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YECISKEI

REPUBLIC OF
CISKEI

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YOBURHULUMENTE

GOVERNMENT
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DEPARTMENT OF MANPOWER UTILISATION

GOVERNMENT NOTICE No. 57 OF 1989

IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-

WAGE ACT, 1989

ACT No. 1 OF 1989

WAGE ACT, 1989

ACT

To provide for the application, consolidation and amendment of the law relating to the establishment of a wage board and the determination of terms and conditions of employment of certain employees and to provide for matters incidental thereto.

(English text signed by the President. Assented to on 1 August 1989).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

1. Definitions. - In this Act, unless the context indicates otherwise -

"board" means the wage board established by section 3;

"department" means the Department of the Minister;

"determination" means a determination made by the Minister in terms of section 13 and includes any determination as amended under section 14 or as extended under section 16;

"Director-General" means the Director-General of the department;

"employee" means any person employed by, or working for any employer and receiving, or being entitled to receive, any remuneration and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer, and "employed" and "employment" have corresponding meanings;

"employer" means any person whatsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person whatsoever in any manner to assist him in the carrying on or conducting of his business, and "employ" and "employment" have corresponding meanings;

"inspector" means an inspector within the meaning of section 25;

"licence of exemption" means a licence issued under section 18(3);

"Minister" means the Minister of Manpower Utilisation;

"officer" means a person on the fixed establishment of the public service and includes an inspector;

"premises" means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;

"prescribed" means prescribed by or under this Act;

"regulation" means a regulation made or otherwise in force under this Act;

"remuneration" means any payment in money or in kind or both in money and in kind, made or owing to any person which arises in any manner whatsoever out of employment, and "remunerate" has a corresponding meaning;

"this Act" includes any regulation;

"trade" includes any function, process, industry, business, work undertaking (including a public utility undertaking) occupation, profession or calling, and includes a group of trades or a section or any trade;

"Treasury" means the Minister of Finance and Economic Development and includes any officer of his Department acting under his authority.

2. Application of Act and determination. - (1) Subject to the provisions of the Small Businesses Deregulation Act, 1984 (Act 27 of 1984) and subsections (2) and (3) of this section, this Act shall apply to every trade.

(2) This Act shall not apply to the persons mentioned in section 1(2) of the Conditions of Employment Regulation Act, 1984 (Act, 34 of 1984).

(3) A determination shall not apply to any person in respect of any matter regulated by or in terms of -

(a) any provision of the Ciskeian Apprenticeship Act 1973 (Act 7 of 1973) or the Manpower Training Act, 1984 (Act 33 of 1984); or

(b) any contract of apprenticeship entered into by such person in accordance with the provisions of the said Ciskeian Apprenticeship Act, 1973.

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3. Establishment and functions of wage board. - (1) There is hereby established a board to be known as the wage board which shall consist of -

(a) the Director-General, or in his absence the Deputy Director-General of the department, who shall also be the chairman; and

(b) not more than two members to be appointed by the Minister, as occasion may require.

(2) A member of the board appointed under subsection (1)(b) shall sit as a member of the Board for such period and on such conditions, including conditions relating to the payment of allowances in respect of his services, as the Minister may determine with the concurrence of the Treasury and he may, on the expiration of any period of appointment, be reappointed by the Minister.

(3) (a) If the Minister is of the opinion that it will assist the board if the employees and employers in any particular trade are represented on the board during any investigation into that trade, he may, after such consultation as he may deem necessary, appoint one assessor to represent the employees and another assessor to represent the employers during such investigation.

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

(c) Any such assessor shall be entitled to such allowances as the Minister may determine with the concurrence of the Treasury.

(4) The board may, on the ground of information obtained by it in the performance of its functions or gathered by it for the purpose, advise the Minister in relation to the exercise of the power referred to in section 4(1).

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

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

(a) the trade and area concerned; and

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

(3) In specifying any class of employees under subsection (2)(b) the Minister may apply any method of differentiation he may deem advisable: Provided that the Minister shall not differentiate on the basis of the sex of employees.

(4) (a) If after consultation with the board the Minister is of the opinion that any investigation in respect of which a request has been made to the board under subsection (1) should not be proceeded with, he may withdraw the request made to the board in respect of such investigation.

(b) The Minister may after consultation with the board amplify or alter the terms of reference determined under subsection (2).

5. Contents of report. - A report submitted in connection with any investigation made under section 4 shall contain such information as at the time of the investigation is in the opinion of the board relevant to the investigation.

6. Minister may direct board to submit a recommendation. - (1) The Minister may direct the board to submit to him, in addition to any report under section 4, a recommendation as to the terms and conditions of employment to be applied in respect of the employees concerned.

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

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

7. Matters to be considered by the board before it makes a recommendation. - The board shall, before it makes any recommendation, take into consideration -

- (a) any representations made to it in terms of section 9;
- (b) any information made available to it by the Ciskei People's Development Bank Limited or a corporation established under the Ciskeian Corporations-Act, 1981 (Act 16 of 1981) or any department of State or similar authority;
- (c) the ability of employers in the trade concerned to carry on their business successfully should any recommendation proposed to be made by the board be carried into effect, regard being had to distance from markets, cost of transport and any other relevant circumstances;
- (d) the cost of living in any area in which the trade concerned is being carried on;
- (e) the value of any board, rations, lodgings or other benefits supplied by employers to employees in the trade concerned or to the class or classes of employees concerned; and
- (f) every other prescribed matter.

8. Matters on which board may make recommendations. - (1) A recommendation submitted by the board in pursuance of any direction under section 6 may include provisions as to all or some or any of the following matters, namely -

- (a) the minimum rate at which remuneration shall be paid by any employer to each of his employees or to each member of any class of his employees and any increase or reduction thereof or, in addition to such minimum rate, any payment at such rate or upon such basis or principles or by reference to such factors or circumstances (including cost of living) as may be specified in the recommendation;
- (b) the minimum average rate of remuneration which shall be paid by any employer to his employees or to the members of any class of his employees: Provided that different minimum average rates may be provided for different fractions of any class of employees;
- (c) the minimum rate at which remuneration shall be paid by an employer to each employee or to each member of any class of employees successively on the expiry of specified periods or intervals, or which shall be paid to any employee or any member of any class of employees according to experience or any other standard;
- (d) the prohibition of deductions from remuneration payable to any employee or class of employees, other than deductions which the employer is required or permitted to make in terms of the recommendation or of any law or order of a competent court;
- (e) the prohibition or restriction of set-off of debts mutually owing between an employer and his employee;
- (f) the method of calculating minimum rates of remuneration or minimum average rates of remuneration;
- (g) the day of the week, date, time, place and manner of payment of remuneration, the statements to be furnished by the employer to the employee concerning the payment, the container in which the money payable shall be contained, the information to be written upon the container and generally any other provision as to the manner of payment;
- (h) the payment by an employer to an employee who has performed during any period piece-work (irrespective of the amount thereof) of a remuneration for the piece-work performed by that employee during that period, which shall not be less than the remuneration which would have been payable to the said employee had he been employed as a time-worker during that period;
- (i) the keeping by an employer of records of work performed by a piece-worker and the form of such records;
- (j) the prohibition or the regulation of giving out to, or the performance by, an employee of piecework or taskwork;

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(k) the prohibition of the performance of work on or in premises at places of a specified description or type or used for a specified purpose or elsewhere than on or in such premises or at such places;

(l) the maximum number of employees of any class who may be employed by an employer in proportion to the number of employees of any other class or to the total number of employees employed by him;

(m) the prohibition of any payment to or the acceptance of any payment by an employer, either directly or indirectly, in respect of the employment or training of an employee;

(n) the prohibition of the employment of any person under a specified age;

(o) when any work is given out on contract to any person by a principal or contractor (whether or not that principal or contractor is himself an employer in or is engaged in the trade concerned), the rates at which, the basis of, or the principles upon which, payment shall be made to that person for the work;

(p) the prohibition of the payment of remuneration otherwise than in money;

(q) the prohibition, restriction or regulation of overtime work;

(r) the issue by an employer to any member of a specified class of his employees on the termination of his employment of a certificate setting forth the period during which he has been employed and such other particulars as may be specified in the recommendation;

(s) the keeping by a member of a specified class of employees of a record containing such particulars as may be prescribed in the recommendation;

(t) the payment by an employer to an employee and the payment or forfeiture by an employee to an employer of an amount in lieu of notice of termination of employment;

(u) the prohibition of the performance of work on a contract basis on or in the principal's premises,

and generally as to any matter affecting or connected with the remuneration or other terms or conditions of employment of all employees or of the member of any class or classes of employees, whether remunerated according to time worked or work performed or on any other basis, the scope of this provision not being limited in any way by the provisions of the foregoing paragraphs.

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

(3) Notwithstanding anything to the contrary in this Act contained a recommendation -

(a) may provide that the provisions or any specified provisions thereof shall not apply to such portion of the trade covered by the terms of reference of the board or such class of employees or type of work or class of premises or area so covered, as may be specified in the recommendation;

(b) may contain provisions in respect of persons or any class of persons on whom any determination is binding in terms of this Act and may provide for the exclusion of such persons from such determination.

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

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

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

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

10. Collection of information. - (1) Every person engaged or employed in or connected with any trade which is being investigated by the board shall, if required by the board to do so, furnish to the board within a period and in a form specified by the board, the information indicated by the board.

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

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

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

(5) The person presiding at any meeting of the board may call and administer an oath to or accept an affirmation from any person present at the meeting who was or might have been subpoenaed in terms of subsection (3) and the person so presiding and any other member of the board may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control:

Provided that the person presiding at the meeting may at his discretion disallow any question which in his opinion is not relevant to the investigation which is being carried out by the board.

(6) If any person, being duly subpoenaed under subsection (3), fails without sufficient cause to attend at the time and place specified in the subpoena or to remain in attendance until excused by the board from further attendance or if any person called in terms of subsection (5) refuses to be sworn or to affirm as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him or to produce any book, document or thing in his possession or custody or under his control, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing before, the board, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or produce any book, document or thing before a court of law, shall apply.

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

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

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(9) Any person subpoenaed to appear before the board or a member of the board or an officer designated in terms of subsection (8) may, if the board, member or officer, as the case may be, is satisfied that he has, by reason of his appearance in obedience to the subpoena suffered any pecuniary loss or been put to any expense, be paid out of moneys appropriated by the National Assembly such allowances as the Minister may, with the concurrence of the Treasury, from time to time determine or the amount of such loss and expense, whichever is the lesser: Provided that, if the person subpoenaed is in the fulltime employment of the State, the allowances or amount payable to him shall be determined in accordance with the laws governing his employment.

(10) The board or any member of the board or any officer designated thereto by the board may at any time, without prior notice, for the purposes of any investigation enter any premises occupied or used by any employer engaged in or suspected by the board or such member or officer of being engaged in the trade being investigated, and every such employer and every person employed by him shall at all times furnish such facilities as are required by the board or such member or such officer for entering such premises and for making such inspections on or in the premises as may be deemed advisable by the board or such member or such officer.

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

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

(2) The board shall as soon as possible submit to the Minister every report or recommendation in pursuance of any request or direction under this Act and shall transmit with such report or recommendation any report or reservation referred to in the proviso to subsection (1) together with its observations thereon: Provided that the board may at any time before any determination is made under section 13(1) in accordance with any recommendation made by it alter that recommendation.

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

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

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

12. Secrecy to be observed. - (1) Any person who is or was a member of the board or any officer or any assessor appointed in terms of section 3(3) or any interpreter or assistant referred to in section 26(1)(b) who discloses, except to the Minister or to an officer or to the board or to a court of law or, save for the purposes of this Act or any other law, to any other person any information in regard to the affairs of any person, firm or business acquired in the exercise of his powers or the performance of his duties under this Act shall be guilty of an offence.

(2) The Minister may, notwithstanding the provisions of subsection (1), make public in such manner or form as he may think fit any report of the board and any report or reservation transmitted to him under section 11 and any observations made thereon by the board, and any information as to remuneration or terms or conditions of employment or other information acquired under this Act as to any group or class of persons, firms or businesses in any area, and any information as to any individual person, firm or business: Provided that, where such information relates to the finance or the trade processes of any person, firm or business, the name or identity of such person, firm or business shall not be disclosed.

13. Making of determination. - (1) Upon consideration of a recommendation the Minister may, if he deems it expedient to do so, make a determination which shall be in accordance with the recommendation.

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

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

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

(2) The Minister may at any time request the board to consider the advisability of amending any determination generally, or of amending any particular provision of a determination otherwise than under subsection (1), and the provisions of section 4(4) shall *mutatis mutandis* apply in respect of such a request.

(3) (a) Upon receipt of a request under subsection (2) the board shall cause to be published in the *Gazette* a notice setting forth the fact that it has received the said request and the purport thereof and stating the period within which, the officer with whom and the address at which, any representations in regard to the said amendment may be lodged.

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

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

(5) The provisions of sections 8, 10 and 11 shall *mutatis mutandis* apply in respect of any investigation conducted and any report and recommendation submitted by the board under this section.

(6) If the board has under subsection (4) recommended to the Minister an amendment of any determination, the Minister may, if he deems it expedient to do so, act in accordance with the provisions of section 13(1) as if the reference in those provisions to a determination were a reference to an amendment of a determination and he may thereafter by notice in the *Gazette* amend the relevant determination in accordance with the board's recommendation.

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

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

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

(2) The provisions of subsection (3) and (4) of section 14 shall *mutatis mutandis* apply in respect of any request under subsection (1) and the provisions of sections 10 and 11 shall *mutatis mutandis* apply in respect of any investigation conducted or any report or recommendation submitted by the board under such firstmentioned provisions as applied by this subsection.

(3) The board may recommend that the application of all the provisions of the relevant determination, or such provisions thereof as may be specified in the recommendation, be extended to the area concerned or any part thereof either in the form in which such provisions appear in the determination or in such amended form as the board may specify and the provisions of section 8 shall *mutatis mutandis* apply in respect of such lastmentioned specification.

(4) Upon receipt of a recommendation under subsection (3) the Minister may *mutatis mutandis* in accordance with the procedure applicable to the amendment of a determination under subsection (6) of section 14 extend the application of the relevant determination in accordance with the board's recommendation and such extension shall take effect as from a date fixed by the Minister in the notice in the *Gazette* whereby the extension is effected.

17. Period of operation of determination. - The provisions of a determination shall, subject to the provisions of subsection (3) of section 2 and except to the extent of any exclusion under a subsequent determination by virtue of the provisions of paragraph (b) of subsection (3) of section 8 or of any exclusion under subsection (3) of section 13 or any suspension under section 15, remain binding until they are cancelled in terms of the last mentioned section or until they are superseded by a new determination.

18. Exemptions. - (1) (a) Whenever application is made in the prescribed form and manner for the exemption of any person or class of person from all or any of the provisions of a determination which is binding in terms of this Act and the Minister is of opinion that -

(a) the terms and conditions of employment of such person or class of persons are substantially not less favourable to him or them than the terms and conditions of employment prescribed by that determination, or

(b) such person suffers from a physical disability such as old age or chronic sickness or infirmity and is capable of doing only part of the work required of an ablebodied person, or

(c) special circumstances exist which justify, in the interests of such person or class of persons, an exemption of that person or class of persons under this section,

he may, if he deems it expedient to do so, grant exemption from all or any of the provisions of the determination concerned to or in respect of that person or class of persons, for such period and subject to such terms and conditions as he may determine.

(b) The period for which exemption is granted may commence on a date prior to that on which the exemption is granted but not earlier than the date on which the application was made in terms of this subsection.

(2) The Minister may, at his discretion and by writing under his hand, delegate the powers conferred upon him by subsection (1) to any officer and he may at any time withdraw any such delegation.

(3) The terms and conditions of an exemption granted under subsection (1) shall be incorporated in a licence of exemption signed by an officer and a copy thereof shall be transmitted to such person or persons as the officer considers necessary: Provided that, in lieu of such licence, the Minister may authorize the publication in the *Gazette* of a notice incorporating the terms and conditions of such exemption and in that event the person or class of persons to or in respect of whom, the period for and the date from which the exemption is granted, shall be specified in such notice.

(4) Any exemption granted to or in respect of any person or class of persons under this section shall exempt any employer who employs such person or a member of such class of persons from the relevant provisions of the determination concerned to the extent specified in the licence of exemption and the terms and conditions incorporated in the licence of exemption shall be binding upon the person or every member of the class of persons to or in respect of whom the exemption was granted and, if that person or any member of that class is an employee, upon every person who employs him.

(5) Any exemption granted -

(a) by the Minister or by an officer to whom powers have been delegated under subsection (2) may at any time be withdrawn by the Minister; or

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(b) by an officer to whom powers have been so delegated may at any time be withdrawn by that officer or by any other officer to whom powers have been so delegated.

(6) For the purpose of this section "class of persons" includes such group or section or type of persons as may be specified or defined in the licence of exemption and in the making of any such specification or definition any method of differentiation which is deemed to be advisable may be applied: Provided that no differentiation on the basis of the sex of any employee shall be made.

19. Failure to observe provisions of determination or licence of exemption an offence. - (1) Any person who contravenes or fails to comply with any provision of any determination or licence of exemption binding upon him in terms of this Act shall be guilty of an offence.

(2) (a) If the person convicted was an employer and the offence consisted of the contravention of or failure to comply with any provision of any such determination or licence of exemption relating -

- (i) to any matter referred to in paragraph (a), (c) or (h) of subsection (1) of section 8 or to payment in respect of overtime or meals or in respect of or in lieu of leave of absence or in lieu of notice of termination of employment, or to payment on due date of the full remuneration owing to an employee or, in the case of a licence of exemption, to any remuneration due to an employee in terms thereof: or
- (ii) to any matter referred to in paragraph (b) or (i) of subsection (1) of section 8,

the court convicting him shall enquire into and determine the difference between the amount which he paid and the amount which he would have paid if the contravention or failure of which he has been convicted had not occurred and, in the case of a contravention or failure referred to in paragraph (a)(i) whether the employee concerned did or did not agree to accept less than the remuneration which under the provisions of the relative determination or licence of exemption he was entitled to receive and whether, if he did so agree, he did or did not know of his rights under those provisions and, if he did know of those rights, the circumstances under which he so agreed: Provided that, if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall to the best of its ability estimate the difference.

(b) If no amount has been paid, the amount which would have been paid if the contravention or failure had not occurred shall, for the purpose of this subsection be deemed to be the difference.

(c) The difference so determined or the amount at which it is so estimated is in this section and in sections 20 and 22 referred to as the amount underpaid.

(3) (a) If the person convicted was an employee and the offence consisted of the contravention of or failure to comply with any provision of any such determination or licence of exemption relating to the giving of notice upon termination of employment and such determination or licence of exemption provides for the payment or forfeiture by an employee of an amount in lieu of notice, the court convicting him shall enquire into and determine the difference between any amount which he paid or forfeited and the amount which he was required to pay or forfeit in terms of the relevant provision of the determination or licence of exemption: Provided that, if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall to the best of its ability estimate the difference.

(b) If no amount has been paid or forfeited the amount which the employee concerned was required to pay or forfeit in terms of the relevant provision of the determination or licence of exemption shall for the purposes of this subsection be deemed to be the difference.

(c) The difference so determined or the amount at which it is so estimated is in sections 20 and 22 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)(i) of that subsection, give to the employee concerned a similar opportunity.

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(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 referred to in subsection (2) and the amount underpaid is greater than the maximum amount of the fine prescribed by section 34 the maximum amount of the fine to which the person convicted shall be liable in terms of that section shall be increased to an amount equal to the amount underpaid.

(7) It shall not be a defence to any charge of a contravention or failure referred to in 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 an inspector that any moneys as determined by such inspector are payable to any person by such employer in terms of any determination or licence of exemption which is or was binding in terms of this Act and who admits that the moneys so determined are so payable, may pay such moneys to the said inspector for payment to the person entitled thereto.

(b) If any moneys so paid to the inspector 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 Director-General for payment into the Ciskeian Revenue Fund.

(c) On the application of the Director-General made at any time within a period of three years from the date of payment into the Ciskeian Revenue Fund under paragraph (b) the moneys concerned shall be refunded to the Director-General for payment to the person entitled thereto.

20. Order upon employer or employee to pay specified officer amount underpaid or to be paid. - (1) Whenever any person is convicted of an offence under subsection (1) of section 19 and the offence consists of a contravention or failure referred to in subsection (2) or (3) of that section, the court convicting him shall, after it has in terms of that section determined the amount underpaid or to be paid, as the case may be, order him to pay an amount equal to the amount so determined to an officer specified by the court (hereinafter referred to as the specified officer) within a period fixed by the court, in instalments or otherwise as fixed by the court.

(2) The court may at any time upon the application of an inspector or of any employee or employer to whom any amount is payable in terms of subsection (1) or (2) of section 21 or of the person convicted, if good cause is shown, reduce or extend the period within which any such amount must be paid to the specified officer or vary the amounts of the instalments or order that any balance outstanding be paid in one lump sum.

(3) An order made under the provisions of this section shall have all the effects of, and may be executed as if it were, a civil judgement in favour of the Government of Ciskei.

21. Disposal of amounts paid to specified officer. - (1) Whenever an order is made under section 20 against an employer in respect of a contravention or failure referred to in paragraph (a) of subsection (2) of section 19, the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer as the court, having regard to the circumstances in which the contravention or failure occurred, deems equitable shall be paid to the employee in respect of whom the contravention or failure occurred: Provided that -

(a) if the court finds that the employee concerned did not agree to accept less than the minimum remuneration which under the provisions of the relative determination or licence of exemption he was entitled to receive or that, if he did so agree, he so agreed not knowing of his rights under those provisions, the court shall direct that the whole of the amounts so paid to the specified officer shall be paid to that employee;

(b) If the court, having regard to the circumstances in which the contravention or failure occurred, deems it equitable to do so, it may, except in the circumstances referred to in paragraph (a), direct that no portion of the amount so paid to the specified officer shall be paid to the employee concerned;

(c) If the court directs that any portion of the amount so paid to the specified officer shall be paid to the employee concerned, that portion shall not be less than one-fourth thereof.

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(2) Whenever an order is made under section 20 against an employee in respect of a contravention or failure referred to in subsection (3) of section 19, the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer as the court, having regard to the circumstances in which the contravention or failure occurred, deems equitable, shall be paid to the employer in respect of whom the contravention or failure occurred.

(3) So much of the amount so paid to the specified officer as is not, in terms of subsection (1) or (2), payable to the employee or employer concerned shall be paid into the Ciskeian Revenue Fund.

(4) The whole of any amount paid to the specified officer pursuant to any order made under section 20 against an employer in respect of a contravention or failure referred to in paragraph (b) of subsection (2) of section 19 shall be paid into the Ciskeian Revenue Fund: Provided that, if the employer has also been convicted in respect of the same facts of a contravention or failure referred to in paragraph (a) of that subsection, the provisions of this subsection shall apply only in respect of so much of the amount paid to the specified officer as the court does not in terms of subsection (1) of this section direct shall be paid to the employee concerned.

(5) The provisions of paragraphs (b) and (c) of subsection (8) of section 19 shall *mutatis mutandis* apply in respect of any moneys paid to a specified officer which in terms of subsection (1) or (2) of this section are payable to any employee or employer.

22. How far right of employee or employer to recover by civil proceedings affected by Act. - (1) If any person is convicted of an offence under subsection (1) of section 19 and the offence consists of a contravention or failure referred to in paragraph (a) of subsection (2) or in subsection (3) of that section, the employee or employer (as the case may be) in respect of whom the contravention or failure occurred shall not be entitled by civil proceedings to recover from his employer or employee any portion of the amount underpaid or to be paid but shall be entitled to receive in respect of such amount only the moneys which the court in terms of subsection (1) or (2) of section 21 directs shall be paid to him out of the moneys paid to the specified officer in terms of an order made under section 20.

(2) Subject to the provisions of subsection (3), nothing contained in section 19, 20 or 21 or in subsection (1) of this section shall affect any right which any employee may have to recover by civil proceedings from his employer -

(a) where his employer or the manager, agent or employee of his employer has been convicted of an offence consisting of a contravention or failure referred to in paragraph (a) of subsection (2) of section 19 which occurred in respect of that employee, any amount owing to him under any agreement between himself and his employer in excess of the amount underpaid; or

(b) where neither his employer nor the manager, agent or employee of his employer has been so convicted, any amount which his employer is bound to pay to him under the provisions of any determination or licence of exemption which is or was binding upon his employer in terms of this Act or under any agreement between himself and his employer.

(3) An employee to whom his employer has not paid the full remuneration which he ought to have paid in terms of any determination or licence of exemption which is or was binding upon him in terms of this Act, shall not be entitled to recover from his employer by civil proceedings the amount he has been underpaid or any portion of that amount unless -

(a) the employee produces to the court a certificate signed by the attorney-general stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base his cause of action; or

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

(4) The provisions of paragraph (a) of subsection (2) and of subsection (3) shall *mutatis mutandis* apply in respect of the right of an employer to recover from his employee by civil proceedings any amount which the employee ought to have paid to him in lieu of notice of termination of employment in terms of any determination or licence of exemption which is or was binding upon the employee in terms of this Act or in terms of any agreement between himself and the employee or any portion of such amount.

23. Provisions of determination or licence of exemption cannot be varied by agreement or be waived. - (1) No agreement, express or implied, including any service contract whether entered into before or after the coming into operation of any determination that is binding in terms of this Act or the grant of any licence of exemption, shall operate to permit of the payment to any employee of remuneration less than that prescribed by that determination or licence or the application to any employee of any treatment, or the grant to him of any benefits, less favourable to him than the treatment or benefits so prescribed nor shall it effect any waiver by an employee of the application to him of any provision of that determination or licence and any person who enters into any agreement purporting to permit of any such payment, application or grant or to effect any such waiver shall be guilty of an offence and every such agreement shall be void.

(2) An employer, who requires or permits any employee to pay or re-pay to him any remuneration payable or paid to that employee under any determination which is or was binding in terms of this Act or under any licence of exemption or pursuant to any direction given in terms of subsection (1) of section 21 or does any act or permits any Act to be done as a direct or indirect result of which that employee is deprived of the benefit or of any portion of the benefit of any remuneration so paid, shall be guilty of an offence.

(3) An employer, who requires or permits any employee to give a receipt for, or otherwise to represent that he has received, more than he actually received by way of remuneration, shall be guilty of an offence.

(4) The provisions of this section shall *mutatis mutandis* apply in respect of any provision of any determination relating to any of the matters referred to in paragraph (c) of section 8(1) and in respect of any principal or contractor or other person upon whom that provision is or was binding in terms of this Act.

24. Victimization forbidden. - Any employer who, whether or not any determination is binding upon him in terms of this Act, dismisses any employee employed by him or reduces the rate of his remuneration or alters the terms or conditions of his employment to terms or conditions less favourable to him or alters his position relatively to other employees employed by him to his disadvantage by reason of the fact or because he suspects or believes, whether or not the suspicion or belief is justified or correct, that -

(a) that employee has given information which by or under this Act he is required to give or which relates to the terms or conditions of his employment or those of other employees of his employer, to the Minister or to the board or to any member of the board or to any assessor serving on the board, or to an officer, or has complied with any lawful requirement of an inspector or has given evidence before a court of law; or

(b) that employee has refused or omitted to do any act which an employer may not require or permit an employee to do in terms of subsection (2) or (3) of section 23; or

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

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

25. Persons who are inspectors. - Any person designated as an inspector in terms of section 22 of the Conditions of Employment Regulation Act, 1984 shall also be an inspector for the purposes of this Act.

26. Powers of inspector. - (1) (a) Any inspector may, at any time without prior notice enter any premises whatsoever and may, while he is upon or in the premises or at any other time, question any person who is or has been upon or in the premises in the presence of or apart from others and may require from any such person the production there and then, or at a time and place fixed by the inspector, of all books and documents which are or have been upon or in the premises or in the possession or custody or under the control of any employer by whom the premises are occupied or used or of any employee of that employer, or may at any time and at any place require from any person who has the possession or custody or control of any book

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or document relating to the business of any person, who is or was an employer, the production there and then, or at a time and place fixed by the inspector, of that book or document and may examine and make extracts from and copies of all such books and documents and may require an explanation of any entries in any such books or documents and may seize any such books or documents as in his opinion may afford evidence of any offence under this Act.

(b) An inspector may take with him into or on to any premises any interpreter or other assistant or any member of the Ciskeian police force.

(2) Any employer, in connection with whose business any premises are occupied or used and every person employed by him, shall at all times furnish such facilities as are required by the inspector for entering the premises or for inspecting or examining the books and documents upon or in the premises or for making any enquiry in relation thereto.

(3) Any inspector may require any employee to produce to him any container in which any money paid or to be paid to him by way of remuneration was or is contained and any statement furnished or to be furnished to him by his employer concerning the payment and may examine the contents of the container and retain the container and statement.

(4) Any inspector may require any employee to appear before him at any time and place fixed by the inspector and may then and there question that employee.

(5) Any inspector may require any employer to make all payments due to any of his employees in the presence of an inspector.

(6) Whenever any work has been given out on contract to any person by a principal or contractor any inspector may exercise in relation to that principal or contractor all the powers conferred upon an inspector by this section in relation to an employer.

(7) Any inspector exercising any power or performing any duty conferred or imposed upon him by this Act shall on demand produce his certificate of appointment as such.

(8) Any person who falsely holds himself out to be an inspector shall be guilty of an offence.

(9) Any person who -

(a) refuses or fails to answer to the best of his ability any question which an inspector in the exercise of his functions has put to him; or

(b) refuses or fails to comply to the best of his ability with any requirement made by an inspector in the exercise of his functions; or

(c) hinders an inspector in the exercise of his functions,
shall be guilty of an offence.

(10) For the purposes of this section an interpreter shall, while acting under the lawful directions of the inspector he accompanies, be deemed to be an inspector and any question put through, reply made to, requirements made by or hindering of an interpreter while so acting shall be deemed to be a question put by, reply made to, requirement made by or hindering of, an inspector.

27. Records to be kept by employers, principals and contractors. - (1) Every employer upon whom any determination is binding in terms of this Act which relates to remuneration to be paid, time to be worked or such other particulars as may be prescribed, shall at all times keep in the prescribed form and manner, in respect of all persons employed by him, records of the remuneration paid, of the time worked and of those other particulars: Provided that an inspector may in writing authorize any such employer to keep records in some other form if the records kept in such other form will in the opinion of the inspector enable him to ascertain therefrom the required particulars.

(2) Whenever any determination, which regulates the rates at which, the basis of, or the principles upon which, payments shall be made by a principal or contractor to any person to whom any work is given out on contract by the principal or contractor for that work, is binding upon a principal or contractor, every such principal or contractor, whether or not he is an employer in or is engaged in the trade concerned, shall at all times keep records of payments made by him to any person to whom he has so given out work on contract and of such other particulars as may be prescribed and every such person to whom work has been so given out on contract shall at all times keep records of payments received by him from any such principal or contractor in respect of such work and of such other particulars as may be prescribed.

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(3) Every person, who in terms of subsection (1) or (2) is required to keep a record of any event, shall retain such record or a microfilm or other microform reproduction thereof for a period of three years subsequent to the occurrence of that event and shall on demand by an inspector made at any time during the said period of three years produce the said record or such reproduction thereof for inspection.

(4) Any person who feels aggrieved by any decision of an inspector under subsection (1) may appeal at any time within sixty days thereafter to the Minister who may confirm the inspector's decision or give such other decision as in his opinion the inspector ought to have given and the decision of the Minister shall for the purposes of this Act be deemed to be the decision of the inspector.

(5) Any person who fails to comply with any provision of this section applicable to him or who makes any false entry in any such record knowing the same to be false shall be guilty of an offence.

28. Determination to be kept by employer. - (1) Every employer upon whom any determination is binding in terms of this Act shall at all times keep a copy of such determination available on his premises and shall upon request of an employee make the determination available to such employee.

(2) Any employer who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

29. Alleged partnerships. - (1) (a) Whenever in any trade, in respect of which any determination is or was binding in terms of this Act, there is working in any business or other concern any person who is suspected by an inspector to be employed in such business or concern but who claims or in respect of whom it is claimed that his position in relation to that business or concern is not that of an employee but is determined by an agreement of partnership or by some other agreement for the carrying on thereof, the inspector may require from any person so claiming the existence of such an agreement the production of that agreement and may make a copy thereof or make extracts therefrom or, if the agreement is not in writing or is not wholly in writing, may require any person so claiming to make a statement on oath of all the terms of the agreement or of such terms thereof as are not in writing and may further require any such person to make a statement on oath as to the actual amounts received or receivable under that agreement and the actual hours worked by every person who claims or in respect of whom it is claimed that his position is so determined by the agreement in respect of any period to be specified by the inspector.

(b) Any such person failing, when required to do so, to produce to the inspector any such agreement or to make any such statement on oath shall be guilty of an offence.

(2) Whenever under any agreement referred to in subsection (1) the remuneration of any party thereto consists wholly or partly of a share in the takings or profits and in any proceedings under this Act in which any question is raised as to the application of any determination to any party receiving such a share, it is proved -

- (a) that the agreement is terminable by any party thereto by giving less than three months' notice; or
- (b) that the amount which any party thereto received under the terms thereof over any period specified in the charge was less than the remuneration which he would have been entitled to receive for his services for the same period under the determination which is or was binding in terms of this Act if he had been an employee,

he shall be presumed to be an employee, and any other party to the agreement shall be presumed to be an employer unless it is proved that the agreement was not made with the object of evading any provisions of any determination which is or was binding in terms of this Act.

30. Acts or omissions by managers, agents or employees. - (1) Whenever any manager, agent or employee of any employer does or omits to do any act, which it would be an offence under this Act for the employer to do or omit to do, then, unless it is proved that -

- (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or permission of the employer; and
- (b) all reasonable steps were taken by the employer to prevent any act or omission of the kind in question; and

(c) it was not under any condition or in any circumstance within the scope of the authority or in the course of the employment of the manager, agent or employee to do or omit to do an act, whether lawful or unlawful, of the nature of the act or omission charged; the employer shall be presumed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof and the fact that the employer issued instructions forbidding any act or omission of the kind in question shall not of itself be sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence under this Act for the employer to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer.

(3) Either the employer or the manager, agent or employee or both of them, may be so convicted and sentenced.

(4) Whenever the manager, agent or employee of an employer is convicted of an offence referred to in subsection (2) of section 19 the court shall make an order against the employer under section 20 and the provisions of this Act relating to such order shall *mutatis mutandis* be applicable: Provided that no such order shall be made against any such manager, agent or employee.

31. False statements. - Any person who furnishes or makes or causes to be furnished or made any return or statement, written or otherwise, in terms of any provision of this Act or for the purposes of or in connection with any application, request, appeal, proceedings or investigation under this Act, which to his knowledge is false in any material particular shall be guilty of an offence.

32. Evidence. - (1) Proof of the publication in the *Gazette* of any notice under section 13, 14 or 16 shall be conclusive proof that all the provisions of this Act in respect of matters precedent and incidental to the making, amendment or extension of the area of application of a determination or the publication of such notice, as the case may be, have been complied with.

(2) In the absence of satisfactory proof of age, the age of any person shall in any proceedings under this Act, be presumed to be that stated by an inspector to be in his opinion the probable age of that person, but any interested person who is dissatisfied with that statement of opinion may at his own expense require that person whose age is in question to appear before and to be examined by a district surgeon or other medical practitioner and a statement contained in a certificate by the district surgeon or other medical practitioner who examined that person as to what in his opinion is the probable age of that person shall, but only for the purpose of the said proceedings, be conclusive proof of the age of that person.

(3) Whenever in any proceedings under this Act it is proved that any person was present upon or in any premises on or in which any trade in respect of which any determination is binding in terms of this Act was being carried on, or was in charge of any vehicle used in any such trade, whether or not it was being driven at the time, that person shall unless the contrary is proved be presumed to be an employee.

(4) An employee shall be deemed to be working in the employment of an employer in addition to any period during which he is actually so working -

(a) during any period during which, in accordance with the requirements of his employer, he is present upon or in any premises in which the trade in which he is employed is being carried on;

(b) during any other period during which he is present upon or in any such premises;

and
(c) during any period during which he is in charge of any vehicle used in the trade in which he is employed, whether or not it is being driven:

Provided that, if it is proved that during that portion of any period referred to in paragraph (b) or (c) any such employee actually worked in his employment, the presumption established by this subsection shall not apply in respect of that employee in relation to that period.

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(5) In any proceedings under this Act, any statement or entry contained in any book or document kept by any employer, principal or contractor or by his manager, agent or employee or found upon or in any premises occupied by, or upon any vehicle used in the business of, that employer, principal or contractor and any copy or reproduction (whether obtained by micro-filming or any other process) of any such statement or entry shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that employer, principal or contractor or by any manager, agent or employee of that employer, principal or contractor in the course of his work as manager or in the course of his agency or employment.

(6) If an employer has in respect of any period failed to keep the records which in terms of section 27 he is required to keep or to retain such records for the period specified in subsection (3) of that section, or has falsified such records or caused them to be falsified then in any proceedings under this Act an employee employed by him during the period in respect of which the failure or the falsification has occurred shall be presumed to have worked in his employment each week throughout the period of his employment falling within the period in respect of which the failure or the falsification occurred not less than the ordinary hours of work specified in any determination applicable to that employee in terms of this Act:

Provided that if it is proved what hours any such employee actually worked in his employment during any particular week, the presumption established by this subsection shall not apply in respect of that employee in relation to that week.

(7) Whenever in any proceedings under this Act it is proved that any untrue statement or entry is contained in any record kept by any person, he shall be presumed, until the contrary is proved, wilfully to have falsified that record.

(8) Whenever any person is charged under section 19 with having failed to pay any person employed by him during any period at the rate of remuneration at which in respect of that period he was required to pay that person under the provisions of any determination or licence of exemption binding upon him in terms of this Act and it is proved that that person was employed by the accused during any period covered by the charge and that under that determination or licence of exemption the accused was required to pay to that person as minimum rate of remuneration a certain amount in respect of that period, the accused shall be presumed, until the contrary is proved, not to have paid that amount to that person.

(9) Whenever any person is charged under section 19 with having failed to pay to any person the amount which, under the provisions of any determination relating to any of the matters referred to in paragraph (o) of subsection (1) of section 8 he was required to pay to that person for any work given out on contract by him to that person and it is proved that the work referred to in the charge was given out on contract by the accused to that person and that under that determination the accused was required to pay to that person a certain amount for that work, the accused shall be presumed, until the contrary is proved, not to have paid that amount to that person.

(10) Whenever any person is charged under section 24 with having dismissed any person employed by him or reduced the rate of his remuneration or altered the terms or conditions of his employment to terms or conditions less favourable to him or altered his position relatively to other employees to his disadvantage, by reason of any fact referred to in paragraph (a), (b) or (c) of that section and stated in the charge, or by reason of his suspicion or belief in the existence of any such fact stated in the charge, and it is proved that the accused dismissed that person or reduced the rate of his remuneration or altered the terms or conditions of his employment to terms or conditions less favourable to him or altered his position relatively to other employees to his disadvantage, the accused shall be presumed, until the contrary is proved, to have done so by reason of the fact or suspicion or belief, as the case may be, stated in the charge.

(11) Whenever any person is charged under section 31 with having furnished, made or caused to be furnished or made any return or statement which to his knowledge is false in any material particular and it is proved that such return or statement is false in the material particular stated in the charge, the accused shall be presumed, until the contrary is proved, at all relevant times to have known that such return or statement was false in the particular stated in the charge.

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

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

(3) Any regulations made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of R500 or imprisonment for a period of six months.

34. Penalties. - Any person, who is convicted of any offence under any provision of this Act for which no special penalty is prescribed, shall be liable to a fine not exceeding R1 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

35. Jurisdiction of magistrates' courts. - Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by, or to make any order provided for, in this Act.

36. Section 57 of Act 51 of 1977 not to apply to certain offences under this Act. - The provisions of section 57 of the Criminal Procedure Act, 1977 (Act 51 of 1977) shall not apply in respect of any offence which consists of a contravention or failure referred to in section 19(2) or (3).

37. Repeal of laws and savings. - (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed.

(2) Until the Minister makes regulations in terms of section 33, the regulations in force under the laws repealed by subsection (1) (hereinafter referred to as the existing regulations) shall, notwithstanding such repeal and in so far as the existing regulations can be applied and are not inconsistent with the provisions of this Act, continue to apply: Provided that, whenever the Minister makes regulations relating to any of the matters referred to in section 33, that part of the existing regulations relating to any matter dealt with in the regulations so made shall be deemed to have been repealed.

38. Short title and commencement. - This Act shall be called the Wage Act, 1989 and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

LAWS REPEALED

(SECTION 37)

No. and year of law	Short title
Act 5 of 1957	Wage Act, 1957
Act 48 of 1981	Wage Amendment Act, 1981
Act 58 of 1981	Second Wage Amendment Act, 1981