



# GOVERNMENT GAZETTE

## OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

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### STATE PRESIDENT'S OFFICE

No. 741.

10 April 1991

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

No. 9 of 1991: Labour Relations Amendment Act, 1991.

### KANTOOR VAN DIE STAATSPRESIDENT

No. 741.

10 April 1991

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

No. 9 van 1991: Wysigingswet op Arbeidsverhoudinge, 1991.

Act No. 9, 1991

## LABOUR RELATIONS AMENDMENT ACT, 1991

## GENERAL EXPLANATORY NOTE:

**I**

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 substitute a certain definition; to extend the application of the Act; to further regulate the registration of trade unions; to further regulate the functions of the industrial court; to make provision for reasonable notice in the case of an application for an interdict or other order; to further regulate the settlement of disputes by an industrial council and the establishment of a conciliation board; to require the submission of a certificate containing certain particulars from an office-bearer or official of an unregistered trade union or employers' organization only, for representation on a conciliation board; to further regulate the determination of a dispute by the industrial court; to make provision for the making of a certain order where an industrial council has ceased to perform its functions; and to delete a presumption concerning delictual liability; and to provide for incidental matters.

*(English text signed by the State President.)  
(Assented to 20 March 1991.)*

**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 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, section 1 of Act 2 of 1983 and 5 section 1 of Act 83 of 1988

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 "unfair labour practice" of the following definition:

"unfair labour practice" means any act or omission, other than a strike or lock-out, which has or may have the effect that—

- (i) any employee or class of employees is or may be unfairly affected or that his or their employment opportunities or work security is or may be prejudiced or jeopardized thereby;
- (ii) the business of any employer or class of employers is or may be unfairly affected or disrupted thereby;
- (iii) labour unrest is or may be created or promoted thereby;
- (iv) the labour relationship between employer and employee is or may be detrimentally affected thereby;" and

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**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.
- 
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**WET**

Tot wysiging van die Wet op Arbeidsverhoudinge, 1956, ten einde 'n sekere omskrywing te vervang; die toepassing van die Wet uit te brei; die registrasie van vakverenigings verder te reël; die werkzaamhede van die nywerheidshof verder te reël; voorsiening te maak vir die gee van redelike kennis in die geval van 'n aansoek om 'n interdik of ander bevel; die beslegting van geskille deur 'n nywerheidsraad en die instelling van 'n versoeningsraad verder te reël; die voorlegging van 'n sertifikaat bevattende sekere besonderhede van 'n ampsdraer of beampete van slegs 'n ongeregistreerde vakvereniging of werkgewersorganisasie by verteenwoordiging in 'n versoeningsraad te vereis; die vasstelling van 'n geskil deur die nywerheidshof verder te reël; voorsiening te maak vir die maak van 'n sekere order waar 'n nywerheidsraad opgehou het om sy werkzaamhede te verrig; en 'n vermoede aangaande deliktuele aanspreeklikheid te skrap; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 20 Maart 1991.)

**D**AAR 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 5 Wet 95 van 1980, artikel 1 van Wet 57 van 1981, artikel 1 van Wet 51 van 1982, artikel 1 van Wet 2 van 1983 en artikel 1 van Wet 83 van 1988

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

- 10 (a) deur in subartikel (1) die omskrywing van "onbillike arbeidspraktyk" deur die volgende omskrywing te vervang:  
"onbillike arbeidspraktyk" enige handeling of versium, uitgesonderd 'n staking of 'n uitsluiting, wat die uitwerking het of kan hê dat—
- 15 (i) enige werknemer of klas werknemers onregverdig daardeur geraak word of kan word of dat sy of hul werkgeleenthede of werksekerheid daardeur benadeel of in gevaar gestel word of kan word;
- (ii) die besigheid van enige werkewer of klas werkewers onregverdig daardeur geraak of ontwig word of kan word;
- (iii) arbeidsonrus daardeur geskep of bevorder word of kan word;
- 20 (iv) die arbeidsverhouding tussen werkewer en werknemer nadelig daardeur geraak word of kan word;" en

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- (b) by the addition of the following subsection:

"(4) The definition of 'unfair labour practice' referred to in subsection (1), shall not be interpreted either to include or exclude a labour practice which in terms of the said definition is an unfair labour practice, merely because it was or was not an unfair labour practice, as the case may be, in terms of the definition of 'unfair labour practice', which definition was substituted by section (1) (a) of the Labour Relations Amendment Act, 1991: Provided that a strike or lock-out shall not be regarded as an unfair labour practice."

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**Amendment of section 2 of Act 28 of 1956, as amended by section 2 of Act 57 of 1981, 10  
section 2 of Act 81 of 1984 and section 2 of Act 83 of 1988**

**2. Section 2 of the principal Act is hereby amended—**

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

"(1) This Act shall, subject to the provisions of subsection (2), apply to every undertaking, industry, trade or occupation, including an undertaking, industry, trade or occupation performing work in, on or above the continental shelf referred to in section 7 of the Territorial Waters Act, 1963 (Act No. 87 of 1963), and in so far as the continental shelf concerned is deemed to be part of the Republic."

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- (b) by the substitution for paragraph (b) of subsection (3) of the following 20 paragraph:

"(b) An association composed wholly or partly of persons employed by the State whether the association exists at the commencement of this Act or is established after that commencement, and which at that commencement is not deemed to be registered under this Act, may in accordance with the provisions of section four apply to the registrar for registration under this Act, and the registrar may, subject to the provisions of that section, register that association as a trade union."

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- (c) by the substitution for paragraph (d) of subsection (3) of the following 30 paragraph:

"(d) An association composed wholly or partly of persons employed by the State may object to the registration of any similar association in the same circumstances in which a trade union would be entitled to object in terms of section four to the registration of another trade union or to the variation of the scope of registration of any similar association in the same circumstances in which a trade union would be entitled to object in terms of section four, as applied by section seven, to the variation of the scope of registration of another trade union."

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**Amendment of section 4 of Act 28 of 1956, as amended by section 1 of Act 18 of 1961, 40  
section 3 of Act 94 of 1979, section 5 of Act 57 of 1981 and section 4 of Act 83 of 1988**

**3. Section 4 of the principal Act is hereby amended by the deletion of paragraph (c) of subsection (4).**

**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 45 5 of Act 51 of 1982, section 2 of Act 2 of 1983, section 1 of Act 81 of 1984 and section 5 of Act 83 of 1988**

**4. Section 17 of the principal Act is hereby amended by the insertion after paragraph (a) of subsection (11) of the following paragraph:**

"(aA) to grant an interdict or any other order in the case of any action that is prohibited in terms of section 65;"

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- (b) deur die volgende subartikel by te voeg:

"(4) Die omskrywing van 'onbillike arbeidspraktyk' in subartikel (1) bedoel, word nie uitgelê nie hetsy om 'n arbeidspraktyk in te sluit of uit te sluit wat ingevolge bedoelde omskrywing 'n onbillike arbeidspraktyk is, bloot omdat dit, ingevolge die omskrywing van 'onbillike arbeidspraktyk', welke omskrywing deur artikel 1 (a) van die Wysigingswet op Arbeidsverhoudinge, 1991, vervang is, 'n onbillike arbeidspraktyk was of nie was nie, na gelang van dié geval: Met dien verstande dat 'n staking of uitsluiting nie as 'n onbillike arbeidspraktyk beskou word nie."

10 Wysiging van artikel 2 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 57 van 1981, artikel 2 van Wet 81 van 1984 en artikel 2 van Wet 83 van 1988

2. Artikel 2 van die Hoofwet word hierby gewysig—

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

"(1) Behoudens die bepalings van subartikel (2) is hierdie Wet van toepassing op elke onderneming, nywerheid, bedryf of beroep, met inbegrip van 'n onderneming, nywerheid, bedryf of beroep wat werk verrig in, op of bo die vastelandsplat bedoel in artikel 7 van die Wet op Territoriale Waters, 1963 (Wet No. 87 van 1963), en vir sover die betrokke vastelandsplat geag word deel van die Republiek te wees."

- 20 (b) deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

"(b) 'n Liggaam wat in die geheel [en al] of gedeeltelik bestaan uit persone in diens van die Staat, hetsy die liggaam by die inwerkingtreding van hierdie Wet bestaan of na daardie inwerkingtreding ingestel word, en wat by daardie inwerkingtreding nie geag word kragtens hierdie Wet geregistreer te wees nie, kan ooreenkomsdig die bepalings van artikel vier by die registrator aansoek doen om registrasie kragtens hierdie Wet, en die registrator kan, met inagheming van die bepalings van daardie artikel, daardie liggaam as 'n vakvereniging regstreer.";

- 30 (c) deur paragraaf (d) van subartikel (3) deur die volgende paragraaf te vervang:

"(d) 'n Liggaam wat in die geheel [en al] of gedeeltelik bestaan uit persone in diens van die Staat, kan beswaar maak teen die registrasie van 'n soortgelyke liggaam in dieselfde omstandighede waarin 'n vakvereniging ingevolge artikel vier geregtig sou wees om teen die registrasie van 'n ander vakvereniging beswaar te maak, of teen die verandering van die bestek van registrasie van 'n soortgelyke liggaam in dieselfde omstandighede waarin 'n vakvereniging ingevolge artikel vier, soos deur artikel sewe toegepas, geregtig sou wees om teen die verandering van die bestek van registrasie van 'n ander vakvereniging beswaar te maak."

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, artikel 5 van Wet 57 van 1981 en artikel 4 van Wet 83 van 1988

- 45 3. Artikel 4 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (4) te skrap.

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, artikel 1 van Wet 81 van 1984 en artikel 5 van Wet 83 van 1988

- 50 4. Artikel 17 van die Hoofwet word hierby gewysig deur na paragraaf (a) van subartikel (11) die volgende paragraaf in te voeg:

"(aA) om 'n interdik of enige ander bevel uit te reik in die geval van enige optrede wat ingevolge artikel 65 verbied word;".

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## Insertion of section 17D in Act 28 of 1956

5. The following section is hereby inserted in the principal Act after section 17C:

**"Interdicts and orders in respect of strikes or lock-outs"**

**17D.** (1) A court of law, and for the purposes of this section also the industrial court, shall not grant an interdict or any other order in order to restrain any person, trade union or employer from instigating, inciting or participating in a strike or lock-out unless 48 hours' notice of the application for such interdict or other order has been given to the respondent: Provided that the court concerned may permit a shorter period than the said period of 48 hours if—

- (a) the applicant has given notice to the respondent in the prescribed manner of the applicant's intention to apply for the issuing of an interdict or other order;
- (b) the respondent is given a reasonable opportunity to be heard before a decision regarding that application is taken; and
- (c) the applicant has shown good cause why a shorter period than the said period of 48 hours should be permitted:

Provided further that if at least 10 days prior to the commencement of a proposed strike or lock-out notice of such proposed strike or lock-out has been given to the applicant in the prescribed manner, the applicant shall give at least five days' notice to the respondent of an application for an interdict or other order.

(2) Subsection (1) shall not apply to an employer or an employee referred to in section 46 (1).".

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Amendment of section 27A of Act 28 of 1956, as inserted by section 8 of Act 83 of 1988 25

6. Section 27A of the principal Act is hereby amended—

- (a) by the substitution in paragraph (a) of subsection (1) for the words preceding subparagraph (i) of the following words:

"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, and which dispute the industrial council has not already endeavoured to settle, may, if the parties to the dispute are—";

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

"(b) If a trade union or an employers' organization refers a dispute to an industrial council, the reference shall be in writing and signed by an office-bearer or official of the union or organization concerned, as the case may be, and that 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) by the substitution for subparagraph (i) of paragraph (c) of subsection (1) of the following subparagraph:

"(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] send a copy of the reference [to the industrial council has been sent] by registered post or [delivered]

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## Invoeging van artikel 17D in Wet 28 van 1956

5. Die volgende artikel word hierby in die Hoofwet na artikel 17C ingevoeg:

## “Interdikte en bevele ten opsigte van stakings of uitsluitings

**17D.** (1) 'n Gereghof, en vir die doeleindes van hierdie artikel ook die nywerheidshof, reik nie 'n interdik of enige ander bevel ten einde enige persoon, vakvereniging of werkgewer daarvan te weerhou om 'nstaking of uitsluiting aan te stig, aan te hits of daaraan deel te neem, uit nie tensy 48 uur kennis van die aansoek om sodanige interdik of ander bevel aan die respondent gegee is: Met dien verstande dat die betrokke hof 'n korter tydperk as bedoelde tydperk van 48 uur kan toelaat indien—

- (a) die applikant op die voorgeskrewe wyse aan die respondent kennis gegee het van die applikant se voorname om aansoek om die uitreiking van 'n interdik of ander bevel te doen;
- (b) die respondent 'n redelike geleentheid gegun is om aangehoor te word voordat 'n beslissing betreffende daardie aansoek gemaak word; en
- (c) die applikant goeie gronde aangevoer het waarom 'n korter tydperk as bedoelde tydperk van 48 uur toegelaat behoort te word:

Met dien verstande voorts dat indien daar minstens 10 dae voor die aanvang van 'n voorgenome staking of uitsluiting, op die voorgeskrewe wyse kennis aan die applikant van sodanige voorgenome staking of uitsluiting gegee is, die applikant minstens vyf dae kennis aan die respondent van 'n aansoek om 'n interdik of ander bevel moet gee.

(2) Subartikel (1) is nie op 'n werkgewer of 'n werknemer bedoel in artikel 46 (1) van toepassing nie.”

## Wysiging van artikel 27A van Wet 28 van 1956, soos ingevoeg deur artikel 8 van Wet 83 van 1988

6. Artikel 27A van die Hoofwet word hierby gewysig—

- (a) deur in paragraaf (a) van subartikel (1) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:
 

“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 regsheidsbevoegdheid ten opsigte van die geskilpunt het, en welke geskil die nywerheidsraad nie alreeds probeer het om te besleg nie, indien die partye by die geskil—”;
- (b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:
 

“(b) Indien 'n vakvereniging of 'n werkgewersorganisasie 'n geskil na 'n nywerheidsraad verwys, moet die verwysing skriftelik wees en deur 'n ampsdraer of beampete van die betrokke vereniging of organisasie, na gelang van die geval, onderteken wees en moet daardie 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 beampetes 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) deur subparagraaf (i) van paragraaf (c) deur die volgende subparagraaf te vervang:
 

“(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

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deliver it by hand to the other party or parties to the dispute, or transmit full particulars of the contents of the reference concerned by telegram, telex, telefax or in any other way in printed form to the other party or parties to the dispute, and the applicant shall, if requested to do so by the industrial council, prove to the satisfaction of the industrial council that the copy or the full particulars of the contents of the reference concerned were sent, delivered or transmitted to the other party or parties to the dispute, as the case may be.”;

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(d) by the substitution for subparagraph (i) of paragraph (d) of subsection (1) 10 of the following subparagraph:

“(i) unless, in the case of a dispute concerning an unfair labour practice, the reference is made within [21] 180 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 the dispute was first alleged to have arisen, providing that the industrial council may condone such late reference] the unfair labour practice has commenced or ceased, as the case may be, or such later date upon which the parties to the dispute may agree or which is fixed by the Director-General, on good cause shown for such late referral;”.

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**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, section 3 of Act 2 of 1983 and 25 section 9 of Act 83 of 1988**

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

(a) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively:

“(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 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, or that full particulars of the contents of the application have been transmitted by telefax to the other party or parties to the dispute, and the applicant shall, if requested to do so by the chairman of the conciliation board, prove to the satisfaction of the chairman of the conciliation board that the copy or the full particulars of the contents of the application concerned were sent, delivered or transmitted to the other party or parties to the dispute, as the case may be.”.

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(b) If the applicant or one of the applicants is a trade union or an employers' organization, the application shall be in writing and signed by an office-bearer or official of the union or organization concerned, as the case may be, and that 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.”; and

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(b) by the substitution for subparagraphs (i) and (ii) of paragraph (d) of subsection (3) of the following subparagraphs, respectively:

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“(i) unless, in the case of a dispute concerning an unfair labour practice, the application is lodged within [21] 180 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

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5 geregistreerde pos [gestuur] stuur of per hand [afgelewer is] aflewer,  
of volledige besonderhede van die inhoud van die betrokke verwysing  
aan die ander party of partie by die geskil per telegram, teleks,  
telefaks of op 'n ander wyse in gedrukte vorm versend, en die  
applikant moet, indien deur die nywerheidsraad daartoe versoek, tot  
die tevredenheid van die nywerheidsraad aantoon dat die afskrif of die  
volledige besonderhede van die inhoud van die betrokke verwysing  
aan die ander party of partie by die geskil gestuur, afgelewer of  
versend was, na gelang van die geval.”; en

- 10 10 (d) deur subparagraaf (i) van paragraaf (d) van subartikel (1) deur die  
volgende subparagraaf te vervang:  
“(i) tensy, in die geval van 'n geskil aangaande 'n onbillike arbeidspraktyk,  
die verwysing gedoen word binne [21] 180 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 datum waarop beweer word dat die geskil vir die eerste keer  
ontstaan het nie, maar die nywerheidsraad kan sodanige laat verwysing  
kondoneer]
- 15 20 die onbillike arbeidspraktyk 'n aanvang geneem of ten einde  
geeloop het, na gelang van die geval, of sodanige later datum waarop die  
partye by die geskil mag ooreenkoms of wat deur die Direkteur-generaal,  
by die aanvoer van goeie gronde vir sodanige laat verwysing, vasgestel  
word;”.

25 25 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, artikel 3 van  
Wet 2 van 1983 en artikel 9 van Wet 83 van 1988

30 30 7. Artikel 35 van die Hoofwet word hierby gewysig—

- (a) deur paragrawe (a) en (b) van subartikel (2) deur onderskeidelik die  
volgende paragrawe te vervang:

35 “(a) Wanneer 'n aansoek ingevolge subartikel (1) gedoen word, moet die  
applikant tegelykertyd bewys tot bevrediging van die inspekteur by  
regulasie omskryf, lewer dat 'n afskrif van die aansoek aan die ander  
party of partie by die geskil, per geregistreerde pos gestuur of per  
hand afgelewer is, of dat volledige besonderhede van die inhoud van  
die aansoek aan die ander party of partie by die geskil per telefaks  
versend is, en moet die applikant, indien deur die voorzitter van die  
versoeningsraad daartoe versoek, tot die tevredenheid van die voor-  
sitter van die versoeningsraad aantoon dat die afskrif of die volledige  
besonderhede van die inhoud van die betrokke aansoek aan die ander  
party of partie by die geskil gestuur, afgelewer of versend was, na  
gelang van die geval.

40 45 (b) Indien die applikant of een van die applikante 'n vakvereniging of 'n  
werkgewersorganisasie is, moet die aansoek skriftelik wees en deur 'n  
ampsdraer of beampete van die betrokke vereniging of organisasie, na  
gelang van die geval, onderteken wees en moet daardie aansoek  
vergesel wees van 'n sertifikaat [onderteken deur die sekretaris en deur  
die president of die voorzitter en die sekretaris 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 aansoek die vereniging of organisasie en die amps-  
draers of beampetes 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.”; en

- 50 55 (b) deur subparagrawe (i) en (ii) van paragraaf (d) van subartikel (3) deur  
onderskeidelik die volgende subparagrawe te vervang:  
“(i) tensy, in die geval van 'n geskil aangaande 'n onbillike arbeidspraktyk,  
die aansoek gedoen word binne [21] 180 dae vanaf die datum waarop  
[enige party by die geskil elke ander party by die geskil per aan-  
getekende pos of per kennisgewing per hand afgelewer, in kennis gestel

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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 unfair labour practice has commenced or ceased, as the case may be, or such later date upon which the parties to the dispute may agree or which is fixed by the Director-General, on good cause shown for the late lodging of such application [after the said period];

- (ii) if there is any industrial council having jurisdiction in respect of the matter in dispute: Provided that a conciliation board may be established if the registrar is of the opinion that the said industrial council has ceased to perform its functions under this Act and the registrar has thus notified the inspector defined by regulation;".

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## Amendment of section 36 of Act 28 of 1956, as amended by section 10 of Act 83 of 1988 15

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

"(a) A conciliation board shall endeavour to settle the dispute referred to it 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] 20 involved in the [dispute] 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, section 4 of Act 2 of 1983 and section 11 of Act 83 of 1988

9. Section 37 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) an office-bearer or official of [a] an unregistered 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".

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## 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, section 4 of Act 81 of 1984 and section 17 of Act 83 of 1988

## 10. Section 46 of the principal Act is hereby amended—

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(a) by the substitution for subparagraphs (i) and (ii) of paragraph (b) of subsection (9) of the following subparagraphs, respectively:

"(i) an industrial council having jurisdiction in respect thereof, and that industrial council has failed to settle such dispute within the period of 30 days, or within the further period 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] any party to the dispute may as soon as possible [thereafter] after the expiration of the said period, or the said further period or periods, but not later than

[14] 90 days from the date on which [the] that period, or that further period or periods, [fixed by the industrial council for the settlement of the dispute] as the case may be, have lapsed, refer the dispute to the industrial court for determination [unless all the parties to the dispute agree that the dispute shall not be so referred], and the industrial court

may only condone the late lodging of such referral on good cause shown; or

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(ii) a conciliation board and that board has failed to settle the dispute within the period of 30 days, or within the further period or periods, referred to in section 36 (1) (a), [the chairman of the conciliation board]

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5                          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 onbillike arbeidspraktyk 'n aanvang geneem of ten einde geloop het, na gelang van die geval, of sodanige later datum waarop die partye by die geskil mag ooreenkomm of wat deur die Direkteur-generaal, by die aanvoer van goeie gronde vir die laat indiening van sodanige aansoek, [na genoemde tydperk kondoneer] vasgestel word;

10                         (ii) indien daar 'n nywerheidsraad bestaan wat regsbewegdheid ten opsigte van die geskilpunt het: Met dien verstande dat 'n versoeningsraad ingestel kan word indien die registrateur van oordeel is dat bedoelde nywerheidsraad opgehou het om sy werksaamhede kragtens hierdie Wet te verrig en die registrateur die inspekteur by regulasie omskryf aldus in kennis gestel het;".

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**Wysiging van artikel 36 van Wet 28 van 1956, soos gewysig deur artikel 10 van Wet 83 van 1988**

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

20 "(a) 'n Versoeningsraad moet probeer om die geskil wat na hom verwys is, te besleg binne 30 dae vanaf die datum waarop die aansoek ingedien is of binne die verdere tydperk of tydperke waarop die partye betrokke by die **[geskil]** versoeningsraad ooreenkom.".

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, artikel 4 van Wet 2 van 1983 en artikel 11  
van Wet 83 van 1988

9. Artikel 37 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

"(a) 'n ampsdraer of beampte is van 'n ongeregistreerde vakvereniging of werkgewersorganisasie, tensy hy aan 'n inspekteur by regulasie omskryf 'n voorgeskrewe sertifikaat wat deur die registrator 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".

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,  
artikel 4 van Wet 81 van 1984 en artikel 17 van Wet 83 van 1988

**10** Artikel 46 van die Hoofwet word hierby gewysig—

40 10. Artikel 40 van die Hoogwet word hierby gewyg  
(a) deur subparagraphe (i) en (ii) van paragraaf (b) van subartikel (9) deur onderskeidelik die volgende subparagraphe te vervang:

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or a person designated by him for that purpose, shall any party to the dispute may as soon as possible [thereafter] after the expiration of the said period, or the said further period or periods, but not later than [within 14] 90 days from the date on which [the] that period, or that further period or periods, [referred to in section 36 (1) (a)] as the case may be, have lapsed, refer the dispute to the industrial court for determination [unless all the parties to the dispute agree that the dispute shall not be so referred], and the industrial court may only condone the late lodging of such referral on good cause shown.”; and

(b) by the substitution for paragraph (c) of subsection (9) of the following 10 paragraph:

“(c) The industrial court shall 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 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: Provided that such determination may include any alleged unfair labour practice which is substantially contemplated by the referral to the industrial council or with the terms of reference of the conciliation board, determined in terms of section 35 (3) (b).”.

**Amendment of section 51A of Act 28 of 1956, as inserted by section 35 of Act 57 of 1981**

11. Section 51A of the principal Act is hereby amended by the substitution for 25 subsection (1) of the following subsection:

“(1) Any group or association of employers engaged in any undertaking, industry, trade or occupation in any area in respect of which no industrial council is registered in respect of such undertaking, industry, trade or occupation, or, if an industrial council is so registered, the said industrial council has in the opinion of the registrar ceased to perform its functions under this Act, may at any time submit to the Minister proposals concerning the wages or the other conditions of employment of the employees employed in the undertaking, industry, trade or occupation and in the area in question, and request that such proposals be declared binding on all employers and employees engaged or 35 employed in such undertaking, industry, trade or occupation and in such area.”.

**Amendment of section 79 of Act 28 of 1956, as substituted by section 26 of Act 83 of 1988**

12. Section 79 of the principal Act is hereby amended by the substitution for 40 subsection (2) of the following subsection:

“(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 45 of the trade union, employers’ organization or federation concerned].”.

**Transitional provision**

13. Any matter already introduced in a court of law, the industrial court or an industrial council immediately prior to the commencement of this Act and not dealt with at the commencement of this Act, as well as any application for the 50 establishment of a conciliation board already received by the inspector defined by regulation, shall be proceeded and dealt with as if this Act had not been passed.

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- van die versoeningsraad of iemand deur hom vir daardie doel aangewys] kan enige party by die geskil so spoedig moontlik [daarna] na die verstryking van bedoelde tydperk, of bedoelde verdere tydperk of tydperke, maar nie later nie as [14] 90 dae vanaf die datum waarop [die] daardie tydperk, of daardie verdere tydperk of tydperke [in artikel 36 (1) (a)], na gelang van die geval, verstryk, die geskil na die nywerheidshof vir vasstelling verwys [tensy al die partye by die geskil ooreenkomen dat die geskil nie aldus verwys word nie], en die nywerheidshof kan slegs by die aanvoer van goeie gronde die laat indiening van sodanige verwysing kondoneer.”; en
- (b) deur paragraaf (c) van subartikel (9) deur die volgende paragraaf te vervang:
- “(c) Die nywerheidshof moet die geskil so spoedig moontlik na ontvangs van die verwysing ingevolge paragraaf (b), vásstel 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 en 71 is *mutatis mutandis* van toepassing ten opsigte van enige vasstelling wat in gevvolge hierdie subartikel gemaak word vir sover sodanige bepalings aldus toegepas kan word: Met dien verstande dat sodanige vasstelling enige beweerde onbillike arbeidspraktyk kan insluit wat wesenlik deur die verwysing na die nywerheidsraad of met die opdrag van die versoeningsraad, bepaal ingevolge artikel 35 (3) (b), beoog is.”.

**25 Wysiging van artikel 51A van Wet 28 van 1956, soos ingevoeg deur artikel 35 van Wet 57 van 1981**

- 11. Artikel 51A van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:**
- “(1) 'n Groep of vereniging werkgewers wat in 'n onderneming, nywerheid, bedryf of beroep betrokke is in 'n gebied ten opsigte waarvan geen nywerheidsraad ten opsigte van sodanige onderneming, nywerheid, bedryf of beroep geregistreer is nie, of, indien 'n nywerheidsraad wel geregistreer is, bedoelde nywerheidsraad na die oordeel van die registrator opgehou het om sy werkzaamhede kragtens hierdie Wet te verrig, kan te eniger tyd voorstelle aangaande die lone of die ander diensvoorwaardes van werknemers wat in die betrokke onderneming, nywerheid, bedryf of beroep en in die betrokke gebied in diens is aan die Minister voorlê en versoek dat bedoelde voorstelle bindend verklaar word vir alle werkgewers en werknemers betrokke by of in diens in daardie onderneming, nywerheid, bedryf of beroep en in daardie gebied.”.

**40 Wysiging van artikel 79 van Wet 28 van 1956, soos vervang deur artikel 26 van Wet 83 van 1988**

- 12. Artikel 79 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:**
- “(2) Behoudens die vrywaring in subartikel (1), is enige lid, ampsdraer of beampete van 'n vakvereniging, werkgewersorganisasie of federasie wat inbreuk maak op die kontraktuele verhouding tussen 'n werkewer 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].”.

**Oorgangsbeplaling**

- 13. Enige aangeleentheid wat onmiddellik voor die inwerkingtreding van hierdie Wet reeds by 'n gereghof, die nywerheidshof of 'n nywerheidsraad aanhangig gemaak is en wat by die inwerkingtreding van hierdie Wet nie afgehandel is nie, asook enige aansoek om die instelling van 'n versoeningsraad wat reeds deur die inspekteur by regulasie omskryf, ontvang is, word voortgesit en afgehandel asof hierdie Wet nie aangeneem is nie.**

**Act No. 9, 1991****LABOUR RELATIONS AMENDMENT ACT, 1991****Short title and commencement**

**14.** (1) This Act shall be called the Labour Relations Amendment Act, 1991, 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 the different provisions of this Act. 5

**WYSIGINGSWET OP ARBEIDSVERHOUDINGE, 1991****Wet No. 9, 1991****Kort titel en inwerkingtreding**

**14.** (1) Hierdie Wet heet die Wysigingswet op Arbeidsverhoudinge, 1991, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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

