek aan die raad kan voorlê, en enige lid van die raad kan aan die raad 'n voorbehoud by enige aanbeveling voorlê.

Voorlegging van verslae en aanbevelings.

(2) (a) Wanneer 'n ondersoek kragtens sub-artikel (4) van artikel vier deur 'n lid van die raad of so 'n lid en 'n addisionele lid gedoen is, moet die verslag deur bedoelde lid of lede ten opsigte van bedoelde ondersoek aan die raad voorgelê word en so 'n verslag ten opsigte van 'n ondersoek wat deur 'n lid en 'n addisionele lid gedoen is, kan in die vorm van 'n gesamentlike verslag of afsonderlike verslae deur bedoelde lede voorgelê word, en so 'n lid kan aan die raad 'n voorbehoud by so 'n gesamentlike verslag voorlê.

(b) Die raad moet iedere sodanige verslag en voorbehoud tesame met sy opmerkings daaroor aan die Minister deurstuur.

(3) Die raad moet so gou doenlik iedere verslag of aanbeveling na aanleiding van 'n versoek of lasgewing kragtens hierdie Wet aan die Minister voorlê, en moet met so 'n verslag of aanbeveling enige in die voorbehoudsbepaling by sub-artikel (1) bedoelde verslag of voorbehoud tesame met sy opmerkings daaroor, deurstuur: Met dien verstande dat die raad te eniger tyd voor die publikasie kragtens artikel dertien van 'n aanbeveling wat deur hom gedoen is, daardie aanbeveling kan wysig.

(4) Die raad kan, indien hy om enige rede dit raadsaam ag om dit te doen, tussentydse verslae aan die Minister voorlê en die bepalings van hierdie artikel is *mutatis mutandis* op so 'n verslag van toepassing.

(5) 'n Aanbeveling kan terselfdertyd as 'n verslag of te eniger tyd daarna voorgelê word.

(6) 'n Aanbeveling kan in afsonderlike dele hetsy gelyktydig of opeenvolgend voorgelê word, en iedere deel aldus voorgelê word, behoudens die bepalings van hierdie artikel, by die toepassing van hierdie Wet geag 'n aanbeveling van die raad te wees: Met dien verstande dat die raad 'n afsonderlike verslag met betrekking tot iedere sodanige deel van 'n aanbeveling moet voorlê.

(7) Iedere verslag en aanbeveling en iedere voorbehoud daarby word in beide Huise van die Parlement ter Tafel gelê binne dertig dae na ontvangs daarvan deur die Minister, as die Parlement dan in sitting is, of as die Parlement nie dan in sitting is nie, binne dertig dae na die aanvang van sy eersvolgende sitting.

12. (1) Iemand wat 'n lid van die raad is of was of 'n amptenaar of 'n in sub-artikel (1) van artikel *sewe-en-twintig* bedoelde tolk of assistent wat, behalwe aan die Minister of aan 'n amptenaar of aan die raad of aan die Raad van Handel en Nywerheid of aan die Nywerheidshof kragtens die Wet op Nywerheidsversoening ingestel of enige soortgelyke liggaam wat by die aangeleentheid betrokke is of aan 'n gereghof, of, behalwe vir die doeleindes van hierdie Wet of enige ander wetsbepalings, aan enige ander persoon enige gegewens openbaar wat hy by die uitoefening van sy bevoegdhede of die verrigting van sy pligte kragtens hierdie Wet verkry het met betrekking tot die sake van enige persoon, firma of besigheid, is aan 'n misdryf skuldig.

Geheimhouding bewaar te word.

(2) Ondanks die bepalings van sub-artikel (1), kan die Minister op 'n wyse of in 'n vorm wat hy wenslik ag, enige verslag van die raad en enige verslag of voorbehoud wat kragtens artikel elf aan hom deurstuur is, en enige opmerkings daaroor gemaak deur die raad, en enige gegewens aangaande

remuneration or terms or conditions of employment or other information acquired under this Act as to any group or class of persons, firms or businesses in any area, and any information as to any individual person, firm or business: Provided that where such information relates to the finances or the trade processes of any person, firm or business, the name or identity of such person, firm or business shall not be disclosed.

Publication of recommendation.

13. (1) After the receipt by him of any recommendation submitted by the board, the Minister may, if he deems it expedient to do so—

(a) cause to be published in the *Gazette* a notice setting forth the recommendation and containing an invitation to all persons whose interests may be affected directly or indirectly, and who have any objections to the making of a determination in accordance with the recommendation, to lodge them in writing with an officer at an address stated in the notice, within a period specified in the notice, which shall not be shorter than fourteen days as from the date of publication of the notice; and

(b) cause to be published in one or more newspapers, within seven days after the publication of the notice referred to in paragraph (a), a statement directing the attention of all concerned to that notice.

(2) The officer with whom any objection has been lodged in response to an invitation published in terms of sub-section (1), shall refer it to the board for consideration by it.

(3) The board shall consider every objection referred to it in terms of sub-section (2), and shall report thereon to the Minister, and may abide by its previous recommendation or make such amendments therein as in the opinion of the board are called for by reason of the objections or otherwise.

(4) Before submitting a report under sub-section (3) the board may carry out such further investigation as it may consider necessary and the provisions of section *ten* shall *mutatis mutandis* apply in respect of any such investigation.

The making of a determination.

14. (1) Upon consideration of a recommendation to which no objection has been lodged, or to which an objection has been lodged but which has not been amended by the board in terms of sub-section (3) of section *thirteen*, or upon consideration of an amended recommendation submitted under the provisions of the said sub-section, the Minister may, if he deems it expedient to do so, make a determination, which shall be in accordance with the recommendation or, if the recommendation has been amended, in accordance with the amended recommendation: Provided that no determination shall be made unless the relevant recommendation has been published in terms of sub-section (1) of section *thirteen*; but whenever an amended recommendation has been submitted under sub-section (3) of that section, which, in the opinion of the Minister, does not differ materially from the recommendation which has been so published, the Minister may make a determination without publishing the amended recommendation.

(2) After making any such determination, the Minister shall cause to be published in the *Gazette* a notice stating that fact and setting forth the provisions of the determination and specifying the date as from which they shall be binding, and the said provisions shall, subject to any exclusion in terms of sub-section (3), be binding as from that date.

(3) The Minister may, after consultation with the board, in a notice published under sub-section (2) or by notice in the *Gazette* at any time thereafter, exclude from a determination for a period fixed by him in that notice, any portion of the trade concerned, or any class of employees or any area or part of any area specified in the notice.

Amendment of determinations.

15. (1) On the recommendation of the board the Minister may, by notice in the *Gazette*, make any amendment to a determination which in his opinion, rectifies an omission or error or clarifies any provision.

(2) The Minister may at any time request the board to consider the advisability of amending any determination generally, or of amending any particular provision of a determination otherwise than under sub-section (1).

(3) (a) Upon receipt of a request under sub-section (2), the board shall cause to be published in the *Gazette* a notice setting forth the fact that it has received the said request and the purport thereof, and stating the

beloning of bedinge of voorwaardes van diens of ander gewens wat kragtens hierdie Wet verkry is aangaande enige groep of kategorie persone, firmas of besighede in enige gebied, en enige gegewens aangaande enige individuele persoon, firma of besigheid, bekendmaak: Met dien verstande dat waar bedoelde gegewens betrekking het op die finansies of bedryfsprosesse van 'n persoon, firma of besigheid, die naam of identiteit van bedoelde persoon, firma of besigheid nie openbaar gemaak mag word nie.

13. (1) Na ontvangs deur hom van 'n aanbeveling wat deur **Publikasie van die raad voorgelê** is, kan die Minister, as hy dit dienstig ag om dit te doen—

- (a) 'n kennisgwing in die *Staatskoerant* laat publiseer waarin die aanbeveling uiteengesit word en wat 'n uitnodiging bevat aan alle persone wie se belang regstreeks of onregstreeks geraak word en wat besware het dat 'n vasstelling ooreenkomsdig die aanbeveling gemaak word, om die besware binne 'n in die kennisgwing vermelde tydperk wat nie korter mag wees nie as veertig dae vanaf die datum van publikasie van die kennisgwing, skriftelik in te dien by 'n amptenaar by 'n in die kennisgwing gemelde adres; en
- (b) binne sewe dae na die publikasie van die in paragraaf (a) bedoelde kennisgwing, in een of meer nuusblaaie 'n verklaring laat publiseer wat die aandag van alle betrokke persone op daardie kennisgwing vestig.

(2) Die amptenaar by wie 'n beswaar ingedien is in antwoord op 'n uitnodiging wat ingevolge sub-artikel (1) gepubliseer is, moet dit na die raad verwys vir oorweging deur die raad.

(3) Die raad moet elke beswaar wat ingevolge sub-artikel (2) na hom verwys word, oorweeg en moet aan die Minister daaroor verslag doen, en kan by sy vorige aanbeveling bly of die wysigings daarin aanbring wat volgens oordeel van die raad weens die besware of andersins vereis word.

(4) Voordat die raad 'n verslag kragtens sub-artikel (3) voorlê, kan hy die verdere ondersoek instel wat hy nodig ag, en die bepalings van artikel *tien* is *mutatis mutandis* ten opsigte van so 'n ondersoek van toepassing.

14. (1) Na oorweging van 'n aanbeveling waarteen geen **Die maak van 'n beswaar** ingedien is nie, of waarteen 'n beswaar ingedien is maar wat nie deur die raad ingevolge sub-artikel (3) van artikel *dertien* gewysig is nie, of na oorweging van 'n gewysigde aanbeveling wat ingevolge die bepalings van bedoelde sub-artikel voorgelê is, kan die Minister, as hy dit dienstig ag om dit te doen, 'n vasstelling maak wat ooreenkomsdig die aanbeveling of, indien die aanbeveling gewysig is, ooreenkomsdig die gewysigde aanbeveling is: Met dien verstande dat geen vasstelling gemaak word nie tensy die toepaslike aanbeveling ingevolge sub-artikel (1) van artikel *dertien* gepubliseer is; maar wanneer 'n gewysigde aanbeveling ingevolge sub-artikel (3) van daardie artikel voorgelê is wat volgens die Minister se oordeel nie wesenlik verskil van die aanbeveling wat aldus gepubliseer is nie, kan die Minister 'n vasstelling maak sonder om die gewysigde aanbeveling te publiseer.

(2) Nadat die Minister so 'n vasstelling gemaak het, laat hy in die *Staatskoerant* 'n kennisgwing publiseer wat daardie feit meld en die bepalings van die vasstelling uiteensit, en wat die datum van wanneer af hulle bindend is, vermeld, en behoudens enige uitsluiting ingevolge sub-artikel (3), is bedoelde bepalings vanaf daardie datum bindend.

(3) Die Minister kan na oorlegpleging met die raad, in 'n kragtens sub-artikel (2) gepubliseerde kennisgwing of by kennisgwing in die *Staatskoerant* te eniger tyd daarna, vir 'n tydperk wat hy in daardie kennisgwing vasstel, enige gedeelte van die betrokke bedryf, of enige klas werknemers of enige gebied of gedeelte van 'n gebied, in die kennisgwing vermeld, uit 'n vasstelling uitsluit.

15. (1) Op aanbeveling van die raad kan die Minister by **Wysiging van kennisgwing** in die *Staatskoerant* enige wysiging in 'n vasstelling aanbring wat volgens sy oordeel 'n weglatting of fout herstel of 'n bepaling ophelder.

(2) Die Minister kan die raad te eniger tyd versoek om die wenslikheid te oorweeg van 'n algemene wysiging van 'n vasstelling of van 'n wysiging, op 'n ander wyse as kragtens sub-artikel (1), van 'n bepaalde bepaling van 'n vasstelling.

(3) (a) Nadat die raad 'n versoek ingevolge sub-artikel

(2) ontvang het, moet hy 'n kennisgwing in die *Staatskoerant* laat publiseer, waarin die feit dat die raad bedoelde versoek ontvang het en die strekking

period within which, the officer with whom and the address at which any representations in regard to the said amendment may be lodged.

(b) The board may in its discretion permit oral representations to be made in lieu of or in addition to any written representations under this sub-section.

(4) After carrying out such investigation as it may consider necessary and after considering all representations made under sub-section (3) and any other relevant matter, the board shall submit a report and recommendation to the Minister.

(5) The provisions of sub-section (4) of section *four*, and of sections *eight*, *ten* and *eleven* shall *mutatis mutandis* apply in respect of any investigation conducted and any report and recommendation submitted by the board under this section.

(6) If the board has, under sub-section (4), recommended to the Minister an amendment of any determination, the Minister may, if he deems it expedient to do so, act in accordance with the provisions of section *thirteen* and of sub-section (1) of section *fourteen* as if the reference in those provisions to a determination were a reference to an amendment of a determination, and he may thereafter by notice in the *Gazette* amend the relevant determination in accordance with the board's recommendation or amended recommendation, as the case may be.

(7) Any amendment of a determination made under sub-section (1) or (6) shall take effect as from a date fixed by the Minister in the notice in the *Gazette* whereby the amendment is made.

**Cancellation
or suspension
of determination.**

16. The Minister may, if he deems it expedient to do so, and after consultation with the board, by notice in the *Gazette*, and as from a date or for a period and in respect of any area specified in that notice, from time to time cancel or suspend one or more or all of the provisions of any determination: Provided that the Minister shall before publishing such a notice, give to the employers and employees bound by the determination an opportunity of submitting to him their views in regard to the proposed cancellation or suspension.

**Extension of area
of application of
determination.**

17. (1) The Minister may at any time request the board to consider the advisability of extending the application of all or any of the provisions of any determination to such area as he may specify.

(2) The provisions of sub-sections (3) and (4) of section *fifteen* shall *mutatis mutandis* apply in respect of any request under sub-section (1), and the provisions of sub-section (4) of section *four* and of sections *ten* and *eleven* shall *mutatis mutandis* apply in respect of any investigation conducted or any report or recommendation submitted by the board under such firstmentioned provisions as applied by this sub-section.

(3) The board may recommend that the application of all the provisions of the relevant determination or such provisions thereof as may be specified in the recommendation, be extended to the area concerned or any part thereof, either in the form in which such provisions appear in the determination or in such amended form as the board may specify, and the provisions of section *eight* shall *mutatis mutandis* apply in respect of such last-mentioned specification.

(4) Upon receipt of a recommendation under sub-section (3), the Minister may *mutatis mutandis* in accordance with the procedure applicable to the amendment of a determination under sub-section (6) of section *fifteen*, extend the application of the relevant determination in accordance with the board's recommendation and such extension shall take effect as from a date fixed by the Minister in the notice in the *Gazette* whereby the extension is effected.

**Period of
operation of
determination.**

18. The provisions of a determination shall, subject to the provisions of sub-section (3) of section *two*, and except to the extent of any exclusion under a subsequent determination by virtue of the provisions of paragraph (b) of sub-section (3) of section *eight*, or of any exclusion under sub-section (3) of section *fourteen* or any suspension under section *sixteen*, remain binding until they are cancelled in terms of the last-mentioned section or until they are superseded by a new determination.

Exemptions.

19. (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 a determination which is binding in terms of this Act and the Minister is of opinion that—

daarvan, uiteengesit word en waarin gemeld word binne watter tydperk, by watter amptenaar en by watter adres vertoë omtrent bedoelde wysiging ingedien kan word.

(b) Die raad kan na goeddunke toelaat dat mondelinge vertoë in plaas van of benewens enige skriftelike vertoë kragtens hierdie sub-artikel gemaak word.

(4) Nadat die raad die ondersoek ingestel het wat hy nodig ag en nadat hy alle vertoë wat kragtens sub-artikel (3) gemaak is en enige ander ter sake dienende aangeleentheid oorweeg het, moet die raad 'n verslag en aanbeveling aan die Minister voorlê.

(5) Die bepalings van sub-artikel (4) van artikel *vier* en van artikels *agt*, *tien* en *elf* is *mutatis mutandis* van toepassing ten opsigte van 'n ondersoek en enige verslag en aanbeveling wat deur die raad kragtens hierdie artikel gedoen of voorgelê word.

(6) As die raad ingevolge sub-artikel (4) by die Minister 'n wysiging van 'n vasstelling aanbeveel het, kan die Minister, as hy dit dienstig ag om dit te doen, handel volgens die bepalings van artikel *dertien* en van sub-artikel (1) van artikel *veertien* asof die verwysing in daardie bepalings na 'n vasstelling 'n verwysing was na 'n wysiging van 'n vasstelling, en hy kan daarna by kennisgewing in die *Staatskoerant* die toepaslike vasstelling ooreenkomsdig die raad se aanbeveling of gewysigde aanbeveling, na gelang van die geval, wysig.

(7) 'n Wysiging van 'n vasstelling wat kragtens sub-artikel (1) of (6) aangebring word, tree in werking vanaf 'n datum wat die Minister bepaal in die kennisgewing in die *Staatskoerant* waarby die wysiging aangebring word.

16. Indien die Minister dit dienstig ag om dit te doen, kan hy, na oorlegpleging met die raad, by kennisgewing in die *Staatskoerant* en vanaf 'n datum of vir 'n tydperk en ten opsigte van 'n gebied in daardie kennisgewing vermeld een of meer van of al die bepalings van 'n vasstelling van tyd tot tyd intrek of opskort: Met dien verstande dat die Minister die werkgewers en werknemers vir wie die vasstelling bindend is, voor die publikasie van so 'n kennisgewing, 'n geleenthed moet gee om hul sienswyses in verband met die voorgestelde intrekking of opskorting aan hom voor te lê.

Intrekking of
opskorting van
vasstelling.

17. (1) Die Minister kan die raad te eniger tyd versoek om die wenslikheid te oorweeg om die toepassing van al of enige van die bepalings van 'n vasstelling uit te brei tot die gebied wat hy vermeld.

Uitbreiding van
gebied van toe-
passing van vas-
stelling.

(2) Die bepalings van sub-artikels (3) en (4) van artikel *vyftien* is *mutatis mutandis* van toepassing ten opsigte van 'n versoek kragtens sub-artikel (1), en die bepalings van sub-artikel (4) van artikel *vier* en van artikels *tien* en *elf* is *mutatis mutandis* van toepassing ten opsigte van 'n ondersoek ingestel of 'n verslag of aanbeveling voorgelê deur die raad kragtens eersgenoemde bepalings soos by hierdie sub-artikel toegepas.

(3) Die raad kan aanbevel dat die toepassing van al die bepalings van die toepaslike vasstelling of die bepalings daarvan wat in die aanbeveling vermeld word, tot die betrokke gebied of 'n gedeelte daarvan, hetsy in die vorm waarin bedoelde bepalings in die vasstelling verskyn of in so 'n gewysigde vorm as wat die raad vermeld, uitgebrei word, en die bepalings van artikel *agt* is *mutatis mutandis* van toepassing ten opsigte van laasbedoelde vermelding.

(4) By ontvangs van 'n aanbeveling kragtens sub-artikel (3), kan die Minister *mutatis mutandis* ooreenkomsdig die prosedure wat van toepassing is op die wysiging van 'n vasstelling kragtens sub-artikel (6) van artikel *vyftien*, die betrokke vasstelling ooreenkomsdig die raad se aanbeveling uitbrei en so 'n uitbreiding is van krag vanaf 'n datum wat deur die Minister vasgestel word in die kennisgewing in die *Staatskoerant* waarby die uitbreiding teweeggebring word.

18. Behoudens die bepalings van sub-artikel (3) van artikel *twue*, en behalwe in die mate van 'n uitsluiting kragtens 'n latere vasstelling uit hoofde van die bepalings van paragraaf (b) van sub-artikel (3) van artikel *agt*, of van 'n uitsluiting kragtens sub-artikel (3) van artikel *veertien* of 'n opskorting kragtens artikel *sestien*, bly die bepalings van 'n vasstelling bindend totdat hulle ingevolge laasgenoemde artikel ingetrek word of totdat hulle deur 'n nuwe vasstelling vervang word.

Tydperk van
toepassing van
vasstelling.

19. (1) Wanneer aansoek in die vorm en op die wyse voor- geskryf gedoen word om die vrystelling van enige persoon of klas persone van al of enige van die bepalings van 'n vasstelling wat ingevolge hierdie Wet bindend is, en die Minister van oordeel is dat—

Vrystellings.

- (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 determination; 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) 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 determination 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, 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) The terms and conditions of an exemption granted under sub-section (1) shall be incorporated in a licence 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 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.

(4) Any exemption granted to or in respect of any person or class of persons under this section, shall exempt any employer who employs such person or a member of such class of persons from the relevant provisions of the determination concerned to the extent specified in the licence of exemption, and the terms and conditions incorporated in the 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.

(5) Any exemption granted—

- (a) by the Minister or by an officer to whom powers have been delegated under sub-section (2), 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.

(6) For the purposes of this section, "class of persons" includes such group or section or type of persons 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.

20. (1) Any person who contravenes or fails to comply with any provision of any determination or licence of exemption binding upon him in terms of this Act 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 determination or licence of exemption relating—

- (a) to any matter referred to in paragraph (a), (c) or (h) of sub-section (1) of section eight, or to payment in respect of overtime or meals or in respect of or in lieu of leave of absence or in lieu of notice of termination of employment, or to payment on due date of the full remuneration owing to an employee, or, in the case of a licence of exemption, to any remuneration due to an employee in terms thereof; or
- (b) to any matter referred to in paragraph (b) or (l) of sub-section (1) of section eight,

Failure to observe provisions of determination or licence of exemption.

- (a) die bedinge en voorwaardes van diens van sodanige persoon of klas persone vir hom of hulle wesenlik nie minder gunstig is nie as die bedinge en voorwaardes van diens wat deur daardie vasstelling voorgeskryf word; of
 - (b) sodanige persoon aan 'n liggaamlike ongeskiktheid soos ouderdom of chroniese siekte of swakheid ly en in staat is om slegs deel van die werk te verrig wat van 'n liggaamlik geskikte persoon vereis word; of
 - (c) besondere omstandighede bestaan wat in belang van sodanige persoon of klas persone 'n vrystelling van daardie persoon of klas persone kragtens hierdie artikel regverdig,
- 'kan hy, as hy dit raadsaam ag om dit te doen, vrystelling verleen van al of enigeen van die bepalings van die betrokke vasstelling aan of ten opsigte van daardie persoon of klas persone vir die tydperk en onderworpe aan die bedinge en voorwaardes wat hy bepaal. Die tydperk waarvoor vrystelling verleen word, kan op 'n vroeër datum begin 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, 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) Die bedinge en voorwaardes van 'n vrystelling wat kragtens sub-artikel (1) verleen word, moet in 'n vrystellingsertikaat, onderteken deur 'n amptenaar, ingelyf word en 'n afskrif daarvan moet aan die persoon of persone gestuur word wat die amptenaar nodig ag: Met dien verstande dat in plaas van so 'n sertikaat die Minister die publikasie in die *Staatskoerant* kan magtig van 'n kennisgewing waarin die bedinge en voorwaardes van so 'n vrystelling ingelyf word; en in daardie geval moet die persoon of klas persone aan of ten opsigte van wie, die tydperk waarvoor en die datum van wanneer af die vrystelling verleen word, in bedoelde kennisgewing vermeld word.

(4) 'n Vrystelling wat kragtens hierdie artikel aan of ten opsigte van 'n persoon of klas persone verleen word, stel 'n werkewer wat daardie persoon of 'n lid van daardie klas persone in diens neem, vry van die toepaslike bepalings van die betrokke vasstelling in die mate in die vrystellingsertikaat vermeld, en die bedinge en voorwaardes ingelyf in die vrystellingsertikaat is bindend vir die persoon of elke lid van die klas persone aan of ten opsigte van wie vrystelling verleen is, en indien daardie persoon of 'n lid van daardie klas 'n werkneem is, vir elke persoon wat hom in diens neem.

(5) 'n Vrystelling verleen—

- (a) deur die Minister of deur 'n amptenaar aan wie bevoegdhede kragtens sub-artikel (2) oorgedra is, 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.

(6) By die toepassing van hierdie artikel beteken „klas persone“ ook die groep of afdeling of soort persone wat in die vrystellingsertikaat 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 soort werk of soort of klas perseel of die gebied waarop of waarin werk verrig word, of enige ander metode wat raadsaam geag word, toegepas word.

20. (1) Iemand wat 'n bepaling van 'n vasstelling of vrystellingsertikaat wat ingevolge hierdie Wet vir hom bindend is, oortree, of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

Versuim om aan bepalings van vasstelling of vrystellingsertikaat te voldoen.

(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 vasstelling of vrystellingsertikaat met betrekking—

- (a) tot enige in paragraaf (a), (c) of (h) van sub-artikel (1) van artikel *agt* 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 werkneem, of, in die geval van 'n vrystellingsertikaat, tot enige beloning aan 'n werkneem daarvolgens verskuldig; of
- (b) tot enige in paragraaf (b) of (l) van sub-artikel (1) van artikel *agt* bedoelde aangeleentheid,

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 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 determination or licence of exemption he was entitled to receive, and whether, if he did so agree, he did or did not know of his rights under those provisions, and if he did know of those rights, the circumstances under which he so agreed: Provided 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 *twenty-one* and *twenty-three* 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 determination or licence of exemption relating to the giving of notice upon termination of employment and such determination 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 determination 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 determination 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 *twenty-one* and *twenty-three* 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 referred to in sub-section (2), and the amount underpaid is greater than the maximum amount of the fine prescribed by section *thirty-seven*, the maximum amount of the fine to which the person convicted 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 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 that any moneys as determined by such inspector are payable to any person by such employer in terms of any determination or licence of exemption 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 for payment to the person entitled thereto.

(b) If any moneys so paid to the inspector defined by regulation 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 shall forthwith transmit such moneys to the Secretary for Labour for payment into the Consolidated Revenue Fund.

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 vasstelling of vrystellingsertifikaat 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 getuenis, 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 aldus vasgestel of die bedrag waarop dit aldus beraam is, word in hierdie artikel en in artikels *een-en-twintig* en *drie-en-twintig* 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 vasstelling of vrystellingsertifikaat met betrekking tot die gee van kennis by beëindiging van diens en sodanige vasstelling of vrystellingsertifikaat voorsiening maak vir die betaling of verbeurding 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 vasstelling of vrystellingsertifikaat moes betaal of verbeur het: Met dien verstande dat indien die hof uit al die getuenis, 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 vasstelling of vrystellingsertifikaat moes betaal of verbeur het, by die toepassing van hierdie sub-artikel geag die verskil te wees. Die verskil aldus vasgestel, of die bedrag waarop dit aldus beraam is, word in artikels *een-en-twintig* en *drie-en-twintig* 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 getuenis 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 verrigting 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 by artikel *sewe-en-dertig*, moet die maksimum bedrag van die geldboete waarmee die veroordeelde persoon volgens daardie artikel strafbaar is, verhoog word tot 'n bedrag wat gelykstaan aan die onderbetaalde bedrag.

(7) Dit is geen verweer teen 'n aanklag weens 'n oortreding of versuim in sub-artikel (2) of (3) bedoel om te bewys dat die handeling of versuum waarvan die beskuldigde aangekla word, aan gebrek aan middele te wyte was nie.

(8) (a) 'n Werkewer wat deur die by regulasie bepaalde inspekteur skriftelik in kennis gestel word dat enige gelde soos deur bedoelde inspekteur vasgestel aan 'n persoon deur daardie werkewer betaalbaar is ingevolge 'n vasstelling of vrystellingsertifikaat 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 vir betaling aan die persoon wat daarop geregtig is.

(b) Indien enige gelde aldus betaal aan die by regulasie bepaalde inspekteur 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 inspekteur onverwyld daardie gelde aan die Sekretaris van Arbeid deurstuur vir inbetalung in die Gekonsolideerde Inkomstefonds.

- (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.

Order upon employer or employee to pay specified officer amount underpaid or to be paid.

21. (1) Whenever any person is convicted of an offence under sub-section (1) of section *twenty*, and the offence consists of a contravention or failure referred to in sub-section (2) or (3) of that section, the court convicting him shall, after it has, in terms of that section, determined the amount underpaid, or to be paid, as the case may be, order him to pay an amount equal to the amount so determined to an officer specified by the court (hereinafter referred to as the specified officer) within a period fixed by the court, in instalments or otherwise, as fixed by the court.

(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 *twenty-two* 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.

Disposal of amounts paid to specified officer.

22. (1) Whenever an order is made under section *twenty-one* against an employer in respect of a contravention or failure referred to in paragraph (a) of sub-section (2) of section *twenty*, 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—

- (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 determination 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) 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 *twenty-one* against an employee in respect of a contravention or failure referred to in sub-section (3) of section *twenty*, 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 *twenty-one* against an employer in respect of a contravention or failure referred to in paragraph (b) of sub-section (2) of section *twenty* shall be paid into the Consolidated Revenue Fund: Provided that if the employer has also been convicted in respect of the same facts

- (c) Op aansoek van die Sekretaris van Arbeid gedoen te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van inbetalings 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.

21. (1) Wanneer iemand skuldig bevind word aan 'n misdryf kragtens sub-artikel (1) van artikel *twintig*, en die misdryf bestaan uit 'n oortreding of versuim in sub-artikel (2) of (3) van daardie artikel bedoel, moet die hof wat hom skuldig bevind, 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 paaiemente of andersins, soos deur die hof bepaal.

(2) Die hof kan te eniger tyd op aansoek van 'n inspekteur, of van 'n werknaemer of werkewer aan wie 'n bedrag ingevolge sub-artikel (1) of (2) van artikel *twee-en-twintig* 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, verkort of verleng, of die bedrae van die paaiemente 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 word, 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.

22. (1) Wanneer 'n bevel kragtens artikel *een-en-twintig* ten opsigte van 'n in paragraaf (a) van sub-artikel (2) van artikel *twintig* 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 werknaemer ten opsigte van wie die oortreding of versuim plaasgevind het: Met dien verstande dat—

(a) as die hof bevind dat die betrokke werknaemer nie ingestem het om minder aan te neem as die minimum beloning wat hy kragtens die bepalings van die betrokke vasstelling of vrystellingsertifikaat 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 werknaemer betaal moet word;

(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 werknaemer 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 werknaemer betaal moet word, daardie gedeelte minstens een-vierde daarvan moet wees.

(2) Wanneer 'n bevel kragtens artikel *een-en-twintig* ten opsigte van 'n in sub-artikel (3) van artikel *twintig* bedoelde oortreding of versuim teen 'n werknaemer 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 werkewer 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 werknaemer of werkewer 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 *een-en-twintig* teen 'n werkewer uitgevaardig word ten opsigte van 'n in paragraaf (b) van sub-artikel (2) van artikel *twintig* bedoelde oortreding of versuim, moet in die Gekonsolideerde Inkomstefonds inbetaal word: Met dien verstande dat as die werkewer ten opsigte van dieselfde feite ook skuldig bevind is

Bevel aan werkewer of werknaemer om onderbetaalde bedrag of bedrag wat betaal moet word aan aangewese amptenaar te betaal.

Beskikking oor bedrae aan aangewese amptenaar betaal.

of a contravention or failure 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 twenty shall *mutatis mutandis* apply in respect of any moneys paid to a specified officer which in terms of sub-section (1) or (2) of this section are payable to any employee or employer.

Right of employee or employer to recover by civil proceedings: how far affected by Act.

23. (1) If any person is convicted of an offence under sub-section (1) of section twenty, and the offence consists of a contravention or failure 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 twenty-two directs shall be paid to him out of the moneys paid to the specified officer in terms of an order made under section twenty-one.

(2) Subject to the provisions of sub-section (3), nothing contained in section twenty, twenty-one or twenty-two 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 referred to in paragraph (a) of sub-section (2) of section twenty, 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 determination or licence of exemption which is or was binding upon his employer in terms of this Act or under 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 determination or licence of exemption which is or was binding upon him in terms of this Act, shall not be entitled to recover from his employer by civil legal proceedings the amount he has been underpaid or any portion of that amount unless—

(a) the employee produces to the court a certificate signed by the attorney-general of the province in which is situate the area of jurisdiction of the court, or where that area of jurisdiction is situate within the area of jurisdiction of the Eastern Districts Local Division of the Supreme Court of South Africa, by the solicitor-general, stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base his cause of action; or

(b) the employer or the manager, agent or employee of the employer has been acquitted on a charge in respect of that contravention or failure.

(4) The provisions of paragraph (a) of sub-section (2) and of sub-section (3) shall *mutatis mutandis* apply in respect of 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 determination or licence of exemption which is or was binding upon the employee in terms of this Act or in terms of any agreement between himself and the employee, or any portion of such amount.

Provisions of determination or licence of exemption cannot be varied by agreement or be waived.

24. (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 determination 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

aan 'n in paragraaf (a) van daardie sub-artikel bedoelde oortreding of versuim, die bepalings van hierdie sub-artikel slegs 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 *twintig* is *mutatis mutandis* van toepassing ten opsigte van enige gelde wat aan 'n aangewese amptenaar betaal word en wat ingevolge sub-artikel (1) of (2) van hierdie artikel aan 'n werknemer of werkewer betaalbaar is.

23. (1) Indien iemand skuldig bevind word aan 'n misdryf kragtens sub-artikel (1) van artikel *twintig*, en die misdryf bestaan 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 werkewer (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 werkewer of werknemer te verhaal nie, maar is hy geregtig om ten opsigte van bedoelde bedrag slegs die gelde te ontvang wat die hof ingevolge sub-artikel (1) of (2) van artikel *twee-en-twintig* gelas aan hom betaal moet word uit die gelde wat aan die aangewese amptenaar betaal word ingevolge 'n bevel kragtens artikel *een-en-twintig* uitgevaardig.

(2) Behoudens die bepalings van sub-artikel (3), maak die bepalings van artikel *twintig*, *een-en-twintig* of *twee-en-twintig* of van sub-artikel (1) van hierdie artikel geen inbreuk nie op enige reg wat 'n werknemer besit om deur siviele geregtelike stappe op sy werkewer te verhaal—

- (a) waar sy werkewer, of die bestuurder, agent of werknemer van sy werkewer skuldig bevind is aan 'n misdryf bestaande uit 'n in paragraaf (a) van sub-artikel (2) van artikel *twintig* 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 werkewer aan hom verskuldig is;
- (b) waar nog sy werkewer nog die bestuurder, agent of werknemer van sy werkewer aldus skuldig bevind is, enige bedrag wat sy werkewer kragtens die bepalings van 'n vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet vir sy werkewer bindend is of was, of kragtens 'n ooreenkoms tussen hom en sy werkewer, verplig is om aan hom te betaal.

(3) 'n Werknemer aan wie sy werkewer nie die volle beloning wat hy behoort te betaal het ingevolge enige vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet vir hom bindend is of was, betaal het nie, is nie geregtig om deur siviele geregtelike stappe die aan hom onderbetaalde bedrag of 'n gedeelte van daardie bedrag op sy werkewer te verhaal nie, tensy—

- (a) die werknemer aan die hof 'n sertifikaat voorlê onderteken deur die prokureur-generaal van die provinsie waarin die regsgebied van die hof geleë is, of waar daardie regsgebied binne die regsgebied van die Plaaslike Afdeling Oostelike Distrikte van die Hoogereghof van Suid-Afrika geleë is, deur die solliiteur-generaal, waarin gemeld word dat hy weier om te vervolg ten opsigte van die oortreding of versuim waarop die werknemer voornemens is om sy grond van aksie te baseer; of
- (b) die werkewer of die bestuurder, agent of werknemer van die werkewer 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 ten opsigte van die reg van 'n werkewer om deur siviele geregtelike stappe enige bedrag wat die werknemer ingevolge 'n vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet vir hom bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkewer, aan sy werkewer behoort te betaal het in plaas van kennisgewing van diensbeëindiging, of enige gedeelte van daardie bedrag, op sy werknemer te verhaal.

24. (1) Geen ooreenkoms, uitdruklik of stilswyend, met Bepalings van vasstelling of vrystellingsertifikaat kan die Naturelle dienskontrak of dienskontrak ingevolge die Naturelle dienskontrak Wet, 1932 (Wet No. 24 van 1932), hetsy dit aangegaan is voordat of nadat 'n vasstelling wat ingevolge hierdie Wet bindend is, in werking getree het, of 'n vrystellingsertifikaat uitgereik is, het die uitwerking dat dit die daarvan afstand gedoen word.

Reg van werknemer of werkewer om deur siviele stappe te verhaal: in hoeverre deur Wet geraak.

employee of remuneration less than that prescribed by that determination or licence, or the application to any employee of any treatment, or the grant to him of any benefits, less favourable to him than the treatment or benefits so prescribed, nor shall it effect any waiver by an employee of the application to him of any provision of that determination, 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.

(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 determination 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 *twenty-two*, 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 determination relating to any of the matters referred to in paragraph (p) of sub-section (1) of section *eight*, and in respect of any principal or contractor or other person upon whom that provision is or was binding in terms of this Act.

**Victimization
forbidden.**

25. Any employer who, whether or not any 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—

(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 the board or to any member or temporary or additional member of the board or to any assessor serving on the board, or to an officer, or has complied with any lawful requirement of an inspector 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 *twenty-four*; or

(c) that employee belongs or has belonged to any trade union or any other organization of employees the object of which is or was to protect or further the interests of employees in relation to their employers, or takes or has taken part outside ordinary working hours, or, with the consent of the employer, within working hours, in the formation or lawful activities of any such union or organization,

shall be guilty of an offence and liable on conviction to a fine not exceeding three hundred pounds or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**Appointment
of inspectors.**

26. (1) The Minister may, subject to the laws governing the public service, appoint any person as an inspector under this Act.

(2) Every inspector shall be furnished with a certificate signed by an officer thereto designated by the Minister and stating that he has been appointed as an inspector under this Act.

**Powers of
inspectors.**

27. (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

betaling aan 'n werknemer van minder beloning as dié wat deur daardie vasstelling of sertifikaat voorgeskryf word, of die toepassing op 'n 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 vasstelling of sertifikaat op hom nie. Iemand 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 so 'n ooreenkoms is nietig.

(2) 'n Werkgewer wat vereis of toelaat dat 'n werknemer enige beloning aan hom betaal of terugbetaal wat kragtens 'n vasstelling wat ingevolge hierdie Wet bindend is of was, of kragtens 'n vrystellingsertifikaat, of ooreenkomstig 'n lasgewing wat kragtens sub-artikel (1) van artikel *twee-en-twintig* 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 'n gedeelte van die voordeel van 'n aldus betaalde beloning ontneem word, is aan 'n misdryf skuldig.

(3) 'n Werkgewer 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 'n vasstelling met betrekking tot enigeen van die in paragraaf (p) van sub-artikel (1) van artikel *agt* bedoelde aangeleenthede en ten opsigte van enige prinsipaal of aannemer of ander persoon vir wie daardie bepaling kragtens hierdie Wet bindend is of was.

25. 'n Werkgewer wat, hetsy 'n vasstelling vir hom ingevolge hierdie Wet bindend is al dan nie, 'n werknemer wat by hom in diens is, 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 geregverdig of juis is al dan nie, dat—

Viktimisasie
verbied.

(a) daardie werknemer aan die Minister of aan die raad of aan 'n lid of tydelike of addisionele lid van die raad, of aan 'n assessor wat in die raad dien, of aan 'n amptenaar, inligting verstrek het wat hy by of kragtens hierdie Wet verplig is 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 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 *vier-en-twintig* nie mag vereis of toelaat dat 'n werknemer dit verrig nie; of

(c) daardie werknemer behoort of behoort het aan 'n vakvereniging of enige ander organisasie van werknemers waarvan die oogmerk is of was om die belangte van werknemers teenoor hul werkgewers te beskerm of te bevorder, of buite gewone werkure, of, met die goedkeuring van die werkgewer, binne werkure deelneem of deelgeneem het aan die stigting of wettige werksamhede van so 'n vereniging of organisasie,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens driehonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met beide sodanige boete en sodanige gevangenisstraf.

26. (1) Die Minister kan, met inagneming van die wetsbepalings op die staatsdiens, enige persoon as 'n inspekteur kragtens hierdie Wet aanstel.

Aanstelling van
inspekteurs.

(2) Aan elke inspekteur word 'n sertifikaat verskaf 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.

27. (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 te eniger ander tyd, enige persoon wat op of in die perseel is of was, in die teen-

Bevoegdhede van
inspekteurs.

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 there and then, 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 there and then, 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 on to 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 issued or deemed to have been issued to him in terms of sub-section (2) of section *twenty-six*.

(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.

Registration of employers.

28. (1) Every employer upon whom any determination is binding in terms of this Act shall—

(a) within one month of the date on which the determination becomes binding upon him, and in the event of his starting business after the publication under section *fourteen, fifteen or seventeen*, of the notice by virtue of which the determination becomes 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

woordigheid of afgesonderd van andere ondervra, en kan eis dat daardie persoon dadelik, of op 'n tyd en plek wat die inspekteur bepaal, alle boeke en stukke voorlê 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 te eniger plek van iemand wat 'n boek of stuk betreffende die besigheid van iemand wat 'n werkewer is of was, in sy besit of bewaring of onder sy beheer het, dadelik of op 'n tyd en plek deur die inspekteur bepaal, die voorlegging 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 enige sodanige boeke of stukke wat na sy oordeel moontlik bewys kan oplewer van 'n misdryf ingevolge hierdie Wet. 'n Inspekteur kan 'n tolk of ander assistent of enige lid van 'n polisiemag met hom saamneem wanneer hy enige perseel betree.

(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 fasilitete 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 besigtig of te ondersoek, of om enige navraag daaromtrent te doen.

(3) 'n Inspekteur kan eis dat 'n werknemer enige houer waarin geld wat by wyse van beloning aan hom betaal is of betaal moet word, gehou is of word, en enige staat wat aan hom aangaande die betaling deur sy werkewer verstrek is of verstrek moet word, aan die inspekteur voorlê, en kan die inhoud van die houer ondersoek en die houer en staat behou.

(4) 'n Inspekteur kan eis dat 'n werknemer op 'n deur die inspekteur bepaalde tyd en plek voor hom verskyn, en kan daardie werknemer dan en daar ondervra.

(5) 'n Inspekteur kan eis dat 'n werkewer alle betalings wat aan enigeen van sy werknemers verskuldig is, in die teenwoordigheid van 'n inspekteur doen.

(6) Wanneer werk deur 'n prinsipaal of aannemer aan iemand op kontrak uitgegee is, kan 'n inspekteur met betrekking tot daardie prinsipaal of aannemer al die bevoegdhede uitoefen wat by hierdie artikel aan 'n inspekteur met betrekking tot 'n werkewer verleen word.

(7) 'n Inspekteur wat 'n bevoegdheid uitoefen of 'n plig verrig wat by hierdie Wet aan hom verleent of opgelê word, moet, op versoek, die sertifikaat toon wat ingevolge sub-artikel (2) van artikel *ses-en-twintig* aan hom verskaf is of geag word aldus verskaf te gewees het.

(8) Iemand wat valslik voorgee dat hy 'n inspekteur is, is aan 'n misdryf skuldig.

(9) Iemand wat—

- (a) weier of versuim om enige vraag wat 'n inspekteur by die uitoefening van sy werksaamhede aan hom gestel het, na sy beste vermoë te beantwoord; of
- (b) weier of versuim om na sy beste vermoë te voldoen aan 'n vereiste wat 'n inspekteur by die uitoefening van sy werksaamhede gestel het; 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, vereiste gestel deur of hindering van 'n tolk terwyl hy aldus optree, word geag te wees 'n vraag gestel deur, antwoord gegee aan, vereiste gestel deur of hindering van 'n inspekteur.

28. (1) Elke werkewer vir wie 'n vasstelling ingevolge hierdie Wet bindend is, moet— Registrasie van werkewers.

- (a) binne een maand vanaf die datum waarop die vasstelling vir hom bindend word, en, ingeval hy na die publikasie kragtens artikel *veertien, vyftien of sewentien* van die kennisgewing uit hoofde waarvan die vasstelling vir hom bindend word, met sy besigheid begin, binne een maand vanaf die datum waarop hy aldus met sy 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 vennootskap 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

under and the address or addresses at which he carries on business and such other information as may be prescribed: Provided that if any determination is superseded by a further determination, 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 or deemed to have been made under section *twenty-one* of this Act, section *fifty-four* of the Industrial Conciliation Act, section *twenty-one* of the Native Building Workers Act, 1951 (Act No. 27 of 1951), or section *sixteen* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953), unless on the date of receipt of the said statement all amounts which, subject to any extension or variation granted in terms of the relevant provision, he is required by that order to pay to a specified officer on or before that date, have been so paid.

(3) If the inspector is unable to issue a certificate of registration to an employer by reason of the proviso to sub-section (2), he shall notify the employer of that fact by written notice which may be delivered to him or to any person who apparently resides or is employed at the address at which, according to the latest information furnished by the employer in terms of sub-section (1), the employer carries on business, or may be posted by registered letter addressed to the employer in the name under and to the address at which according to the said information, he carries on business.

(4) If any employer who is the holder of a current certificate of registration issued or deemed to have been 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 the proviso to 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

die adres of adresse waar hy besigheid dryf, en sodanige ander inligting as wat voorgeskryf word, uiteengesit word: Met dien verstande dat as 'n vasstelling deur 'n verdere vasstelling 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 likwidasië van die maatskappy, of in die geval van die oordrag of verlating van die besigheid wat gedryf word, of die verkryging of begin van 'n ander besigheid, aan die by regulasie bepaalde inspekteur binne veertien dae vanaf die verandering, sekwestrasie, likwidasië, oordrag, verlating, verkryging of begin, 'n skriftelike verklaring in die voorgeskrewe vorm verstrek waarin volledige besonderhede van die verandering, sekwestrasie, likwidasië, 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 uitreik: Met dien verstande dat so 'n sertifikaat nie uitgereik mag word nie aan 'n werkewer teen wie 'n bevel kragtens artikel een-en-twintig van hierdie Wet, artikel vier-en-vyftig van die Wet op Nywerheidsversoening, artikel een-en-twintig van die Wet op Naturellebouwers, 1951 (Wet No. 27 van 1951), of artikel sestien van die Wet op Naturelle-arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953), uitgevaardig is of geag word aldus uitgevaardig te gewees het, 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 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 wat kragtens hierdie artikel uitgereik is of geag word aldus uitgerek te gewees het, 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 afgelewer 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 amptenaar die hele bedrag betaal wat hy volgens elke kragtens 'n in die voorbehoudsbepaling by 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

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.

(8) The provisions of this section shall be observed and shall be applicable in respect of each separate determination which is binding upon an employer in terms of this Act.

(9) Any employer upon whom any determination 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.

Records to be kept by employers, principals and contractors.

29. (1) Every employer upon whom any determination 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.

(2) Whenever any determination 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 trade 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 been so 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 twenty-nine of the Wage Act, 1937 (Act No. 44 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 provision 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.

Notices to be posted by employer.

30. (1) Every employer upon whom any determination 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 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 of or extracts from the provisions of this Act;

(4) ingetrek is, kan die Minister te eniger tyd, na goeddunk, en as goeie redes aangevoer word, gelas dat 'n sertifikaat aan hom uitgereik word, onderworpe aan die voorwaardes wat die Minister ople.

(8) Die bepalings van hierdie artikel moet nagekom word en is van toepassing ten opsigte van elke afsonderlike vasstelling wat ingevolge hierdie Wet vir 'n werkewer bindend is.

(9) 'n Werkewer vir wie 'n vasstelling ingevolge hierdie Wet bindend is en wat—

- (a) versuim om aan een of ander van die bepalings van sub-artikel (1) of (5) te voldoen; of
- (b) na verstryking van die toepaslike tydperk bedoel in paraaf (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.

29. (1) Elke werkewer vir wie 'n vasstelling 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 werkewer 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.

Aantekeninge
deur werkewers,
principale en
aannemers gehou
te word.

(2) Wanneer 'n vasstelling wat die skale waarteen, die grondslag waarop, of die beginsels waarvolgens, betaling deur 'n principaal of aannemer gedoen moet word aan enige persoon aan wie werk op kontrak uitgegee word deur daardie principaal of aannemer vir daardie werk, reël, bindend is vir 'n principaal of aannemer, moet elke sodanige principaal of aannemer, hetsy hy 'n werkewer is in, of betrokke is by die betrokke bedryf, al dan nie, te alle tye aantekeninge hou van betalings wat deur hom gedoen 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 aanteking van 'n gebeurtenis moet hou, moet daardie aanteking 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 aanteking vir insae voorlê.

(4) Die bepalings van sub-artikel (3) is *mutatis mutandis* van toepassing ten opsigte van aantekeninge wat ingevolge artikel *nege-en-twintig* van die Loonwet, 1937 (Wet No. 44 van 1937), gehou is.

(5) Iemand wat hom veronreg voel deur 'n beslissing van 'n inspekteur kragtens sub-artikel (1), kan te eniger tyd binne sesig dae daarna na die Minister appelleer, en die Minister kan die beslissing van die inspekteur bekragtig 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) Iemand wat versuim om aan 'n bepaling van hierdie artikel wat op hom van toepassing is, te voldoen, of wat in so 'n aanteking 'n valse inskrywing maak wetende dat dit vals is, is aan 'n misdryf skuldig.

30. (1) Elke werkewer vir wie 'n vasstelling ingevolge hierdie Wet bindend is, moet op 'n in die oog vallende plek op sy perseel wat hy bepaal en op die ander plekke op sy perseel wat 'n inspekteur van tyd tot tyd aanwys, kennisgewings in die voorgeskrewe vorm, in leesbare letters, in beide amptelike tale van die Unie, aanheg en aangeheg hou wat—

Kennisgewings
deur werkewer
aangeplak te
word.

- (a) die voorgeskrewe opsommings van of uittreksels uit die bepalings van hierdie Wet bevat;

- (b) containing the official address of the inspector defined by regulation;
- (c) containing a copy of the said determination or such summaries or extracts from the provisions thereof as may be prescribed in such determination; and
- (d) if the determination 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 provision of this section shall be guilty of an offence.

Alleged partnerships.

31. (1) Whenever in any trade in respect of which any determination 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 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 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. Any such person failing, when required to do so, to produce to the inspector any such agreement or to make any such statement on oath, shall be guilty of an offence.

(2) Whenever under any agreement 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 determination 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 determination 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 provisions of any determination which is or was binding in terms of this Act.

Acts or omissions by managers, agents or employees.

32. (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 instructions

- (b) die amptelike adres van die by regulasie bepaalde inspekteur bevat;
 - (c) 'n afskrif van bedoelde vasstelling of sodanige opsommings van of uittreksels uit die bepalings daarvan bevat as wat in daardie vasstelling voorgeskryf word; en
 - (d) as die vasstelling 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 Werkgewer wat versuim om aan 'n bepaling van hierdie artikel te voldoen, is aan 'n misdryf skuldig.

31. (1) Wanneer daar in enige bedryf ten opsigte waarvan 'n vasstelling ingevolge hierdie Wet bindend is of was, 'n persoon in enige besigheid of ander onderneming werksaam is wat deur 'n inspekteur 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 werkneem is nie maar bepaal word deur 'n vennootskapsooreenkoms of deur een of ander ander ooreenkoms vir die voortsetting daarvan, kan die inspekteur 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 so 'n persoon aansê om ten opsigte van 'n tydperk deur die inspekteur vermeld te word onder eed 'n verklaring af te lê aangaande die werklike bedrae kragtens daardie ooreenkoms ontvang of ontvangaar 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 hy aangesê word om dit te doen, om so 'n ooreenkoms aan die inspekteur 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 vasstelling op 'n party wat so 'n aandeel ontvang, daar bewys word—

- (a) dat die ooreenkoms deur 'n party daarby beëindig kan word deur minder as drie maande kennis te gee; of
- (b) dat die bedrag wat 'n party daarby oor enige tydperk in die aanklag vermeld kragtens die bepalings daarvan ontvang het, minder was as die beloning wat hy geregtig sou gewees het om kragtens 'n vasstelling wat ingevolge hierdie Wet bindend is of was vir sy dienste vir dieselfde tydperk te ontvang, as hy 'n werkneem was,

word hy vermoed 'n werkneem te wees, en enige ander party by die ooreenkoms word vermoed 'n werkgewer te wees, tensy bewys word dat die ooreenkoms nie aangegaan is met die doel om enige bepaling van 'n vasstelling wat ingevolge hierdie Wet bindend is of was, te onduik nie.

32. (1) Wanneer 'n bestuurder, agent of werkneem van 'n werkgewer 'n handeling verrig of versuim om dit te verrig, en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkgewer dit verrig of versuim om dit te verrig, dan, tensy bewys word dat—

- (a) by die verrigting van daardie handeling of versuum om dit te verrig, die bestuurder, agent of werkneem sonder die oogluikende toelating of toestemming van die werkgewer gehandel het; en
- (b) die werkgewer alle redelike stappe gedoen het om 'n handeling of versuim van die onderhawige soort te voorkom; en
- (c) 'n handeling of versuim, hetsy 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 werkneem gevallen het nie, word vermoed dat die werkgewer 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

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 referred to in sub-section (2) of section twenty, the court shall make an order against the employer under section twenty-one, 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.

False statements.

33. 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 investigation under this Act, which is to his knowledge false in any material particular, shall be guilty of an offence.

Evidence.

34. (1) Proof of the publication in the *Gazette* of any notice under section fourteen, fifteen or seventeen shall be conclusive proof that all the provisions of this Act in respect of matters precedent and incidental to the making, amendment, or extension of the area of application, of a determination, or the publication of such a notice, as the case may be, have been complied with

(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 upon or in any premises on or in which any trade in respect of which any determination is binding in terms of this Act was being carried on, or was in charge of any vehicle used in any such trade, 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 trade 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 trade in which he is employed, whether or not it is being driven;

Provided that if it is proved during what portion of any period 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 employer, principal or contractor, or by his manager, agent or employee, or found upon or in any premises occupied by, or upon any

werkgewer 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 werkgewer 'n handeling verrig of versuim om dit te verrig en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkgewer dit verrig of versuim om dit te verrig, kan hy ten opsigte daarvan skuldig bevind en gevonnis word asof hy die werkgewer was.

(3) Of die werkgewer of die bestuurder, agent of werknemer, of albei van hulle kan aldus skuldig bevind en gevonnis word.

(4) Wanneer die bestuurder, agent of werknemer van 'n werkgewer skuldig bevind word aan 'n in sub-artikel (2) van artikel *twintig* bedoelde misdryf, moet die hof kragtens artikel *een-en-twintig* teen die werkgewer '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.

33. Iemand wat enige opgawe of verklaring, hetsy skriftelik Valse verklarings. of andersins, ingevolge 'n 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 'n wesenlike besonderheid vals is, is aan 'n misdryf skuldig.

34. (1) Bewys van die publikasie in die Staatskoerant van Bewyslewering. 'n kennisgiving kragtens artikel *veertien, vyftien of sewentien* is afdoende bewys dat aan alle bepalings van hierdie Wet met betrekking tot aangeleenthede wat die maak, wysiging, of uitbreiding van die gebied van toepassing, van 'n vasstelling of die publikasie van so 'n kennisgiving, na gelang van die geval, voorafgaan of daarmee in verband staan, voldoen is.

(2) By ontstenten 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 bespreking 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 waarop of waarin enige bedryf ten opsigte waarvan 'n vasstelling ingevolge hierdie Wet bindend is, besig was om voortgesit te word, of toesig gehad het oor enige voertuig wat in so 'n bedryf gebruik word, hetsy die voertuig op daardie tydstip bestuur word 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 werkgewer werkzaam te wees—

- (a) gedurende enige tydperk gedurende welke hy ooreenkomsdig die vereistes van sy werkgewer aanwesig is op of in enige perseel waarin die bedryf waarin hy in diens is, voortgesit word;
- (b) gedurende enige ander tydperk gedurende welke hy op of in so 'n perseel aanwesig is; en
- (c) gedurende enige tydperk gedurende welke hy toesig het oor 'n voertuig wat gebruik word in die bedryf waarin hy in diens is, hetsy die voertuig bestuur word al dan nie:

Met dien verstande dat as bewys word gedurende watter gedeelte van 'n in paragraaf (b) of (c) bedoelde tydperk so 'n werknemer werklik in sy diens gewerk het, die vermoede wat by 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 'n werkgewer, prinsipaal of aannemer of deur sy bestuurder, agent of werknemer gehou word, of wat gevind word op of in 'n perseel wat deur daardie werkgewer, prinsipaal of aannemer geokkupeer word, of op of in 'n voertuig wat

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 *twenty-nine*, 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 determination 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 *twenty* with having failed to pay any person employed by him during any period at the rate of remuneration at which in respect of that period he was required to pay that person under the provisions of any determination 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 determination 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 *twenty* with having failed to pay to any person the amount which, under the provisions of any determination relating to any of the matters referred to in paragraph (p) of sub-section (1) of section *eight*, 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 determination 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 person is charged under section *twenty-five* 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 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.

(11) Whenever any person is charged under section *thirty-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 die besigheid van daardie werkewer, prinsipaal of aanemer gebruik word, toelaatbaar by wyse van getuienis 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 werkewer, prinsipaal of aanemer of deur 'n bestuurder, agent of werknemer van daardie werkewer, prinsipaal of aanemer in die loop van sy werk as bestuurder of in die loop van sy agentskap of diens gemaak is nie.

(6) As 'n werkewer versuim het om ten opsigte van een of ander tydperk, die aantekeninge te hou wat hy volgens artikel *nege-en-twintig* 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 vasstelling 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 by 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 'n onware verklaring of inskrywing voorkom in 'n aantekening wat deur iemand gehou is, word vermoed, totdat die teendeel bewys word, dat hy daardie aantekening opsetlik vervals het.

(8) Wanneer iemand ingevolge artikel *twintig* aangekla word weens versuim om 'n persoon wat gedurende enige tydperk by hom in diens was, teen die skaal van beloning te betaal waarteen hy ingevolge die bepalings van 'n vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet vir hom bindend is, ten opsigte van daardie tydperk 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 ingevolge daardie vasstelling 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 iemand ingevolge artikel *twintig* aangekla word weens versuim om aan enige persoon die bedrag te betaal wat hy kragtens die bepalings van 'n vasstelling met betrekking tot een of ander van die in paragraaf (p) van sub-artikel (1) van artikel *agt* 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 ingevolge daardie vasstelling, '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 iemand ingevolge artikel *vyf-en-twintig* 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.

(11) Wanneer 'n persoon ingevolge artikel *drie-en-dertig* daarvan aangekla word dat hy 'n opgawe of verklaring, wat hy weet in 'n 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

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.

Minister may state special case to Appellate Division.

35. 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.

Regulations.

36. (1) The Governor-General may make regulations as to—
 (a) any matter which by this Act is required or permitted to be prescribed; and
 (b) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) Different regulations may be made for different classes of persons.

(3) 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.

Penalties.

37. (1) Any person who is convicted of any offence under the provisions of this Act for which no special penalty is prescribed, shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) Any employer on being convicted a second or subsequent time in respect of a contravention or failure referred to in sub-section (2) of section *twenty*, shall be liable, in addition to any penalty that may be imposed under sub-section (1) of this section, to be ordered to surrender to the court by a specified date any certificate of registration issued or deemed to have been issued to him in terms of section *twenty-eight*.

(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 trade as that in respect of which the determination 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, 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).

Jurisdiction of magistrate's courts.

38. 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.

Section 351 of Act No. 56 of 1955 not to apply to certain offences under this Act.

39. 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 referred to in sub-section (2) or (3) of section *twenty*.

Repeal of laws.

40. (1) The Wage Act, 1937 (Act No. 44 of 1937), and the Wage Amendment Act, 1942 (Act No. 22 of 1942), are, subject to the provisions of sub-section (2) of this section, hereby repealed.

(2) Any notice, regulation, determination, order, board, division, appointment, record, licence of exemption, certificate or other document issued, made, kept or established or deemed to have been issued, made, kept or established, and any other action taken or deemed to have been taken, under any provision of a law repealed by sub-section (1), shall be deemed to have been issued, made, kept, established or taken under the corresponding provision of this Act.

Short title and commencement.

41. This Act shall be called the Wage Act, 1957, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

aanklag vermeld vals is, word vermoed, totdat die teendeel bewys word, dat die beskuldigde te alle toepaslike tye geweet het dat bedoelde opgawe of verklaring in die besonderheid in die aanklag vermeld vals was.

35. Wanneer die Minister twyfel het omtrent die juistheid van 'n uitspraak gedoen deur 'n provinsiale of plaaslike afdeling van die Hooggereghof aangaande die uitleg van 'n bepaling van hierdie Wet, kan hy daardie uitspraak by wyse van 'n spesiale saak aan die Afdeling van Appèl van die Hooggereghof voorlê en die aangeleentheid voor bedoelde Afdeling laat beredeneer sodat hy die betrokke vraag vir die toekomstige leiding van alle howe kan bëslis.

36. (1) Die Goewerneur-generaal kan regulasies uitvaardig Regulasies. met betrekking tot—

- (a) enige aangeleentheid wat volgens hierdie Wet voor- geskryf 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 persone uitgevaardig word.

(3) Regulasies kragtens sub-artikel (1) uitgevaardig, kan vir 'n oortreding daarvan of versuim om daaraan te voldoen, strawwe voorskryf van hoogstens 'n boete van vyftig pond of gevangenisstraf vir 'n tydperk van ses maande.

37. (1) Iemand wat skuldig bevind word aan 'n misdryf Strafbepalings. volgens die bepalings van hierdie Wet waarvoor geen spesiale straf voorgeskryf word nie, is strafbaar met 'n boete van hoogstens honderd pond of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met beide sodanige boete en sodanige gevangenisstraf.

(2) 'n Werkgewer wat vir 'n tweede of daaropvolgende maal skuldig bevind word aan 'n oortreding of versuim bedoel in sub-artikel (2) van artikel *twintig* kan, benewens enige straf wat hom kragtens sub-artikel (1) van hierdie artikel opgelê kan word, gelas word om op of voor 'n vermelde datum enige registrasiesertifikaat wat aan hom ingevolge artikel *agt-en-twintig* uitgereik is of geag word aldus uitgereik te gewees het, 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 met 'n nuwe besigheid begin in dieselfde bedryf as dié ten opsigte waarvan die vasstelling vir die oortreding of versuim van nakoming waarvan hy aldus skuldig bevind is, bindend is of was, is, wanneer hy enigiemand in diens het, skuldig aan 'n misdryf en by skuldigbevinding strafbaar met gevangenisstraf van hoogstens een jaar sonder die keuse van 'n boete.

(4) Die feit dat so 'n werkgewer 'n lisensie besit kragtens die „Licenties Konsolidatiwet, 1925“ (Wet No. 32 van 1925), of die Drankwet, 1928 (Wet No. 30 van 1928), of enige ander wetsbepaling, is geen regsgeldige verweer teen 'n aanklag teen hom kragtens die bepalings van sub-artikel (3) nie.

38. 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.

39. 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 *twintig* bedoelde oortreding of versuim, van toepassing nie.

Artikel 351 van Wet 56 van 1955 nie van toepassing op sekere oortredings volgens hierdie Wet nie.

40. (1) Die Loonwet, 1937 (Wet No. 44 van 1937), en die Herroeping Loon-Wysigingswet, 1942 (Wet No. 22 van 1942), word, van Wette behoudens die bepalings van sub-artikel (2) van hierdie artikel, hereby herroep.

(2) Enige kennisgewing, regulasie, vasstelling, bevel, raad, afdeling, aanstelling, aantekening, vrystellingsertifikaat, sertifikaat of ander geskrif wat, kragtens 'n bepaling van 'n by sub-artikel (1) herroepde Wet, uitgereik, uitgevaardig, gemaak, gehou of ingestel of geag word aldus uitgereik, uitgevaardig, gemaak, gehou of ingestel te gewees het, en enige ander stappe wat gedoen is of geag word aldus gedoen te gewees het, word geag kragtens die ooreenstemmende bepaling van hierdie Wet uitgereik, uitgevaardig, gemaak, gehou, ingestel of gedoen, te gewees het.

41. Hierdie Wet heet die Loonwet, 1957, en tree in werking Kort titel en op 'n datum wat die Goewerneur-generaal by proklamasie in inwerkingtreding. bepaal.