



REPUBLIC OF SOUTH AFRICA



GOVERNMENT GAZETTE

STAATSKOERANT VAN DIE REPUBLIEK VAN SUID-AFRIKA

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No. 13351

STATE PRESIDENT'S OFFICE

No. 1500.

5 July 1991

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

No. 104 of 1991: Advocate-general Amendment Act, 1991

KANTOOR VAN DIE STAATSPRESIDENT

No. 1500.

5 Julie 1991

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

No. 104 van 1991: Wysigingswet op die Advokaat-geneaal, 1991

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

— Words underlined with solid line indicate insertions in existing enactments.

GOVERNMENT GAZETTE ACT

To amend the Advocate-General Act, 1979, so as to re-define "public moneys"; to make further provision regarding the appointment and conditions of employment of the Ombudsman; to provide that the Ombudsman may refuse to investigate a matter until a prejudiced person has exhausted his legal remedies; to provide that the Ombudsman may in certain cases act in self-governing territories; to further define the duties and powers of the Ombudsman; to provide that the Ombudsman may enter upon premises in the performance of his functions; to provide that the Ombudsman and certain other persons are not competent or compellable to answer certain questions; to provide that expenses incurred by persons in connection with an inquiry by the Ombudsman may in certain circumstances be paid from State funds; to provide that the Ombudsman and certain other persons are not liable in respect of anything done by them in good faith in terms of the Act; to increase penalties; and to substitute the designation "Ombudsman" for the designation "Advocate-General"; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)

(Assented to 27 June 1991.)

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

Amendment of section 1 of Act 118 of 1979, as amended by section 1 of Act 55 of 1983

1. Section 1 of the Advocate-General Act, 1979 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "public moneys" of the following definition:

"public moneys" means—

(a) State moneys as defined in section 1(1) of the Exchequer **[and Audit]** Act, 1975 (Act No. 66 of 1975);

(b) revenue accruing to—

(i) the Railway and Harbour Fund, the Post Office Fund and **[a provincial revenue fund]** an Account for Provincial Services;

(ii) any institution or body contemplated in section 84 (1) (f) of the **[Republic of South Africa Constitution]** Provincial Government Act, 1961 (Act No. 32 of 1961);

(iii) any statutory body as defined in section 1(1) of the Exchequer **[and Audit]** Act, 1975, but, subject to section 4A, excluding any Government, body or institution referred to in section 35 of the **[National States]** Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op die Advokaat-generaal, 1979, ten einde "publieke geld" te heromskryf; verdere voorsiening te maak in verband met die aanstelling en ampsvoorwaardes van die Ombudsman; te bepaal dat die Ombudsman kan weier om 'n aangeleenthed te ondersoek totdat 'n benadeelde sy regsmiddele uitgeput het; voorsiening te maak dat die Ombudsman in sekere gevalle in selfregerende gebiede kan optree; die pligte en bevoegdhede van die Ombudsman nader te omskryf; voorsiening te maak dat die Ombudsman by die verrigting van sy werksaamhede persele kan betree; te bepaal dat die Ombudsman en sekere ander persone nie bevoeg of verpligbaar is om op sekere vrae te antwoord nie; te bepaal dat uitgawes deur persone aangegaan in verband met 'n ondersoek deur die Ombudsman in sekere omstandighede uit Staatsfondse vergoed kan word; te bepaal dat die Ombudsman en sekere ander persone nie aanspreeklik is ten opsigte van enigiets deur hulle te goeder trou kragtens die Wet gedoen nie; strawwe te verhoog; en die benaming "Advokaat-generaal" deur die benaming "Ombudsman" te vervang; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 27 Junie 1991.)

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

Wysiging van artikel 1 van Wet 118 van 1979, soos gewysig deur artikel 1 van Wet 55 van 1983

- 5 1. Artikel 1 van die Wet op die Advokaat-generaal, 1979 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van "publieke geld" deur die volgende omskrywing te vervang:
- "publieke geld"—
- 10 (a) Staatgeld soos omskryf in artikel 1 (1) van die **[Skatkis- en Ouditwet] Skatkiswet**, 1975 (Wet No. 66 van 1975);
- (b) inkomste wat—
- (i) die Spoerweg- en Hawefonds, die Poskantoorfonds en 'n **[provinciale inkomstefonds] Rekening vir Provinciale Dienste** toeval;
- (ii) 'n instelling of liggaaam beoog in artikel 84 (1) (f) van die **[Grondwet van die Republiek van Suid-Afrika] Wet op Provinciale Bestuur**, 1961 (Wet No. 32 van 1961), toeval;
- (iii) 'n statutêre liggaaam soos omskryf in artikel 1 (1) van die **[Skatkis- en Ouditwet] Skatkiswet**, 1975, **[uitgesonderd]** maar, behoudens artikel 4A, nie ook 'n Regering, liggaaam of instelling bedoel in artikel 35 van die Grondwet van die **[Nasionale State] Selfregerende Gebiede**, 1971 (Wet No. 21 van 1971), nie, toeval;

- (iv) any body, association or organization deemed in terms of section [42 (5)] 5 (3) of the [Exchequer and Audit Act, 1975] Auditor-General Act, 1989 (Act No. 52 of 1989), to be a statutory body as defined in section 1 [(1)] of that Act;
- [(v) any institution or body referred to in section 16 (3) (b) or (c) of the Provincial Finance and Audit Act, 1972 (Act No. 18 of 1972)] 5
- (c) all other moneys whatever received or held for, or on account of, a fund, institution, body, association or organization referred to in any subparagraph of paragraph (b);”.

Amendment of section 2 of Act 118 of 1979, as amended by section 2 of Act 55 of 1983 10

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

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

“(2) The State President shall appoint to the office of [Advocate-General] Ombudsman, in a full-time or in a part-time capacity, a person who by virtue of his qualifications is entitled to be admitted and authorized to practise and be enrolled as an advocate in terms of the provisions of section 3 of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), and who, after obtaining such qualifications, was concerned in the application of the law for a [continuous] period of at least 10 years or periods which together amount to at least 10 years.”; 20

(b) by the substitution for the words preceding the proviso to subsection (3) of the following words:

“The salary and other conditions of employment (if any) of the Ombudsman shall from time to time be determined by the State President.”; 25

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

“(b) A suspension of the [Advocate-General] Ombudsman and the reason therefor shall be communicated by message to [the Senate and the House of Assembly] Parliament within 14 days after such suspension, if 30 Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.

(c) If an address is at any time during such a session of Parliament presented to the State President by the [Senate and the House of Assembly] respective Houses praying for the restoration to his office of the [Advocate-General] Ombudsman so suspended, the [Advocate-General] Ombudsman shall be restored to his office accordingly.”; and 35

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

“(7) The State President shall also remove the [Advocate-General] Ombudsman from office if an address from the [Senate and the House of Assembly] respective Houses of Parliament in the same session praying for such removal on the ground of misconduct of the [Advocate-General] Ombudsman or unfitness for the duties of his office or his incapacity to carry them out efficiently, is presented to the State President.”. 40

Amendment of section 4 of Act 118 of 1979, as amended by section 3 of Act 55 of 1983 45

3. Section 4 of the principal Act is hereby amended—

(a) by the insertion after paragraph (a) of subsection (1) of the following paragraph:

“(A) the State or the public in general is being prejudiced by maladministration in connection with the affairs of the State.”; 50

(b) by the insertion after paragraph (c) of subsection (1) of the following paragraph:

“(d) he, or any other person, subject to the provisions of subsection (3), has been or is being or may be prejudiced, either directly or indirectly, in an unlawful or improper manner by or as a result of an act or omission as contemplated in paragraph (b) (i) or (ii).”; 55

- (iv) 'n liggaam, vereniging of organisasie wat ingevolge artikel **【42 (5)】 5 (3)** van die **【Skatkis- en Ouditwet】 Wet op die Ouditeur-generaal, 1989** (**Wet No. 52 van 1989**), geag word 'n statutêre liggaam soos omskryf in artikel 1 **【(1)】** van daardie Wet te wees, toeval;
- 5 (v) 'n instelling of liggaam bedoel in artikel **16 (3) (b) of (c) van die Wet op Provinciale Finansies en Oudit, 1972 (Wet No. 18 van 1972), toeval】**
- (c) alle ander geld hoegenaamd wat vir of op rekening van 'n fonds, instelling, liggaam, vereniging of organisasie in enige subparagraaf van paragraaf (b) bedoel, ontvang is of gehou word;”.

10 **Wysiging van artikel 2 van Wet 118 van 1979, soos gewysig deur artikel 2 van Wet 55 van 1983**

2. Artikel 2 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (2) deur die volgende subartikel te vervang:
- 15 “(2) Die Staatspresident moet, in 'n heeltydse of in 'n deeltydse hoedanigheid, iemand in die amp van **【Advokaat-generaal】 Ombudsman** aanstel wat uit hoofde van sy kwalifikasies geregtig is om ingevolge die bepalings van artikel 3 van die Wet op die Toelating van Advokate, 1964 (**Wet No. 74 van 1964**), toegelaat en gemagtig te word om as advokaat te praktiseer en ingeskryf te word en wat na verwerking van sodanige kwalifikasies vir 'n **【ononderbroke】** tydperk van minstens 10 jaar **of tydperke wat tesaam minstens 10 jaar beloop**, by die toepassing van die reg betrokke was.”;
- 20 (b) deur die woorde wat die voorbehoudbepaling by subartikel (3) voorafgaan deur die volgende woorde te vervang:
- 25 “Die salaris en ander ampsvoorraarde (as daar is) van die Ombudsman word van tyd tot tyd deur die Staatspresident bepaal;”;
- (c) deur paragrawe (b) en (c) van subartikel (6) deur onderskeidelik die volgende paragrawe te vervang:
- 30 “(b) 'n Skorsing van die **【Advokaat-generaal】 Ombudsman** en die rede daarvoor moet by boodskap aan die **【Senaat en die Volksraad】 Parlement** meegedeel word binne 14 dae na die skorsing, as die Parlement dan in sessie is, of, as die Parlement nie dan in sessie is nie, binne 14 dae na die aanvang van sy eersvolgende sessie.
- 35 (c) As daar te eniger tyd gedurende so 'n sessie van die Parlement 'n versoekskrif deur die **【Senaat en die Volksraad】** onderskeie Huise om die herstel in sy amp van die **【Advokaat-generaal】 Ombudsman** wat aldus geskors is, aan die Staatspresident voorgelê word, moet die **【Advokaat-generaal】 Ombudsman** dienooreenkomsdig in sy amp herstel word.”; en
- 40 (d) deur subartikel (7) deur die volgende subartikel te vervang:
- “(7) Die **【Advokaat-generaal】 Ombudsman** moet ook deur die Staatspresident van sy amp ontheft word indien daar 'n versoekskrif van die **【Senaat en die Volksraad】** onderskeie Huise van die Parlement in dieselfde sessie aan die Staatspresident voorgelê word waarin op grond van wangedrag van die **【Advokaat-generaal】 Ombudsman** of ongeskiktheid vir sy ampspligte of sy onvermoë om hulle op 'n bekwame wyse uit te voer, om sodanige ontheffing gevra word.”.

Wysiging van artikel 4 van Wet 118 van 1979, soos gewysig deur artikel 3 van Wet 55 van 1983

3. Artikel 4 van die Hoofwet word hierby gewysig—
- (a) deur na paragraaf (a) van subartikel (1) die volgende paragraaf in te voeg:
“**【(aA) die Staat of die publiek in die algemeen deur wanbestuur in verband met die sake van die Staat benadeel word;】**”;
- 50 (b) deur na paragraaf (c) van subartikel (1) die volgende paragraaf in te voeg:
“**【(d) hy, of 'n ander persoon, behoudens die bepalings van subartikel (3), op 'n onwettige of onbehoorlike wyse, hetsy direk of indirek, benadeel is of word of mag word deur of as gevolg van 'n handeling of versuim in paragraaf (b) (i) of (ii) bedoel,】**”;

- (c) by the insertion after subsection (1) of the following subsection:
- “(1A) Subsection (1) (aA) and (d) shall also apply to incidents commencing prior to the date of commencement of the Advocate-General Amendment Act, 1991, but which had not been completed on the said date.”; and
- (d) by the addition of the following subsection:
- “(3) If the Ombudsman is of the opinion that the person who according to the relevant affidavit or affirmed declaration is presumed to have been prejudiced, has legal remedies in respect of the matter concerned at his disposal which have been conferred upon him by or under any law and that person has not exhausted those legal remedies, the Ombudsman may refuse to inquire into the matter until those legal remedies have been exhausted: Provided that where the allegation of unlawful or improper prejudice arises from the employment relationship of an officer or employee in the service of the State, the Ombudsman shall only investigate the allegation if he is satisfied that the person concerned has exhausted the legal remedies conferred upon him by the Public Service Act, 1984 (Act No. 111 of 1984), or any other law controlling his employment relationship.”.

Insertion of section 4A in Act 118 of 1979

4. The following section is hereby inserted in the principal Act after section 4: 20

“Action of Ombudsman in self-governing territories

4A. (1) If the Ombudsman has reason to suspect that a circumstance referred to in section 4(1) exists in respect of—

- (a) money due to a Government, body or institution referred to in section 35 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), or which is received or being held by such a Government, body or institution; or
- (b) any act or omission of a Government, body or institution referred to in paragraph (a),

he may advise the State President accordingly.

(2) Upon receipt of the information referred to in subsection (1), the State President may, after consultation with the Government of the self-governing territory concerned, by proclamation in the *Gazette*—

- (a) request the Ombudsman to hold in such self-governing territory such inquiry as the Ombudsman may deem necessary; and
- (b) declare the provisions of this Act to be applicable *mutatis mutandis* in respect of that inquiry until the Ombudsman has completed his functions in respect of the specific matter and reported thereon in terms of section 5.”.

Amendment of section 5 of Act 118 of 1979

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

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

“(1) The [Advocate-General] Ombudsman shall, [inquire forthwith into] in respect of a matter laid before him in terms of section 4 or which he has been requested to inquire into in terms of section 4A (2) (a), establish

whether [or not] the suspicion in question is well-founded and, if so, inquire forthwith into it and hand a report on his findings and on such recommendations, if any, as he may wish to make to the [Leader of the House of Assembly] Speaker of Parliament for handing over within seven

days to the Minister of Justice, who shall, within [seven] 14 days after it has been handed to him, lay the report upon the Table in [the House of Assembly] Parliament if Parliament is then in session or, if Parliament is not

then in session, [hand within the said seven days, such report to the Speaker of the House of Assembly for such laying upon the Table by the Leader of the House of Assembly] within [seven] 14 days after the commencement of the

next ensuing session of Parliament: Provided that for the purposes of the

- (c) deur na subartikel (1) die volgende subartikel in te voeg:
- "(1A) Subartikel (1) (aA) en (d) het ook betrekking op gebeure wat voor die datum van inwerkingtreding van die Wysigingswet op die Advokaat-generaal, 1991, 'n aanvang geneem het, maar op genoemde datum nog nie voltooi was nie.";; en
- (d) deur die volgende subartikel by te voeg:
- "(3) Indien die Ombudsman van oordeel is dat die persoon wat volgens die betrokke beëdigde of bevestigde verklaring vermoed word benadeel te wees, regsmiddele wat ten opsigte van die betrokke aangeleentheid by of kragtens enige wet aan hom verleen word, tot sy beskikking het, en daardie persoon nog nie daardie regsmiddele uitgeput het nie, kan die Ombudsman weier om die aangeleentheid te ondersoek totdat daardie regsmiddele uitgeput is: Met dien verstande dat waar die bewering van onwettige of onbehoorlike benadering spruit uit die diensverhouding van 'n beampete of werknemer in diens van die Staat, die Ombudsman slegs die bewering ondersoek indien hy oortuig is dat die betrokke persoon die regsmiddele aan hom verleen deur die Staatsdienswet, 1984 (Wet No. 111 van 1984), of enige ander wet wat sy diensverhouding beheer, uitgeput het.".

20 Invoeging van artikel 4A in Wet 118 van 1979

4. Die volgende artikel word hierby in die Hoofwet na artikel 4 ingevoeg:

"Optrede van Ombudsman in selfregerende gebiede"

- 4A.** (1) Indien die Ombudsman rede het om te vermoed dat daar ten aansien van—
- (a) geld wat 'n Regering, liggaaam of instelling bedoel in artikel 35 van die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971), toekom of deur so 'n Regering, liggaaam of instelling ontvang is of gehou word; of
- (b) enige handeling of versuim van 'n Regering, liggaaam of instelling in paragraaf (a) bedoel, 'n omstandigheid bedoel in artikel 4 (1) bestaan, kan hy die Staatspresident dienooreenkomsdig inlig.
- (2) By ontvangs van die inligting in subartikel (1) vermeld, kan die Staatspresident, na oorleg met die Regering van die betrokke selfregerende gebied, by proklamasie in die *Staatskoerant*—
- (a) die Ombudsman versoek om in so 'n selfregerende gebied dié ondersoek te doen wat die Ombudsman nodig ag; en
- (b) verklaar dat die bepalings van hierdie Wet *mutatis mutandis* ten opsigte van daardie ondersoek van toepassing is totdat die Ombudsman sy werkzaamhede ten aansien van die bepaalde aangeleentheid afgehandel het en kragtens artikel 5 daaroor verslag gedaan het."

Wysiging van artikel 5 van Wet 118 van 1979

5. Artikel 5 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- "(1) Die [Advokaat-generaal] Ombudsman moet, ten opsigte van 'n aangeleentheid wat ingevolge artikel 4 by hom aanhangig gemaak is [onverwyld ondersoek] of wat hy kragtens artikel 4A (2) (a) versoek is om te ondersoek, bepaal of die betrokke vermoede gegronde is [al dan nie] en, indien wel, dit onverwyld ondersoek en 'n verslag aangaande sy bevindinge en aangaande die aanbevelings, as daar is, wat hy verlang om te doen, oorhandig aan die [Leier van die Volksraad] Speaker van die Parlement vir oorhandiging binne sewe dae aan die Minister van Justisie, wat die verslag binne [sewe] 14 dae nadat dit aan hom oorhandig is, in die [Volksraad] Parlement ter Tafel moet lê as die Parlement dan in sessie is of, as die Parlement nie dan in sessie is nie, [binne bedoelde sewe dae aan die Speaker van die Volksraad moet oorhandig vir sodanige tertafellegging deur die Leier van die Volksraad] binne [sewe] 14 dae na die aanvang van die eersvolgende sessie van die Parlement: Met dien verstande dat vir die

publication of the contents of the said report such handing over to the [Speaker of the House of Assembly] Minister of Justice if Parliament is then not in session, shall, subject to the provisions of subsection (2), be deemed to constitute such laying upon the Table: Provided further that a report in respect of an inquiry held under section 4A, shall also be handed by the Ombudsman to the Government of the self-governing territory concerned.”;

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

“(2) Notwithstanding the provisions of subsection (1) the [Advocate-General] Ombudsman shall, if in connection with a matter inquired into by him in terms of subsection (1) he is of the opinion that the publication of the contents of his report will not be in the interest of the security of the State, recommend in the report referred to in subsection (1) that such publication be prohibited, and a report in which such recommendation is contained shall, within [seven] 14 days after it has been handed to [him] the Minister of Justice, be laid upon the Table of [the House of Assembly] Parliament by [the Leader of the House of Assembly] him as a confidential paper in terms of the Standing [Orders] Rules of [the House of Assembly] Parliament if Parliament is then in session or, if Parliament is not then in session [be handed], within [the said seven] 14 days [by him to the Speaker of the House of Assembly] after the commencement of the next ensuing session of Parliament, in both cases for submission to, and consideration of the said recommendation and the making of a report to [the House of Assembly] Parliament by a [select] joint committee of [the House of Assembly] Parliament [appointed for that purpose].”;

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

“(3) A [select] committee referred to in subsection (2) may, for the purposes of this Act, be authorized by resolution of [the House of Assembly] Parliament to continue its functions notwithstanding any prorogation of Parliament.”;

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

“(4) The Ombudsman may, whether or not he holds an inquiry referred to in subsection (1), and, if he does in fact hold an inquiry, at any time prior to, during or after the holding of such an inquiry—

(a) if he is of the opinion that the facts disclose the commission of an offence by any person, bring the matter to the notice of the relevant authority charged with prosecutions;

(b) if he deems it advisable, refer any matter which has a bearing on mismanagement to the institution, body, association or organization affected by it or make an appropriate recommendation regarding the redress of the prejudice referred to in section 4 (1) (d) or make any other recommendation which he deems expedient to the institution, body, association or organization concerned.”;

(e) by the substitution for the proviso to subsection (6) of the following proviso:

“Provided that if required to do so by the [select] joint committee referred to in subsection (2), the [Advocate-General] Ombudsman shall furnish the said [select] committee with the last-mentioned record.”; and

(f) by the addition of the following subsections:

“(7) The Ombudsman may, if he decides to hold an inquiry referred to in subsection (1), at any time prior to or during the holding of the inquiry—

(a) request any person in the service of the State, or of a fund, institution, body, association or organization referred to in the definition of ‘public moneys’ in section 1, or in the employment of a Government, body or institution referred to in section 4A, to assist him, under his supervision and control, in the performance of his functions;

(b) designate any person to conduct an inquiry referred to in section 7, or any part thereof, on his behalf and to report to him, and for this purpose such a person shall have the same powers as those which the Ombudsman has in terms of sections 6 and 7 and the provisions of sections 8 and 9 shall apply *mutatis mutandis* in respect of that person.

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- doeleindes van die publikasie van die inhoud van bedoelde verslag sodanige oorhandiging aan die **[Speaker van die Volksraad]** Minister van Justisie as die Parlement nie dan in sessie is nie, behoudens die bepalings van subartikel (2), geag word sodanige tertafellegging uit te maak: Met dien verstande voorts dat 'n verslag ten opsigte van 'n ondersoek kragtens artikel 4A gedoen, ook deur die Ombudsman aan die Regering van die betrokke selfregerende gebied oorhandig moet word.”;
- 5 (b) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Ondanks die bepalings van subartikel (1) moet die **[Advokaat-generaal]** Ombudsman, indien hy in verband met 'n aangeleentheid wat ingevolge subartikel (1) deur hom ondersoek is, van oordeel is dat die publikasie van die inhoud van sy verslag nie in belang van die veiligheid van die Staat is nie, in die verslag bedoel in subartikel (1) aanbeveel dat sodanige publikasie verbied word, en 'n verslag waarin so 'n aanbeveling vervat is, moet binne **[sewe]** 14 dae nadat dit aan **[hom]** die Minister van Justisie oorhandig is, deur **[die Leier van die Volksraad]** hom ingevolge die Reglement **[van Orde]** van die **[Volksraad]** Parlement as 'n vertroulike dokument in die **[Volksraad]** Parlement ter Tafel gelê word as die Parlement dan in sessie is of, as die Parlement nie dan in sessie is nie, binne **[bedoelde sewe]** 14 dae **[aan die Speaker van die Volksraad oorhandig word]** na die aanvang van die eersvolgende sessie van die Parlement, in albei gevalle vir voorlegging aan, en oorweging van bedoelde aanbeveling en verslagdoening aan die **[Volksraad]** Parlement deur, 'n **[gekose]** gesamentlike komitee van die **[Volksraad wat vir dié doel aangestel is]** Parlement.”;
- 10 (c) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) 'n **[Gekose]** Komitee bedoel in subartikel (2) kan vir die doeleindes van hierdie Wet by besluit deur die **[Volksraad]** Parlement gemagtig word om sy werksaamhede voort te sit ondanks 'n prorogasie van die Parlement.”;
- 15 (d) deur subartikel (4) deur die volgende subartikel te vervang:
- “(4) Die Ombudsman kan, hetsy hy 'n ondersoek instel soos in subartikel (1) bedoel, of nie, en, indien hy wel 'n ondersoek instel, te eniger tyd voor, tydens of na die hou van so 'n ondersoek—
- 20 (a) indien hy van oordeel is dat die feite die pleging van 'n misdryf deur die een of ander persoon openbaar, die betrokke gesag wat met vervolgings belas is, daarvan verwittig;
- 25 (b) indien hy dit gerade ag, enige aangeleentheid wat met wanbestuur verband hou, verwys na die instelling, liggaam, vereniging of organisasie wat daardeur geraak word of 'n gepaste aanbeveling oor die regstelling van die benadeling in artikel 4 (1) (d) bedoel of enige ander aanbeveling wat hy dienstig ag, aan die betrokke instelling, liggaam, vereniging of organisasie doen.”;
- 30 (e) deur die voorbehoudsbepaling by subartikel (6) deur die volgende voorbehoudsbepaling te vervang:
- “Met dien verstande dat indien die **[gekose]** gesamentlike komitee bedoel in subartikel (2) dit van hom vereis die **[Advokaat-generaal]** Ombudsman laasgenoemde oorkonde aan bedoelde **[gekose]** komitee moet verstrek.”; en
- 35 (f) deur die volgende subartikels by te voeg:
- “(7) Die Ombudsman kan, indien hy besluit om 'n ondersoek soos in subartikel (1) bedoel, in te stel, te eniger tyd voor of tydens die hou van die ondersoek—
- 40 (a) iemand in die diens van die Staat, of van 'n fonds, instelling, liggaam, vereniging of organisasie bedoel in die omskrywing van 'publieke geld' in artikel 1, of in die diens van 'n Regering, liggaam of instelling in artikel 4A bedoel, versoek om hom, onder sy toesig en beheer, by die verrigting van sy werksaamhede behulpsaam te wees;
- 45 (b) iemand benoem om namens hom 'n ondersoek in artikel 7 bedoel, of 'n gedeelte daarvan, te onderneem en aan hom verslag te doen, en vir dié doel het so 'n persoon dieselfde bevoegdhede as dié wat die Ombudsman kragtens artikels 6 en 7 het en is die bepalings van artikels 8 en 9 **mutatis mutandis** ten opsigte van daardie persoon van toepassing.

(8) The provisions of the instructions issued by the Treasury under section 39 of the Exchequer Act, 1975 (Act No. 66 of 1975), in respect of Commissions of Inquiry, shall apply *mutatis mutandis* to a person referred to in subsection (7) (b).".

Insertion of sections 7A, 7B and 7C in Act 118 of 1979

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6. The following sections are hereby inserted in the principal Act after section 7:

"Entering upon premises by Ombudsman

7A. The Ombudsman, or any person authorized thereto by him in writing, may in the performance of his functions in terms of this Act at any time and without prior notice or with such notice as he may deem sufficient or appropriate, enter any building or premises and there make such investigation and inquiry as he may deem necessary, and seize anything on those premises which in his opinion has a bearing on the purpose of the investigation, or make extracts from documents or copies thereof, and require any person whom he suspects of having the necessary information, to give an explanation of anything contained in such a document.

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Ombudsman not competent or compellable to answer questions

7B. The Ombudsman or his assistant or any member of his staff or any person referred to in section 5 (7), shall not be competent or compellable to answer questions in any proceedings in a court of law or before any body or institution established by or under any law or before a commissioner referred to in the Commissions Act, 1947 (Act No. 8 of 1947), in connection with any information which in the course of his inquiry in terms of this Act has come to his knowledge.

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Compensation regarding expenses

7C. The Ombudsman may, if he deems it advisable, with the concurrence of the Treasury, order that the expenses or a portion of the expenses incurred by any person in the course of or in connection with an inquiry by the Ombudsman be paid from State funds to that person.".

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Amendment of section 8 of Act 118 of 1979, as amended by section 5 of Act 55 of 1983

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

"(c) in connection with an inquiry do anything which, if done in connection with a court of law, would have constituted contempt of court: Provided that the provisions of this paragraph shall not prohibit discussion in [the Senate or the House of Assembly or any provincial council] Parliament of any matter being inquired into by the [Advocate-General] Ombudsman.". 35

Insertion of section 9A in Act 118 of 1979

8. The following section is hereby inserted in the principal Act after section 9: 40

"Limitation of liability

9A. The Ombudsman, or his assistant or any member of his staff or any person referred to in section 5 (7), shall not be liable in respect of anything done in good faith under any provision of this Act by the Ombudsman, or his assistant or any member of his staff or any person referred to in section 5 (7), as the case may be.".

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Amendment of section 10 of Act 118 of 1979

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9. Section 10 of the principal Act is hereby amended by the substitution in subsection (2) for the expression "five hundred rand" of the expression "R2 000".

(8) Die bepalings van die instruksies wat die Tesourie kragtens artikel 39 van die Skatkiswet, 1975 (Wet No. 66 van 1975), ten aansien van Kommissies van Ondersoek uitgereik het, is *mutatis mutandis* van toepassing op 'n persoon in subartikel (7) (b) bedoel.”.

5 Invoeging van artikels 7A, 7B en 7C in Wet 118 van 1979

6. Die volgende artikels word hierby in die Hoofwet na artikel 7 ingevoeg:

“Betreding van perseel deur Ombudsman

7A. Die Ombudsman, of enige persoon skriftelik deur hom daartoe gemagtig, kan by die verrigting van sy werksaamhede ingevolge hierdie Wet te eniger tyd en sonder voorafgaande kennisgewing of met dié kennisgewing wat hy voldoende of geskik ag enige gebou of perseel betree en daar die ondersoek instel en die navraag doen wat hy nodig ag, en op enigiets op daardie perseel wat na sy mening betrekking het op die doel van die ondersoek beslag lê, of uittreksels uit dokumente of afskrifte daarvan maak, en van enigiemand, wat, na hy vermoed, oor die nodige inligting beskik, 'n verduideliking eis van enigiets in so 'n dokument vervat.

Ombudsman is nie bevoeg of verpligbaar om vrae te beantwoord nie

7B. Die Ombudsman of sy assistent of enige lid van sy personeel of enige persoon in artikel 5 (7) bedoel, is nie bevoeg of verpligbaar om in enige verrigtinge in 'n gereghof of voor 'n kragtens of by wet ingestelde liggaam of instelling of voor 'n kommissaris beoog in die Kommissiewet, 1947 (Wet No. 8 van 1947), vrae te beantwoord in verband met enige inligting wat in die loop van sy ondersoek ingevolge hierdie Wet tot sy kennis gekom het nie.

Vergoeding ten aansien van uitgawes

7C. Die Ombudsman kan, met die instemming van die Tesourie, na goedgunne gelas dat die uitgawes of 'n gedeelte van die uitgawes wat deur iemand in die loop van of in verband met 'n ondersoek deur die Ombudsman, aangegaan is, uit Staatsfondse aan daardie persoon vergoed word.”.

Wysiging van artikel 8 van Wet 118 van 1979, soos gewysig deur artikel 5 van Wet 55 van 1983

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

“(c) in verband met 'n ondersoek iets doen nie wat, indien bedoelde ondersoek verrigtinge in 'n gereghof was, minagtig van die hof sou uitgemaak het: Met dien verstande dat die bepalings van hierdie paragraaf nie bespreking in die **[Senaat of die Volksraad of 'n provinsiale raad] Parlement** van 'n aangeleenthed wat deur die **[Advokaat-generaal] Ombudsman** ondersoek word, belet nie.”.

Invoeging van artikel 9A in Wet 118 van 1979

8. Die volgende artikel word hierby in die Hoofwet na artikel 9 ingevoeg:

“Beperking van aanspreeklikheid

9A. Die Ombudsman, of sy assistent of enige lid van sy personeel of iemand in artikel 5 (7) bedoel, is nie aanspreeklik ten opsigte van iets wat te goeder trou kragtens 'n bepaling van hierdie Wet deur die Ombudsman, of sy assistent of 'n lid van sy personeel of iemand in artikel 5 (7) bedoel, na gelang van die geval, gedoen is nie.”.

50 Wysiging van artikel 10 van Wet 118 van 1979

9. Artikel 10 van die Hoofwet word hierby gewysig deur in subartikel (2) die uitdrukking “vyfhonderd rand” deur die uitdrukking “R2 000” te vervang.

Substitution of section 11 of Act 118 of 1979

10. The following section is hereby substituted for section 11 of the principal Act:

"Penalties"

11. Any person convicted of an offence referred to in section 6 (4), 7 (7), 8 (2) or 9 (2), shall be liable to a fine not exceeding [five hundred rand] R4 000 or imprisonment for a period not exceeding [six] 12 months or to both such fine and such imprisonment.".

Substitution of expression in Act 118 of 1979

11. The principal Act is hereby amended by the substitution for the expression "Advocate-General", wherever it occurs, of the expression "Ombudsman".

Substitution of section 13 of Act 118 of 1979

12. The following section is hereby substituted for section 13 of the principal Act:

"Short title"

13. This Act shall be called the [Advocate-General] Ombudsman Act, 1979.".

Substitution of long title of Act 118 of 1979

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

"ACT"

To establish the office of [Advocate-General] Ombudsman; to provide for the appointment of a person to that office; to determine the duties and powers of the [Advocate-General] Ombudsman; and to provide for matter connected therewith."

Short title and commencement

14. This Act shall be called the Advocate-General Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Vervanging van artikel 11 van Wet 118 van 1979

10. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

“Strawwe

5 **11.** Iemand wat skuldig bevind word aan 'n misdryf bedoel in artikel 6 (4), 7 (7), 8 (2) of 9 (2), is strafbaar met 'n boete van hoogstens **[vyfhonderd rand]** R4 000 of gevangenisstraf vir 'n tydperk van hoogstens **[ses]** 12 maande of met daardie boete sowel as daardie gevangenisstraf.”.

Vervanging van uitdrukking in Wet 118 van 1979

10 **11.** Die Hoofwet word hierby gewysig deur die uitdrukking “Advokaat-generaal”, waar dit ook al voorkom, deur die uitdrukking “Ombudsman” te vervang.

Vervanging van artikel 13 van Wet 118 van 1979

12. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang:

“Kort titel

15 **13.** Hierdie Wet heet die Wet op die **[Advokaat-generaal]** Ombudsman, 1979.”.

Vervanging van lang titel van Wet 118 van 1979

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

20 **“WET**

Om die amp van **[Advokaat-generaal]** Ombudsman in te stel; voorsiening te maak vir die aanstelling van iemand in daardie amp; die pligte en bevoegdhede van die **[Advokaat-generaal]** Ombudsman te bepaal; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.”.

25 Kort titel en inwerkingtreding

14. Hierdie Wet heet die Wysigingswet op die Advokaat-generaal, 1991, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

ΕΓΟΙ ήσαν οι περισσότεροι από την Ελλάδα.

every day 8:11 a.m.W. may 11 Indiana may unanimous

Koutjeti

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