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GOVERNMENT GAZETTE

STAATSKOERANT

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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1111.

26 July 1995

No. 1111.

26 Julie 1995

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

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

No. 34 of 1995: Promotion of National Unity and Reconciliation Act, 1995.

No. 34 van 1995: Wet op die Bevordering van Nasionale Eenheid en Versoening, 1995.

ACT

To provide for the investigation and the establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights committed during the period from 1 March 1960 to the cut-off date contemplated in the Constitution, within or outside the Republic, emanating from the conflicts of the past, and the fate or whereabouts of the victims of such violations; the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past during the said period; affording victims an opportunity to relate the violations they suffered; the taking of measures aimed at the granting of reparation to, and the rehabilitation and the restoration of the human and civil dignity of, victims of violations of human rights; reporting to the Nation about such violations and victims; the making of recommendations aimed at the prevention of the commission of gross violations of human rights; and for the said purposes to provide for the establishment of a Truth and Reconciliation Commission, a Committee on Human Rights Violations, a Committee on Amnesty and a Committee on Reparation and Rehabilitation; and to confer certain powers on, assign certain functions to and impose certain duties upon that Commission and those Committees; and to provide for matters connected therewith.

SINCE the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), provides a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence for all South Africans, irrespective of colour, race, class, belief or sex;

AND SINCE it is deemed necessary to establish the truth in relation to past events as well as the motives for and circumstances in which gross violations of human rights have occurred, and to make the findings known in order to prevent a repetition of such acts in future;

AND SINCE the Constitution states that the pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society;

AND SINCE the Constitution states that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimization;

AND SINCE the Constitution states that in order to advance such reconciliation and reconstruction amnesty shall be granted in respect of acts, omissions and offences associated with political objectives committed in the course of the conflicts of the past;

AND SINCE the Constitution provides that Parliament shall under the Constitution adopt a law which determines a firm cut-off date, which shall be a date after 8 October 1990 and before the cut-off date envisaged in the Constitution, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with;

(English text signed by the President.)
(Assented to 19 July 1995.)

WET

Om voorsiening te maak vir die ondersoek na en die verkryging van so 'n volledig moontlike beeld van die aard, oorsake en omvang van growwe skendings van menseregte wat gedurende die tydperk vanaf 1 Maart 1960 tot die afsnydatum beoog in die Grondwet binne of buite die Republiek gepleeg is en uit die konflikte van die verlede voortspruit, en die lot van die slagoffers van sodanige skendings en waar hulle hul bevind; die verlening van amnestie aan persone wat alle relevante feite met betrekking tot daade wat met 'n politieke oogmerk in verband staan ten volle openbaar en gedurende genoemde tydperk in die loop van die konflikte van die verlede gepleeg is; verlening van 'n geleentheid aan slagoffers om te vertel van die skendings wat hulle gely het; die tref van maatreëls gemik op die verlening van herstel aan, en die rehabilitasie en die herstelling van die menslike en burgerlike waardigheid van slagoffers van skendings van menseregte; verslagdoening aan die Nasie aangaande sodanige skendings en slagoffers; die doen van aanbevelings gemik op die voorkoming van growwe skendings van menseregte; en om vir gemelde doeleindes voorsiening te maak vir die instelling van 'n Kommissie vir Waarheid en Versoening, 'n Komitee oor Skendings van Menseregte, 'n Komitee oor Amnestie en 'n Komitee oor Herstel en Rehabilitasie; en aan daardie Kommissie en Komitees sekere bevoegdhede te verleen, sekere werksaamhede op te dra en sekere pligte op te lê; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANGESIEN die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), 'n geskiedkundige brug bou tussen die verlede van 'n diep verdeelde gemeenskap wat gekenmerk is deur tweespalt, konflik, ongekende lyding en ongeregtigheid, en 'n toekoms wat gevestig is op die erkenning van menseregte, demokrasie en vreedsame naasbestaan vir alle Suid-Afrikaners, ongeag kleur, ras, klas, geloof of geslag;

EN AANGESIEN dit nodig geag word om die waarheid vas te stel met betrekking tot gebeure in die verlede sowel as die motiewe vir en die omstandighede waarin growwe skendings van menseregte plaasgevind het, en sodanige bevindings bekend te maak ten einde 'n herhaling van sulke daade in die toekoms te voorkom;

EN AANGESIEN die Grondwet bepaal dat die nastrewing van nasionale eenheid, die welsyn van alle Suid-Afrikaanse burgers en vrede, versoening tussen die mense van Suid-Afrika en die herstrukturering van die gemeenskap vereis;

EN AANGESIEN die Grondwet bepaal dat daar 'n behoefte bestaan aan begrip en nie wraaksug nie, 'n behoefte aan herstel en nie vergelding nie, 'n behoefte aan medemenslikheid en nie viktimisering nie;

EN AANGESIEN die Grondwet bepaal dat ten einde sodanige versoening en herstrukturering te bevorder, amnestie verleen moet word ten opsigte van daade, versuime en misdrywe wat met politieke oogmerke in verband staan en in die loop van die konflikte van die verlede gepleeg is;

EN AANGESIEN die Grondwet bepaal dat die Parlement kragtens die Grondwet 'n wet moet aanneem wat 'n vaste afsnydatum bepaal, wat 'n datum na 8 Oktober 1990 en voor die afsnydatum beoog in die Grondwet moet wees, en waarin voorsiening gemaak moet word vir meganismes, maastawwe en prosedures, met inbegrip van tribunale, indien nodig, deur middel waarvan sodanige amnestie behandel moet word;

*(Engelse teks deur die President geteken.)
(Goedgekeur op 19 Julie 1995.)*

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1

Interpretation and application

Definitions

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1. (1) In this Act, unless the context otherwise indicates—
- (i) “act associated with a political objective” has the meaning ascribed thereto in section 20(2) and (3); (ii)
 - (ii) “article” includes any evidence, book, document, file, object, writing, recording or transcribed computer printout produced by any mechanical or electronic device or any device by means of which information is recorded, stored or transcribed; (xix) 10
 - (iii) “Commission” means the Truth and Reconciliation Commission established by section 2; (ix)
 - (iv) “commissioner” means a member of the Commission appointed in terms of section 7(2)(a); (viii) 15
 - (v) “committee” means the Committee on Human Rights Violations, the Committee on Amnesty or the Committee on Reparation and Rehabilitation, as the case may be; (vii)
 - (vi) “Constitution” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993); (iv) 20
 - (vii) “cut-off date” means the latest date allowed as the cut-off date in terms of the Constitution as set out under the heading “National Unity and Reconciliation”; (i)
 - (viii) “former state” means any state or territory which was established by an Act of Parliament or by proclamation in terms of such an Act prior to the commencement of the Constitution and the territory of which now forms part of the Republic; (xvii) 25
 - (ix) “gross violation of human rights” means the violation of human rights through— 30
 - (a) the killing, abduction, torture or severe ill-treatment of any person; or
 - (b) any attempt, conspiracy, incitement, instigation, command or procurement to commit an act referred to in paragraph (a), which emanated from conflicts of the past and which was committed during the period 1 March 1960 to the cut-off date within or outside the Republic, and the commission of which was advised, planned, directed, commanded or ordered, by any person acting with a political motive; (v) 35
 - (x) “joint committee” means a joint committee of the Houses of Parliament appointed in accordance with the Standing Orders of Parliament for the purpose of considering matters referred to it in terms of this Act; (iii) 40
 - (xi) “Minister” means the Minister of Justice; (x)
 - (xii) “prescribe” means prescribe by regulation made under section 40; (xviii)
 - (xiii) “President” means the President of the Republic; (xi)
 - (xiv) “reparation” includes any form of compensation, *ex gratia* payment, restitution, rehabilitation or recognition; (vi) 45
 - (xv) “Republic” means the Republic of South Africa referred to in section 1(2) of the Constitution; (xii)
 - (xvi) “security forces” includes any full-time or part-time—
 - (a) member or agent of the South African Defence Force, the South African Police, the National Intelligence Service, the Bureau of State Security, the Department of Correctional Services, or any of their organs; 50
 - (b) member or agent of a defence force, police force, intelligence agency or prison service of any former state, or any of their organs; (xvi)
 - (xvii) “State” means the State of the Republic; (xiv)
 - (xviii) “subcommittee” means any subcommittee established by the Commission in terms of section 5(c); (xv) 55
 - (xix) “victims” includes—
 - (a) persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering,

WORD DAAR DERHALWE BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—**HOOFTUK I***Uitleg en toepassing***5 Woordoms krywing**

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- (i) “afsn ydatum” die laaste datum toegelaat as die afsnydatum ingevolge die Grondwet soos uiteengesit onder die opskrif “Nasionale Eenheid en Versoening”; (vii)
 - 10 (ii) “daad wat met ’n politieke oogmerk in verband staan” ’n daad soos bedoel in artikel 20(2) en (3); (i)
 - (iii) “gesamentlike komitee” ’n gesamentlike komitee van die Huise van die Parlement aangestel in ooreenstemming met die Reglement van die Parlement om aangeleenthede te oorweeg wat ingevolge hierdie Wet daarna verwys word; (x)
 - 15 (iv) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993); (vi)
 - (v) “growwe skending van menseregte” die skending van menseregte deur—
 - 20 (a) die doodmaak, ontvoering, marteling of ernstige mishandeling van enige persoon; of
 - (b) ’n poging, sameswering, uitlokking, aanstigting, bevel of oorhaling om ’n daad in paragraaf (a) bedoel, te pleeg, wat voortgespruit het uit konflikte van die verlede en wat gedurende die tydperk 1 Maart 1960 tot die afsnydatum, binne of buite die Republiek gepleeg is, en die pleging waarvan geadviseer, beplan, opgedra, bevel of gelas is, deur enige persoon wat met ’n politieke oogmerk gehandel het; (ix)
 - 25 (vi) “herstel” enige vorm van vergoeding, *ex gratia*-betaling, restitusie, rehabilitasie of erkenning; (xiv)
 - (vii) “komitee” die Komitee oor Skendings van Menseregte, die Komitee oor Amnestie of die Komitee oor Herstel en Rehabilitasie, na gelang van die geval; (v)
 - 30 (viii) “kommissaris” ’n lid van die Kommissie aangestel ingevolge artikel 7(2)(a); (iv)
 - (ix) “Kommissie” die Kommissie vir Waarheid en Versoening by artikel 2 ingestel; (iii)
 - 35 (x) “Minister” die Minister van Justisie; (xi)
 - (xi) “President” die President van die Republiek; (xiii)
 - (xii) “Republiek” die Republiek van Suid-Afrika in artikel 1(2) van die Grondwet bedoel; (xv)
 - 40 (xiii) “slagoffers” ook—
 - (a) persone wat, individueel of saam met een of meer persone, nadeel in die vorm van fisiese of geestelike leed, emosionele lyding, geldelike verlies of wesenlike aantasting van menseregte gely het—
 - 45 (i) as gevolg van ’n growwe skending van menseregte; of
 - (ii) as gevolg van ’n daad wat met ’n politieke oogmerk in verband staan waarvoor amnestie verleen is;
 - (b) persone wat, individueel of saam met een of meer persone, nadeel in die vorm van fisiese of geestelike leed, emosionele lyding, geldelike verlies of wesenlike aantasting van menseregte gely het toe so ’n persoon tussenbeide getree het om persone beoog in paragraaf (a) by te staan wat in nood verkeer het of om die viktimisasie van sodanige persone te voorkom; en
 - (c) die familiebetrekkinge of afhanklikes van slagoffers wat voorgeskryf word; (xix)
 - 55 (xiv) “Staat” die Staat van die Republiek; (xvii)
 - (xv) “subkomitee” enige subkomitee deur die Kommissie ingevolge artikel 5(c) ingestel; (xviii)
 - (xvi) “veiligheidsmagte” ook—
 - 60 (a) enige heelt ydse of deelt ydse lid of agent van die Suid-Afrikaanse Weermag, die Suid-Afrikaanse Polisie, die Nasionale Intelligensie-

- pecuniary loss or a substantial impairment of human rights—
- (i) as a result of a gross violation of human rights; or
 - (ii) as a result of an act associated with a political objective for which amnesty has been granted;
- (b) persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of human rights, as a result of such person intervening to assist persons contemplated in paragraph (a) who were in distress or to prevent victimization of such persons; and
- (c) such relatives or dependants of victims as may be prescribed. (xiii)
- (2) For the purposes of sections 10(1), (2) and (3) and 11 and Chapters 6 and 7 “Commission” shall be construed as including a reference to “committee” or “subcommittee”, as the case may be, and “Chairperson”, “Vice-Chairperson” or “commissioner” shall be construed as including a reference to the chairperson, vice-chairperson or a member of a committee or subcommittee, as the case may be.

CHAPTER 2

Truth and Reconciliation Commission

Establishment and seat of Truth and Reconciliation Commission

2. (1) There is hereby established a juristic person to be known as the Truth and Reconciliation Commission.
- (2) The seat of the Commission shall be determined by the President.

Objectives of Commission

3. (1) The objectives of the Commission shall be to promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past by—
- (a) establishing as complete a picture as possible of the causes, nature and extent of the gross violations of human rights which were committed during the period from 1 March 1960 to the cut-off date, including the antecedents, circumstances, factors and context of such violations, as well as the perspectives of the victims and the motives and perspectives of the persons responsible for the commission of the violations, by conducting investigations and holding hearings;
 - (b) facilitating the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective and comply with the requirements of this Act;
 - (c) establishing and making known the fate or whereabouts of victims and by restoring the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violations of which they are the victims, and by recommending reparation measures in respect of them;
 - (d) compiling a report providing as comprehensive an account as possible of the activities and findings of the Commission contemplated in paragraphs (a), (b) and (c), and which contains recommendations of measures to prevent the future violations of human rights.
- (2) The provisions of subsection (1) shall not be interpreted as limiting the power of the Commission to investigate or make recommendations concerning any matter with a view to promoting or achieving national unity and reconciliation within the context of this Act.
- (3) In order to achieve the objectives of the Commission—
- (a) the Committee on Human Rights Violations, as contemplated in Chapter 3, shall deal, among other things, with matters pertaining to investigations of gross violations of human rights;

- diens, die Buro vir Staatsveiligheid, die Departement van Korrektiewe Dienste, of enige van hul organe;
- (b) 'n heeltydse of deeltydse lid of agent van 'n weermag, polisiemag, intelligensie-agentskap of gevangensdiens van enige voormalige staat, of enige van hul organe; (xvi)
- 5 (xvii) "voormalige staat" enige staat of gebied wat by Wet van die Parlement of by proklamasie ingevolge so 'n Wet voor die inwerkingtreding van die Grondwet ingestel is en waarvan die grondgebied nou 'n deel van die Republiek uitmaak; (viii)
- 10 (xviii) "voorskryf" by regulasie uitgevaardig kragtens artikel 40 voorskryf; (xii)
- (xix) "voorwerp" ook enige bewys, boek, stuk, lêer, objek, geskrif, opname of getranskribeerde rekenaardrukstuk voortgebring deur enige meganiese of elektroniese apparaat of enige apparaat waardeur inligting opgeneem, geberg of getranskribeer word. (ii)
- 15 (2) By die toepassing van artikels 10(1), (2) en (3) en 11 en Hoofstukke 6 en 7 word "Kommissie" uitgelê ook as 'n verwysing na "komitee" of "subkomitee", na gelang van die geval, en word "Voorsitter", "Ondervoorsitter" of "kommissaris" uitgelê ook as 'n verwysing na die voorsitter, ondervoorsitter of 'n lid van 'n komitee of subkomitee, na gelang van die geval.

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HOOFSUK 2

Kommissie vir Waarheid en Versoening

Instelling en setel van Kommissie vir Waarheid en Versoening

2. (1) Daar word hierby 'n regs persoon wat as die Kommissie vir Waarheid en Versoening bekend sal staan, ingestel.
- 25 (2) Die President bepaal die setel van die Kommissie.

Oogmerke van Kommissie

3. (1) Die oogmerke van die Kommissie is om nasionale eenheid en versoening te bevorder in 'n gees van begrip wat uitstyg bo die konflikte en die verdeeldheid van die verlede deur—
- 30 (a) so 'n volledig moontlike beeld te verkry van die oorsake, aard en omvang van die growwe skendings van menseregte wat gedurende die tydperk 1 Maart 1960 tot die afsnydatum gepleeg is, met inbegrip van die voorafgaande gebeure, omstandighede, faktore en konteks van sodanige skendings, asook die perspektiewe van die slagoffers en die beweegredes en perspektiewe van die persone wat vir die pleging van die skendings verantwoordelik is, deur
- 35 ondersoek te doen en verhoor te hou;
- (b) die verlening van amnestie te vergemaklik aan persone wat alle tersaaklike feite met betrekking tot daad wat met 'n politieke oogmerk in verband staan ten volle openbaar en aan die vereistes van die Wet voldoen;
- 40 (c) die lot of verblyfplek van die slagoffers vas te stel en bekend te maak en deur die menslike en burgerlike waardigheid van daardie slagoffers te herstel deur aan hulle 'n geleentheid te bied om hul eie relase te gee van die skendings waarvan hulle die slagoffers is, en deur herstelmaatreëls ten opsigte van hulle aan te beveel;
- 45 (d) 'n verslag saam te stel wat so 'n volledig moontlike oorsig gee van die Kommissie se bedrywighede en bevindinge beoog in paragrawe (a), (b) en (c), en wat aanbevelings van maatreëls bevat ten einde toekomstige skendings van menseregte te voorkom.
- (2) Die bepaling van subartikel (1) word nie uitgelê as sou dit die bevoegdheid van die Kommissie beperk om enige aangeleentheid te ondersoek of aanbevelings daaroor te doen ten einde nasionale eenheid en versoening, binne die bedoeling van hierdie Wet, te bevorder of te bereik nie.
- (3) Ten einde die oogmerke van die Kommissie te bereik—
- 50 (a) handel die Komitee oor Skendings van Menseregte, soos in Hoofstuk 3 beoog, onder meer met aangeleenthede betreffende ondersoeke van growwe skendings van menseregte;
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- (b) the Committee on Amnesty, as contemplated in Chapter 4, shall deal with matters relating to amnesty;
- (c) the Committee on Reparation and Rehabilitation, as contemplated in Chapter 5, shall deal with matters referred to it relating to reparations;
- (d) the investigating unit referred to in section 5(d) shall perform the investigations contemplated in section 28(4)(a); and 5
- (e) the subcommittees shall exercise, perform and carry out the powers, functions and duties conferred upon, assigned to or imposed upon them by the Commission.

Functions of Commission 10

4. The functions of the Commission shall be to achieve its objectives, and to that end the Commission shall—

- (a) facilitate, and where necessary initiate or coordinate, inquiries into—
 - (i) gross violations of human rights, including violations which were part of a systematic pattern of abuse; 15
 - (ii) the nature, causes and extent of gross violations of human rights, including the antecedents, circumstances, factors, context, motives and perspectives which led to such violations;
 - (iii) the identity of all persons, authorities, institutions and organisations involved in such violations; 20
 - (iv) the question whether such violations were the result of deliberate planning on the part of the State or a former state or any of their organs, or of any political organisation, liberation movement or other group or individual; and
 - (v) accountability, political or otherwise, for any such violation; 25
- (b) facilitate, and initiate or coordinate, the gathering of information and the receiving of evidence from any person, including persons claiming to be victims of such violations or the representatives of such victims, which establish the identity of victims of such violations, their fate or present whereabouts and the nature and extent of the harm suffered by such victims; 30
- (c) facilitate and promote the granting of amnesty in respect of acts associated with political objectives, by receiving from persons desiring to make a full disclosure of all the relevant facts relating to such acts, applications for the granting of amnesty in respect of such acts, and transmitting such applications to the Committee on Amnesty for its decision, and by publishing decisions granting amnesty, in the *Gazette*; 35
- (d) determine what articles have been destroyed by any person in order to conceal violations of human rights or acts associated with a political objective;
- (e) prepare a comprehensive report which sets out its activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal; 40
- (f) make recommendations to the President with regard to—
 - (i) the policy which should be followed or measures which should be taken with regard to the granting of reparation to victims or the taking of other measures aimed at rehabilitating and restoring the human and civil dignity of victims; 45
 - (ii) measures which should be taken to grant urgent interim reparation to victims;
- (g) make recommendations to the Minister with regard to the development of a limited witness protection programme for the purposes of this Act; 50
- (h) make recommendations to the President with regard to the creation of institutions conducive to a stable and fair society and the institutional, administrative and legislative measures which should be taken or introduced in order to prevent the commission of violations of human rights.

- (b) handel die Komitee oor Amnestie, soos in Hoofstuk 4 beoog, met aangeleenthede betreffende amnestie;
- (c) handel die Komitee oor Herstel en Rehabilitasie, soos in Hoofstuk 5 beoog, met aangeleenthede na hom verwys betreffende herstel;
- 5 (d) doen die ondersoekende vermeld in artikel 5(d) die ondersoek in artikel 28(4)(a) beoog; en
- (e) moet die subkomitees die bevoegdheid, werksaamheid en pligte wat die Kommissie aan hulle verleen, opdra of oplê, uitoefen, verrig en uitvoer.

Werksaamhede van Kommissie

- 10 4. Die werksaamhede van die Kommissie is om sy oogmerke te bereik, en vir daardie doel moet die Kommissie—
- (a) ondersoek vergemaklik, en waar nodig inisier of koördineer, na—
 - (i) growwe skendings van menseregte, met inbegrip van skendings wat deel was van 'n stelselmatige patroon van mishandeling;
 - 15 (ii) die aard, oorsake en omvang van growwe skendings van menseregte, met inbegrip van die voorafgaande gebeure, omstandighede, faktore, samehang, beweegredes en perspektiewe wat tot sodanige skendings aanleiding gegee het;
 - 20 (iii) die identiteit van alle persone, owerhede, instansies en organisasies betrokke by sodanige skendings;
 - (iv) die vraag of sodanige skendings die gevolg was van doelbewuste beplanning van die kant van die Staat of 'n voormalige staat of enige van hul organe, of van enige politieke organisasie, bevrydingsbeweging of ander groep of individu; en
 - 25 (v) aanspreeklikheid, politiek of andersins, vir enige sodanige skending;
 - (b) die inwin van inligting en die ontvangs van getuienis van enige persoon vergemaklik, en inisier of koördineer, met inbegrip van persone wat beweer dat hulle slagoffers van sodanige skendings of die verteenwoordigers van sodanige slagoffers is, wat die identiteit van slagoffers van sodanige skendings, hul lot of huidige verblyfplek en die aard en omvang van die nadeel wat deur sodanige slagoffers gely is, vasstel;
 - 30 (c) die verlening van amnestie ten opsigte van daad wat met politieke oogmerke in verband staan, vergemaklik en bevorder deur van persone wat verlang om alle relevante feite met betrekking tot sodanige daad ten volle te openbaar, aansoek te ontvang om die verlening van amnestie ten opsigte van sodanige daad, en daardie aansoek aan die Komitee oor Amnestie vir sy beslissing deur te stuur, en deur beslissings dat amnestie verleen word in die *Staatskoerant* te publiseer;
 - 35 (d) bepaal watter voorwerpe deur enige persoon vernietig is om skendings van menseregte of daad wat met 'n politieke oogmerk in verband staan, te verberg;
 - (e) 'n omvattende verslag voorberei wat sy aktiwiteite en bevindings uiteensit, gebaseer op feitelike en objektiewe inligting en getuienis deur hom ingesamel of ontvang of tot sy beskikking gestel;
 - 40 (f) aanbevelings by die President doen met betrekking tot—
 - (i) die beleid wat gevolg, of maatreëls wat getref behoort te word met betrekking tot die verlening van herstel aan slagoffers of die toepassing van ander maatreëls gemik op die rehabilitasie en herstelling van die menslike en burgerlike waardigheid van slagoffers;
 - 45 (ii) maatreëls wat getref behoort te word om dringende tussentydse herstel aan slagoffers te verleen;
 - 50 (g) aanbevelings aan die Minister doen met betrekking tot die ontwikkeling van 'n beperkte getuiesbeskermingsplan vir die doeleindes van hierdie Wet;
 - 55 (h) aanbevelings by die President doen met betrekking tot die oprigting van instellings wat vir 'n stabiele en regverdigde gemeenskap bevorderlik is en die institusionele, administratiewe en wetgewende maatreëls wat getref of ingestel behoort te word ten einde die pleging van skendings van menseregte te voorkom.

Powers of Commission

5. In order to achieve its objectives and to perform its functions the Commission shall have the power to—

- (a) determine the seat, if any, of every committee;
- (b) establish such offices as it may deem necessary for the performance of its functions; 5
- (c) establish subcommittees to exercise, carry out or perform any of the powers, duties and functions assigned to them by the Commission;
- (d) conduct any investigation or hold any hearing it may deem necessary and establish the investigating unit referred to in section 28; 10
- (e) refer specific or general matters to, give guidance and instructions to, or review the decisions of, any committee or subcommittee or the investigating unit with regard to the exercise of its powers, the performance of its functions and the carrying out of its duties, the working procedures which should be followed and the divisions which should be set up by any committee in order to deal effectively with the work of the committee: Provided that no decision, or the process of arriving at such a decision, of the Committee on Amnesty regarding any application for amnesty shall be reviewed by the Commission; 15
- (f) direct any committee or subcommittee to make information which it has in its possession available to any other committee or subcommittee; 20
- (g) direct the submission of and receive reports or interim reports from any committee or subcommittee;
- (h) have the administrative and incidental work connected with the exercise of its powers, the execution of its duties or the performance of its functions carried out by persons— 25
 - (i) employed or appointed by it;
 - (ii) seconded to its service by any department of State at the request of the Commission and after consultation with the Public Service Commission;
 - (iii) appointed by it for the performance of specified tasks;
- (i) in consultation with the Minister and through diplomatic channels, obtain permission from the relevant authority of a foreign country to receive evidence or gather information in that country; 30
- (j) enter into an agreement with any person, including any department of State, in terms of which the Commission will be authorized to make use of any of the facilities, equipment or personnel belonging to or under the control or in the employment of such person or department; 35
- (k) recommend to the President that steps be taken to obtain an order declaring a person to be dead;
- (l) hold meetings at any place within or outside the Republic;
- (m) on its own initiative or at the request of any interested person inquire or investigate into any matter, including the disappearance of any person or group of persons. 40

Certain powers shall be exercised in consultation with Minister

6. Subject to the provisions of section 45, any power referred to in section 5(a), (b) and (c), and, if it is to be exercised outside the Republic, any power referred to in sections 5(d) and (l), 10(1) and 29(1), shall be exercised in consultation with the Minister. 45

Constitution of Commission

- 7. (1) The Commission shall consist of not fewer than 11 and not more than 17 commissioners, as may be determined by the President in consultation with the Cabinet. 50
- (2) (a) The President shall appoint the commissioners in consultation with the Cabinet.
- (b) The commissioners shall be fit and proper persons who are impartial and who do not have a high political profile: Provided that not more than two persons who are not South African citizens may be appointed as commissioners. 55
- (3) The President shall make the appointment of the commissioners known by proclamation in the *Gazette*.

Bevoegdhede van Kommissie

5. Ten einde sy oogmerke te bereik en sy werksaamhede te verrig, is die Kommissie bevoeg om—

- (a) die setel van elke komitee, indien enige, te bepaal;
- 5 (b) die kantore te vestig wat hy vir die verrigting van sy werksaamhede nodig ag;
- (c) subkomitees in te stel om enige van die bevoegdhede, pligte en werksaamhede uit te oefen, uit te voer of te verrig wat die Kommissie aan hulle opdra;
- (d) enige ondersoek te doen of verhoor te hou wat hy nodig ag en die ondersoekende beoog in artikel 28 in te stel;
- 10 (e) bepaalde of algemene aangeleenthede te verwys na, voorligting en instruksies te gee aan, of die beslissings te hersien van enige komitee, subkomitee of die ondersoekende met betrekking tot die uitoefening van sy bevoegdhede, die verrigting van sy werksaamhede en die uitvoering van sy pligte, die werksywes wat gevolg behoort te word en die afdelings wat deur 'n komitee ingestel moet word ten einde die werk van die komitee doeltreffend te verrig: Met dien verstande dat geen besluit van, of die proses waardeur sodanige besluit bereik word deur, die Komitee oor Amnestie aangaande enige aansoek om amnestie, deur die Kommissie hersien word nie;
- 15 (f) enige komitee of subkomitee te gelas om inligting wat hy in sy besit het beskikbaar te stel aan enige ander komitee of subkomitee;
- 20 (g) die voorlegging van verslae of tussentydse verslae deur enige komitee of subkomitee, te gelas en te ontvang;
- (h) die administratiewe en bykomende werk wat met die uitoefening van sy bevoegdhede, die verrigting van sy werksaamhede en die uitvoering van sy pligte in verband staan, te laat verrig deur persone—
- 25 (i) deur hom in diens geneem of aangestel;
- (ii) op sy versoek en na oorleg met die Staatsdienskommissie, vir diens aan hom afgestaan deur enige Staatsdepartement;
- (iii) deur hom aangestel vir die verrigting van bepaalde opdragte;
- 30 (i) in oorleg met die Minister en deur diplomatieke kanale, toestemming te verkry van die tersaaklike gesag van 'n ander land, ten einde getuienis te ontvang of inligting in te win in daardie land;
- (j) 'n ooreenkoms aan te gaan met enige persoon, met inbegrip van enige Staatsdepartement, ingevolge waarvan die Kommissie bevoeg sal wees om
- 35 van enige fasiliteit, toerusting of personeel wat behoort aan of onder die beheer van of in die diens van sodanige persoon of departement is, gebruik te maak;
- (k) by die President aan te beveel dat stappe gedoen word om 'n bevel te verkry waarby 'n persoon as dood verklaar word;
- 40 (l) vergaderings op enige plek binne of buite die Republiek te hou;
- (m) uit eie beweging of op versoek van enige belanghebbende persoon ondersoek instel na enige aangeleentheid, met inbegrip van die verdwyning van enige persoon of groep persone.

Sekere bevoegdhede word uitgevoer in oorleg met Minister

- 45 6. Behoudens die bepalings van artikel 45 word enige bevoegdheid bedoel in artikel 5(a), (b) en (c), en, indien dit uitgeoefen sal word buite die Republiek, enige bevoegdheid bedoel in artikels 5(d) en (l), 10(1) en 29(1), uitgeoefen in oorleg met die Minister.

Samestelling van Kommissie

- 50 7. (1) Die Kommissie bestaan uit minstens 11 en hoogstens 17 kommissarisse, soos deur die President in oorleg met die Kabinet bepaal.
- (2) (a) Die President stel die kommissarisse aan in oorleg met die Kabinet.
- (b) Die kommissarisse moet geskikte en gepaste persone wees wat onpartydig is, en wat nie 'n hoë politieke profiel het nie: Met dien verstande dat hoogstens twee persone
- 55 wat nie Suid-Afrikaanse burgers is nie as kommissarisse aangestel mag word.
- (3) Die President maak die aanstelling van die kommissarisse bekend by proklamasie in die *Staatskoerant*.

(4) The President shall designate one of the commissioners as the Chairperson, and another as the Vice-Chairperson, of the Commission.

(5) A commissioner appointed in terms of subsection (2)(a) shall, subject to the provisions of subsections (6) and (7), hold office for the duration of the Commission.

(6) A commissioner may at any time resign as commissioner by tendering his or her resignation in writing to the President. 5

(7) The President may remove a commissioner from office on the grounds of misbehaviour, incapacity or incompetence, as determined by the joint committee and upon receipt of an address from the National Assembly and an address from the Senate.

(8) If any commissioner tenders his or her resignation under subsection (6), or is removed from office under subsection (7), or dies, the President in consultation with the Cabinet, may fill the vacancy by appointing a person for the unexpired portion of the term of office of his or her predecessor or may allow the seat vacated as a result of a resignation, removal from office or death to remain vacant. 10

Acting Chairperson of Commission 15

8. If both the Chairperson and Vice-Chairperson are absent or unable to perform their duties, the other commissioners shall from among their number nominate an Acting Chairperson for the duration of such absence or incapacity.

Conditions of service, remuneration, allowances and other benefits of staff of Commission 20

9. (1) The persons appointed or employed by the Commission who are not officials of the State, shall receive such remuneration, allowances and other employment benefits and shall be appointed or employed on such terms and conditions and for such periods as the Commission with the approval of the Minister, granted in concurrence with the Minister of Finance, may determine. 25

(2) (a) A document setting out the remuneration, allowances and other conditions of employment determined by the Commission in terms of subsection (1), shall be tabled in Parliament within 14 days after each such determination.

(b) If Parliament disapproves of any determination, such determination shall cease to be of force to the extent to which it is so disapproved. 30

(c) If a determination ceases to be of force as contemplated in paragraph (b)—

- (i) anything done in terms of such determination up to the date on which such determination ceases to be of force shall be deemed to have been validly done; and
- (ii) any right, privilege, obligation or liability acquired, accrued or incurred up to the said date under and by virtue of such determination, shall lapse upon the said date. 35

Meetings, procedure at and quorum for meetings of Commission and recording of proceedings

10. (1) A meeting of the Commission shall be held at a time and place determined by the Chairperson of the Commission or, in the absence or inability of such Chairperson, by the Vice-Chairperson of the Commission or, in the absence or inability of both such Chairperson and Vice-Chairperson, by the Acting Chairperson of the Commission. 40

(2) Subject to section 40, the Commission shall have the power to determine the procedure for its meetings, including the manner in which decisions shall be taken.

(3) The Commission shall cause a record to be kept of its proceedings. 45

(4) The quorum for the first meeting of the Commission shall be two less than the total number of the Commission.

Principles to govern actions of Commission when dealing with victims

11. When dealing with victims the actions of the Commission shall be guided by the following principles: 50

- (a) Victims shall be treated with compassion and respect for their dignity;
- (b) victims shall be treated equally and without discrimination of any kind,

(4) Die President wys een van die kommissarisse as Voorsitter, en 'n ander as Ondervoorsitter, van die Kommissie aan.

(5) 'n Kommissaris wat ingevolge subartikel (2)(a) aangestel is, beklee, behoudens die bepalings van subartikels (6) en (7), sy of haar amp vir die duur van die Kommissie.

5 (6) 'n Kommissaris kan te eniger tyd as kommissaris bedank deur sy of haar skriftelike bedanking by die President in te dien.

(7) Die President kan 'n kommissaris uit sy of haar amp onthef weens wangedrag, onvermoë of onbekwaamheid soos bepaal deur die gesamentlike komitee en by ontvangs van 'n versoekskrif van die Nasionale Vergadering en 'n versoekskrif van die
10 Senaat.

(8) Indien 'n kommissaris sy of haar bedanking kragtens subartikel (6) indien, of kragtens subartikel (7) uit sy of haar amp onthef word, of te sterwe kom, kan die President in oorleg met die Kabinet die vakature vul deur 'n persoon vir die onverstreke gedeelte van die ampstermyn van sy of haar voorganger aan te stel, of die amp wat as
15 gevolg van die bedanking, ampsontheffing of dood vakant geword het, vakant laat bly.

Waarnemende Voorsitter van Kommissie

8. Indien sowel die Voorsitter as die Ondervoorsitter afwesig is of nie in staat is om hul pligte te verrig nie, benoem die ander kommissarisse uit hul geleedere 'n Waarnemende Voorsitter vir die duur van sodanige afwesigheid of onvermoë.

20 Diensvoorwaardes, besoldiging, toelaes en ander voordele van personeel van Kommissie

9. (1) Die persone deur die Kommissie aangestel of in diens geneem, wat nie beamptes in diens van die Staat is nie, ontvang die besoldiging, toelaes en ander diensvoordele en word aangestel of in diens geneem op die bedinge en voorwaardes en
25 vir die tydperke wat die Kommissie, met die goedkeuring van die Minister, verleen met die instemming van die Minister van Finansies, bepaal.

(2) (a) 'n Stuk wat die besoldiging, toelaes en ander diensvoorwaardes uiteensit wat deur die Kommissie ingevolge subartikel (1) bepaal word, moet in die Parlement ter Tafel gelê word binne 14 dae na elke sodanige bepaling.

30 (b) Indien die Parlement enige bepaling afkeur, verval daardie bepaling in soverre dit aldus afgekeur word.

(c) Indien 'n bepaling verval soos beoog in paragraaf (b)—

- (i) word enigiets wat ingevolge so 'n bepaling gedoen is tot en met die datum waarop so 'n bepaling verval het geag geldig gedoen te wees; en
35 (ii) verval enige reg, voorreg, verpligting of aanspreeklikheid verkry, opgeloopt of aangegaan tot op genoemde datum kragtens en uit hoofde van so 'n bepaling, op daardie datum.

Vergaderings, prosedure by en kworum vir vergaderings van Kommissie en notulering van verrigtinge

40 10. (1) 'n Vergadering van die Kommissie word gehou op 'n tyd en plek wat die Voorsitter van die Kommissie of, in die afwesigheid of onbevoegdheid van die Voorsitter, die Ondervoorsitter van die Kommissie of, in die afwesigheid of onbevoegdheid van beide sodanige Voorsitter en sodanige Ondervoorsitter, deur die Waarnemende Voorsitter van die Kommissie bepaal.

45 (2) Behoudens artikel 40, het die Kommissie die bevoegdheid om die prosedure by sy vergaderings, met inbegrip van die wyse waarop besluite geneem word; te bepaal.

(3) Die Kommissie moet 'n notule van sy verrigtinge laat hou.

(4) Die kworum vir die eerste vergadering van die Kommissie is twee minder as die totale ledetal van die Kommissie.

50 Beginsels wat optrede van Kommissie moet lei wanneer hy met slagoffers handel

11. Wanneer hy met slagoffers handel, word die optrede van die Kommissie deur die volgende beginsels gelei:

- (a) Slagoffers word met deernis en respek vir hul waardigheid behandel;
55 (b) slagoffers word gelyk behandel, sonder diskriminasie van enige aard, met inbegrip van ras, kleur, geslagtelikheid, geslag, seksuele georiënteerdheid,

- including race, colour, gender, sex, sexual orientation, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin or disability;
- (c) procedures for dealing with applications by victims shall be expeditious, fair, inexpensive and accessible; 5
- (d) victims shall be informed through the press and any other medium of their rights in seeking redress through the Commission, including information of—
- (i) the role of the Commission and the scope of its activities;
- (ii) the right of victims to have their views and submissions presented and considered at appropriate stages of the inquiry; 10
- (e) appropriate measures shall be taken in order to minimize inconvenience to victims and, when necessary, to protect their privacy, to ensure their safety as well as that of their families and of witnesses testifying on their behalf, and to protect them from intimidation;
- (f) appropriate measures shall be taken to allow victims to communicate in the language of their choice; 15
- (g) informal mechanisms for the resolution of disputes, including mediation, arbitration and any procedure provided for by customary law and practice shall be applied, where appropriate, to facilitate reconciliation and redress for victims. 20

CHAPTER 3

Investigation of Human Rights Violations

Committee on Human Rights Violations

12. There is hereby established a committee to be known as the Committee on Human Rights Violations, which shall in this Chapter be referred to as the Committee. 25

Constitution of Committee

13. (1) The Committee shall consist of—
- (a) (i) a Chairperson; and
- (ii) two Vice-Chairpersons, who shall be commissioners designated by the Commission; 30
- (b) such other commissioners as may be appointed by the Commission; and
- (c) not more than three other members.
- (2) The Commission shall appoint, as the members referred to in subsection (1)(c), South African citizens who are fit and proper persons and broadly representative of the South African community and shall, when making such appointments, give preference 35 to persons possessing knowledge of the content and application of human rights or of investigative or fact-finding procedures.

Powers, duties and functions of Committee

14. (1) In addition to the powers, duties and functions conferred on, imposed upon and assigned to it in this Act, and for the purpose of achieving the objectives of the Commission, referred to in section 3(1)(a), (c) and (d)— 40
- (a) the Committee shall—
- (i) institute the inquiries referred to in section 4(a);
- (ii) gather the information and receive the evidence referred to in section 4(b); 45
- (iii) determine the facts contemplated in section 4(d);
- (iv) take into account the gross violations of human rights for which indemnity has been granted during the period between 1 March 1960 and the date of commencement of this Act or for which prisoners were released or had their sentences remitted for the sake of reconciliation and for the finding of peaceful solutions during that period; 50
- (v) record allegations and complaints of gross violations of human rights;
- (b) the Committee may—

- ouderdom, taal, godsdiens, nasionaliteit, politieke of ander mening, kulturele opvattinge of gebruike, eiendom, geboorte- of familiestatus, etniese of sosiale afkoms of gestremdheid;
- 5 (c) die prosedures vir hantering van aansoeke deur slagoffers moet spoedeisend, billik, goedkoop en toeganklik wees;
- (d) slagoffers moet deur middel van die pers en ander media ingelig word van hul regte wanneer hulle herstel deur die Kommissie wil bekom, met inbegrip van inligting oor—
- 10 (i) die rol van die Kommissie en die omvang van sy bedrywighede;
- (ii) die reg van slagoffers om hul sienswyses en voorleggings op gepaste stadiums van die ondersoek te laat oorweeg;
- (e) gepaste stappe moet gedoen word om die ongerief vir slagoffers te minimaliseer en, indien nodig, hul privaatheid te beskerm, hul veiligheid sowel as die van hul families en van getuies wat ten behoewe van hulle getuig, te verseker, en hulle teen intimidasie te beskerm;
- 15 (f) geskikte maatreëls moet getref word om slagoffers toe te laat om in die taal van hul keuse te kommunikeer;
- (g) informele meganismes vir die beslegting van geskille, met inbegrip van bemiddeling, arbitrasie en enige prosedure waarvoor daar in die inheemse reg en praktyk voorsiening gemaak word, moet, waar toepaslik, toegepas word ten einde versoening en verhaal vir slagoffers te vergemaklik.
- 20

HOOFSTUK 3

Ondersoek na Skendings van Menseregte

Komitee oor Skendings van Menseregte

- 25 12. Daar word hierby 'n komitee met die naam die Komitee oor Skendings van Menseregte, waarna in hierdie Hoofstuk verwys word as die Komitee, ingestel.

Samestelling van Komitee

13. (1) Die Komitee bestaan uit—
- 30 (a) (i) 'n Voorsitter; en
(ii) twee Ondervoorsitters, wat Kommissarisse is wat deur die Kommissie aangewys word;
- (b) sodanige ander Kommissarisse as wat die Kommissie mag aanstel; en
(c) hoogstens drie ander lede.
- (2) Die Kommissie stel, as die lede bedoel in subartikel (1)(c), Suid-Afrikaanse burgers aan wat gepaste en geskikte persone is en wat algemeen verteenwoordigend is van die Suid-Afrikaanse gemeenskap en verleen, by die doen van sodanige aanstellings, voorkeur aan persone wat oor kennis beskik aangaande die inhoud en toepassing van menseregte of van ondersoek en feitebepalende prosedures.

Bevoegdhede, pligte en werksaamhede van Komitee

- 40 14. (1) Bykomend tot die bevoegdhede, pligte en werksaamhede wat aan hom verleen, opgelê of opgedra is in hierdie Wet, en ten einde die oogmerke van die Kommissie, bedoel in artikel 3(1)(a), (c) en (d), te bereik—
- (a) moet die Komitee—
- 45 (i) die ondersoeke bedoel in artikel 4(a) instel;
- (ii) die inligting en getuienis bedoel in artikel 4(b) versamel en ontvang;
- (iii) die feite beoog in artikel 4(d) bepaal;
- (iv) die growwe skendings van menseregte waarvoor vrywaring verleen is gedurende die tydperk tussen 1 Maart 1960 en die datum van inwerking-treding van hierdie Wet, of waarvoor gevangenes vrygelaat is of hul vonnisse versag is ter wille van versoening en die nastrewe van vreedsame oplossings gedurende daardie tydperk, in aanmerking neem;
- 50 (v) bewerings en klagtes van growwe skendings van menseregte aanteken;
- (b) kan die Komitee—
- (i) van 'n organisasie, kommissie of persoon enige voorwerp wat in

- (i) collect or receive from any organisation, commission or person, articles relating to gross violations of human rights;
- (ii) make recommendations to the Commission with regard to the matters referred to in section 4(f), (g) or (h);
- (iii) make information which is in its possession available to a committee referred to in Chapter 4 or 5, a subcommittee or the investigating unit;
- (iv) submit to the Commission interim reports indicating the progress made by the Committee with its activities or with regard to any other particular matter;
- (v) exercise the powers referred to in Chapters 6 and 7.

(2) The Committee shall at the conclusion of its functions submit to the Commission a comprehensive report of all its activities and findings in connection with the performance of its functions and the carrying out of its duties in terms of this Act.

Referrals to Committee on Reparation and Rehabilitation

15. (1) When the Committee finds that a gross violation of human rights has been committed and if the Committee is of the opinion that a person is a victim of such violation, it shall refer the matter to the Committee on Reparation and Rehabilitation for its consideration in terms of section 26.

(2) After a referral to the Committee on Reparation and Rehabilitation has been made by the Committee in terms of subsection (1), it shall, at the request of the Committee on Reparation and Rehabilitation, furnish that Committee with all the evidence and other information relating to the victim concerned or conduct such further investigation or hearing as the said Committee may require.

CHAPTER 4

Amnesty mechanisms and procedures 25

Committee on Amnesty

16. There is hereby established a committee to be known as the Committee on Amnesty, which shall in this Chapter be referred to as the Committee.

Constitution of Committee

17. (1) The Committee shall consist of a Chairperson, a Vice-Chairperson and three other members who are fit and proper persons, appropriately qualified, South African citizens and broadly representative of the South African community.

(2) The President shall appoint the Chairperson, the Vice-Chairperson, one other person and, after consultation with the Commission, two commissioners as members of the Committee.

(3) The Chairperson of the Committee shall be—

(a) a judge as defined in section 1(1) of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act No. 88 of 1989); or

(b) a judge who has been discharged from active service in terms of section 3 of the said Act.

(4) Any vacancies in the Committee shall be filled in accordance with this section.

Applications for granting of amnesty

18. (1) Any person who wishes to apply for amnesty in respect of any act, omission or offence on the grounds that it is an act associated with a political objective, shall within 12 months from the date of the proclamation referred to in section 7(3), or such extended period as may be prescribed, submit such an application to the Commission in the prescribed form.

(2) The Committee shall give priority to applications of persons in custody and shall prescribe measures in respect of such applications after consultation with the Minister and the Minister of Correctional Services.

- verband staan met growwe skendings van menseregte, insamel of ontvang;
- (ii) aanbevelings by die Kommissie met betrekking tot aangeleenthede bedoel in artikel 4(f), (g) of (h) doen;
- 5 (iii) inligting wat in sy besit is beskikbaar stel aan 'n komitee bedoel in Hoofstuk 4 of 5, of aan 'n subkomitee of die ondersoekende;
- (iv) aan die Kommissie tussentydse verslae voorlê wat die vordering wat die Komitee met sy aktiwiteite of met betrekking tot enige ander bepaalde aangeleentheid maak, aandui;
- 10 (v) die bevoegdhede bedoel in Hoofstukke 6 en 7 uitoefen.
- (2) Die Komitee moet by die beëindiging van sy aktiwiteite 'n omvattende verslag wat besonderhede bevat van al sy bedrywighede en bevindings in verband met die verrigting van sy werksaamhede en die uitvoering van sy pligte ingevolge hierdie Wet, aan die Kommissie voorlê.

15 Verwysings na Komitee oor Herstel en Rehabilitasie

15. (1) Wanneer die Komitee bevind dat 'n growwe skending van menseregte gepleeg is en indien die Komitee van mening is dat 'n persoon 'n slagoffer van so 'n skending is, verwys hy die aangeleentheid na die Komitee oor Herstel en Rehabilitasie vir oorweging ingevolge artikel 26.
- 20 (2) Nadat 'n verwysing ingevolge subartikel (1) na die Komitee oor Herstel en Rehabilitasie deur die Komitee gedoen is, moet hy, op die versoek van die Komitee oor Herstel en Rehabilitasie, daardie Komitee voorsien van al die getuienis en ander inligting wat in verband staan met die betrokke slagoffer of sodanige verdere ondersoek of verhoor hou wat genoemde Komitee mag verlang.

25

HOOFSTUK 4

Amnestie-meganismes en -prosedures

Komitee oor Amnestie

16. Daar word hierby 'n komitee met die naam die Komitee oor Amnestie, waarna in hierdie Hoofstuk verwys word as die Komitee, ingestel.

30 Samestelling van Komitee

17. (1) Die Komitee bestaan uit 'n Voorsitter, 'n Ondervoorsitter en drie ander lede wat gepaste en geskikte persone, toepaslik gekwalifiseerd, Suid-Afrikaanse burgers en oor die algemeen verteenwoordigend van die Suid-Afrikaanse gemeenskap is.
- (2) Die President stel die Voorsitter, die Ondervoorsitter, een ander persoon en, na oorleg met die Kommissie, twee kommissarisse, as lede van die Komitee aan.
- 35 (3) Die Voorsitter van die Komitee moet—
- (a) 'n regter wees soos omskryf in artikel 1(1) van die Wet op Besoldiging en Diensvoorwaardes van Regters, 1989 (Wet No. 88 van 1989); of
- 40 (b) 'n regter wees wat ingevolge artikel 3 van genoemde Wet van aktiewe diens onthef is.
- (4) Enige vakatures in die Komitee word gevul in ooreenstemming met hierdie artikel.

Aansoeke om verlening van amnestie

18. (1) Enige persoon wat aansoek wil doen om amnestie ten opsigte van enige daad, 45 versuim of misdryf op grond daarvan dat dit 'n daad is wat met 'n politieke oogmerk in verband staan, moet binne 12 maande vanaf die datum van die proklamasie in artikel 7(3) vermeld, of sodanige verlengde tydperk as wat voorgeskryf mag word, 'n aansoek in die voorgeskrewe vorm aan die Kommissie voorlê.
- (2) Die Komitee moet voorrang verleen aan aansoeke van persone wat in aanhouding 50 is en moet maatreëls ten opsigte van sodanige aansoeke na oorleg met die Minister en die Minister van Korrektiewe Dienste voorskryf.

Committee shall consider applications for amnesty

19. (1) Upon receipt of any application for amnesty, the Committee may return the application to the applicant and give such directions in respect of the completion and submission of the application as may be necessary or request the applicant to provide such further particulars as it may deem necessary. 5

(2) The Committee shall investigate the application and make such enquiries as it may deem necessary: Provided that the provisions of section 30(2) shall, with the necessary changes, apply in respect of such investigation.

(3) After such investigation, the Committee may—

- (a) (i) inform the applicant that the application, judged on the particulars or further particulars contained in the application or provided by the applicant or revealed as a result of enquiries made by the Committee, if any, does not relate to an act associated with a political objective; 10
(ii) afford the applicant the opportunity to make a further submission; and
(iii) decide whether the application, judged on the particulars referred to in subparagraph (i), and in such further submission, relates to such an act associated with a political objective, 15
and if it is satisfied that the application does not relate to such an act, in the absence of the applicant and without holding a hearing refuse the application and inform the applicant accordingly; or 20
- (b) if it is satisfied that—
- (i) the requirements mentioned in section 20(1) have been complied with;
(ii) there is no need for a hearing; and
(iii) the act, omission or offence to which the application relates, does not constitute a gross violation of human rights, 25
in the absence of the applicant and without holding a hearing, grant amnesty and inform the applicant accordingly.

(4) If an application has not been dealt with in terms of subsection (3), the Committee shall conduct a hearing as contemplated in Chapter 6 and shall, subject to the provisions of section 33— 30

- (a) in the prescribed manner, notify the applicant and any victim or person implicated, or having an interest in the application, of the place where and the time when the application will be heard and considered;
(b) inform the persons referred to in paragraph (a) of their right to be present at the hearing and to testify, adduce evidence and submit any article to be taken into consideration; 35
(c) deal with the application in terms of section 20 or 21 by granting or refusing amnesty.

(5) (a) The Committee shall, for the purpose of considering and deciding upon an application referred to in subsection (1), have the same powers as those conferred upon the Commission in section 5(l) and (m) and Chapters 6 and 7. 40

(b) Notwithstanding the provisions of section 18(1), the Committee may consider jointly the individual applications in respect of any particular act, omission or offence to which such applications relate.

(6) If the act or omission which is the subject of an application under section 18 constitutes the ground of any claim in civil proceedings instituted against the person who submitted that application, the court hearing that claim may at the request of such person, if it is satisfied that the other parties to such proceedings have been informed of the request and afforded the opportunity to address the court or to make further submissions in this regard, suspend those proceedings pending the consideration and disposal of the application. 50

(7) If the person who submitted an application under section 18 is charged with any offence constituted by the act or omission to which the application relates, or is standing trial upon a charge of having committed such an offence, the Committee may request the appropriate authority to postpone the proceedings pending the consideration and disposal of the application for amnesty. 55

(8) (a) Subject to the provisions of section 33, the applications, documentation in connection therewith, further information and evidence obtained before and during an investigation by the Commission, the deliberations conducted in order to come to a decision or to conduct a hearing contemplated in section 33, shall be confidential. 60

(b) Subject to the provisions of section 33, the confidentiality referred to in paragraph

Komitee moet aansoek om amnestie oorweeg

19. (1) By ontvangs van enige aansoek om amnestie, kan die Komitee die aansoek aan die aansoeker terugbesorg en sodanige opdragte ten opsigte van die voltooiing en voorlegging van die aansoek gee as wat nodig is of die aansoeker versoek om sodanige
- 5 verdere besonderhede te verskaf as wat hy nodig ag.
- (2) Die Komitee moet die aansoek ondersoek en sodanige navrae rig as wat hy nodig ag: Met dien verstande dat die bepalings van artikel 30(2), met die nodige veranderings, van toepassing is ten opsigte van sodanige ondersoek.
- (3) Na sodanige ondersoek kan die Komitee—
- 10 (a) (i) die aansoeker meedeel dat die aansoek, geoordeel op die besonderhede of verdere besonderhede in die aansoek bevat of deur die aansoeker verskaf of geopenbaar as gevolg van navrae deur die Komitee gedoen, indien enige, nie op 'n daad wat met 'n politieke oogmerk in verband staan, betrekking het nie;
- 15 (ii) die aansoeker die geleentheid bied om 'n verdere voorlegging te doen; en
- (iii) beslis of die aansoek, geoordeel op die besonderhede in subparagraaf (i) bedoel, en in sodanige verdere voorlegging, op sodanige daad wat met 'n politieke oogmerk in verband staan, betrekking het,
- 20 en indien hy oortuig is dat die aansoek nie op sodanige daad betrekking het nie, in die afwesigheid van die aansoeker en sonder dat hy 'n verhoor hou, die aansoek afwys en die aansoeker dienooreenkomstig inlig; of
- (b) indien hy oortuig is dat—
- (i) aan die vereistes vermeld in artikel 20(1) voldoen is;
- (ii) 'n verhoor nie nodig is nie; en
- 25 (iii) die daad, versuim of misdryf waarmee die aansoek verband hou nie 'n growwe skending van menseregte uitmaak nie, in die afwesigheid van die aansoeker en sonder dat hy 'n verhoor hou, amnestie verleen en die aansoeker dienooreenkomstig inlig.
- (4) Indien daar nie met 'n aansoek ingevolge subartikel (3) gehandel is nie, moet die
- 30 Komitee 'n verhoor soos beoog in Hoofstuk 6 hou en moet die Komitee, behoudens die bepalings van artikel 33—
- (a) op die voorgeskrewe wyse die aansoeker en enige slagoffer of persoon wat betrek is of 'n belang by die aansoek het, verwittig van die plek waar en die tyd wanneer die aansoek aangehoor en oorweeg sal word;
- 35 (b) die persone in paragraaf (a) bedoel, verwittig van hul reg om teenwoordig te wees by die verhoor en om te getuig, getuienis aan te voer en enige voorwerp voor te lê om oorweeg te word;
- (c) handel met die aansoek ingevolge artikel 20 of 21 deur amnestie te verleen of te weier.
- 40 (5) (a) Die Komitee het vir doeleindes van die oorweging van en beslissing oor 'n aansoek in subartikel (1) bedoel, dieselfde bevoegdhede as dié wat aan die Kommissie in artikel 5(l) en (m) en Hoofstukke 6 en 7 verleen word.
- (b) Ondanks die bepalings van artikel 18(1), kan die Komitee 'n aantal individuele aansoeke gesamentlik oorweeg met betrekking tot 'n bepaalde daad, versuim of
- 45 misdryf waarmee die aansoeke in verband staan.
- (6) Indien die daad of versuim wat die onderwerp van 'n aansoek kragtens artikel 18 is, die grondslag uitmaak van 'n eis in siviele verrigtinge wat ingestel is teen die persoon wat die aansoek ingedien het, kan die hof wat daardie eis aanhoor op versoek van so 'n persoon, indien die hof oortuig is dat die ander partye by daardie verrigtinge
- 50 van die versoek in kennis gestel is en die geleentheid gegee is om die hof toe te spreek of om verdere voorleggings in die verband te doen, daardie verrigtinge opskort in afwagting van die oorweging en afhandeling van die aansoek.
- (7) Indien die persoon wat 'n aansoek kragtens artikel 18 voorgelê het, aangekla word van 'n misdryf wat uitgemaak word deur die daad of versuim waarop die aansoek
- 55 betrekking het, of teregstaan op 'n aanklag dat hy of sy so 'n misdryf gepleeg het, kan die Komitee die gepaste instansie versoek om die verrigtinge uit te stel hangende die oorweging en afhandeling van die aansoek om amnestie.
- (8) (a) Behoudens die bepalings van artikel 33, is die aansoeke, dokumentasie in verband daarmee, verdere inligting en getuienis ontvang voor en gedurende 'n
- 60 ondersoek deur die Kommissie, en enige beraadslagings wat gevoer is ten einde tot 'n beslissing te geraak of om 'n verhoor te hou soos beoog in artikel 33, vertroulik.
- (b) Behoudens die bepalings van artikel 33, verval die vertroulikheid bedoel in

(a) shall lapse when the Commission decides to release such information or when the hearing commences.

Granting of amnesty and effect thereof

20. (1) If the Committee, after considering an application for amnesty, is satisfied that—

- (a) the application complies with the requirements of this Act;
- (b) the act, omission or offence to which the application relates is an act associated with a political objective committed in the course of the conflicts of the past in accordance with the provisions of subsections (2) and (3); and
- (c) the applicant has made a full disclosure of all relevant facts,

it shall grant amnesty in respect of that act, omission or offence.

(2) In this Act, unless the context otherwise indicates, "act associated with a political objective" means any act or omission which constitutes an offence or delict which, according to the criteria in subsection (3), is associated with a political objective, and which was advised, planned, directed, commanded, ordered or committed within or outside the Republic during the period 1 March 1960 to the cut-off date, by—

- (a) any member or supporter of a publicly known political organisation or liberation movement on behalf of or in support of such organisation or movement, *bona fide* in furtherance of a political struggle waged by such organisation or movement against the State or any former state or another publicly known political organisation or liberation movement;
- (b) any employee of the State or any former state or any member of the security forces of the State or any former state in the course and scope of his or her duties and within the scope of his or her express or implied authority directed against a publicly known political organisation or liberation movement engaged in a political struggle against the State or a former state or against any members or supporters of such organisation or movement, and which was committed *bona fide* with the object of countering or otherwise resisting the said struggle;
- (c) any employee of the State or any former state or any member of the security forces of the State or any former state in the course and scope of his or her duties and within the scope of his or her express or implied authority directed—
 - (i) in the case of the State, against any former state; or
 - (ii) in the case of a former state, against the State or any other former state, whilst engaged in a political struggle against each other or against any employee of the State or such former state, as the case may be, and which was committed *bona fide* with the object of countering or otherwise resisting the said struggle;
- (d) any employee or member of a publicly known political organisation or liberation movement in the course and scope of his or her duties and within the scope of his or her express or implied authority directed against the State or any former state or any publicly known political organisation or liberation movement engaged in a political struggle against that political organisation or liberation movement or against members of the security forces of the State or any former state or members or supporters of such publicly known political organisation or liberation movement, and which was committed *bona fide* in furtherance of the said struggle;
- (e) any person in the performance of a *coup d'état* to take over the government of any former state, or in any attempt thereto;
- (f) any person referred to in paragraphs (a), (b), (c) and (d), who on reasonable grounds believed that he or she was acting in the course and scope of his or her duties and within the scope of his or her express or implied authority;
- (g) any person who associated himself or herself with any act or omission committed for the purposes referred to in paragraphs (a), (b), (c), (d), (e) and (f).

paragraaf (a) wanneer die Kommissie besluit om sodanige inligting vry te stel of wanneer die verhoor 'n aanvang neem.

Verlening van amnestie en uitwerking daarvan

20. (1) Indien die Komitee, na oorweging van 'n aansoek om amnestie, oortuig is
5 dat—

- (a) die aansoek aan die vereistes van hierdie Wet voldoen;
- (b) die daad, versuim of misdryf waarop die aansoek betrekking het 'n daad is wat met 'n politieke oogmerk in verband staan en wat in die loop van die konflikte van die verlede begaan is in ooreenstemming met die bepalings van subartikels (2) en (3); en

10 (c) die aansoeker al die tersaaklike feite ten volle geopenbaar het, verleen hy amnestie ten opsigte van daardie daad, versuim of misdryf.

(2) In hierdie Wet, tensy uit die samehang anders blyk, beteken “daad wat met 'n politieke oogmerk in verband staan” enige daad of versuim wat 'n misdryf of
15 onregmatige daad uitmaak wat volgens die kriteria in subartikel (3) 'n daad is wat met 'n politieke oogmerk in verband staan, en wat geadviseer, beplan, opgedra, beveel, gelas of gepleeg is binne of buite die Republiek gedurende die tydperk 1 Maart 1960 tot die afsnydatum, deur—

- 20 (a) enige lid of ondersteuner van 'n algemeen bekende politieke organisasie of bevrydingsbeweging ten behoeve van of ter ondersteuning van so 'n organisasie of beweging, *bona fide* ter bevordering van 'n politieke stryd wat deur so 'n organisasie of beweging teen die Staat of enige voormalige staat of 'n ander algemeen bekende politieke organisasie of bevrydingsbeweging gevoer is;
- 25 (b) enige werknemer in diens van die Staat of enige voormalige staat of enige lid van die veiligheidsmagte van die Staat of enige voormalige staat, in die loop en binne die omvang van sy of haar pligte en binne die omvang van sy of haar uitdruklike of versweë bevoegdheid, gerig teen 'n algemeen bekende politieke organisasie of bevrydingsbeweging wat in 'n politieke stryd teen die Staat of 'n voormalige staat betrokke was, of teen lede of ondersteuners van so 'n organisasie of beweging, en wat *bona fide* gepleeg is met die oogmerk om genoemde stryd die hoof te bied, of andersins teen te staan;
- 30 (c) enige werknemer in diens van die Staat of enige voormalige staat of enige lid van die veiligheidsmagte van die Staat of enige voormalige staat, in die loop en binne die omvang van sy of haar pligte en binne die omvang van sy of haar uitdruklike of versweë bevoegdheid, gerig—
 - (i) in die geval van die Staat, teen enige voormalige staat; of
 - (ii) in die geval van 'n voormalige staat, teen die Staat of enige ander voormalige staat,
- 40 terwyl hulle betrokke was in 'n politieke stryd teen mekaar of teen enige werknemer in diens van die Staat of sodanige voormalige staat, na gelang van die geval, en wat *bona fide* gepleeg is met die oogmerk om genoemde stryd die hoof te bied, of andersins teen te staan;
- 45 (d) enige werknemer of lid van 'n algemeen bekende politieke organisasie of bevrydingsbeweging in die loop en binne die omvang van sy of haar pligte of uitdruklike of versweë bevoegdheid gerig teen die Staat of enige voormalige staat of enige algemeen bekende politieke organisasie of bevrydingsbeweging wat betrokke was in 'n politieke stryd teen daardie politieke organisasie of bevrydingsbeweging of teen lede van die veiligheidsmagte van die Staat of enige voormalige staat of lede of ondersteuners van sodanige algemeen bekende politieke organisasie of bevrydingsbeweging, en wat *bona fide* gepleeg was ter bevordering van sodanige stryd;
- 50 (e) enige persoon in die uitvoering van 'n staatsgreep om die regering van enige voormalige staat oor te neem of in enige poging daartoe;
- 55 (f) enige persoon in paragraawe (a), (b), (c) en (d) bedoel, wat op redelike gronde geglo het dat hy of sy gehandel het in die loop en binne die omvang van sy of haar pligte en binne die omvang van sy of haar uitdruklike of versweë bevoegdheid;
- 60 (g) enige persoon wat homself of haarself vereenselwig het met enige daad of versuim wat gepleeg is vir die doeleindes in paragraawe (a), (b), (c), (d), (e) en (f) bedoel.

(3) Whether a particular act, omission or offence contemplated in subsection (2) is an act associated with a political objective, shall be decided with reference to the following criteria:

- (a) The motive of the person who committed the act, omission or offence;
- (b) the context in which the act, omission or offence took place, and in particular whether the act, omission or offence was committed in the course of or as part of a political uprising, disturbance or event, or in reaction thereto;
- (c) the legal and factual nature of the act, omission or offence, including the gravity of the act, omission or offence;
- (d) the object or objective of the act, omission or offence, and in particular whether the act, omission or offence was primarily directed at a political opponent or State property or personnel or against private property or individuals;
- (e) whether the act, omission or offence was committed in the execution of an order of, or on behalf of, or with the approval of, the organisation, institution, liberation movement or body of which the person who committed the act was a member, an agent or a supporter; and
- (f) the relationship between the act, omission or offence and the political objective pursued, and in particular the directness and proximity of the relationship and the proportionality of the act, omission or offence to the objective pursued,

but does not include any act, omission or offence committed by any person referred to in subsection (2) who acted—

- (i) for personal gain: Provided that an act, omission or offence by any person who acted and received money or anything of value as an informer of the State or a former state, political organisation or liberation movement, shall not be excluded only on the grounds of that person having received money or anything of value for his or her information; or
- (ii) out of personal malice, ill-will or spite, directed against the victim of the acts committed.

(4) In applying the criteria contemplated in subsection (3), the Committee shall take into account the criteria applied in the Acts repealed by section 48.

(5) The Commission shall inform the person concerned and, if possible, any victim, of the decision of the Committee to grant amnesty to such person in respect of a specified act, omission or offence and the Committee shall submit to the Commission a record of the proceedings, which may, subject to the provisions of this Act, be used by the Commission.

(6) The Committee shall forthwith by proclamation in the *Gazette* make known the full names of any person to whom amnesty has been granted, together with sufficient information to identify the act, omission or offence in respect of which amnesty has been granted.

(7) (a) No person who has been granted amnesty in respect of an act, omission or offence shall be criminally or civilly liable in respect of such act, omission or offence and no body or organisation or the State shall be liable, and no person shall be vicariously liable, for any such act, omission or offence.

(b) Where amnesty is granted to any person in respect of any act, omission or offence, such amnesty shall have no influence upon the criminal liability of any other person contingent upon the liability of the first-mentioned person.

(c) No person, organisation or state shall be civilly or vicariously liable for an act, omission or offence committed between 1 March 1960 and the cut-off date by a person who is deceased, unless amnesty could not have been granted in terms of this Act in respect of such an act, omission or offence.

(8) If any person—

- (a) has been charged with and is standing trial in respect of an offence constituted by the act or omission in respect of which amnesty is granted in terms of this section; or
- (b) has been convicted of, and is awaiting the passing of sentence in respect of, or is in custody for the purpose of serving a sentence imposed in respect of, an offence constituted by the act or omission in respect of which amnesty is so granted,

the criminal proceedings shall forthwith upon publication of the proclamation referred

(3) Of 'n bepaalde daad, versuim of misdryf beoog in subartikel (2) 'n daad is wat met 'n politieke oogmerk in verband staan, word beslis met verwysing na die volgende kriteria:

- 5 (a) Die motief van die persoon wat die daad, versuim of misdryf gepleeg het;
- (b) die konteks waarin die daad, versuim of misdryf plaasgevind het, en meer bepaald of die daad, versuim of misdryf gepleeg is in die loop of as deel van 'n politieke opstand, oproerigheid of gebeure, of in reaksie daarop;
- (c) die regs- en feitelike aard van die daad, versuim of misdryf, met inbegrip van die erns van die daad, versuim of misdryf;
- 10 (d) die oogmerk of doelwit van die daad, versuim of misdryf, in besonder of die daad, versuim of misdryf hoofsaaklik teen 'n politieke teenstander of Staatseïendom of -personeel of teen private eiendom of individue gerig was;
- (e) of die daad, versuim of misdryf gepleeg is ter uitvoering van 'n bevel van, of ten behoeve van, of met die goedkeuring van, die organisasie, instelling, bevrydingsbeweging of liggaam waarvan die persoon wat die daad gepleeg het, 'n lid, 'n agent of 'n ondersteuner was; en
- 15 (f) die verband tussen die daad, versuim of misdryf en die politieke oogmerk wat nagevolg is, en in besonder, die direktheid en nabyheid van die verband en die proporsionaliteit tussen die daad, versuim of misdryf tot die oogmerk wat nagevolg word,

20 maar sluit dit nie enige daad, versuim of misdryf in nie wat deur enige persoon bedoel in subartikel (2) gepleeg is wat gehandel het—

- (i) vir persoonlike gewin: Met dien verstande dat 'n daad, versuim of misdryf deur enige persoon wat opgetree het as 'n informant van die Staat, of
25 voormalige staat, politieke organisasie of bevrydingsbeweging en geld of enigiets van waarde ontvang het nie uitgesluit sal wees slegs op grond daarvan dat daardie persoon geld of enigiets van waarde ontvang het vir sy of haar inligting nie; of
- (ii) weens persoonlike kwaadwilligheid, kwaadgesindheid of nydigheid gerig
30 teen die slagoffer van die daad wat verrig is.

(4) By die toepassing van die kriteria in subartikel (3) beoog, moet die Komitee die kriteria wat aangewend is in die Wette wat deur artikel 48 herroep is, in ag neem.

(5) Die Kommissie moet die betrokke persoon en, indien moontlik, enige slagoffer, verwittig van die beslissing van die Komitee om amnestie aan so 'n persoon ten opsigte
35 van 'n bepaalde daad, versuim of misdryf te verleen, en moet 'n notule van die verrigtinge aan die Kommissie voorlê wat, behoudens die bepalinge van hierdie Wet, deur die Kommissie gebruik kan word.

(6) Die Komitee moet onverwyld by proklamasie in die *Staatskoerant* die volle name bekend maak van enige persoon aan wie amnestie verleen is, tesame met voldoende
40 inligting om die daad, versuim of misdryf ten opsigte waarvan amnestie verleen is, te identifiseer.

(7)(a) Geen persoon aan wie amnestie verleen is ten opsigte van 'n daad, versuim of misdryf nie, is strafregtelik of privaatregtelik aanspreeklik ten opsigte van sodanige daad, versuim of misdryf en geen liggaam of organisasie of die Staat is aanspreeklik,
45 en geen persoon is middellik aanspreeklik, vir sodanige daad, versuim of misdryf nie.

(b) Waar amnestie aan enige persoon verleen word ten opsigte van enige daad of versuim, het daardie amnestie geen invloed op die strafregtelike aanspreeklikheid van enige ander persoon wat van die aanspreeklikheid van eersgenoemde persoon afhanklik is nie.

(c) Geen persoon, organisasie of staat is sivilregtelik of middellik aanspreeklik nie vir 'n daad, versuim of misdryf gepleeg tussen 1 Maart 1960 en die afsnydatum deur 'n persoon wat oorlede is, tensy amnestie nie ingevolge hierdie Wet met betrekking tot sodanige daad, versuim of misdryf verleen kon word nie.

(8) Indien iemand—

- 55 (a) aangekla is van, en verhoor word ten opsigte van, 'n misdryf wat uitgemaak word deur die daad of versuim ten opsigte waarvan amnestie ingevolge hierdie artikel verleen word; of
- (b) skuldig bevind is aan, en die oplegging van vonnis afwag of aangehou word ten einde 'n vonnis uit te dien, wat opgelê is ten opsigte van, 'n misdryf wat
60 uitgemaak word deur die daad of versuim ten opsigte waarvan amnestie aldus verleen word,

word die strafregtelike verrigtinge onverwyld by publikasie van die proklamasie in

to in subsection (6) become void or the sentence so imposed shall upon such publication lapse and the person so in custody shall forthwith be released.

(9) If any person has been granted amnesty in respect of any act or omission which formed the ground of a civil judgment which was delivered at any time before the granting of the amnesty, the publication of the proclamation in terms of subsection (6) shall not affect the operation of the judgment in so far as it applies to that person. 5

(10) Where any person has been convicted of any offence constituted by an act or omission associated with a political objective in respect of which amnesty has been granted in terms of this Act, any entry or record of the conviction shall be deemed to be expunged from all official documents or records and the conviction shall for all purposes, including the application of any Act of Parliament or any other law, be deemed not to have taken place: Provided that the Committee may recommend to the authority concerned the taking of such measures as it may deem necessary for the protection of the safety of the public. 10

Refusal of amnesty and effect thereof 15

21. (1) If the Committee has refused any application for amnesty, it shall as soon as practicable notify—

- (a) the person who applied for amnesty;
- (b) any person who is in relation to the act, omission or offence concerned, a victim; and 20
- (c) the Commission,

in writing of its decision and the reasons for its refusal.

(2) (a) If any criminal or civil proceedings were suspended pending a decision on an application for amnesty, and such application is refused, the court concerned shall be notified accordingly. 25

(b) No adverse inference shall be drawn by the court concerned from the fact that the proceedings which were suspended pending a decision on an application for amnesty, are subsequently resumed.

Referrals to Committee on Reparation and Rehabilitation

22. (1) Where amnesty is granted to any person in respect of any act, omission or offence and the Committee is of the opinion that a person is a victim in relation to that act, omission or offence, it shall refer the matter to the Committee on Reparation and Rehabilitation for its consideration in terms of section 26. 30

(2) Where amnesty is refused by the Committee and if it is of the opinion that—

- (a) the act, omission or offence concerned constitutes a gross violation of human rights; and 35
- (b) a person is a victim in the matter,

it shall refer the matter to the Committee on Reparation and Rehabilitation for consideration in terms of section 26.

CHAPTER 5 40

Reparation and rehabilitation of victims

Committee on Reparation and Rehabilitation

23. There is hereby established a committee to be known as the Committee on Reparation and Rehabilitation, which shall in this Chapter be referred to as the Committee. 45

Constitution of Committee

24. (1) The Committee shall consist of—

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) not more than five other members; and 50
- (d) in addition to the commissioners referred to in subsection (2), such other commissioners as may be appointed to the Committee by the Commission.

subartikel (6) bedoel, nietig en verval die vonnis aldus opgelê by sodanige publikasie en word die persoon wat aldus aangehou word, onverwyld vrygelaat.

(9) Indien aan iemand amnestie verleen is ten opsigte van enige daad of versuim wat die grondslag uitgemaak het van 'n siviele vonnis wat te eniger tyd voor die verlening van die amnestie gelewer is; raak die publikasie van die proklamasie ingevolge subartikel (6) nie die werking van die vonnis vir sover dit op daardie persoon betrekking het nie.

(10) Waar iemand skuldig bevind is aan 'n misdryf wat uitgemaak word deur 'n daad of versuim wat met 'n politieke oogmerk in verband staan ten opsigte waarvan amnestie ingevolge hierdie Wet verleen is, word 'n inskrywing of aantekening van die skuldigbevinding geag uit alle amptelike stukke of rekords geskrap te wees en word die skuldigbevinding vir alle doeleindes, met inbegrip van die toepassing van enige Wet van die Parlement of enige ander wet, geag nie plaas te gevind het nie: Met dien verstande dat die Komitee die stappe wat hy nodig ag om die veiligheid van die publiek te beskerm by betrokke gesag kan aanbeveel.

Weiering van amnestie en uitwerking daarvan

21. (1) Indien die Komitee enige aansoek vir amnestie afwys, moet hy so gou doenlik—

- (a) die persoon wat om amnestie aansoek gedoen het;
- (b) enigiemand wat met betrekking tot die betrokke daad, versuim of misdryf 'n slagoffer is; en
- (c) die Kommissie,

skriftelik van sy beslissing en redes vir sy weiering in kennis stel.

(2) (a) Indien enige strafregtelike of siviele verrigtinge opgeskort is hangende 'n beslissing oor 'n aansoek om amnestie, en daardie aansoek afgewys word, word die betrokke hof dienooreenkomstig ingelig.

(b) Geen ongunstige afleiding mag deur die betrokke hof gemaak word uit die feit dat verrigtinge wat hangende 'n besluit oor 'n aansoek om amnestie opgeskort is, daarna hervat word nie.

30 Verwysings na Komitee oor Herstel en Rehabilitasie

22. (1) Waar amnestie aan enige persoon ten opsigte van 'n daad, versuim of misdryf verleen word en die Komitee van oordeel is dat 'n persoon met betrekking tot daardie daad, versuim of misdryf 'n slagoffer is, verwys hy die aangeleentheid na die Komitee oor Herstel en Rehabilitasie vir oorweging ingevolge artikel 26.

(2) Waar amnestie deur die Komitee afgewys is en indien hy van oordeel is dat—

- (a) die betrokke daad, versuim of misdryf op 'n growwe skending van menseregte neerkom; en
- (b) 'n persoon 'n slagoffer in die aangeleentheid is,

verwys hy die aangeleentheid na die Komitee oor Herstel en Rehabilitasie vir oorweging ingevolge artikel 26.

HOOFSTUK 5

Herstel en rehabilitasie van slagoffers

Komitee oor Herstel en Rehabilitasie

23. Daar word hierby 'n komitee met die naam die Komitee oor Herstel en Rehabilitasie, waarna in hierdie Hoofstuk verwys word as die Komitee, ingestel.

Samestelling van Komitee

24. (1) Die Komitee bestaan uit—

- (a) 'n Voorsitter;
- (b) 'n Ondervoorsitter;
- (c) nie meer as vyf ander lede nie; en
- (d) benewens die kommissarisse in subartikel (2) vermeld, die ander kommissarisse wat die Kommissie in die Komitee aanstel.

(2) Commissioners designated by the Commission shall be the Chairperson and Vice-Chairperson of the Committee.

(3) The Commission shall for the purpose of subsection (1)(c) appoint as members of the Committee fit and proper persons who are suitably qualified, South African citizens and broadly representative of the South African community.

Powers, duties and functions of Committee

25. (1) In addition to the powers, duties and functions in this Act and for the purpose of achieving the Commission's objectives referred to in section 3(1)(c) and (d)—

- (a) the Committee shall—
 - (i) consider matters referred to it by—
 - (aa) the Commission in terms of section 5(e);
 - (bb) the Committee on Human Rights Violations in terms of section 15(1); and
 - (cc) the Committee on Amnesty in terms of section 22(1);
 - (ii) gather the evidence referred to in section 4(b);
- (b) the Committee may—
 - (i) make recommendations which may include urgent interim measures as contemplated in section 4(f)(ii), as to appropriate measures of reparation to victims;
 - (ii) make recommendations referred to in section 4(h);
 - (iii) prepare and submit to the Commission interim reports in connection with its activities;
 - (iv) may exercise the powers referred to in section 5(l) and (m) and Chapters 6 and 7.

(2) The Committee shall submit to the Commission a final comprehensive report on its activities, findings and recommendations.

Applications for reparation

26. (1) Any person who is of the opinion that he or she has suffered harm as a result of a gross violation of human rights may apply to the Committee for reparation in the prescribed form.

(2) (a) The Committee shall consider an application contemplated in subsection (1) and may exercise any of the powers conferred upon it by section 25.

(b) In any matter referred to the Committee, and in respect of which a finding as to whether an act, omission or offence constitutes a gross violation of human rights is required, the Committee shall refer the matter to the Committee on Human Rights Violations to deal with the matter in terms of section 14.

(3) If upon consideration of any matter or application submitted to it under subsection (1) and any evidence received or obtained by it concerning such matter or application, the Committee is of the opinion that the applicant is a victim, it shall, having regard to criteria as prescribed, make recommendations as contemplated in section 25(1)(b)(i) in an endeavour to restore the human and civil dignity of such victim.

Parliament to consider recommendations with regard to reparation of victims

27. (1) The recommendations referred to in section 4(f)(i) shall be considered by the President with a view to making recommendations to Parliament and making regulations.

(2) The recommendations referred to in subsection (1) shall be considered by the joint committee and the decisions of the said joint committee shall, when approved by Parliament, be implemented by the President by making regulations.

(3) The regulations referred to in subsection (2)—

- (a) shall—
 - (i) determine the basis and conditions upon which reparation shall be granted;
 - (ii) determine the authority responsible for the application of the regulations; and
- (b) may—
 - (i) provide for the revision and, in appropriate cases, the discontinuance or reduction of any reparation;

(2) Kommissaris aangewys deur die Kommissie is die Voorsitter en Ondervoorsitter van die Komitee.

(3) Die Kommissie stel, vir die doeleindes van subartikel (1)(c), gepaste en geskikte persone wat paslik gekwalifiseerd, Suid-Afrikaanse burgers en oor die algemeen 5 verteenwoordigend van die Suid-Afrikaanse gemeenskap is, as lede van die Komitee aan.

Bevoegdhede, pligte en werksaamhede van Komitee

25. (1) Benewens die bevoegdhede, pligte en werksaamhede in hierdie Wet en ten einde die Kommissie se oogmerke in artikel 3(1)(c) en (d) bedoel te bereik—

- 10 (a) moet die Komitee—
- (i) aangeleentheid oorweeg wat na hom verwys is deur—
 - (aa) die Kommissie ingevolge artikel 5(e);
 - (bb) die Komitee oor Skendings van Menseregte ingevolge artikel 15(1); en
 - 15 (cc) die Komitee oor Amnestie ingevolge artikel 22(1);
 - (ii) getuienis in artikel 4(b) vermeld, inwin;
- (b) kan die Komitee—
- (i) aanbevelings doen, wat dringende tussentydse maatreëls in artikel 4(f)(ii) vermeld, kan insluit, aangaande geskikte maatreëls vir herstel 20 aan slagoffers;
 - (ii) aanbevelings vermeld in artikel 4(h) doen;
 - (iii) tussentydse verslae in verband met sy werksaamhede voorberei en aan die Kommissie voorlê;
 - (iv) die bevoegdhede in artikel 5(l) en (m) en Hoofstukke 6 en 7 vermeld, 25 uitoefen.

(2) Die Komitee moet 'n finale omvattende verslag oor sy bedrywighede, bevindinge en aanbevelings aan die Kommissie voorlê.

Aansoek om herstel

26. (1) Enige persoon wat van mening is dat hy of sy nadeel gely het as gevolg van 30 'n growwe skending van menseregte, kan by die Komitee aansoek doen om herstel in die voorgeskrewe vorm.

(2) (a) Die Komitee oorweeg 'n aansoek beoog in subartikel (1) en kan enige van die bevoegdhede uitoefen wat by artikel 25 aan hom verleen is.

(b) In enige aangeleentheid wat na die Komitee verwys is, en ten opsigte waarvan 'n 35 bevinding verlang word oor die vraag of 'n daad, versuim of misdryf 'n growwe skending van menseregte uitmaak, moet die Komitee die aangeleentheid na die Komitee oor Skendings van Menseregte verwys om te handel met die aangeleentheid ingevolge artikel 14.

(3) Indien die Komitee na oorweging van 'n aangeleentheid of aansoek wat kragtens 40 subartikel (1) aan hom voorgelê is en getuienis wat deur hom ten opsigte van so 'n aangeleentheid of aansoek ontvang of verkry is, van oordeel is dat die aansoeker 'n slagoffer is, doen hy aanbevelings soos beoog in artikel 25(1)(b)(i) in 'n poging om die menslike en burgerlike waardigheid van so 'n slagoffer te herstel, met inagneming van die voorgeskrewe kriteria.

45 Parlement oorweeg aanbevelings met betrekking tot herstel van slagoffers

27. (1) Die aanbevelings bedoel in artikel 4(f)(i) word deur die President, met die oog op aanbevelings aan die Parlement en die voorskryf van regulasies, oorweeg.

(2) Die aanbevelings bedoel in subartikel (1) word deur die gesamentlike komitee oorweeg en genoemde gesamentlike komitee se beslissings word, wanneer dit deur die 50 Parlement goedgekeur is, geïmplementeer deur die President deur die uitvaardiging van regulasies.

(3) Die regulasies bedoel in subartikel (2)—

- (a) bepaal—
- (i) die basis en voorwaardes waarop herstel verleen word;
 - 55 (ii) die owerheid verantwoordelik vir die toepassing van die regulasies; en
- (b) kan—
- (i) voorsiening maak vir die hersiening en, in gepaste gevalle, die beëindiging of vermindering van enige herstel;

- (ii) prohibit the cession, assignment or attachment of any reparation in terms of the regulations, or the right to any such reparation;
 - (iii) determine that any reparation received in terms of the regulations shall not form part of the estate of the recipient should such estate be sequestrated; and
 - (iv) provide for any other matter which the President may deem fit to prescribe in order to ensure an efficient application of the regulations.
- (4) The joint committee may also advise the President in respect of measures that should be taken to grant urgent interim reparation to victims.

CHAPTER 6

Investigations and hearings by Commission

Commission may establish investigating unit

28. (1) The Commission may establish an investigating unit which shall consist of such persons, including one or more commissioners, as may be determined by the Commission.
- (2) The period of appointment of such members shall be determined by the Commission at the time of appointment, but such period may be extended or curtailed by the Commission.
- (3) The Commission shall appoint a commissioner as the head of the investigating unit.
- (4) (a) The investigating unit shall investigate any matter falling within the scope of the Commission's powers, functions and duties, subject to the directions of the Commission, and shall at the request of a committee investigate any matter falling within the scope of the powers, functions and duties of that committee, subject to the directions of the committee.
- (b) The investigating unit shall in the performance of its functions follow such procedure as may be determined by the Commission or the committee concerned, as the case may be.
- (5) Subject to section 33, no article or information obtained by the investigating unit shall be made public, and no person except a member of the investigating unit, the Commission, the committee concerned or a member of the staff of the Commission shall have access to such article or information until such time as the Commission or the committee determines that it may be made public or until the commencement of any hearing in terms of this Act which is not held behind closed doors.

Powers of Commission with regard to investigations and hearings

29. (1) The Commission may for the purposes of or in connection with the conduct of an investigation or the holding of a hearing, as the case may be—
- (a) at any time before the commencement or in the course of such investigation or hearing conduct an inspection *in loco*;
 - (b) by notice in writing call upon any person who is in possession of or has the custody of or control over any article or other thing which in the opinion of the Commission is relevant to the subject matter of the investigation or hearing to produce such article or thing to the Commission, and the Commission may inspect and, subject to subsection (3), retain any article or other thing so produced for a reasonable time;
 - (c) by notice in writing call upon any person to appear before the Commission and to give evidence or to answer questions relevant to the subject matter of the hearing;
 - (d) in accordance with section 32 seize any article or thing referred to in paragraph (b) which is relevant to the subject matter of the investigation or hearing.
- (2) A notice referred to in subsection (1) shall specify the time when and the place where the person to whom it is directed shall appear, shall be signed by a commissioner, shall be served by a member of the staff of the Commission or by a sheriff, by delivering a copy thereof to the person concerned or by leaving it at such person's last known place

- (ii) die sessie van, opdra van of beslaglegging op enige herstel of reg tot enige sodanige herstel, ingevolge die regulasies verbied;
- (iii) bepaal dat enige herstel ontvang ingevolge die regulasies, nie deel vorm van die boedel van die ontvanger nie, sou sodanige boedel geskwe-
5 streer word; en
- (iv) voorsiening maak vir enige ander aangeleentheid wat die President nodig mag vind om voor te skryf om 'n doeltreffende toepassing van die regulasies te verseker.
- (4) Die gesamentlike komitee kan die President ook adviseer ten opsigte van
10 maatreëls wat getref behoort te word om dringend tussentydse herstel aan slagoffers te verleen.

HOOFTUK 6

Ondersoeke en verhore deur Kommissie

Kommissie mag ondersoekkeenheid instel

- 15 28. (1) Die Kommissie kan 'n ondersoekkeenheid instel wat bestaan uit sodanige persone, met inbegrip van een of meer kommissarisse, as wat die Kommissie bepaal.
- (2) Die tydperk van aanstelling van sodanige lede word deur die Kommissie bepaal ten tyde van aanstelling, maar sodanige tydperk kan deur die Kommissie verleng of ingekort word.
- 20 (3) Die kommissie stel 'n kommissaris as hoof van die ondersoekkeenheid aan.
- (4) (a) Die ondersoekkeenheid ondersoek enige aangeleentheid wat binne bestek val van die bevoegdheids, pligte en werksaamhede van die Kommissie, onderworpe aan die lasgewings van die Kommissie en moet op versoek van 'n komitee enige aangeleentheid wat binne bestek val van die bevoegdheids, pligte en werksaamhede van daardie
25 komitee ondersoek, onderworpe aan die lasgewings van die komitee.
- (b) Die ondersoekkeenheid volg in die verrigting van sy werksaamhede die prosedure wat bepaal mag word deur die Kommissie of die betrokke komitee, na gelang van die geval.
- (5) Behoudens artikel 33, word geen voorwerp of inligting wat deur die ondersoek-
30 eenheid bekom is, openbaar gemaak nie, en geen persoon behalwe 'n lid van die ondersoekkeenheid, die Kommissie, die betrokke komitee of 'n lid van die personeel van die Kommissie, het toegang tot sodanige voorwerp of inligting nie totdat die Kommissie of die komitee beslis dat dit openbaar gemaak mag word of tot die aanvang van enige verhoor ingevolge hierdie Wet wat nie agter geslote deure gehou word nie.

35 Bevoegdheids van Kommissie met betrekking tot ondersoeke en verhore

29. (1) Die kommissie kan vir doeleindes van of in verband met die doen van 'n ondersoek of die hou van 'n verhoor, na gelang van die geval—
- (a) te eniger tyd voor die aanvang, of in die loop, van sodanige ondersoek of verhoor 'n ondersoek ter plaatse doen;
- 40 (b) by skriftelike kennisgewing enige persoon wat in besit is van of toesig hou oor of beheer het van enige voorwerp of ander ding wat na die mening van die Kommissie betrekking het op die onderwerp van die ondersoek of verhoor, oproep om sodanige voorwerp of ding aan die Kommissie voor te lê, en die Kommissie mag enige voorwerp of ander ding aldus voorgelê,
45 ondersoek en, onderworpe aan subartikel (3), vir 'n tydperk wat billik is, terughou;
- (c) by skriftelike kennisgewing enige persoon oproep om voor die Kommissie te verskyn en te getuig of om vrae te beantwoord wat betrekking het op die onderwerp van die verhoor;
- 50 (d) in ooreenstemming met artikel 32 beslag te lê op enige voorwerp of ding bedoel in paragraaf (b) wat betrekking het op die onderwerp van die ondersoek of verhoor.
- (2) 'n Kennisgewing in subartikel (1) bedoel, moet die tyd wanneer en die plek waar die persoon aan wie dit gerig is, moet verskyn, vermeld, word deur 'n kommissaris
55 geteken, word beteken deur 'n lid van die personeel van die Kommissie of deur 'n balju deur aflewering van 'n afskrif daarvan aan die betrokke persoon of deur dit by die laaste bekende plek van verblyf of besigheid van sodanige persoon te laat,

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of residence or business, and shall specify the reason why the article is to be produced or the evidence is to be given.

(3) If the Commission is of the opinion that the production of any article in the possession or custody or under the control of the State, any department of State, the Auditor-General or any Attorney-General may adversely affect any intended or pending judicial proceedings or the conduct of any investigation carried out with a view to the institution of judicial proceedings, the Commission shall take steps aimed at the prevention of any undue delay in or the disruption of such investigation or proceedings.

(4) The Commission may require any person who in compliance with a requirement in terms of this section appears before it, to take the oath or to make an affirmation and may through the Chairperson or any member of the staff of the Commission administer the oath to or accept an affirmation from such person.

(5) No person other than a member of the staff of the Commission or any person required to produce any article or to give evidence shall be entitled or be permitted to attend any investigation conducted in terms of this section, and the Commission may, having due regard to the principles of openness and transparency, declare that any article produced or information submitted at such investigation shall not be made public until the Commission determines otherwise or, in the absence of such a determination, until the article is produced at a hearing in terms of this Act, or at any proceedings in any court of law.

Procedure to be followed at investigations and hearings of Commission, committees and subcommittees

30. (1) The Commission and any committee or subcommittee shall in any investigation or hearing follow the prescribed procedure or, if no procedure has been prescribed, the procedure determined by the Commission, or, in the absence of such a determination, in the case of a committee or subcommittee, the procedure determined by the committee or subcommittee, as the case may be.

(2) If during any investigation by or any hearing before the Commission—

- (a) any person is implicated in a manner which may be to his detriment;
- (b) the Commission contemplates making a decision which may be to the detriment of a person who has been so implicated;
- (c) it appears that any person may have suffered harm as a result of a gross violation of human rights,

the Commission shall, if such person is available, afford him or her an opportunity to submit representations to the Commission within a specified time with regard to the matter under consideration or to give evidence at a hearing of the Commission.

Compellability of witnesses and inadmissibility of incriminating evidence given before Commission

31. (1) Any person who is questioned by the Commission in the exercise of its powers in terms of this Act, or who has been subpoenaed to give evidence or to produce any article at a hearing of the Commission shall, subject to the provisions of subsections (2), (3) and (5), be compelled to produce any article or to answer any question put to him or her with regard to the subject-matter of the hearing notwithstanding the fact that the article or his or her answer may incriminate him or her.

(2) A person referred to in subsection (1) shall only be compelled to answer a question or to produce an article which may incriminate him or her if the Commission has issued an order to that effect, after the Commission—

- (a) has consulted with the attorney-general who has jurisdiction;
- (b) has satisfied itself that to require such information from such a person is reasonable, necessary and justifiable in an open and democratic society based on freedom and equality; and
- (c) has satisfied itself that such a person has refused or is likely to refuse to answer a question or produce an article on the grounds that such an answer or article might incriminate him or her.

(3) Any incriminating answer or information obtained or incriminating evidence directly or indirectly derived from a questioning in terms of subsection (1) shall not be admissible as evidence against the person concerned in criminal proceedings in a court of law or before any body or institution established by or under any law: Provided that

en dui die rede aan waarom die voorwerp voorgelê moet word of die getuienis gelewer moet word.

(3) Indien die Kommissie van mening is dat die voorlegging van enige artikel in besit of onder toesig of beheer van die Staat, enige Staatsdepartement, die Ouditeur-generaal of enige Prokureur-generaal, enige beoogde of hangende hofverrigtinge of die doen van enige ondersoek wat uitgevoer word met die oog op die instelling van hofverrigtinge, nadelig sal raak, doen die Kommissie stappe gemik op die voorkoming van enige onnodige vertraging of ontwrigting van sodanige ondersoek of verrigtinge.

(4) Die Kommissie kan vereis dat enige persoon wat in nakoming van 'n vereiste ingevolge hierdie artikel voor hom verskyn, die eed aflê of 'n bevestiging maak en kan, deur die Voorsitter of enige lid van die personeel van die Kommissie, die eed oplê aan, of 'n bevestiging ontvang van, sodanige persoon.

(5) Niemand behalwe 'n lid van die personeel van die Kommissie of enige persoon van wie dit vereis word om enige voorwerp voor te lê of getuienis af te lê, is geregtig of word toegelaat om enige ondersoek gedoen ingevolge hierdie artikel by te woon nie, en die Kommissie kan, met behoorlike inagneming van die beginsels van oopheid en deursigtigheid, verklaar dat enige voorwerp voorgelê of inligting ingedien by sodanige ondersoek nie openbaar word nie totdat die Kommissie anders bepaal of, in die afwesigheid van sodanige bepaling, totdat die voorwerp voorgelê word by 'n verhoor ingevolge hierdie Wet, of by enige verrigtinge in enige geregshof.

Prosedure wat gevolg moet word deur Kommissie, komitees en subkomitees by ondersoeke en verhore

30. (1) Die Kommissie en enige komitee of subkomitee moet in enige ondersoek of verhoor die voorgeskrewe prosedure volg of indien geen prosedure voorgeskryf is nie, die prosedure bepaal deur die Kommissie, of, in die afwesigheid van sodanige bepaling, in die geval van 'n komitee of subkomitee, die prosedure bepaal deur die komitee of subkomitee, na gelang van die geval.

(2) Indien tydens enige ondersoek of verhoor deur die Kommissie—

- (a) enige persoon betrek word op 'n wyse wat vir hom of haar nadelig is;
- (b) die Kommissie 'n beslissing beoog wat nadelig mag wees vir 'n persoon wat aldus betrek is;
- (c) dit blyk dat enige persoon skade gely het as gevolg van 'n growwe skending van menseregte,

moet die Kommissie, indien sodanige persoon beskikbaar is, hom of haar die geleentheid bied om, binne 'n bepaalde tyd, vertoë aan die Kommissie voor te lê met betrekking tot die aangeleentheid onder oorweging of om getuienis af te lê voor 'n verhoor van die Kommissie.

Verpligbaarheid van getuies en ontoelaatbaarheid van inkriminerende getuienis afgelê voor Kommissie

31. (1) 'n Persoon wat deur die Kommissie by die uitoefening van sy bevoegdhede ingevolge hierdie Wet ondervra word, of wat gedagvaar is om getuienis af te lê of om enige voorwerp by 'n verhoor van die Kommissie voor te lê, is, behoudens die bepalings van subartikels (2), (3) en (5), verplig om enige voorwerp voor te lê of om enige vraag aan hom of haar gestel met betrekking tot die onderwerp van die verhoor te beantwoord ondanks die feit dat die voorwerp of sy of haar antwoord hom of haar mag inkrimineer.

(2) 'n Persoon bedoel in subartikel (1) is slegs verplig om 'n vraag te beantwoord of 'n voorwerp voor te lê wat hom of haar kan inkrimineer, indien die Kommissie 'n bevel met daardie strekking uitgereik het, nadat die Kommissie—

- (a) oorleg gepleeg het met die prokureur-generaal wat jurisdiksie het;
- (b) homself tevrede gestel het dat om sodanige inligting van so 'n persoon te verlang redelik, noodsaaklik en regverdigbaar is in 'n oop en demokratiese samelewing gebaseer op vryheid en gelykheid; en
- (c) homself oortuig het dat so 'n persoon geweier het of waarskynlik sal weier om 'n vraag te beantwoord of 'n voorwerp voor te lê op grond daarvan dat so 'n antwoord of voorwerp hom of haar kan inkrimineer.

(3) 'n Inkriminerende antwoord of inligting bekom of inkriminerende getuienis wat direk of indirek afgelei word van 'n ondervraging ingevolge subartikel (1) is nie as getuienis teen die betrokke persoon in strafregtelike verrigtinge in 'n geregshof of voor 'n liggaam of instelling by of kragtens 'n wet ingestel, toelaatbaar nie. Met dien

incriminating evidence arising from such questioning shall be admissible in criminal proceedings where the person is arraigned on a charge of perjury or a charge contemplated in section 39(d)(ii) of this Act or in section 319(3) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).

(4) Subject to the provisions of this section, the law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a court of law shall apply in relation to the questioning of a person in terms of subsection (1). 5

(5) Any person appearing before the Commission by virtue of the provisions of subsection (1) shall be entitled to peruse any article referred to in that subsection, which was produced by him or her, as may be reasonably necessary to refresh his or her memory. 10

Entry upon premises, search for and seizure and removal of certain articles or other things

32. (1) Any commissioner, member of the staff of the Commission or police officer authorized thereto by a commissioner may on the authority of an entry warrant, issued in terms of subsection (2), enter upon any premises in or upon which any article or thing— 15

(a) which is concerned with or is upon reasonable grounds suspected to be concerned with any matter which is the subject of any investigation in terms of this Act; 20

(b) which contains, or is upon reasonable grounds suspected to contain, information with regard to any such matter, is or is upon reasonable grounds suspected to be,

and may on the authority of a search warrant, issued in terms of subsection (2)—

(i) inspect and search such premises and there make such inquiries as he or she may deem necessary; 25

(ii) examine any article or thing found in or upon such premises;

(iii) request from the person who is in control of such premises or in whose possession or under whose control any article or thing is when it is found, or who is upon reasonable grounds believed to have information with regard to any article or thing, an explanation or information; 30

(iv) make copies of or extracts from any such article found upon or in such premises;

(v) seize any article or thing found upon or in such premises which he or she upon reasonable grounds suspects to be an article or thing mentioned in paragraph (a) or (b); 35

(vi) after having issued a receipt in respect thereof remove any article or thing found on such premises and suspected upon reasonable grounds to be an article or thing mentioned in paragraph (a) or (b), and retain such article or thing for a reasonable period for the purpose of further examination or, in the case of such article, the making of copies thereof or extracts therefrom: Provided that any article or thing that has been so removed, shall be returned as soon as possible after the purpose of such removal has been accomplished. 40

(2) An entry or search warrant referred to in subsection (1) shall be issued by a judge of the Supreme Court or by a magistrate who has jurisdiction in the area where the premises in question are situated, and shall only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that an article or thing mentioned in paragraph (a) or (b) of subsection (1) is upon or in such premises, and shall specify which of the acts mentioned in paragraph (b)(i) to (vi) of that subsection may be performed thereunder by the person to whom it is issued. 45 50

(3) A warrant issued in terms this section shall be executed by day unless the person who issues the warrant authorizes the execution thereof by night at times which shall be reasonable, and any entry upon or search of any premises specified in such warrant shall be conducted with strict regard to decency and order, including— 55

verstande dat inkriminerende getuienis wat voortspruit uit sodanige ondervraging toelaatbaar is in strafregtelike verrigtinge waarin die persoon tereg staan op 'n aanklag van meened of 'n aanklag in artikel 39(d)(ii) van hierdie Wet of artikel 319(3) van die Strafproseswet, 1955 (Wet No. 56 van 1955), beoog.

5 (4) Behoudens die bepalings van hierdie artikel, is die reg aangaande privilegie, soos van toepassing op 'n getuie wat gedagvaar is om in 'n strafszaak in 'n geregshof te getuig, van toepassing in verband met die ondervraging van 'n persoon ingevolge subartikel (1).

(5) 'n Persoon wat uit hoofde van die bepalings van subartikel (1) voor die
10 Kommissie verskyn, is geregtig om enige voorwerp bedoel in daardie subartikel wat deur hom of haar voorgelê is, te ondersoek in die mate wat redelikerwys nodig mag wees om sy of haar geheue te verfris.

Betreding van persele, deursoeking vir en beslaglegging op en verwydering van sekere voorwerpe of ander goed

15 **32.** (1) 'n Kommissaris, lid van die personeel van die Kommissie of polisiebeampte daartoe gemagtig deur 'n kommissaris, kan op gesag van 'n betredingslasbrief uitgereik kragtens subartikel (2), enige perseel betree waarin of waarop enige voorwerp of ding—

20 (a) wat betrokke is, of op redelike gronde vermoed word betrokke te wees, by enige aangeleentheid wat die onderwerp is van enige ondersoek ingevolge hierdie Wet;

(b) wat inligting bevat, of op redelike gronde vermoed word inligting te bevat, aangaande enige aangeleentheid, te vinde is, of op redelike gronde vermoed word te vinde te wees,

25 en kan op gesag van 'n visenteringslasbrief uitgereik ingevolge subartikel (2)—

(i) sodanige perseel inspekteer en deursoek en daar die navrac doen wat hy of sy mag nodig ag;

(ii) enige voorwerp of ding wat op sodanige perseel gevind is, ondersoek;

30 (iii) van enige persoon wat in beheer is van sodanige perseel of in wie se besit of onder wie se beheer enige voorwerp of ding is wanneer dit gevind word, of wat op redelike gronde vermoed word inligting te hê met betrekking tot enige voorwerp of ding, 'n verduideliking of inligting versoek;

35 (iv) afskrifte van of uittreksels uit enige sodanige voorwerp wat op of in sodanige perseel gevind word, maak;

(v) op enige voorwerp of ding wat op of in sodanige perseel gevind word, wat hy of sy op redelike gronde vermoed 'n voorwerp of ding in paragraaf (a) of (b) genoem te wees, beslag lê;

40 (vi) nadat hy of sy 'n kwitansie uitgereik het ten opsigte daarvan, enige voorwerp of ding wat op sodanige perseel gevind word en wat op redelike gronde vermoed word 'n voorwerp of ding genoem in paragraaf (a) of (b) te wees, verwyder en sodanige voorwerp of ding hou vir 'n redelike tydperk vir doeleindes van verdere ondersoek of, in die geval van sodanige voorwerp, die maak van afskrifte daarvan of uittreksels
45 daartuit: Met dien verstande dat enige voorwerp of ding wat aldus verwyder is, so gou doenlik nadat die doel van sodanige verwydering bereik is, terugbesorg word.

(2) 'n Betredings- of visenteringslasbrief in subartikel (1) bedoel word uitgereik deur 'n regter van die Hooggeregshof of 'n landdros wat regsbevoegdheid het in die gebied
50 waar die betrokke perseel geleë is, en word slegs uitgereik indien dit aan die regter of landdros blyk uit inligting onder eed dat daar redelike gronde is om te glo dat 'n voorwerp of ding in paragraaf (a) of (b) van subartikel (1) genoem, op of in sodanige perseel is, en moet aandui welke van die handeling in paragraaf (b)(i) tot (vi) van daardie subartikel daarkragtens verrig mag word deur die persoon aan wie dit uitgereik
55 is.

(3) 'n Lasbrief uitgereik ingevolge hierdie artikel word in die dag uitgevoer tensy die persoon wat die lasbrief uitreik, uitvoering daarvan in die nag, op tye wat redelik is, magtig, en enige betreding op of deursoeking van enige perseel in sodanige lasbrief vermeld, word gedoen met streng voorbehoud van welvoeglikheid en orde, met
60 inbegrip van—

- (a) a person's right to, respect for and the protection of his or her dignity;
- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

(4) Any person executing a warrant in terms of this section shall immediately before commencing with the execution—

- (a) identify himself or herself to the person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent place on the premises;
- (b) supply such person at his or her request with particulars regarding his or her authority to execute such a warrant.

(5) (a) Any commissioner, or any member of the staff of the Commission or police officer at the request of a commissioner, may without a warrant enter upon any premises, other than a private dwelling, and search for, seize and remove any article or thing referred to in subsection (1)—

- (i) if the person who is competent to do so consents to such entry, search, seizure and removal; or
- (ii) if he or she upon reasonable grounds believes that—
 - (aa) the required warrant will be issued to him or her in terms of subsection (2) if he or she were to apply for such warrant; and
 - (bb) the delay caused by the obtaining of any such warrant would defeat the object of the entry, search, seizure and removal.

(b) Any entry and search in terms of paragraph (a) shall be executed by day, unless the execution thereof by night is justifiable and necessary.

(6) (a) Any person who may on the authority of a warrant issued in terms of subsection (2), or under the provisions of subsection (5), enter upon and search any premises, may use such force as may be reasonably necessary to overcome resistance to such entry or search.

(b) No person may enter upon or search any premises unless he or she has audibly demanded admission to the premises and has notified the purpose of his or her entry, unless such person is upon reasonable grounds of the opinion that any article or thing may be destroyed if such admission is first demanded and such purpose is first notified.

(7) If during the execution of a warrant or the conducting of a search in terms of this section, a person claims that an article found on or in the premises concerned contains privileged information and refuses the inspection or removal of such article, the person executing the warrant or conducting the search shall, if he or she is of the opinion that the article contains information which is relevant to the investigation and that such information is necessary for the investigation or hearing, request the registrar of the Supreme Court which has jurisdiction or his or her delegate, to seize and remove that article for safe custody until a court of law has made a ruling on the question whether the information concerned is privileged or not.

(8) A warrant issued in terms of this section may be issued on any day and shall be of force until—

- (a) it is executed; or
- (b) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or
- (c) the expiry of one month from the day of its issue; or
- (d) the purpose for the issuing of the warrant has lapsed,

whichever may occur first.

Hearings of Commission to be open to public

33. (1) (a) Subject to the provisions of this section, the hearings of the Commission shall be open to the public.

(b) If the Commission, in any proceedings before it, is satisfied that—

- (i) it would be in the interest of justice; or
- (ii) there is a likelihood that harm may ensue to any person as a result of the proceedings being open,

- (a) die reg van 'n persoon tot, eerbied vir en die beskerming van sy of haar waardigheid;
- (b) die reg van 'n persoon tot vryheid en sekuriteit; en
- (c) die reg van 'n persoon tot sy of haar persoonlike privaatheid.
- 5 (4) Enige persoon wat 'n lasbrief ingevolge hierdie artikel uitvoer, moet onmiddellik voordat hy of sy met die uitvoering begin—
- (a) homself of haarself identifiseer aan die persoon in beheer van die perseel, indien sodanige persoon teenwoordig is, en 'n afskrif van die lasbrief aan sodanige persoon oorhandig, of indien sodanige persoon nie teenwoordig is
- 10 nie, sodanige afskrif op 'n opvallende plek by die perseel aanbring;
- (b) aan sodanige persoon, op sy of haar versoek, besonderhede met betrekking tot sy of haar magtiging om sodanige lasbrief uit te voer, verskaf.
- (5) (a) Enige kommissaris, of enige lid van die personeel van die Kommissie of die polisiebeampte op versoek van 'n kommissaris, kan sonder 'n lasbrief enige perseel
- 15 behalwe 'n privaatwoning betree en vir enige voorwerp of ding in subartikel (1) bedoel, soek, daarop beslag lê en dit verwyder—
- (i) indien die persoon wat daartoe bevoeg is tot sodanige betreding, deursoeking, beslaglegging en verwydering instem; of
- (ii) indien hy of sy op redelike gronde vermoed dat—
- 20 (aa) die vereiste lasbrief aan hom of haar uitgereik sou word ingevolge subartikel (2) indien hy of sy vir sodanige lasbrief aansoek sou doen; en
- (bb) die vertraging wat veroorsaak sal word deur die verkryging van sodanige lasbrief, die oogmerk van sodanige betreding, deursoeking, beslaglegging en verwydering sal verydel.
- (b) 'n Betreding en deursoeking ingevolge paragraaf (a) word gedurende die dag
- 25 uitgevoer tensy die uitvoering daarvan in die nag geregverdig en nodig is.
- (6) (a) Enige persoon wat op gesag van 'n lasbrief uitgereik ingevolge subartikel (2), of kragtens die bepalings van subartikel (5), enige perseel betree en deursoek, kan die geweld gebruik wat redelikerwys nodig is om enige verset teen so 'n betreding en
- 30 deursoeking van so 'n perseel te bowe te kom.
- (b) Niemand mag 'n perseel betree of deursoek nie tensy hy of sy eers hoorbaar toegang tot die perseel geëis het, en die doel van sy of haar betreding verklaar het, behalwe indien sodanige persoon op redelike gronde van mening is dat enige voorwerp of ding vernietig mag word indien sodanige toegang eers geëis word en sodanige doel
- 35 eers verklaar word.
- (7) Indien, gedurende die uitreiking van 'n lasbrief of die uitvoering van 'n deursoeking ingevolge hierdie artikel, 'n persoon beweer dat 'n voorwerp wat op of in die betrokke perseel gevind is, geprivilegieerde inligting bevat en die inspeksie of verwydering van sodanige voorwerp weier, moet die persoon wat die lasbrief of
- 40 deursoeking uitvoer, indien hy of sy van oordeel is dat die voorwerp inligting bevat wat op die ondersoek betrekking het en dat sodanige inligting vir die ondersoek nodig is, die griffier van die Hooggeregshof wat regsbevoegdheid het of sy of haar gedelegeerde versoek om op die voorwerp beslag te lê en dit vir veilige bewaring te verwyder totdat 'n geregshof 'n beslissing gegee het oor die vraag of die betrokke inligting
- 45 geprivilegieerde is al dan nie.
- (8) 'n Lasbrief ingevolge hierdie subartikel uitgereik, kan op enige dag uitgereik word en bly van krag totdat—
- (a) dit uitgevoer is; of
- (b) dit ingetrek word deur die persoon wat dit uitgereik het of, indien daardie
- 50 persoon nie beskikbaar is nie, deur iemand met dergelike gesag; of
- (c) een maand verstryk het vanaf die dag waarop dit uitgereik is; of
- (d) die doel van die uitreiking van die lasbrief verval het, welke ook al eerste plaasvind.

Verhore van Kommissie moet oop wees vir publiek

- 55 33. (1) (a) Behoudens die bepalings van hierdie artikel, is die verhore van die Kommissie oop vir die publiek.
- (b) Indien die Kommissie, in enige verrigtinge voor hom, oortuig is dat—
- (i) dit in belang van geregtigheid sal wees; of
- (ii) dit waarskynlik is dat 'n persoon skade kan ly as gevolg van die verrigtinge
- 60 wat oop is,

it may direct that such proceedings be held behind closed doors and that the public or any category thereof shall not be present at such proceedings or any part thereof: Provided that the Commission shall permit any victim who has an interest in the proceedings concerned, to be present.

(c) An application for proceedings to be held behind closed doors may be brought by a person referred to in paragraph (b) and such application shall be heard behind closed doors. 5

(d) The Commission may at any time review its decision with regard to the question whether or not the proceedings shall be held behind closed doors.

(2) Where the Commission under subsection (1)(b) on any grounds referred to in that subsection directs that the public or any category thereof shall not be present at any proceedings or part thereof, the Commission may, subject to the provisions of section 20(6)— 10

(a) direct that no information relating to the proceedings, or any part thereof held behind closed doors, shall be made public in any manner; 15

(b) direct that no person may, in any manner, make public any information which may reveal the identity of any witness in the proceedings;

(c) give such directions in respect of the record of proceedings as may be necessary to protect the identity of any witness:

Provided that the Commission may authorize the publication of so much information as it considers would be just and equitable. 20

Legal representation

34. (1) Any person questioned by an investigation unit and any person who has been subpoenaed or called upon to appear before the Commission is entitled to appoint a legal representative. 25

(2) The Commission may, in order to expedite proceedings, place reasonable limitations with regard to the time allowed in respect of the cross-examination of witnesses or any address to the Commission.

(3) The Commission may appoint a legal representative to appear on behalf of the person concerned if it is satisfied that the person is not financially capable of appointing a legal representative himself or herself, and if it is of the opinion that it is in the interests of justice that the person be represented by a legal representative. 30

(4) A person referred to in subsection (1) shall be informed timeously of his or her right to be represented by a legal representative.

Limited witness protection programme 35

35. (1) The Minister shall, in consultation with the Commission, promote the establishment of a witness protection programme in order to provide for the protection and safety of witnesses in any manner when necessary.

(2) The witness protection programme contemplated in subsection (1) shall be prescribed by the President as soon as possible after the date referred to in section 7(3). 40

(3) The regulations providing for a witness protection programme shall—

(a) provide for, among others, the appointment of a private person or the secondment of an official or employee of any department of State in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), to act as the witness protector; and 45

(b) be Tabled in Parliament for approval.

(4) (a) Until such time as the witness protection programme has been established the President may, in consultation with the Minister and the Commission, prescribe interim measures to be followed in order to provide for the protection and the safety of a witness: Provided that the provisions of section 185A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall, with the necessary changes, apply in the absence of such interim measures. 50

(b) The interim measures contemplated in paragraph (a) shall be Tabled in Parliament for approval.

(5) In this section— 55
“witness” means a person who wishes to give evidence, gives evidence or gave evidence for the purposes of this Act and includes any member of his or her family

kan hy gelas dat sodanige verrigtinge agter geslote deure gehou word en dat die publiek, of enige kategorie daarvan, nie by daardie verrigtinge of enige deel daarvan teenwoordig mag wees nie: Met dien verstande dat die Kommissie enige slagoffer wat 'n belang by die verrigtinge het, moet toelaat om teenwoordig te wees.

- 5 (c) 'n Aansoek dat verrigtinge agter geslote deure gehou word, kan deur 'n persoon in paragraaf (b) bedoel, gedoen word en so 'n aansoek word agter geslote deure aangehoor.

(d) Die Kommissie kan te eniger tyd sy beslissing hersien met betrekking tot die vraag of verrigtinge agter geslote deure gehou moet word al dan nie.

- 10 (2) Indien die Kommissie kragtens subartikel (1)(b) op enige gronde in daardie subartikel bedoel, gelas dat die publiek of enige kategorie daarvan nie by enige verrigtinge of gedeelte daarvan teenwoordig mag wees nie, kan die Kommissie, behoudens die bepalings van artikel 20(6)—

15 (a) gelas dat geen inligting betreffende die verrigtinge, of enige gedeelte daarvan wat agter geslote deure gehou is, op enige wyse openbaar gemaak mag word nie;

(b) gelas dat niemand op enige wyse enige inligting openbaar mag maak wat die identiteit van 'n getuie in die verrigtinge aan die lig kan bring nie;

- 20 (c) die opdragte ten opsigte van die notule van sy verrigtinge gee wat nodig is om die identiteit van 'n getuie te beskerm.

Met dien verstande dat die Kommissie die openbaarmaking van soveel inligting as wat hy regverdig en billik ag, kan magtig.

Regsverteenvoordiging

- 25 34. (1) 'n Persoon wat deur 'n ondersoekende ondervra word en 'n persoon wat gedagvaar is of versoek is om voor die Kommissie te verskyn, is geregtig om 'n regsverteenvoordiger aan te stel.

(2) Die Kommissie kan, ten einde verrigtinge te bespoedig, redelike beperkings opleë met betrekking tot die tyd wat verleen word in verband met die kruisverhoor van getuies of enige voordrag aan die Kommissie.

- 30 (3) Die Kommissie kan 'n regsverteenvoordiger aanstel om namens die betrokke persoon te verskyn indien hy oortuig is dat die persoon nie finansiële daartoe in staat is om self 'n regsverteenvoordiger aan te stel nie, en indien hy oortuig is dat dit in belang van die regspleging is dat die persoon deur 'n regsverteenvoordiger verteenwoordig word.

- 35 (4) 'n Persoon bedoel in subartikel (1) moet tydig ingelig word van sy of haar reg om deur 'n regsverteenvoordiger verteenwoordig te word.

Beperkte getuiebeskermingsplan

35. (1) Die Minister moet, na oorleg met die Kommissie, die instelling van 'n getuiebeskermingsplan bevorder ten einde wanneer nodig vir die beskerming en
40 veiligheid van getuies op enige wyse voorsiening te maak.

(2) Die getuiebeskermingsplan beoog in subartikel (1) word so gou doenlik na die datum bedoel in artikel 7(3) deur die President voorgeskryf.

(3) Die regulasies wat vir 'n getuiebeskermingsplan voorsiening maak, moet—

- 45 (a) onder andere voorsiening maak vir die aanstelling van 'n privaat persoon of die sekondering van 'n beampte of werknemer van 'n Staatsdepartement ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), om as 'n getuiebeskermer op te tree; en

(b) vir goedkeuring in die Parlement ter Tafel gelê word.

- 50 (4) (a) Tot tyd en wyl die getuiebeskermingsplan ingestel is, kan die President, in oorleg met die Minister en die Kommissie, tussentydse maatreëls voorskryf wat gevolg moet word ten einde vir die beskerming en die veiligheid van 'n getuie voorsiening te maak: Met dien verstande dat die bepalings van artikel 185A van die Strafproseswet, 1977 (Wet No. 51 van 1977), met die nodige aanpassings, in die afwesigheid van sodanige tussentydse maatreëls toegepas word.

- 55 (b) Die tussentydse maatreëls beoog in paragraaf (a) word in die Parlement ter Tafel gelê vir goedkeuring.

(5) In hierdie artikel beteken—

“getuie” 'n persoon wat begerig is om getuie te lewer, wat getuie lewer of getuie gelewer het vir die doeleindes van hierdie Wet en ook 'n lid van sy of

or household whose safety is being threatened by any person or group of persons, whether known to him or her or not, as a result thereof.

CHAPTER 7

General provisions

Independence of Commission

5

36. (1) The Commission, its commissioners and every member of its staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any party, government, administration, or any other functionary or body directly or indirectly representing the interests of any such entity.

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(2) To the extent that any of the personnel of the entities referred to in subsection (1) may be involved in the activities of the Commission, such personnel will be accountable solely to the Commission.

(3) (a) If at any stage during the course of proceedings at any meeting of the Commission it appears that a commissioner has or may have a financial or personal interest which may cause a substantial conflict of interests in the performance of his or her functions as such a commissioner, such a commissioner shall forthwith and fully disclose the nature of his or her interest and absent himself or herself from that meeting so as to enable the remaining commissioners to decide whether the commissioner should be precluded from participating in the meeting by reason of that interest.

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(b) Such a disclosure and the decision taken by the remaining commissioners shall be entered on the record of the proceedings.

(4) If a commissioner fails to disclose any conflict of interest as required by subsection (3) and is present at a meeting of the Commission or in any manner participates in the proceedings, such proceedings in relation to the relevant matter shall, as soon as such non-disclosure is discovered, be reviewed and be varied or set aside by the Commission without the participation of the commissioner concerned.

25

(5) Every commissioner and member of a committee shall—

(a) notwithstanding any personal opinion, preference or party affiliation, serve impartially and independently and perform his or her duties in good faith and without fear, favour, bias or prejudice;

30

(b) serve in a full-time capacity to the exclusion of any other duty or obligation arising out of any other employment or occupation or the holding of another office: Provided that the Commission may exempt a commissioner from the provisions of this paragraph.

35

(6) No commissioner or member of a committee shall—

(a) by his or her membership of the Commission, association, statement, conduct or in any other manner jeopardize his or her independence or in any other manner harm the credibility, impartiality or integrity of the Commission;

(b) make private use of or profit from any confidential information gained as a result of his or her membership of the Commission or a committee; or

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(c) divulge any such information to any other person except in the course of the performance of his or her functions as such a commissioner or member of a committee.

Commission to decide on disclosure of identity of applicants and witnesses

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37. Subject to the provisions of sections 20(6), 33 and 35 the Commission shall, with due regard to the purposes of this Act and the objectives and functions of the Commission, decide to what extent, if at all, the identity of any person who made an application under this Act or gave evidence at the hearing of such application or at any other inquiry or investigation under this Act may be disclosed in any report of the Commission.

50

haar familie of huishouding wie se veiligheid bedreig word as gevolg daarvan deur 'n persoon of groep persone, hetsy hulle bekend is aan hom of haar, al dan nie.

HOOFSTUK 7

Algemene bepalings

5 Onafhanklikheid van Kommissie

36. (1) Die Kommissie, sy kommissarisse en elke lid van sy personeel verrig hul werksaamhede sonder politieke of ander vooroordeel of inmenging en is, tensy hierdie Wet uitdruklik anders bepaal, onafhanklik en afsonderlik van enige party, regering, administrasie, of enige ander funksionaris of liggaam wat regstreeks of onregstreeks die belange van sodanige entiteit verteenwoordig.

(2) In die mate waarin enige personeel van die entiteite in subartikel (1) bedoel, betrokke mag wees by die bedrywighede van die Kommissie is daardie personeel slegs teenoor die Kommissie aanspreeklik.

(3) (a) Indien dit in enige stadium in die loop van verrigtinge by 'n vergadering van die Kommissie blyk dat 'n kommissaris 'n geldelike of persoonlike belang het of mag hê wat 'n wesenlike belangebotsing by die verrigting van sy of haar werksaamhede as 'n kommissaris kan veroorsaak, moet daardie kommissaris onverwyld en volledig die aard van sy of haar belang openbaar en homself of haarself van daardie vergadering verskoon ten einde die oorblywende kommissarisse in staat te stel om te besluit of die kommissaris belet behoort te word om vanweë daardie belang aan die vergadering deel te neem.

(b) So 'n openbaarmaking en die beslissing van die oorblywende kommissarisse word in die notule van die verrigtinge aangeteken.

(4) Indien 'n kommissaris versuim om 'n belangebotsing te openbaar soos deur subartikel (3) vereis en by 'n vergadering van die Kommissie teenwoordig is of op enige wyse aan die verrigtinge deelneem, word die verrigtinge met betrekking tot die betrokke aangeleentheid, sodra die nie-openbaarmaking ontdek word, deur die Kommissie sonder die deelneming van die betrokke kommissaris hersien en verander of tersyde gestel.

(5) Elke kommissaris en lid van 'n komitee—

(a) dien, ondanks enige persoonlike mening, voorkeur of partyverbintenis, onpartydig en onafhanklik en voer sy of haar pligte te goeder trou en sonder vrees, begunstiging, vooroordeel of benadeling uit;

(b) dien in 'n heeltydse hoedanigheid tot uitsluiting van enige ander plig of verpligtinge wat uit enige ander diens of beroep of die bekleding van 'n ander amp voortspruit: Met dien verstande dat die Kommissie 'n kommissaris van die bepalings van hierdie paragraaf kan vrystel.

(6) Geen kommissaris of lid van 'n komitee mag—

(a) deur sy of haar lidmaatskap van die Kommissie, assosiasie, verklaring, gedrag of op enige ander wyse sy of haar onafhanklikheid in gevaar stel nie, of op enige ander wyse die geloofwaardigheid, onpartydigheid of integriteit van die Kommissie benadeel nie;

(b) private gebruik maak van of wins maak uit enige vertroulike inligting wat as gevolg van sy of haar lidmaatskap van die Kommissie of 'n komitee, bekom is nie; of

(c) enige sodanige inligting aan enige ander persoon, behalwe in die loop van die uitvoering van sy of haar werksaamhede as so 'n kommissaris of lid van 'n komitee, openbaar nie.

50 **Kommissie moet besluit oor openbaarmaking van identiteit van aansoekers en getuies**

37. Behoudens die bepalings van artikels 20(6), 33 en 35 moet die Kommissie, met behoorlike inagneming van die doeleindes van hierdie Wet en die oogmerke en werksaamhede van die Kommissie, besluit in watter mate, indien wel, die identiteit van iemand wat 'n aansoek kragtens hierdie Wet gedoen het of getuienis by die verhoor van so 'n aansoek of by enige ander navraag of ondersoek kragtens hierdie Wet afgelê het, in enige verslag van die Kommissie openbaar gemaak mag word.

Confidentiality of matters and information

38. (1) Every commissioner and every member of the staff of the Commission shall, with regard to any matter dealt with by him or her, or information which comes to his or her knowledge in the exercise, performance or carrying out of his or her powers, functions or duties as such a commissioner or member, preserve and assist in the preservation of those matters which are confidential in terms of the provisions of this Act or which have been declared confidential by the Commission. 5

(2) (a) Every commissioner and every member of the staff of the Commission shall, upon taking office, take an oath or make an affirmation in the form specified in subsection (6). 10

(b) A commissioner shall take the oath or make the affirmation referred to in paragraph (a) before the Chairperson of the Commission or, in the case of the Chairperson, before the Vice-Chairperson.

(c) A member of the staff of the Commission shall take the oath or make the affirmation referred to in paragraph (a) before a commissioner. 15

(3) No commissioner shall, except for the purpose of the exercise of his or her powers, the performance of his or her functions or the carrying out of his or her duties or when required by a court of law to do so, or under any law, disclose to any person any information acquired by him or her as such a commissioner or while attending any meeting of the Commission. 20

(4) Subject to the provisions of subsection (3) and sections 20(6) and 33, no person shall disclose or make known any information which is confidential by virtue of any provision of this Act.

(5) No person who is not authorized thereto by the Commission shall have access to any information which is confidential by virtue of any provision of this Act. 25

(6) For the purposes of this section the oath or affirmation shall be in the following form:

“I, A B, hereby declare under oath/solemnly affirm that I understand and shall honour the obligation of confidentiality imposed upon me by any provision of the Promotion of National Unity and Reconciliation Act, 1995, and shall not act in contravention thereof.”. 30

Offences and penalties

39. Any person who—

(a) anticipates any finding of the Commission regarding an investigation in a manner calculated to influence its proceedings or such findings; 35

(b) does anything calculated improperly to influence the Commission in respect of any matter being or to be considered by the Commission in connection with an investigation;

(c) does anything in relation to the Commission which, if done in relation to a court of law, would constitute contempt of court; 40

(d) (i) hinders the Commission, any commissioner or member of the staff of the Commission in the exercise, performance or carrying out of its, his or her powers, functions or duties under this Act;

(ii) wilfully furnishes the Commission, any such commissioner or member with any information which is false or misleading; 45

(e) (i) having been subpoenaed in terms of this Act, without sufficient cause fails to attend at the time and place specified in the subpoena, or fails to remain in attendance until the conclusion of the meeting in question or until excused from further attendance by the person presiding at that meeting, or fails to produce any article in his or her possession or custody or under his or her control; 50

(ii) having been subpoenaed in terms of this Act, without sufficient cause refuses to be sworn or to make affirmation as a witness or fails or refuses to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; 55

(f) fails to perform any act as required in terms of sections 36(6) and 38;

(g) discloses any confidential information in contravention of any provision of this Act;

Vertroulikheid van aangeleentheid en inligting

38. (1) Elke kommissaris en elke lid van die personeel van die Kommissie moet met betrekking tot enige aangeleentheid wat deur hom of haar behandel word, of inligting wat tot sy of haar wete kom by die uitoefening, verrigting of uitvoering van sy of haar bevoegdhede, werksaamhede of pligte as so 'n kommissaris of lid, daardie aangeleent-
5 hede wat vertroulik is ingevolge die bepalings van hierdie Wet of wat vertroulik verklaar is deur die Kommissie, bewaar en help bewaar.

(2) (a) Elke kommissaris en elke lid van die personeel van die Kommissie moet by aanstelling 'n eed aflê of bevestiging maak in die vorm uiteengesit in subartikel (6).

10 (b) 'n Kommissaris lê die eed af of maak die bevestiging bedoel in paragraaf (a) voor die Voorsitter van die Kommissie of, in die geval van die Voorsitter, voor die Ondervoorsitter.

(c) 'n Lid van die personeel van die Kommissie lê die eed af of maak die bevestiging bedoel in paragraaf (a) voor 'n kommissaris.

15 (3) Geen kommissaris mag, behalwe vir die doeleindes van die uitoefening van sy of haar bevoegdhede, die verrigting van sy of haar werksaamhede of die uitvoering van sy of haar pligte of wanneer hy of sy deur 'n hof of kragtens 'n wet verplig word om dit te doen, aan enigiemand enige inligting wat deur hom of haar as so 'n lid of tydens die bywoning van 'n vergadering van die Kommissie verkry is, openbaar nie.

20 (4) Behoudens die bepalings van subartikel (3) en artikels 20(6) en 33 mag niemand enige inligting wat uit hoofde van enige bepaling van hierdie Wet vertroulik is, openbaar of bekend maak nie.

(5) Niemand wat nie daartoe deur die Kommissie gemagtig is, het toegang tot enige inligting wat uit hoofde van enige bepaling van hierdie Wet vertroulik is nie.

25 (6) Vir doeleindes van hierdie artikel is die eed of bevestiging in die volgende vorm:
"Ek, AB, verklaar hierby onder eed/bevestig plegtig dat ek die verpligting van vertroulikheid wat deur enige bepaling van die Wet op die Bevordering van Nasionale Eenheid en Versoening, 1995, aan my opgelê word, verstaan en gestand sal doen en nie strydig daarmee sal handel nie."

30 Misdrywe en strawwe**39. Iemand wat—**

- (a) 'n bevinding van die Kommissie aangaande 'n ondersoek vooruitloop op 'n wyse wat daarop bereken is om die Kommissie se verrigtinge of sodanige bevindinge te beïnvloed;
- 35 (b) enigiets doen wat bereken is om die Kommissie onbehoorlik te beïnvloed ten opsigte van enige aangeleentheid wat deur die Kommissie in verband met 'n ondersoek oorweeg word of oorweeg staan te word;
- (c) enigiets met betrekking tot die Kommissie doen wat, indien dit met betrekking tot 'n geregshof gedoen is, minagting van die hof sou uitmaak;
- 40 (d) (i) die Kommissie, 'n kommissaris of lid van die personeel van die Kommissie in die uitoefening, verrigting of uitvoering van sy of haar bevoegdhede, werksaamhede of pligte kragtens hierdie Wet hinder;
- (ii) opsetlik aan die Kommissie, sodanige kommissaris of lid enige inligting verskaf wat vals of misleidend is;
- 45 (e) (i) nadat hy of sy ingevolge hierdie Wet gedagvaar is, sonder voldoende rede versuim om op die tyd en plek in die dagvaarding vermeld, op te daag, of versuim om aanwesig te bly tot aan die einde van die betrokke vergadering of totdat hy of sy deur die persoon wat by daardie vergadering voorsit van verdere bywoning verskoon word, of versuim om enige voorwerp in sy of haar besit of bewaring of onder sy of haar
50 beheer, voor te lê;
- (ii) nadat hy of sy ingevolge hierdie Wet gedagvaar is sonder voldoende rede weier om as 'n getuie ingesweer of bevestig te word of versuim of weier om ten volle en bevredigend en na sy of haar beste kennis en
55 oortuiging enige vraag wat regtens aan hom of haar gestel word, te beantwoord;
- (f) versuim om enige handeling te verrig soos ingevolge artikels 36(6) en 38 vereis;
- 60 (g) enige vertroulike inligting in stryd met enige bepaling van hierdie Wet openbaar;

(h) destroys any article relating to or in anticipation of any investigation or proceedings in terms of this Act, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Regulations

5

40. (1) The President may make regulations—

- (a) prescribing anything required to be prescribed for the proper application of this Act;
- (b) prescribing the remuneration and allowances and other benefits, if any, of commissioners: Provided that such remuneration shall not be less than that of a judge of the Supreme Court of South Africa; 10
- (c) determining the persons who shall for the purposes of this Act be regarded as the dependants or relatives of victims;
- (d) providing, in the case of interim measures for urgent reparation payable over a period of time, for the revision, and, in appropriate cases, for the discontinuance or reduction of any reparation so paid; 15
- (e) prohibiting the cession, attachment or assignment of any such reparation so granted;
- (f) determining that any such reparation received in terms of a recommendation shall not form part of the estate of the recipient, should such estate be sequestrated; 20
- (g) providing for the payment or reimbursement of expenses incurred in respect of travel and accommodation by persons attending any hearing of the Commission in compliance with a subpoena issued in terms of this Act;
- (h) with regard to any matter relating to the affairs of the Fund, established in terms of section 42; 25
- (i) with regard to any matter which the President deems necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Any regulation made in terms of subsection (1) which may result in the expenditure of State money shall be made in consultation with the Minister and the Minister of Finance. 30

Liability of Commission, commissioners and members of staff

41. (1) Subject to the provisions of subsection (2), the State Liability Act, 1957 (Act No. 20 of 1957), shall apply, with the necessary changes, in respect of the Commission, a member of its staff and a commissioner, and in such application a reference in that Act to "the State" shall be construed as a reference to "the Commission", and a reference to "the Minister of the department concerned" shall be construed as a reference to the Chairperson of the Commission. 35

(2) No—

- (a) commissioner; 40
- (b) member of the staff of the Commission; or
- (c) person who performs any task on behalf of the Commission,

shall be liable in respect of anything reflected in any report, finding, point of view or recommendation made or expressed in good faith and submitted or made known in terms of this Act. 45

President's Fund

42. (1) The President may, in such manner as he or she may deem fit, in consultation with the Minister and the Minister of Finance, establish a Fund into which shall be paid—

- (a) all money appropriated by Parliament for the purposes of the Fund; and 50
- (b) all money donated or contributed to the Fund or accruing to the Fund from any source.

(2) There shall be paid from the Fund all amounts payable to victims by way of reparation in terms of regulations made by the President.

- (h) enige voorwerp wat verband hou met of in afwagting van enige ondersoek of verrigtinge ingevolge hierdie Wet vernietig, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar, of met beide sodanige boete en 5 gevangenisstraf.

Regulasies

40. (1) Die President kan regulasies uitvaardig—
- (a) wat enigiets voorskryf wat nodig is om voorgeskryf te word vir die behoorlike toepassing van hierdie Wet;
- 10 (b) wat die besoldiging en toelaes en ander voordele, as daar is, van kommissarisse voorskryf: Met dien verstande dat sodanige vergoeding nie minder mag wees as dié van 'n regter van die Hooggeregshof van Suid-Afrika nie;
- (c) wat die persone bepaal wat vir die doeleindes van hierdie Wet as die afhanklikes of familie van slagoffers beskou word;
- 15 (d) wat voorsiening maak, in die geval van tussentydse maatreëls vir dringende herstel wat oor 'n tydperk betaalbaar is, vir die hersiening, en, in toepaslike gevalle, vir die beëindiging of vermindering van enige herstel wat aldus betaal word;
- (e) wat die sessie van, beslaglegging op of afstanddoening van enige herstel wat 20 aldus verleen word, verbied;
- (f) wat bepaal dat enige sodanige herstel wat ingevolge 'n aanbeveling ontvang word nie deel van die boedel van die ontvanger uitmaak indien so 'n boedel gesekwestreer word nie;
- 25 (g) wat voorsiening maak vir die betaling of vergoeding van uitgawes wat ten opsigte van reis en verblyf aangegaan word deur persone wat 'n verhoor van die Kommissie bywoon ter nakoming van 'n dagvaarding wat ingevolge hierdie Wet uitgereik is;
- (h) met betrekking tot enige aangeleentheid betreffende die sake van die Fonds ingevolge artikel 42 ingestel;
- 30 (i) met betrekking tot enige aangeleentheid wat die President nodig of wenslik ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.
- (2) 'n Regulasie ingevolge subartikel (1) uitgevaardig wat die uitgawe van Staatsgeld kan meebring, word in oorleg met die Minister en Minister van Finansies uitgevaardig.

Aanspreeklikheid van Kommissie, kommissarisse en lede van personeel

- 35 41. (1) Behoudens die bepalings van subartikel (2) is die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957), met die nodige aanpassings, ten opsigte van die Kommissie, 'n lid van sy personeel en 'n kommissaris van toepassing, en by sodanige toepassing word 'n verwysing in daardie Wet na "die Staat" uitgelê as 'n verwysing na "die Kommissie" en 'n verwysing na "die Minister van die betrokke departement"
- 40 uitgelê as 'n verwysing na die Voorsitter van die Kommissie.
- (2) Geen—
- (a) kommissaris;
- (b) lid van die personeel van die Kommissie; of
- (c) persoon wat enige taak ten behoeve van die Kommissie verrig,
- 45 is aanspreeklik ten opsigte van enigiets weerspieël in 'n verslag, bevinding, standpunt of aanbeveling te goeder trou gemaak en ingevolge hierdie Wet voorgelê of bekend gemaak nie.

Presidentsfonds

- 50 42. (1) Die President kan op die wyse wat hy of sy goedvind, in oorleg met die Minister en die Minister van Finansies, 'n Fonds instel waarin gestort word—
- (a) alle geld deur die Parlement vir die doeleindes van die Fonds bewillig; en
- (b) alle geld wat aan die Fonds geskenk of wat tot die Fonds bygedra word of wat die Fonds uit enige bron toeval.
- (2) Daar moet uit die Fonds betaal word alle bedrae wat aan slagoffers as herstel 55 betaalbaar is ingevolge regulasies uitgevaardig deur die President.

(3) Any money of the Fund which is not required for immediate use may be invested with a financial institution approved by the Minister of Finance and may be withdrawn when required.

(4) Any unexpended balance of the money of the Fund at the end of a financial year, shall be carried forward as a credit to the Fund for the next financial year.

(5) The administrative work, including the receipt of money appropriated by Parliament for, or donated for the purposes of, the Fund or accruing to the Fund from any source, and the making of payments from the Fund in compliance with a recommendation in terms of this Act, shall be performed by officers in the Public Service designated by the Minister.

(6) The Minister shall appoint an officer designated under subsection (5) as accounting officer in respect of the Fund.

(7) The Auditor-General shall audit the Fund and all financial statements relating thereto, and the provisions of section 6 of the Auditor-General Act, 1989 (Act No. 52 of 1989), shall apply in respect of any such audit.

Completion of report by Commission and dissolution of Commission

43. (1) Subject to the provisions of subsection (2), the Commission shall within a period of 18 months from its constitution or the further period, not exceeding six months, as the President may determine, complete its work.

(2) The Commission shall within three months, from the date contemplated in subsection (1), complete its final report.

(3) The Commission shall be dissolved on a date determined by the President by proclamation in the *Gazette*.

Publication of final report of Commission

44. The President shall, in such manner as he or she may deem fit, bring the final report of the Commission to the notice of the Nation, among others, by laying such report, within two months after having received it, upon the Table in Parliament.

Approach to and review by joint committee of, and reports to, Parliament

45. (1) (a) The Commission may, at any time, approach the joint committee with regard to any matter pertaining to the functions and powers of the Commission.

(b) The Minister may at any time approach the joint committee with regard to any matter pertaining to functions and powers which may be performed or exercised by him or her in terms of this Act.

(c) The joint committee may at any time review any regulation made under section 40 and request the President to amend certain regulations or to make further regulations in terms of that section.

(2) The Commission shall submit to Parliament half-yearly financial reports: Provided that the Commission may, at any time, submit a financial report to Parliament on specific or general matters if—

- (a) it deems it necessary;
- (b) it deems it in the public interest;
- (c) it requires the urgent attention of, or an intervention by, Parliament;
- (d) it is requested to do so by the Speaker of the National Assembly or the President of the Senate.

Chief executive officer, secretaries, expenditure and estimates of Commission

46. (1) The Commission shall appoint in its service a person as the chief executive officer of the Commission and four other persons as secretaries to the Commission, the Committee on Human Rights Violations, the Committee on Amnesty and the Committee on Reparation and Rehabilitation, respectively.

(2) The chief executive officer—

- (a) shall for the purposes of section 15 of the Exchequer Act, 1975 (Act No. 66 of 1975), be the accounting officer in respect of all State moneys received in respect of and paid out of the account of the Commission referred to in

(3) Enige geld van die Fonds, wat nie benodig word vir onmiddellike gebruik nie, kan by 'n finansiële instelling wat deur die Minister van Finansies goedgekeur is, belê word en kan onttrek word wanneer dit benodig word.

(4) 'n Onbestede saldo van die geld van die Fonds aan die einde van die boekjaar, word oorgedra as 'n krediet ten gunste van die Fonds vir die volgende boekjaar.

(5) Die administratiewe werk, met inbegrip van die ontvangs van geld deur die Parlement vir die Fonds bewillig of wat vir die doeleindes van die Fonds geskenk word of wat aan die Fonds uit enige bron toeval, en die doen van betalings uit die Fonds ter voldoening aan 'n aanbeveling ingevolge hierdie Wet, word verrig deur beamptes in die Staatsdiens wat deur die Minister aangewys word.

(6) Die Minister moet 'n beampte, wat kragtens subartikel (5) aangewys word, as rekenpligtige beampte ten opsigte van die Fonds aanwys.

(7) Die Ouditeur-generaal moet die Fonds en alle finansiële state wat daarop betrekking het, ouditeer, en die bepalings van artikel 6 van die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989), is ten opsigte van so 'n oudit van toepassing.

Voltooiing van verslag deur Kommissie en ontbinding van Kommissie

43. (1) Behoudens die bepalings van subartikel (2), moet die Kommissie binne 'n tydperk van 18 maande vanaf sy samestelling of die verdere tydperk, maar hoogstens ses maande, wat die President bepaal sy werk voltooi.

(2) Die Kommissie moet binne drie maande, vanaf die datum beoog in subartikel (1), sy finale verslag voltooi.

(3) Die Kommissie moet op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal, ontbind word.

25 Publikasie van finale verslag van Kommissie

44. Die President moet op die wyse wat hy of sy goedvind die finale verslag van die Kommissie onder die aandag van die Nasie bring, onder meer, deur daardie verslag, binne twee maande na ontvangs daarvan, in die Parlement ter Tafel te lê.

30 Nader van en hersiening deur gesamentlike komitee van, en verslae aan, Parlement

45. (1) (a) Die Kommissie kan te eniger tyd die gesamentlike komitee nader in verband met enige aangeleentheid wat met die werksaamhede en bevoegdhede van die Kommissie verband hou.

(b) Die Minister kan te eniger tyd die gesamentlike komitee nader in verband met enige aangeleentheid wat verband hou met werksaamhede en bevoegdhede wat deur hom of haar ingevolge hierdie Wet verrig of uitgevoer kan word.

(c) Die gesamentlike komitee kan te eniger tyd enige regulasies kragtens artikel 40 uitgevaardig, hersien en die President versoek om sekere regulasies te wysig of om verdere regulasies ingevolge daardie artikel te maak.

(2) Die Kommissie moet halfjaarlikse finansiële verslae aan die Parlement voorlê. Met dien verstande dat die Kommissie, te eniger tyd, 'n finansiële verslag oor bepaalde of algemene aangeleenthede aan die Parlement kan voorlê, indien—

(a) hy dit nodig ag;

(b) hy dit in die openbare belang ag;

(c) dit dringend die aandag van, of 'n ingryping deur, die Parlement vereis;

(d) hy aldus versoek word deur die Speaker van die Nasionale Vergadering of die President van die Senaat.

Hoof- uitvoerende beampte, sekretarisse, uitgawes en begroting van Kommissie

46. (1) Die Kommissie stel 'n persoon in sy diens aan as die hoof- uitvoerende beampte van die Kommissie en vier ander persone as sekretarisse van onderskeidelik die Kommissie, die Komitee oor Skendings van Menseregte, die Komitee oor Amnestie en die Komitee oor Herstel en Rehabilitasie.

(2) Die hoof- uitvoerende beampte—

(a) is by die toepassing van artikel 15 van die Skatkiswet, 1975 (Wet No. 66 van 1975), die rekenpligtige beampte ten opsigte van alle Staatsgeld wat ten behoeve van die rekening van die Kommissie bedoel in subartikel (4)

subsection (4), and shall keep proper accounting records of all financial transactions of the Commission;

- (b) shall carry out such duties and perform such functions as the Commission may from time to time impose upon or assign to him or her in order to achieve the objectives of the Commission.

(3) The expenses in connection with the exercise of the powers, the performance of the functions and the carrying out of the duties of the Commission shall be defrayed out of money appropriated by Parliament for that purpose.

(4) The Commission shall, in consultation with the Minister of Finance, open an account with a banking institution, into which shall be deposited all moneys appropriated as mentioned in subsection (3) and from which all money required to pay for the expenses so mentioned shall be paid.

(5) (a) The Commission shall within three months from the date referred to in section 7(3), for the first financial year, and thereafter in each financial year for the following financial year, in a format determined by the Audit Commission established by section 2 of the Audit Arrangements Act, 1992 (Act No. 122 of 1992), prepare the necessary estimate of revenue and expenditure of the Commission, which shall, after consultation with the said Audit Commission, be submitted to the Minister for his or her approval, granted in concurrence with the Minister of Finance, for furtherance in terms of subsection (3).

(b) The Commission shall not incur any expenditure which exceeds the total amount approved in terms of paragraph (a).

(6) As from the date on which the Commission is dissolved in terms of section 43(3) and after all the expenses referred to in subsection (3) have been paid, the account opened in terms of subsection (4) shall be closed and the balance of the moneys deposited into that account, if any, shall be transferred to the *fiscus*.

Consequences of dissolution

47. (1) As from the date on which the Commission is dissolved in terms of section 43(3), all the funds and property which vested in the President's Fund immediately prior to that date shall be transferred to the Disaster Relief Fund referred to in Chapter II of the Fund-raising Act, 1978 (Act No. 107 of 1978), and shall vest in the Disaster Relief Fund.

(2) After the date referred to in subsection (1), all the funds and property which would have accrued to the President's Fund, if the Commission had not been dissolved, shall vest in the Disaster Relief Fund.

(3) Any funds or property which, by trust, donation or bequest were vested in, or would have accrued to, the President's Fund, and which vest in the Disaster Relief Fund in terms of subsection (1), shall be dealt with by the board of the Disaster Relief Fund in accordance with the conditions of such trust, donation or bequest.

(4) As from the date referred to in subsection (1) the liabilities incurred by the Commission or the President's Fund in terms of this Act, shall pass to the Disaster Relief Fund: Provided that such a liability shall be defrayed only from funds or property which vest in the Disaster Relief Fund in terms of this section.

(5) No transfer duty, stamp duty or registration fees shall be payable in respect of the acquisition of any funds or property in terms of this section.

Acts repealed

48. (1) The Indemnity Act, 1990 (Act No. 35 of 1990), the Indemnity Amendment Act, 1992 (Act No. 124 of 1992), and the Further Indemnity Act, 1992 (Act No. 151 of 1992), are hereby repealed.

(2) Any indemnity granted under the provisions of the Indemnity Act, 1990, the Indemnity Amendment Act, 1992, or the Further Indemnity Act, 1992, shall remain in force notwithstanding the repeal of those Acts.

(3) Any temporary immunity or indemnity granted under an Act repealed in terms of subsection (1) shall remain in force for a period of 12 months after the date referred to in section 7(3) notwithstanding the repeal of that Act.

ontvang is en daaruit betaal word, en hou behoorlike rekeningkundige aantekeninge van alle finansiële transaksies van die Kommissie;

(b) verrig die pligte en voer die werksaamhede uit wat die Kommissie van tyd tot tyd aan hom of haar oplê of toewys ten einde die oogmerke van die Kommissie te bereik.

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(3) Die uitgawes verbonde aan die uitoefening van die bevoegdhede, die verrigting van die werksaamhede en die uitvoering van die pligte van die Kommissie word bestry uit geld wat die Parlement vir dié doel bewillig.

(4) Die Kommissie open 'n rekening by 'n bankinstelling in oorleg met die Minister van Finansies, waarin alle geld bewillig soos in subartikel (3) vermeld, gedeponeer word en waaruit alle geld betaal word wat nodig is om uitgawes aldus vermeld, te bestry.

(5) (a) Die Kommissie moet binne drie maande vanaf die datum bedoel in artikel 7(3), vir die eerste boekjaar, en daarna in elke boekjaar vir die daaropvolgende boekjaar, in 'n formaat bepaal deur die Ouditkommissie ingestel by artikel 2 van die Ouditreëlingswet, 1992 (Wet No. 122 van 1992), die nodige begroting van inkomste en uitgawes van die Kommissie opstel wat, na oorleg met die genoemde Ouditkommissie, aan die Minister voorgelê word vir sy of haar goedkeuring, verleen met die instemming van die Minister van Finansies, vir bevordering ingevolge subartikel (3).

(b) Die Kommissie gaan nie uitgawes aan wat die totale bedrag goedgekeur ingevolge paragraaf (a) oorskry nie.

(6) Vanaf die datum waarop die Kommissie ingevolge artikel 43(3) ontbind word en nadat alle uitgawes bedoel in subartikel (3) betaal is, word die rekening geopen ingevolge subartikel (4), gesluit en die saldo van die geld wat in daardie rekening gedeponeer is, na die fiskus oorgeplaas.

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Gevolge van ontbinding

47. (1) Vanaf die datum waarop die Kommissie ontbind word ingevolge artikel 43(3), word alle fondse en eiendom wat onmiddellik voor daardie datum in die Presidentsfonds gevestig het na die Rampnoodlenigingsfonds bedoel in Hoofstuk II van die Wet op Fondsinsameling, 1978 (Wet No. 107 van 1978), oorgedra en vestig dit in die Rampnoodlenigingsfonds.

(2) Na die datum in subartikel (1) bedoel, vestig al die fondse en eiendom wat die Presidentsfonds sou toegeval het, indien die Kommissie nie ontbind is nie, in die Rampnoodlenigingsfonds.

(3) Enige fondse of eiendom wat uit hoofde van 'n trust, skenking of bemaking in die Presidentsfonds gevestig het, of hom sou toegeval het, en ingevolge subartikel (1) in die Rampnoodlenigingsfonds vestig, moet deur die raad van die Rampnoodlenigingsfonds mee gehandel word ooreenkomstig die voorwaardes van die trust, skenking of bemaking.

(4) Vanaf die datum in subartikel (1) bedoel, gaan die verpligtinge deur die Kommissie of Presidentsfonds wat ingevolge hierdie Wet opgeloop het oor op die Rampnoodlenigingsfonds: Met dien verstande dat die nakoming van so 'n verpligting slegs bestry word uit fondse of eiendom wat ingevolge hierdie artikel in die Rampnoodlenigingsfonds vestig.

(5) Geen hereregte, seëlregte of registrasiegelde is betaalbaar ten opsigte van die verkryging van enige fondse of eiendom ingevolge hierdie artikel nie.

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Wette herroep

48. (1) Die Wet op Vrywaring, 1990 (Wet No. 35 van 1990), die Wysigingswet op Vrywaring, 1992 (Wet No. 124 van 1992), en die Wet op Verdere Vrywaring, 1992 (Wet No. 151 van 1992), word hierby herroep.

(2) Enige vrywaring verleen kragtens die bepalings van die Wet op Vrywaring, 1990, die Wysigingswet op Vrywaring, 1992, of die Wet op Verdere Vrywaring, 1992, bly van krag ondanks die herroeping van daardie Wette.

(3) Enige tydelike immunitet of vrywaring verleen kragtens 'n Wet herroep ingevolge subartikel (1) bly, ondanks die herroeping van daardie Wet, van krag vir 'n tydperk van 12 maande na die datum bedoel in artikel 7(3).

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Short title and commencement

49. This Act shall be called the Promotion of National Unity and Reconciliation Act, 1995, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Kort titel en inwerkingtreding

49. Hierdie Wet word die Wet op die Bevordering van Nasionale Eenheid en Versoening, 1995, genoem en tree in werking op 'n dag bepaal deur die President by proklamasie in die *Staatskoerant*.

