



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

## STAATSKOERANT

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 649.

12 April 1989

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

No. 40 of 1989: Machinery and Occupational Safety Amendment Act, 1989.

No. 649.

12 April 1989

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

No. 40 van 1989: Wysigingswet op Masjinerie en Beroepsveiligheid, 1989.

Act No. 40, 1989

MACHINERY AND OCCUPATIONAL SAFETY AMENDMENT ACT,  
1989

## 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 Machinery and Occupational Safety Act, 1983, so as to define "chief executive officer"; to exclude merchant shipping and certain investigations in terms of the Aviation Act, 1962, from the application of the Act; to expand the constitution of the Advisory Council for Occupational Safety and to provide for the period of office and remuneration of the additional members; to differentiate between shops and offices and other workplaces with respect to the designation of safety representatives and their functions; to charge chief executive officers with certain duties; to delete certain obsolete transitional provisions; and to increase the fines which may be imposed under the Act; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 21 March 1989.)*

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

## Amendment of section 1 of Act 6 of 1983

1. Section 1 of the Machinery and Occupational Safety Act, 1983 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion in subsection (1) after the definition of "building" of the following definition:

"chief executive officer", in relation to a body corporate or a government enterprise, means the person who is responsible for or is deemed to be responsible for the overall management and control of the business of such body corporate or enterprise;"; and

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

"(4) This Act shall not apply in respect of—

- (a) any premises in respect of which the Mines and Works Act, 1956 (Act No. 27 of 1956), applies;
- (b) an explosives factory and an explosives magazine within the meaning of the Explosives Act, 1956 (Act No. 26 of 1956);
- (c) any load line ship (including a ship holding a load line exemption certificate), fishing boat, sealing boat and whaling boat as defined in the Merchant Shipping Act, 1951 (Act No. 57 of 1951), and any floating crane, whether or not such ship, boat or crane is in or out of the water within any harbour in the Republic of South Africa or within the territorial waters thereof,
- or in respect of any person present on or in any such premises, factory, **[or]** magazine, ship, boat or crane."

WYSIGINGSWET OP MASJINERIE EN BEROEPSVEILIGHEID, 1989

Wet No. 40, 1989

## ALGEMENE VERUIDELIKENDE NOTA:

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

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

## WET

Tot wysiging van die Wet op Masjinerie en Beroepsveiligheid, 1983, ten einde "hoof- uitvoerende beampte" te omskryf; handelskeepvaart en sekere ondersoeke ingevolge die Lugvaartwet, 1962, van die toepassing van die Wet uit te sluit; die samestelling van die Adviesraad vir Beroepsveiligheid uit te brei en vir die ampstermyn en besoldiging van die bykomende lede voorsiening te maak; te onderskei tussen winkels en kantore en ander werkplekke ten opsigte van die aanwysing van veiligheidsvertegenwoordigers en hul werksaamhede; hoof- uitvoerende beamptes met sekere pligte te belas; sekere uitgediende oorgangsbepalings te skrap; en die boetes wat ingevolge die Wet opgelê kan word, te verhoog; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 21 Maart 1989.)

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

## Wysiging van artikel 1 van Wet 6 van 1983

1. Artikel 1 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (hieronder die 5 Hoofwet genoem), word hierby gewysig—

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

10 "hoof- uitvoerende beampte", met betrekking tot 'n regspersoon of 'n staatsonderneming, die persoon wat verantwoordelik is of geag word verantwoordelik te wees vir die oorhoofse bestuur en beheer van die sake van daardie regspersoon of onderneming;" en

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

"(4) Hierdie Wet is nie van toepassing nie ten opsigte van—

15 (a) 'n perseel ten opsigte waarvan die Wet op Myne en Bedrywe, 1956 (Wet No. 27 van 1956), van toepassing is;

(b) 'n fabriek van ontplofbare stowwe en 'n magasyn van ontplofbare stowwe ooreenkomstig die bedoeling van die Wet op Ontplofbare Stowwe, 1956 (Wet No. 26 van 1956);

20 (c) 'n laslynskip (met inbegrip van 'n skip wat oor 'n laslynvrystelling- sertifikaat beskik), vissersboot, robbevaarder en walvisvaarder soos omskryf in die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), en 'n drywende hyskraan, hetsy sodanige skip, boot, vaarder of hyskraan in of uit die water in 'n hawe in die Republiek van Suid-Afrika of binne die territoriale waters daarvan is of nie,

25 of ten opsigte van iemand wat op of in so 'n perseel, fabriek, [of] magasyn, skip, boot, vaarder of hyskraan aanwesig is."

Act No. 40, 1989 MACHINERY AND OCCUPATIONAL SAFETY AMENDMENT ACT,  
1989

Substitution of section 4 of Act 6 of 1983

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

**“Constitution of advisory council**

4. The advisory council shall have **[nine]** twelve members appointed by the Minister, and shall consist of— 5
- (a) the chief inspector, *ex officio*;
  - (b) **[one officer]** two officers serving in the Department;
  - (c) two [officers serving in the Department of Health and Welfare and] persons nominated by the Minister of National Health and [Welfare] Population Development; 10
  - (d) one officer serving in the office of the Workmen’s Compensation Commissioner;
  - (e) two persons to represent employers in the advisory council;
  - (f) two persons to represent employees in the advisory council;
  - (g) two persons appointed by the Minister by reason of their knowledge 15 of occupational safety or the safety of machinery.”

Amendment of section 5 of Act 6 of 1983

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

- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph: 20
 

“(b) in the case of a member referred to in paragraph (e), **[or]** (f) or (g) of that section, for such period as the Minister may at the time of his appointment determine.”; and
- (b) by the substitution for subsection (3) of the following subsection:
 

“(3) To a member referred to in paragraph (e), **[or]** (f) or (g) of section 25 4 who is not an officer there may be paid from moneys appropriated for such purpose by Parliament such allowances as the Minister may with the concurrence of the Minister of Finance determine.”.

Amendment of section 9 of Act 6 of 1983

4. Section 9 of the principal Act is hereby amended by the substitution for 30 paragraph (a) of the proviso to subsection (2) of the following paragraph:

- “(a) in respect of any—
- (i) workplace defined as a shop or office in the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983), there shall be at least one safety representative for every 100 employees or part thereof; and 35
  - (ii) **[single]** other workplace, there shall be at least one safety representative for [each] every 50 employees or part thereof, performing work at that workplace in the service of the employer concerned;”.

Amendment of section 10 of Act 6 of 1983

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

- “(a) shall once a month or, in respect of any workplace defined as a shop or office in the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983), once every three months, or at such other intervals as may be 45 determined by an inspector, inspect the workplace or section of a workplace for which he has been designated, including any machinery and safety equipment at that workplace, with a view to the safety thereof;”.

## WYSIGINGSWET OP MASJINERIE EN BEROEPSVEILIGHEID, 1989

Wet No. 40, 1989

## Vervanging van artikel 4 van Wet 6 van 1983

2. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

## “Samestelling van adviesraad

- 5 4. Die adviesraad het **[nege]** twalf lede wat deur die Minister aangestel word, en bestaan uit—
- (a) die hoofinspekteur, *ex officio*;
  - (b) **[een beampte]** twee beamptes wat by die Departement in diens is;
  - (c) twee **[beamptes]** persone wat **[by die Departement van Gesondheid en Welsyn in diens is en]** deur die Minister van Nasionale Gesondheid en **[Welsyn]** Bevolkingsontwikkeling benoem is;
  - 10 (d) een beampte wat by die kantoor van die Ongevallekommissaris in diens is;
  - (e) twee persone om werkgewers in die adviesraad te verteenwoordig;
  - (f) twee persone om werknemers in die adviesraad te verteenwoordig;
  - 15 (g) twee persone wat vanweë hul kennis van beroepsveiligheid of die veiligheid van masjinerie deur die Minister aangestel word.”.

## Wysiging van artikel 5 van Wet 6 van 1983

3. Artikel 5 van die Hoofwet word hierby gewysig—

- 20 (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:
- “(b) in die geval van ’n lid bedoel in paragraaf (e), **[of]** (f) of (g) van daardie artikel, vir die tydperk wat die Minister ten tyde van sy aanstelling bepaal.”; en
- 25 (b) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) Aan ’n lid bedoel in paragraaf (e), **[of]** (f) of (g) van artikel 4 wat nie ’n beampte is nie kan daar uit gelde wat die Parlement vir dié doel bewillig, die toelaes betaal word wat die Minister met die instemming van die Minister van Finansies bepaal.”.

## Wysiging van artikel 9 van Wet 6 van 1983

30 4. Artikel 9 van die Hoofwet word hierby gewysig deur paragraaf (a) van die voorbehoud by subartikel (2) deur die volgende paragraaf te vervang:

- “(a) daar ten opsigte van—
- (i) enige werkplek omskryf as ’n winkel of kantoor in die Wet op Basiese Diensvoorwaardes, 1983 (Wet No. 3 van 1983), minstens een veiligheidsverteenwoordiger moet wees vir elke 100 werknemers of gedeelte daarvan; en
  - 35 (ii) enige **[enkele]** ander werkplek minstens een veiligheidsverteenwoordiger moet wees vir elke 50 werknemers of gedeelte daarvan, wat by daardie werkplek in die diens van die betrokke werkgewer
  - 40 werksaam is;”.

## Wysiging van artikel 10 van Wet 6 van 1983

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

- 45 “(a) moet een keer per maand of, ten opsigte van ’n werkplek omskryf as ’n winkel of kantoor in die Wet op Basiese Diensvoorwaardes, 1983 (Wet No. 3 van 1983), een keer elke drie maande, of met die ander tussenpose deur ’n inspekteur bepaal, die werkplek of afdeling van ’n werkplek waarvoor hy aangewys is, met inbegrip van enige masjinerie en veiligheidstoerusting by daardie werkplek of afdeling van ’n werkplek, met die oog op die veiligheid daarvan inspekteer;”.
- 50



**Act No. 40, 1989      MACHINERY AND OCCUPATIONAL SAFETY AMENDMENT ACT,**  
1989

**Insertion of section 10A in Act 6 of 1983**

6. The following section is hereby inserted in the principal Act after section 10:

**“Chief executive officer charged with certain duties and vested with certain authority**

**10A.** (1) The chief executive officer shall ensure that the employer 5  
complies with the provisions of this Act and is vested with overall  
authority in matters to which this Act relates.

(2) The chief executive officer may delegate any duty contemplated in  
subsection (1) to any person under his control, which person shall act 10  
subject to the control and directions of the chief executive officer.

(3) The provisions of subsection (1) shall not, subject to the provisions  
of section 30, relieve an employer of any responsibility or any liability 10  
under this Act.

(4) For the purpose of subsection (1), the head of department of any  
department of State shall be deemed to be the chief executive officer of 15  
that department.”

**Amendment of section 17 of Act 6 of 1983**

7. Section 17 of the principal Act is hereby amended by the substitution for  
subsection (3) of the following subsection:

“(3) The provisions of subsection (1) shall not apply in respect of— 20

- (a) a traffic accident on a public road; **[or]**
- (b) an incident occurring in a private household, provided the householder  
forthwith reports the incident to the South African Police or to a local  
authority of the area in which the incident occurred;
- (c) an accident which is to be investigated under section 12 of the Aviation 25  
Act, 1962 (Act No. 74 of 1962).”

**Amendment of section 19 of Act 6 of 1983**

8. Section 19 of the principal Act is hereby amended by the deletion of subsection  
(5).

**Amendment of section 20 of Act 6 of 1983**

9. Section 20 of the principal Act is hereby amended by the deletion of subsection  
(4).

**Amendment of section 28 of Act 6 of 1983**

10. Section 28 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the expression “R2 000” of the 35  
expression “R10 000”; and
- (b) by the substitution in subsection (2) for the expression “R4 000” of the  
expression “R20 000”.

**Amendment of section 30 of Act 6 of 1983**

11. Section 30 of the principal Act is hereby amended by the substitution for the 40  
word “mandatory”, wherever it occurs, of the word “mandatary”.

**Amendment of section 35 of Act 6 of 1983**

12. Section 35 of the principal Act is hereby amended by the substitution in  
subsection (4) for the expressions “R1 000” and “R5” of the expressions “R5 000”  
and “R100”, respectively. 45

## WYSIGINGSWET OP MASJINERIE EN BEROEPSVEILIGHEID, 1989

Wet No. 40, 1989

**Invoeging van artikel 10A in Wet 6 van 1983**

6. Die volgende artikel word hierby in die Hoofwet na artikel 10 ingevoeg:

**“Hoof- uitvoerende beampte belas met sekere pligte en bekleë met sekere gesag**

- 5           **10A. (1)** Die hoof- uitvoerende beampte moet toesien dat die  
               werkgewer die bepalings van hierdie Wet nakom en is bekleë met  
               algehele gesag in aangeleenthede waarop hierdie Wet betrekking het.  
               (2) Die hoof- uitvoerende beampte kan enige plig in subartikel (1)  
               beoog aan iemand onder sy beheer deleger, welke persoon onderworpe  
 10           aan die beheer en voorskrifte van die hoof- uitvoerende beampte optree.  
               (3) Die bepalings van subartikel (1) onthef nie 'n werkgewer,  
               behoudens die bepalings van artikel 30, van enige verantwoordelikheid  
               of aanspreeklikheid ingevolge hierdie Wet nie.  
               (4) By die toepassing van subartikel (1) word die departementshoof  
 15           van enige Staatsdepartement geag die hoof- uitvoerende beampte van  
               daardie departement te wees.”.

**Wysiging van artikel 17 van Wet 6 van 1983**

7. Artikel 17 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- 20           “(3) Die bepalings van subartikel (1) is nie van toepassing nie ten opsigte  
               van—  
               (a) 'n verkeersongeluk op 'n openbare pad; **[of]**  
               (b) 'n voorval wat plaasvind in 'n private huishouding, mits die huishouer die  
               voorval onverwyld aan die Suid-Afrikaanse Polisie of aan 'n plaaslike  
 25           bestuur van die gebied waarin die voorval plaasgevind het, aanmeld;  
               (c) 'n ongeluk wat kragtens artikel 12 van die Lugvaartwet, 1962 (Wet No. 74  
               van 1962), ondersoek moet word.”.

**Wysiging van artikel 19 van Wet 6 van 1983**

8. Artikel 19 van die Hoofwet word hierby gewysig deur subartikel (5) te skrap.

**Wysiging van artikel 20 van Wet 6 van 1983**

9. Artikel 20 van die Hoofwet word hierby gewysig deur subartikel (4) te skrap.

**Wysiging van artikel 28 van Wet 6 van 1983**

10. Artikel 28 van die Hoofwet word hierby gewysig—  
 35           (a) deur in subartikel (1) die uitdrukking “R2 000” deur die uitdrukking  
               “R10 000” te vervang; en  
               (b) deur in subartikel (2) die uitdrukking “R4 000” deur die uitdrukking  
               “R20 000” te vervang.

**Wysiging van artikel 30 van Wet 6 van 1983**

11. Artikel 30 van die Hoofwet word hierby gewysig deur in die Engelse teks die  
 40 woord “mandatory”, waar dit ook al voorkom, deur die woord “mandatory” te  
       vervang.

**Wysiging van artikel 35 van Wet 6 van 1983**

12. Artikel 35 van die Hoofwet word hierby gewysig deur in subartikel (4) die  
       uitdrukkings “R1 000” en “R5” deur onderskeidelik die uitdrukkings “R5 000” en  
 45 “R100” te vervang.

**Act No. 40, 1989      MACHINERY AND OCCUPATIONAL SAFETY AMENDMENT ACT,  
1989****Short title and commencement**

**13.** This Act shall be called the Machinery and Occupational Safety Amendment Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.



## WYSIGINGSWET OP MASJINERIE EN BEROEPSVEILIGHEID, 1989

Wet No. 40, 1989

**Kort titel en inwerkingtreding**

13. Hierdie Wet heet die Wysigingswet op Masjinerie en Beroepsveiligheid, 1989, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

