STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprys • Selling price
(AVB uitgesluit/GST excluded)
Plaaslik **50c** Local
Buitelands 70c Other countries
Posvry • Post free

VOL. 277

KAAPSTAD, 13 JULIE 1988
CAPE TOWN, 13 JULY 1988

No. 11405

KANTOOR VAN DIE STAATSPRESIDENT

No. 1388. 13 Julie 1988

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

No. 83 van 1988: Wysigingswet op Arbeidsverhoudinge, 1988.

STATE PRESIDENT'S OFFICE

No. 1388. 13 July 1988

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

No. 83 of 1988: Labour Relations Amendment Act, 1988.

ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Wet op Arbeidsverhoudinge, 1956, ten einde sekere uitdrukkings te skrap, te omskryf of nader te omskryf; die persone op wie die Wet van toepassing is nader te omskryf; die bepaling dat die voorsitter en die adjunk-voorsitter van die Nasionale Mannekragkommissie heeltydse lede van die Kommissie is, te skrap; die bepaling van die mate waarin 'n vakvereniging verteenwoordigend is van 'n bepaalde belang, te wysig; die werksaamhede van die nywerheidshof nader te omskryf; voorsiening te maak vir die instelling van 'n arbeidsappèlhof, en sy werksaamhede te bepaal; die vereistes vir besluitneming deur 'n nywerheidsraad by onbillike arbeidspraktykgeskille te verander; voorsiening te maak vir 'n prosedure vir die beslegting van geskille deur nywerheidsrade; voorsiening te maak vir 'n gewysigde prosedure vir die instelling van versoeningsrade; die tydperk waarbinne 'n versoeningsraad moet poog om 'n geskil wat na hom verwys is, te besleg, nader te omskryf; die wyse waarop 'n versoeningsraad saamgestel word, te verander; voorsiening te maak dat die partye by 'n geskil wat deur 'n versoeningsraad oorweeg word, kan ooreenkom om die sekretariële en klerklike hulp wat die raad nodig het, te voorsien; die bepaling te herroep waarvolgens lede van 'n versoeningsraad vir hul onkoste deur die Staat vergoed word; te bepaal dat 'n versoeningsraad van sy beraadslagings aan die Direkteur-generaal: Mannekrag in plaas van aan die Minister verslag doen, en dat die raad by die afhandeling van sy werksaamhede geag word ontslaan te wees; die bevoegdheid van die nywerheidshof om herstel in diens van werknemers of herstel van bedinge en voorwaardes van diens of onthouding van onbillike arbeidspraktyke te beveel, nader te omskryf; sekere administratiewe werksaamhede wat deur die Minister van Mannekrag in verband met vrywillige en verpligte arbitrasie verrig word aan die Direkteur-generaal op te dra; 'n nywerheidsraad se aanspreeklikheid ten opsigte van sekere koste van die nywerheidshof in te kort en die nywerheidshof se bevoegdheid ten opsigte van kostebevele uit te brei; die uitwerking van arbitrasietoekennings verder te reël; te bepaal dat 'n nywerheidsraad of komitee na verloop van 'n bepaalde tydperk geag word te beslis het dat 'n aansoek om vrystelling van 'n ooreenkoms geweier is; die strawwe vir sekere misdrywe te verhoog; voorsiening te maak dat 'n beslissing van die Appèlafdeling oor 'n regsvraag verkry kan word; sekere vereistes in verband met die verbod op stakings te wysig; die bepalings aangaande geheimhouding nader te omskryf en na die verrigtinge van 'n arbeidsappèlhof uit te brei; en die vrywaring van sekere liggame en persone teen verliese gely as gevolg van stakings of uitsluitings, uit te brei; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 6 Julie 1988.)

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 amend the Labour Relations Act, 1956, so as to delete, define or further define certain expressions; to further define the persons to whom the Act applies; to delete the provision that the chairman and the deputy chairman of the National Manpower Commission be full-time members of the Commission; to alter the determination of the measure of representativeness of a trade union in respect of a specific interest; to further define the functions of the industrial court; to provide for the establishment of a labour appeal court, and to determine its functions; to alter the requirements for the taking of decisions by an industrial council in respect of unfair labour practice disputes; to provide for a procedure for the settlement of disputes by industrial councils; to provide for an amended procedure for the establishment of conciliation boards; to further define the period within which a conciliation board shall endeavour to settle any dispute referred to it; to alter the manner in which a conciliation board is composed; to provide that the parties to a dispute which is considered by a conciliation board may agree to provide the secretarial and clerical assistance required by the board; to repeal the provision in terms of which members of a conciliation board are compensated by the State for their expenses; to provide that a conciliation board shall report on its deliberations to the Director-General: Manpower instead of the Minister, and that the board shall upon completing its functions be deemed to have been discharged; to further define the power of the industrial court to order reinstatement of employees or restoration of terms and conditions of employment or abstention from unfair labour practices; to entrust to the Director-General certain administrative functions performed by the Minister of Manpower in connection with voluntary and compulsory arbitration; to diminish the liability of an industrial council for certain costs of the industrial court and to extend the power of the industrial court in respect of awards for costs; to further regulate the effect of arbitration awards; to provide that an industrial council or committee shall after the lapse of a specific period be deemed to have decided that an application for exemption from an agreement has been refused; to increase the penalties for certain offences; to provide that a decision of the Appellate Division may be invoked on a question of law; to amend certain requirements in regard to the prohibition of strikes; to further define the provisions regarding secrecy, and to extend them to the proceedings of a labour appeal court; and to extend the indemnification of certain bodies and persons against losses incurred as a result of strikes or lock-outs; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 6 July 1988.)

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

Wysiging van artikel 1 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 41 van 1959, artikel 1 van Wet 104 van 1967, artikel 1 van Wet 94 van 1979, artikel 1 van Wet 95 van 1980, artikel 1 van Wet 57 van 1981, artikel 1 van Wet 51 van 1982 en artikel 1 van Wet 2 van 1983

1. Artikel 1 van die Wet op Arbeidsverhoudinge, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van "amptenaar" die volgende omskrywing in te voeg:

"'arbeidsappèlhof' 'n hof ingestel by artikel 17A (1);";

(b) deur in subartikel (1) die omskrywing van "departementshoof" te skrap;

(c) deur in subartikel (1) na die omskrywing van "beloning" die volgende omskrywing in te voeg:

"'Direkteur-generaal' die Direkteur-generaal: Mannekrag en ook enige persoon deur hom aangewys;";

(d) deur in subartikel (1) die omskrywing van "gereserveerde beroep" te skrap;

(e) deur in subartikel (1) die omskrywing van "onbillike arbeidspraktyk" deur die volgende omskrywing te vervang:

"'onbillike arbeidspraktyk' enige handeling of versuim wat op onbillike wyse inbreuk maak op die arbeidsverhoudinge tussen 'n werkgewer en werknemer of dit benadeel, en sluit die volgende in:

(a) Die ontslag, weens enige dissiplinêre optrede teen een of meer werknemers, sonder 'n geldige en billike rede en sonder die nakoming van 'n billike prosedure: Met dien verstande dat die volgende nie geag word 'n onbillike arbeidspraktyk te wees nie, naamlik:

(i) Die ontslag van 'n werknemer gedurende die eerste ses maande van sy diens by 'n bepaalde werkgewer of gedurende sodanige korter tydperk waarop ooreengekom word: Met dien verstande dat sodanige ontslag nie sonder nakoming van 'n billike prosedure plaasvind nie;

(ii) die ontslag van 'n werknemer waar die werkgewer nalaat om 'n verhoor of dissiplinêre ondersoek te hou en die nywerheidshof daarna beslis dat dit nie redelikerwys van die werkgewer verwag kon gewees het om sodanige verhoor of ondersoek te hou nie;

(iii) die ontslag van 'n werknemer waar die werkgewer nalaat om 'n verhoor of dissiplinêre ondersoek te hou en die nywerheidshof daarna beslis dat sodanige werknemer 'n billike geleentheid gegun was om sy saak te stel en 'n verhoor of ondersoek na die mening van die hof nie 'n ander uitwerking op die ontslag sou gehad het nie;

(iv) enige ontslag wat plaasvind na wesentlike nakoming van die bedinge en bepalings van 'n ooreenkoms wat op die ontslag betrekking het; of

(v) die selektiewe herindiensneming van ontslane werknemers mits sodanige herindiensneming ooreenkomstig billike maatstawwe geskied en nie op grond van 'n werknemer se vakverenigingbedrywighede nie;

(b) die beëindiging van 'n werknemer se diens op ander gronde as dissiplinêre optrede, tensy—

(i) sodanige diensbeëindiging plaasvind gedurende die eerste ses maande van die werknemer se diens by 'n bepaalde werkgewer, of sodanige tydperk waarop ooreengekom word, en in ooreenstemming met 'n toepaslike ooreenkoms, loonreëlende maatreël of dienskontrak; of

(ii) *(aa)* daar vooraf kennis van sodanige diensbeëindiging in ooreenstemming met 'n toepaslike ooreenkoms, loonreëlende maatreël of dienskontrak aan so 'n werknemer gegee is of, indien sodanige werknemer verteenwoordig word deur 'n vakvereniging of 'n liggaam wat deur die werkgewer as verteen-

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

Amendment of section 1 of Act 28 of 1956, as amended by section 1 of Act 41 of 1959, section 1 of Act 104 of 1967, section 1 of Act 94 of 1979, section 1 of Act 95 of 1980, section 1 of Act 57 of 1981, section 1 of Act 51 of 1982 and section 1 of Act 2 of 1983

1. Section 1 of the Labour Relations Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for the definition of "agreement" of the following definition:

"'agreement' means an agreement entered into or deemed to have been entered into by parties to an industrial council or conciliation board under this Act: Provided that for the purposes of an unfair labour practice, it shall include any agreement enforceable in terms of this Act and entered into between an employer and a trade union or any group of employees in the employment of such employer;";

(b) by the deletion in subsection (1) of the definition of "departmental head";

(c) by the insertion in subsection (1) after the definition of "determination" of the following definition:

"'Director-General' means the Director-General: Manpower and includes any person designated by him;";

(d) by the insertion in subsection (1) after the definition of "inspector" of the following definition:

"'labour appeal court' means a court established by section 17A (1);";

(e) by the insertion in subsection (1) after the definition of "labour broker's office" of the following definition:

"'legal practitioner' means any person who qualifies to be admitted or who is admitted or who was admitted to practise as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979);";

(f) by the substitution in subsection (1) for the definition of "local authority" of the following definition:

"'local authority' means any institution or body contemplated in section 84 (1) *(f)* of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes—

(a) a board of management or board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);

(b) a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);

(c) any local government body established by virtue of the provisions of section 30 (2) *(a)* of the Black Administration Act, 1927 (Act No. 38 of 1927); or

(d) a local authority as defined in the Black Local Authorities Act, 1982 (Act No. 102 of 1982);";

(g) by the deletion in subsection (1) of the definition of "reserved occupation"; and

(h) by the substitution in subsection (1) for the definition of "unfair labour practice" of the following definition:

"'unfair labour practice' means any act or omission which in an unfair manner infringes or impairs the labour relations between an employer and employee, and shall include the following:

(a) The dismissal, by reason of any disciplinary action against one or more employees, without a valid and fair reason and not in compliance with a fair procedure: Provided that the following shall not be regarded as an unfair labour practice, namely:

(i) The dismissal of an employee during the first six months of his employment with a particular employer or during such shorter period as may have been agreed upon: Provided that such dismissal does not take place without compliance with a fair procedure;

(ii) the dismissal of an employee where an employer fails to hold a hearing or a disciplinary enquiry and the industrial court there-

woordigend van die werknemers òf enige groep van hulle erken word, aan sodanige vakvereniging, liggaam of groep gegee is; en

(bb) daar vooraf oorleg gepleeg is aangaande sodanige diensbeeindiging òf met sodanige werknemer òf, waar die werknemer verteenwoordig word deur 'n vakvereniging of liggaam wat deur die werkgewer as verteenwoordigend van die werknemers of enige groep van hulle erken word, met sodanige vakvereniging, liggaam of groep; en

(cc) sodanige diensbeëindiging geskied ooreenkomstig die bepalings van 'n ooreenkoms of dienskontrak wat die diensbeëindiging van die werknemer wie se diens beëindig word, reguleer; en

(dd) sodanige diensbeëindiging geskied, in 'n geval waar die getal werknemers in die diens van 'n werkgewer verminder gaan word, met die toepassing van billike maatstawwe met betrekking tot die keuring van sodanige werknemers, wat insluit, maar nie beperk is nie tot, die bekwaamheid, werkverrigting, produktiwiteit en gedrag van sodanige werknemers en die bedryfsvereistes en behoeftes van die onderneming, nywerheid, bedryf of beroep van die werkgewer;

(c) die onbillike eensydige skorsing van 'n werknemer of werknemers;

(d) die onbillike eensydige wysiging van die diensvoorwaardes van 'n werknemer of werknemers, behalwe om gevolg te gee aan enige toepaslike wet of loonreëlende maatreël;

(e) die gebruik van onkonstitusionele, misleidende of onbillike metodes om lede te werf deur enige vakvereniging, werkgewersorganisasie, federasie, lid, ampsdraer of beampte van enige vakvereniging, werkgewersorganisasie of federasie: Met dien verstande dat die weiering van 'n vakvereniging ooreenkomstig die bepalings van sy konstitusie om 'n werknemer as lid toe te laat, nie 'n onbillike arbeidspraktyk uitmaak nie;

(f) die weiering of versuim deur enige vakvereniging, werkgewersorganisasie, federasie, lid, ampsdraer of beampte van enige vakvereniging, werkgewersorganisasie of federasie om 'n bepaling van hierdie Wet na te kom;

(g) enige handeling waardeur 'n werknemer of werkgewer geïntimideer word om in te stem of nie in te stem nie tot enige optrede wat die verhouding tussen 'n werkgewer en werknemer raak;

(h) die aanhitsing tot, ondersteuning van, deelneming aan of bevordering van enige boikot van enige produk of diens deur enige vakvereniging, federasie, ampsdraer of beampte van sodanige vakvereniging of federasie;

(i) die onbillike diskriminasie deur enige werkgewer teen enige werknemer slegs op grond van ras, geslag of geloof: Met dien verstande dat optrede ter nakoming van enige wet of loonreëlende maatreël nie beskou word as 'n onbillike arbeidspraktyk nie;

(j) behoudens die bepalings van hierdie Wet, die direkte of indirekte inmenging met die reg van werknemers om te assosieer of om nie te assosieer nie deur enige ander werknemer, enige vakvereniging, werkgewer, werkgewersorganisasie, federasie of lede, ampsdraers of beamptes van sodanige vakvereniging, werkgewer, werkgewersorganisasie of federasie, met inbegrip van, maar nie beperk nie tot die verhindering deur 'n vakvereniging, 'n vakverenigingfederasie, ampsdraers of lede van sodanige liggame, van 'n werkgewer om te skakel of te onderhandel met werknemers in diens van sodanige werkgewer wat nie deur sodanige vakvereniging of federasie verteenwoordig word nie;

(k) die versuim of weiering deur 'n werkgewer, werknemer, vakvereniging of werkgewersorganisasie om aan 'n ooreenkoms te voldoen;

(l) enige staking, uitsluiting of stopsetting van werk, indien die werkgewer nie direk by die geskil wat tot die staking, uitsluiting of stopsetting van werk aanleiding gegee het, betrokke is nie;

(m) enige staking, uitsluiting of stopsetting van werk in verband met 'n geskil tussen 'n werkgewer en werknemer welke geskil dieselfde of wesentlik dieselfde is as 'n geskil tussen sodanige werkgewer en werknemer wat gedurende die voorafgaande 12 maande tot 'n staking, uitsluiting of stopsetting van werk aanleiding gegee het;

after decides that it could not reasonably have been expected of an employer to hold such a hearing or enquiry;

(iii) the dismissal of an employee where an employer fails to hold a hearing or a disciplinary enquiry and the industrial court thereafter decides that such employee was granted a fair opportunity to state his case and a hearing or enquiry would in the opinion of the court not have had a different effect on the dismissal;

(iv) any dismissal which takes place after substantial compliance with the terms and conditions of an agreement relevant to the dismissal; or

(v) the selective re-employment of dismissed employees providing such re-employment takes place in accordance with fair criteria and not on the ground of an employee's trade union activities;

(b) the termination of the employment of an employee on grounds other than disciplinary action, unless—

(i) such termination of employment takes place during the first six months of such employee's employment with a particular employer or during such period as may have been agreed upon, and in accordance with any applicable agreement, wage regulating measure or contract of service; or

(ii) *(aa)* prior notice of such termination of employment in accordance with any applicable agreement, wage regulating measure or contract of service, has been given either to the employee, or if such employee is represented by a trade union or body which is recognized by the employer as representing the employees or any group of them, to such trade union, body or group; and

(bb) prior consultation in regard to such termination of employment took place with either such employee or where the employee is represented by a trade union or body recognized by the employer as representing the employees or any group of them with such trade union, body or group; and

(cc) such termination of employment takes place in compliance with the terms of an agreement or contract of service, regulating the termination of employment of the employee whose employment is terminated; and

(dd) such termination of employment takes place in a case where the number of employees in the employment of an employer is to be reduced, according to reasonable criteria with regard to the selection of such employees, including, but not limited to, the ability, capacity, productivity and conduct of those employees and the operational requirements and needs of the undertaking, industry, trade or occupation of the employer;

(c) the unfair unilateral suspension of an employee or employees;

(d) the unfair unilateral amendment of the terms of employment of an employee or employees, except to give effect to any relevant law or wage regulating measure;

(e) the use of unconstitutional, misleading or unfair methods of recruiting members by any trade union, employers' organization, federation, member, office-bearer or official of any trade union, employers' organization or federation: Provided that the refusal of a trade union in accordance with the provisions of such trade union's constitution to admit an employee as a member, shall not constitute an unfair labour practice;

(f) the refusal or failure by any trade union, employers' organization, federation, member, office-bearer or official of any trade union, employers' organization or federation to comply with any provision of this Act;

(g) any act whereby an employee or employer is intimidated to agree or not to agree to any action which affects the relationship between an employer and employee;

(n) enige staking, uitsluiting of stopsetting van werk in stryd met artikel 65;

(o) enige ander arbeidspraktyk of verandering in enige arbeidspraktyk wat die uitwerking het of kan hê dat—

(i) enige werknemer of klas werknemer se werkgeleentheid of werksekerheid daardeur onbillik benadeel of onbillik in gevaar gestel word of kan word;

(ii) die besigheid van enige werkgewer of klas werkgewer daardeur onbillik geraak of ontwrig word of kan word;

(iii) arbeidsonrus daardeur geskep of bevorder word of kan word;

(iv) die verhouding tussen werkgewer en werknemer nadelig geraak word of kan word;

(v) 'n werkgewer enige werknemer ontslaan of andersins onbillik in sy diensvoorwaardes benadeel, alleenlik of hoofsaaklik op grond van enige verpligte diens of opleiding wat die werknemer ingevolge die Verdedigingswet, 1957 (Wet No. 44 van 1957), verrig of ondergaan of moet verrig of ondergaan;";

(f) deur in subartikel (1) die omskrywing van "ooreenkoms" deur die volgende omskrywing te vervang:

"'ooreenkoms' 'n ooreenkoms wat deur partye by 'n nywerheidsraad of versoeningsraad kragtens hierdie Wet aangegaan is of geag word aldus aangegaan te gewees het: Met dien verstande dat by die toepassing van 'n onbillike arbeidspraktyk dit enige ooreenkoms insluit wat ingevolge hierdie Wet afdwingbaar is en wat aangegaan is deur 'n werkgewer en 'n vakvereniging of enige groep werknemers in diens by so 'n werkgewer;";

(g) deur in subartikel (1) die omskrywing van "plaaslike owerheid" deur die volgende omskrywing te vervang:

"'plaaslike owerheid' 'n instelling of liggaam beoog in artikel 84 (1) *(f)* van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961), en ook—

(a) 'n bestuursraad of raad soos bedoel in artikel 1 van die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet No. 9 van 1987);

(b) 'n streeksdiensteraad ingestel kragtens artikel 3 van die Wet op Streeksdiensterade, 1985 (Wet No. 109 van 1985);

(c) 'n plaaslike bestuursliggaam ingestel uit hoofde van die bepalings van artikel 30 (2) *(a)* van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927); of

(d) 'n plaaslike owerheid soos omskryf in die Wet op Swart Plaaslike Owerhede, 1982 (Wet No. 102 van 1982);"; en

(h) deur in subartikel (1) na die omskrywing van "registrateur" die volgende omskrywing in te voeg:

"'regspraktisyn' 'n persoon wat kwalifiseer om toegelaat te word of wat toegelaat is of was om as 'n advokaat ingevolge die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), of as 'n prokureur ingevolge die Wet op Prokureurs, 1979 (Wet No. 53 van 1979), te praktiseer;".

Wysiging van artikel 2 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 57 van 1981 en artikel 2 van Wet 81 van 1984

2. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Hierdie Wet is nie van toepassing op persone ten opsigte van hul diens in boerderybedrywighede of in huishoudelike diens in private huishoudings nie, nòg op amptenare van die Parlement ten opsigte van hul diens as sodanig, nòg, behoudens die bepalings van subartikels (3) en (9), op persone in diens van die Staat ten opsigte van hul diens as sodanig, nòg op enige werknemer van 'n plaaslike owerheid wat deur daardie owerheid as administratiewe hoofamptenaar van die plaaslike owerheid ingevolge een of ander wetsbepaling aangewys is, vir sover dit die **[bedinging en]** vasstelling van **[sy]** beloning **[ten opsigte van sy diens as sodanig]** en ander diensvoordele waarvoor voorsiening in die Wet op die Besoldiging van Stadsklerke, 1984 (Wet No. 115 van 1984),

(h) the incitement to, support of, participation in or furtherance of any boycott of any product or service by any trade union, federation, office-bearer or official of such trade union or federation;

(i) the unfair discrimination by any employer against any employee solely on the grounds of race, sex or creed: Provided that any action in compliance with any law or wage regulating measure shall not be regarded as an unfair labour practice;

(j) subject to the provisions of this Act, the direct or indirect interference with the right of employees to associate or not to associate, by any other employee, any trade union, employer, employers' organization, federation or members, office-bearers or officials of that trade union, employer, employers' organization or federation, including, but not limited to, the prevention of an employer by a trade union, a trade union federation, office-bearers or members of those bodies to liaise or negotiate with employees employed by that employer who are not represented by such trade union or federation;

(k) the failure or refusal by an employer, employee, trade union or employers' organization, to comply with an agreement;

(l) any strike, lock-out or stoppage of work, if the employer is not directly involved in the dispute which gives rise to the strike, lock-out or stoppage of work;

(m) any strike, lock-out or stoppage of work in respect of a dispute between an employer and employee which dispute is the same or virtually the same as a dispute between such employer and employee which gave rise to a strike, lock-out or stoppage of work during the previous 12 months;

(n) any strike, lock-out or stoppage of work in contravention of section 65;

(o) any other labour practice or change in any labour practice which has or may have the effect that—

(i) any employee's or class of employee employment opportunity or work security is or may be unfairly prejudiced or unfairly jeopardized thereby;

(ii) the business of any employer or class of employer is or may unfairly be affected or disrupted thereby;

(iii) labour unrest is or may be created or promoted thereby;

(iv) the relationship between employer and employee is or may be detrimentally affected;

(v) any employee is dismissed or otherwise unfairly prejudiced in his conditions of service by an employer solely or principally on the grounds of any compulsory service or training performed or undergone or to be performed or undergone by such employee in terms of the Defence Act, 1957 (Act No. 44 of 1957);".

Amendment of section 2 of Act 28 of 1956, as amended by section 2 of Act 57 of 1981 and section 2 of Act 81 of 1984

2. Section 2 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) This Act shall not apply to persons in respect of their employment in farming operations or in domestic service in private households, nor to officers of Parliament in respect of their employment as such, nor, subject to the provisions of subsections (3) and (9), to persons employed by the State in respect of their employment as such, nor to any employee of any local authority designated by such authority in terms of any law as chief administrative officer of the local authority, in so far as it concerns the **[negotiation and]** determination of **[his]** remuneration **[in respect of his employment as such]** and other service benefits provided for in the Remuneration of Town Clerks Act, 1984 (Act No. 115 of 1984), nor to the performance of work in a charitable institution for which

gemaak is, betref, nòg op die verrigting van werk in 'n liefdadigheidsinrigting waarvoor die persone wat dit verrig geen beloning ontvang nie, nòg op **[werk wat]** persone wat ander persone onderrig, opvoed of oplei aan **[of in verband met]** enige universiteit, technikon, kollege, skool of ander opvoedkundige inrigting wat geheel en al of gedeeltelik uit staatsfondse onderhou word **[verrig word as deel van die opvoeding of opleiding van die persone wat dit verrig, nòg op universiteitstudente ten opsigte van hul diens in enige onderneming, nywerheid, bedryf of beroep as deel van hul universiteitsopleiding as daardie diens vereis word vir die voltooiing van hulle leergange]**.".

Wysiging van artikel 2A van Wet 28 van 1956, soos ingevoeg deur artikel 2 van Wet 94 van 1979 en gewysig deur artikel 2 van Wet 95 van 1980

3. Artikel 2A van die Hoofwet word hierby gewysig deur subartikel (2) te skrap.

Wysiging van artikel 4 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 18 van 1961, artikel 3 van Wet 94 van 1979 en artikel 5 van Wet 57 van 1981

4. Artikel 4 van die Hoofwet word hierby gewysig deur paragraaf *(c)* van subartikel (4) deur die volgende paragraaf te vervang:

"*(c)* moet die registrateur slegs die lede van die vereniging wat beswaar maak in aanmerking neem wat toelaatbaar is vir lidmaatskap van die vereniging wat aansoek doen, en word sodanige lede geag 'n afsonderlike belang te verteenwoordig.".

Wysiging van artikel 17 van Wet 28 van 1956, soos vervang deur artikel 8 van Wet 94 van 1979 en gewysig deur artikel 5 van Wet 95 van 1980, artikel 18 van Wet 57 van 1981, artikel 5 van Wet 51 van 1982, artikel 2 van Wet 2 van 1983 en artikel 1 van Wet 81 van 1984

5. Artikel 17 van die Hoofwet word hierby gewysig—

(a) deur paragraaf *(b)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(b)* Die president, adjunk-president en ander lede van die nywerheidshof word deur die Minister aangestel op grond van hul kennis van die reg en moet persone wees wat na sy oordeel bevoeg is om die werksaamhede te verrig wat ingevolge hierdie Wet aan sodanige president, adjunk-president of lede opgedra word.";

(b) deur paragraaf *(bA)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(bA)* Die Minister of, indien daartoe deur die Minister gemagtig, die president van die nywerheidshof kan, indien hy dit dienstig ag, **[van tyd tot tyd 'n geskikte persoon]** iemand wat kennis het van die reg en na die oordeel van die Minister of genoemde president bevoeg is **[vir 'n bepaalde doel betrokke by die verrigting van]** om die werksaamhede van 'n lid van die nywerheidshof te verrig, as bykomende lid van die nywerheidshof aanstel, op die voorwaardes wat die Minister met die instemming van die Minister van Finansies bepaal, en vir die tydperk wat die Minister of genoemde president bepaal.";

(c) deur paragraaf *(e)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(e)* (i) 'n Lid of bykomende lid van die nywerheidshof verrig nie enige werksaamheid van die nywerheidshof **[in subartikel (11) *(a)* bedoel]** nie tensy hy 'n eed of plegtige verklaring, wat deur hom onderteken moet word, afgelê het, in onderstaande vorm, te wete—

'Ek .....verklaar
(volle naam)

hierby onder eed/plegtig en opreg dat ek in my hoedanigheid van lid of bykomende lid van die nywerheidshof **[wat werksaamhede bedoel in artikel 17 (11) *(a)* van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), verrig]** aan alle persone op gelyke voet reg sal laat geskied sonder vrees, begunstiging of voor-

the persons performing it receive no remuneration, nor to **[work performed in]** persons who teach, educate or train other persons at **[or in connection with]** any university, technikon, college, school or other educational institution maintained wholly or partly from public funds **[as part of the education or training of the persons performing it, nor to university students in respect of their employment in any undertaking, industry, trade or occupation as part of their university training if such employment is required for the completion of their curricula]**.".

Amendment of section 2A of Act 28 of 1956, as inserted by section 2 of Act 94 of 1979 and amended by section 2 of Act 95 of 1980

3. Section 2A of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 4 of Act 28 of 1956, as amended by section 1 of Act 18 of 1961, section 3 of Act 94 of 1979 and section 5 of Act 57 of 1981

4. Section 4 of the principal Act is hereby amended by the substitution for paragraph *(c)* of subsection (4) of the following paragraph:

"*(c)* shall have regard only to the members of the objecting union who are eligible for membership of the applicant union, and such members shall be deemed to constitute a separate interest.".

Amendment of section 17 of Act 28 of 1956, as substituted by section 8 of Act 94 of 1979 and amended by section 5 of Act 95 of 1980, section 18 of Act 57 of 1981, section 5 of Act 51 of 1982, section 2 of Act 2 of 1983 and section 1 of Act 81 of 1984

5. Section 17 of the principal Act is hereby amended—

(a) by the substitution for paragraph *(b)* of subsection (1) of the following paragraph:

"*(b)* The president, deputy president and other members of the industrial court shall be appointed by the Minister by reason of their knowledge of the law and shall be persons who in his opinion are competent to perform the functions assigned in terms of this Act to such president, deputy president or members.";

(b) by the substitution for paragraph *(b*A*)* of subsection (1) of the following paragraph:

"*(b*A*)* The Minister or, if authorized thereto by the Minister, the president of the industrial court may, if he deems fit, **[from time to time]** appoint, on such conditions as the Minister may with the concurrence of the Minister of Finance determine and for such period as the Minister or said president may determine, any **[fit]** person who has knowledge of the law and in the opinion of the Minister or said president is competent to perform the functions of a member of the industrial court, as an additional member of the industrial court **[for a particular purpose connected with the performance of the functions of the industrial court]**.";

(c) by the substitution for paragraph *(e)* of subsection (1) of the following paragraph:

"*(e)* (i) A member or additional member of the industrial court shall not perform any function of the industrial court **[referred to in subsection (11) *(a)*]** unless he has taken an oath or made an affirmation, which shall be subscribed by him, in the form set out below, namely—

'I .....do hereby swear/
(full name)

solemnly and sincerely affirm and declare that I will in my capacity as member or additional member of the industrial court **[performing functions referred to in section 17 (11) *(a)* of the Labour Relations Act, 1956 (Act No. 28 of 1956)]** administer justice to all persons alike without fear, favour or prejudice, and,

oordeel, en, soos die omstandighede van 'n bepaalde geval vereis, ooreenkomstig die reg en gebruike van die Republiek van Suid-Afrika.'.";

(d) deur subartikel (10) deur die volgende subartikel te vervang:

"(10) Die werksaamhede van die nywerheidshof kan verrig word **[deur die nywerheidshof of]** deur enige lid of lede of bykomende lid of lede van die nywerheidshof na wie 'n aangeleentheid deur die president verwys word.";

(e) deur paragraaf *(a)* van subartikel (11) deur die volgende paragraaf te vervang:

"*(a)* om **[alle werksaamhede, uitgesonderd die beregting van beweerde misdrywe, te verrig wat 'n geregshof in 'n geskil of aangeleentheid wat voortspruit uit die toepassing van die bepalings van die wette wat deur die Departement van Mannekragbenutting uitgevoer word, verrig]** dringende tussentydse regshulp te verleen totdat 'n bevel deur die nywerheidshof ingevolge artikel 43 (4) gemaak word;";

(f) deur na paragraaf *(bB)* van subartikel (11) die volgende paragraaf in te voeg:

"*(bC)* om appèlle ingevolge artikel 26 (2) van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), te beslis;";

(g) deur paragraaf *(f)* van subartikel (11) deur die volgende paragraaf te vervang:

"*(f)* om vasstellings ingevolge artikel 46 (9) te maak;";

(h) deur na subartikel (11) die volgende subartikel in te voeg:

"(12) *(a)* Die nywerheidshof kan by die verrigting van enige van sy werksaamhede kragtens paragraaf *(a)* of *(f)* van subartikel (11) 'n bevel insake koste maak na die vereistes van die reg en billikheid.

(b) Enige bevel insake koste ingevolge paragraaf *(a)* kan ook teen 'n vakvereniging, werkgewersorganisasie, ampsdraer of beampte wat namens enige persoon optree of hom op enige wyse bystaan, gemaak word.";

(i) deur na subartikel (14) die volgende subartikel in te voeg:

"(15) Enige beslissing, toekenning, bevel of vasstelling van die nywerheidshof kan ten uitvoer gelê word asof dit 'n beslissing, toekenning, bevel of vasstelling van die Hooggeregshof is.";

(j) deur paragraaf *(a)* van subartikel (19) deur die volgende paragraaf te vervang:

"*(a)* **[(i)]** Behoudens die bepalings van artikel 45 (5) en daardie artikel soos toegepas deur artikel 46 (5), kan die president van die nywerheidshof, of 'n lid of 'n bykomende lid daarvan deur die president aangewys om 'n werksaamheid van die nywerheidshof te verrig, of wanneer meer as een lid aldus aangewys is, die lid deur die president aangewys om as voorsitter op te tree, as hy dit dienstig ag om dit te doen **[en na raadpleging met die partye wat na sy mening hoofsaaklik by enige aangeleentheid wat deur die nywerheidshof oorweeg word, betrokke is]**, die getal assessore **[om die belange van onderskeidelik werkgewers en werknemers te verteenwoordig]** wat hy wenslik ag en wat na sy oordeel ondervinding van die regspleging het of bedrewe is in 'n aangeleentheid wat by die verrigtinge oorweeg mag word, aanstel om die nywerheidshof in 'n raadgewende hoedanigheid behulpsaam te wees ten opsigte van die aangeleentheid waarvoor hulle aangestel word.

[(ii) 'n Assessor wat ingevolge hierdie subartikel aangestel word, moet òf 'n werkgewer òf 'n werknemer wees wat by die aangeleentheid betrokke is, en by die toepassing van hierdie subparagraaf—

***(aa)* word 'n lid, ampsdraer of werknemer van 'n geregistreerde vakvereniging wat by bedoelde aangeleentheid betrokke is, indien aangestel om die belange van werknemers te verteenwoordig, geag 'n werknemer te wees;**

***(bb)* word 'n lid, ampsdraer of werknemer van 'n geregistreerde werkgewersorganisasie wat by bedoelde aangeleentheid betrokke is, of enige direkteur van 'n maatskappy wat aldus betrokke is, of enige persoon wat as bestuurder of in enige**

as the circumstances of any particular case may require, in accordance with the law and customs of the Republic of South Africa.'.";

(d) by the substitution for subsection (10) of the following subsection:

"(10) The functions of the industrial court may be performed **[by the industrial court or]** by any member or members or additional member or members of the industrial court to whom any matter is referred by the president.";

(e) by the substitution for paragraph *(a)* of subsection (11) of the following paragraph:

"*(a)* to **[perform all the functions, excluding the adjudication of alleged offences, which a court of law may perform in regard to a dispute or matter arising out of the application of the provisions of the laws administered by the Department of Manpower Utilization]** grant urgent interim relief until an order is made by the industrial court in terms of section 43 (4);";

(f) by the insertion after paragraph *(b*B*)* of subsection (11) of the following paragraph:

"*(b*C*)* to decide appeals in terms of section 26 (2) of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983);";

(g) by the substitution for paragraph *(f)* of subsection (11) of the following paragraph:

"*(f)* to make determinations in terms of section 46 (9);";

(h) by the insertion after subsection (11) of the following subsection:

"(12) *(a)* The industrial court may in the performance of any of its functions under paragraph *(a)* or *(f)* of subsection (11), make an order as to costs according to the requirements of the law and fairness.

(b) Any order as to costs in terms of paragraph *(a)* may also be made against a trade union, employers' organization, office-bearer or official acting on behalf of or in any manner assisting any person.";

(i) by the insertion after subsection (14) of the following subsection:

"(15) Any decision, award, order or determination of the industrial court may be executed as if it is a decision, an award, order or a determination made by the Supreme Court.";

(j) by the substitution for paragraph *(a)* of subsection (19) of the following paragraph:

"*(a)* **[(i)]** Subject to the provisions of section 45 (5) and that section as applied by section 46 (5), the president of the industrial court, or any member or additional member thereof designated by the president to perform any function of the industrial court, or whenever more than one member has been so designated, the member designated by the president to act as chairman, may, if he deems it expedient to do so, **[and after consultation with the parties who in his opinion are principally concerned in any matter which is being considered by the industrial court,]** appoint such number of assessors **[to represent the interest of employers and employees, respectively]** as he considers desirable and who in his opinion have experience in the administration of justice or skill in any matter which may be considered during the proceedings, to assist the industrial court in an advisory capacity in respect of the matter for which they are appointed.

[(ii) Any assessor appointed in terms of this subsection shall be either an employer or an employee concerned in the matter, and for the purposes of this subparagraph—

***(aa)* any member, office-bearer or employee of a registered trade union which is concerned in the said matter shall, if appointed to represent the interests of employees, be deemed to be an employee;**

***(bb)* any member, office-bearer or employee of a registered employers' organization which is concerned in the said matter, or any director of a company which is so concerned, or any person employed as a manager or in any other supervisory**

ander toesighoudende hoedanigheid in diens is by 'n werkgewer wat aldus betrokke is, indien aangestel om die belange van werkgewers te verteenwoordig, geag 'n werkgewer te wees; en

(cc) **word 'n lid van 'n plaaslike owerheid wat by bedoelde aangeleentheid betrokke is, indien aangestel om die belange van werkgewers te verteenwoordig, geag 'n werkgewer te wees]**";

(k) deur subartikel (20A) deur die volgende subartikel te vervang:

"(20A) *(a)* Niemand mag—

(i) 'n lid van die nywerheidshof in daardie hoedanigheid beledig, beskimp of verkleineer nie, of die verrigtinge of bevindings van die nywerheidshof benadeel, beïnvloed of vooruitloop nie;

(ii) opsetlik die verrigtinge van die nywerheidshof onderbreek of hom op enige ander wyse gedurende sodanige verrigtinge wangedra nie;

(iii) met betrekking tot die nywerheidshof iets doen wat, as dit met betrekking tot 'n geregshof gedoen is, minagting van die hof sou uitmaak nie.

(b) Iemand wat 'n bepaling van hierdie subartikel oortree, is aan 'n misdryf skuldig.";

(l) deur subartikel (21) deur die volgende subartikel te vervang:

"(21) *(a)* Die nywerheidshof kan uit eie beweging of op versoek van enige party by enige appèl of ander verrigtinge voor die nywerheidshof enige regsvraag wat by enige sodanige appèl of verrigtinge ontstaan vir die beslissing van **[die Appèlafdeling van die Hooggeregshof van Suid-Afrika]** 'n afdeling van die arbeidsappèlhof wat regsbevoeg is, voorbehou, en moet sodanige vraag uiteensit in die vorm van 'n **[spesiale]** gestelde saak **[stel]** soos beoog in reël 33 van die Hofreëls uitgevaardig kragtens artikel 43 (2) van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959): Met dien verstande dat so 'n regsvraag nie gestel word nie tensy die beslegting daarvan na die oordeel van die nywerheidshof van wesentlike belang is vir die behoorlike beregting of afhandeling van die geskil.

(b) Die vraag aldus gestel, kan voor **[die Appèlafdeling]** daardie afdeling van die arbeidsappèlhof beredeneer word, en dié **[Afdeling]** afdeling gee 'n beslissing, en reik 'n bevel uit wat koste betref, **[wat hy regverdig ag]** na die vereistes van die reg en billikheid.

(c) Indien so 'n **[spesiale]** saak op versoek van 'n **[ander]** party **[as die registrateur]** in paragraaf *(a)* beoog, gestel word, moet hy vir enige koste wat hy beveel mag word om te betaal, by die griffier van die **[Appèlafdeling]** betrokke afdeling van die arbeidsappèlhof dié sekerheid stel wat bedoelde griffier bepaal.

(d) In afwagting van die beslissing van **[die Appèlafdeling]** daardie afdeling van die arbeidsappèlhof oor enige regsvraag ingevolge paragraaf *(a)* voorbehou, **[moet]** kan die nywerheidshof **[sy beslissing van die aangeleentheid in verband waarmee die spesiale saak gestel is, uitstel]** die tussentydse bevel maak wat hy billik ag."; en

(m) deur subartikel (21A) deur die volgende subartikel te vervang:

"(21A) *(a)* Enige party by enige verrigtinge voor die nywerheidshof ten opsigte van 'n geskil **[of aangeleentheid in subartikel (11) *(a)* bedoel]** wat na die nywerheidshof ingevolge artikel 46 (9) verwys is, kan binne die tydperk en op die wyse wat by reël kragtens subartikel (22) uitgevaardig, voorgeskryf word, teen die beslissing van die nywerheidshof in daardie geskil **[of aangeleentheid]** of enige bevel ten opsigte van koste appelleer na die **[provinsiale]** afdeling van die **[Hooggeregshof van Suid-Afrika]** arbeidsappèlhof in die regsgebied waarvan die nywerheidshof sy werksaamhede met betrekking tot genoemde geskil of **[aangeleentheid]** bevel verrig het of, waar daardie werksaamhede aldus verrig is in die regsgebied van meer as een sodanige afdeling, na sodanige afdeling in die regsgebied waarvan die nywerheidshof vir die eerste keer daardie werksaamhede verrig het of waaromtrent deur die partye by die appèl ooreengekom word.

capacity by an employer who is so concerned, shall, if appointed to represent the interests of employers, be deemed to be an employer; and

(cc) **any member of a local authority which is concerned in the said matter shall, if appointed to represent the interests of employers, be deemed to be an employer]**";

(k) by the substitution for subsection (20A) of the following subsection:

"(20A) *(a)* No person shall—

(i) insult, disparage or belittle any member of the industrial court in that capacity, or prejudice, influence or anticipate the proceedings or findings of the industrial court;

(ii) wilfully interrupt the proceedings of the industrial court or misconduct himself in any other manner during such proceedings;

(iii) do anything in relation to the industrial court which if done in relation to a court of law would have constituted contempt of court.

(b) Any person who contravenes any provision of this subsection shall be guilty of an offence.";

(l) by the substitution for subsection (21) of the following subsection:

"(21) *(a)* The industrial court may, of its own motion, or at the request of any party to any appeal or other proceedings before the industrial court reserve for the decision of **[the Appellate Division of the Supreme Court of South Africa]** a division of the labour appeal court having jurisdiction any question of law which arises in any such appeal or proceedings, and shall state such question in the form of a special case, as contemplated in rule 33 of the Rules of Court made under section 43 (2) of the Supreme Court Act, 1959 (Act No. 59 of 1959): Provided that such a question of law shall not be stated unless the settlement thereof is in the opinion of the industrial court of sufficient importance to the proper adjudication or finalization of the dispute.

(b) The question so stated may be argued before **[the Appellate Division]** that division of the labour appeal court, and that **[Division]** division shall give a decision and may make an order as to costs **[as it thinks just]** according to the requirements of the law and fairness.

(c) If any such **[special]** case is stated at the request of any party **[other than the registrar]** contemplated in paragraph *(a)* he shall lodge with the registrar of **[that Appellate Division]** the division of the labour appeal court concerned such security for any costs that he may be ordered to pay as the said registrar may determine.

(d) Pending the decision of that **[Appellate Division]** division of the labour appeal court on any question of law reserved in terms of paragraph *(a)*, the industrial court **[shall defer its decision in the matter in connection with which the special case was stated]** may make such interim order as it deems reasonable."; and

(m) by the substitution for subsection (21A) of the following subsection:

"(21A) *(a)* Any party to any proceedings before the industrial court in respect of any dispute **[or matter]** referred to **[in subsection (11) *(a)*]** the industrial court in terms of section 46 (9) may within such period and in such manner as may be prescribed by rule made under subsection (22), appeal against the decision of the industrial court in regard to that dispute **[or matter]** or any order as to costs, to the **[provincial]** division of the **[Supreme Court of South Africa]** labour appeal court within the area of jurisdiction of which the industrial court performed its functions with reference to the said dispute or **[matter]** order or, where those functions were so performed in the area of jurisdiction of more than one such division, to such division within the area of jurisdiction of which the industrial court first performed those functions, or as may be agreed upon by the parties to the appeal.

(b) Hangende 'n appèl ingevolge paragraaf *(a)* kan die nywerheidshof op aansoek die tussentydse bevel maak wat hy billik ag.

[*b***]** *(c)* By appèl kan sodanige afdeling die bevel **[in die saak gee wat hy goedvind]** of beslissing waarteen geappelleer word, bekragtig, wysig of tersyde stel of 'n ander beslissing of bevel gee, met inbegrip van 'n bevel ten aansien van koste, na die vereistes van die reg en billikheid.

(d) By die oorweging van 'n appèl word sodanige afdeling vir die doeleindes van die verdaging van die verrigtinge, die verskyning van die partye by so 'n appèl, die toeganklikheid van die hof en enige ander aangeleentheid wat nie uitdruklik by of kragtens die bepalings van hierdie Wet gereël word nie, geag 'n afdeling van die Hooggeregshof van Suid-Afrika soos bedoel in die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), te wees.".

Invoeging van artikels 17A, 17B en 17C in Wet 28 van 1956

6. Die volgende artikels word hierby in die Hoofwet na artikel 17 ingevoeg:

"Instelling van arbeidsappèlhof

17A. (1) Hierby word 'n arbeidsappèlhof ingestel wat bestaan uit die onderskeie afdelings met die regsgebied in die Bylae vermeld.

(2) Die Minister van Justisie kan, na oorleg met die Minister, by kennisgewing in die *Staatskoerant*—

(a) een of meer setels vir elke afdeling van die arbeidsappèlhof bepaal; en

(b) een of meer plekke in die betrokke afdeling vir die hou van sittings van so 'n hof aanwys.

(3) *(a)* Elke arbeidsappèlhof wat sitting het, bestaan uit 'n regter van die Hooggeregshof van Suid-Afrika, wat die voorsitter van die hof is, en twee assessore wat deur gemelde voorsitter aangestel word.

(b) 'n Assessor in paragraaf *(a)* bedoel, moet iemand wees wat na die oordeel van die voorsitter van die hof, ondervinding van die regspleging het of bedrewe is in 'n aangeleentheid wat deur die hof oorweeg mag word.

(c) 'n Assessor moet voordat hy sy ampswerksaamhede begin uitvoer, 'n skriftelike eed of 'n plegtige verklaring aflê en onderteken dat hy, op die getuienis wat voor hom geplaas word, 'n ware beslissing sal gee oor die aangeleenthede wat bereg moet word.

(d) So 'n eed of plegtige verklaring moet afgelê word voor die voorsitter van die betrokke hof, wat daaronder 'n verklaring moet endosseer dat dit voor hom afgelê is en die datum van aflegging moet vermeld, en laasgenoemde verklaring moet onderteken.

(e) (i) Behoudens die bepalings van subparagraaf (ii) is die beslissing of bevinding van die meerderheid van die lede van die hof die beslissing of bevinding van die hof.

(ii) Slegs die voorsitter van die hof beslis oor 'n regsvraag of oor 'n vraag of 'n aangeleentheid 'n regsvraag uitmaak al dan nie, en vir dié doel sit hy alleen.

(f) Indien 'n assessor nie in die heeltydse diens van die Staat is nie, is hy geregtig op die vergoeding wat die Minister van Justisie, met die instemming van die Minister van Finansies, bepaal ten opsigte van uitgawes wat hy in verband met sy bywoning van hofsittings aangaan, en ten opsigte van sy dienste as assessor.

(4) Die Regter-president van die Provinsiale Afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid het in die afdeling waarvoor 'n arbeidsappèlhof ingestel is, moet 'n regter van daardie afdeling van die Hooggeregshof as voorsitter van daardie arbeidsappèlhof aanwys, vir die tydperk of vir die verhoor van die sake wat bedoelde Regter-president bepaal.

(5) *(a)* Wanneer dit vir enige rede raadsaam is dat 'n persoon aangestel moet word om as regter van die arbeidsappèlhof op te tree, bykomstig tot 'n regter of regters aangestel ingevolge subartikel (4), kan die Minister van Justisie, op versoek van die Minister en na oorleg met die Regter-president van die Provinsiale Afdeling van die Hooggeregshof van Suid-Afrika, wat regsbevoegdheid het in die

(b) Pending an appeal in terms of paragraph (a) the industrial court may on application make such interim order as it deems reasonable.

[(b)] (c) On appeal such division may **[make such order in the matter as it may deem fit]** confirm, vary or set aside the order or decision appealed against or make any other order or decision, including an order as to costs according to the requirements of the law and fairness.

(d) In considering an appeal such division shall for the purposes of the adjournment of the proceedings, the appearance of the parties at such an appeal, the accessibility of the court and any other matter not specifically governed by or under the provisions of this Act, be deemed to be a division of the Supreme Court of South Africa as contemplated in the Supreme Court Act, 1959 (Act No. 59 of 1959).".

Insertion of sections 17A, 17B and 17C in Act 28 of 1956

6. The following sections are hereby inserted in the principal Act after section 17:

"Establishment of labour appeal court

17A. (1) There is hereby established a labour appeal court which shall consist of the separate divisions with the area of jurisdiction mentioned in the Schedule.

(2) The Minister of Justice may, after consultation with the Minister, by notice in the *Gazette*—

(a) determine one or more seats for each division of the labour appeal court; and

(b) designate one or more places in the division in question for the sessions of such court.

(3) (a) Every labour appeal court in session shall consist of a judge of the Supreme Court of South Africa, who is the chairman of the court, and two assessors appointed by the said chairman.

(b) An assessor referred to in paragraph (a) shall be a person who, in the opinion of the chairman of the court, has experience of the administration of justice or skill in any matter which may be considered by the court.

(c) An assessor shall, before commencing the functions of his office, take an oath or make an affirmation in writing, which shall be subscribed by him, that he will, on the basis of the evidence put before him, give a true decision in respect of the matters which have to be decided.

(d) Such oath or affirmation shall be taken or made before the chairman of the court in question, who shall at the foot thereof endorse a statement of the fact that it was taken or made before him and of the date on which it was so taken or made and append his signature thereto.

(e) (i) Subject to the provisions of subparagraph (ii) the decision or finding of the majority of the members of the court shall be the decision or finding of the court.

(ii) Only the chairman of the court shall decide on a question of law or whether or not a matter is a question of law, and for such purpose he shall sit alone.

(f) If an assessor is not in the full-time employment of the State, he shall be entitled to such compensation as the Minister of Justice may determine with the concurrence of the Minister of Finance, in respect of expenses incurred by him in connection with his attendance at sessions of the court and in respect of his services as an assessor.

(4) The Judge President of the Provincial Division of the Supreme Court of South Africa having jurisdiction in the division for which a labour appeal court is established, shall appoint a judge of such division of the Supreme Court as chairman of such labour appeal court for the period or for the hearing of such cases as the Judge President concerned may determine.

(5) (a) Whenever it is for any reason expedient that a person be appointed to act as a judge of the labour appeal court in addition to the judge or judges appointed in terms of subsection (4), the Minister of Justice may on request of the Minister, and after consultation with the Judge President of the Provincial Division of the Supreme Court of South Africa having jurisdiction in the

afdeling ten opsigte waarvan 'n arbeidsappèlhof ingestel is, een of meer regters van daardie of enige ander afdeling van die Hooggeregshof aanstel om as voorsitter van 'n arbeidsappèlhof vir 'n tydperk deur die Minister bepaal, op te tree.

(b) Die Minister van Justisie kan, na oorleg met die betrokke Regterpresident, een of meer plekke in die betrokke afdeling vir die sittings van 'n hof, waarvoor 'n regter in paragraaf *(a)* bedoel aangestel is, aanwys.

(6) Die griffier van die nywerheidshof ingevolge artikel 17 (1) *(d)* aangestel, word vir alle doeleindes geag die griffier van die arbeidsappèlhof te wees.

(7) Die Minister van Justisie kan, na oorleg met die Minister wat met die Reëlsraad kragtens artikel 17 (22) ingestel, oorleg moet pleeg, reëls met betrekking tot die voer van die verrigtinge in die arbeidsappèlhof maak.

(8) 'n Party by enige verrigtinge voor die arbeidsappèlhof kan persoonlik verskyn of deur 'n regspraktisyn wat toegelaat is om as 'n advokaat ingevolge die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), of as 'n prokureur ingevolge die Wet op Prokureurs, 1979 (Wet No. 53 van 1979), te praktiseer, verteenwoordig word.

Bevoegdhede en werksaamhede van arbeidsappèlhof

17B. (1) 'n Arbeidsappèlhof is bevoeg—

(a) om enige regsvraag wat ingevolge artikel 17 (21) *(a)* voorbehou word, te beslis;

(b) om enige appèl bedoel in artikel 17 (21A) te beslis.

(2) *(a)* Die verrigtinge van 'n nywerheidshof kan *mutatis mutandis* op die gronde genoem in artikel 24 (1) van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), voor 'n arbeidsappèlhof in hersiening gebring word.

(b) By die toepassing van paragraaf *(a)* is reël 53 van die Hofreëls uitgevaardig kragtens artikel 43 (2) van die Wet op die Hooggeregshof, 1959, ten opsigte van die prosedure vir hersienings in die Hooggeregshof, *mutatis mutandis* van toepassing.

Appèl teen beslissing van arbeidsappèlhof

17C. (1) *(a)* Enige party by enige verrigtinge voor 'n arbeidsappèlhof kan teen 'n beslissing of bevel van daardie hof (behalwe 'n beslissing aangaande 'n feitevraag) appelleer na die Appèlafdeling van die Hooggeregshof van Suid-Afrika, mits die arbeidsappèlhof verlof tot sodanige appèl verleen of, waar sodanige verlof geweier is, die Appèlafdeling verlof daartoe verleen.

(b) 'n Aansoek om verlof tot appèl na die Appèlafdeling ingevolge paragraaf *(a)* moet voorgelê word by petisie aan die Hoofregter gerig en die bepalings van artikel 21 (3) *(b)*, *(c)* en *(d)* van die Wet op die Hooggeregshof, 1959, is *mutatis mutandis* ten opsigte van die aansoek van toepassing.

(2) Nadat 'n appèl aangehoor is, kan die Appèlafdeling die beslissing of bevel waarteen geappelleer is, bekragtig, wysig of tersyde stel of enige ander beslissing of bevel gee, asook 'n bevel ten aansien van koste, na die vereistes van die reg en billikheid.

(3) 'n Appèl in subartikel (1) bedoel, word aangeteken en voortgesit asof dit 'n appèl in 'n siviele geding na daardie afdeling is, behalwe dat die appèl aangeteken moet word binne 21 dae na die datum waarop verlof tot appèl verleen is.".

Wysiging van artikel 27 van Wet 28 van 1956, soos gewysig deur artikel 11 van Wet 94 van 1979 en artikel 22 van Wet 57 van 1981

7. Artikel 27 van die Hoofwet word hierby gewysig deur subartikel (7) deur die volgende subartikel te vervang:

"(7) 'n Besluit ten gunste waarvan minstens twee-derdes van die verteenwoordigers wat aanwesig is op die vergadering waarop die besluit geneem word en wat ingevolge hierdie artikel geregtig is om te stem, gestem het, is die besluit van die raad: Met dien verstande dat in die geval van 'n geskil betreffende 'n

division for which a labour appeal court has been established, appoint one or more judges of that or of any other division of the Supreme Court to act as chairman of a labour appeal court, for the period determined by the said Minister.

(b) The Minister of Justice may, after consultation with the Judge President concerned, designate one or more places in the division in question for the sessions of a court for which the judge referred to in paragraph *(a)* has been appointed.

(6) The registrar of the industrial court appointed in terms of section 17 (1) *(d)* shall for all purposes be deemed to be the registrar of the labour appeal court.

(7) The Minister of Justice may, after consultation with the Minister who shall consult the Rules Board referred to in section 17 (22), make rules regulating the conduct of the proceedings of the labour appeal court.

(8) A party to any proceedings before the labour appeal court may appear in person or be represented by a legal practitioner admitted to practise as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979).

Powers and functions of labour appeal court

17B. (1) A labour appeal court shall have the power—

(a) to decide any question of law reserved in terms of section 17 (21) *(a)*;

(b) to decide any appeal referred to in section 17 (21A).

(2) *(a)* The proceedings of the industrial court may be brought under review before a labour appeal court on the grounds *mutatis mutandis* referred to in section 24 (1) of the Supreme Court Act, 1959 (Act No. 59 of 1959).

(b) For the purposes of paragraph *(a)*, rule 53 of the Rules of Court made under section 43 (2) of the Supreme Court Act, 1959, in respect of the review procedure in the Supreme Court, shall *mutatis mutandis* apply.

Appeal against decision of labour appeal court

17C. (1) *(a)* Any party to any proceedings before a labour appeal court may appeal to the Appellate Division of the Supreme Court of South Africa against a decision or order of the labour appeal court (except a decision on a question of fact), providing that the labour appeal court grants leave for such an appeal or, where such leave has been refused, the Appellate Division grants leave thereto.

(b) An application for leave to appeal to the Appellate Division in terms of paragraph *(a)* shall be submitted by petition to the Chief Justice and the provisions of section 21 (3) *(b)*, *(c)* and *(d)* of the Supreme Court Act, 1959, shall *mutatis mutandis* apply in respect of the application.

(2) After hearing an appeal, the Appellate Division may confirm, amend or set aside the decision or order against which the appeal has been noted or make any other decision or order, including an order as to costs, according to the requirements of the law and fairness.

(3) An appeal referred to in subsection (1) shall be noted and prosecuted as if it is an appeal in a civil action to that division, except that the appeal must be noted within 21 days after the date on which leave to appeal has been granted.".

Amendment of section 27 of Act 28 of 1956, as amended by section 11 of Act 94 of 1979 and section 22 of Act 57 of 1981

7. Section 27 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

"(7) A decision in favour of which not less than two-thirds of the representatives present at the meeting at which the decision is taken, and who are entitled to vote in terms of this section, have voted, shall be the decision of the council: Provided that in the case of a dispute concerning an alleged unfair

beweerde onbillike arbeidspraktyk wat **[ingevolge artikel 43]** na die raad verwys is, 'n besluit **[ten gunste waarvan al die verteenwoordigers van al die partye by die raad gestem het of hul skriftelike instemming verstrek het, die besluit van die raad is]** van die raad slegs op die partye by die geskil bindend sal wees indien daardie partye skriftelik tot die besluit ingestem het.".

Invoeging van artikel 27A in Wet 28 van 1956

8. Die volgende artikel word hierby in die Hoofwet na artikel 27 ingevoeg:

"Beslegting van geskille deur nywerheidsraad

27A. (1) *(a)* Tensy 'n ooreenkoms wat deur die partye by 'n nywerheidsraad aangegaan is anders bepaal, kan 'n geskil wat bestaan in 'n onderneming, nywerheid, bedryf of beroep in 'n gebied waar 'n nywerheidsraad regsbevoegdheid ten opsigte van die geskilpunt het, indien die partye by die geskil—

(i) een of meer vakverenigings;

(ii) een of meer werknemers; of

(iii) een of meer vakverenigings en een of meer werknemers,

aan die een kant, en

(iv) een of meer werkgewersorganisasies;

(v) een of meer werkgewers; of

(vi) een of meer werkgewersorganisasies en een of meer werkgewers,

aan die ander kant (hieronder die partye by die geskil genoem) is, deur so 'n party verwys word na daardie nywerheidsraad, en sodanige nywerheidsraad moet probeer om die geskil te besleg.

(b) Indien 'n vakvereniging of 'n werkgewersorganisasie 'n geskil na 'n nywerheidsraad verwys, moet die verwysing vergesel wees van 'n sertifikaat onderteken deur die sekretaris en deur die president of die voorsitter van daardie vereniging of organisasie of deur enige twee persone wat deur die konstitusie van daardie vereniging of organisasie daartoe gemagtig is, wat meld dat by die doen van die stappe wat tot die geskil aanleiding gegee het en by die doen van die verwysing, die vereniging of organisasie en die ampsdraers of beamptes wat by die aangeleentheid betrokke is al die ter sake dienende bepalings van die konstitusie van die vereniging of organisasie, na gelang van die geval, nagekom het.

(c) (i) 'n Party wat 'n geskil ingevolge paragraaf *(a)* na 'n nywerheidsraad verwys, moet tegelykertyd bewys tot bevrediging van die nywerheidsraad lewer dat 'n afskrif van die verwysing na die nywerheidsraad aan die ander party of partye by die geskil, per geregistreerde pos gestuur of per hand afgelewer is.

(ii) By die toepassing van hierdie artikel word enige verwysing na 'n vakvereniging en 'n werkgewersorganisasie geag 'n verwysing te wees na—

(aa) 'n geregistreerde vakvereniging of werkgewersorganisasie; of

(bb) 'n vakvereniging of werkgewersorganisasie wat 'n voorgeskrewe sertifikaat, deur die registrateur uitgereik, voorlê wat meld dat daardie vakvereniging of werkgewersorganisasie aan die vereistes van artikels 4A, 8 (5) *(a)* (i) en (ii) en 11 (4) *(a)*, na gelang van die geval, voldoen.

(iii) 'n Vakvereniging of werkgewersorganisasie kan 'n individu of individue bystaan om 'n geskil van sodanige individu of individue na 'n nywerheidsraad te verwys soos beoog in paragraaf *(a)*, en kan sodanige individu of individue bystaan om daardie geskil deur 'n nywerheidsraad te laat besleg.

(d) Geen geskil word na 'n nywerheidsraad verwys nie—

(i) tensy die verwysing gedoen word binne 21 dae vanaf die datum waarop enige party by die geskil elke ander party by die geskil per aangetekende pos of per kennisgewing per hand afgelewer, in kennis gestel het dat 'n dooie punt aangaande die geskil bereik is: Met dien verstande dat geen geskil na 'n nywerheidsraad verwys kan word na verstryking van 90 dae vanaf die

labour practice which has been referred to the council **[in terms of section 43, a decision in favour of which all the representatives of all the parties to the council have voted or have given their concurrence in writing, shall be the decision of the council]** a decision by the council shall only be binding on the parties to the dispute, if such parties have agreed to the decision in writing.".

Insertion of section 27A in Act 28 of 1956

8. The following section is hereby inserted in the principal Act after section 27:

"Settlement of disputes by industrial council

27A. (1) *(a)* Unless an agreement entered into by the parties to an industrial council provides otherwise, a dispute existing in any undertaking, industry, trade or occupation in any area where an industrial council has jurisdiction in respect of the matter in dispute, may, if the parties to the dispute are—

(i) one or more trade unions;

(ii) one or more employees; or

(iii) one or more trade unions and one or more employees,

on the one hand, and

(iv) one or more employers' organizations;

(v) one or more employers; or

(vi) one or more employers' organizations and one or more employers,

on the other hand (hereinafter referred to as the parties to the dispute), be referred by such party to that industrial council, and such industrial council shall endeavour to settle the dispute.

(b) If a trade union or an employers' organization refers a dispute to an industrial council, the reference shall be accompanied by a certificate signed by the secretary and by the president or the chairman of that union or organization or by any two persons authorized thereto by the constitution of that union or organization, stating that in taking the steps which led to the dispute and in making the reference, the union or organization and the office-bearers or officials concerned in the matter have observed all the relevant provisions of the constitution of the union or organization, as the case may be.

(c) (i) A party referring a dispute to an industrial council in terms of paragraph *(a)*, shall at the same time furnish proof to the satisfaction of the industrial council that a copy of the reference to the industrial council has been sent by registered post or delivered by hand to the other party or parties to the dispute.

(ii) For the purposes of this section any reference to a trade union and an employers' organization shall be construed as a reference to—

(aa) a registered trade union or employers' organization; or

(bb) a trade union or employers' organization which submits a prescribed certificate, issued by the registrar, stating that such trade union or employers' organization complies with the requirements of sections 4A, 8 (5) *(a)* (i) and (ii) and 11 (4) *(a)*, as the case may be.

(iii) A trade union or employers' organization may assist any individual or individuals to refer a dispute of such individual or individuals to an industrial council as contemplated in paragraph *(a)*, and may assist such individual or individuals to have that dispute settled by an industrial council.

(d) No dispute shall be referred to an industrial council—

(i) unless the reference is made within 21 days from the date on which any party to the dispute has notified every other party to the dispute by registered post or by notice delivered by hand that a deadlock has been reached concerning the dispute: Provided that no dispute may be referred to an industrial council after the expiration of 90 days from the date on which

datum waarop beweer word dat die geskil vir die eerste keer ontstaan het nie, maar die nywerheidsraad kan sodanige laat verwysing kondoneer;

(ii) indien enige loonreëlende maatreël bestaan wat op die partye by die geskil bindend is en dit 'n bepaling bevat wat met die onderwerp van die geskil handel, welke bepaling vir minder as 12 maande in werking is.

(2) 'n Nywerheidsraad moet probeer om 'n geskil wat na hom verwys is, te besleg binne 30 dae vanaf die datum waarop die geskil na hom verwys is of binne sodanige verdere tydperk of tydperke as wat die nywerheidsraad goeddink.

(3) Die sekretaris van 'n nywerheidsraad moet binne 14 dae vanaf die datum waarop die tydperk in subartikel (2) bedoel, verstryk, aan die Direkteur-generaal 'n verslag voorlê waarin uiteengesit word of die raad daarin geslaag het om die geskil te besleg al dan nie.".

Wysiging van artikel 35 van Wet 28 van 1956, soos gewysig deur artikel 4 van Wet 18 van 1961, artikel 6 van Wet 95 van 1980, artikel 27 van Wet 57 van 1981 en artikel 3 van Wet 2 van 1983

9. Artikel 35 van die Hoofwet word hierby gewysig—

(a) deur subartikels (1), (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

"(1) Wanneer **[beweer word dat]** 'n geskil in enige onderneming, nywerheid, bedryf of beroep in enige gebied bestaan en die partye by die **[beweerde]** geskil is **[behoudens subartikel (14)]**—

(a) een of meer vakverenigings; **[of]**

(b) een of meer werknemers; of

(c) een of meer vakverenigings en een of meer werknemers,

aan die een kant, en

(d) een of meer werkgewersorganisasies; **[of]**

(e) een of meer werkgewers; of

(f) een of meer werkgewersorganisasies en een of meer werkgewers,

aan die ander kant (hieronder die partye by die geskil genoem), kan so 'n party by die **[Minister]** inspekteur by regulasie omskryf, in die vorm en op die wyse voorgeskryf aansoek doen om die instelling van 'n versoenings-raad om die **[beweerde]** geskil te oorweeg en, indien moontlik, te besleg.

(2) *(a)* Wanneer 'n aansoek ingevolge subartikel (1) gedoen word, moet die applikant tegelykertyd bewys tot bevrediging van die **[Minister]** inspekteur by regulasie omskryf, lewer dat 'n afskrif van die aansoek aan die ander party of partye by die geskil per geregistreerde pos gestuur of per hand afgelewer is.

(b) Indien die applikant of een van die applikante 'n vakvereniging of 'n werkgewersorganisasie is, moet die aansoek vergesel wees van 'n sertifikaat onderteken deur die sekretaris en deur die president of die voorsitter en die sekretaris van daardie vereniging of organisasie **[ondertekende sertifikaat]** of deur enige twee persone wat deur die konstitusie van daardie vereniging of organisasie daartoe gemagtig is, wat meld dat by die doen van die stappe wat tot die geskil aanleiding gegee het en by die doen van die aansoek die vereniging of organisasie en die ampsdraers of beamptes wat by die aangeleentheid betrokke is, al die ter sake dienende bepalings van die konstitusie van die vereniging of organisasie, na gelang van die geval, nagekom het.

(c) By die toepassing van hierdie artikel word enige verwysing na 'n vakvereniging en 'n werkgewersorganisasie geag 'n verwysing te wees na—

(i) 'n geregistreerde vakvereniging of werkgewersorganisasie; of

(ii) 'n vakvereniging of werkgewersorganisasie wat 'n voorgeskrewe sertifikaat deur die registrateur uitgereik, voorlê wat meld dat daardie vakvereniging of werkgewersorganisasie aan die bepalings van artikels 4A, 8 (5) *(a)* (i) en (ii) en 11 (4) *(a)*, na gelang van die geval, voldoen.

the dispute was first alleged to have arisen, providing that the industrial council may condone such late reference;

(ii) if any wage regulating measure exists which is binding on the parties to the dispute and it contains a provision dealing with the subject matter of the dispute, which provision has been in operation for less than 12 months.

(2) An industrial council shall endeavour to settle any dispute referred to it, within 30 days from the date on which the dispute was referred to it or within such further period or periods as the industrial council may deem fit.

(3) The secretary of an industrial council shall within 14 days from the date on which the period envisaged in subsection (2) expires, submit to the Director-General a report setting forth whether or not the council has succeeded in settling the dispute.".

Amendment of section 35 of Act 28 of 1956, as amended by section 4 of Act 18 of 1961, section 6 of Act 95 of 1980, section 27 of Act 57 of 1981 and section 3 of Act 2 of 1983

9. Section 35 of the principal Act is hereby amended—

(a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

"(1) Whenever a dispute **[is alleged to exist]** exists in any undertaking, industry, trade or occupation in any area, and the parties to the **[alleged]** dispute are **[subject to subsection (14)]**—

(a) one or more trade unions; **[or]**

(b) one or more employees; or

(c) one or more trade unions and one or more employees,

on the one hand, and

(d) one or more employers' organizations; **[or]**

(e) one or more employers; or

(f) one or more employers' organizations and one or more employers,

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

(2) *(a)* Whenever an application is made in terms of subsection (1) the applicant shall at the same time furnish proof to the satisfaction of the **[Minister]** inspector defined by regulation that a copy of the application has been sent by registered post or delivered by hand to the other party or parties to the dispute.

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

(c) For the purposes of this section any reference to a trade union and an employers' organization shall be construed as a reference to—

(i) a registered trade union or employers' organization; or

(ii) a trade union or employers' organization which submits a prescribed certificate, issued by the registrar, stating that such trade union or employers' organization complies with the requirements of sections 4A, 8 (5) *(a)* (i) and (ii) and 11 (4) *(a)*, as the case may be.

(d) 'n Vakvereniging of werkgewersorganisasie kan 'n individu of individue bystaan met 'n aansoek vir die instelling van 'n versoeningsraad in die naam van sodanige individu of individue.

(3) **[Enige ander in paragraaf *(a)* van subartikel (2) bedoelde party of partye by die geskil kan op die voorgeskrewe wyse en binne 14 dae vanaf die datum van sodanige aansoek, of sodanige verdere tydperk of tydperke as wat die Minister van tyd tot tyd òf voor òf na verstryking van so 'n tydperk vasstel, vertoë aan die Minister daaromtrent voorlê]**

(a) Die inspekteur by regulasie omskryf, moet so gou doenlik na die datum waarop die aansoek ingedien is, 'n versoeningsraad instel.

(b) Genoemde inspekteur moet na oorleg met die partye by die geskil en met inagneming van die onderwerp van die geskil soos in die voorgeskrewe aansoekvorm uiteengesit, die opdrag van die versoeningsraad bepaal asook die gebied ten opsigte waarvan enige ooreenkoms wat aangegaan mag word, geld.

(c) Indien 'n geskil ontstaan in verband met die opdrag aan die versoeningsraad, moet genoemde inspekteur daardie geskil na die Direkteur-generaal verwys, wat die opdrag aan die versoeningsraad en die gebied ten opsigte waarvan enige ooreenkoms wat aangegaan mag word, geld, moet bepaal.

(d) Geen versoeningsraad word ingestel nie—

(i) tensy die aansoek gedoen word binne 21 dae vanaf die datum waarop enige party by die geskil elke ander party by die geskil per aangetekende pos of per kennisgewing per hand afgelewer, in kennis gestel het dat 'n dooie punt aangaande die geskil bereik is: Met dien verstande dat geen versoeningsraad ingestel word nie as die aansoek nie binne 90 dae vanaf die datum waarop beweer word dat die geskil vir die eerste keer ontstaan het, ingedien word nie, maar die Direkteur-generaal kan die indiening van sodanige aansoek na genoemde tydperk kondoneer;

(ii) indien daar 'n nywerheidsraad bestaan wat regsbevoegdheid ten opsigte van die geskilpunt het;

(iii) indien enige loonreëlende maatreël bestaan wat op die partye by die geskil bindend is en wat 'n bepaling bevat wat met die onderwerp van die geskil handel, welke bepaling vir minder as 12 maande in werking is."; en

(b) deur subartikels (3)*bis* tot en met (15) te skrap.

Wysiging van artikel 36 van Wet 28 van 1956

10. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) *(a)* 'n Versoeningsraad moet probeer om **[by wyse van ooreenkoms of andersins]** die geskil wat na hom verwys is te besleg **[en die]** binne 30 dae vanaf die datum waarop die aansoek ingedien is of binne die verdere tydperk of tydperke waarop die partye by die geskil ooreenkom.

(b) Die bepalings van artikel 24 is, behoudens die bepalings **[van paragraaf *(a)* van subartikel (8)]** van artikel 35 (3) *(b)* en *(c)* *mutatis mutandis* van toepassing ten opsigte van 'n ooreenkoms aangegaan deur die partye wat in die versoeningsraad verteenwoordig is.".

Wysiging van artikel 37 van Wet 28 van 1956, soos gewysig deur artikel 6 van Wet 41 van 1959, artikel 12 van Wet 94 van 1979 en artikel 4 van Wet 2 van 1983

11. Artikel 37 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) **['n Versoeningsraad bestaan uit sodanige getal]** Behoudens die bepalings van subartikel (2) bestaan 'n versoeningsraad uit drie verteenwoordigers **[as wat die Minister bepaal]** van elke party of die getal verteenwoordigers waarop die partye by die geskil ooreenkom.";

(b) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) **[Enige persoon kan aangestel word om die werknemers- of werkgewerspartye by die geskil op die versoeningsraad te verteenwoordig: Met dien verstande dat, tensy magtiging tot die teendeel deur die Minister verleen word—**

(d) A trade union or employers' organization may assist an individual or individuals to apply for the establishment of a conciliation board in the name of such individual or individuals.

(3) **[Any other party or parties to the dispute referred to in paragraph *(a)* of subsection (2) may, in the manner prescribed and within 14 days of the date of such application, or such further period or periods as the Minister may fix from time to time either before or after the expiry of any such period, submit representations to the Minister in regard thereto]**

(a) The inspector defined by regulation shall establish a conciliation board as soon as practicable after the date on which the application was lodged.

(b) The said inspector shall, after consultation with the parties to the dispute and having regard to the subject matter of the dispute as set out in the prescribed application form, determine the terms of reference of the conciliation board and the area in respect of which any agreement which may be entered into, shall apply.

(c) If a dispute arises in regard to the terms of reference of a conciliation board, the said inspector shall refer such dispute to the Director-General, who shall determine the terms of reference of the conciliation board and the area in respect of which any agreement which may be entered into, shall apply.

(d) No conciliation board shall be established—

(i) unless the application is lodged within 21 days from the date on which any party to the dispute has notified every other party to the dispute by registered post or by notice delivered by hand that a deadlock has been reached concerning the dispute: Provided that no conciliation board shall be established if the application is lodged after the expiration of 90 days from the date on which the dispute was first alleged to have arisen, providing that the Director-General may condone the lodging of such application after the said period;

(ii) if there is any industrial council having jurisdiction in respect of the matter in dispute;

(iii) if any wage regulating measure exists which is binding on the parties to the dispute and which contains a provision dealing with the subject matter of the dispute, which provision has been in operation for less than 12 months."; and

(b) by the deletion of subsections (3)*bis* up to and including (15).

Amendment of section 36 of Act 28 of 1956

10. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"**(1)** *(a)* A conciliation board shall endeavour to settle **[by agreement or otherwise]** the dispute referred to it **[and the]** within 30 days from the date on which the application was lodged or within such further period or periods as may be agreed upon by the parties to the dispute.

(b) The provisions of section 24 shall, subject to the provisions **[of paragraph *(a)* of subsection (8)]** of section 35 (3) *(b)* and *(c)*, *mutatis mutandis* apply in respect of any agreement entered into by the parties represented on the conciliation board.".

Amendment of section 37 of Act 28 of 1956, as amended by section 6 of Act 41 of 1959, section 12 of Act 94 of 1979 and section 4 of Act 2 of 1983

11. Section 37 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) **[A]** Subject to the provisions of subsection (2) a conciliation board shall consist of **[such number of]** three representatives **[as the Minister may determine]** of each party or such number of representatives as may be agreed upon by the parties to the dispute.";

(b) by the substitution for subsection (4) of the following subsection:

"(4) **[Any person may be appointed to represent the employee or employer parties to the dispute on the conciliation board: Provided that, unless otherwise authorized by the Minister—**

(a) die verteenwoordigers van 'n vakvereniging of werkgewersorganisasie lede, ampsdraers of beamptes van die betrokke vereniging of organisasie moet wees; en vir die doeleindes van hierdie paragraaf word onder 'lede', in die geval van 'n werkgewersorganisasie, 'n direkteur van 'n maatskappy wat 'n lid van sodanige organisasie is en 'n persoon wat by sodanige maatskappy as 'n bestuurder of in enige ander toesighoudende hoedanigheid in diens is, inbegryp;

(b) die verteenwoordigers van enige werknemers wat nie lede van 'n vakvereniging is nie of lede is van 'n vakvereniging wat nie 'n party by die geskil is nie, ampsdraers of beamptes van 'n vakvereniging in artikel 35 (14) bedoel, of werknemers in die betrokke onderneming, nywerheid, bedryf of beroep, moet wees;

(c) die verteenwoordigers van enige werkgewers wat nie lede van 'n werkgewersorganisasie is nie of lede is van 'n werkgewersorganisasie wat nie 'n party by die geskil is nie, ampsdraers of beamptes van 'n werkgewersorganisasie in artikel 35 (14) bedoel, of werkgewers in die betrokke onderneming, nywerheid, bedryf of beroep, moet wees;

(d) minstens die helfte van die getal verteenwoordigers van die werknemerspartye by die geskil, en minstens die helfte van die getal verteenwoordigers van die werkgewerspartye by die geskil, onderskeidelik werknemers en werkgewers in die betrokke onderneming, nywerheid, bedryf of beroep moet wees] Niemand mag die werknemers- of werkgewerspartye by die geskil op die versoeningsraad verteenwoordig nie indien daardie persoon—

(a) 'n ampsdraer of beampte is van 'n vakvereniging of werkgewersorganisasie, tensy hy aan 'n inspekteur by regulasie omskryf 'n voorgeskrewe sertifikaat wat deur die registrateur uitgereik is, voorgelê het wat meld dat sodanige vakvereniging of werkgewersorganisasie die vereistes van artikels 4A, 8 (5) *(a)* (i) en (ii) en 11 (4) *(a)* nakom; of

(b) 'n regspraktisyn is, behalwe met die instemming van elke ander party by die geskil."; en

(c) deur subartikels (4)*bis*, (4)*ter*, (5) en (6) te skrap.

Vervanging van artikel 38 van Wet 28 van 1956

12. Artikel 38 van die Hoofwet word hierby deur die volgende artikel vervang:

"Sekretariële en klerklike hulp aan versoeningsraad

38. [Die Minister voorsien] Behoudens die wette op die staatsdiens voorsien die inspekteur by regulasie omskryf elke versoeningsraad van sodanige sekretariële en klerklike hulp as wat hy nodig ag vir die doeltreffende verrigting van die werksaamhede van die versoeningsraad: Met dien verstande dat die partye kan ooreenkom om hulle eie sekretariële en klerklike hulp te voorsien: Met dien verstande voorts dat partye wat aldus ooreenkom genoemde inspekteur vroegtydig in kennis moet stel dat hulle hul eie sekretariële en klerklike hulp sal voorsien.".

Herroeping van artikel 41 van Wet 28 van 1956, soos vervang deur artikel 7 van Wet 51 van 1982

13. Artikel 41 van die Hoofwet word hierby herroep.

Wysiging van artikel 42 van Wet 28 van 1956

14. Artikel 42 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

"(1) **['n Versoeningsraad]** Die voorsitter van 'n versoeningsraad moet so gou doenlik aan die **[Minister]** Direkteur-generaal 'n verslag van **[sy]** die raad se beraadslagings voorlê waarin uiteengesit word—

(a) of **[hy]** die raad die geskil besleg het, en indien wel, die bepalings van die beslegting;

(a) the representatives of a trade union or employers' organization shall be members, office-bearers or officials of the union or organization concerned; and for the purposes of this paragraph 'members' shall, in the case of an employers' organization, include any director of a company which is a member of such organization and any person employed by such company as a manager or in any other supervisory capacity;

(b) the representatives of any employees who are not members of a trade union or are members of a trade union which is not a party to the dispute shall be office-bearers or officials of any trade union as contemplated in section 35 (14), or employees in the undertaking, industry, trade or occupation concerned;

(c) the representatives of any employers who are not members of an employers' organization or are members of an employers' organization which is not a party to the dispute shall be office-bearers or officials of any employers' organization as contemplated in section 35 (14), or employers in the undertaking, industry, trade or occupation concerned;

(d) at least one half of the number of representatives of the employee parties to the dispute and at least one half of the number of representatives of the employer parties to the dispute shall be employees and employers, respectively, in the undertaking, industry, trade or occupation concerned] No person may represent the employee or employer parties to the dispute on the conciliation board if such person is—

(a) an office-bearer or official of a trade union or employers' organization, unless he submits to the inspector defined by regulation a prescribed certificate issued by the registrar, stating that such trade union or employers' organization complies with the requirements of sections 4A, 8 (5) *(a)* (i) and (ii) and 11 (4) *(a)*; or

(b) a legal practitioner, except with the consent of every other party to the dispute."; and

(c) by the deletion of subsections (4)*bis*, (4)*ter*, (5) and (6).

Substitution of section 38 of Act 28 of 1956

12. The following section is hereby substituted for section 38 of the principal Act:

"Secretarial and clerical assistance for conciliation board

38. The **[Minister]** inspector defined by regulation shall, subject to the laws governing the public service, provide every conciliation board with such secretarial and clerical assistance as he may deem necessary for the effectual performance of the functions of the conciliation board: Provided that the parties may agree to provide their own secretarial and clerical assistance: Provided further that the parties so agreeing shall give timeous notice to the said inspector that they will provide their own secretarial and clerical assistance.".

Repeal of section 41 of Act 28 of 1956, as substituted by section 7 of Act 51 of 1982

13. Section 41 of the principal Act is hereby repealed.

Amendment of section 42 of Act 28 of 1956

14. Section 42 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) **[A]** The chairman of a conciliation board shall as soon as practicable submit to the **[Minister]** Director-General a report of **[its]** the board's deliberations, setting forth—

(a) whether **[it]** the board has settled the dispute, and if so, the terms of the settlement;

(b) of **[hy]** die raad nie daarin geslaag het om die geskil te besleg nie, en indien wel, of hy oortuig is dat verdere beraadslagings nie 'n beslegting tot gevolg sal hê nie.

[*(c)* of hy ingevolge artikel 45 besluit het dat die geskil na 'n arbiter, of na arbiters en 'n skeidsregter, of na die nywerheidshof verwys moet word]

(2) **[Die Minister kan 'n versoeningsraad ontslaan indien hy oortuig is dat hy sy beraadslagings voltooi het, of dat verdere beraadslagings geen nut sal hê nie of dat die rede vir sy instelling weggeval het]** 'n Versoeningsraad word geag ontslaan te wees by verstryking van die tydperk of tydperke in artikel 36 (1) bedoel.".

Wysiging van artikel 43 van Wet 28 van 1956, soos vervang deur artikel 8 van Wet 51 van 1982

15. Artikel 43 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) In hierdie artikel beteken die uitdrukking 'geskil' 'n geskil aangaande

[*(a)* die skorsing of beëindiging van diens van 'n werknemer of werknemers of die besluit of voorstel van 'n werkgewer om die diens van 'n werknemer of werknemers te skors of te beëindig; of

***(b)* 'n verandering of voorgestelde verandering in die bedinge of voorwaardes van diens van 'n werknemer of werknemers behalwe om uitvoering te gee aan 'n toepaslike wet of loonreëlende maatreël; of**

***(c)*]** 'n beweerde onbillike arbeidspraktyk.";

(b) deur in subartikel (2) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"kan **[tegelykertyd of]** binne **[sewe]** 10 dae vanaf die datum van die verwysing of aansoek deur middel van 'n beëdigde verklaring by die nywerheidshof aansoek doen om 'n bevel kragtens subartikel (4).";

(c) deur paragraaf *(b)* van subartikel (3) deur die volgende paragraaf te vervang:

"*(b)* Die in paragraaf *(a)* bedoelde party of partye en die nywerheidsraad (indien enige) kan binne 14 dae vanaf die datum **[van die aansoek]** waarop die aansoek gepos of per hand afgelewer is of sodanige verdere tydperk of tydperke as wat die nywerheidshof van tyd tot tyd òf voor òf na verstryking van so 'n tydperk vasstel, 'n beëdigde **[geskrewe vertoë]** verklaring daaromtrent wat per geregistreerde pos gestuur of per hand afgelewer is aan die nywerheidshof voorlê en moet 'n afskrif daarvan per geregistreerde pos of per hand aan die applikant verstrek, en die applikant kan binne **[sewe dae vanaf die ontvangs van die afskrif]** 10 dae vanaf die datum waarop die beëdigde verklaring gepos of afgelewer is of die verdere tydperk of tydperke wat die nywerheidshof van tyd tot tyd vasstel, **[op die vertoë]** by wyse van 'n beëdigde verklaring daarop antwoord.";

(d) deur paragraaf *(a)* van subartikel (4) deur die volgende paragraaf te vervang:

"*(a)* Tensy die nywerheidshof op bewys van gegronde rede anders besluit, word geen bevel kragtens hierdie subartikel uitgevaardig nie indien die betrokke aansoek kragtens subartikel (2) nie gedoen is nie binne 30 dae vanaf die datum waarop kennis van die **[voorgestelde skorsing, beëindiging of verandering of]** beweerde onbillike arbeidspraktyk gegee is, of indien geen sodanige kennis gegee is nie, vanaf die datum waarop **[die skorsing, beëindiging of verandering plaasgevind het of]** die beweerde onbillike arbeidspraktyk ingevoer is.";

(e) deur paragraaf *(b)* van subartikel (4) deur die volgende paragraaf te vervang:

"*(b)* Na oorweging—**[van die aansoek en enige vertoë aan hom voorgelê binne die in subartikel (3) *(b)* bedoelde tydperk en enige ander aangeleenthede wat hy ter sake ag, kan die nywerheidshof 'n bevel**

(b) whether **[it]** the board has failed to settle the dispute, and if so, whether **[it]** he is satisfied that further deliberations will not result in a settlement.

[*(c)* **whether it has decided in terms of section 45 that the dispute shall be referred to an arbitrator or to arbitrators and an umpire or to the industrial court]**

(2) **[The Minister may discharge a conciliation board if he is satisfied that it has completed its deliberations, or that further deliberations will not serve any purpose or that the reason for its establishment has fallen away]** A conciliation board shall be deemed to have been discharged upon the expiry of the period or periods contemplated in section 36 (1).".

Amendment of section 43 of Act 28 of 1956, as substituted by section 8 of Act 51 of 1982

15. Section 43 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) In this section the term 'dispute' means a dispute concerning

[*(a)* **the suspension or termination of the employment of an employee or employees or the decision or proposal of an employer to suspend or terminate the employment of an employee or employees; or**

(b) **a change or proposed change in the terms or conditions of employment of an employee or employees, except to give effect to any relevant law or wage regulating measure; or**

*(c)***]** an alleged unfair labour practice.";

(b) by the substitution in subsection (2) for the words following paragraph *(b)* of the following words:

"may **[at the same time or]** within **[seven]** 10 days of the date of such reference or application apply by means of an affidavit to the industrial court for an order under subsection (4).";

(c) by the substitution for paragraph *(b)* of subsection (3) of the following paragraph:

"*(b)* The party or parties and the industrial council (if any) referred to in paragraph *(a)* may within 14 days of the date **[of the application]** on which the application was posted or delivered by hand or such further period or periods as the industrial court may from time to time either before or after the expiry of any such period fix, submit **[sworn written representations]** an affidavit sent by registered post or delivered by hand to the industrial court in regard thereto and shall **[furnish]** send by registered post or deliver by hand to the applicant **[with]** a copy thereof, and the applicant may within **[seven days of the receipt of such copy]** 10 days from the date on which the affidavit was posted or delivered or such further period or periods as the industrial court may from time to time fix, by means of an affidavit reply thereto **[to such representations]**.";

(d) by the substitution for paragraph *(a)* of subsection (4) of the following paragraph:

"*(a)* Unless the industrial court on good cause shown decides otherwise, no order may be made under this subsection if the relevant application under subsection (2) was not made within 30 days of the date on which notice was given of the **[proposed suspension, termination or change or]** alleged unfair labour practice, or if no such notice was given, of the date on which **[the suspension, termination or change took place or]** the alleged unfair labour practice was introduced.";

(e) by the substitution for paragraph *(b)* of subsection (4) of the following paragraph:

"*(b)* After considering—**[the application and any representation submitted to it within the period referred to in subsection (3) *(b)* and any other matters which it considers relevant, the industrial court may make an**

uitvaardig waarin die betrokke werkgewer of werkgewers of werkgewersorganisasie of werknemer of werknemers of vakvereniging, na gelang van die geval, gelas word—

(i) om in 'n in subartikel (1) *(a)* bedoelde geval, nie die diens van die betrokke werknemer of werknemers te skors of te beëindig nie of indien sodanige diens geskors of beëindig is, die skorsing in te trek of die betrokke werknemer of werknemers weer in sy diens te herstel op bedinge en voorwaardes nie minder gunstig vir hom of hulle nie as dié wat sy of hulle diens voor sodanige beëindiging gereël het; of

(ii) om in 'n in subartikel (1) *(b)* bedoelde geval, nie die voorgestelde verandering aan te bring nie of indien die verandering aangebring is, die bedinge en voorwaardes van diens wat voor die verandering bestaan het, te herstel; of

(iii) om in 'n in subartikel (1) *(c)* bedoelde geval, nie die beweerde onbillike arbeidspraktyk in te voer nie of indien die praktyk ingevoer is, die arbeidspraktyke wat voor sodanige invoering bestaan het, te herstel]

(i) of die applikant aan die tersaaklike vereistes van hierdie artikel voldoen het;

(ii) van die feite in die aansoek uiteengesit en die beëdigde verklarings soos bedoel in subartikel (3) *(b)*;

(iii) van enige mondelinge vertoë of getuienis deur die nywerheidshof toegelaat;

(iv) of die applikant te goeder trou gepoog het om die geskil deur middel van ooreenkoms of andersins te besleg; en

(v) of dit raadsaam is om 'n bevel ingevolge hierdie artikel toe te staan,

[en] kan die nywerheidshof dié bevel uitvaardig wat hy in die omstandighede redelik ag: Met dien verstande dat geen party beveel kan word om skadevergoeding van enige aard te betaal nie en die hof te eniger tyd op aansoek van 'n party by die geskil, ten opsigte van watter aansoek die bepalings van subartikel (3) van toepassing is, so 'n bevel kan terugtrek of wysig.";

(f) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Wanneer hy 'n bevel kragtens subartikel (4) uitvaardig, stel die nywerheidshof 'n datum vas van wanneer af die bevel van krag word en kan hy dit terugwerkend maak na 'n datum nie vroeër nie as dié waarop **[die diens van die werknemer of werknemers geskors of beëindig is of waarop die bedinge of voorwaardes van diens verander is of waarop]** die beweerde onbillike arbeidspraktyk ingevoer is.";

(g) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) 'n Bevel deur die nywerheidshof kragtens subartikel (4) uitgevaardig, is van krag ondanks enige daarmee strydige bepalings van 'n wet of loonreëlende maatreël en bly van krag, tensy dit eerder teruggetrek word—

(a) totdat die geskil deur die betrokke nywerheidsraad of versoeningsraad, of as dit na arbitrasie of na die nywerheidshof vir vasstelling verwys word of moet word, deur 'n toekenning of vasstelling, na gelang van die geval, besleg is; of

(b) totdat die betrokke sekretaris van die nywerheidsraad of voorsitter van die versoeningsraad **[na gelang van die geval]** die nywerheidshof meedeel dat **[hy]** die nywerheidsraad of die versoeningsraad, na gelang van die geval, nie daarin geslaag het om die geskil te besleg nie, en besluit het om die geskil nie na 'n arbiter of na arbiters en 'n skeidsregter of na die nywerheidshof te verwys nie **[of**

***(c)* totdat 'n tydperk van 14 dae vanaf die datum van die Minister se besluit om nie die instelling van 'n versoeningsraad goed te keur nie verstryk het],**

na gelang van watter gebeurtenis die eerste plaasvind: Met dien verstande dat geen sodanige bevel vir langer as 90 dae vanaf die datum van inwerkingtreding deur die nywerheidshof kragtens subartikel (5) vasgestel, van krag bly nie, tensy die nywerheidshof uit eie beweging of met

order requiring the employer or employers or employers' organization or employee or employees or trade union, as the case may be, concerned—

(i) in a case referred to in subsection (1) *(a)*, not to suspend or terminate the employment of the employee or employees concerned, or if such employment has been suspended or terminated, to cancel the suspension or to reinstate the employee or employees concerned in his employ on terms and conditions not less favourable to him or them than those which governed his or their employment prior to such termination; or

(ii) in a case referred to in subsection (1) *(b)*, not to make the proposed change, or if the change has been made, to restore the terms and conditions of employment which existed prior to the change; or

(iii) in a case referred to in subsection (1) *(c)*, not to introduce the alleged unfair labour practice, or if the practice has been introduced, to restore the labour practices which existed prior to such introduction]

(i) whether the applicant has complied with the relevant provisions of this section;

(ii) the facts set out in the application and the affidavits as contemplated in subsection (3) *(b)*;

(iii) any oral representations or evidence allowed by the industrial court;

(iv) whether the applicant has in good faith endeavoured to settle the dispute by agreement or otherwise; and

(v) whether it is expedient to grant an order in terms of this section, **[and]** the industrial court may make such order as it deems reasonable in the circumstances: Provided that no party may be ordered to pay damages of whatever nature and the court may at any time, on the application of **[a]** any party to the dispute, in respect of which application the provisions of subsection (3) shall apply, withdraw or vary any such order.";

(f) by the substitution for subsection (5) of the following subsection:

"(5) When making an order under subsection (4) the industrial court shall fix the date from which the order shall operate and may make it retrospective to a date not earlier than that **[on which the employment of the employee or employees was suspended or terminated or on which the terms or conditions of employment were changed or]** on which the alleged unfair labour practice was introduced.";

(g) by the substitution for subsection (6) of the following subsection:

"(6) An order made by the industrial court under subsection (4) shall prevail over any contrary provisions in any law or wage regulating measure and shall, unless it is withdrawn sooner, remain operative—

(a) until the dispute has been settled by the industrial council or the conciliation board concerned or, if it is referred or is required to be referred to arbitration or to the industrial court for determination, by an award or determination, as the case may be; or

(b) until the secretary of the industrial council or chairman of the conciliation board concerned **[as the case may be]** informs the industrial court that **[it]** the industrial council or the conciliation board, as the case may be, failed to settle the dispute and has decided not to refer the dispute to an arbitrator or to arbitrators and an umpire or to the industrial court **[or**

***(c)* until the expiry of a period of 14 days from the date of the Minister's decision not to approve of the establishment of a conciliation board]**,

whichever event occurs first: Provided that no such order shall remain operative for longer than 90 days from the date of commencement fixed by the industrial court under subsection (5), unless the industrial court, taking into consideration the steps taken by the parties to settle the dispute, of its

inagneming van die stappe wat die partye tot beslegting van die geskil gedoen het op aansoek daardie tydperk verleng met tydperke van nie langer as 30 dae op 'n keer nie.";

(h) deur subartikel (7) deur die volgende subartikel te vervang:

"(7) Indien 'n bevel uitgevaardig word **[ten opsigte van 'n in subartikel (1) *(a)* bedoelde aangeleentheid]** om nie 'n werknemer te skors of sy diens te beëindig nie, of indien sodanige skorsing of diensbeëindiging reeds plaasgevind het, om die skorsing van die werknemer op te hef of hom in diens te herstel, word 'n werkgewer wat aan 'n werknemer die beloning betaal wat aan die werknemer verskuldig sou gewees het ten opsigte van sy normale werkure as sy diens nie geskors of beëindig was nie of die kleiner beloning wat die nywerheidshof bepaal met inagneming van enige beloning waarop die werknemer geregtig geword het uit hoofde van diens wat so 'n werknemer intussen gelewer het, geag uitvoering aan die bevel te gegee het."; en

(i) deur subartikel (8) deur die volgende subartikel te vervang:

"(8) Indien **[die nywerheidsraad of versoeningsraad wat 'n in subartikel (1) *(a)* bedoelde aangeleentheid onder oorweging gehad het, of]** 'n arbiter of arbiters en 'n skeidsregter na wie die aangeleentheid ingevolge hierdie Wet verwys word of die arbeidsappèlhof of die nywerheidshof, die skorsing of beëindiging of die besluit of voorstel wat tot die geskil aanleiding gegee het, bekragtig, **[of indien die besluit van die Minister om die instelling van 'n versoeningsraad ten opsigte van daardie aangeleentheid goed te keur tersyde gestel word kragtens artikel 35 (13), of indien die Minister besluit het om nie die instelling van 'n versoeningsraad goed te keur nie]** is 'n werkgewer wat kragtens die bepalings van subartikel (7) enige beloning aan 'n werknemer betaal het ter voldoening aan 'n bevel wat kragtens subartikel (4) uitgevaardig is ten opsigte van dieselfde aangeleentheid, geregtig om die beloning aldus betaal op die werknemer deur siviele geregtelike stappe te verhaal **[mits die hof wat die geding om die verhaal van sodanige beloning verhoor, oortuig is dat die skorsing of beëindiging of voorgestelde skorsing of beëindiging van die diens van die werknemer as gevolg van die wangedrag van die werknemer geregverdig was]**.".

Wysiging van artikel 45 van Wet 28 van 1956, soos vervang deur artikel 8 van Wet 41 van 1959

16. Artikel 45 van die Hoofwet word hierby gewysig—

(a) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) Wanneer 'n arbiter, skeidsregter of assessor ingevolge hierdie artikel aangestel is, moet die sekretaris van die betrokke nywerheidsraad of die voorsitter van die versoeningsraad die **[Minister]** Direkteur-generaal van die naam van die persoon aldus aangestel, in kennis stel.";

(b) deur subartikel (8) deur die volgende subartikel te vervang:

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

(a) in gebreke gebly het om binne 'n tydperk van 14 dae vanaf die datum van sodanige besluit of binne sodanige verdere tydperk of tydperke as wat die **[Minister]** Direkteur-generaal van tyd tot tyd vasstel, te besluit of die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke getal arbiters en 'n skeidsregter, of deur die nywerheidshof onderneem moet word; of

(b) nadat besluit is dat die arbitrasie deur 'n enkele arbiter of deur 'n gelyke getal arbiters en 'n skeidsregter onderneem moet word, die arbiter of die arbiters en die skeidsregter, na gelang van die geval, nie binne 'n tydperk van 14 dae vanaf die datum van die besluit of binne sodanige verdere tydperk of tydperke as wat die **[Minister]** Direkteur-generaal van tyd tot tyd vasstel, aangestel word nie,

word die arbitrasie deur die nywerheidshof onderneem."; en

(c) deur paragraaf *(c)* van subartikel (9) deur die volgende paragraaf te vervang:

"*(c)* behoudens die bepalings van paragraaf *(b)*, indien al die ander partye by die geskil instem, om by daardie verrigtinge verteen-

own motion or on application extends that period by periods not exceeding 30 days at a time.";

(h) by the substitution for subsection (7) of the following subsection:

"(7) If an order is made **[in respect of any matter referred to in subsection (1) *(a)*]** not to suspend or terminate the employment of any employee, or if such suspension or termination has already occurred, to rescind the suspension or to reinstate an employee, an employer who pays to an employee the remuneration which would have been due to the employee in respect of his normal hours of work had his employment not been suspended or terminated or such lesser remuneration as the industrial court may determine taking cognizance of any remuneration to which the employee has in the meantime become entitled by virtue of work performed by such employee, shall be deemed to have complied with the order."; and

(i) by the substitution for subsection (8) of the following subsection:

"(8) If **[the industrial council or conciliation board which has had under consideration a matter referred to in subsection (1) *(a)*, or]** an arbitrator or arbitrators and an umpire to whom the matter is referred in terms of this Act or the labour appeal court or the industrial court, confirms the suspension or termination or the decision or proposal which gave rise to the dispute, **[or if the decision of the Minister to approve of the establishment of a conciliation board in respect of such matter is set aside under section 35 (13), or if the Minister has decided not to approve of the establishment of a conciliation board]** any employer who under the provisions of subsection (7) has paid any remuneration to an employee in satisfaction of an order made under subsection (4) in respect of the same matter shall be entitled to recover the remuneration so paid from the employee by civil legal proceedings **[provided the court which hears the action for the recovery of such remuneration is satisfied that the suspension or termination or proposed suspension or termination of the employment of the employee was justified by reason of misconduct of the employee]**.".

Amendment of section 45 of Act 28 of 1956, as amended by section 8 of Act 41 of 1959

16. Section 45 of the principal Act is hereby amended—

(a) by the substitution for subsection (6) of the following subsection:

"(6) Whenever an arbitrator, umpire or assessor has been appointed in terms of this section, the secretary of the industrial council or the chairman of the conciliation board concerned shall notify the **[Minister]** Director-General of the name of the person so appointed.";

(b) by the substitution for subsection (8) of the following subsection:

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

(a) has failed within a period of 14 days from the date of such decision or within such further period or periods as the **[Minister]** Director-General may from time to time fix, to decide whether the arbitration shall be conducted by a single arbitrator, or by an even number of arbitrators and an umpire, or by the industrial court; or

(b) having decided that the arbitration shall be conducted by a single arbitrator or by an even number of arbitrators and an umpire, the arbitrator or the arbitrators and the umpire, as the case may be, is or are not appointed within a period of 14 days from the date of the decision or within such further period or periods as the **[Minister]** Director-General may from time to time fix,

the arbitration shall be conducted by the industrial court."; and

(c) by the substitution for paragraph *(c)* of subsection (9) of the following paragraph:

"*(c)* subject to the provisions of paragraph *(b)*, if all the other parties to the dispute consent, to be represented at those proceedings by one or

woordig te word deur een of meer regspraktisyns of deur een of meer lede, ampsdraers of beamptes van 'n geregistreerde vakvereniging of werkgewersorganisasie wat nie 'n party by die geskil is nie: Met dien verstande dat enige party wat nie tot sodanige verteenwoordiging instem nie, so gou doenlik voordat die verrigtinge 'n aanvang neem, alle ander partye by die geskil skriftelik daarvan in kennis moet stel;".

Wysiging van artikel 46 van Wet 28 van 1956, soos gewysig deur artikel 9 van Wet 41 van 1959, artikel 3 van Wet 104 van 1967, artikel 14 van Wet 94 van 1979, artikel 8 van Wet 95 van 1980, artikel 30 van Wet 57 van 1981, artikel 9 van Wet 51 van 1982 en artikel 4 van Wet 81 van 1984

17. Artikel 46 van die Hoofwet word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

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

(a) nie daarin geslaag het om binne 'n tydperk van 30 dae bereken vanaf die datum waarop die geskil na die nywerheidsraad verwys is of die datum waarop die **[Minister]** aansoek om die instelling van die versoeningsraad **[goedgekeur het]** ingedien is, na gelang van die geval, of binne sodanige verdere tydperk of tydperke **[as wat]** waarop die **[Minister]** partye by die geskil ooreenkom, of die tydperk of tydperke wat die Direkteur-generaal van tyd tot tyd by bewys van gegronde rede vasstel, die geskil te besleg nie; of

(b) voor die verstryking van daardie tydperk of verdere tydperk of tydperke besluit het dat verdere beraadslagings nie die beslegting van die geskil tot gevolg sal hê nie,

moet hy dienooreenkomstig aan die **[Minister]** Direkteur-generaal verslag doen en moet die geskil ooreenkomstig die bepalings van hierdie artikel na arbitrasie verwys word.";

(b) deur subartikel (2)*bis* te skrap;

(c) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) **[Behoudens die bepalings van subartikel (4A), wanneer]** Wanneer 'n geskil kragtens die bepalings van subartikel (2) na arbitrasie verwys moet word—

(a) moet die nywerheidsraad of versoeningsraad, na gelang van die geval, binne 14 dae vanaf die verstryking van die laaste van die in paragraaf *(a)* van daardie subartikel bedoelde tydperke, of binne 14 dae vanaf die datum van die in paragraaf *(b)* van daardie subartikel bedoelde besluit, of binne sodanige verdere tydperk of tydperke as wat die **[Minister]** Direkteur-generaal van tyd tot tyd vasstel, besluit of die arbitrasie deur 'n enkele arbiter, of 'n gelyke getal arbiters en 'n skeidsregter, of deur die nywerheidshof onderneem moet word; en

(b) indien die nywerheidsraad of versoeningsraad besluit het dat die arbitrasie deur 'n enkele arbiter, of deur 'n gelyke getal arbiters en 'n skeidsregter onderneem moet word, moet die arbiter of die arbiters en die skeidsregter binne 'n tydperk van 14 dae vanaf sodanige besluit of binne sodanige verdere tydperk of tydperke as wat die **[Minister]** Direkteur-generaal van tyd tot tyd vasstel, aangestel word.";

(d) deur subartikel (4A) te skrap;

(e) deur paragrawe *(a)*, *(b)* en *(c)* van subartikel (6) deur onderskeidelik die volgende paragrawe te vervang:

"*(a)* Ondanks andersluidende bepalings in hierdie artikel vervat, wanneer daar geen nywerheidsraad is wat regsbevoegdheid ten opsigte van 'n in subartikel (2) bedoelde geskil besit nie, kan die partye by die geskil ooreenkom om aan die **[Minister]** Direkteur-generaal verslag te doen dat hulle oortuig is dat enige versoeningsraad wat ingestel word, nie in staat sal wees om die geskil te besleg nie, en of hulle ooreengekom het op die arbiter of die arbiters en die skeidsregter, of dat die arbitrasie deur die nywerheidshof onderneem moet word.

more legal practitioners or by one or more members, office-bearers or officials of any registered trade union or employers' organization which is not a party to the dispute: Provided that any party who does not consent to such representation shall in writing advise all other parties to the dispute thereof, as soon as practicable before the commencement of the proceedings;".

Amendment of section 46 of Act 28 of 1956, as amended by section 9 of Act 41 of 1959, section 3 of Act 104 of 1967, section 14 of Act 94 of 1979, section 8 of Act 95 of 1980, section 30 of Act 57 of 1981, section 9 of Act 51 of 1982 and section 4 of Act 81 of 1984

17. Section 46 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

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

(a) has failed to settle the dispute within a period of 30 days reckoned from the date on which the dispute was referred to the industrial council or the date on which the **[Minister approved of]** application for the establishment of a conciliation board was lodged, as the case may be, or within such further period or periods **[as]** on which the **[Minister]** parties to the dispute may agree, or the period or periods as the Director-General may from time to time fix on good cause shown; or

(b) before the expiry of that period or further period or periods has resolved that further deliberations will not result in the settlement of the dispute,

it shall report accordingly to the **[Minister]** Director-General and the dispute shall be referred to arbitration in accordance with the provisions of this section.";

(b) by the deletion of subsection (2)*bis*;

(c) by the substitution for subsection (3) of the following subsection:

"(3) **[Subject to the provisions of subsection (4A) when]** When a dispute is to be referred to arbitration under the provisions of subsection (2)—

(a) the industrial council or conciliation board, as the case may be, shall within 14 days of the expiry of the last of the periods referred to in paragraph *(a)* of that subsection, or within 14 days of the date of the resolution referred to in paragraph *(b)* of that subsection, or within such further period or periods as the **[Minister]** Director-General may from time to time fix, decide whether the arbitration shall be conducted by a single arbitrator, or an even number of arbitrators and an umpire, or by the industrial court; and

(b) if the industrial council or conciliation board has decided that the arbitration shall be conducted by a single arbitrator or by an even number of arbitrators and an umpire, the arbitrator or the arbitrators and the umpire shall be appointed within a period of 14 days of such decision, or within such further period or periods as the **[Minister]** Director-General may from time to time fix.";

(d) by the deletion of subsection (4A);

(e) by the substitution for paragraphs *(a)*, *(b)* and *(c)* of subsection (6) of the following paragraphs, respectively:

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

(b) By ontvangs van 'n in paragraaf *(a)* bedoelde verslag, kan die **[Minister]** Direkteur-generaal, indien hy dit raadsaam ag om dit te doen, **[en indien hy oortuig is met betrekking tot die in artikel 35 (4) *(a)*, *(d)* en *(e)* bedoelde aangeleenthede]** gelas dat die **[bepalings van hierdie artikel van toepassing is asof 'n versoeningsraad ingevolge bedoelde artikel ingestel was en by hom verslag gedoen het dat hy nie daarin geslaag het om die geskil te besleg nie;]** geskil na arbitrasie verwys word, en daarop moet die arbitrasie **[in die geval van 'n geskil met betrekking tot die besoldiging van 'n departementshoof]** onderneem word **[deur die nywerheidshof, en in alle ander gevalle]** deur die arbiter, of die arbiters en die skeidsregter of die nywerheidshof soos deur die partye by die geskil ooreengekom, of, by ontstentenis van sodanige ooreenkoms binne een maand vanaf die **[Minister]** Direkteur-generaal se lasgewing, deur die nywerheidshof.

(c) Die **[Minister]** Direkteur-generaal moet die opdrag aan die arbiter, of arbiters en skeidsregter of die nywerheidshof, na gelang van die geval, en die betrokke gebied bepaal.";

(f) deur subparagraaf (ii) van paragraaf *(d)* van subartikel (6) deur die volgende subparagraaf te vervang:

"(ii) Indien die **[Minister]** Direkteur-generaal kragtens paragraaf *(b)* gelas dat die bepalings van hierdie artikel op 'n in subparagraaf (i) bedoelde geskil toegepas moet word, kan die nywerheidshof, na oorweging van 'n aansoek in genoemde subparagraaf bedoel en enige beëdigde **[skriftelike vertoë]** verklaring van enige party wat na die mening van die nywerheidshof daardeur geraak kan word, 'n in bedoelde subparagraaf bedoelde bevel uitvaardig."; en

(g) deur subartikel (9) deur die volgende subartikel te vervang:

"(9) *(a)* Die nywerheidshof stel nie 'n geskil rakende 'n beweerde onbillike arbeidspraktyk vas nie tensy sodanige geskil na òf 'n nywerheidsraad met regsbevoegdheid òf, waar geen sodanige nywerheidsraad bestaan nie, 'n versoeningsraad, vir versoening verwys is.

[*(a)*]*(b)* Indien 'n geskil **[soos bedoel in artikel 43 (1) *(c)*]** aangaande 'n beweerde onbillike arbeidspraktyk verwys is na—

(i) 'n nywerheidsraad wat regsbevoegdheid ten opsigte daarvan besit en die **[raad]** nywerheidsraad nie daarin geslaag het om sodanige geskil binne **['n]** die tydperk **[van 30 dae bereken vanaf die datum waarop die geskil na die raad verwys is of binne die verdere tydperk of tydperke wat die Minister bepaal, te besleg nie, moet]** of tydperke bedoel in artikel 27A (2) te besleg nie, moet die sekretaris van die nywerheidsraad of iemand deur die nywerheidsraad vir daardie doel aangewys, so spoedig moontlik daarna maar nie later nie as 14 dae vanaf die datum waarop die tydperk of tydperke vasgestel deur die nywerheidsraad, verstryk het, die geskil na die nywerheidshof vir vasstelling verwys, tensy al die partye by die geskil ooreenkom dat daardie geskil nie aldus verwys word nie; of

(ii) 'n versoeningsraad en dié raad nie **[binne 'n tydperk van 30 dae bereken vanaf die datum waarop die Minister die instelling van die versoeningsraad goedgekeur het, of binne sodanige verdere tydperk of tydperke wat die Minister bepaal, die geskil besleg nie, moet]** daarin geslaag het om die geskil binne die tydperk of tydperke bedoel in artikel 36 (1) *(a)* te besleg nie, moet die voorsitter van die versoeningsraad of iemand deur hom vir daardie doel aangewys, so spoedig moontlik daarna maar nie later nie as 14 dae vanaf die datum waarop die tydperk of tydperke in artikel 36 (1) *(a)* verstryk, die geskil na die nywerheidshof vir vasstelling verwys, tensy al die partye by die geskil ooreenkom dat die geskil nie aldus verwys word nie.

[*(b)* Die Minister kan, na goeddunke, van tyd tot tyd skriftelik onder sy handtekening sy bevoegdhede met betrekking tot die bepaling van sodanige verdere tydperk of tydperke aan enige amptenaar delegeer en kan te eniger tyd so 'n delegasie intrek]

(b) Upon receipt of a report referred to in paragraph *(a)*, the **[Minister]** Director-General may, if he deems it expedient to do so **[and if he is satisfied as to the matters referred to in section 35 (4) *(a)*, *(d)* and *(e)*]**, direct that the **[provisions of this section shall apply as though a conciliation board had been appointed in terms of the said section and had reported to him that it had failed to settle the dispute;]** dispute be referred to arbitration, and thereupon the arbitration shall **[in the case of a dispute concerning the remuneration of a departmental head]** be conducted **[by the industrial court, and in all other cases]** by the arbitrator or the arbitrators and the umpire or the industrial court as agreed upon by the parties to the dispute, or, in the absence of such agreement within one month of the **[Minister's]** Director-General's direction, by the industrial court.

(c) The **[Minister]** Director-General shall determine the terms of reference of the arbitrator or arbitrators and umpire or the industrial court, as the case may be, and the area concerned.";

(f) by the substitution for subparagraph (ii) of paragraph *(d)* of subsection (6) of the following subparagraph:

"(ii) If the **[Minister]** Director-General directs under paragraph *(b)* that the provisions of this section shall be applied to any dispute such as is referred to in subparagraph (i), the industrial court may, after considering any application referred to in the said subparagraph and any **[sworn written representations]** affidavit from any party who in the opinion of the industrial court may be affected thereby, make an order such as is referred to in the said subparagraph."; and

(g) by the substitution for subsection (9) of the following subsection:

"(9) *(a)* The industrial court shall not determine a dispute regarding an alleged unfair labour practice unless such dispute has been referred for conciliation to either an industrial council having jurisdiction or, where no such industrial council exists, to a conciliation board.

[*(a)*] *(b)* If a dispute **[such as is referred to in section 43 (1) *(c)*]** concerning an alleged unfair labour practice has been referred to—

(i) an industrial council having jurisdiction in respect thereof, and that industrial council has failed to settle such dispute within **[a]** the period **[of 30 days reckoned from the date on which the dispute was referred to the council or within such further period or periods as the Minister may determine]** or periods referred to in section 27A (2), the secretary of the industrial council or a person designated by the industrial council for that purpose, shall as soon as possible thereafter but not later than 14 days from the date on which the period or periods fixed by the industrial council for the settlement of the dispute have lapsed, refer the dispute **[shall be referred]** to the industrial court for determination unless all the parties to the dispute agree that the dispute shall not be so referred; or

(ii) a conciliation board and that board has **[within a period of 30 days reckoned from the date on which the Minister approved of the establishment of the conciliation board or within such further period or periods as the Minister may determine]** failed to settle the dispute within the period or periods referred to in section 36 (1) *(a)*, the chairman of the conciliation board or a person designated by him for that purpose, shall as soon as possible thereafter but not later than within 14 days from the date on which the period or periods referred to in section 36 (1) *(a)* have lapsed, refer the dispute **[shall be referred]** to the industrial court for determination, unless all the parties to the dispute agree that the dispute shall not be so referred.

[*(b)* The Minister may, in his discretion, from time to time, by writing under his hand delegate his powers in regard to the fixing of such further period or periods to any officer and may at any time withdraw any such delegation]

(c) Die nywerheidshof moet die geskil so spoedig moontlik **[vasstel]** na ontvangs van die verwysing ingevolge paragraaf *(b)*, vasstel op sodanige voorwaardes as wat hy redelik ag, met inbegrip van, maar nie beperk nie tot, die uitreiking van 'n bevel vir herindiensstelling of skadevergoeding, en die bepalings van artikels 47, 49 tot 58, 62 **[69]** en 71 is *mutatis mutandis* van toepassing ten opsigte van enige vasstelling wat ingevolge hierdie subartikel gemaak word vir sover sodanige bepalings aldus toegepas kan word.

(d) Ondanks die bepalings van **[paragraaf]** paragrawe *(a)* en *(b)* kan 'n nywerheidsraad of, wanneer daar geen nywerheidsraad is wat regsbevoegdheid ten opsigte van die geskil besit nie, die partye by die geskil ooreenkom om aan die **[Minister]** nywerheidshof verslag te doen dat hy of hulle oortuig is dat hy of hulle nie in staat sal wees om die geskil te besleg nie, en by die ontvangs van so 'n verslag moet die **[geskil onverwyld na die nywerheidshof vir vasstelling verwys word]** nywerheidshof so spoedig moontlik die geskil ingevolge paragraaf *(c)* vasstel.

(e) Die bepalings van artikel 45 (9) is *mutatis mutandis* van toepassing op die partye by die geskil by verrigtinge voor die nywerheidshof ingevolge die bepalings van **[subartikel 6 *(d)* of]** hierdie subartikel **[van hierdie artikel]**.".

Wysiging van artikel 47 van Wet 28 van 1956, soos gewysig deur artikel 4 van Wet 104 van 1967 en artikel 31 van Wet 57 van 1981

18. Artikel 47 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien die geskil onder oorweging van 'n nywerheidsraad was, word **[die koste, met inbegrip van]** die voorgeskrewe gelde indien die arbitrasie deur die nywerheidshof onderneem word, deur die raad betaal.".

Wysiging van artikel 48 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 21 van 1970, artikel 15 van Wet 94 van 1979 en artikel 32 van Wet 57 van 1981

19. Artikel 48 van die Hoofwet word hierby gewysig deur subartikel (9) deur die volgende subartikel te vervang:

"(9) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op enige ooreenkoms deurgestuur, of versoek gedoen, deur 'n versoeningsraad: Met dien verstande dat die versoeningsraad of, nadat die versoeningsraad ontslaan is, die partye wat op die versoeningsraad verteenwoordig was, vir die doeleindes van 'n in subartikel (1), (2), (4) of (5) bedoelde versoek geag word die betrokke nywerheidsraad te wees en die gebied **[bepaal]** ingevolge artikel 35 **[(8)]** (3) *(b)* of *(c)*, na gelang van die geval, bepaal, geag word die gebied te wees ten opsigte waarvan die nywerheidsraad geregistreer is.".

Wysiging van artikel 49 van Wet 28 van 1956, soos gewysig deur artikel 5 van Wet 104 van 1967 en artikel 33 van Wet 57 van 1981

20. Artikel 49 van die Hoofwet word hierby gewysig—

(a) deur paragraaf *(a)* van subartikel (2) deur die volgende paragraaf te vervang:

"*(a)* Te eniger tyd nadat 'n toekenning gemaak is, kan die Minister, of die nywerheidshof waar die toekenning deur die hof gemaak is, die verbetering van 'n weglating of fout of die opklaring van enige bepaling van die toekenning goedkeur indien na sy of die hof se mening die verbetering of opklaring nodig is.";

(b) deur subparagraaf (i) van paragraaf *(c)* van subartikel (6) te skrap;

(c) deur subparagraaf (i) van paragraaf *(b)* van subartikel (7) deur die volgende subparagraaf te vervang:

"(i) 'n versoek gedoen ingevolge subparagraaf **[(i) of]** (ii) van paragraaf *(c)* van subartikel (6), **[na gelang van die geval]** toestaan; of";

(d) deur subartikel (8) te skrap; en

(e) deur subartikel (10) deur die volgende subartikel te vervang:

"(10) Ondanks andersluidende bepalings in subartikel (6) vervat, kan die Minister op versoek van sowel die werknemers as die werkgewers in paragraaf *(a)* van bedoelde subartikel bedoel, gedoen na die verstryking

(c) The industrial court shall **[determine the dispute]** as soon as possible after receipt of the reference in terms of paragraph *(b)*, determine the dispute on such terms as it may deem reasonable, including but not limited to the ordering of reinstatement or compensation, and the provisions of sections 47, 49 to 58, 62 **[69]** and 71 shall *mutatis mutandis* apply in respect of any determination made in terms of this subsection in so far as such provisions can be so applied.

(d) Notwithstanding the provisions of **[paragraph]** paragraphs *(a)* and *(b)*, an industrial council or, whenever there is no industrial council having jurisdiction in respect of the dispute, the parties to the dispute may agree to report to the **[Minister]** industrial court that it is or they are satisfied that it or they will not be able to settle the dispute, and **[upon]** on receipt of such a report, **[the dispute shall forthwith be referred to the industrial court for determination]** the industrial court shall as soon as possible determine the dispute in terms of paragraph *(c)*.

(e) The provisions of section 45 (9) shall apply *mutatis mutandis* to the parties to the dispute at proceedings before the industrial court in pursuance of the provisions of **[subsection (6) *(d)* or]** this subsection **[of this section]**.".

Amendment of section 47 of Act 28 of 1956, as amended by section 4 of Act 104 of 1967 and section 31 of Act 57 of 1981

18. Section 47 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) If the dispute has been under the consideration of an industrial council, **[the costs, including]** the prescribed fees if the arbitration is conducted by the **[tribunal]** industrial court, shall be paid by the council.".

Amendment of section 48 of Act 28 of 1956, as amended by section 2 of Act 21 of 1970, section 15 of Act 94 of 1979 and section 32 of Act 57 of 1981

19. Section 48 of the principal Act is hereby amended by the substitution for subsection (9) of the following subsection:

"(9) The provisions of this section shall *mutatis mutandis* apply to any agreement transmitted, or request made, by a conciliation board: Provided that the conciliation board, or, after the conciliation board has been discharged, the parties who were represented on the conciliation board, shall for the purposes of any request such as is referred to in subsection (1), (2), (4) or (5) be deemed to be the industrial council concerned and the area determined in terms of section 35 **[(8)]** (3) *(b)* or *(c)*, as the case may be, shall be deemed to be the area in respect of which the industrial council is registered.".

Amendment of section 49 of Act 28 of 1956, as amended by section 5 of Act 104 of 1967 and section 33 of Act 57 of 1981

20. Section 49 of the principal Act is hereby amended—

(a) by the substitution for paragraph *(a)* of subsection (2) of the following paragraph:

"*(a)* At any time after an award has been made, the Minister, or the industrial court where the award has been made by the court, may approve of the correction of an omission or error or the clarification of any provision in the award if in his or the court's opinion the correction or clarification is necessary.";

(b) by the deletion of subparagraph (i) of paragraph *(c)* of subsection (6);

(c) by the substitution for subparagraph (i) of paragraph *(b)* of subsection (7) of the following subparagraph:

"(i) grant a request made in terms of subparagraph **[(i) or]** (ii) of paragraph *(c)* of subsection (6) **[as the case may be]**; or";

(d) by the deletion of subsection (8); and

(e) by the substitution for subsection (10) of the following subsection:

"(10) Notwithstanding anything to the contrary contained in subsection (6), the Minister may at the request of both the employees and the employers referred to in paragraph *(a)* of the said subsection, made after

van die tydperk in bedoelde paragraaf bedoel, goedkeur dat die onderwerp van die betrokke oorspronklike toekenning na arbitrasie verwys word, en daarop moet die arbitrasie **[indien die oorspronklike toekenning betrekking het op die besoldiging van 'n departementshoof]** onderneem word **[deur die nywerheidshof, en in alle ander gevalle]** deur die arbiter of die arbiters en die skeidsregter of die nywerheidshof soos deur bedoelde werknemers en werkgewers ooreengekom word of, by ontstentenis van sodanige ooreenkoms binne een maand vanaf die datum van die Minister se goedkeuring, deur die nywerheidshof.".

Wysiging van artikel 51 van Wet 28 van 1956, soos vervang deur artikel 34 van Wet 57 van 1981 en gewysig deur artikel 6 van Wet 2 van 1983 en artikel 5 van Wet 81 van 1984

21. Artikel 51 van die Hoofwet word hierby gewysig deur na subartikel (4) die volgende subartikel in te voeg:

"(4A) Indien—

(a) 'n nywerheidsraad nie binne 70 dae; of

(b) 'n komitee in subartikel (3) beoog, nie binne 40 dae,

vanaf die datum waarop 'n aansoek om vrystelling deur daardie raad of komitee, na gelang van die geval, ontvang is, die betrokke aansoeker skriftelik van sy beslissing aangaande die aansoek in kennis gestel het nie, word geag dat daardie nywerheidsraad of komitee die aansoek op die laaste dag van die betrokke tydperk geweier het.".

Vervanging van artikel 53 van Wet 28 van 1956, soos gewysig deur artikel 5 van Wet 18 van 1961, artikel 4 van Wet 21 van 1970 en artikel 37 van Wet 57 van 1981

22. Artikel 53 van die Hoofwet word hierby deur die volgende artikel vervang:

"Versuim om aan bepalings van ooreenkoms, toekenning, vrystellingsertifikaat, vasstelling of bevel te voldoen

53. (1) Iemand wat 'n bepaling van 'n ooreenkoms, toekenning, **[of]** vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is, bevel, voorwaarde van enige bevel, beslissing, toekenning of vasstelling deur die nywerheidshof of arbeidsappèlhof gemaak, of 'n kennisgewing **[of 'n bevel uitgevaardig kragtens subartikel (4) van artikel 43 of kragtens bedoelde subartikel soos toegepas deur paragraaf *(d)* van subartikel (6) van artikel 46 (in hierdie artikel 'n bevel genoem)]** oortree, of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

(2) Indien die veroordeelde persoon 'n werkgewer was en die misdryf bestaan het uit die oortreding van, of versuim om te voldoen aan, 'n bepaling van so 'n ooreenkoms, toekenning, vrystellingsertifikaat of bevel met betrekking—

(a) tot enige in artikel 24 (1) *(a)*, *(c)* of *(h)* bedoelde aangeleentheid, of tot betaling ten opsigte van oortyd of maaltye of ten opsigte van of in plaas van verlof of in plaas van kennisgewing van beëindiging van diens of tot betaling op die vervaldatum van die volle beloning verskuldig aan 'n werknemer, of, in die geval van 'n vrystellingsertifikaat of 'n bevel, tot enige beloning aan 'n werknemer daarvolgens verskuldig; of

(b) tot enige in artikel 24 (1) *(b)* of *(l)* bedoelde aangeleentheid; of

(c) tot enige in artikel 24 (1) *(q)* of *(r)* bedoelde aangeleentheid of in artikel 48 (1) *(d)* bedoelde fonds,

moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is tussen die bedrag wat hy betaal het en die bedrag wat hy sou betaal het as die oortreding of versuim waaraan hy skuldig bevind is nie plaasgevind het nie, en, in die geval van 'n in paragraaf *(a)* bedoelde oortreding of versuim, of die betrokke werknemer ingestem het of nie ingestem het nie om minder te ontvang as die beloning wat hy kragtens die bepalings van die betrokke ooreenkoms, toekenning, vrystellingsertifikaat of bevel geregtig was om te ontvang, en, indien hy aldus ingestem het, of hy bewus was of nie bewus was nie van sy regte kragtens daardie

the expiry of the period referred to in the said paragraph, approve of the subject matter of the original award concerned being referred to arbitration, and thereupon the arbitration shall **[if the original award concerns the remuneration of a departmental head]** be conducted **[by the industrial court, and in all other cases]** by the arbitrator or the arbitrators and the umpire or the industrial court as agreed upon by the said employees and employers or, in the absence of such agreement within one month from the date of the Minister's approval, by the industrial court.".

Amendment of section 51 of Act 28 of 1956, as substituted by section 34 of Act 57 of 1981 and amended by section 6 of Act 2 of 1983 and section 5 of Act 81 of 1984

21. Section 51 of the principal Act is hereby amended by the insertion after subsection (4) of the following subsection:

"(4A) If—

(a) an industrial council has not within 70 days; or

(b) a committee contemplated in subsection (3) has not within 40 days,

from the date on which an application for exemption has been received by that council or committee, as the case may be, informed the applicant concerned in writing of its decision in regard to the application, that industrial council or committee shall be deemed to have refused the application on the last day of the period concerned.".

Substitution of section 53 of Act 28 of 1956, as amended by section 5 of Act 18 of 1961, section 4 of Act 21 of 1970 and section 37 of Act 57 of 1981

22. The following section is hereby substituted for section 53 of the principal Act:

"Failure to observe provisions of agreement, award, licence of exemption, determination or order

53. (1) Any person who contravenes or fails to comply with any provision of any agreement, award, **[or]** licence of exemption binding upon him in terms of this Act, order, condition of any order, decision, award or determination made by the industrial court or labour appeal court, or any notice, **[or with any order made under subsection (4) of section 43 or under the said subsection as applied by paragraph *(d)* of subsection (6) of section 46 (in this section referred to as an order)]** shall be guilty of an offence.

(2) If the person convicted was an employer, and the offence consisted of the contravention of or failure to comply with any provision of any such agreement, award, licence of exemption or order relating—

(a) to any matter referred to in section 24 (1) *(a)*, *(c)* or *(h)*, or to payment in respect of overtime or meals or in respect of or in lieu of leave of absence or in lieu of notice of termination of employment, or to payment on due date of the full remuneration owing to an employee, or, in the case of a licence of exemption or an order, to any remuneration due to an employee in terms thereof; or

(b) to any matter referred to in section 24 (1) *(b)* or *(l)*; or

(c) to any matter referred to in section 24 (1) *(q)* or *(r)*, or fund referred to in section 48 (1) *(d)*,

the court convicting him shall enquire into and determine the difference between the amount which he paid and the amount which he would have paid if the contravention or failure of which he has been convicted had not occurred, and, in the case of a contravention or failure such as is referred to in paragraph *(a)*, whether the employee concerned did or did not agree to accept less than the remuneration which under the provisions of the relative agreement, award, licence of exemption or order he was entitled to receive, and whether, if he did so agree, he did or did not know of his rights under those provisions, and if he did know of those

bepalings, en, indien hy van daardie regte bewus was, die omstandighede waarin hy aldus ingestem het: Met dien verstande dat indien die hof uit al die getuienis, hetsy dit voor skuldigbevinding afgelê is of daarna, nie in staat is om die verskil presies vas te stel nie, hy die verskil na die beste van sy vermoë moet beraam. As geen bedrag betaal is nie word die bedrag wat betaal sou gewees het indien die oortreding of versuim nie plaasgevind het nie by die toepassing van hierdie subartikel geag die verskil te wees. Die verskil wat aldus vasgestel is, of die bedrag waarop dit aldus beraam is, word in hierdie artikel en in artikels 54 en 56 die onderbetaalde bedrag genoem.

(3) Indien die veroordeelde persoon 'n werknemer was en die misdryf bestaan het uit die oortreding van, of versuim om te voldoen aan, 'n bepaling van so 'n ooreenkoms, toekenning of vrystellingsertifikaat met betrekking tot die gee van kennis by beëindiging van diens en sodanige ooreenkoms, toekenning of vrystellingsertifikaat voorsiening maak vir die betaling of verbeuring deur 'n werknemer van 'n bedrag in plaas van kennisgewing, moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is tussen enige bedrag wat hy betaal of verbeur het en die bedrag wat hy ingevolge die toepaslike bepaling van die ooreenkoms, toekenning of vrystellingsertifikaat moes betaal of verbeur het: Met dien verstande dat indien die hof uit al die getuienis, hetsy dit voor skuldigbevinding afgelê is of daarna, nie in staat is om die verskil presies vas te stel nie, hy die verskil na die beste van sy vermoë moet beraam. As geen bedrag betaal of verbeur is nie, word die bedrag wat die betrokke werknemer ingevolge die toepaslike bepaling van die ooreenkoms, toekenning of vrystellingsertifikaat moes betaal of verbeur het, by die toepassing van hierdie subartikel geag die verskil te wees. Die verskil wat aldus vasgestel is, of die bedrag waarop dit aldus beraam is, word in artikels 54 en 56 die bedrag wat betaal moet word, genoem.

(4) Die hof moet, wanneer hy kragtens subartikel (2) optree, aan die werkgewer 'n geleentheid gee om getuienis voor te lê aangaande die onderbetaalde bedrag en die omstandighede waarin die onderbetaling plaasgevind het en, as die misdryf bestaan het uit 'n in paragraaf *(a)* van daardie subartikel bedoelde oortreding of versuim, aan die betrokke werknemer 'n soortgelyke geleentheid gee.

(5) Die verrigtinge van die hof kragtens subartikels (2), (3) en (4) moet plaasvind voordat die vonnis uitgespreek word en word geag deel van die verhoor uit te maak.

(6) As die misdryf bestaan het uit 'n in subartikel (2) bedoelde oortreding of versuim, en die onderbetaalde bedrag groter is as die maksimum bedrag van die geldboete voorgeskryf deur artikel 82 (1) *(b)*, moet die maksimum bedrag van die geldboete waarmee die veroordeelde persoon volgens daardie artikel strafbaar is, verhoog word tot 'n bedrag wat gelykstaan met die onderbetaalde bedrag.

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

(8)*(a)* 'n Werkgewer wat deur die by regulasie bepaalde inspekteur of die nywerheidsraad wat regsbevoegdheid besit, skriftelik in kennis gestel word dat enige gelde soos deur sodanige inspekteur of nywerheidsraad vasgestel, aan 'n persoon of aan sodanige nywerheidsraad of aan 'n in artikel 24 (1) *(r)* of 48 (1) *(d)* bedoelde fonds deur daardie werkgewer betaalbaar is ingevolge 'n ooreenkoms, toekenning, vrystellingsertifikaat of bevel wat kragtens hierdie Wet bindend is of was, en wat erken dat die gelde aldus vasgestel aldus betaalbaar is, kan die gelde betaal aan bedoelde inspekteur of nywerheidsraad, na gelang van die geval, vir betaling aan die persoon of fonds of (waar nodig) die nywerheidsraad wat daarop geregtig is.

(b) Indien enige gelde aldus betaal aan die by regulasie bepaalde inspekteur of die nywerheidsraad by die verstryking van 'n tydperk van ses maande vanaf die datum van ontvangs daarvan nie aan die persoon wat daarop geregtig is, betaal is nie, moet die inspekteur

rights, the circumstances in which he so agreed: Provided that if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall, to the best of its ability, estimate the difference. If no amount has been paid the amount which would have been paid if the contravention or failure had not occurred, shall, for the purposes of this subsection, be deemed to be the difference. The difference so determined or the amount at which it is so estimated is in this section and in sections 54 and 56 referred to as the amount underpaid.

(3) If the person convicted was an employee and the offence consisted of the contravention of or failure to comply with any provision of any such agreement, award or licence of exemption relating to the giving of notice upon termination of employment and such agreement, award or licence of exemption provides for the payment or forfeiture by an employee of an amount in lieu of notice, the court convicting him shall enquire into and determine the difference between any amount which he paid or forfeited and the amount which he was required to pay or forfeit in terms of the relevant provision of the agreement, award or licence of exemption: Provided that if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall to the best of its ability estimate the difference. If no amount has been paid or forfeited, the amount which the employee concerned was required to pay or forfeit in terms of the relevant provision of the agreement, award or licence of exemption shall for the purposes of this subsection be deemed to be the difference. The difference so determined or the amount at which it is so estimated is in sections 54 and 56 referred to as the amount to be paid.

(4) The court shall, when acting under subsection (2), give to the employer an opportunity of submitting evidence regarding the amount underpaid and the circumstances in which the underpayment took place, and, if the offence consisted of a contravention or a failure such as is referred to in paragraph *(a)* of that subsection, give to the employee concerned a similar opportunity.

(5) The proceedings of the court under the provisions of subsections (2), (3) and (4) shall take place before sentence is passed, and shall be deemed to form part of the trial.

(6) If the offence consisted of a contravention or failure such as is referred to in subsection (2), and the amount underpaid is greater than the maximum amount of the fine prescribed by section 82 (1) *(b)*, the maximum amount of the fine to which the person convicted shall be liable in terms of that section shall be increased to an amount equal to the amount underpaid.

(7) It shall not be a defence to any charge of a contravention or failure such as is referred to in subsection (2) or (3) to prove that the act or omission with which the accused is charged was due to lack of means.

(8) *(a)* Any employer who is notified in writing by the inspector defined by regulation or the industrial council having jurisdiction that any moneys as determined by such inspector or industrial council are payable to any person or to such industrial council or to any fund referred to in section 24 (1) *(r)* or 48 (1) *(d)* by such employer in terms of any agreement, award, licence of exemption or order which is or was binding in terms of this Act and who admits that the moneys so determined are so payable may pay such moneys to the said inspector or industrial council, as the case may be, for payment to the person or fund or (where necessary) the industrial council entitled thereto.

(b) If any moneys so paid to the inspector defined by regulation or the industrial council have at the expiry of a period of six months as from the date of receipt thereof not been paid to the person entitled thereto, the inspector shall forthwith transmit such moneys to the

onverwyld daardie gelde aan die Direkteur-generaal **[: Mannekrag]** deurstuur vir inbetaling in die Staatsinkomstefonds, en die betrokke nywerheidsraad moet daardie gelde onverwyld in genoemde Fonds inbetaal.

(c) Op aansoek van die Direkteur-generaal **[: Mannekrag]** of die betrokke nywerheidsraad gedoen te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van inbetaling in die Staatsinkomstefonds kragtens paragraaf *(b)*, moet die betrokke gelde terugbetaal word aan die Direkteur-generaal **[: Mannekrag]** of daardie nywerheidsraad vir betaling aan die persoon wat daarop geregtig is.".

Vervanging van artikel 64 van Wet 28 van 1956

23. Artikel 64 van die Hoofwet word hierby deur die volgende artikel vervang:

"Beslissing van Appèlafdeling kan oor regsvraag verkry word

64. (1) Wanneer die Minister enige twyfel het omtrent die juistheid van 'n uitspraak deur 'n provinsiale of plaaslike afdeling van die Hooggeregshof aangaande die uitleg van enige bepaling van hierdie Wet gedoen, kan hy daardie beslissing by wyse van 'n spesiale saak aan die **[Afdeling van Appèl]** Appèlafdeling van die Hooggeregshof voorlê en die aangeleentheid voor bedoelde afdeling laat beredeneer, sodat hy die betrokke vraag vir die toekomstige leiding van alle howe kan beslis.

(2) Wanneer—

(a) 'n afdeling van die arbeidsappèlhof 'n beslissing oor 'n regsvraag gee wat strydig is met 'n beslissing oor 'n regsvraag wat deur 'n ander afdeling van die arbeidsappèlhof gegee is;

(b) die Minister van oordeel is dat 'n regsvraag wat ingevolge artikel 17 (21) *(a)* aan 'n afdeling van die arbeidsappèlhof vir beslissing voorgelê is, met enige van die beslissings in paragraaf *(a)* bedoel verband hou of van 'n soortgelyke aard is;

(c) by 'n appèl of 'n aansoek om verlof tot appèl ingevolge artikel 17C (1) die Minister van oordeel is dat die beslissing oor 'n regsvraag waarteen geappelleer word of in verband waarmee 'n aansoek om verlof tot appèl gedoen word, met enige van die beslissings in paragraaf *(a)* bedoel verband hou of van 'n soortgelyke aard is;

(d) 'n afdeling van die arbeidsappèlhof 'n beslissing oor 'n regsvraag gegee het, en 'n party by 'n geskil voor 'n ander afdeling van die arbeidsappèlhof ingevolge artikel 17C (1) teen 'n beslissing van laasgenoemde hof appelleer of aansoek doen om verlof tot appèl en die beslissing van laasgenoemde hof na die oordeel van die Minister oor dieselfde regsvraag handel as die beslissing van eersgenoemde hof,

kan die Minister sodanige strydige beslissings of sodanige strydige beslissings tesame met sodanige verbandhoudende en soortgelyke regsvrae of die regsvraag in paragraaf *(d)*, na gelang van die geval, aan die Appèlafdeling van die Hooggeregshof voorlê en die aangeleentheid voor daardie hof laat beredeneer sodat daardie hof bedoelde regsvraag vir die toekomstige leiding van alle howe kan beslis.

(3) Die Minister moet aan die partye by die verrigtinge skriftelik kennis gee dat sodanige beslissing aan die Appèlafdeling voorgelê is.

(4) Alle verrigtinge wat verband hou met, of van 'n soortgelyke aard is as 'n regsvraag wat in enige hof hangend is en welke regsvraag ingevolge subartikel (1) aan die Appèlafdeling voorgelê is, word, in afwagting van die beslissing van die Appèlafdeling, opgeskort, tensy die hof voor wie die verrigtinge hangend is, oortuig is dat sodanige opskorting vir enige van die partye onbehoorlike nadeel tot gevolg kan hê.".

Wysiging van artikel 65 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 61 van 1966 en artikel 48 van Wet 57 van 1981

24. Artikel 65 van die Hoofwet word hierby gewysig—

Director-General **[:Manpower]** for payment into the State Revenue Fund, and the industrial council concerned shall forthwith pay such moneys into the said Fund.

(c) On the application of the Director-General **[:Manpower]** or industrial council concerned made at any time within a period of three years from the date of payment into the State Revenue Fund under paragraph *(b)* the moneys concerned shall be refunded to the Director-General **[:Manpower]** or that industrial council for payment to the person entitled thereto.".

Substitution of section 64 of Act 28 of 1956

23. The following section is hereby substituted for section 64 of the principal Act:

"Decision of Appellate Division may be invoked on question of law

64. (1) Whenever the Minister has any doubt as to the correctness of any decision given by any provincial or local division of the Supreme Court as to the interpretation of any provision of this Act, he may submit that decision to the Appellate Division of the Supreme Court by way of a special case and cause the matter to be argued before the said division in order that it may determine the said question for the future guidance of all courts.

(2) When—

(a) a division of the labour appeal court gives a decision on a question of law which is in conflict with a decision on a question of law given by any other division of the labour appeal court;

(b) the Minister is of the opinion that a question of law which has been submitted in terms of section 17 (21) *(a)* to a division of the labour appeal court for decision, is related to or is of a similar nature to any of the decisions referred to in paragraph *(a)*;

(c) in an appeal or an application for leave to appeal in terms of section 17C (1) the Minister is of the opinion that the decision on a question of law against which there is an appeal or in respect of which application for leave to appeal is being made, is related to or is of a similar nature to any of the decisions referred to in paragraph *(a)*;

(d) a division of the labour appeal court has given a decision on a question of law, and a party to a dispute before another division of the labour appeal court appeals in terms of section 17C (1) against a decision of the latter court or applies for leave to appeal and the decision of the latter court, in the opinion of the Minister, deals with the same question of law as the decision of the former court,

the Minister may submit such conflicting decisions or such conflicting decisions together with such related and similar questions of law or the question of law in paragraph *(d)*, as the case may be, to the Appellate Division of the Supreme Court and cause the matter to be argued before that court so that that court can decide on the said question of law for the future guidance of all courts.

(3) The Minister shall give notice in writing to the parties to the proceedings that such decision has been submitted to the Appellate Division.

(4) All proceedings related to or of a similar nature to a question of law pending in any court and which question of law has been submitted to the Appellate Division in terms of subsection (1) shall be suspended, pending the decision of the Appellate Division, unless the court before which the proceedings are pending is satisfied that such suspension may result in undue prejudice to any of the parties.".

Amendment of section 65 of Act 28 of 1956, as amended by section 1 of Act 61 of 1966 and section 48 of Act 57 of 1981

24. Section 65 of the principal Act is hereby amended—

(a) deur subparagrawe (i) en (ii) van paragraaf *(d)* van subartikel (1) deur onderskeidelik die volgende subparagrawe te vervang:

"(i) as daar 'n nywerheidsraad bestaan wat regsbevoegdheid besit, tensy die aangeleentheid wat tot die staking of uitsluiting aanleiding gee deur daardie raad oorweeg is, en totdat—

(aa) die sekretaris van die raad of iemand deur die raad vir daardie doel aangewys, skriftelik aan die **[Minister]** Direkteur-generaal daaroor verslag gedoen het; of

(bb) 'n tydperk van 30 dae bereken vanaf die datum waarop die aangeleentheid aan die raad voorgelê is of sodanige langer tydperk as wat die raad vasstel, verstryk het,

na gelang van watter gebeurtenis die eerste plaasvind; of

(ii) as daar geen sodanige raad bestaan nie, tensy kragtens artikel 35 aansoek gedoen is om die instelling van 'n versoeningsraad vir die oorweging van bedoelde aangeleentheid en totdat—

(aa) die voorsitter van die versoeningsraad **[wat ingestel word]** of iemand deur die voorsitter vir daardie doel aangewys, skriftelik aan die **[Minister]** Direkteur-generaal daaroor verslag gedoen het; of

(bb) **['n tydperk van 30 dae bereken vanaf die datum waarop die Minister die instelling van 'n versoeningsraad goedgekeur het of sodanige verdere tydperk as wat die versoeningsraad vasstel, verstryk het; of]** die tydperk of tydperke bedoel in artikel 36 (1) *(a)* verstryk het,

[*(cc)* die Minister geweier het om die instelling van 'n versoeningsraad goed te keur; of

***(dd)* as die Minister nie binne 'n tydperk van 30 dae bereken vanaf die datum waarop die aansoek ingedien is die instelling van 'n versoeningsraad goedgekeur of geweier het nie, daardie tydperk verstryk het]**

na gelang van watter gebeurtenis die eerste plaasvind; of"; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Geen **[geregistreerde]** vakvereniging of werkgewersorganisasie en geen ampsdraer, beampte of lid van so 'n vereniging of organisasie mag 'n staking of uitsluiting deur lede van die vereniging of organisasie uitroep of daaraan deelneem nie—

(a) as die vereniging of organisasie, na gelang van die geval, 'n party is by 'n nywerheidsraad waarvan die konstitusie bepaal dat geskille wat nie deur die raad besleg kan word nie na arbitrasie verwys moet word; of

(b) in 'n geval waar paragraaf *(a)* nie van toepassing is nie, tensy die meerderheid van die volwaardige lede van die vereniging of organisasie in die gebied en in die besondere onderneming, nywerheid, bedryf of beroep waarin die staking of uitsluiting uitgeroep word of die deelname aan die staking of uitsluiting plaasvind, deur middel van 'n stemming per stembriefie ten gunste van sodanige optrede gestem het nadat verslag aan die Direkteur-generaal gedoen is of die tydperk of tydperke verstryk het, soos bedoel in subparagraaf (i) of (ii) van paragraaf *(d)* van subartikel (1), na gelang van die geval.".

Vervanging van artikel 67 van Wet 28 van 1956, soos vervang deur artikel 8 van Wet 2 van 1983

25. Artikel 67 van die Hoofwet word hierby deur die volgende artikel vervang:

"Geheimhouding bewaar te word

67. (1) Enige verteenwoordiger op 'n nywerheidsraad of 'n versoeningsraad, of enige plaasvervanger van so 'n verteenwoordiger, of enige persoon wat op 'n vergadering van 'n nywerheidsraad of 'n versoeningsraad voorgesit het, of enige lid van 'n komitee van 'n nywerheidsraad of enige aangewese agent of ander beampte van 'n nywerheidsraad, of enige beampte of ampsdraer van enigeen van die partye by 'n nywerheidsraad of 'n versoeningsraad of enige ander persoon wat toegelaat is om 'n vergadering van 'n nywerheidsraad of 'n komitee daarvan of van 'n

(a) by the substitution for subparagraphs (i) and (ii) of paragraph *(d)* of subsection (1) of the following subparagraphs, respectively:

"(i) if there is an industrial council having jurisdiction, unless the matter giving occasion for the strike or lock-out has been considered by that council and until—

(aa) the secretary of the council or a person designated by the council for that purpose, has reported thereon to the **[Minister]** Director-General in writing; or

(bb) a period of 30 days reckoned from the date on which the matter was submitted to the council, or such longer period as the council may fix, has expired,

whichever event occurs first; or

(ii) if there is no such council, unless application has been made under section 35 for the establishment of a conciliation board for the consideration of the said matter and until—

(aa) the chairman of the conciliation board **[that is established]** or a person designated by the chairman for that purpose, has reported thereon to the **[Minister]** Director-General in writing; or

(bb) **[a period of 30 days reckoned from the date on which the Minister has approved of the establishment of a conciliation board or such longer period as the conciliation board may fix has expired; or]** the period or periods envisaged by section 36 (1) *(a)* have expired,

[*(cc)* the Minister has refused to approve of the establishment of a conciliation board; or

***(dd)* if the Minister has not within a period of 30 days reckoned from the date on which the application was lodged approved or refused to approve of the establishment of a conciliation board, the expiry of that period]**

whichever event occurs first; or"; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) No **[registered]** trade union or employers' organization and no office-bearer, official or member of such union or organization shall call or take part in any strike or lock-out by members of the union or organization—

(a) if the union or organization, as the case may be, is a party to an industrial council the constitution of which provides that disputes which cannot be settled by the council shall be referred to arbitration; or

(b) in any case where paragraph *(a)* does not apply, unless the majority of the members of the union or organization in good standing in the area and in the particular undertaking, industry, trade or occupation in which the strike or lock-out is called or the taking part in the strike or lock-out takes place, have voted by ballot in favour of such action after a report has been made to the Director-General or the period or periods have elapsed, as contemplated in subparagraph (i) or (ii) of paragraph *(d)* of subsection (1), as the case may be.".

Substitution of section 67 of Act 28 of 1956, as substituted by section 8 of Act 2 of 1983

25. The following section is hereby substituted for section 67 of the principal Act:

"Secrecy to be observed

67. (1) Any representative on an industrial council or a conciliation board, or any alternate to such a representative, or any person who has presided over any meeting of an industrial council or a conciliation board, or any member of a committee of an industrial council, or any designated agent or other official of an industrial council, or any official or office-bearer of any of the parties to an industrial council or a conciliation board or any other person who has been permitted to attend any meeting of an industrial council or a committee thereof or of a

versoeningsraad by te woon, **[of, behoudens die bepalings van subartikel (2), enige lid van die nywerheidshof]** of enige bemiddelaar, assessor, arbiter of skeidsregter wat kragtens hierdie Wet aangestel is of geag word aldus aangestel te gewees het, of enige amptenaar wat, behalwe aan die Minister of aan 'n amptenaar of aan die nywerheidshof of arbeidsappèlhof of aan 'n lid van die nywerheidshof of arbeidsappèlhof of aan die Raad van Handel en Nywerheid ingestel by die Wet op die Raad van Handel en Nywerheid, 1986 (Wet No. 107 van 1986), of aan die loonraad ingestel by die Loonwet, 1957 (Wet No. 5 van 1957), of 'n soortgelyke liggaam of aan 'n nywerheidsraad of 'n versoeningsraad wat by die aangeleentheid betrokke is, of aan 'n komitee van so 'n nywerheidsraad, of aan 'n geregshof of aan 'n ander persoon vir die doeleindes van hierdie Wet of om hom in staat te stel om op doeltreffende wyse sy bevoegdhede uit te oefen of sy pligte kragtens hierdie Wet te verrig, enige inligting openbaar wat hy in die uitoefening van bedoelde bevoegdhede of die verrigting van bedoelde pligte of in die genoemde hoedanigheid of terwyl hy sodanige vergadering bywoon, na gelang van die geval, met betrekking tot die finansiële of besigheidsake van enige persoon, firma of besigheid verkry het, is aan 'n misdryf skuldig.

(2) *(a)* **[Die president van die nywerheidshof kan aandui welke uitsprake, beslissings, vasstellings of toekennings van daardie hof of welke inligting met betrekking daartoe, hetsy so 'n uitspraak, beslissing, vasstelling of toekenning voor die inwerkingtreding van die Wysigingswet op Arbeidsverhoudinge, 1983, gegee of gedoen is of daarna, na sy mening vir algemene inligting geopenbaar kan word]** Enige party betrokke by die verrigtinge van die nywerheidshof mag te eniger tyd gedurende sodanige verrigtinge versoek dat die geheel of enige deel van enige uitspraak, beslissing, vasstelling of toekenning van daardie hof of enige inligting met betrekking tot die verrigtinge voor daardie hof nie bekend gemaak word nie.

(b) **['n Afskrif van 'n uitspraak, beslissing, vasstelling, toekenning of inligting wat aldus deur die president van die hof aangedui is, word voor die openbaarmaking daarvan, wanneer die president van die hof aldus gelas het, deur die griffier van die hof na die betrokke partye verwys, en die griffier versoek terselfdertyd sodanige partye skriftelik om hul toestemming skriftelik vir die openbaarmaking daarvan te verleen, òf in die vorm waarin dit opgestel is òf in sodanige ander vorm as wat aan die hand gedoen mag word, met inbegrip van 'n vorm wat nie die identiteit van enige van of al sodanige partye openbaar nie]** Indien 'n versoek soos beoog in paragraaf *(a)* gerig is, word 'n afskrif van 'n uitspraak, beslissing, vasstelling, toekenning of inligting wat aldus aangedui is, voor die openbaarmaking daarvan, deur die griffier van die hof na die betrokke partye verwys, en die griffier versoek terselfdertyd sodanige partye skriftelik om binne 30 dae vanaf die datum van die versoek skriftelik aan te dui in welke vorm hulle verlang dat die uitspraak, beslissing, vasstelling, toekenning of inligting openbaar gemaak kan word.

(c) **[Waar enige van of al die partye versuim om hulle skriftelike toestemming tot sodanige openbaarmaking binne 30 dae te verleen nadat hulle deur die griffier van die hof versoek is om dit te doen, of na verstryking van enige verlenging van sodanige tydperk wat die griffier verleen het, verwys die griffier die saak na die president van die hof, wat, indien hy oortuig is—**

(i) dat die toestemming van enige van of al sodanige betrokke party of partye tot die openbaarmaking van die betrokke uitspraak, beslissing, vasstelling, toekenning of inligting in 'n geskikte vorm onredelik weerhou word; en

(ii) dat sodanige uitspraak, beslissing, vasstelling, toekenning of inligting in 'n vorm is wat nie die identiteit van die betrokke partye by die saak openbaar nie,

die openbaarmaking van sodanige uitspraak, beslissing, vasstelling of toekenning of inligting met betrekking daartoe in sodanige vorm, of enige ander vorm wat hy geskik ag, kan magtig] Indien 'n versoek

conciliation board, **[or, subject to the provisions of subsection (2), any member of the industrial court]** or any mediator, assessor, arbitrator or umpire appointed or deemed to have been appointed under this Act, or any officer who discloses any information in regard to the financial or business affairs of any person, firm or business acquired in the exercise of his powers or the performance of his duties under this Act or in the capacity stated or while attending any such meeting, as the case may be, except to the Minister or to an officer or to the industrial court or labour appeal court, or to a member of the industrial court or labour appeal court or to the Board of Trade and **[Industries]** Industry established by the Board of Trade and Industry Act, 1986 (Act No. 107 of 1986), or to the wage board established by the Wage Act, 1957 (Act No. 5 of 1957), or any similar body or to an industrial council or a conciliation board concerned in the matter, or to any committee of such an industrial council, or to a court of law or to any other person for the purposes of this Act or to enable him to exercise the said powers or to perform the said duties effectively, shall be guilty of an offence.

(2) *(a)* **[The president of the industrial court may indicate which judgments, decisions, determinations or awards of that court or which information in respect thereof, whether such judgment, decision, determination or award has been given or made before the coming into operation of the Labour Relations Amendment Act, 1983, or thereafter, he considers may be disclosed for general information]** Any party involved in any proceedings before the industrial court may at any time during such proceedings request that the whole or any part of any judgment, decision, determination or award of that court or any information in respect of the proceedings before that court shall not be disclosed.

(b) **[A copy of any judgment, decision, determination or award or information so indicated by the president of the court, shall prior to publication thereof, when so ordered by the president of the court, be referred by the registrar of the court to the parties concerned, and the registrar shall at the same time in writing request such parties to give their consent in writing to the disclosure thereof, either in the form in which it has been prepared or in such other form as may be suggested, including a form such as does not reveal the identity of any or all of such parties]** If a request has been made as contemplated in paragraph *(a)* a copy of any judgment, decision, determination, award or information so indicated shall prior to publication thereof be referred by the registrar of the court to the parties concerned, and the registrar shall at the same time in writing request such parties to indicate in writing, within 30 days from the date of the request, in what form they require the judgment, decision, determination, award or information to be disclosed.

(c) **[Where any or all of the parties fail to give their consent to such disclosure within 30 days after being requested by the registrar of the court to do so, or after the expiry of any extension of that period which the registrar may grant, the registrar shall refer the matter to the president of the industrial court, who, if he is satisfied—**

(i) that the consent of any such party or of all such parties concerned to the publication of the relevant judgment, decision, determination or award or information is or are being unreasonably withheld; and

(ii) that such judgment, decision, determination or award or information is in a form which does not reveal the identity of the party or parties concerned,

may authorize the disclosure of such judgment, decision, determination or award or information in that form or in any other form which he may deem fit] No judgment, decision, determination, award or

kragtens paragraaf *(a)* gemaak is, word geen uitspraak, beslissing, vasstelling, toekenning of inligting openbaar gemaak nie tensy die president van die nywerheidshof, behoudens paragraaf *(b)*, die openbaarmaking van sodanige uitspraak, beslissing, vasstelling, toekenning of inligting in die vorm wat hy geskik ag, gemagtig het.

(d) Iemand wat die bepalings van paragraaf *(c)* oortree, is aan 'n misdryf skuldig.

(e) 'n Sertifikaat uitgereik deur die griffier van die nywerheidshof is afdoende bewys dat 'n versoek kragtens paragraaf *(a)* gerig is of dat magtiging tot openbaarmaking nie kragtens paragraaf *(c)* verleen is nie.

(f) Die bepalings van hierdie subartikel is *mutatis mutandis* van toepassing op enige uitspraak, beslissing, vasstelling, toekenning of enige inligting in verband met die verrigtinge van 'n arbeidsappèlhof.

(g) Hierdie artikel is ook van toepassing op alle uitsprake, beslissings, vasstellings, toekennings of inligting wat nog nie openbaar gemaak is nie by die inwerkingtreding van die Wysigingswet op Arbeidsverhoudinge, 1988.".

Vervanging van artikel 79 van Wet 28 van 1956

26. Artikel 79 van die Hoofwet word hierby deur die volgende artikel vervang:

"Vrywaring van sekere verliese gely ter bevordering van staking of uitsluiting

79. (1) Geen siviele geregtelike stappe word in enige geregshof teen 'n werknemer, werkgewer, geregistreerde vakvereniging of werkgewersorganisasie of teen 'n lid, ampsdraer of beampte van so 'n vereniging of organisasie ten opsigte van **['n onregmatige handeling]** enige kontrakbreuk, verbreking van 'n statutêre verpligting of onregmatige daad (behalwe laster) deur daardie werknemer, werkgewer, vereniging of organisasie, of deur daardie lid, ampsdraer of beampte namens daardie vereniging of organisasie ter bevordering van 'n staking of uitsluiting **[verrig]** gepleeg, aanhangig gemaak nie: Met dien verstande dat hierdie **[artikel]** vrywaring nie van toepassing is nie op enige handeling verrig ter bevordering van 'n staking of uitsluiting waaraan, of aan die voortsetting waarvan, enige werknemer, werkgewer of ander persoon deur artikel 65 belet word om deel te neem, of op enige handeling waarvan die verrigting 'n kriminele oortreding is.

(2) Behoudens die vrywaring in subartikel (1), is enige lid, ampsdraer of beampte van 'n vakvereniging, werkgewersorganisasie of federasie wat inbreuk maak op die kontraktuele verhouding tussen 'n werkgewer en 'n werknemer wat die verbreking van sodanige kontrak tot gevolg het, deliktueel aanspreeklik en word geag, totdat die teendeel bewys word, met behoorlike magtiging namens die betrokke vakvereniging, werkgewersorganisasie of federasie te gehandel het.".

Wysiging van artikel 82 van Wet 28 van 1956, soos gewysig deur artikel 57 van Wet 57 van 1981 en artikel 7 van Wet 81 van 1984

27. Artikel 82 van die Hoofwet word hierby gewysig deur paragraaf *(a)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(a)* met 'n boete van hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sodanige gevangenisstraf sonder die keuse van 'n boete of met sodanige boete sowel as sodanige gevangenisstraf, in die geval van 'n in **[artikel]** artikels 53 (1) en 66 (1) bedoelde misdryf;".

Byvoeging van Bylae by Wet 28 van 1956

28. Die volgende Bylae word hierby by die Hoofwet gevoeg:

information shall be published if so requested in terms of paragraph *(a)* unless the president of the industrial court has, subject to paragraph *(b)*, authorized the disclosure of such judgment, decision, determination, award or information in such form as he may deem fit.

(d) Any person who contravenes the provisions of paragraph *(c)* shall be guilty of an offence.

(e) A certificate issued by the registrar of the industrial court shall be conclusive proof that a request was made in terms of paragraph *(a)* or that disclosure has not been authorized in terms of paragraph *(c)*.

(f) The provisions of this subsection shall *mutatis mutandis* apply to any judgment, decision, determination, award or any information in respect of the proceedings of a labour appeal court.

(g) This section shall also apply to all judgments, decisions, determinations, awards or information not disclosed at the commencement of the Labour Relations Amendment Act, 1988.".

Substitution of section 79 of Act 28 of 1956

26. The following section is hereby substituted for section 79 of the principal Act:

"Indemnification against certain losses suffered in furtherance of strike or lock-out

79. (1) No civil legal proceedings shall be brought in any court of law against any employee, employer, registered trade union or employers' organization, or against any member, office-bearer or official of any such union or organization in respect of any **[wrongful act]** breach of contract, breach of statutory duty or delict (other than defamation) committed by that employee, employer, union or organization, or by that member, office-bearer or official on behalf of that union or organization, in furtherance of a strike or lock-out: Provided that this **[section]** indemnity shall not apply to any act committed in furtherance of any strike or lock-out in which, or in the continuation of which, any employee, employer or other person is by section 65 forbidden to take part, or to any act the commission of which is a criminal offence.

(2) Subject to the indemnity in subsection (1) any member, office-bearer or official of a trade union, employers' organization or federation who interferes with the contractual relationship between an employer and an employee resulting in the breach of such contract shall be liable in delict and, until the contrary is proved, be deemed to have been acting with due authority on behalf of the trade union, employers' organization or federation concerned.".

Amendment of section 82 of Act 28 of 1956, as amended by section 57 of Act 57 of 1981 and section 7 of Act 81 of 1984

27. Section 82 of the principal Act is hereby amended by the substitution for paragraph *(a)* of subsection (1) of the following paragraph:

"*(a)* in the case of an offence referred to in **[section]** sections 53 (1) and 66 (1), to a fine not exceeding R2 000 or imprisonment for a period not exceeding two years or such imprisonment without the option of a fine or both such fine and such imprisonment;".

Addition of Schedule to Act 28 of 1956

28. The following Schedule is hereby added to the principal Act:

"Bylae

AFDELINGS VAN DIE ARBEIDSAPPÈLHOF EN HUL REGSGEBIEDE
(Artikel 17A)

Naam van Afdeling	Regsgebied
Afdeling Kaap die Goeie Hoop van die Arbeidsappèlhof	Die provinsie Kaap die Goeie Hoop, uitgesonderd daardie gedeeltes waarin die Oos-Kaapse en Noord-Kaapse Afdelings jurisdiksie het
Oos-Kaapse Afdeling van die Arbeidsappèlhof	Daardie gedeelte van die provinsie die Kaap die Goeie Hoop ooswaarts en met inbegrip van die landdrosdistrikte van Humansdorp, Steytlerville, Jansenville, Aberdeen, Murraysburg, Graaff-Reinet, Middelburg, Hanover en Colesberg
Noord-Kaapse Afdeling van die Arbeidsappèlhof	Die landdrosdistrikte Barkly-Wes, Britstown, Carnarvon, De Aar, Gordonia, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Philipstown, Postmasburg, Prieska, Richmond, Taung, Victoria-Wes, Vryburg en Warrenton
Natalse Afdeling van die Arbeidsappèlhof	Die provinsie Natal
Oranje-Vrystaatse Afdeling van die Arbeidsappèlhof	Die provinsie Oranje-Vrystaat
Transvaalse Afdeling van die Arbeidsappèlhof	Die provinsie Transvaal".

Vervanging van lang titel van Wet 28 van 1956, soos vervang deur artikel 10 van Wet 2 van 1983

29. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

"WET

Tot samevatting en wysiging van die wet met betrekking tot die registrasie en reëling van vakverenigings en werkgewersorganisasies, die voorkoming en beslegting van geskille tussen werkgewers en werknemers, en die reëling van bedinge en voorwaardes van diens deur ooreenkoms en arbitrasie; om voorsiening te maak vir die instelling van 'n Nasionale Mannekragkommissie en om sy werksaamhede te omskryf; om voorsiening te maak vir die instelling van 'n nywerheidshof en om sy werksaamhede te omskryf; om voorsiening te maak vir die instelling van 'n arbeidsappèlhof en om sy werksaamhede te omskryf; om voorsiening te maak vir beheer oor arbeidsmakelaars en die registrasie van arbeidsmakelaarskantore; en om voorsiening te maak vir bykomstige aangeleenthede.".

Oorgangsbepalings

30. 'n Aansoek om die instelling van 'n versoeningsraad wat deur die Minister van Mannekrag ontvang is onmiddellik voor die inwerkingtreding van artikels 9 tot 12 van hierdie Wet en wat nie deur daardie Minister afgehandel is nie, word na bedoelde inwerkingtreding deur hom afgehandel asof genoemde artikels nie verorden is nie.

Kort titel en inwerkingtreding

31. (1) Hierdie Wet heet die Wysigingswet op Arbeidsverhoudinge, 1988, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan aldus bepaal word ten opsigte van verskillende bepalings van hierdie Wet.

"Schedule

DIVISIONS OF THE LABOUR APPEAL COURT AND THEIR AREAS OF JURISDICTION
(Section 17A)

Name of Division	Area of Jurisdiction
Cape of Good Hope Division of the Labour Appeal Court	The province of the Cape of Good Hope, excluding those portions over which the Eastern Cape and Northern Cape divisions exercise jurisdiction
Eastern Cape Division of the Labour Appeal Court	That portion of the province of the Cape of Good Hope eastward of and including the magisterial districts of Humansdorp, Steytlerville, Jansenville, Aberdeen, Murraysburg, Graaff-Reinet, Middelburg, Hanover and Colesberg
Northern Cape Division of the Labour Appeal Court.	The magisterial districts of Barkly West, Britstown, Carnarvon, De Aar, Gordonia, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Philipstown, Postmasburg, Prieska, Richmond, Taung, Victoria West, Vryburg and Warrenton
Natal Division of the Labour Appeal Court	The province of Natal
Orange Free State Division of the Labour Appeal Court	The province of the Orange Free State
Transvaal Division of the Labour Appeal Court	The province of the Transvaal".

Substitution of long title of Act 28 of 1956, as substituted by section 10 of Act 2 of 1983

29. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To consolidate and amend the law relating to the registration and regulation of trade unions and employers' organizations, the prevention and settlement of disputes between employers and employees, and the regulation of terms and conditions of employment by agreement and arbitration; to provide for the establishment of a National Manpower Commission and to define its functions; to provide for the establishment of an industrial court and to define its functions; to provide for the establishment of a labour appeal court and to define its functions; to provide for the control of labour brokers and the registration of labour brokers' offices; and to provide for **[other]** incidental matters.".

Transitional provisions

30. Any application for the establishment of a conciliation board which was received by the Minister of Manpower immediately before the commencement of sections 9 to 12 of this Act and which has not been disposed of by that Minister, shall after such commencement be disposed of by him as if the said sections had not been enacted.

Short title and commencement

31. (1) This Act shall be called the Labour Relations Amendment Act, 1988, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

GEDRUK DEUR KAAP & TRANSVAAL DRUKKERS (EDMS) BPK, KAAPSTAD, VIR DIE STAATSDRUKKER, PRETORIA, TEL (012) 323-9731 X267—BB5061/14800
PRINTED BY CAPE & TRANSVAAL PRINTERS (PTY) LTD, CAPE TOWN, FOR THE GOVERNMENT PRINTER, PRETORIA, TEL (012) 323-9731 X267—BB5061/14800