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GOVERNMENT GAZETTE

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No. 10425

KANTOOR VAN DIE STAATSPRESIDENT

No. 1863.

10 September 1986

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 90 van 1986: Wet op Balju's, 1986.

STATE PRESIDENT'S OFFICE

No. 1863.

10 September 1986

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 90 of 1986: Sheriffs Act, 1986.

Wet No. 90, 1986

WET OP BALJU'S, 1986

ALGEMENE VERDUIDELIKENDE NOTA:**[]**

Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Om voorsiening te maak vir die aanstelling van balju's, die instelling van 'n Raad vir Balju's en 'n Getrouheidsfonds vir Balju's, die reëling van die gedrag van balju's, en aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 September 1986.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing.

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

- “adjunk-balju” ’n adjunk-balju kragtens artikel 6 (1) ingestel;
- “balju” ’n balju kragtens artikel 2 (1) aangestel, en ook, by die toepassing van Hoofstuk II, III, IV of V, ’n waarnemende balju;
- “bankinstelling” ’n instelling wat ingevolge die Bankwet, 10 1965 (Wet No. 23 van 1965), as ’n bank geregistreer is;
- “boekjaar” die boekjaar van die Raad in artikel 21 (1) bedoel;
- “bouvereniging” ’n permanente vereniging soos in artikel 1 van die Wet op Onderlinge Bouverenigings, 1965 (Wet 15 No. 24 van 1965), omskryf of ’n bouvereniging soos in artikel 1 van die Wet op Bouverenigings, 1986, omskryf;
- “Fonds” die Getrouheidsfonds vir Balju's by artikel 26 (1) ingestel;
- “getrouheidsfondssertifikaat” ’n getrouheidsfondssertifikaat 20 in artikel 32 (1) bedoel;
- “hierdie Wet” ook ’n regulasie;
- “hoër hof” ’n provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika;
- “laer hof” ’n hof kragtens die Wet op Landdroshof, 1944 25 (Wet No. 32 van 1944), ingestel, en ’n egskeidingshof kragtens artikel 10 van die Swart Administrasiewet, 1927, Wysigingswet, 1929 (Wet No. 9 van 1929), ingestel, maar nie ook ’n hof nie waarvan die regsgebied 30 geleë is binne ’n gebied waarvoor ’n wetgewende vergadering kragtens die Grondwet van die Nasionale State, 1971 (Wet No. 21 van 1971), ingestel is;
- “Minister” die Minister van Justisie;
- “ouditeur” iemand wat ingevolge die Wet op Openbare Re- 35 kenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), as rekenmeester en ouditeur geregistreer is;
- “Raad” die Raad vir Balju's by artikel 7 ingestel, en ook, by die toepassing van Hoofstuk IV (uitgesonderd artikel 52), ’n tugkomitee;
- “regulasie” ’n regulasie kragtens artikel 62 (1) uitgevaardig;
- “tugkomitee” ’n tugkomitee kragtens artikel 18 (1) ingestel;
- “voorgeskrewe” of “voorgeskryf” by regulasie voorgeskryf;
- “waarnemende balju” ’n waarnemende balju kragtens arti- 40 kel 5 (1) aangestel. 45

SHERIFFS ACT, 1986

Act No. 90, 1986

GENERAL EXPLANATORY NOTE:

- []** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To provide for the appointment of sheriffs, the establishment of a Board for Sheriffs and a Fidelity Fund for Sheriffs, the regulation of the conduct of sheriffs, and matters connected therewith.

(English text signed by the State President.)
(Assented to 3 September 1986.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

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

Definitions.

- 5 “acting sheriff” means an acting sheriff appointed under section 5 (1);
- “auditor” means a person registered as an accountant and auditor in terms of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951);
- 10 “banking institution” means an institution registered as a bank in terms of the Banks Act, 1965 (Act No. 23 of 1965);
- “Board” means the Board for Sheriffs established by section 7, and includes, for the purposes of Chapter IV (excluding section 52), a disciplinary committee;
- 15 “building society” means a permanent society as defined in section 1 of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), or a building society as defined in section 1 of the Building Societies Act, 1986;
- 20 “deputy sheriff” means a deputy sheriff appointed under section 6 (1);
- “disciplinary committee” means a disciplinary committee established under section 18 (1);
- “fidelity fund certificate” means a fidelity fund certificate referred to in section 32 (1);
- 25 “financial year” means the financial year of the Board referred to in section 21 (1);
- “Fund” means the Fidelity Fund for Sheriffs established by section 26 (1);
- 30 “lower court” means a court established under the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), and a divorce court established under section 10 of the Black Administration Act, 1927, Amendment Act, 1929 (Act No. 9 of 1929), but does not include a court of which the area of jurisdiction is situated within an area for which a legislative assembly has been established under
- 35 the National States Constitution Act, 1971 (Act No. 21 of 1971);
- “Minister” means the Minister of Justice;
- “prescribed” means prescribed by regulation;
- 40 “regulation” means a regulation made under section 62 (1);
- “sheriff” means a sheriff appointed under section 2 (1), and includes, for the purposes of Chapter II, III, IV or V, an acting sheriff;
- “superior court” means a provincial or local division of the Supreme Court of South Africa;
- 45 “this Act” includes a regulation.

Wet No. 90, 1986

WET OP BALJU'S, 1986

HOOFSTUK I

AANSTELLING VAN BALJU'S EN ANDER PERSONE

Aanstelling van
balju's.

2. (1) Behoudens die bepalings van subartikel (2) kan die Minister op die voorgeskrewe wyse vir 'n laer of hoër hof iemand as balju van daardie hof aanstel. 5
(2) Dieselfde persoon kan as balju van sowel 'n laer as 'n hoër hof aangestel word en twee of meer persone kan as balju's van dieselfde hof aangestel word.

Verrigting van
werksaamhede deur
balju.

3. (1) Behoudens die bepalings van hierdie artikel verrig 'n balju binne die regsgebied van die laer of hoër hof waarvoor hy aangestel is die werksaamhede by of kragtens wet aan 'n balju van daardie hof opgedra. 10
(2) Die Minister kan een of meer gebiede binne die regsgebied van 'n laer of hoër hof omskryf en so 'n gebied aan 'n balju van daardie hof toeken. 15
(3) 'n Balju aan wie 'n gebied kragtens subartikel (2) toegeken is, verrig sy werksaamhede binne daardie gebied.
(4) Die Minister kan te eniger tyd die omskrywing van 'n gebied bedoel in subartikel (2) wysig.

Ampsduur van
balju's.

4. (1) 'n Balju beklee sy amp, behoudens die ander bepalings van hierdie artikel, tot die datum waarop hy die leeftyd van 65 jaar bereik, maar kan weer aangestel word vir die tydperk wat die Minister na oorlegpleging met die Raad bepaal. 20
(2) 'n Balju ontruim sy amp—
(a) indien hy kragtens subartikel (3) of artikel 49 (2) van sy amp onthef word; of 25
(b) indien hy ingevolge artikel 51 geag word van sy amp onthef te wees.
(3) Die Minister kan te eniger tyd na oorlegpleging met die Raad 'n balju van sy amp onthef— 30
(a) indien die getrouheidsfondssertifikaat van die balju kragtens artikel 34 (1) of 49 ingetrek is; of
(b) indien daar na die oordeel van die Minister gronde bestaan om in belang van die instandhouding van effektiewe en betroubare diens aan die howe en die publiek dit te doen. 35
(4) 'n Balju kan bedank deur die Minister skriftelik drie maande kennis van sy bedanking te gee.

Aanstelling van
waarnemende
balju's.

5. (1) Wanneer 'n balju—
(a) nie in staat is om sy werksaamhede te verrig nie; 40
(b) deur 'n geregshof verbied word om 'n bepaalde werksaamheid in verband met 'n geding te verrig; of
(c) ophou om sy amp te beklee,
kan die Minister iemand aanstel om, behoudens die bepalings van artikel 30, as balju waar te neem— 45
(i) in die omstandighede in paragraaf (a) bedoel, totdat die balju sy werksaamhede kan hervat;
(ii) in die omstandighede in paragraaf (b) bedoel, om die bepaalde werksaamheid te verrig; of
(iii) in die omstandighede in paragraaf (c) bedoel, totdat 'n opvolger aangestel word. 50
(2) Die bepalings van artikel 4 (2) en (3) is *mutatis mutandis* ten opsigte van 'n waarnemende balju van toepassing.

Aanstelling van
adjunk-balju's en
werknemers.

6. (1) 'n Balju of waarnemende balju kan met die goedkeuring van die Raad en op die voorwaardes wat die Raad bepaal een of meer adjunk-balju's aanstel, vir wie hy verantwoordelik is. 55
(2) 'n Adjunk-balju kan, onderworpe aan die voorskrifte van die balju of waarnemende balju wat hom aanstel, die werksaamhede van so 'n balju of waarnemende balju verrig.
(3) 'n Balju of waarnemende balju kan die ander persone wat hy nodig ag in sy diens aanstel. 60

SHERIFFS ACT, 1986

Act No. 90, 1986

CHAPTER I

APPOINTMENT OF SHERIFFS AND OTHER PERSONS

2. (1) Subject to the provisions of subsection (2), the Minister may appoint in the prescribed manner for a lower or superior court a person as sheriff of that court. Appointment of sheriffs.

(2) The same person may be appointed as sheriff of both a lower and a superior court and two or more persons may be appointed as sheriffs of the same court.

3. (1) Subject to the provisions of this section, a sheriff shall perform within the area of jurisdiction of the lower or superior court for which he has been appointed the functions assigned by or under any law to a sheriff of that court. Performance of functions by sheriff.

(2) The Minister may describe one or more areas within the area of jurisdiction of a lower or superior court and allocate any such area to a sheriff of that court.

(3) A sheriff to whom an area has been allocated under subsection (2), shall perform his functions within that area.

(4) The Minister may at any time alter the description of an area referred to in subsection (2).

4. (1) A sheriff shall hold office, subject to the other provisions of this section, until the date on which he attains the age of 65 years, but may be reappointed for such period as the Minister may after consultation with the Board determine. Term of office of sheriffs.

(2) A sheriff shall vacate his office—

(a) if he is removed from office under subsection (3) or section 49 (2); or

(b) if he is deemed to be removed from office in terms of section 51.

(3) The Minister may at any time after consultation with the Board remove a sheriff from his office—

(a) if the fidelity fund certificate of the sheriff has been cancelled under section 34 (1) or 49; or

(b) if in the opinion of the Minister reasons exist for doing so in the interest of the maintenance of effective and reliable service to the courts and the public.

(4) A sheriff may resign by giving the Minister three months' notice in writing of his resignation.

5. (1) When a sheriff—

(a) is unable to perform his functions;

(b) is prohibited by any court of law from performing any particular function in connection with a case; or

(c) ceases to hold office,

the Minister may appoint a person to act, subject to the provisions of section 30, as sheriff—

(i) in the circumstances referred to in paragraph (a), until the sheriff is able to resume his functions;

(ii) in the circumstances referred to in paragraph (b), in order to perform the particular function; or

(iii) in the circumstances referred to in paragraph (c), until a successor is appointed.

(2) The provisions of section 4 (2) and (3) shall apply *mutatis mutandis* in respect of an acting sheriff.

Appointment of acting sheriffs.

6. (1) Any sheriff or acting sheriff may with the approval of the Board and on such conditions as the Board may determine appoint one or more deputy sheriffs, for whom he shall be responsible. Appointment of deputy sheriffs and employees.

(2) A deputy sheriff may, subject to the directions of the sheriff or acting sheriff appointing him, perform the functions of any such sheriff or acting sheriff.

(3) Any sheriff or acting sheriff may appoint such other persons in his employ as he may consider necessary.

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WET OP BALJU'S, 1986

HOOFSTUK II

RAAD VIR BALJU'S

Instelling van Raad vir Balju's.

7. Daar word hierby 'n raad ingestel wat die Raad vir Balju's heet en 'n regs persoon is.

Oogmerke van Raad.

8. Die oogmerke van die Raad is die handhawing van die aansien van, die verhoging van die status van, en die verbetering van die standaard van opleiding van en werksaamhede verrig deur, balju's.

Samestelling van Raad.

9. (1) Die Raad bestaan uit 12 lede deur die Minister aangestel. 10

(2) Behoudens die bepalings van artikel 10 stel die Minister die volgende persone as lede van die Raad aan, naamlik—

(a) nege balju's deur die Minister gekies uit minstens twaalf balju's wie se name vir dié doel voorgelê is deur 'n vereniging wat na die oordeel van die Minister balju's verteenwoordig;

(b) drie ander persone wat na die oordeel van die Minister in staat is om die Raad met die verwesenliking van sy oogmerke te help.

(3) (a) Wanneer dit nodig is, moet die Direkteur-generaal: 20 Justisie die vereniging in subartikel (2) (a) bedoel skriftelik versoek om binne die tydperk in die versoek vermeld die name soos beoog in daardie subartikel aan hom voor te lê.

(b) Indien sodanige vereniging— 25

(i) in gebreke bly om die betrokke name binne die tydperk bedoel in paragraaf (a) voor te lê; of

(ii) name voorlê wat nie 'n voldoende getal balju's verteenwoordig nie wat na die oordeel van die Minister geskik is vir aanstelling in subartikel (2) 30 (a) beoog,

moet die Minister die nodige getal balju's wat hy geskik ag, aanstel.

(4) Wanneer dit nodig is, kies die Raad uit sy lede 'n voorsitter en ondervoorsitter van die Raad, en die voorsitter en ondervoorsitter beklee hul amp vir die tydperk wat die Raad ten tyde van hul verkiesing bepaal.

(5) Die ondervoorsitter kan, indien die voorsitter afwesig is of om die een of ander rede nie as voorsitter kan optree nie, die werksaamhede van die voorsitter verrig. 40

Persone wat onbevoeg is om lede van Raad te wees.

10. Niemand word as lid van die Raad aangestel nie indien—

(a) hy nie 'n Suid-Afrikaanse burger is wat permanent in die Republiek woonagtig is nie;

(b) hy 'n ongerehabiliteerde insolvent is;

(c) hy uit 'n posisie van vertroue ontslaan is weens onbehoorlike gedrag wat 'n skending van sodanige vertroue behels;

(d) hy skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is of aan 'n ander misdryf waarvoor hy tot gevangenisstraf sonder die keuse van 'n boete gevonnis is; of

(e) hy ooreenkomstig Hoofstuk IV aan onbehoorlike gedrag skuldig bevind is.

Ampstermyn van lede van Raad en vul van vakatures.

11. (1) Elke lid van die Raad wat ingevolge artikel 9 (2) aangestel is, word vir 'n tydperk van drie jaar aangestel, maar behou, na die verstryking van die tydperk waarvoor hy aangestel is, sy amp vir 'n verdere tydperk, maar hoogstens drie maande, totdat sy opvolger aangestel is.

(2) (a) Indien 'n lid van die Raad wat ingevolge paragraaf (a) van artikel 9 (2) aangestel is om die een of ander rede ophou om sy amp te beklee, kan die Minister, na oorlegpleging met die Raad en behoudens artikel 10, 'n balju in sy plek vir die onverstreke tydperk van sy ampstermyn aanstel. 60

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CHAPTER II

BOARD FOR SHERIFFS

7. There is hereby established a board to be known as the Board for Sheriffs and which shall be a juristic person. Establishment of Board for Sheriffs.

5 8. The objects of the Board shall be the maintenance of the esteem of, the enhancement of the status of, and the improvement of the standard of training of and functions performed by, sheriffs. Objects of Board.

9. (1) The Board shall consist of 12 members appointed by the Minister. Constitution of Board.

(2) Subject to the provisions of section 10, the Minister shall appoint the following persons as members of the Board, namely—

15 (a) nine sheriffs chosen by the Minister from among at least twelve sheriffs whose names have been submitted for that purpose by an association which in the opinion of the Minister represents sheriffs;

(b) three other persons who in the opinion of the Minister are able to assist the Board in achieving its objects.

20 (3) (a) Whenever necessary the Director-General: Justice shall in writing request the association referred to in subsection (2) (a) to submit to him the names as contemplated in that subsection within the period specified in the request.

25 (b) If such association—

(i) fails to submit the relevant names within the period referred to in paragraph (a); or

30 (ii) submits names which do not represent an adequate number of sheriffs who in the opinion of the Minister are suitable for appointment contemplated in subsection (2) (a),

the Minister shall appoint the required number of sheriffs considered by him as suitable.

35 (4) Whenever necessary the Board shall elect from among its members a chairman and vice-chairman of the Board, and the chairman and vice-chairman shall hold office for such period as the Board may determine at the time of their election.

(5) The vice-chairman may, if the chairman is absent or for any reason unable to act as chairman, perform the functions of the chairman.

10. No person shall be appointed as a member of the Board if— Persons not qualified to be members of Board.

45 (a) he is not a South African citizen permanently resident in the Republic;

(b) he is an unrehabilitated insolvent;

(c) he has been dismissed from a position of trust by reason of improper conduct involving a breach of such trust;

50 (d) he has been convicted of any offence involving dishonesty or of any other offence for which he has been sentenced to imprisonment without the option of a fine; or

(e) he has been found guilty of improper conduct in accordance with Chapter IV.

11. (1) Every member of the Board appointed in terms of section 9 (2) shall be appointed for a period of three years, but shall, after the expiration of the period for which he was appointed, continue to hold office for a further period, but not exceeding three months, until his successor has been appointed. Term of office of members of Board and filling of vacancies.

60 (2) (a) If a member of the Board appointed in terms of paragraph (a) of section 9 (2) for any reason ceases to hold office, the Minister may, after consultation with the Board and subject to section 10, appoint a sheriff in his place for the unexpired period of his term of office.

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- (b) Indien 'n lid van die Raad wat ingevolge paragraaf (b) van artikel 9 (2) aangestel is om die een of ander rede ophou om sy amp te beklee, kan die Minister, behoudens daardie paragraaf en artikel 10, iemand in sy plek vir die onverstreke tydperk van sy ampstermyn 5 aanstel.

(3) Iemand wie se ampstermyn as lid van die Raad verstryk, kan weer aangestel word.

Ontruiming van
amp deur lid van
Raad.

12. (1) 'n Lid van die Raad ontruim sy amp—

- (a) indien hy onderhewig raak aan 'n onbevoegdheid in ar- 10
tikel 10 genoem;
(b) indien hy geestelik versteurd raak;
(c) indien hy sonder verlof van die voorsitter van meer as
twee agtereenvolgende vergaderings van die Raad af-
wesig is; of 15
(d) indien hy ingevolge artikel 9 (2) (a) of 11 (2) (a) aange-
stel is en ophou om sy amp as balju te beklee.

(2) Die Minister kan te eniger tyd 'n lid van die Raad van sy
amp onthef indien daar gegronde redes bestaan om dit te doen.

Toelaes aan
lede van
Raad.

13. Daar kan aan 'n lid van die Raad wat nie in die heeltydse 20
diens van die Staat is nie die toelaes uit die fondse van die Raad
betaal word wat die Raad in die algemeen of in 'n besondere ge-
val bepaal.

Vergaderings
van Raad.

14. (1) Die Raad vergader die eerste keer op die tyd en plek
wat die Minister bepaal en daarna minstens een keer in elke jaar 25
op die tye en plekke wat die voorsitter bepaal.

(2) Die voorsitter kan te eniger tyd uit eie beweging of moet
op die skriftelike versoek van minstens vyf lede 'n spesiale ver-
gadering van die Raad belê.

(3) Sewe lede van die Raad maak 'n kworum vir 'n vergade- 30
ring van die Raad uit.

(4) Indien sowel die voorsitter as die ondervoorsitter van 'n
vergadering van die Raad afwesig is, kies die aanwesige lede
iemand uit hul geledere om op daardie vergadering voor te sit.

(5) Die beslissing van 'n meerderheid van die lede van die 35
Raad wat op 'n vergadering van die Raad aanwesig is, maak 'n
besluit van die Raad uit, en, by 'n staking van stemme oor 'n
aangeleentheid, het die persoon wat op die betrokke vergade-
ring voorsit, benewens sy beraadslagende stem 'n beslissende
stem. 40

(6) Geen besluit deur die Raad geneem of handeling op gesag
van die Raad verrig, is ongeldig nie bloot vanweë 'n vakature in
die Raad of omdat iemand wat nie geregtig was nie om as 'n lid
van die Raad sitting te neem, as so 'n lid sitting geneem het op
die tydstip waarop die besluit geneem of die handeling gemagtig 45
is, indien die besluit geneem of die handeling gemagtig is deur
die meerderheid van die lede van die Raad wat toe aanwesig was
en geregtig was om as lede sitting te neem.

Aanstelling van
personeel.

15. Die Raad kan die persone wat hy nodig ag vir die werk
verbonde aan die verrigting van sy werksaamhede aanstel op die 50
voorwaardes en teen die besoldiging wat hy bepaal.

Algemene werk-
saamhede van
Raad.

16. Benewens die ander werksaamhede wat by hierdie Wet
aan die Raad opgedra word, kan die Raad—

- (a) komitees instel om hom van advies te dien betreffende
'n aangeleentheid ten opsigte waarvan 'n werksaamheid 55
aan hom opgedra is;
(b) 'n ander persoon as 'n lid van die Raad met die goed-
keuring van die Minister aanstel as 'n lid van 'n komi-
tee in paragraaf (a) bedoel, en die toelaes bepaal wat
aan daardie persoon betaalbaar is; 60
(c) behoudens die bepalinge van hierdie Wet, die wyse
waarop vergaderings van 'n komitee van die Raad by-
eengeroep moet word, die prosedure by en die kworum

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- (b) If a member of the Board appointed in terms of paragraph (b) of section 9 (2) for any reason ceases to hold office, the Minister may, subject to that paragraph and section 10, appoint a person in his place for the unexpired period of his term of office.
- (3) Any person whose term of office as a member of the Board has expired, shall be eligible for reappointment.
12. (1) A member of the Board shall vacate his office—
 (a) if he becomes subject to any disability mentioned in section 10;
 (b) if he becomes of unsound mind;
 (c) if he has been absent from more than two consecutive meetings of the Board without leave of the chairman; or
 (d) if he has been appointed in terms of section 9 (2) (a) or 11 (2) (a) and ceases to hold office as sheriff.
- (2) The Minister may at any time remove a member of the Board from his office if sound reasons exist for doing so.
13. A member of the Board who is not in the full-time employment of the State may be paid from the funds of the Board such allowances as the Board may determine in general or in any particular case.
14. (1) The Board shall meet for the first time at the time and place determined by the Minister and thereafter at least once in every year at such times and places as the chairman may determine.
 (2) The chairman may at any time of his own accord or shall at the written request of not fewer than five members convene a special meeting of the Board.
 (3) Seven members of the Board shall form a quorum for a meeting of the Board.
 (4) If both the chairman and the vice-chairman are absent from a meeting of the Board, the members present shall from among their number elect a person to preside at that meeting.
 (5) The decision of a majority of the members of the Board present at a meeting of the Board shall constitute a decision of the Board, and in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.
 (6) No decision taken by the Board or act performed under authority of the Board shall be invalid merely by reason of a vacancy on the Board or of the fact that any person not entitled to sit as a member of the Board, sat as such a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the majority of the members of the Board present at the time and who were entitled to sit as members of the Board.
15. The Board may appoint such persons as it may consider necessary for the work incidental to the performance of its functions, on such conditions and at such remuneration as it may determine.
16. In addition to the other functions assigned to the Board by this Act, the Board may—
 (a) establish committees to advise it on any matter in respect of which a function is assigned to it;
 (b) appoint with the approval of the Minister any person other than a member of the Board as a member of any committee referred to in paragraph (a), and determine the allowances payable to that person;
 (c) subject to the provisions of this Act, determine the manner in which meetings of any committee of the Board shall be convened, the procedure and quorum at those

Vacating of office by member of Board.

Allowances to members of Board.

Meetings of Board.

Appointment of staff.

General functions of Board.

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- vir daardie vergaderings en die wyse waarop notule van daardie vergaderings gehou moet word, bepaal;
- (d) die roerende of onroerende goed wat hy nodig ag vir die verrigting van sy werksaamhede huur, koop of andersins verkry en goed wat aldus verkry is, verhuur, 5 verkoop of andersins daarvoor beskik;
 - (e) van tyd tot tyd geld by wyse van lening opneem ten einde sy werksaamhede te verrig;
 - (f) sy onroerende goed met verband beswaar as sekerheid vir 'n lening in paragraaf (e) bedoel; 10
 - (g) geld uitleen teen die sekerheid wat hy voldoende ag ten einde sy oogmerke te bevorder;
 - (h) met die goedkeuring van die Minister geld of ander goed skenk;
 - (i) by wyse van versekering voorsiening maak vir dekking 15 van die Raad teen enige verlies, skade, risiko of aanspreeklikheid wat hy mag ly of oploop;
 - (j) reëlins tref vir—
 - (i) dekking, by wyse van versekering, van balju's teen enige verlies, skade, risiko of aanspreeklikheid wat 20 hulle mag ly of oploop;
 - (ii) die instelling van 'n mediese hulp- of pensioenskema vir balju's;
 - (k) met die goedkeuring van die Minister 'n gedragskode opstel wat deur balju's nagekom moet word; 25
 - (l) in die algemeen die handelinge verrig wat nodig of dienstig is vir die verwesenliking van sy oogmerke.

Uitvoerende komitee.

- 17. (1) Die Raad kan 'n uitvoerende komitee van die Raad instel wat bestaan uit die voorsitter, die ondervoorsitter en die ander lede van die Raad wat die Raad bepaal. 30
- (2) Die voorsitter van die Raad is die voorsitter van die uitvoerende komitee.
- (3) Die uitvoerende komitee kan gedurende die tydperke tussen vergaderings van die Raad die werksaamhede van die Raad verrig, maar is nie bevoeg nie— 35
 - (a) behalwe vir sover die Raad anders gelas, om 'n besluit van die Raad tersyde te stel of te wysig; of
 - (b) om 'n appèl ingevolge artikel 18 (4) (b) te oorweeg.
- (4) Die Raad kan 'n besluit van die uitvoerende komitee tersyde stel of wysig. 40

Tugkomitees.

- 18. (1) Die Raad kan een of meer tugkomitees instel wat elk een uit minstens drie lede van die Raad bestaan.
- (2) Een van die lede van 'n tugkomitee word deur die Raad as voorsitter van die tugkomitee aangewys.
- (3) 'n Tugkomitee is bekleed en belas met die werksaamhede 45 met betrekking tot 'n aanklag van onbehoorlike gedrag by of kragtens Hoofstuk IV aan die Raad opgedra.
- (4) (a) 'n Balju wat hom veronreg voel deur 'n bevinding gedoen of straf opgelê deur 'n tugkomitee by die verrigting van sy werksaamhede ooreenkomstig Hoofstuk IV, 50 kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk nadat die tugkomitee die bevinding gedoen of die straf opgelê het, teen die bevinding of straf na die Raad appelleer.
- (b) Die Raad moet 'n appèl wat ooreenkomstig paragraaf 55 (a) by hom aangeteken word op die voorgeskrewe wyse oorweeg, en kan—
 - (i) die bevinding of straf waarteen geappelleer word, tersyde stel of vervang deur 'n ander bevinding of straf wat die tugkomitee kon gedoen of opgelê het; 60 of
 - (ii) die bevinding of straf waarteen geappelleer word, bekragtig.

Jaarlikse heffings betaalbaar aan Raad.

- 19. (1) Elke balju moet jaarliks op of voor die voorgeskrewe datum die voorgeskrewe heffing aan die Raad betaal. 65
- (2) Verskillende heffings kan kragtens subartikel (1) ten opsigte van verskillende kategorieë waarnemende balju's voorgeskryf word.

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- meetings and the manner in which minutes of those meetings shall be kept;
- (d) hire, buy or otherwise acquire such movable or immovable property as it may consider necessary for the performance of its functions and let, sell or otherwise dispose of property so acquired;
- (e) from time to time raise money by way of loan for the purpose of performing its functions;
- (f) hypothecate its immovable property as security for a loan referred to in paragraph (e);
- (g) with a view to promoting its objects, lend money against such security as it may consider adequate;
- (h) with the approval of the Minister, donate money or other property;
- (i) by means of insurance provide for cover for the Board against any loss, damage, risk or liability which it may suffer or incur;
- (j) arrange for—
- (i) cover, by means of insurance, for sheriffs against any loss, damage, risk or liability which they may suffer or incur;
- (ii) the establishment of a medical aid or pension scheme for sheriffs;
- (k) with the approval of the Minister, frame a code of conduct which shall be complied with by sheriffs;
- (l) in general perform such acts as may be necessary or expedient for the achievement of its objects.

17. (1) The Board may establish an executive committee of the Board consisting of the chairman, the vice-chairman and such other members of the Board as the Board may determine. Executive committee.

(2) The chairman of the Board shall be the chairman of the executive committee.

(3) The executive committee may perform the functions of the Board during the periods between meetings of the Board, but shall not have the power—

- (a) except in so far as the Board directs otherwise, to set aside or vary any decision of the Board; or
- (b) to consider an appeal in terms of section 18 (4) (b).

(4) The Board may set aside or vary any decision of the executive committee.

18. (1) The Board may establish one or more disciplinary committees, each consisting of at least three members of the Board. Disciplinary committees.

(2) One of the members of a disciplinary committee shall be designated by the Board as chairman of the disciplinary committee.

(3) A disciplinary committee shall be invested and charged with the functions relating to a charge of improper conduct assigned to the Board by or under Chapter IV.

(4) (a) Any sheriff aggrieved by a finding made or penalty imposed by a disciplinary committee in the performance of its functions in accordance with Chapter IV, may in the prescribed manner and within the prescribed period after the disciplinary committee has made the finding or imposed the penalty, appeal to the Board against the finding or penalty.

(b) The Board shall consider in the prescribed manner an appeal lodged with it in accordance with paragraph (a), and may—

- (i) set aside the finding or penalty appealed against or substitute therefor any other finding or penalty which the disciplinary committee could have made or imposed; or
- (ii) confirm the finding or penalty appealed against.

19. (1) Every sheriff shall annually on or before the prescribed date pay the prescribed levy to the Board. Annual levies payable to Board.

(2) Different levies may be prescribed under subsection (1) in respect of different categories of acting sheriffs.

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Fondse van Raad.

20. (1) Die fondse van die Raad bestaan uit—
- (a) die heffings ingevolge artikel 19 (1) aan die Raad betaal;
 - (b) rente uit beleggings verkry;
 - (c) geld wat die Raad uit 'n ander bron toeval. 5
- (2) Die Raad wend sy fondse aan ter bestryding van die uitgawes wat die Raad by die verrigting van sy werksaamhede ooreenkomstig hierdie Wet aangaan, maar moet geld of ander goed wat aan die Raad geskenk of bemaak word ooreenkomstig die voorwaardes van die betrokke skenking of bemaking aanwend. 10
- (3) Die Raad moet 'n rekening by 'n bankinstelling of bouvereniging open, en moet in daardie rekening die geld stort wat deur hom ingevolge hierdie Hoofstuk ontvang is.
- (4) Die Raad kan geld wat ingevolge hierdie Hoofstuk ontvang is en nie vir onmiddellike gebruik nodig is nie, belê by 15 wyse van deposito's by die Openbare Beleggingskommissaris, 'n bankinstelling of bouvereniging, of op die ander wyse wat die Minister met die instemming van die Minister van Finansies bepaal.

Boekjaar, aantekeninge en finansiële jaarstate van Raad.

21. (1) Die boekjaar van die Raad eindig op die laaste dag van 20 Februarie in elke jaar.
- (2) Die Raad moet—
- (a) aantekeninge laat hou van geld deur hom ontvang of bestee, en van sy bates, laste en finansiële transaksies;
 - (b) so gou doenlik, maar hoogstens drie maande na die 25 einde van elke boekjaar, finansiële jaarstate laat opmaak wat, met gepaste besonderhede, geld deur hom ontvang en uitgawes deur hom aangegaan gedurende, en sy bates en laste aan die einde van, bedoelde boekjaar aantoon. 30
- (3) Die aantekeninge en finansiële jaarstate in subartikel (2) bedoel, word geouditeer deur 'n ouditeur aangestel deur die Raad.

HOOFSTUK III

VERTROUENSPOSISIE VAN BALJU'S

35

Rekenings vir trustgelde

Rekenings vir trustgelde.

22. (1) Elke balju moet 'n afsonderlike trustrekening, wat 'n verwysing na hierdie subartikel moet bevat, by 'n bankinstelling of bouvereniging open en hou, en deponeer onverwyld daarin die geld wat hy op rekening van iemand hou of ontvang. 40
- (2) (a) 'n Balju kan geld wat in sy trustrekening gedeponeer is en nie onmiddellik vir die een of ander bepaalde doel nodig is nie, in 'n afsonderlike spaar- of ander rentegewende rekening belê wat deur hom by 'n bankinstelling of bouvereniging geopen is. 45
- (b) 'n Spaar- of ander rentegewende rekening in paragraaf (a) bedoel, moet 'n verwysing na hierdie subartikel bevat.
- (3) Die bedrag wat in krediet staan van 'n rekening deur 'n balju ingevolge subartikel (1) of (2) geopen, maak nie deel uit van die bates van daardie balju of, indien hy sterf of insolvent raak, van sy bestorwe of insolvente boedel nie. 50
- (4) Rente op geld in 'n rekening in subartikel (1) of (2) genoem, word op die voorgeskrewe wyse deur die betrokke balju aan die Fonds betaal. 55

Boekhouding en ouditering van rekenings.

23. (1) 'n Balju moet—
- (a) afsonderlik aantekeninge hou van geld wat hy deponeer of belê in, en betalings wat hy maak uit, 'n rekening in artikel 22 (1) of (2) genoem;
 - (b) die aantekeninge in paragraaf (a) bedoel, minstens een 60 keer jaarliks deur 'n ouditeur laat ouditeer.
- (2) 'n Ouditeur wat 'n oudit ingevolge subartikel (1) (b) gedoen het, moet so gou doenlik nadat die oudit voltooi is, 'n ver-

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20. (1) The funds of the Board shall consist of—

Funds of Board.

- (a) the levies paid to the Board in terms of section 19 (1);
- (b) interest derived from investments;
- (c) moneys which may accrue to the Board from any other source.

(2) The Board shall utilize its funds to defray the expenses incurred by the Board in the performance of its functions in accordance with this Act, but shall utilize any money or other property donated or bequeathed to the Board in accordance with the conditions of the donation or bequest concerned.

(3) The Board shall open an account with a banking institution or building society, and shall deposit in that account the moneys received by it in terms of this Chapter.

(4) The Board may invest any money received in terms of this Chapter and not required for immediate use by means of deposits with the Public Investment Commissioners, a banking institution or a building society or in such other manner as the Minister may with the concurrence of the Minister of Finance determine.

21. (1) The financial year of the Board shall terminate on the last day of February in each year.

Financial year, records and annual financial statements of Board.

(2) The Board shall—

- (a) cause records to be kept of moneys received or expended by it, and of its assets, liabilities and financial transactions;
- (b) as soon as possible, but not later than three months after the end of each financial year, cause annual financial statements to be prepared showing, with the appropriate particulars, moneys received and expenditure incurred by it during, and its assets and liabilities at the end of, such financial year.

(3) The records and annual financial statements referred to in subsection (2) shall be audited by an auditor appointed by the Board.

CHAPTER III

POSITION OF TRUST OF SHERIFFS

Accounts for trust moneys

22. (1) Every sheriff shall open and keep a separate trust account, which shall contain a reference to this subsection, with a banking institution or building society, and shall forthwith deposit therein the moneys held or received by him on account of any person.

Accounts for trust moneys.

(2) (a) A sheriff may invest in a separate savings or other interest-bearing account opened by him with a banking institution or building society any money deposited in his trust account and not immediately required for any particular purpose.

(b) A savings or other interest-bearing account referred to in paragraph (a) shall contain a reference to this subsection.

(3) The amount standing to the credit of an account opened by a sheriff in terms of subsection (1) or (2), shall not form part of the assets of that sheriff or, if he dies or becomes insolvent, of his deceased or insolvent estate.

(4) Interest on moneys in an account mentioned in subsection (1) or (2) shall be paid in the prescribed manner to the Fund by the sheriff concerned.

23. (1) A sheriff shall—

Book-keeping and auditing of accounts.

- (a) keep separate records of moneys deposited or invested by him in, and payments made by him out of, an account mentioned in section 22 (1) or (2);
- (b) cause the records referred to in paragraph (a) to be audited by an auditor at least once annually.

(2) An auditor who has performed an audit in terms of subsection (1) (b) shall as soon as may be practicable after comple-

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slag oor sy bevindings op die voorgeskrewe vorm aan die Raad verstrek.

(3) Indien daar na die oordeel van die Raad gegronde redes bestaan om dit te doen, kan hy 'n balju by wyse van 'n skriftelike kennisgewing versoek om binne die tydperk in die kennisgewing vermeld, watter tydperk nie minder as 30 dae na die datum van die kennisgewing mag wees nie, die ouditeursverslag, staat of ander dokument met betrekking tot 'n rekening genoem in artikel 22 (1) of (2) wat die Raad verlang, aan die Raad voor te lê.

Bevoegdheid van hof ten opsigte van rekenings.

24. (1) Indien daar na die oordeel van 'n bevoegde hoër hof gegronde redes bestaan om dit te doen, kan daardie hof op aansoek van die Raad of iemand wat 'n regstreekse geldelike belang het by 'n rekening in artikel 22 (1) of (2) genoem, die betrokke balju verbied om op enige wyse met genoemde rekening te handel.

(2) Indien 'n hof 'n balju kragtens subartikel (1) verbied om op enige wyse met 'n rekening te handel, kan die hof 'n *curator bonis* aanstel om daardie rekening namens die balju te beheer en te administreer.

Afsluiting van rekenings.

25. Wanneer 'n balju ophou om sy amp te beklee, word 'n rekening deur hom ingevolge artikel 22 (1) of (2) geopen op die voorgeskrewe wyse afgesluit, en die bedrag wat in krediet van die rekening staan, word op die voorgeskrewe wyse uitbetaal aan die persone wat daarop geregtig is.

Getrouheidsfonds vir Balju's

Instelling en beheer van Getrouheidsfonds vir Balju's.

26. (1) Daar word hierby 'n fonds ingestel wat die Getrouheidsfonds vir Balju's heet, en waarin gestort word—

- (a) rente ingevolge artikel 22 (4) aan die Fonds betaal;
- (b) die voorgeskrewe bydrae in artikel 30 (b) (ii) of 31 (2) bedoel;
- (c) rente verkry uit die belegging van geld in die Fonds;
- (d) geld wat uit hoofde van die bepalinge van artikel 39 namens die Fonds verhaal word;
- (e) geld in artikel 41 (2) genoem;
- (f) geld wat die Fonds uit 'n ander bron toeval.

(2) Die Fonds word beheer en bestuur deur die Raad, wat die geld in die Fonds ooreenkomstig hierdie Hoofstuk aanwend.

- (3) (a) Geld wat deel van die Fonds uitmaak, word, totdat dit ooreenkomstig hierdie Hoofstuk bestee of belê word, gestort en gehou in 'n rekening wat by 'n bankinstelling of bouvereniging geopen word.
- (b) Sodanige rekening word die Getrouheidsfondstrekening vir Balju's genoem.

Aanwending van Fonds.

27. (1) Behoudens die bepalinge van hierdie Hoofstuk word die geld in die Fonds aangewend vir—

- (a) die vereffening van eise teen die Fonds erken of vonnisse, met inbegrip van koste, teen die Fonds verkry;
- (b) 'n bydrae, na goedvinde van die Raad, ten opsigte van uitgawes aangegaan deur 'n eiser om sy eis te staaf;
- (c) regskoste aangegaan by die verdediging van 'n aksie teen die Raad ten opsigte van die Fonds of andersins met betrekking tot die Fonds aangegaan;
- (d) premies betaalbaar ten opsigte van versekeringsooreenkomste deur die Raad kragtens artikel 29 (1) aangegaan;
- (e) die onkoste verbonde aan die beheer en bestuur van die Fonds;
- (f) rente op en delging van lenings deur die Raad namens die Fonds aangegaan;
- (g) geld wat ooreenkomstig hierdie Hoofstuk uit die Fonds betaal moet of kan word.

(2) Geld in die Fonds wat nie onmiddellik vir die doeleindes van die Fonds nodig is nie, word op die voorgeskrewe wyse belê.

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tion of the audit furnish the Board with a report on his findings on the prescribed form.

- (3) If in the opinion of the Board sound reasons exist for doing so, it may by way of a notice in writing request any sheriff to submit to the Board within the period specified in the notice, which period shall not be less than 30 days after the date of the notice, such auditor's report, statement or other document relating to an account mentioned in section 22 (1) or (2) as the Board may require.

- 10 24. (1) If in the opinion of a competent superior court sound reasons exist for doing so, that court may upon application of the Board or any person having a direct financial interest in an account mentioned in section 22 (1) or (2), prohibit the sheriff concerned from dealing with the said account in any manner. Power of court in respect of accounts.

- 15 (2) If a court prohibits a sheriff under subsection (1) from dealing with an account in any manner, the court may appoint a *curator bonis* to control and administer that account on behalf of the sheriff.

25. When a sheriff ceases to hold office, an account opened by him in terms of section 22 (1) or (2) shall be wound up in the prescribed manner, and the amount standing to the credit of the account shall be paid out in the prescribed manner to the persons entitled to it. Winding-up of accounts.

Fidelity Fund for Sheriffs

- 25 26. (1) There is hereby established a fund to be known as the Fidelity Fund for Sheriffs, and into which shall be paid— Establishment and control of Fidelity Fund for Sheriffs.

- (a) interest paid to the Fund in terms of section 22 (4);
 (b) the prescribed contribution referred to in section 30 (b) (ii) or 31 (2);
 30 (c) interest derived from the investment of moneys in the Fund;
 (d) moneys recovered on behalf of the Fund by virtue of the provisions of section 39;
 (e) moneys mentioned in section 41 (2);
 35 (f) moneys which may accrue to the Board from any other source.

- (2) The Fund shall be controlled and managed by the Board, which shall utilize the moneys in the Fund in accordance with this Chapter.

- 40 (3) (a) Moneys forming part of the Fund shall, until spent or invested in accordance with this Chapter, be paid into and kept in an account opened with a banking institution or building society.
 (b) Such account shall be called the Fidelity Fund Account for Sheriffs.
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27. (1) Subject to the provisions of this Chapter, the moneys in the Fund shall be utilized for— Utilization of Fund.

- (a) the settlement of claims admitted against the Fund or judgments, including costs, obtained against the Fund;
 50 (b) any contribution in the discretion of the Board in respect of expenses incurred by a claimant to verify his claim;
 (c) legal expenses incurred in defending an action against the Board in respect of the Fund or otherwise incurred in relation to the Fund;
 55 (d) premiums payable in respect of insurance agreements entered into by the Board under section 29 (1);
 (e) the expenses involved in the control and management of the Fund;
 60 (f) interest on and redemption of loans negotiated by the Board on behalf of the Fund;
 (g) moneys required or permitted to be paid out of the Fund in accordance with this Chapter.

- (2) Any money in the Fund not immediately required for the 65 purposes of the Fund shall be invested in the prescribed manner.

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Ouditering van aantekeninge en state van Fonds.

28. (1) Die Raad moet—
 (a) aantekeninge laat hou van geld ontvang in, en betalings gemaak uit, die Fonds;
 (b) so gou doenlik, maar hoogstens drie maande na die einde van elke boekjaar, finansiële jaarstate laat opmaak wat, met gepaste besonderhede, geld namens die Fonds ontvang en uitgawes namens die Fonds aangegaan gedurende, en die finansiële toestand van die sake van die Fonds aan die einde van, bedoelde boekjaar aantoon.
 (2) Die aantekeninge en finansiële jaarstate in subartikel (1) bedoel, word geouditeer deur 'n ouditeur aangestel deur die Raad.

Versekerings-ooreenkomste ten einde Fonds skadeloos te stel.

29. (1) Die Raad kan na goeë dunnke met 'n versekeraar wat 'n versekeringsbesigheid in die Republiek dryf, 'n ooreenkoms aangaan waardeur die Fonds, in die mate en op die wyse in die ooreenkoms bepaal, skadeloos gestel word teen aanspreeklikheid vir 'n gebeurlikheid in artikel 35 bedoel.
 (2) 'n Ooreenkoms in subartikel (1) bedoel, word ten opsigte van balju's in die algemeen aangegaan.

Getrouheidsfondssertifikate

Verbod op verrigting van werksaamhede van balju onder sekere omstandighede.

30. 'n Balju of sy adjunk-balju mag nie 'n werksaamheid verrig wat by of kragtens wet aan 'n balju opgedra word nie tensy—
 (a) die balju die houer van 'n getrouheidsfondssertifikaat is; of
 (b) in die geval van 'n waarnemende balju—
 (i) die waarnemende balju die houer van 'n getrouheidsfondssertifikaat is; of
 (ii) die waarnemende balju die voorgeskrewe bydrae aan die Raad betaal het.

Aansoeke om getrouheidsfondssertifikate.

31. (1) 'n Balju kan op die voorgeskrewe vorm by die Raad aansoek om 'n getrouheidsfondssertifikaat doen.
 (2) 'n Aansoek in subartikel (1) bedoel, gaan vergesel van die voorgeskrewe bydrae.
 (3) 'n Balju wat ingevolge subartikel (1) aansoek om 'n getrouheidsfondssertifikaat doen, moet die bykomende besonderhede in verband met sy aansoek verstrek wat die Raad vereis.

Uitreiking van getrouheidsfondssertifikate.

32. (1) Indien die Raad na oorweging van 'n aansoek in artikel 31 bedoel, oortuig is dat die balju, met inagneming van die bepalings van artikel 33, 'n geskikte persoon is om 'n getrouheidsfondssertifikaat te hou, moet die Raad aan hom 'n getrouheidsfondssertifikaat op die voorgeskrewe vorm uitreik.
 (2) 'n Getrouheidsfondssertifikaat is geldig tot 31 Desember van die jaar ten opsigte waarvan dit uitgereik is.
 (3) Ondanks die bepalings van subartikel (2) kan die Raad te eniger tyd 'n getrouheidsfondssertifikaat met 'n geldigheidsduur van minstens een maand en hoogstens ses maande aan 'n waarnemende balju uitreik.

Onbevoegdheid met betrekking tot getrouheidsfondssertifikate.

33. (1) Behoudens die bepalings van subartikel (2) reik die Raad nie 'n getrouheidsfondssertifikaat aan 'n balju uit nie indien hy—
 (a) nie 'n Suid-Afrikaanse burger is wat permanent in die Republiek woonagtig is nie;
 (b) nie 21 jaar oud of ouer is nie;
 (c) 'n ongerehabiliteerde insolvent is;
 (d) geestelik versteurd is;
 (e) nie aan die voorgeskrewe standaard van opleiding voldoen nie;
 (f) nie die voorgeskrewe praktiese ondervinding het nie;
 (g) te eniger tyd uit 'n posisie van vertroue ontslaan is weens onbehoorlike gedrag wat 'n skending van sodanige vertroue behels;

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28. (1) The Board shall—
- (a) cause records to be kept of moneys received in, and payments made out of, the Fund;
 - (b) as soon as possible, but not later than three months after the end of each financial year, cause annual financial statements to be prepared showing, with the appropriate particulars, moneys received and expenditure incurred on behalf of the Fund during, and the financial state of affairs of the Fund at the end of, such financial year.
- (2) The records and annual financial statements referred to in subsection (1) shall be audited by an auditor appointed by the Board.
29. (1) The Board may at its discretion enter into an agreement with an insurer who carries on an insurance business in the Republic whereby the Fund will be indemnified, to the extent and in the manner provided in the agreement, against liability for a contingency referred to in section 35.
- (2) An agreement referred to in subsection (1) shall be entered into in respect of sheriffs generally.

Auditing of records and statements of Fund.

Insurance agreements in order to indemnify Fund.

Fidelity fund certificates

30. A sheriff or his deputy sheriff shall not perform any function assigned to a sheriff by or under any law unless—
- (a) the sheriff is the holder of a fidelity fund certificate; or
 - (b) in the case of an acting sheriff—
 - (i) the acting sheriff is the holder of a fidelity fund certificate; or
 - (ii) the acting sheriff has paid the prescribed contribution to the Board.
31. (1) A sheriff may apply on the prescribed form to the Board for a fidelity fund certificate.
- (2) An application referred to in subsection (1) shall be accompanied by the prescribed contribution.
- (3) A sheriff applying in terms of subsection (1) for a fidelity fund certificate shall furnish such additional particulars in connection with his application as the Board may require.
32. (1) If the Board is satisfied, after consideration of an application referred to in section 31, that the sheriff is, having regard to the provisions of section 33, a suitable person to hold a fidelity fund certificate, the Board shall issue to him a fidelity fund certificate on the prescribed form.
- (2) A fidelity fund certificate shall be valid until 31 December of the year in respect of which it has been issued.
- (3) Notwithstanding the provisions of subsection (2), the Board may at any time issue to an acting sheriff a fidelity fund certificate having a period of validity of not less than one month and not more than six months.

Prohibition of performance of functions of sheriff in certain circumstances.

Applications for fidelity fund certificates.

Issue of fidelity fund certificates.

33. (1) Subject to the provisions of subsection (2), the Board shall not issue a fidelity fund certificate to a sheriff if he—
- (a) is not a South African citizen permanently resident in the Republic;
 - (b) is not of or over the age of 21 years;
 - (c) is an unrehabilitated insolvent;
 - (d) is of unsound mind;
 - (e) does not comply with the prescribed standard of training;
 - (f) does not have the prescribed practical experience;
 - (g) has at any time been dismissed from a position of trust by reason of improper conduct involving a breach of such trust;

Disqualifications relating to fidelity fund certificates.

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- (h) te eniger tyd skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is of aan 'n ander misdryf waarvoor hy tot gevangenisstraf sonder die keuse van 'n boete gevonnis is;
- (i) gedurende 'n tydperk van een jaar onmiddellik voor die datum waarop hy om 'n getrouheidsfondssertifikaat aansoek doen, versuim het om aan 'n bepaling van artikel 23 (1) (b) te voldoen;
- (j) te eniger tyd kragtens artikel 24 (1) verbied is om op enige wyse met 'n rekening genoem in artikel 22 (1) of (2) te handel;
- (k) voorheen die houer was van 'n getrouheidsfondssertifikaat wat kragtens artikel 34 (1) of 49 ingetrek is;
- (l) te eniger tyd aanspreeklikheid teenoor die Raad uit hoofde van die bepalings van artikel 39 opgeloop het, tensy hy die betrokke bedrag ten volle aan die Raad terugbetaal het of na die oordeel van die Raad bevredigende reëlins vir die terugbetaling van so 'n bedrag getref het.

(2) Indien die Raad ten opsigte van 'n balju wat onderhewig is 20 aan 'n onbevoegdheid in subartikel (1) genoem, oortuig is dat, met inagneming van die tersaaklike oorwegings, die uitreiking van 'n getrouheidsfondssertifikaat aan hom in belang van billikheid teenoor hom geregverdig is, kan die Raad, op die voorwaardes wat die Raad met die instemming van die Minister bepaal, 'n getrouheidsfondssertifikaat aan hom uitreik wanneer hy daarom aansoek doen.

Intrekking van
getrouheidsfonds-
sertifikate.

34. (1) Ondanks die bepalings van Hoofstuk IV kan die Raad 'n getrouheidsfondssertifikaat wat aan 'n balju uitgereik is na minstens 14 dae skriftelike kennis aan die balju intrek— 30

- (a) indien die balju onderhewig raak aan 'n onbevoegdheid in artikel 33 (1) (a), (c), (d), (g), (h), (j) of (l) bedoel;
- (b) indien die balju 'n voorwaarde opgelê kragtens artikel 33 (2) oortree of versuim om daaraan te voldoen; of
- (c) indien daardie getrouheidsfondssertifikaat uitgereik is 35 op grond van inligting wat daarna bewys word vals te wees.

(2) Die Raad moet die getrouheidsfondssertifikaat van 'n balju intrek indien hy deur die balju daartoe versoek word of indien die balju ophou om sy amp te beklee. 40

(3) Iemand wat 'n getrouheidsfondssertifikaat in sy besit of onder sy beheer het wat kragtens hierdie artikel ingetrek is, moet daardie sertifikaat binne 30 dae nadat hy van die intrekking te wete gekom het, aan die Raad terugbesorg.

Aanspreeklikheid van Fonds

45

Aanspreeklikheid
van Fonds.

35. Behoudens die bepalings van hierdie Hoofstuk word geld in die Fonds aangewend om iemand te vergoed wat na die inwerkingtreding van hierdie Wet verlies of skade ly—

- (a) as gevolg van—
 - (i) die versuim van 'n balju om geld of goed waaroor hy beheer uit hoofde van sy amp verkry het, of die opbrengs van die verkoop van sodanige goed, aan so iemand uit te betaal of te lewer; of
 - (ii) die handeling of versuim van 'n balju of sy adjunk-balju in verband met—
 - (aa) die bestelling of tenuitvoerlegging van 'n prosesstuk;
 - (bb) die inhegtenisneming van 'n persoon; of
 - (cc) behoudens artikel 55, die bevryding of ontsnapping van iemand wat hy in hegtenis geneem het of wat in sy bewaring gestel is; en
- (b) waarvoor die balju, die balju en sy adjunk-balju gesamentlik of sy adjunk-balju regtens aanspreeklik is.

Eise teen
Fonds.

36. (1) 'n Eis teen die Fonds ten opsigte van 'n gebeurlikheid in artikel 35 bedoel, kan op die voorgeskrewe vorm by die Raad ingedien word. 65

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- (h) has at any time been convicted of any offence involving dishonesty or of any other offence for which he has been sentenced to imprisonment without the option of a fine;
- 5 (i) has failed to comply with a provision of section 23 (1) (b) during a period of one year immediately prior to the date on which he applies for a fidelity fund certificate;
- 10 (j) has at any time been prohibited under section 24 (1) from dealing with an account mentioned in section 22 (1) or (2) in any manner;
- (k) was previously the holder of a fidelity fund certificate which has been cancelled under section 34 (1) or 49;
- 15 (l) has at any time incurred liability towards the Board by virtue of the provisions of section 39, unless he has repaid the relevant amount in full to the Board or has made in the opinion of the Board satisfactory arrangements for the repayment of any such amount.

(2) If in respect of any sheriff who is subject to any disability mentioned in subsection (1), the Board is satisfied that, having regard to the relevant considerations, the issue of a fidelity fund certificate to him is justified in the interest of fairness towards him, the Board may, on such conditions as the Board may with the concurrence of the Minister determine, issue a fidelity fund certificate to him when he applies therefor.

34. (1) Notwithstanding the provisions of Chapter IV, the Board may cancel a fidelity fund certificate issued to a sheriff after at least 14 days' notice in writing to the sheriff—

Cancellation of fidelity fund certificates.

- 30 (a) if the sheriff becomes subject to a disability mentioned in section 33 (1) (a), (c), (d), (g), (h), (j) or (l);
- (b) if the sheriff contravenes or fails to comply with a condition imposed under section 33 (2); or
- (c) if that fidelity fund certificate was issued on information subsequently proved to be false.
- 35 (2) The Board shall cancel the fidelity fund certificate of a sheriff if it is requested by the sheriff to do so or if the sheriff ceases to hold office.

(3) Any person who has in his possession or under his control any fidelity fund certificate cancelled under this section, shall return that certificate to the Board within 30 days after he became aware of the cancellation.

Liability of Fund

35. Subject to the provisions of this Chapter, moneys in the Fund shall be utilized to compensate any person who, after the commencement of this Act, suffers any loss or damage—

Liability of Fund.

- (a) as a result of—
- 50 (i) the failure of a sheriff to pay out or deliver to any such person any money or property over which he acquired control by virtue of his office, or the proceeds of the sale of such goods; or
- (ii) the act or omission of a sheriff or his deputy sheriff in connection with—
- 55 (aa) the service or execution of any process;
- (bb) the arrest of any person; or
- (cc) subject to section 55, the rescue or escape of any person arrested by him or committed to his custody; and
- (b) for which the sheriff, the sheriff and his deputy sheriff jointly or his deputy sheriff is liable in law.

60 36. (1) A claim against the Fund in respect of a contingency referred to in section 35 may be lodged with the Board on the prescribed form.

Claims against Fund.

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(2) Behoudens die bepalings van subartikel (3) het niemand 'n eis teen die Fonds ten opsigte van 'n gebeurlikheid in artikel 35 bedoel nie tensy—

(a) die eiser binne drie maande nadat hy van die gebeurlikheid te wete gekom het sy eis ingevolge subartikel (1) by die Raad indien; of 5

(b) die eiser binne ses maande nadat 'n skriftelike versoek deur die Raad aan hom gestuur is, die bewyse ter staving van sy eis wat die Raad redelikerwys van hom vereis, aan die Raad verskaf. 10

(3) Indien die Raad oortuig is dat, met inagneming van die omstandighede, 'n eis of die bewyse deur hom vereis so spoedig doenlik ingedien of verskaf is, kan hy na goëddunke die tydperk genoem in paragraaf (a) of (b) van subartikel (2), na gelang van die geval, verleng. 15

(4) Indien die Raad 'n eis teen die Fonds erken, moet die Raad die vergoeding uit die Fonds betaal waaromtrent die Raad en die eiser ooreenkom.

(5) Enige geskil met betrekking tot die bedrag van vergoeding wat uit die Fonds betaal moet word, moet deur arbitrasie ooreenkomstig die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), besleg word. 20

Aksies teen Raad ten opsigte van Fonds.

37. (1) Indien die Raad weier om 'n eis teen die Fonds te erken, kan die eiser, behoudens hierdie artikel en artikel 38, 'n aksie teen die Raad ten opsigte van die Fonds instel in die hof binne die regsgebied waarvan die skuldoorsaak ontstaan het. 25

(2) 'n Aksie teen die Raad ten opsigte van die Fonds word nie sonder verlof van die Raad ingestel nie tensy die eiser alle beskikbare regsmiddels teen die balju of adjunk-balju ten opsigte van wie die eis ontstaan het, of sy boedel, en teen alle ander persone wat aanspreeklik is vir die verlies of skade deur die eiser gely, aangewend het. 30

(3) In 'n aksie teen die Raad ten opsigte van die Fonds, kan die Raad enige verweer opper wat die balju of adjunk-balju ten opsigte van wie die eis ontstaan het, sou kon opper. 35

Beperking van aanspreeklikheid van Fonds.

38. (1) Die Fonds is nie aanspreeklik nie vir verlies of skade wat 'n balju ly as gevolg van 'n handeling of versuim deur sy adjunk-balju of 'n werknemer in die diens van die balju.

(2) Niemand verhaal op die Raad ten opsigte van die Fonds 'n bedrag wat groter is as die verskil tussen die bedrag van die verlies of skade deur hom gely en die bedrag of waarde van alle geld of ander voordele wat hy ten opsigte van daardie verlies of skade uit 'n ander bron ontvang het of geregtig is om te ontvang nie. 40

(3) Geen bedrag word uit die Fonds betaal nie as rente op die bedrag van 'n eis teen die Fonds erken of 'n vonnis teen die Fonds verkry. 45

Oorgang van regte en regsmiddels op Raad.

39. Wanneer die Raad 'n eis of vonnis teen die Fonds ooreenkomstig hierdie Hoofstuk vereffen, gaan daar op die Raad alle regte en regsmiddels oor wat die eiser ten opsigte van sy eis teen 'n balju, adjunk-balju of ander persoon of, indien toepaslik, in geval van die dood, insolvensie of ander regsonbevoegdheid van so 'n balju, adjunk-balju of persoon, teen die boedel van so 'n balju, adjunk-balju of persoon het. 50

Berekening van eise teen toekomstige byvoegings by Fonds.

40. (1) Slegs geld in die Fonds is beskikbaar ter betaling van 'n eis teen die Fonds erken of ter voldoening aan 'n vonnis teen die Fonds verkry, maar indien daar te eniger tyd onvoldoende geld in die Fonds is om al daardie eise en vonnisse te vereffen, word hulle in die mate waarin hulle nie vereffen word nie, teen toekomstige byvoegings by die Fonds in berekening gebring. 60

(2) Die Raad kan na goëddunke beslis oor die volgorde waarin eise en vonnisse teen die Fonds vereffen word en kan, indien die geld in die Fonds onvoldoende is om alle eise en vonnisse ten volle te vereffen, enige eis of vonnis vereffen na verhouding van die bedrag wat in die Fonds beskikbaar is. 65

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(2) Subject to the provisions of subsection (3), no person shall have a claim against the Fund in respect of a contingency referred to in section 35 unless—

- (a) the claimant lodges his claim with the Board in terms of subsection (1) within three months after he became aware of the contingency; or
- (b) the claimant furnishes the Board, within six months after a written demand was sent to him by the Board, with such proof in verification of his claim as the Board may reasonably require.

(3) If the Board is satisfied that, having regard to the circumstances, a claim or the proof required by it was lodged or furnished as soon as possible, it may at its discretion extend the period mentioned in paragraph (a) or (b) of subsection (2), as the case may be.

(4) If the Board admits a claim against the Fund, the Board shall pay out of the Fund such compensation as may be agreed upon by the Board and the claimant.

(5) Any dispute relating to the amount of compensation to be paid out of the Fund shall be settled by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965).

37. (1) If the Board refuses to admit a claim against the Fund, the claimant may, subject to this section and section 38, institute an action against the Board in respect of the Fund in the court within the area of jurisdiction of which the cause of action arose.

Actions against Board in respect of Fund.

(2) An action against the Board in respect of the Fund shall not be instituted without leave of the Board unless the claimant has exhausted all available legal remedies against the sheriff or deputy sheriff in respect of whom the claim arose, or his estate, and against all other persons liable in respect of the loss or damage suffered by the claimant.

(3) In any action against the Board in respect of the Fund, the Board may raise any defence which could have been raised by the sheriff or deputy sheriff in respect of whom the claim arose.

38. (1) The Fund shall not be liable for any loss or damage suffered by a sheriff as a result of any act or omission by his deputy sheriff or any employee in the service of the sheriff.

Limitation of liability of Fund.

(2) No person shall recover from the Board in respect of the Fund any amount larger than the difference between the amount of the loss or damage suffered by him and the amount or value of all moneys or other benefits which he has received or is entitled to receive from any other source in respect of that loss or damage.

(3) No amount shall be paid out of the Fund as interest on the amount of any claim admitted against the Fund or any judgment obtained against the Fund.

39. When the Board settles any claim or judgment against the Fund in accordance with this Chapter, there shall pass to the Board all the rights and remedies of the claimant in respect of his claim against any sheriff, deputy sheriff or other person or, if applicable, in the case of the death, insolvency or other legal incapacity of any such sheriff, deputy sheriff or person, against the estate of any such sheriff, deputy sheriff or person.

Transition of rights and remedies to Board.

40. (1) Only moneys in the Fund shall be available for the payment of any claim admitted against the Fund or for the satisfaction of any judgment obtained against the Fund, but if at any time there is insufficient money in the Fund to settle all those claims and judgments, they shall, to the extent to which they are not settled, be charged against future accumulations of the Fund.

Computation of claims against future accumulations of Fund.

(2) The Board may at its discretion determine the order in which claims and judgments against the Fund may be settled and may, if the moneys in the Fund are insufficient to settle in full all claims and judgments, settle any claim or judgment *pro rata* to the amount available in the Fund.

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Aanwending van
versekeringsgeld.

41. (1) Geen eiser wat 'n eis teen die Fonds het ten opsigte van 'n gebeurlikheid in artikel 35 bedoel, het—
- (a) 'n vorderingsreg teen 'n versekeraar wat 'n ooreenkoms bedoel in artikel 29 (1) met die Raad aangegaan het nie;
 - (b) 'n reg of eis ten opsigte van geld wat die versekeraar ooreenkomstig daardie ooreenkoms aan die Raad betaal nie.
- (2) Geld in subartikel (1) (b) bedoel, word in die Fonds gestort en, behoudens die bepalings van hierdie Hoofstuk, deur 10 die Raad aangewend om eise of vonnisse teen die Fonds te vereffen.

Fonds van wette
op versekering
vrygestel.

42. Geen bepaling van 'n wet met betrekking tot versekering is op die Fonds van toepassing nie.

HOOFSTUK IV

15

ONBEHOORLIKE GEDRAG

Onbehoorlike
gedrag.

43. (1) 'n Balju is skuldig aan onbehoorlike gedrag indien—
- (a) hy nalatig of traag by die betekening of tenuitvoerlegging van 'n prosesstuk is;
 - (b) hy 'n valse relaas ten opsigte van die betekening of tenuitvoerlegging van 'n prosesstuk maak;
 - (c) hy betaling eis van meer as die gelde of onkoste by of kragtens wet voorgeskryf;
 - (d) hy 'n bepaling van die gedragskode bedoel in artikel 16 (k) oortree of versuim om daaraan te voldoen;
 - (e) hy in gebreke bly om alle redelike stappe te doen om te voorkom dat sy adjunk-balju 'n daad van onbehoorlike gedrag soos beoog in paragraaf (a), (b), (c) of (d) begaan;
 - (f) hy 'n daad van insolvensie bedoel in artikel 8 van die 30 Insolvensiewet, 1936 (Wet No. 24 van 1936), begaan; of
 - (g) hy 'n misdryf pleeg.
- (2) Die vryspreking of skuldigbevinding van 'n balju deur 'n geregshof op of aan 'n strafregtelike aanklag belet nie dat stappe 35 ooreenkomstig hierdie Hoofstuk op 'n aanklag van onbehoorlike gedrag teen hom ingestel word nie, al sou die feite uiteengesit in die aanklag van onbehoorlike gedrag, indien dit bewys sou word, die misdryf uitmaak wat uiteengesit is in die strafregtelike aanklag waarop of waaraan hy aldus vrygespreek of skuldig bevind is of 'n ander misdryf waaraan hy by sy verhoor op bedoelde strafregtelike aanklag skuldig bevind kon gewees het.
- (3) Indien die onbehoorlike gedrag waarvan 'n balju aangekla word, neerkom op 'n misdryf waaraan hy deur 'n geregshof skuldig bevind is, is 'n gewaarmerkte afskrif van die oorkonde van sy 45 verhoor en skuldigbevinding deur daardie hof, nadat die balju geïdentifiseer is as die persoon wat volgens die oorkonde skuldig bevind is, voldoende bewys dat hy bedoelde misdryf gepleeg het, tensy—
- (a) die skuldigbevinding deur 'n bevoegde hof tersyde gestel is; of
 - (b) die balju bewys dat hy in werklikheid verkeerdelik skuldig bevind is.

Indiening van
klagte teen balju.

44. (1) 'n Klagte, beskuldiging of bewering teen 'n balju kan op die voorgeskrewe wyse by die Raad ingedien word.
- (2) Die Raad hou aantekening van elke klagte, beskuldiging of bewering ingevolge subartikel (1) by hom ingedien.

Aanklag van onbehoorlike gedrag.

45. (1) Wanneer 'n balju van onbehoorlike gedrag beskuldig word, kan die Raad hom skriftelik van daardie onbehoorlike gedrag aankla.
- (2) 'n Aanklag van onbehoorlike gedrag word op die voorgeskrewe wyse aan 'n balju bestel, en die aanklag bevat of gaan vergesel van 'n versoek dat die balju 'n skriftelike erkenning of

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41. (1) No claimant having a claim against the Fund in respect of a contingency referred to in section 35 shall have—
- (a) any legal claim against an insurer who has entered into an agreement referred to in section 29 (1) with the Board;
- (b) any right or claim in respect of any money paid to the Board by the insurer in accordance with that agreement.
- (2) Money referred to in subsection (1) (b) shall be paid into the Fund and, subject to the provisions of this Chapter, be utilized by the Board in order to settle claims or judgments against the Fund.
42. No provision of any law relating to insurance shall apply to the Fund.

Utilization of insurance moneys.

Fund exempt from insurance laws.

15

CHAPTER IV

IMPROPER CONDUCT

43. (1) A sheriff shall be guilty of improper conduct if—
- (a) he is negligent or dilatory in the service or execution of any process;
- (b) he makes a false return in respect of the service or execution of any process;
- (c) he demands payment of more than the fees or expenses prescribed by or under any law;
- (d) he contravenes or fails to comply with a provision of the code of conduct referred to in section 16 (k);
- (e) he fails to take all reasonable steps to prevent his deputy sheriff from committing a deed of improper conduct as contemplated in paragraph (a), (b), (c) or (d);
- (f) he commits a deed of insolvency referred to in section 8 of the Insolvency Act, 1936 (Act No. 24 of 1936); or
- (g) he commits an offence.
- (2) The acquittal or conviction of a sheriff by any court of law on any criminal charge shall not be a bar to proceedings against him in accordance with this Chapter on a charge of improper conduct, even if the facts set forth in the charge of improper conduct would, if proved, constitute the offence set forth in the criminal charge on which he was so acquitted or convicted or any other offence of which he might have been convicted at his trial on the said criminal charge.
- (3) If the improper conduct with which a sheriff is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the record of his trial and conviction by that court shall, upon the identification of the sheriff as the person who has been convicted according to the record, be sufficient proof that he committed such offence, unless—
- (a) the conviction has been set aside by a competent court; or
- (b) the sheriff proves that he was in fact wrongly convicted.

Improper conduct.

44. (1) Any complaint, accusation or allegation against a sheriff may be lodged with the Board in the prescribed manner.
- (2) The Board shall keep record of each complaint, accusation or allegation lodged with it in terms of subsection (1).

Lodging of complaint against sheriff.

45. (1) When a sheriff is accused of improper conduct the Board may charge him in writing with that improper conduct.
- (2) A charge of improper conduct shall be served upon a sheriff in the prescribed manner, and the charge shall contain or be accompanied by a request that the sheriff furnishes the Board

Charge of improper conduct.

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ontkenning van die aanklag en, indien die balju dit verkies, 'n skriftelike verduideliking in verband met die aanklag binne 14 dae na die bestelling daarvan aan die Raad verstrek.

(3) Die Minister kan te eniger tyd 'n aanklag van onbehoorlike gedrag terugtrek.

Ondersoek na onbehoorlike gedrag.

46. Die Raad stel ondersoek in na 'n aanklag van onbehoorlike gedrag op die tyd en plek wat die Raad bepaal en gee op die voorgeskrewe wyse aan die aangeklaagde balju minstens 14 dae skriftelike kennis van die tyd en plek aldus bepaal.

Procedure by ondersoek.

47. (1) Die Raad kan 'n persoon magtig om 'n ondersoek in-gestel ingevolge artikel 46 by te woon, om getuienis en argumente ter stawing van die aanklag aan te voer en om 'n persoon wat getuienis afgelê het ter weerlegging van die aanklag onder kruisverhoor te neem.

(2) By sodanige ondersoek het die aangeklaagde balju die reg om teenwoordig te wees, om deur 'n ander persoon bygestaan of verteenwoordig te word, om getuienis af te lê en, hetsy persoonlik of deur 'n verteenwoordiger—

(a) om aangehoor te word;

(b) om getuies op te roep;

(c) om iemand wat as 'n getuie opgeroep is ter stawing van die aanklag onder kruisverhoor te neem; en

(d) om insae te hê in stukke wat as getuienis voorgelê is.

(3) Die versuim van die aangeklaagde balju om die ondersoek by te woon, maak nie die verrigtinge ongeldig nie.

(4) Die Raad hou notule van die verrigtinge en van die getuienis wat afgelê word.

Bevoegdhede van Raad ten opsigte van ondersoek.

48. (1) Vir die doeleindes van 'n ondersoek ingevolge artikel 46 kan die Raad—

(a) iemand wat na sy oordeel in staat is om inligting van wesenlike belang te verstrek omtrent die aanklag wat ondersoek word, of wat vermoed word 'n boek, stuk of saak in sy besit of bewaring of onder sy beheer het wat betrekking op daardie aanklag kan hê, dagvaar om voor die Raad te verskyn;

(b) iemand wat by die ondersoek teenwoordig is en kragtens paragraaf (a) gedagvaar is of kon gewees het, oproep en hom 'n eed oplê of van hom 'n bevestiging aanneem;

(c) iemand wat kragtens paragraaf (b) opgeroep is, onder- vra of verg dat hy 'n boek, stuk of saak bedoel in paragraaf (a) voorlê.

(2) 'n Dagvaarding van iemand om voor die Raad te verskyn, moet in die voorgeskrewe vorm wees en word op die voorgeskrewe wyse bestel.

(3) Die regsreëls met betrekking tot privilegie wat geld in die geval van 'n persoon wat gedagvaar is om voor 'n geregshof getuienis af te lê of 'n stuk of saak voor te lê, is van toepassing ten opsigte van die ondervraging van, of die voorlegging van 'n boek, stuk of saak deur, iemand in subartikel (1) (c) bedoel.

Optrede teen balju wat aan onbehoorlike gedrag skuldig bevind is.

49. (1) Wanneer die Raad 'n balju aan onbehoorlike gedrag skuldig bevind, kan die Raad—

(a) die balju waarsku of berispe;

(b) die balju 'n boete van hoogstens R1 000 oplê, welke boete aan die Raad betaalbaar is;

(c) die getrouheidsfondssertifikaat van die balju intrek; of

(d) by die Minister aanbeveel dat die balju van sy amp onthef word, of aangesê word om as balju te bedank, met ingang van 'n datum wat die Minister bepaal.

(2) Indien die Raad 'n aanbeveling kragtens paragraaf (d) van subartikel (1) doen, moet die Raad die stukke wat op die ondersoek en, waar toepaslik, op 'n appèl kragtens artikel 18 (4) (a) of 61 (1) betrekking het, aan die Minister stuur, en die Minister kan volgens daardie aanbeveling handel of die betrokke balju die ander straf oplê wat die Raad hom kon oplê.

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with a written admission or denial of the charge and, if the sheriff so prefers, a written explanation in connection with the charge within 14 days of the serving thereof.

(3) The Minister may at any time withdraw a charge of improper conduct.

46. The Board shall inquire into a charge of improper conduct at such time and place as the Board may determine and shall in the prescribed manner give the sheriff charged at least 14 days' notice in writing of the time and place so determined.

Inquiry into improper conduct.

10 47. (1) The Board may authorize any person to attend an inquiry instituted in terms of section 46, to adduce evidence and arguments in support of the charge and to cross-examine any person who has given evidence in rebuttal of the charge.

Procedure at inquiry.

(2) At such inquiry the sheriff charged shall have the right to be present, to be assisted or represented by another person, to give evidence and, either personally or through a representative—

- (a) to be heard;
- (b) to call witnesses;
- 20 (c) to cross-examine any person called as a witness in support of the charge; and
- (d) to have access to documents produced in evidence.

(3) The failure of the sheriff charged to attend the inquiry shall not invalidate the proceedings.

25 (4) The Board shall keep a record of the proceedings and of the evidence given.

48. (1) For the purposes of an inquiry in terms of section 46, the Board may—

Powers of Board in respect of inquiry.

- 30 (a) summon any person who in its opinion may be able to give information of material importance concerning the charge inquired into, or who is believed to have in his possession or custody or under his control any book, document or thing which may have a bearing on that charge, to appear before the Board;
- 35 (b) call upon, and administer an oath to, or accept an affirmation from, any person present at the inquiry who was or could have been summoned under paragraph (a);
- 40 (c) interrogate or require any person who was called upon under paragraph (b) to produce a book, document or thing referred to in paragraph (a).

(2) A summons for the attendance before the Board of any person shall be in the prescribed form and shall be served in the prescribed manner.

45 (3) The law relating to privilege as applicable to a person summoned to give evidence or to produce a document or thing before a court of law, shall be applicable in respect of the interrogation of, or the production of a book, document or thing by, any person referred to in subsection (1) (c).

50 49. (1) When the Board finds a sheriff guilty of improper conduct, the Board may—

Action against sheriff who is found guilty of improper conduct.

- (a) caution or reprimand the sheriff;
- (b) impose upon the sheriff a fine not exceeding R1 000, which fine shall be payable to the Board;
- 55 (c) cancel the fidelity fund certificate of the sheriff; or
- (d) recommend to the Minister that the sheriff be removed from his office, or called upon to resign as sheriff, with effect from a date determined by the Minister.

(2) If the Board makes a recommendation under paragraph (d) of subsection (1), the Board shall send to the Minister the documents relating to the inquiry and, where applicable, to an appeal under section 18 (4) (a) or 61 (1), and the Minister may act according to that recommendation or impose upon the sheriff concerned such other penalty as the Board could have imposed upon him.

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Skorsing van balju.

50. (1) Die Minister kan te eniger tyd voordat 'n balju ooreenkomstig hierdie Hoofstuk van onbehoorlike gedrag aangekla word, of nadat hy aldus aangekla is, die balju in sy amp skors.

(2) 'n Balju wat in sy amp geskors is, word onverwyld in sy amp herstel—

(a) indien hy nie binne 'n tydperk van 12 maande na die datum van sy skorsing van onbehoorlike gedrag aangekla word nie;

(b) indien hy onskuldig bevind word aan die betrokke aanklag;

(c) indien hy kragtens artikel 18 (4) (a) of 61 (1) teen sy skuldigbevinding aan die betrokke aanklag appelleer en die appèl gehandhaaf word; of

(d) indien 'n straf bedoel in paragraaf (a) of (b) van artikel 49 (1) hom opgelê word.

(3) Die Minister kan te eniger tyd die skorsing van 'n balju intrek, maar die intrekking belet nie dat die balju ooreenkomstig hierdie Hoofstuk van onbehoorlike gedrag aangekla word nie.

Sekere balju's geag weens onbehoorlike gedrag van hul amp onthef te wees.

51. 'n Balju wat—

(a) terwyl hy kragtens artikel 50 (1) in sy amp geskors is of 20 terwyl 'n aanklag van onbehoorlike gedrag ooreenkomstig hierdie Hoofstuk nog nie finaal teen hom afgehandel is nie—

(i) as balju bedank; of

(ii) sonder die goedkeuring van die Minister hom verbind om besoldigde werk buite sy amp as balju te verrig; of

(b) versuim om te bedank met ingang van die datum waarop hy kragtens artikel 49 (2) aangesê is om te bedank, word, tensy die Minister anders gelas, geag weens onbehoorlike gedrag van sy amp onthef te wees met ingang van die datum waarop hy aldus bedank, hom verbind om besoldigde werk te verrig of versuim om te bedank, na gelang van die geval.

Bevoegdheide van Minister met betrekking tot onbehoorlike gedrag.

52. (1) Indien daar na die oordeel van die Minister gegronde redes bestaan om dit te doen, kan hy 'n persoon magtig om 'n balju van onbehoorlike gedrag aan te kla en ondersoek na die aanklag in te stel.

(2) Wanneer die Minister 'n persoon kragtens subartikel (1) magtig om 'n balju van onbehoorlike gedrag aan te kla, staak die Raad onverwyld enige stappe wat die Raad ooreenkomstig hierdie Hoofstuk teen die balju gedoen het.

(3) 'n Persoon kragtens subartikel (1) gemagtig, is bekleed en belas met die werksaamhede met betrekking tot 'n aanklag van onbehoorlike gedrag by of kragtens hierdie Hoofstuk aan die Raad opgedra, en by die toepassing van artikel 61 word 'n bevinding gedoen of straf opgelê deur daardie persoon geag 'n bevinding gedoen of straf opgelê deur die Raad te wees.

(4) Die bepalinge van hierdie artikel word nie so uitgelê dat dit aan die Minister die bevoegdheid verleen om 'n persoon te magtig om 'n balju van onbehoorlike gedrag aan te kla nadat die Raad reeds 'n bevinding ooreenkomstig hierdie Hoofstuk ten opsigte van die betrokke aanklag gedoen het nie.

HOOFSTUK V

ALGEMEEN

Verrigting van besoldigde werk buite amp van balju.

53. Geen balju mag sonder die goedkeuring van die Minister besoldigde werk buite sy amp as balju verrig of hom verbind om dit te verrig nie.

Vrywaring van Staat.

54. Die Staat is nie aanspreeklik nie vir verlies of skade wat uit 'n handeling of versuim deur 'n balju of sy adjunk-balju ontstaan.

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50. (1) The Minister may suspend a sheriff from his office at any time before the sheriff is charged with improper conduct in accordance with this Chapter, or after he has been so charged. Suspension of sheriff.
- (2) A sheriff who has been suspended from his office shall forthwith be reinstated in office—
- (a) if he is not charged with improper conduct within a period of 12 months after the date of his suspension;
 - (b) if he is found not guilty on the charge in question;
 - (c) if he appeals under section 18 (4) (a) or 61 (1) against his conviction on the charge in question and the appeal is upheld; or
 - (d) if a penalty referred to in paragraph (a) or (b) of section 49 (1) is imposed upon him.
- (3) The Minister may at any time cancel the suspension of a sheriff, but the cancellation shall not prevent the sheriff from being charged with improper conduct in accordance with this Chapter.
51. Any sheriff who—
- (a) while suspended from his office under section 50 (1) or while a charge of improper conduct against him in accordance with this Chapter has not yet finally been dealt with—
 - (i) resigns as sheriff; or
 - (ii) engages himself without the approval of the Minister to perform remunerative work outside his office as sheriff; or
 - (b) fails to resign with effect from the date on which he has been called upon to resign under section 49 (2), shall, unless the Minister directs otherwise, be deemed to be moved from his office by reason of improper conduct with effect from the date on which he so resigns, engages himself to perform remunerative work or fails to resign, as the case may be.
- Certain sheriffs deemed to be removed from their office by reason of improper conduct.
52. (1) If in the opinion of the Minister sound reasons exist for doing so, he may authorize any person to charge any sheriff with improper conduct and to inquire into the charge. Powers of Minister relating to improper conduct.
- (2) When the Minister authorizes a person under subsection (1) to charge a sheriff with improper conduct, the Board shall forthwith discontinue any steps which the Board has taken against the sheriff in accordance with this Chapter.
- (3) A person authorized under subsection (1) shall be invested and charged with the functions relating to a charge of improper conduct assigned to the Board by or under this Chapter, and for the purposes of section 61 a finding made or penalty imposed by that person shall be deemed to be a finding made or penalty imposed by the Board.
- (4) Nothing in this section contained shall be construed as empowering the Minister to authorize a person to charge a sheriff with improper conduct after the Board has already made a finding in accordance with this Chapter in respect of the charge in question.

CHAPTER V

GENERAL

53. No sheriff shall without the approval of the Minister perform or engage himself to perform remunerative work outside his office as sheriff. Performance of remunerative work outside office of sheriff.
54. The State shall not be liable for any loss or damage arising out of any act or omission by a sheriff or his deputy sheriff. Indemnification of State.

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Aanspreeklik-
heid van
balju's.

55. 'n Balju of sy adjunk-balju is nie aanspreeklik nie vir skade wat ontstaan uit die bevryding of ontsnapping van iemand wat hy in hegtenis geneem het of wat in sy bewaring gestel is, tensy die bevryding of ontsnapping veroorsaak is deur sy nalatige of opsetlike optrede.

5

Aanstelling van
inspekteurs.

56. (1) Vir die doeleindes van die uitoefening van 'n bevoegdheid—

(a) in subartikel (1) of (2) van artikel 57 bedoel, kan die Minister, hetsy in die algemeen of in 'n besondere geval, 'n persoon as 'n inspekteur aanstel;

10

(b) in subartikel (2) van artikel 57 bedoel, kan die Raad, hetsy in die algemeen of in 'n besondere geval, iemand wat die Raad geskik ag, as 'n inspekteur aanstel.

(2) Elke inspekteur kragtens subartikel (1) aangestel, moet van 'n sertifikaat voorsien word waarin vermeld word dat hy as 'n inspekteur aangestel is.

(3) 'n Inspekteur wat 'n bevoegdheid kragtens artikel 57 uitoefen, moet op versoek van iemand wat deur die uitoefening van daardie bevoegdheid geraak word sy sertifikaat bedoel in subartikel (2) toon.

20

Bevoegdhede van
inspekteurs.

57. (1) 'n Inspekteur kragtens paragraaf (a) van artikel 56 (1) aangestel, kan te enige redelike tyd 'n boek, aantekening of ander stuk van die Raad of Fonds ondersoek of uittreksels daaruit of afskrifte daarvan maak.

(2) 'n Inspekteur kragtens paragraaf (a) of (b) van artikel 56 (1) aangestel, kan—

(a) te enige redelike tyd die kantoor van 'n balju binnegaan;

(b) die voorlegging van 'n getrouheidsfondssertifikaat eis;

(c) 'n getrouheidsfondssertifikaat wat kragtens artikel 34 of 49 ingetrek is, in beslag neem;

(d) 'n boek, aantekening of ander stuk wat betrekking het op die werksaamhede van 'n balju ondersoek of uittreksels daaruit of afskrifte daarvan maak;

(e) vir die doeleindes van 'n vervolging ingevolge hierdie Wet of 'n aanklag van onbehoorlike gedrag ooreenkomstig Hoofstuk IV, sodanige boek, aantekening of ander stuk in beslag neem en in bewaring hou.

35

Minister kan Raad
gelas om inligting te
verstrek.

58. Die Minister kan die Raad skriftelik gelas om binne die tydperk in die lasgewing vermeld die inligting wat hy in verband met die werksaamhede van die Raad of die finansiële toestand van die sake van die Raad of Fonds verlang, aan hom te verstrek.

40

Jaarverslae.

59. Die Raad moet binne ses maande na die einde van elke boekjaar 'n verslag, tesame met 'n afskrif van die finansiële jaarstate wat ingevolge artikels 21 (3) en 28 (2) geouditeer is, aan die Minister voorlê oor die werksaamhede wat die Raad gedurende bedoelde boekjaar verrig het.

45

Misdrywe en
strawwe.

60. (1) Iemand wat—

(a) 'n bepaling van artikel 19 (1), 22 (1), 23 (1), 30 of 34 oortree of versuim om daaraan te voldoen;

(b) versuim om te voldoen aan 'n versoek kragtens artikel 23 (3);

(c) 'n voorwaarde kragtens artikel 33 (2) opgelê, oortree of versuim om daaraan te voldoen;

55

(d) in 'n aansoek om 'n getrouheidsfondssertifikaat wetens inligting verstrek of 'n verklaring doen wat vals of misleidend is;

(e) behoorlik kragtens artikel 48 gedagvaar is en wat sonder voldoende gronde in gebreke bly—

60

(i) om op dié in die dagvaarding bepaalde tyd en plek te verskyn; of

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55. A sheriff or his deputy sheriff shall not be liable for any damage arising out of the rescue or escape of any person arrested by him or committed to his custody, unless the rescue or escape was caused by his negligent or wilful conduct.

Liability
of sheriffs.

- 5 56. (1) For the purposes of exercising any power—
- (a) referred to in subsection (1) or (2) of section 57, the Minister may, either in general or in any particular case, appoint any person as an inspector;
- 10 (b) referred to in subsection (2) of section 57, the Board may, either in general or in any particular case, appoint any person whom the Board may consider suitable as an inspector.
- (2) Every inspector appointed under subsection (1) shall be furnished with a certificate stating that he has been appointed as
- 15 an inspector.
- (3) An inspector who exercises any power under section 57 shall at the request of any person affected by the exercise of that power produce his certificate referred to in subsection (2).

Appointment of in-
spectors.

20 57. (1) Any inspector appointed under paragraph (a) of section 56 (1) may at any reasonable time examine any book, record or other document of the Board or Fund or make extracts therefrom or copies thereof.

Powers of
inspectors.

- (2) Any inspector appointed under paragraph (a) or (b) of section 56 (1) may—
- 25 (a) at any reasonable time enter the office of any sheriff;
- (b) require the production of any fidelity fund certificate;
- (c) seize any fidelity fund certificate cancelled under section 34 or 49;
- 30 (d) examine any book, record or other document relating to the functions of a sheriff or make extracts therefrom or copies thereof;
- (e) for the purposes of any prosecution under this Act or any charge of improper conduct in accordance with Chapter IV, seize and retain such book, record or
- 35 other document.

58. The Minister may in writing direct the Board to furnish him within the period specified in the direction with such information as he may require in connection with the functions of the Board or the financial state of affairs of the Board or Fund.

Minister may direct
Board to furnish in-
formation.

40 59. The Board shall within six months after the end of every financial year submit to the Minister a report, together with a copy of the annual financial statements audited in terms of sections 21 (3) and 28 (2), on the functions performed by the Board during such year.

Annual reports.

- 45 60. (1) Any person who—
- (a) contravenes or fails to comply with a provision of section 19 (1), 22 (1), 23 (1), 30 or 34 (3);
- (b) fails to comply with a request under section 23 (3);
- 50 (c) contravenes or fails to comply with a condition imposed under section 33 (2);
- (d) in an application for any fidelity fund certificate knowingly gives information or makes a statement which is false or misleading;
- (e) has been duly summoned under section 48 and who
- 55 fails, without sufficient cause—
- (i) to attend at the time and place specified in the summons; or

Offences and
penalties.

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- (ii) om teenwoordig te bly totdat hy deur die persoon wat by die ondersoek voorsit van verdere bywoning onthef word;
 - (f) kragtens artikel 48 (1) (b) opgeroep is en wat weier om as getuie beëdig te word of 'n bevestiging te doen; 5
 - (g) sonder voldoende gronde in gebreke bly—
 - (i) om 'n vraag wat wettig aan hom kragtens artikel 48 (1) (c) gestel word volledig en bevredigend te beantwoord; of
 - (ii) om 'n boek, stuk of saak in sy besit of bewaring of 10 onder sy beheer voor te lê wat hy kragtens artikel 48 (1) (c) moes voorlê;
 - (h) 'n inspekteur by die uitoefening van sy bevoegdhede kragtens artikel 57 (2) hinder of belemmer; of
 - (i) valslik voorgee dat hy 'n inspekteur is wat kragtens artikel 56 (1) (a) of (b) aangestel is, 15
- is aan 'n misdryf skuldig.
- (2) Iemand wat aan 'n misdryf ingevolge hierdie Wet skuldig bevind word, is strafbaar—
- (a) in die geval van 'n misdryf in paragraaf (a), (c), (d), 20 (h) of (i) van subartikel (1) bedoel, met 'n boete van hoogstens R2 000, of met gevangenisstraf vir 'n tydperk van hoogstens een jaar, of met sowel daardie boete as daardie gevangenisstraf; en
 - (b) in die geval van 'n misdryf in paragraaf (b), (e), (f) of 25 (g) van subartikel (1) bedoel, met 'n boete van hoogstens R1 000, of met gevangenisstraf vir 'n tydperk van hoogstens ses maande, of met sowel daardie boete as daardie gevangenisstraf.

Appel na hof teen
besluite van tug-
komitee of Raad.

61. (1) 'n Balju wat hom veronreg voel deur— 30
- (a) die intrekking van sy getrouheidsfondssertifikaat deur die Raad kragtens artikel 34 (1);
 - (b) 'n bevinding gedoen of straf opgelê deur 'n tugkomitee of die Raad by die verrigting van sy werksaamhede ooreenkomstig Hoofstuk IV; of 35
 - (c) die uitoefening van 'n bevoegdheid deur die Raad by die oorweging van 'n appel ingevolge artikel 18 (4) (b), kan, na kennisgewing aan die Raad en binne 60 dae na die datum waarop daardie getrouheidsfondssertifikaat ingetrek is, daardie bevinding gedoen of straf opgelê is of daardie bevoegd- 40 heid uitgeoefen is, na gelang van die geval, teen die betrokke besluit appelleer na die hoër hof wat regsbevoegdheid het in die gebied waar die hoofkantoor van die Raad geleë is.
- (2) Die hof moet 'n appel wat ooreenkomstig subartikel (1) by hom aangeteken word, ondersoek en oorweeg, en kan— 45
- (a) indien hy van oordeel is dat die tugkomitee of Raad, na gelang van die geval, nie ooreenkomstig die bepalinge van hierdie Wet gehandel het nie, die besluit waarteen geappelleer word, tersyde stel of vervang deur 'n ander besluit wat die tugkomitee of Raad kon geneem het; 50
 - (b) die besluit waarteen geappelleer word, bekragtig; of
 - (c) die ander bevel, met inbegrip van 'n bevel aangaande koste, gee wat hy dienstig ag.

Regulasies.

62. (1) Die Minister kan na oorlegpleging met die Raad regulasies uitvaardig betreffende— 55
- (a) die stappe wat gedoen moet word om nakoming van die gedragskode bedoel in artikel 16 (k) te verseker;
 - (b) die beskikking oor proses- en ander stukke in die besit van 'n balju wanneer hy sy amp ontruim;
 - (c) die bestelling van prosesstukke aan balju's of adjunk- 60 balju's;
 - (d) die verstreking van besonderhede met betrekking tot 'n rekening in artikel 22 (1) of (2) genoem deur 'n bankinstelling of bouvereniging;
 - (e) 'n aangeleentheid wat kragtens hierdie Wet by regu- 65 lasie voorgeskryf moet of kan word; en
 - (f) in die algemeen, 'n aangeleentheid wat die Minister nodig of dienstig ag om voor te skryf ten einde die oog-

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- (ii) to remain in attendance until excused from further attendance by the person presiding at the inquiry;
- (f) has been called upon under section 48 (1) (b) and who refuses to be sworn or to make an affirmation as a witness;
- (g) fails, without sufficient cause—
- (i) to answer fully and satisfactorily any question lawfully put to him under section 48 (1) (c); or
- (ii) to produce any book, document or thing in his possession or custody or under his control which he was required to produce under section 48 (1) (c);
- (h) hinders or obstructs any inspector in the exercise of his powers under section 57 (2); or
- (i) falsely gives himself out to be an inspector appointed under section 56 (1) (a) or (b),

shall be guilty of an offence.

(2) Any person who is convicted of an offence under this Act shall be liable—

- (a) in the case of an offence referred to in paragraph (a), (c), (d), (h) or (i) of subsection (1), to a fine not exceeding R2 000, or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment; and
- (b) in the case of an offence referred to in paragraph (b), (e), (f) or (g) of subsection (1), to a fine not exceeding R1 000, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

61. (1) Any sheriff aggrieved by—

- (a) the cancellation of his fidelity fund certificate by the Board under section 34 (1);
- (b) a finding made or penalty imposed by a disciplinary committee or the Board in the performance of its functions in accordance with Chapter IV; or
- (c) the exercise of a power by the Board in considering an appeal in terms of section 18 (4) (b),

may, after notice to the Board and within 60 days after the date on which that fidelity fund certificate has been cancelled, that finding has been made or penalty has been imposed or that power has been exercised, as the case may be, appeal against the decision in question to the superior court having jurisdiction in the area where the head office of the Board is situated.

(2) The court shall examine and consider an appeal lodged with it in accordance with subsection (1), and may—

- (a) if it is of the opinion that the disciplinary committee or Board, as the case may be, has not acted in accordance with the provisions of this Act, set aside the decision appealed against or substitute therefor any other decision which the disciplinary committee or Board could have made;
- (b) confirm the decision appealed against; or
- (c) give such other order, including any order as to costs, as it may consider fit.

62. (1) The Minister may after consultation with the Board make regulations as to—

- (a) the steps to be taken to ensure compliance with the code of conduct referred to in section 16 (k);
- (b) the disposal of process and other documents in the possession of a sheriff when he ceases to hold office;
- (c) the service of process on sheriffs or deputy sheriffs;
- (d) the furnishing by a banking institution or building society of particulars relating to an account mentioned in section 22 (1) or (2);
- (e) any matter required or permitted to be prescribed by regulation under this Act; and
- (f) in general, any matter which the Minister may consider necessary or expedient to prescribe in order that the

Appeal to court
against decisions of
disciplinary committee
or Board.

Regulations.

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merke van hierdie Wet te verwesenlik, en die algemeenheid van hierdie paragraaf word nie deur die voorafgaande paragrawe beperk nie.

(2) Regulasies kragtens subartikel (1) uitgevaardig, kan strawwe vir 'n oortreding daarvan of versuim om daaraan te voldoen, voorskryf wat 'n boete van R1 000 of gevangenisstraf vir 'n tydperk van ses maande nie te bowe gaan nie. 5

Minister kan werksaamhede aan beamptes opdra.

63. (1) Die Minister kan—

- (a) aan 'n beampte van die Departement van Justisie 'n bevoegdheid by hierdie Wet aan die Minister verleen, uitgesonderd die bevoegdheid in artikel 62 (1) bedoel, deleger op die voorwaardes wat die Minister bepaal; of
- (b) so 'n beampte magtig om 'n plig by hierdie Wet aan die Minister opgedra, te verrig.

(2) 'n Delegering kragtens subartikel (1) (a) belet nie die uitoefening van die betrokke bevoegdheid deur die Minister self nie. 15

Wysiging of herroeping van bepalings van wette, en voorbehoud.

64. (1) Behoudens die bepalings van hierdie artikel word die bepalings van die wette in die Bylae genoem hierby gewysig of herroep in die mate aangedui in die derde kolom daarvan. 20

(2) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet—

- (a) die amp van geregsbode of waarnemende geregsbode van 'n laer hof bekleed het, of as 'n adjunk-geregsbode aangestel was, word onderskeidelik by daardie inwerkingtreding geag as balju of waarnemende balju van daardie laer hof, of as 'n adjunk-balju, kragtens die bepalings van hierdie Wet aangestel te wees; of
- (b) die amp van adjunk-balju of waarnemende adjunk-balju van 'n hoër hof bekleed het, of as 'n assistent van 'n adjunk-balju of waarnemende adjunk-balju aangestel was, word onderskeidelik by daardie inwerkingtreding geag as balju of waarnemende balju van daardie hoër hof, of as 'n adjunk-balju, kragtens die bepalings van hierdie Wet aangestel te wees. 35

(3) 'n Balju of waarnemende balju in paragraaf (a) of (b) van subartikel (2) bedoel, bekleed sy amp behoudens die bepalings van hierdie Wet: Met dien verstande dat—

- (a) die bepalings van artikel 30 nie van toepassing is nie ten opsigte van so 'n balju of waarnemende balju voor 'n datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal; 40
- (b) enige sekerheid wat so 'n balju of waarnemende balju in verband met sy aanstelling gestel het, ondanks die herroeping van 'n bepaling wat die stel van sodanige sekerheid reël, in stand gehou moet word tot die dag waarop hy die houer van 'n getrouheidsfondssertifikaat word; 45
- (c) ondanks die bepalings van artikel 35, die Fonds nie aanspreeklikheid ten opsigte van so 'n balju of waarnemende balju oploop nie voor die dag waarop hy die houer van 'n getrouheidsfondssertifikaat word; 50
- (d) die bepalings van artikel 51 (a) (ii) of 53 nie van toepassing is nie op besoldigde werk wat so 'n balju of waarnemende balju na die inwerkingtreding van hierdie Wet buite sy amp verrig indien hy— 55
 - (i) sodanige werk onmiddellik voor daardie inwerkingtreding verrig het; en
 - (ii) die Minister binne 30 dae na daardie inwerkingtreding skriftelik van sodanige werk in kennis stel; 60 en

(e) so 'n balju sy amp bekleed soos in artikel 4 (1) bedoel tot die datum waarop hy die leeftyd van 70 jaar bereik.

(4) Enigiets wat gedoen is kragtens 'n bepaling wat by subartikel (1) herroep is en kragtens 'n ooreenstemmende bepaling van hierdie Wet gedoen kan word, word geag kragtens daardie ooreenstemmende bepaling gedoen te wees. 65

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objects of this Act may be achieved, and the generality of this paragraph shall not be limited by the preceding paragraphs.

(2) Regulations made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of R1 000 or imprisonment for a period of six months.

63. (1) The Minister may—

- 10 (a) delegate to any officer of the Department of Justice any power conferred upon the Minister by this Act, excluding the power referred to in section 62 (1), on such conditions as the Minister may determine; or
- (b) authorize any such officer to perform any duty assigned to the Minister by this Act.

Minister may assign functions to officers.

15 (2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the Minister himself.

64. (1) Subject to the provisions of this section, the provisions of the laws mentioned in the Schedule are hereby amended or repealed to the extent indicated in the third column thereof.

Amendment or repeal of provisions of laws, and savings.

20 (2) Any person who immediately prior to the commencement of this Act—

(a) held office as messenger or acting messenger of any lower court, or was appointed as a deputy messenger, shall upon that commencement be deemed to be appointed under the provisions of this Act as a sheriff or acting sheriff of that lower court, or as a deputy sheriff, respectively; or

25 (b) held office as deputy sheriff or acting deputy sheriff of any superior court, or was appointed as an assistant of a deputy sheriff or acting deputy sheriff, shall upon that commencement be deemed to be appointed under the provisions of this Act as a sheriff or acting sheriff of that superior court, or as a deputy sheriff, respectively.

30 (3) Any sheriff or acting sheriff referred to in paragraph (a) or (b) of subsection (2) shall hold office subject to the provisions of this Act: Provided that—

(a) the provisions of section 30 shall not apply in respect of any such sheriff or acting sheriff before a date determined by the Minister by notice in the *Gazette*;

40 (b) any security furnished by any such sheriff or acting sheriff in connection with his appointment shall, notwithstanding the repeal of a provision governing the furnishing of such security, be maintained until the day upon which he becomes the holder of a fidelity fund certificate;

45 (c) notwithstanding the provisions of section 35, the Fund shall not incur liability in respect of any such sheriff or acting sheriff before the day upon which he becomes the holder of a fidelity fund certificate;

50 (d) the provisions of section 51 (a) (ii) or 53 shall not apply to remunerative work which any such sheriff or acting sheriff performs outside his office after the commencement of this Act if he—

55 (i) had performed such work immediately prior to that commencement; and

(ii) notifies the Minister in writing of such remunerative work within 30 days after that commencement; and

60 (e) any such sheriff shall hold office as contemplated in section 4 (1) until the date on which he attains the age of 70 years.

(4) Anything done under a provision repealed by subsection (1) which may be done under a corresponding provision of this Act, shall be deemed to have been done under that corresponding provision.

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Uitleg van
verwysings na
geregsbode in
bestaande wette
en prosesstukke
van hof.

65. 'n Verwysing in 'n wet wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag is, of in 'n prosesstuk van 'n hof, na 'n bode of 'n geregsbode van 'n laer hof, word uitgelê as 'n verwysing na 'n balju van daardie laer hof wat kragtens hierdie Wet aangestel is.

5

Kort titel en
inwerkingtreding.

66. Hierdie Wet heet die Wet op Balju's, 1986, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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65. A reference in any law in force immediately prior to the commencement of this Act, or in any process of court, to a messenger or a messenger of any lower court shall be construed as a reference to a sheriff of that lower court appointed under
5 this Act.

Construction of references to messenger in existing laws and process of court.

66. This Act shall be called the Sheriffs Act, 1986, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.

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BYLAE

BEPALINGS VAN WETTE GEWYSIG OF HERROEP (Artikel 63)

No. en jaar van wet	Kort titel	Omvang van wysiging of herroeping
Wet No. 32 van 1944 ...	Wet op Landdroshowe, 1944	1. Die herroeping van artikel 14 (1), (1A), (2), (3), (4), (5), (6) en (9). 2. Die wysiging van artikel 15 deur in subartikel (4) die woord "adjunk-geregsbode" deur die woord "balju" te vervang. 3. Die herroeping van artikels 18 en 18A. 4. Die wysiging van artikel 107 deur die woord "adjunk-geregsbode" oral waar dit voorkom deur die woord "adjunk-balju" te vervang.
Wet No. 59 van 1959 ...	Wet op die Hooggeregs-hof, 1959	1. Die wysiging van artikel 34— (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang: (a) Die Minister kan met inagneming van die wetsbepalings op die Staatsdiens, vir die Hooggereghof griffiers, assistent-griffiers [balju's, addisionele balju's, adjunk-balju's] en ander beampptes aanstel wanneer hulle vir die regspleging of die uitoefening van die bevoegdhede en gesag van daardie hof nodig is [Met dien verstande dat indien die pligte wat deur 'n adjunk-balju verrig moet word, volgens die oordeel van die Staatsdienskommissie nie voldoende is om minstens een persoon die hele jaar deur besig te hou nie, en geen beampte in die Staatsdiens volgens die oordeel van bedoelde Kommissie in staat is om die pligte van daardie adjunk-balju benewens sy ander pligte uit te voer nie, of indien volgens die Minister se oordeel die pligte van bedoelde adjunk-balju op bevredigende wyse en teen minder koste vir die Staat verrig kan word deur iemand wat nie 'n beampte in die Staatsdiens is nie, die Minister enigiemand as so 'n adjunk-balju kan aanstel teen die besoldiging en op die voorwaardes wat die Minister bepaal].”; (b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang: “(b) Wanneer 'n griffier <u>of</u> assistent-griffier [of balju] weens afwesigheid of onbekwaamheid nie sy ampspligte kan uitvoer nie of sy amp vakant word, kan die Minister 'n ander bevoegde beampte in die Staatsdiens magtig om in die plek van die afwesige of onbekwame beampte op te tree solank by aldus afwesig of onbekwaam is of om in die vakante betrekking waar te neem totdat die vakature gevul word: Met dien verstande dat wanneer so 'n vakature vir 'n ononderbroke tydperk van meer as ses maande nie gevul is nie, die geval aan die [Staatsdienskommissie] Kommissie vir Administrasie gerapporteer moet word.”; en (c) deur paragraaf (c) van subartikel (1) en subartikels (3), (4), (5) en (6) te skrap. 2. Die herroeping van artikels 34A en 35. 3. Die wysiging van artikel 36— (a) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Die balju of [die betrokke] 'n adjunk-balju [of sy assistent] moet alle vonnisse, bevels, uitsprake, bevelskrifte, dagvaardings, orders, lasbriewe, lasgewings en prosesstukke van die hof wat aan die balju gerig is, ten uitvoer lê, en 'n relaas van die wyse waarop dit ten uitvoer gelê is, verstrek aan die hof en aan die party wat dit uitgeneem het.”; en (b) deur subartikel (2) deur die volgende subartikel te vervang: “(2) Die relaas van die balju of 'n adjunk-balju [of sy assistent] van die stappe wat in verband met 'n prosesstuk van die hof gedoen is, is <i>prima facie</i> getuienis van die aangeleenthede daarin vermeld.”. 4. Die herroeping van artikels 37 en 38.

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SCHEDULE

PROVISIONS OF LAWS AMENDED OR REPEALED (Section 63)

No. and year of law	Short title	Extent of amendment or repeal
Act No. 32 of 1944	Magistrates' Courts Act, 1944	1. The repeal of section 14 (1), (1A), (2), (3), (4), (5), (6) and (9). 2. The amendment of section 15 by the substitution in subsection (4) for the words "deputy messenger" of the word "sheriff". 3. The repeal of sections 18 and 18A. 4. The amendment of section 107 by the substitution for the word "deputy-messenger", wherever it appears, of the words "deputy sheriff".
Act No. 59 of 1959	Supreme Court Act, 1959	1. The amendment of section 34— (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: "(a) The Minister may, subject to the laws governing the public service, appoint for the Supreme Court registrars, assistant registrars [sheriffs, additional sheriffs, deputy sheriffs] and other officers whenever they may be required for the administration of justice or the execution of the powers and authorities of the said court [Provided that if the duties to be performed by any deputy-sheriff are in the opinion of the Public Service Commission insufficient to keep at least one person fully occupied throughout the year, and no officer in the public service is in the opinion of the said Commission able to perform the duties of such deputy-sheriff in addition to his other duties, or if in the opinion of the Minister the duties of such deputy-sheriff can be performed satisfactorily and at less cost to the State by a person who is not an officer in the public service, the Minister may appoint any person as such deputy-sheriff at such remuneration and on such conditions as the Minister may determine]."; (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph: "(b) Whenever by reason of absence or incapacity a registrar or assistant registrar [or sheriff] is unable to carry out the functions of his office, or his office becomes vacant, the Minister may authorize any other competent officer of the public service to act in the place of the absent or incapacitated officer during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that when any such vacancy has remained unfilled for a continuous period exceeding six months the fact shall be reported to the [Public Service] Commission for Administration."; and (c) by the deletion of paragraph (c) of subsection (1) and subsections (3), (4), (5) and (6). 2. The repeal of sections 34A and 35. 3. The amendment of section 36— (a) by the substitution for subsection (1) of the following subsection: "(1) The sheriff or [the] a deputy-sheriff [concerned or his assistant] shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the court directed to the sheriff and make return of the manner of execution thereof to the court and to the party at whose instance they were issued."; and (b) by the substitution for subsection (2) of the following subsection: "(2) The return of the sheriff or a deputy-sheriff [or his assistant] of what has been done upon any process of the court, shall be <i>prima facie</i> evidence of the matters therein stated.". 4. The repeal of sections 37 and 38.

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No. en jaar van wet	Kort titel	Omvang van wysiging of herroeping
		5. Die wysiging van artikel 40— (a) deur paragraaf (a) deur die volgende paragraaf te vervang: “(a) ’n balju of adjunk-balju [of sy assistent] by die uitvoering van sy pligte dwarsboom;”; (b) deur paragraaf (c) deur die volgende paragraaf te vervang: “(c) in die geval van ’n vonnis skuldenaar, op versoek van ’n balju of adjunk-balju [of sy assistent] om eiendom ter voldoening aan ’n lasbrief tot eksekusie van ’n vonnis teen so iemand uitgereik, aan te wys— (i) valslik aan daardie balju of adjunk-balju [of sy assistent] verklaar dat hy geen eiendom of nie voldoende eiendom om aan die lasbrief te voldoen, besit nie; of (ii) hoewel hy van sodanige eiendom weet, versuim of weier om daardie eiendom aan te wys of dit aan die balju of adjunk-balju [of sy assistent] te lewer wanneer hy daartoe versoek word; of”; en (c) deur paragraaf (d) deur die volgende paragraaf te vervang: “(d) in die geval van ’n vonnis skuldenaar, weier of versuim om te voldoen aan ’n vereiste van ’n balju of adjunk-balju [of sy assistent] in verband met die lewering van dokumente in sy besit of onder sy beheer met betrekking tot die eiendomsreg op die onroerende goed onder eksekusie.”.

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No. and year of law	Short title	Extent of amendment or repeal
		5. The amendment of section 40— (a) by the substitution for paragraph (a) of the following paragraph: “(a) obstructs a sheriff or deputy-sheriff [or his assistant] in the execution of his duty;”; (b) by the substitution for paragraph (c) of the following paragraph: “(c) being a judgment debtor and being required by a sheriff or deputy-sheriff [or his assistant] to point out property to satisfy a warrant issued in execution of judgment against such person— (i) falsely declares to that sheriff or deputy-sheriff [or his assistant] that he possesses no property or insufficient property to satisfy the warrant; or (ii) although knowing of such property neglects or refuses to point out such property or to deliver it to the sheriff or deputy-sheriff [or his assistant] when requested to do so; or”; (c) by the substitution for paragraph (d) of the following paragraph: “(d) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff [or his assistant] in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution.”.

