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EXTRAORDINARY



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House of Assembly,
19th April, 1939.

The following Bills, having been introduced into the House of Assembly, are published in accordance with Standing Order No. 160.

DANL. H. VISSER,
Clerk of the House of Assembly.

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Volksraad,
19 April 1939.

Die volgende Wetsontwerpe, ingedien in die Volksraad, word gepubliseer ingevolge Art. 160 van die Reglement van Orde.

DANL. H. VISSER,
Klerk van die Volksraad.

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BILL

**To provide for the regulation of hours and conditions
of work in shops and offices and for matters
incidental thereto.**

(SELECT COMMITTEE.)

B E IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Definitions.

1. In this Act, unless inconsistent with the context—
 “area” includes any number of areas whether or not 5
 contiguous ;
 “commercial traveller” means an employee employed exclusively to travel from place to place for the purpose of obtaining orders for goods, and includes an assistant travelling with any such employee ; 10
 “designated area” means an area designated by the Minister under section *three* ;
 “designated inspector” means the officer designated by regulation as an inspector in respect of any area ;
 “director” means a person duly appointed as a director 15
 of a company, who controls the business of that company, or is a member of a body or group of persons so appointed who control the business of such company ;
 “emergency work” means any work which, owing to 20
 causes such as fire, storm, accident, act of violence or theft, must be done without delay ;
 “employee” means any person employed by, or working for any employer, in or in connection with a shop or in an office, and receiving, or being entitled to receive, 25
 any remuneration, and any other person whatsoever who in any manner assists an employer in the carrying on of any business in a shop, or the doing of any work performed in an office, but does not include a director or a person employed exclusively as a commercial traveller, pedlar, caretaker or watchman or in the delivery of goods or in the cleaning of premises or in the tending or harnessing of animals ; and “employed” and “employment” have corresponding meanings ; 30
 “employer” means any person carrying on business in a shop, or conducting an office, who employs or provides work for any person in or in connection with such shop or in such office and remunerates or expressly or tacitly undertakes to remunerate him, 40
 or who permits any person whatsoever in any manner to assist him in the carrying on of his business in such shop or the doing of the work performed in such office ; and “employ” and “employment” have corresponding meanings ; 45
 “increased hours” means that portion of any period during which an employee works for his employer during any one week or any one day, as the case may be, which is in excess of the hours prescribed in paragraph (a) or (h), respectively, of sub-section (1) 50
 of section *four*, and is spent by such employee in the performance of work which cannot reasonably be performed during ordinary working hours but does not include any period during which such employee performs any emergency work or any work in terms 55
 of paragraph (a) or (b) of sub section (2) of the said section ;
 “inspector”, means an inspector appointed under section *thirteen* ;
 “local authority” includes any municipal council, borough 60
 council, town council, village council, town board, village management board, local board, health board, divisional council and any like institution ;
 “manager” means an employee who has authority to engage and dismiss employees or who supervises or controls the work of not less than ten whole-time employees ; 65

WETSONTWERP

**Om voorsiening te maak vir die reëling van werkure
en -voorwaardes in winkels en kantore en vir
daarmee in verband staande sake.**

(GEKOSE KOMITEE.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

1. Tensy uit die samehang anders blyk, beteken in hierdie Woordbepaling.
- 5 Wet—
 - „gebied”, ook enige aantal gebiede, hetsy al dan nie aangrensend;
 - „handelsreisiger”, 'n werknemer wat uitsluitlik in diens is om van plek na plek te reis ten einde bestellings vir goedere te verkry, en ook 'n assistent wat met so 'n werknemer saamreis;
 - 10 „aangewese gebied”, 'n gebied deur die Minister ingevolge artikel *drie* aangewys;
 - „aangewese inspekteur”, die amptenaar by regulasie aangewys as 'n inspekteur ten opsigte van een of ander gebied;
 - 15 „direkteur” iemand wat behoorlik aangestel is as 'n direkteur van 'n maatskappy en wat die besigheid van daardie maatskappy beheer, of lid is van 'n liggamaan of groep van aldus aangestelde persone wat die besigheid van bedoelde maatskappy beheer;
 - 20 „noodwerk”, werk wat weens oorsake soos brand, storm, ongeluk, gewelddaad of diefstal sonder versuim verrig moet word;
 - 25 „werknemer”, iemand wat by 'n werkgewer in diens is of vir hom werk in of in verband met 'n winkel of in 'n kantoor, en wat 'n besoldiging ontvang of op besoldiging geregtig is, en enig iemand anders wie ookal wat op enige wyse 'n werkgewer bystaan by die dryf van enige besigheid in 'n winkel of die verrigting van enige werk wat in 'n kantoor gedoen word; maar omvat nie 'n direkteur nie of iemand wat uitsluitlik in diens is as 'n handelsreisiger, venter, opsigter of nagwag, of in verband met die aflewering van goedere of die skoonmaak van 'n perseel of die oppas of inspan van diere; en „in diens” en „diens” het ooreenkomsstige betekenis;
 - 30 „werkgewer”, iemand wat besigheid dryf in 'n winkel of wat 'n kantoor hou, en wat enige persoon in diens het of aan hom werk verskaf in of in verband met die winkel of in die kantoor, en daardie persoon besoldig of uitdruklik of stilswyend onderneem om hom te besoldig, of wat enige persoon hoegenaamd toelaat om hom op enige wyse by te staan by die dryf van sy besigheid in die winkel of by die verrigting van die werk wat in die kantoor gedoen word; en „in diens” en „diens” het ooreenkomsstige betekenis;
 - 35 „verlengde ure”, daardie gedeelte van enige tydperk gedurende welke 'n werknemer vir sy werkgewer in een week of op een dag werk, na gelang van die geval, wat meer is as die ure in paragraaf (a) of (b), respektieflik, van sub-artikel (1) van artikel *vier* voorgeskryf, en deur die werknemer gewy word aan die verrigting van werk wat nie redelikerwyse gedurende gewone werkure verrig kan word nie, maar nie ook 'n tydperk gedurende welke die werknemer noodwerk of werk ingevolge paragraaf (a) of (b) van sub-artikel (2) van genoemde artikel verrig nie;
 - 40 „inspekteur”, 'n inspekteur ingevolge artikel *dertien* aangestel;
 - 45 „plaaslike bestuur” ook 'n munisipale raad, stadsraad, dorpsraad, dorpskomitee, dorpsbestuursraad, plaaslike raad, gesondheidsraad, afdelingsraad en enige dergelike instelling;
 - 50 „bestuurder”, 'n werknemer wat bevoegdheid besit om werknemers in diens te neem en te ontslaan of wat toesig hou of beheer het oor die werk van minstens tien voltydse werknemers;
 - 55 „bestuurder”, 'n werknemer wat bevoegdheid besit om werknemers in diens te neem en te ontslaan of wat toesig hou of beheer het oor die werk van minstens tien voltydse werknemers;
 - 60 „bestuurder”, 'n werknemer wat bevoegdheid besit om werknemers in diens te neem en te ontslaan of wat toesig hou of beheer het oor die werk van minstens tien voltydse werknemers;
 - 65 „bestuurder”, 'n werknemer wat bevoegdheid besit om werknemers in diens te neem en te ontslaan of wat toesig hou of beheer het oor die werk van minstens tien voltydse werknemers;

"Minister" means the Minister of Labour, or any other Minister of State acting in his stead, or any other Minister of State to whom the Governor-General may from time to time assign the administration of this Act; 5

"office" means any premises in which there is performed bookkeeping, typewriting or any other clerical work whatsoever; 10

"officer" means a person on the fixed establishment of the public service or an inspector; 10

"premises" includes any land, structure, vehicle or vessel; 15

"prescribed" means prescribed by regulation;

"regulation" means a regulation made under this Act;

"shop" means— 15

- (a) any premises in or upon which any goods are sold or offered for sale by wholesale, retail or public auction;
- (b) any premises in or upon which any goods sold or intended for sale as aforesaid are received, stored, packed or unpacked or from which they are despatched; 20
- (c) any premises used as a hairdresser's or barber's saloon;
- (d) any premises used as a receiving depot for articles of clothing or other soft goods which are to be laundered, dry-cleaned or dyed; and 25
- (e) any premises in or upon which shoes, boots or articles of clothing are repaired, or which are used as a receiving depot for any such goods which are to be repaired; 30

"spreadover" in relation to any employee, means the period in any one day reckoned from the time when such employee begins work to the time when he ceases work for that day; 35

"this Act" includes any regulation made thereunder;

"week" means a period of seven days commencing at midnight on a Sunday.

Application of Act.

2. (1) This Act shall not apply in respect of— 40
 - (a) any office (other than an office in which work is performed as part of the business carried on in a shop), or any employee employed in any such office, except in so far as it has been applied in respect of such office or employee under sub-section (2) or (3);
 - (b) any employee doing work in or for any charitable institution in connection with the sale of goods, for which he receives no remuneration; 45
 - (c) any employee employed—
 - (i) exclusively in any portion of a shop which is registered as a factory under the Factories Act, 1918; 50
 - (ii) in a sample room of a commercial traveller, in other than a designated area;
 - (iii) by a baker solely in the making or baking of bread, biscuits, cakes, pastry or similar products; 55
 - (iv) by a wholesale butcher solely in the slaughtering of animals or in the dressing, hanging or loading of meat;
 - (v) in premises in respect of which any person holds or is required to hold a licence (other than a bottle liquor licence) under the Liquor Act, 1928; 60
 - (vi) in any premises used as an hotel or boarding house: Provided that this sub-paragraph shall not apply in respect of any employee employed in any portion of such premises which is used as a restaurant or refreshment or tea room; 65
 - (vii) (otherwise than exclusively or mainly in connection with the sale of goods) in premises in respect of which any person holds or is required to hold a licence under Item 15 of Part I of the Second Schedule of the Licences Consolidation Act, 1925;
 - (viii) by a *bona fide* farmer in connection with the sale on any land occupied by him for farming purposes of any produce raised by him on that land, or in connection with the storing of such produce upon such land; 75
 - (ix) in connection with any sale of goods held at any agricultural, horticultural or similar show promoted by a society or association recognized by 80

- „Minister”, die Minister van Arbeid of enige ander Staatsminister wat namens hom optree, of enige ander Staatsminister aan wie die Goewerneur-generaal van tyd tot tyd die uitvoering van hierdie Wet mag opdra;
- 5 „kantoor”, 'n perseel waarin boekhou, tikwerk of enige ander klerklike werk hoegenaamd gedoen word;
- „amptenaar”, 'n persoon op die vaste diensstaat van die staatsdiens of 'n inspekteur;
- 10 „perseel”, ook enige grond, struktuur, voer- of vaartuig;
- „voorgeskrewe”, by regulasie voorgeskrewe;
- „regulasie”, 'n regulasie ingevolge hierdie Wet uitgevaardig;
- „winkel”—
- 15 (a) 'n perseel waarin of waarop goedere verkoop of te koop aangebied word by wyse van groot- of kleinhandel of openbare veiling;
- (b) 'n perseel waarin of waarop goedere wat soos voormald verkoop of vir verkoop bestem is, ontvang, gebêre, in- of uitgepak word, of vanwaar hulle versend word;
- 20 (c) 'n perseel wat as 'n haarkappers- of barbierswinkel gebruik word;
- (d) 'n perseel wat as 'n ontvangslokaal gebruik word vir kledingstukke of ander weefstowwe wat gewas, uitgestoom of geverf moet word; en
- 25 (e) 'n perseel waarin of waarop skoene, stewels of kledingstukke gerepareer word, of wat gebruik word as 'n ontvangslokaal vir enige sulke goedere wat gerepareer moet word;
- 30 „werkdag” met betrekking tot 'n werknemer, die tydperk op een dag, bereken vanaf die tydstip waarop die werknemer begin werk tot die tydstip waarop hy sy werk vir daardie dag staak;
- „hierdie Wet”, ook enige regulasie wat uit kragte daarvan uitgevaardig word;
- 35 „week”, 'n tydperk van sewe dae met ingang vanaf middernag op 'n Sondag.
2. (1) Hierdie Wet is nie van toepassing nie ten opsigte **Toepassing van Wet.**
- 40 (a) 'n kantoor (uitgesonderd 'n kantoor waarin werk gedoen word as deel van die besigheid wat in 'n winkel gedryf word), of 'n werknemer wat in so 'n kantoor in diens is, behalwe vir sover dit kragtens sub-artikel (2) of (3) ten opsigte van sodanige kantoor of werknemer van toepassing verklaar is;
- 45 (b) 'n werknemer wat in of vir 'n liefdadigheidsinrigting in verband met die verkoop van goedere werk doen waarvoor hy geen besoldiging ontvang nie;
- (c) 'n werknemer wat in diens is—
- 50 (i) uitsluitlik in 'n gedeelte van 'n winkel wat kragtens die Fabriekswet, 1918, as 'n fabriek geregistreer is;
- (ii) in 'n monsterlokaal van 'n handelsreisiger, in 'n gebied wat nie 'n aangewese gebied is nie;
- 55 (iii) by 'n bakker alleenlik om brood, beskuit, koek, pastei of soortgelyke produkte te maak of te bak;
- (iv) by 'n groothandelslagter alleenlik om diere te slag en om vleis te dresseer, op te hang of op te laai;
- 60 (v) in 'n perseel ten opsigte waarvan iemand 'n lisensie (behalwe 'n bottel-dranklisensie) ingevolge die Drankwet, 1928, hou of verplig is om te hou;
- (vi) in 'n perseel wat as hotel of losieshuis gebruik word: Met dien verstande dat hierdie sub-paragraaf nie van toepassing is nie ten opsigte van 'n werknemer wat in diens is in 'n gedeelte van sodanige perseel wat as 'n restaurant of verversingslokaal of teekamer gebruik word;
- 65 (vii) (anders as uitsluitlik of hoofsaaklik in verband met die verkoop van goedere) in 'n perseel ten opsigte waarvan iemand 'n lisensie ingevolge Item 15 van Deel I van die Tweede Bylae van die „Licenties Konsolidatie Wet, 1925”, hou of verplig is om te hou;
- 70 (viii) by 'n *bona fide* boer in verband met die verkoop op grond wat deur hom vir boerderydoeleindes bewoon word, van enige produkte deur hom op daardie grond gekweek, of in verband met die beringing van sulke produkte op sodanige grond;
- 75 (ix) in verband met enige verkoop van goedere gehou by 'n landbou-, tuinbou- of soortgelyke tentoonstelling op tou gesit deur 'n vereniging of genoot-

the Minister for the purposes of exemption under this sub-paragraph ;

(x) by the Government of the Union (including the railway administration) or a provincial administration ;

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(xi) in any premises which are maintained wholly or partly from public funds and are used primarily for purposes of education or vocational training.

(2) (a) The Minister may by notice in the *Gazette* declare one or more or all of the provisions of this Act to apply, as from a date specified in such notice, in respect of offices of a class specified therein, or in respect of such offices in an area so specified, and in respect of employees employed in any such offices.

(b) Before the publication in the *Gazette* of a notice in terms of paragraph (a), the Minister shall cause to be published in the *Gazette* a preliminary notice—

(i) stating the class of office, or the class of office and the area which he proposes to specify in such first mentioned notice, and the provisions of this Act which he proposes so to apply ; and

(ii) calling upon all interested persons who have any objections to the proposed provisions of such first mentioned notice to lodge their objections in writing with an officer mentioned in the preliminary notice within thirty days of publication thereof.

(c) If, after considering any objections lodged in terms of paragraph (b), the Minister considers it advisable to amend the said proposed provisions to an extent which the Minister considers to be material, he shall cause an amended preliminary notice complying with the provisions of paragraph (b) to be published.

(d) In specifying any class of office in terms of paragraph (a) the Minister may apply such method of discrimination or differentiation as he may deem advisable.

(e) The Minister shall cause to be published in one or more newspapers within seven days of the publication in the *Gazette*, of any notice or preliminary notice referred to in paragraph (a), (b) or (c), a statement directing the attention of all concerned to such notice.

(3) The Minister may by like procedure cancel or amend any notice published under sub-section (2).

(4) The Minister may by notice in the *Gazette*, and as from a date or for a period and in respect of any area specified in such notice suspend from time to time one, or more or all of the provisions of this Act in so far as they apply to persons upon whom an agreement, notice or award published or made, or deemed to have been published or made under the Industrial Conciliation Act, 1937, or a determination made, or deemed to have been made under the Wage Act, 1937, is binding, whether or not such agreement, notice, award or determination has been published or made before or after the commencement of this Act.

Minister may designate areas in which certain provisions of this Act shall apply.

3. The Minister may by notice in the *Gazette* designate any area as being, from a date specified in such notice, an area within which the provisions of paragraphs (b) and (h) of sub-section (1) of section four and paragraphs (b) and (d) of sub-section (2) of the said section shall apply, and cancel or amend any such notice.

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Hours of work of employees.

4. (1) No employer shall require or permit any employee—

(a) to work for more than forty-six hours in any one week
or

(b) to work, in a designated area, on any day for a spread-over which exceeds the total number of hours during which the employee has been working for him on that day, by more than two hours : Provided that the provisions of this paragraph shall not apply in respect of any employee who is employed in or in connection with a restaurant or a refreshment or tea room or eating house ; or

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- skap wat vir vrystellingsdoeleindes ingevolge hierdie sub-paragraaf deur die Minister erken word;
- (x) by die Unie-regering (met inbegrip van die spoorwegadministrasie) of 'n provinsiale administrasie;
- (xi) in 'n perseel wat geheelal of gedeeltelik uit staatsgelde in stand gehou en hoofsaaklik vir doeleindes van opvoeding of beroepsleiding gebruik word.
- (2) (a) Die Minister kan by kennisgewing in die *Staatskoerant* een of meer van of al die bepalings van hierdie Wet van toepassing verklaar vanaf 'n datum in die kennisgewing vermeld, ten opsigte van 'n daarin bepaalde kategorie van kantore, of ten opsigte van sodanige kantore in 'n aldus bepaalde gebied, en ten opsigte van werknemers wat in enige sodanige kantore in diens is.
- (b) Voor die bekendmaking van 'n kennisgewing in die *Staatskoerant* ingevolge paragraaf (a), laat die Minister 'n voorlopige kennisgewing in die *Staatskoerant* afkondig waarin—
- (i) die kategorie van kantore, of die kategorie van kantore en die gebied wat hy voornemens is om in sodanige eersgenoemde kennisgewing te bepaal, en die bepalings van hierdie Wet wat hy voornemens is om aldus toe te pas, vermeld word; en
- (ii) alle belanghebbende persone wat enige beswaar het teen die voorgenome bepalings van sodanige eersgenoemde kennisgewing aangesê word om hul besware skriftelik in te dien by 'n in die voorlopige kennisgewing vermelde amptenaar binne dertig dae na bekendmaking daarvan.
- (c) Indien die Minister, nadat hy enige besware wat ooreenkomsdig paragraaf (b) ingedien is, in oorweging geneem het, dit raadsaam ag om genoemde voorgenome bepalings tot 'n mate wat die Minister wesenlik ag, te wysig, laat die Minister 'n gewysigde voorlopige kennisgewing afkondig, wat voldoen aan die bepalings van paragraaf (b).
- (d) By die bepaling van enige kategorie van kantore ingevolge paragraaf (a) kan die Minister volgens enige metode wat hy raadsaam ag onderskei of verskil maak.
- (e) Binne sewe dae na die bekendmaking in die *Staatskoerant* van enige in paragraaf (a), (b) of (c) bedoelde kennisgewing, of voorlopige kennisgewing, laat die Minister in een of meer nuusblaaie 'n verklaring afkondig waarin die aandag van alle betrokke persone by sodanige kennisgewing bepaal word.
- (3) Die Minister kan deur soortgelyke prosedure enige ingevalle sub-artikel (2) bekendgemaakte kennisgewing intrek of wysig.
- (4) Die Minister kan by kennisgewing in die *Staatskoerant* en vanaf 'n datum of vir 'n tydperk en ten opsigte van 'n gebied in daardie kennisgewing vermeld een of meer van of al die bepalings van hierdie Wet van tyd tot tyd opskort vir sover hul van toepassing is op persone op wie 'n ooreenkoms, kennisgewing of uitspraak wat kragtens die Nywerheid-versoeningswet, 1937, bekendgemaak of gedoen is of geag word bekendgemaak of gedoen te gewees het, of 'n vasstelling wat kragtens die Loonwet, 1937, gemaak is of geag word gemaak te gewees het, bindend is, onverskillig of sodanige ooreenkoms, kennisgewing, uitspraak of vasstelling voor of na die inwerk-treding van hierdie Wet bekendgemaak, gedoen of gemaak is.
3. Die Minister kan by kennisgewing in die *Staatskoerant*, Minister kan enige gebied aanwys as een binne welke, vanaf 'n datum in gebiede aanwys daardie kennisgewing vermeld, die bepalings van paragrawe waarin sekere bepalings van (b) en (h) van sub-artikel (1) van artikel vier en paragrawe (b) hierdie Wet en (d) van sub-artikel (2) van genoemde artikel van toepassing van toepassing is. is, en kan so 'n kennisgewing intrek of wysig.
4. (1) Geen werkewer mag vereis of toelaat nie dat enige Werkewe van werknemer—
- (a) meer as ses-en-veertig uur in een week werk; of
- (b) in 'n aangewese gebied op enige dag, 'n werkdag werk wat meer as twee uur langer is as die totale aantal ure gedurende welke die werknemer op daardie dag vir hom gewerk het: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van 'n werknemer wat in diens is in of in verband met 'n restaurant of 'n verversings-of teekamer of eetlokaal; of

- (c) to work, in any circumstances in which the provisions of paragraph (b) do not apply, for a spread-over of more than twelve hours ; or
- (d) to work for more than a continuous period of five hours without one uninterrupted interval of at least one hour : Provided that for the purposes of this paragraph periods of work interrupted by an interval of less than one hour shall be deemed to be continuous ; or
- (e) to work on any Sunday or public holiday ; or
- (f) to work after one o'clock in the afternoon on more than five days in any week ; or
- (g) who is under the age of eighteen years, to work later than eight o'clock at night, if such employee is employed in or in connection with a restaurant or a refreshment or tea room or eating house or to work later than half past six o'clock in the afternoon, if such employee is employed in or in connection with a shop other than a restaurant, refreshment or tea room or eating house ; or
- (h) to work, in any designated area, for more than eight hours on any one day : Provided that in any such area an employer may require or permit any employee—
- (i) to work for nine hours on one day in the week ; and
- (ii) to work for ten hours on the twenty-fourth day of December or the preceding day if the first-mentioned day is a Sunday ; or
- (i) to work increased hours for a total period of more than thirty hours in any calendar year : Provided that in calculating any such period, any periods in such calendar year during which such employee performed work in connection with the packing or despatch of goods shall up to an aggregate of fifteen hours, not be taken into account.
- (2) Notwithstanding the provisions of paragraphs (a) and (h) of sub-section (1) an employer may require or permit an employee—
- (a) to work, in addition to the hours prescribed in paragraph (a) of sub-section (1), for a total period of not more than one hour in any one week, for the purpose of attending to customers after completion of the ordinary working hours ;
- (b) subject to the provisions of paragraph (a) of this sub-section to work, in a designated area, in addition to the hours prescribed in paragraph (h) of sub-section (1), for a period not exceeding fifteen minutes on any one day, for the purpose of attending to customers after completion of the ordinary working hours ;
- (c) to work increased hours for a total period of not more than six hours in any one week ;
- (d) subject to the provisions of paragraph (c) to work increased hours in a designated area for a period not exceeding two hours on any one day.
- (3) The provisions of sub-section (1), shall not apply in respect of emergency work.
- (4) (a) The provisions of paragraph (e) of sub-section (1) shall not apply to any employer who carries on business in a shop, in respect of any Sunday or public holiday upon which he is by law allowed to open such shop : Provided that he shall not require or permit any employee whom he has during any week required or permitted to work on such Sunday or public holiday, to work on more than six days during that week, and that he shall grant to any employee whom he has so required or permitted to work on a public holiday, within fourteen days after such public holiday, a day's holiday and pay the employee, in respect of such holiday, not later than the pay day next succeeding such holiday, remuneration at a rate not less than his ordinary rate of pay, as if he had on such holiday worked his average ordinary working hours for that day of the week.
- (b) No such employer shall require or permit any employee to perform work in connection with stock-taking on a Sunday or public holiday.
- (5) An inspector may by notice in writing direct any employer not to require or permit any employee named in such notice, or any employee of a class specified therein, or any of his employees to work increased hours during any period mentioned therein.

- (c) vir 'n werkdag van meer as twaalf uur werk, onder omstandighede waarin die bepalings van paragraaf (b) nie van toepassing is nie ; of
- 5 (d) vir meer as 'n onafgebroke tydperk van vyf uur werk sonder een ononderbroke rustyd van minstens een uur : Met dien verstande dat by die toepassing van hierdie paragraaf, werktydperke wat deur 'n rustyd van minder as een uur onderbreek word geag word onafgebroke te wees ; of
- 10 (e) op 'n Sondag of 'n openbare feesdag werk ; of
- (f) na eenuur in die namiddag op meer as vyf dae in enige week werk ; of
- (g) wat minder as agtien jaar oud is, later as agtuur in die aand werk, as die werknemer in diens is in of in verband met 'n restourant of 'n verversings- of teekamer of eetlokaal, of later as half-sewe in die namiddag werk, as die werknemer in diens is in of in verband met 'n ander winkel as 'n restourant, verversings- of teekamer of eetlokaal ; of
- 15 (h) in 'n aangewese gebied vir meer as agt uur op een dag werk : Met dien verstande dat 'n werkewer in so 'n gebied kan vereis of toelaat dat enige werknemer—
- (i) vir nege uur op een dag in die week werk ; en
- 20 (ii) vir tien uur werk op die vier-en-twintigste dag van Desember of op die voorafgaande dag indien eersgenoemde dag 'n Sondag is ; of
- (i) om verlengde ure te werk vir 'n totale tydperk van meer as dertig uur in 'n kalenderjaar : Met dien verstande dat by die berekening van so 'n tydperk, enige tydperke in bedoelde kalenderjaar gedurende welke die werknemer werk verrig het in verband met die verpakking of versending van goedere, tot op 'n gesamentlike tydperk van vyftien uur, buite rekening gelaat word.
- 30 35 (2) Neteenstaande die bepalings van paragrafe (a) en (h) van sub-artikel (1), mag 'n werkewer vereis of toelaat dat 'n werknemer—
- (a) benewens die ure in paragraaf (a) van sub-artikel (1) voorgeskryf, vir 'n gesamentlike tydperk van hoogstens een uur in een week werk ten einde na afloop van die gewone werkure klante te bedien ;
- 40 (b) behoudens die bepalings van paragraaf (a) van hierdie sub-artikel, in 'n aangewese gebied benewens die ure in paragraaf (h) van sub-artikel (1) voorgeskryf, vir 'n tydperk van hoogstens vyftien minute op een dag werk, ten einde na afloop van die gewone werkure klante te bedien ;
- (c) verlengde ure werk vir 'n gesamentlike tydperk van hoogstens ses uur in een week ;
- 45 50 (d) behoudens die bepalings van paragraaf (c), verlengde ure werk in 'n aangewese gebied vir 'n tydperk van hoogstens twee uur op een dag.
- (3) Die bepalings van sub-artikel (1) is nie van toepassing ten opsigte van noodwerk nie.
- 55 55 (4) (a) Die bepalings van paragraaf (e) van sub-artikel (1) is nie van toepassing nie op 'n werkewer wat in 'n winkel besigheid dryf, ten opsigte van enige Sondag of openbare feesdag waarop hy volgens wet bedoelde winkel mag open : Met dien verstande dat hy nie mag vereis of toelaat dat 'n werknemer van wie hy vereis het of wat hy toegelaat het om gedurende enige week op bedoelde Sondag of openbare feesdag te werk, vir meer as ses dae gedurende daardie week werk nie, en dat hy aan enige werknemer van wie hy aldus vereis het of wat hy aldus toegelaat het om op 'n openbare feesdag te werk, binne veertien dae na die openbare feesdag, 'n dag vakansie toestaan, en die werknemer ten opsigte van bedoelde vakansiedag, nie later nie as die eersvolgende betaaldag na bedoelde vakansiedag besoldig teen 'n skaal wat nie minder is nie as sy gewone loonskala, asof hy sy gemiddelde gewone werkure vir daardie dag van die week op bedoelde vakansiedag gewerk het.
- (b) Geen sodanige werkewer mag vereis of toelaat dat enige werknemer op 'n Sondag of openbare feesdag werk in verband met voorraadsopname verrig nie.
- 60 65 70 (5) 'n Inspekteur kan by skriftelike kennisgewing enige werkewer gelas om nie te vereis of toe te laat nie dat 'n in daardie kennisgewing by name genoemde werknemer, of enige werknemer wat val onder 'n daarin vermelde kategorie, of enigeen van sy werknemers, gedurende 'n daarin vermelde tydperk verlengde ure werk.
- 75 80

(6) An employee shall be deemed to be working for his employer, in addition to any period during which he is so working—

(a) during the whole of any interval in his work if—

(i) he is not free to leave the shop or office of his em-

ployer for the whole of such interval ; or

(ii) the duration of such interval is not shown in the records required to be kept in terms of section eight ; and

(b) during any other period during which he is on the premises or in the shop or office of his employer : 10

Provided that if it is proved that any such employee was not working for his employer during any portion of any period referred to in paragraph (b), the presumption pro-

vided for in this sub-section shall not apply in respect of such employee with reference to that portion of such period. 15

Employer to furnish particulars of increased hours and emergency work.

5. Every employer shall, not later than the seventh day of each month, furnish to the designated inspector in the prescribed form, full particulars of any periods worked during the preceding month by any employee employed by him, in excess of the hours prescribed in paragraphs (a) and (b) of sub- 20 section (1) of section four, other than periods worked in terms of paragraph (a) or (b) of sub-section (2) of the said section, and of the reasons therefor.

Payment in respect of hours in excess of forty-six per week and for public holidays.

6. (1) An employer shall pay to an employee employed by him for each hour or part of an hour he is required or permitted 25 to work in excess of forty-six hours per week, other than any period worked in terms of paragraph (a) or (b) of sub-section (2) of section four, at a rate which is not less than one and a quarter times—

(a) his hourly wage if he is paid by the hour ; or 30

(b) his daily wage divided by eight if he is paid by the day ; or

(c) his weekly wage divided by forty-six if he is paid by the week ; or

(d) his monthly wage divided by two hundred if he is 35 paid by the month ; or

(e) his ordinary rate of pay if he is paid in any other manner.

(2) An employer shall, in respect of every public holiday, pay to every employee employed by him, remuneration at 40 a rate not less than his ordinary rate of pay, as if such holiday had been a working day upon which such employee had worked his average ordinary working hours for that day of the week.

(3) The payment referred to in this section shall be made not later than the pay day next succeeding the week or public 45 holiday in respect of which the payment is to be made.

Annual paid leave.

7. (1) Every employer shall grant to every employee employed by him, in respect of each period of twelve month's employment with him, and not later than two months after the termination of the said period, leave of absence on full pay 50 of not less than fourteen consecutive days : Provided that—

(a) the period of such leave shall not be concurrent with any period during which the employee is required to undergo training under the South Africa Defence Act, 1912 ; and

(b) if any public holiday falls within the period of such leave, such holiday shall be added to the said period as a further period of leave of absence on full pay. 55

(2) The employer shall pay to an employee to whom leave is granted under sub-section (1), his pay in respect of the 60 period of leave, not later than the last working day before the commencement of the said period.

(3) Upon termination of employment, the employer shall pay to the employee his full pay—

(a) in respect of any period of leave which has accrued 65 to him but was not granted before the date of termination of the employment ; and

(b) for one day in respect of each completed month of employment with the employer after the date on which he last became entitled to leave in terms of 70 sub-section (1), or in the case of an employee who has been employed for less than twelve months, after the date of commencement of his employment.

- (6) 'n Werknemer word geag vir sy werkgewer te werk, benewens enige tydperk gedurende welke hy aldus werk—
- (a) gedurende die hele duur van enige rustyd in sy werk indien—
 - 5 (i) dit hom nie vrystaan om die winkel of kantoor van sy werkgewer vir die hele duur van die rustyd te verlaat nie : of
 - (ii) die duur van die rustyd nie aangegee word nie in die aantekenings wat ingevolge artikel *agt* gehou moet word ; en
 - 10 (b) gedurende enige ander tydperk gedurende welke hy op die perseel of in die winkel of kantoor van sy werk- gewer is :
- Met dien verstande dat indien bewys gelewer word dat so 'n werknemer nie vir sy werkgewer gedurende enige gedeelte van 'n in paragraaf (b) bedoelde tydperk gewerk het nie, die vermoede wat deur hierdie sub-artikel geskep word, nie ten opsigte van daardie werknemer met betrekking tot daardie gedeelte van bedoelde tydperk van toepassing is
- 20
5. Elke werkgewer moet nie later nie as die sewende dag van Werkgewer moet elke maand, in die voorgeskrewe vorm aan die aangewese besonderhede van inspekteur volledige besonderhede verstrek omtrent enige verlengde ure en tydperke wat gedurende die voorafgaande maand deur enige noodwerk verstrek.
- 25 werknemer in sy diens gewerk is, bo die ure in paragrafe (a) en (h) van sub-artikel (1) van artikel *vier* voorgeskryf, behalwe enige tydperke wat ingevolge paragraaf (a) of (b) van sub-artikel (2) van genoemde artikel gewerk is, en omtrent die redes daarvoor.
- 30 6. (1) 'n Werkgewer moet 'n werknemer by hom in diens, vir Betaling ten op elke uur of deel van 'n uur bo ses-en-veertig uur per week waar- sigte van ure wat voor van hom vereis of waarvoor hy toegelaat word om te werk, meer as ses-en behalwe 'n tydperk wat ingevolge paragraaf (a) of (b) van sub- artikel (2) van artikel *vier* gewerk is, besoldig teen 'n skaal beloop, en vir open- artikelbare feesdae.
- 35 van minstens een-en-'n-kwart maal—
- (a) sy loon per uur indien hy per uur betaal word ; of
 - (b) sy daaglikslooon, verdeel by agt, indien hy per dag betaal word : of
 - 40 (c) sy weeklikse loon, verdeel by ses-en-veertig, indien hy per week betaal word ; of
 - (d) sy maandelikse loon verdeel by tweehonderd indien hy per maand betaal word : of
 - (e) sy gewone loonskaal indien hy op enige ander wyse betaal word.
- 45 (2) 'n Werkgewer moet, ten opsigte van iedere openbare feesdag, iedere werknemer by hom in diens, besoldig teen 'n skaal wat nie minder is nie as sy gewone loonskaal, asof die feesdag 'n werkdag was waarop bedoelde werknemer sy gemiddelde gewone werkure vir daardie dag van die week gewerk het.
- 50 (3) Die besoldiging in hierdie artikel bedoel moet uitbetaal word nie later nie as die eersvolgende betaaldag na die week of openbare feesdag ten opsigte waarvan die besoldiging geskied.
7. (1) Elke werkgewer moet aan iedere werknemer by hom Jaarlike in diens ten opsigte van elke tydperk van twaalf maande diens besoldigde 55 by hom, en nie later nie as twee maande na verstryking van genoemde tydperk, verlof van minstens veertien agtereenvolgende dae met volle besoldiging toestaan : Met dien verstande dat—
- (a) die tydperk van sodanige verlof nie saamval nie met enige tydperk gedurende welke van die werknemer vereis word om oefening ingevolge die „Zuid-Afrika Verdedigings Wet, 1912”, te ondergaan ; en
 - 60 (b) indien enige openbare feesdag binne die tydperk van die verlof val, daardie feesdag aan genoemde tydperk toegevoeg word as 'n verdere tydperk van verlof met volle besoldiging.
- (2) Die werkgewer moet aan 'n werknemer aan wie verlof kragtens sub-artikel (1) toegestaan word, sy besoldiging ten opsigte van die verloftydperk nie later nie as die laaste werkdag voor die aanvang van genoemde tydperk, uitbetaal.
- 70 (3) By beëindiging van sy diens, moet die werkgewer aan die werknemer sy volle besoldiging uitbetaal—
- (a) ten opsigte van enige verloftydperk wat hom toegeval het maar nie voor die datum van beëindiging van die diens aan hom toegestaan is nie ; en
 - 75 (b) vir een dag ten opsigte van elke voltooide maand van diens by die werkgewer na die datum waarop hy laas ingevolge sub-artikel (1) op verlof geregtig geword het, of in die geval van 'n werknemer wat vir minder as twaalf maande in diens was, na die aan- vangsdatum van sy diens.

- (4) Any period during which an employee—
 (a) is on leave in terms of sub-section (1);
 (b) is required to undergo training under the South Africa Defence Act, 1912;
 (c) is absent from work on the instructions or at the request of the employer;
 (d) is absent from work owing to illness;

shall be deemed to be employment for the purposes of sub-sections (1) and (3): Provided that the provisions of paragraph (d) shall not apply in respect of any period of absence of 10 more than three consecutive days, if the employee fails, after a request for such a certificate by the employer, to submit to the employer a certificate by a medical practitioner that he was prevented by illness from doing his work, or in respect of that portion of any total period of absence during any twelve 15 months of employment, which is in excess of thirty days.

(5) Any amount paid to an employee in terms of sub-section (2) or sub-section (3) shall be calculated at the rate of pay which the employee was receiving immediately prior to the date upon which the leave became due or his employment 20 terminated, as the case may be.

- (6) In this section the expression "employer" includes—
 (a) in the case of the death of an employer, the executor of his estate, or his heir or legatee; and
 (b) in the case of the insolvency of an employer or the liquidation of his estate, or the transfer or sale of his business, the trustee or liquidator or the new owner of the business,
 if such executor, heir, legatee, trustee, liquidator or new owner continues to employ that employee. 30

(7) For the purposes of this section employment shall be deemed to commence from—

- (a) the date on which the employee entered the employer's service; or
 (b) a date one year prior to the date of commencement 35 of this Act; or
 (c) the date on which an employee who had, in terms of any law and within the period referred to in paragraph (b), been granted leave of absence on full pay, became entitled to such leave in terms of such law; 40 or
 (d) the date upon which an employee upon whom no agreement, notice or award published or made or deemed to have been published or made under the Industrial Conciliation Act, 1937, or determination 45 made or deemed to have been made under the Wage Act, 1937, is binding, who had, in terms of any such agreement, notice, award or determination which has ceased to be binding, and within the period referred to in paragraph (b), been granted leave of 50 absence on full pay, became entitled to such leave in terms of such agreement, notice, award or determination,

whichever may be the later date.

(8) Subject to the provisions of sub-section (3), no employer 55 shall agree with an employee to pay, or pay to him any amount in lieu of leave.

Records to be kept by employer.

8. (1) Every employer shall from day to day keep a record, in the form and manner prescribed, in respect of each day, showing— 60

- (a) the name and occupation of each employee;
 (b) the times at which each employee commences and ceases work;
 (c) in respect of each employee, the times and duration of intervals in his work during which he is not deemed 65 to be working under sub-section (6) of section four;
 (d) the times during which he required or permitted any employee to work increased hours;
 (e) if any employee is absent from his work, the reason for his absence;
 (f) the names and occupation of persons working for him in or in connection with his shop or in his office, or assisting him in the carrying on of any business in his shop or the doing of any work performed in his office, who are not employees as defined in section 75 one;

and such other particulars as may be prescribed. 70

- (4) Enige tydperk gedurende welke 'n werknemer—
 (a) ingevolge sub-artikel (1) met verlof is ;
 (b) verplig is om oefening te ondergaan ingevolge die „Zuid-Afrika Verdedigings Wet, 1912” ;
 5 (c) op las of versoek van die werkewer van sy werk afwesig is ;
 (d) weens siekte van sy werk afwesig is,
 word by die toepassing van sub-artikels (1) en (3) geag diens te wees : Met dien verstande dat die bepalings van paragraaf (d)
 10 nie van toepassing is nie ten opsigte van 'n tydperk van afwesigheid van meer as drie agtereenvolgende dae, indien die werknemer, nadat hy deur die werkewer om so 'n sertifikaat versoek is, versuim om 'n sertifikaat van 'n geneeskundige praktisyn dat hy deur siekte verhinder is om sy werk te doen, aan die
 15 werkewer voor te lê, of ten opsigte van daardie gedeelte van 'n gesamentlike tydperk van afwesigheid gedurende enige twaalf maande diens, wat meer is as dertig dae.
- (5) Enige bedrag wat ingevolge sub-artikel (2) of sub-artikel (3) aan 'n werknemer uitbetaal word, word bereken teen die
 20 skaal van besoldiging wat die werknemer ontvang het onmiddellik voor die datum waarop die verlof verskuldig geword of sy diens geëindig het, na gelang van die geval.
- (6) In hierdie artikel beteken die uitdrukking „werkewer” ook—
 25 (a) in die geval van die dood van 'n werkewer, die eksekuteur van sy boedel, of sy erfgenaam of legataris ; en
 (b) in die geval van die insolvensie van 'n werkewer of die likwidasie van sy boedel, of die oordrag of verkoop
 30 van sy besigheid, die kurator of likwidator of die nuwe eienaar van die besigheid,
 indien sodanige eksekuteur, erfgenaam, legataris, kurator, likwidator of nuwe eienaar daardie werkewer in sy diens aanhou.
- 35 (7) By die toepassing van hierdie artikel word diens geag 'n aanvang te neem vanaf—
 (a) die datum waarop die werknemer by die werkewer in diens getree het ; of
 (b) 'n datum een jaar voor die datum van inwerkingtreding
 40 van hierdie Wet ; of
 (c) die datum waarop 'n werknemer aan wie verlof met volle besoldiging ingevolge enige wet en binne die in paragraaf (b) bedoelde tydperk toegestaan was, op sodanige verlof ingevolge bedoelde wet geregtig geword het ; of
 45 (d) die datum waarop 'n werknemer op wie geen ooreenkoms, kennisgewing of uitspraak wat ingevolge die Nywerheid-versoeningswet, 1937, bekendgemaak of gedoen is of geag word bekendgemaak of gedoen te gewees het, of 'n vasstelling wat ingevolge die Loonwet, 1937, gemaak is of geag word gemaak te gewees het, bindend is, aan wie ingevolge sodanige ooreenkoms, kennisgewing, uitspraak of vasstelling wat opgehou het om bindend te wees en binne die in
 50 paragraaf (b) bedoelde tydperk, verlof met volle besoldiging toegestaan was, op sodanige verlof ingevolge daardie ooreenkoms, kennisgewing, uitspraak of vasstelling geregtig geword het,
 na gelang die een of die ander datum later is.
- 55 (8) Behoudens die bepalings van sub-artikel (3) mag geen werkewer met 'n werknemer ooreenkomm om enige bedrag in plaas van verlof aan hom te betaal, of dit aan hom betaal nie.
- 60 8. (1) Elke werkewer moet van dag tot dag in die voor- Aantekening
 geskrewe vorm en op die voorgeskrewe wyse, ten opsigte van deur werkewer
 elke dag, aantekenings hou waarin vermeld word— gehou te word.
- (a) die naam en werk van elke werknemer ;
 (b) die tye waarop elke werknemer sy werk begin en staak ;
 70 (c) ten opsigte van elke werknemer, die tye en duur van rustye in sy werk gedurende welke hy nie ingevolge sub-artikel (6) van artikel vier geag word te werk nie ;
 (d) die tye gedurende welke hy vereis of toegelaat het dat 'n werknemer verlengde ure werk ;
 75 (e) indien 'n werknemer van sy werk afwesig is, die rede vir sy afwesigheid ;
 (f) die name en werk van persone wat nie werknemers, soos in artikel een omskrywe, is nie, wat in of in verband met sy winkel of in sy kantoor vir hom werk, of wat hom bystaan by die dryf van enige besigheid in sy winkel of by die doen van werk wat in sy kantoor verrig word ;
 80 en sodanige ander besonderhede as wat voorgeskryf mag word.

(2) Every employee shall make in such record such entries as may be prescribed.

(3) An inspector may in writing signed by him authorize the keeping of such record in a form other than the prescribed form, if the record so kept will in his opinion enable him to ascertain therefrom the required particulars. 5

(4) Every employer shall retain any record kept in terms of this section for a period of three years subsequent to the date of the record and shall on demand by an inspector made at any time during the said period of three years produce 10 any such record for inspection.

Provision of seats.

9. (1) Every employer shall provide at such places in his shop as an inspector may from time to time direct or in the absence of a direction from an inspector, at such places in his shop as the employer may decide, one or more suitable 15 seats for females employed in the shop, in such numbers that there shall be not less than one seat for three or less than three females, not less than two seats for more than three but not more than six females, and so forth, and shall allow every such female to make use of any such seat at all reasonable times. 20

(2) No employer shall require any such female so continuously to do work in the performance of which she is required to remain standing, that reasonable intervals during which she may use any seat referred to in sub-section (1) are not allowed to her. 25

Notices to be posted by employer.

10. Every employer shall affix and keep affixed in some conspicuous place upon his premises to be determined by him and in such other places upon his premises as an inspector may from time to time direct—

(a) notices in the prescribed form in legible characters, 30 in both the official languages of the Union containing—
 (i) such summaries of or extracts from the provisions of this Act as may be prescribed ; and
 (ii) the official address of the designated inspector ; and 35

(b) a copy of any notice published under section *three* applicable to the area within which his premises are situate.

Victimization forbidden.

11. (1) No employer shall dismiss any employee employed by him or reduce the rate of his remuneration or alter the 40 conditions of his employment to conditions less favourable to him or alter his position relatively to other employees employed by him to his disadvantage, by reason of the fact that he suspects or believes (whether or not the suspicion or belief is justified or correct) that that employee has given 45 information with regard to any matter which by or under this Act he is or could be required to give to an inspector or member of the South African Police, or to a person authorized under paragraph (b) of sub-section (5) of section *fourteen*, or has complied with any lawful requirement of an inspector, member 50 of the South African Police or such authorized person, or has given evidence before a court of law.

(2) The court which convicts any person of an offence under sub-section (1) may in addition to any sentence which it may impose— 55

(a) in the case of an employee the reduction of the rate of whose remuneration or the alteration of whose position was the subject of the charge, order the employer to restore the position of such employee to that existing prior to the reduction or alteration, 60 with effect from the date on which the reduction was made or his position was so altered ; and

(b) in the case of an employee whose dismissal was the subject of the charge, order the employer to pay to the said employee a sum equal to three times the monthly or thirteen times the weekly or seventy-eight times the daily or five hundred and ninety-eight times the hourly wage or salary of such employee according to the basis on which he was remunerated. 65

(3) Any such order shall have the effect of and may be 70 executed as if it were a civil judgment in favour of that employee.

Confinement allowance.

12. (1) No female shall work in a shop and no employer shall require or permit any female to work in his shop during the period commencing four weeks prior to the expected 75

(2) Elke werknemer moet in sodanige aantekenings die inskrywings doen wat voorgeskryf mag word.

(3) 'n Inspekteur kan skriftelik onder sy handtekening verlof verleen tot die hou van sodanige aantekening in 'n ander as die voorgeskrewe vorm, indien die aantekening wat aldus gehou word volgens sy oordeel hom in staat sal stel om daaruit die vereiste besonderhede te wete te kom.

(4) Elke werkgever moet alle aantekenings ingevolge hierdie artikel gehou, vir 'n tydperk van drie jaar na die datum van die aantekenings behou, en moet op versoek van 'n inspekteur gedaan te enige tyd binne genoemde tydperk van drie jaar, enige sodanige aantekening vir besigtiging toon.

9. (1) Elke werkgever moet op sulke plekke in sy winkel Verskaffing as wat 'n inspekteur van tyd tot tyd mag aanwys, of by ontstens-

10 tenis van 'n aanwyding deur 'n inspekteur, op sulke plekke in sy winkel as die werkgever mag beslis, so 'n aantal geskikte sitplekke verskaf vir vrouspersone wat in die winkel in diens is, dat daar minstens een sitplek is vir drie of minder as drie vrouspersone, minstens twee sitplekke is vir meer as drie maar nie 20 meer nie as ses vrouspersone, en so voort, en moet elke sodanige vrouspersoon toelaat om te alle redelike tye van enige sodanige sitplek gebruik te maak.

(2) Geen werkgever mag vereis dat so 'n vrouspersoon so aanhoudend werk doen by die verrigting waarvan sy moet 25 staan, dat redelike tussenpose gedurende welke sy 'n in sub-artikel (1) bedoelde sitplek kan gebruik, haar nie toegelaat word nie.

10. Elke werkgever moet op 'n in die ooglopende plek op Kennisgewings sy perseel deur hom te bepaal, en op sulke ander plekke op deur werkgever 30 sy perseel as wat 'n inspekteur van tyd tot tyd mag aanwys— aangeplakte word.

(a) kennisgewings in die voorgeskrewe vorm, in leesbare letters, in albei amptelike tale van die Unie, aanheg en aangeheg hou waarin vervat is—

35 (i) sulke opsommings van of uittreksels uit die bepalings van hierdie Wet as wat voorgeskryf mag word ; en

(ii) die amptelike adres van die aangewese inspekteur ; en

40 (b) 'n afskrif aanheg en aangeheg hou van enige kennisgewing ingevolge artikel *drie* bekendgemaak, wat van toepassing is op die gebied waarbinne sy perseel geleë is.

11. (1) Geen werkgever mag 'n werknemer in sy diens uit Vlictmisasie sy diens ontslaan of die skaal van sy besoldiging verminder of verbied.

45 sy diensvoorraades verander in voorraades wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers in sy diens, tot sy nadeel verander, omrede dat hy vermoed of glo (onverskillig of die vermoede of geloof gegronde of juis is al dan nie) dat daardie werknemer inligting met betrekking tot enige aangeleenthed wat hy deur of kragtens hierdie Wet vereis of kan vereis word om te gee, aan 'n inspekteur of lid van die Suid-Afrikaanse Polisie of aan 'n ingevolge paragraaf (b) van sub-artikel (5) van artikel *veertien* gemagtigde persoon gegee het, of dat hy voldoen het aan enige wettige voorskrif 55 van 'n inspekteur, lid van die Suid-Afrikaanse Polisie of sodanige gemagtigde persoon, of getuenis afgelê het voor 'n geregshof.

(2) Die hof wat iemand skuldig bevind aan 'n oortreding ingevolge sub-artikel (1) kan ook, benewens enige vonnis 60 wat hy mag ople—

(a) die werkgever gelas om, in die geval van 'n werknemer die vermindering van wie se skaal van besoldiging of die verandering van wie se posisie die onderwerp van die aanklag was, die posisie van daardie werknemer weer te herstel tot die wat voor die vermindering of verandering bestaan het, met uitwerking vanaf die datum waarop die vermindering gemaak of sy posisie aldus verander is ; en

70 (b) die werkgever gelas om, in die geval van 'n werknemer wie se ontslag die onderwerp van die aanklag was, aan bedoelde werknemer 'n bedrag te betaal wat gelyk is aan driemaal die maandelikse of dertienmaal die weeklikse of agt-en-sewentigmaal die daaglikselike of vyfhonderd agt-en-negentigmaal die uurlikse 75 loon of salaris van bedoelde werknemer, volgens die basis waarop hy besoldig is.

(3) Enige sodanige bevel het die uitwerking van en kan ten uitvoer gelê word asof dit 'n siviele vonnis ten gunste van daar die werknemer was.

80 12. (1) Geen vrouspersoon mag in 'n winkel werk en geen Bevallingstoelae. werkgever mag vereis of toelaat dat enige vrouspersoon in sy winkel werk gedurende die tydperk wat vier weke voor die

date of her confinement and ending eight weeks after the date of her confinement.

(2) Subject to such conditions as the Minister may from time to time determine, a sum calculated at a rate not exceeding twenty shillings per week for a period of twelve weeks, may 5 be paid from public moneys, in a lump sum or in such instalments as the Minister may determine, to any female who discontinues work in a shop as a result of pregnancy.

(3) Whenever any amount has been paid to any female in terms of sub-section (2), an inspector may, subject to the 10 instructions of the Minister, at any time apply to the magistrate's court of the district in which the person alleged to be the father resides, for an order that the said person shall pay to an officer specified by the court an amount equal to the amount so paid to such female from public moneys; 15 and the court, if satisfied that such person is the father and is able to pay the said amount or any lesser amount, shall order him to pay the said amount or such lesser amount to the officer so specified, in instalments or otherwise, within such period as the court may determine. 20

(4) The court may, at any time, upon the application of the person against whom such an order has been made, vary such order.

(5) Any amount paid to an officer so specified in pursuance of any order made under sub-section (3) or (4) shall be paid 25 into the Consolidated Revenue Fund.

(6) Any order made under sub-section (3) or (4) shall have the effect of, and may be executed as if it were, a civil judgment in favour of the Crown.

Appointment of inspectors.

13. (1) The Minister may, subject to the laws governing 30 the public service, appoint any person as an inspector under this Act.

(2) Every inspector shall be furnished with a certificate signed by an officer thereto designated by the Minister and stating that he has been appointed as an inspector under this 35 Act.

Powers of inspectors.

14. (1) Any inspector may, for the purpose of ascertaining whether the provisions of this Act are being complied with, without previous notice, at any time enter any premises whatsoever and may, while he is upon or in the premises or at any 40 other time, question any person who is or has been upon or in the premises, in the presence of or apart from others, and may require from any such person the production then and there, or at a time and place fixed by the inspector, of the records required to be kept by the employer in terms 45 of section eight, and may examine and make extracts from and copies of such records and may require an explanation of any entries in any such records and may seize any such records as in his opinion may afford evidence of any offence under this Act. An inspector may take with him into or on 50 to any premises any interpreter or other assistant.

(2) Any employer in connection with whose business any premises are occupied or used, and every person employed by him, shall at all times furnish such facilities as are required by the inspector for entering the premises or in the exercise 55 on such premises of his powers under sub-section (1).

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

(4) For the purposes of this section any interpreter shall, 60 while acting under the lawful direction of the inspector he accompanies, be deemed to be an inspector.

(5) In this section the expression "inspector" includes—

(a) any member of the South African Police; and

(b) any person who has been authorized by the Minister 65 to exercise the powers of an inspector under this section in respect of a particular shop or office or for a specified period or in a specified area, and to whom a certificate has been issued by an officer designated thereto by the Minister, stating that such 70 person has been so authorized.

Requirements by an inspector.

15. (1) If, in the opinion of an inspector, any owner of a shop or office or any employer has failed to comply with the provisions of any regulation specified under sub-section (4) of section twenty-three such inspector may—

(a) by notice in writing setting forth in which respect the owner or employer has, in his opinion, failed to comply with the provisions of such regulation, require

verwagte datum van haar bevalling begin en agt weke na die datum van haar bevalling eindig.

(2) Onderhewig aan sulke voorwaardes as wat die Minister van tyd tot tyd mag bepaal, kan 'n bedrag, bereken teen 'n skaal van hoogstens twintig sjielings per week vir 'n tydperk van twaalf weke, uit staatsgelde, in 'n ronde som of in sulke paaiemente as wat die Minister mag bepaal, aan 'n vrouspersoon wat ten gevolge van swangerskap haar werk in 'n winkel staak, betaal word.

10 (3) Wanneer enige bedrag ingevolge sub-artikel (2) aan 'n vrouspersoon uitbetaal is, kan 'n inspekteur, onderhewig aan die instruksies van die Minister, te eniger tyd by die Magistraatshof van die distrik waarin die persoon wat die beweerde vader is, woon, aansoek doen om 'n bevel dat ge-
15 noemde persoon 'n bedrag gelyk aan die bedrag wat aldus aan die vrouspersoon uit staatsgelde uitbetaal is, aan 'n deur die hof aangewese amptenaar moet betaal; en die hof moet, indien oortuig dat bedoelde persoon die vader is en in staat is om genoemde bedrag of 'n mindere bedrag te betaal, hom gelas om genoemde bedrag, of die mindere bedrag, in paaie-
20 mente of andersins, binne die tydperk wat die hof mag bepaal, aan die aldus aangewese amptenaar te betaal.

(4) Die hof kan te eniger tyd, op aansoek van die persoon teen wie so 'n bevel gegee is, die bevel wysig.

25 (5) 'n Bedrag wat aan 'n aldus aangewese amptenaar ingevolge 'n bevel kragtens sub-artikel (3) of (4) gegee, betaal word, word in die Gekonsolideerde Inkomstefonds gestort.

(6) 'n Bevel kragtens sub-artikel (3) of (4) gegee, het die uitwerking van, en kan ten uitvoer gelê word asof dit 'n siviele
30 vonnis ten gunste van die Kroon was.

13. (1) Die Minister kan, met inagneming van die wette Aanstelling van wat die staatsdiens reël, enig iemand as inspekteur ingevolge inspekteurs hierdie Wet aanstel.

(2) Elke inspekteur word voorsien van 'n sertifikaat onder-
35 teken deur 'n amptenaar wat deur die Minister daartoe aangewys is, wat meld dat hy as inspekteur ingevolge hierdie Wet aangestel is.

14. (1) 'n Inspekteur kan, ten einde uit te vind of al dan nie Bevoegdhede aan die bepalings van hierdie Wet voldoen word, te eniger tyd,
van inspekteurs.

40 sonder voorafgaande kennisgewing, enige perseel hoegenaamd betree, en kan, terwyl hy op of in die perseel is of te eniger ander tyd enige persoon wat op of in die perseel is of was, in die teenwoordigheid of afgesondert van andere ondervra, en kan eis dat daardie persoon daar en dan, of op 'n deur die inspekteur bepaalde tyd en plek die aantekenings wat ingevolge artikel *agt* deur die werkewer gehou moet word, oorlê, en kan sodanige aantekenings ondersoek en uittreksels daaruit of afskrifte daarvan maak, en kan 'n uitleg vorder van enige inskrywings in sulke aantekenings, en kan beslag lê op sulke aantekenings wat volgens sy oordeel bewys mag oplewer van 'n misdryf ingevolge hierdie Wet. 'n Tolk of ander assistent kan 'n inspekteur vergesel as hy enige perseel binne gaan of betree.

(2) 'n Werkewer in verband met wie se besigheid enige perseel geokkupeer of gebruik word, en elke persoon by hom in diens, moet te alle tye sodanige hulp verskaf as wat die inspekteur verlang om die perseel te betree of by die uit-oefening op sodanige perseel van sy bevoegdhede ingevolge sub-artikel (1).

(3) 'n Inspekteur kan eis dat 'n werknemer op 'n deur die inspekteur bepaalde tyd en plek voor hom verskyn, en kan daardie werknemer daar en dan ondervra.

(4) Vir die doeleindes van hierdie artikel word 'n tolk, terwyl hy optree onder die regmatige bevele van die inspekteur wat hy vergesel, geag 'n inspekteur te wees.

65 (5) In hierdie artikel beteken die uitdrukking „inspekteur“ ook—

(a) enige lid van die Suid-Afrikaanse Polisie; en

(b) enige persoon wat deur die Minister gemagtig is om die bevoegdhede van 'n inspekteur ingevolge hierdie artikel uit te oefen ten opsigte van 'n bepaalde winkel of kantoor of vir 'n aangegewe tydperk of in 'n aangegewe gebied, en aan wie deur 'n amptenaar deur die Minister daartoe aangewys 'n sertifikaat uitgereik is waarin verklaar word dat daardie persoon aldus gemagtig is.

75 15. (1) Indien enige eienaar van 'n winkel of kantoor, of enige werkewer, volgens oordeel van 'n inspekteur versuim het om aan die bepalings van 'n ingevolge sub-artikel (4) van artikel *drie-en-twintig* bepaalde regulasie te voldoen, kan die inspekteur—

80 (a) by skriftelike kennisgewing waarin hy moet vermeld in watter opsig die eienaar of werkewer volgens sy oordeel versuim het om aan die bepalings van be-

Voorskrifte deur inspekteur.

such owner or employer to take the steps and make the structural alterations mentioned in such notice ; or

- (b) by similar notice require such owner or employer to submit to him a statement setting forth the steps which such owner or employer proposes to take, and if structural alterations will, in the opinion of the inspector, be necessary, also drawings to scale, in plan and section, showing the structural alterations which such owner or employer proposes to make, in order to comply with the said provisions ; and
- (c) by further notice in writing require such owner or employer to take the steps and make the structural alterations so proposed, without modification or with such modification as the inspector may determine,

within a period specified in such notice, not being less than fourteen days.

(2) The period within which the requirements of any notice under sub-section (1) are to be complied with may, at the request of the owner or employer concerned, from time to time, be extended by the inspector.

(3) The owner or employer concerned may appeal to the Minister against the terms of any notice under sub-section (1).

(4) The Minister may, upon any such appeal, cancel or confirm such notice, or vary any requirements stated therein.

(5) (a) The owner or employer concerned may appeal to the division of the Supreme Court within whose area of jurisdiction he resides against any decision of the Minister under sub-section (4), on giving security to the satisfaction of the registrar of that division for any costs that may be incurred by the Minister in connection with the appeal.

(b) The division of the Supreme Court to which appeal is made shall confirm the Minister's decision or give such other decision as in its opinion the Minister ought to have given.

(6) In the event of an appeal under sub-section (3) or (5), the period within which the owner or employer is to comply with the terms of such notice shall commence as from the date of the decision of the Minister or the Court, as the case may be.

(7) For the purposes of this section no regulation specified under sub-section (4) of section *twenty-three* shall be held to be invalid on the ground of uncertainty.

Submission to
designated
inspector of plans
for erection,
re-building or
alteration of shops
and offices.

16. Whenever any plan for the erection, rebuilding or alteration of any building used or intended for use as a shop or office in any area in which any regulation made under paragraph (c), (d) or (g) of sub-section (1) of section *twenty-three* applies, is in terms of any law, by-law or regulation submitted to a local authority or any officer of a local authority for approval by such local authority or officer, such local authority or officer shall, before approving such plan, submit it to the designated inspector for scrutiny, and shall not approve such plan without consulting the said inspector.

Inspector may
enforce law,
regulation or by-law
administered by
local authority.

17. (1) An inspector may, if he has given notice that any person has contravened or failed to comply with any law, regulation or by-law, administered by a local authority and relating to any matter referred to in paragraph (c), (d), (e), (f) or (g) of sub-section (1) of section *twenty-three* or any requirement made under such law, regulation or by-law, to any officer of such local authority whose duty it is to administer the provisions of such law, regulation or by-law, and no steps have within thirty days after such notice been taken by the local authority to secure compliance with the said provisions or requirements by such person, himself take such steps, and shall for that purpose have all the powers which any officer of the local authority may have in connection with the administration or enforcement of such law, regulation, by-law or requirement.

(2) The local authority concerned shall be liable to pay to the Minister such costs in connection with the steps taken by the inspector or in connection with any prosecution following thereon, as may be prescribed.

- doelde regulasie te voldoen, aan die eienaar of werk-
gewer voorskryf om die maatreëls te tref en die bou-
veranderings aan te bring wat in die kennisgewing
vermeld word ; of
- 5 (b) by soortgelyke kennisgewing aan die eienaar of werk-
gewer voorskryf om aan hom 'n staat voor te lê
waarin die maatreëls uiteengesit word wat die eienaar
of werkgewer voornemens is om te tref, en indien
10 bouveranderings volgens oordeel van die inspekteur
nodig sal wees, ook tekenings op skaal, van opper-
vlakte en deursnee, wat die bouveranderings aantoon
wat die eienaar of werkgewer voornemens is om aan
te bring, ten einde aan genoemde bepalings te voldoen ;
en
- 15 (c) by verdere skriftelike kennisgewing aan bedoelde
eienaar of werkgewer voorskryf om bedoelde voorge-
name maatreëls te tref en bedoelde voorgenome bou-
veranderings aan te bring, sonder wysiging of met
sodanige wysiging as wat die inspekteur mag bepaal,
- 20 binne 'n in die kennisgewing vermelde tydperk, wat min-
stens veertien dae moet wees.
- (2) Die tydperk binne welke aan die voorskrifte van 'n
kennisgewing kragtens sub-artikel (1) voldoen moet word, kan
op versoek van die betrokke eienaar of werkgewer, van tyd
25 tot tyd, deur die inspekteur verleng word.
- (3) Die betrokke eienaar of werkgewer kan by die Minister
in hoër beroep gaan teen die bepalings van enige kennisgewing
ingevolge sub-artikel (1).
- (4) By so 'n beroep kan die Minister die kennisgewing intrek
30 of bekratig, of enige daarin vermelde voorskrif wysig.
- (5) (a) Die betrokke eienaar of werkgewer kan by die afdeling
van die Hooggereghof binne die regsgebied waarvan
hy woonagtig is in hoër beroep gaan teen 'n beslissing
35 van die Minister ingevolge sub-artikel (4), nadat hy
tot voldoening van die griffrer van daardie afdeling
sekerheid gestel het vir koste wat deur die Minister in
verband met die beroep gemaak mag word.
- (b) Die afdeling van die Hooggereghof waarna in hoër
beroep gegaan word bevestig die beslissing van die
40 Minister of gee so 'n ander beslissing as na sy mening
die Minister moes gegee het.
- (6) In die geval van 'n beroep ingevolge sub-artikel (3) of (5)
neem die tydperk waarbinne die eienaar of werkgewer aan die
bepalings van die kennisgewing moet voldoen 'n aanvang vanaf
45 die datum waarop die Minister of die hof, na gelang van die
geval, oor die saak beslis.
- (7) By die toepassing van hierdie artikel word geen ingevolge
sub-artikel (4) van artikel *drie-en-twintig* bepaalde regulasie
op grond van onsekerheid as ongeldig beskou nie.
- 50 16. Wanneer 'n plan vir die oprigting, herbou of verandering
van 'n gebou wat gebruik word of bestem is vir gebruik as 'n
winkel of kantoor in 'n gebied waarin 'n kragtens paragraaf
(c), (d) of (g) van sub-artikel (1) van artikel *drie-en-twintig*
55 uitgevaardigde regulasie van toepassing is, ooreenkomsdig wets-
bepaling, bywet of regulasie aan 'n plaaslike bestuur of 'n
beamppte van 'n plaaslike bestuur, vir goedkeuring deur die
plaaslike bestuur of bedoelde beamppte, voorgelê word, moet die
plaaslike bestuur of beamppte die plan, voordat hy dit goedkeur,
aan die aangewese inspekteur ter insage voorlê, en mag die
60 plan nie goedkeur nie sonder om genoemde inspekteur te raad-
pleeg.
17. (1) 'n Inspekteur kan, indien hy kennis gegee het dat
iemand 'n wetsbepaling, regulasie of bywet wat deur 'n plaas-
like bestuur uitgevoer word en betrekking het op 'n in paragraaf
65 (c), (d), (e), (f) of (g) van sub-artikel (1) van artikel *drie-en-
twintig* bedoelde aangeleentheid, of enige voorskrif kragtens
sodanige wetsbepaling, regulasie of bywet gedoen, oortree
het of versuum het om daaraan te voldoen, aan 'n beamppte van
bedoelde plaaslike bestuur wie se plig dit is om die bepalings
70 van daardie wetsbepaling, regulasie of bywet uit te voer, en
geen stappe binne dertig dae na die kennisgewing deur die
plaaslike bestuur gedoen is om voldoening aan genoemde be-
paling of voorskrif deur bedoelde persoon te bewerkstellig
nie, self sulke stappe doen, en het vir daardie doel al die be-
- 75 voegdhede wat enige beamppte van die plaaslike bestuur in
verband met die uitvoer of afdwing van bedoelde wetsbepaling,
regulasie, bywet of voorskrif besit.
- (2) Die betrokke plaaslike bestuur is aanspreeklik om aan die
Minister die koste wat voorgeskryf mag word, te betaal in
80 verband met die stappe deur 'n inspekteur gedoen of in ver-
band met enige vervolging wat daarop volg.

Inspector or
authorized person
to produce
certificate.

18. Any inspector or person authorized under paragraph (b) of sub-section (5) of section *fourteen*, exercising any power or performing any duty conferred or imposed upon him by this Act shall, on demand, produce the certificate furnished to him in terms of sub-section (2) of section *thirteen*, or in terms 5 of the said paragraph, as the case may be.

Exemptions.

19. (1) Whenever circumstances exist which, in the opinion of the Minister, justify the exemption in any area of any class of employers with reference to managers or any other class of employees employed by them from one or more or all of the 10 provisions of section *four*, *five*, *six*, *seven*, *eight*, *nine* or *ten*, or of any regulation, the Minister may by notice in the *Gazette* and subject to such conditions as he may fix in such notice, exempt such class of employers with reference to such class of employees from one or more or all of such provisions, and may, if he deems 15 it expedient, limit such exemption to a period stated in such notice. For the purposes of this sub-section "class of employers" or "class of employees" includes such group or section or type of employers or employees as may be specified by the Minister in the notice, and the Minister may, in so specifying, apply any method of differentiation or of discrimination he may deem advisable.

(2) The Minister may by further notice in the *Gazette* cancel or amend any notice published in terms of sub-section (1).

(3) Whenever circumstances exist, which in the opinion of 25 the Minister, justify the exemption of any individual employer with reference to all employees or any particular employee employed by him, from one or more or all of the provisions of section *four*, *five*, *six*, *seven*, *eight*, *nine* or *ten*, or of any regulation, the Minister may authorize under licence signed by an officer 30 and subject to such conditions and for such period as may be specified therein, the exemption of that employer with reference to all employees or any particular employee employed by him from one or more or all of the said provisions.

(4) The Minister may from time to time by writing under his 35 hand delegate the powers conferred upon him by this section to any officer, and withdraw such delegation.

(5) Any exemption granted in terms of sub-section (3) may at any time be withdrawn at the discretion of the Minister or by an officer to whom powers have been delegated under sub- 40 section (4).

Offences and
penalties.

20. Any person who—

- (a) contravenes or fails to comply with any provision of sub-section (1) or (4) of section *four*, section *five*, section *six*, sub-section (1), (2), (3) or (8) of section 45 *seven*, sub-section (1), (2) or (4) of section *eight*, section *nine*, *ten* or *eleven*, sub-section (1) of section *twelve* or section *sixteen*; or
- (b) contravenes or fails to comply with any notice under sub-section (5) of section *four*, requirement under 50 section *fourteen*, or notice under sub-section (1) of section *fifteen*, or the conditions of any notice under sub-section (1) or (2) or of any licence under sub-section (3) of section *nineteen*; or
- (c) knowingly makes or causes to be made or connives 55 at the making of any false entry in any record kept under section *eight*, or who prevents the making of correct entries therein; or
- (d) falsely holds himself out to be an inspector or person authorized under paragraph (b) of sub-section (5) 60 of section *fourteen*; or
- (e) refuses or fails to answer to the best of his knowledge any question put to him by any person in the exercise of his functions under section *fourteen*, or hinders any person in the exercise of his functions under 65 the said section,

shall be guilty of an offence and liable upon conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

70

Acts or
omissions by
managers, agents
or employees.

21. (1) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence unde this Act for the employer to do or omit to do, then, unless it is proved that—

- (a) in doing or omitting to do that act the manager, 75 agent or employee was acting without the connivance or permission of the employer; and

- 18.** 'n Inspekteur of 'n ingevolge paragraaf (b) van sub-artikel (5) van artikel *veertien* gemagtigde persoon, wat 'n gemagtigde per-bevoegdheid uitoefen of 'n plig vervul wat deur hierdie Wet aan hom verleen of opgedra word, moet, op aanvraag, die sertifikaat wat ingevolge sub-artikel (2) van artikel *dertien* of ingevolge genoemde paragraaf, na gelang van die geval, aan hom verstrek is, toon.
- 19.** (1) Wanneer daar omstandighede bestaan wat volgens Vrystellingsoordeel van die Minister, die vrystelling van enige kategorie van werkgewers met betrekking tot bestuurders of enige ander kategorie van werknemers by hul in diens, in enige gebied, van een of meer van, of van al die bepalings van artikel *vier*, *vyf*, *ses*, *sewe*, *agt*, *nege* of *tien*, of van enige regulasie, regverdig, kan die Minister by kennisgewing in die *Staatskoerant*, en onderhewig aan sulke voorwaardes as wat hy in die kennisgewing mag vasstel, bedoelde kategorie van werkgewers met betrekking tot bedoelde kategorie van werknemers van een of meer van, of van al daardie bepalings vrystel, en, as hy dit raadsaam ag, sodanige vrystelling tot 'n in die kennisgewing vermelde tydperk beperk. Vir die doeleindes van hierdie sub-artikel beteken „kategorie van werkgewers“ of „kategorie van werknemers“ ook sodanige groep of afdeling of soort werkgewers of werknemers as wat die Minister in die kennisgewing mag bepaal, en die Minister kan by so'n bepaling volgens enige metode wat hy raadsaam ag onderskei of verskil maak.
- (2) Die Minister kan, by 'n verdere kennisgewing in die *Staatskoerant*, 'n ingevolge sub-artikel (1) bekendgemaakte kennisgewing intrek of wysig.
- (3) Wanneer daar omstandighede bestaan wat volgens oordel van die Minister, die vrystelling regverdig van 'n individuele werkgever met betrekking tot alle werknemers of 'n bepaalde werknemer by hom in diens, van een of meer van, of van al die bepalings van artikel *vier*, *vyf*, *ses*, *sewe*, *agt*, *nege* of *tien*, of van enige regulasie, kan die Minister, deur 'n sertifikaat deur 'n amptenaar onderteken, en onderhewig aan die voorwaardes en vir die tydperk wat daarin vermeld word, die vrystelling magtig van daardie werkgever met betrekking tot alle werknemers of 'n bepaalde werknemer by hom in diens, van een of meer van, of van al die genoemde bepalings.
- (4) Die Minister kan van tyd tot tyd by 'n deur hom ondertekende geskrif, die bevoegdhede wat deur hierdie artikel aan hom verleen word, aan 'n amptenaar oordra, en kan so 'n oordrag intrek.
- (5) 'n Vrystelling ingevolge sub-artikel (3) verleen, kan te enige tyd na goeddunke van die Minister, of deur 'n amptenaar aan wie bevoegdhede ingevolge sub-artikel (4) oorgedra is, ingetrek word.
- 20.** Iemand wat—
- (a) enige bepaling van sub-artikel (1) of (4) van artikel *vier*, artikel *vyf*, artikel *ses*, sub-artikel (1), (2), (3) of (8) van artikel *sewe*, sub-artikel (1), (2) of (4) van artikel *agt*, artikel *nege*, *tien* of *elf*, sub-artikel (1) van artikel *twaalf* of artikel *sestien*, oortree of versuim om daaraan te voldoen ; of
 - (b) 'n kennisgewing kragtens sub-artikel (5) van artikel *vier*, voorskrif ingevolge artikel *veertien*, of kennisgewing kragtens sub-artikel (1) van artikel *vyftien*, of die voorwaardes van 'n kennisgewing kragtens sub-artikel (1) of (2) of van 'n sertifikaat kragtens sub-artikel (3) van artikel *negentien*, oortree of versuim om daaraan te voldoen ; of
 - (c) willens en wetens 'n valse inskrywing in 'n aantekening ingevolge artikel *agt* gehou, doen of laat doen of die doen daarvan oogluikend toelaat, of wat verhinder dat juiste inskrywings daarin gedoен word ; of
 - (d) hom valselyk as 'n inspekteur of 'n ingevolge paragraaf (b) van sub-artikel (5) van artikel *veertien* gemagtigde persoon voordoen ; of
 - (e) weier of versuim om na sy beste wete op enige vraag wat deur iemand by die uitoefening van sy werkzaamhede ingevolge artikel *veertien* aan hom gestel word, te antwoord, of iemand by die uitoefening van sy werkzaamhede ingevolge genoemde artikel hinder, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar
- (75) met 'n boete van hoogstens honderd pond of met gevangenisstraf vir 'n tydperk van hoogstens een jaar, of met beide sodanige boete en gevangenisstraf.
- 21.** (1) Wanneer enige bestuurder, agent of werknemer van 'n werkgever enige daad of versuim begaan wat 'n misdryf van bestuurders, agentes of werknemers.
- (80) ingevolge hierdie Wet sou wees as 'n werkgever dit begaan het, dan, tensy bewys gelewer word dat—
- (a) die werkgever daardie daad of versuim van die bestuurder, agent of werknemer nie deur die vingers gesien of toegelaat het nie ; en

(b) all reasonable steps were taken by the employer to prevent any act or omission of the kind in question ; and

(c) it was not under any condition or in any circumstances within the scope of the authority or in the course of the employment of the manager, agent or employee to do or to omit to do acts whether lawful or unlawful of the character of the act or omission charged,

the employer shall be presumed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof ; and the fact that the employer issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

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

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

Evidence.

22. (1) In any proceedings under this Act, any statement or entry contained in any book or document kept by any employer, or by his manager, agent or employee, or found upon or in any premises occupied by that employer, shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that employer, or by any manager, agent or employee of that employer in the course of his work as manager or in the course of his agency or employment.

(2) Whenever in any proceedings under this Act it is proved that any untrue statement or entry is contained in any form submitted to an inspector under section five, or in any record kept by any person under section eight, or has been recorded or made by any person in such record, the person who submitted such form, or kept such record, or recorded or made such statement or entry, as the case may be, shall be presumed until the contrary is proved, wilfully to have falsified that form or record.

(3) Whenever any person is charged under sub-section (1) of section eleven with having dismissed any person employed by him, or reduced the rate of his remuneration, or altered the conditions of his employment to conditions less favourable to him or altered his position relatively to other employees to his disadvantage, by reason of his suspicion or belief in the existence of any fact referred to in that sub-section and stated in the charge, and it is proved that the accused dismissed that person or reduced the rate of his remuneration or altered the conditions of his employment to conditions less favourable to him or altered his position relatively to other employees to his disadvantage, the accused shall be presumed, until the contrary is proved, to have done so by reason of the suspicion or belief stated in the charge.

Regulations.

23. (1) The Governor-General may make regulations as to—

(a) the duties of officers ;

(b) the procedure to be followed in applying for recognition in terms of sub-paragraph (ix) of paragraph (c) of sub-section (1) of section two ;

(c) the sanitation, ventilation and lighting in shops or offices, and the duties of owners of shops or offices or of employers in connection therewith ;

(d) the accommodation and conveniences to be provided in shops or offices by owners or employers for employees while they are working therein ;

(e) the clothing to be provided by employers for employees who handle specified articles in the course of their work, or who are employed in specified trades or occupations ;

(f) the first-aid equipment to be provided in shops or offices by employers ;

(g) the steps to be taken by owners of buildings used or intended for use as shops or offices or by employers, in connection with the structure of such buildings or otherwise, in order to prevent or extinguish fires, and to ensure the safety, in the event of fire, of persons in such buildings ;

- (b) die werkgewer alle redelike maatreëls getref het om so 'n daad of versuim te voorkom; en
 (c) 'n daad of versuim hetsy wettig of onwettig, van die ten laste gelegde soort onder geen voorwaardes of omstandighede binne die bestek van die bevoegdheid of in die diensloop van die bestuurder, agent of werknemer geval het nie,

word veronderstel dat die werkgewer self daardie daad of versuim begaan het en kan hy ten opsigte daarvan skuldig bevind en gevonnis word; en die feit dat die werkgewer 'n daad of versuim van die betrokke soort verbied het, strek op sigself nog nie tot voldoende bewys dat hy alle redelike maatreëls getref het om die daad of versuim te voorkom nie.

(2) Wanneer 'n bestuurder, agent of werknemer van enige werkgewer 'n daad of versuim begaan wat 'n misdryf ingevolge hierdie Wet sou wees as die werkgewer dit begaan het, kan hy ten opsigte daarvan skuldig bevind en gevonnis word asof hy die werkgewer was.

(3) Of die werkgewer of die bestuurder, agent of werknemer, of albei van hulle, kan aldus skuldig bevind en gevonnis word.

22. (1) By prosesverrigtings ingevolge hierdie Wet, is 'n verklaring of inskrywing wat bevat is in enige boek of geskrif wat deur enige werkgewer of deur sy bestuurder, agent of werknemer gehou is, of wat gevind word op of in 'n perseel in okkupasie van daardie werkgewer, toelaatbaar by wyse van getuenis teen hom as 'n erkenning van die feite uiteengesit in daardie verklaring of inskrywing, tensy dit bewys word dat daardie verklaring of inskrywing nie deur daardie werkgewer of deur 'n bestuurder, agent of werknemer van daardie werkgewer in die loop van sy werk as bestuurder of in die loop van sy agentskap of diens gemaak is nie.

(2) Wanneer by prosesverrigtings ingevolge hierdie Wet bewys word dat enige onware verklaring of inskrywing voorkom in 'n formulier wat aan 'n inspekteur ingevolge artikel *vyf* voorgelê is, of in 'n aantekening wat enige persoon ingevolge artikel *agt* gehou het, of deur enige persoon in sodanige aantekening te boek gestel of gedoen is, word veronderstel, totdat die teendeel bewys word, dat die persoon wat die formulier voorgelê of sodanige aantekening gehou of sodanige verklaring of inskrywing te boek gestel of gedoen het, na gelang van die geval, opsetlik daardie formulier of aantekening vervals het.

(3) Wanneer iemand ingevolge sub-artikel (1) van artikel *elf* aangekla word dat hy een of ander persoon uit sy diens ontslaan het of die skaal van sy besoldiging verminder het of sy diensvoorraarde verander het in voorrade wat minder gunstig is vir hom of sy posisie met betrekking tot ander werknemers tot sy nadeel verander het op grond van sy vermoede of geloof van die bestaan van enige in daardie sub-artikel vermelde en in die aanklag beweerde, feit, en dit bewys word dat die beskuldigde daardie persoon uit sy diens ontslaan het, of die skaal van sy besoldiging verminder het of sy diensvoorraarde verander het in voorrade wat minder gunstig is vir hom, of sy posisie met betrekking tot ander werknemers tot sy nadeel verander het, word dit vermoed, totdat die teendeel bewys word, dat die beskuldigde aldus gehandel het weens die in die aanklag beweerde vermoede of geloof.

23. (1) Die Goewerneur-generaal kan regulasies uitvaardig Regulasies. wat betref—

- (a) die pligte van amptenare;
- 60 (b) die procedure wat gevolg moet word wanneer aansoek om erkenning ingevolge sub-paragraaf (ix) van paragraaf (c) van sub-artikel (1) van artikel *twee* gedoen word;
- 65 (c) die higiëniese versorging, lugtoevoer en verligting in winkels of kantore, en die pligte van eienaars van winkels of kantore of van werkgewers in verband daarmee;
- 70 (d) die akkommodasie en geriewe wat in winkels of kantore deur eienaars of werkgewers vir werknemers verskaf moet word terwyl hulle daarin werk;
- 75 (e) die kleding wat deur werkgewers verskaf moet word aan werknemers wat bepaalde artikels in die loop van hul werk hanteer, of wat in bepaalde bedrywe of beroepe in diens is;
- 80 (f) die eerstehulp-toerusting wat in winkels of kantore deur werkgewers voorsien moet word;
- (g) die maatreëls wat deur eienaars van geboue gebruik of bestem vir gebruik as winkels of kantore of deur werkgewers, in verband met die struktuur van sodanige geboue of andersins, getref moet word ten einde brande te voorkom of te blus, en die veiligheid van persone in sodanige geboue, in geval van brand, te verseker;

(h) the manner in which any notice under sub-section (1) of section fifteen shall be served, and the manner in which and time within which an appeal under sub-section (3) or (5) of the said section against the terms of any such notice may be noted and prosecuted ;
 (i) all matters which by this Act are required or permitted to be prescribed ;
 (j) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

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(2) Different regulations may be made under sub-section (1) in respect of different classes of shops or offices or of different classes of employers or employees or of different areas, and in making such regulations the Governor-General may apply such method of discrimination or differentiation as he may deem 15 advisable.

(3) Any regulations made under sub-section (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding the penalties prescribed in section twenty.

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(4) The Governor-General may, in any notice by which any regulations under paragraph (c), (d), (f) or (g) of sub-section (1) is published, specify the regulations made under any of the said paragraphs in respect of which the provisions of section fifteen shall apply.

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(5) The Minister may from time to time determine the areas in which the provisions of any regulations made under paragraph (c), (d), (e), (f) or (g) of sub-section (1) shall apply. After making any such determination, the Minister shall cause to be published in the *Gazette* a notice specifying the areas so determined and the date from which the provisions of any such regulations shall apply.

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Repeal of laws.

24. (1) The laws mentioned in the Schedule of this Act are hereby repealed or amended to the extent set forth in the fourth column of that Schedule.

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(2) In any agreement, notice or award published or made, or deemed to have been published or made, under the Industrial Conciliation Act, 1937, or in any determination made, or deemed to have been made, under the Wage Act, 1937, any reference to any provision of a Provincial Ordinance repealed 40 by sub-section (1) shall be deemed to be a reference to the corresponding provision of this Act.

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Short title and commencement.

25. This Act shall be called the Shops and Offices Act, 1939. and shall come into operation upon a date to be fixed by the Governor-General by proclamation in the *Gazette*.

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Schedule.

LAWS REPEALED OR AMENDED.

Province or Union.	No. and year of law.	Short title of Law.	Extent of repeal or amendment.
Cape Province	Act No. 20 of 1899.	The Shop Assistants Act 1899.	The repeal of the whole.
"	Ord. No. 14 of 1930.	Shop Hours Ordinance, 1930.	The deletion in section three of all the words after the words "in each week." The repeal of section seven. The repeal of Part III. The repeal of sub-section (5) of section twenty-four, as amended by section two of Ordinance No. 21 of 1931.
" ..	Ord. No. 8 of 1932.	Shop Hours Amendment Ordinance, 1932.	The repeal of the whole.
" ..	Ord. No. 36 of 1935.	Shop Hours Ordinance (Amendment) Ordinance 1935.	The repeal of section three.
" ..	Ord. No. 11 of 1936.	Shop Hours (Amendment) Ordinance, 1936	The repeal of section two.
Province of Natal	Ord. No. 12 of 1919.	The Shop Hours Ordinance, 1919	The repeal of section ten.

- (h) die wyse waarop enige kennisgewing ingevolge sub-artikel (1) van artikel *vyftien* gedien moet word, en die wyse waarop en tyd binne welke 'n hoër beroep ingevolge sub-artikel (3) of (5) van genoemde artikel teen die bepalings van so 'n kennisgewing aangeteken en voortgesit moet word;
- (i) enige aangeleentheid wat ingevolge hierdie Wet moet of kan voorgeskryf word;
- (j) in die algemeen, alle aangeleenthede wat hy nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.
- (2) Verskillende regulasies kan kragtens sub-artikel (1) uitgevaardig word ten opsigte van verskillende soorte winkels of kantore of van verskillende kategorieë van werkgewers of werk-nemers, of van verskillende gebiede, en die Goewerneur-generaal kan, by die uitvaardiging van sodanige regulasies, volgens enige metode wat hy raadsaam mag ag, onderskei of verskil maak.
- (3) Regulasies ingevolge sub-artikel (1) uitgevaardig kan vir 'n oortreding daarvan of 'n versuim om daaraan te voldoen, strawwe voorskryf wat nie swaarder is nie as die strawwe in artikel *twintig* voorgeskryf.
- (4) Die Goewerneur-generaal kan, in enige kennisgewing waarby regulasies ingevolge paragraaf (c), (d), (f) of (g) van sub-artikel (1) bekendgemaak word, bepaal ten opsigte van welke regulasies, ingevolge een of ander van genoemde paragrafe uitgevaardig, die bepalings van artikel *vyftien* van toepassing is.
- (5) Die Minister kan van tyd tot tyd die gebiede vasstel waarin die bepalings van enige ingevolge paragraaf (c), (d), (e), (f) of (g) van sub-artikel (1) uitgevaardigde regulasies van toepassing is. Na so 'n bepaling laat die Minister in die *Staatskoerant* 'n kennisgewing publiseer, waarin die aldus bepaalde gebiede en die datum vanaf welke die bepalings van bedoelde regulasies van toepassing is, aangegee word.

24. (1) Die Wette in die Bylae van hierdie Wet vermeld word hiermee herroep of gewysig soas in die vierde kolom van daardie Bylae aangetoon.

(2) 'n Verwysing na enige bepaling van 'n Provinsiale Ordonnansie wat deur sub-artikel (1) herroep is, in 'n ooreenkoms, kennisgewing of uitspraak wat ingevolge die Nywerheid-versoeningswet, 1937, bekendgemaak of gedoen is of geag word bekendgemaak of gedoen te gewees het, of in enige vasstelling wat ingevolge die Loonwet, 1937, gemaak is of geag word gemaak te gewees het, word geag 'n verwysing na die ooreenstemmende bepalings van hierdie Wet te wees.

25. Hierdie Wet heet die Wet op Winkels en Kantore, 1939, en tree in werking op 'n datum deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* vasgestel te word.

Bylae.

HERROEPE OF GEWYSIGDE WETTE.

Provinsie of Unie.	No. en jaar van Wet.	Kort titel van Wet.	In hoever herroep of gewysig.
Kaapprovinsie.	Wet No. 20 van 1899. " Ord. No. 14 van 1930.	"The Shop Assistants Act, 1899" Winkelure-Ordonnansie, 1930	Die herroeping van die geheel. Die skrapping in artikel <i>drie</i> van alle woorde na die woorde „vasgestelde vrymiddag". Die herroeping van artikel <i>sewe</i> . Die herroeping van Deel III. Die herroeping van sub-artikel (5) van artikel <i>vier-en-twintig</i> , soos gewysig deur artikel <i>twee</i> van Ordonnansie No. 21 van 1931.
"	Ord. No. 8 van 1932.	Winkelure-Wyatingsordonnansie, 1932.	Die herroeping van die geheel.
"	Ord. No. 36 van 1935.	Wyatingsordonnansie op Winkelure, 1935.	Die herroeping van artikel <i>drie</i> .
"	Ord. No. 11 van 1936.	Winkelure-Wyatingsordonnansie, 1936.	Die herroeping van artikel <i>twee</i> .
Natal ..	Ord. No. 12 van 1919.	"De Winkeluren Ordonnantie, 1919".	Die herroeping van artikel <i>tien</i> .

Province or Union.	No. and year of law.	Short title of Law.	Extent of repeal or amendment.
Natal ..	Ord. No. 6 of 1931.	The Shop Hours Further Amendment Ordinance 1931.	The repeal of the whole.
Orange Free State	Ord. No. 6 of 1925.	Shop Hours and Half - holiday Ordinance, 1925.	The repeal of section twelve and of sections fourteen to eighteen inclusive, in so far as they relate to the granting of a half-holiday to shop assistants. The repeal of sections twenty, twenty-one and twenty-two. The deletion in section twenty-two A as inserted by section four of Ordinance No. 4 of 1932, of the words "any attendance register or." The deletion in section twenty-five of all the words after the words "as if he was the shop-keeper."
" ..	Ord. No. 9 of 1930.	Shop Hours and Half - holiday Amendment Ordinance, 1930.	The repeal of section two.
" ..	Ord. No. 4 of 1932.	Shop Hours and Half-holiday Ordinance Amendment Ordinance, 1932.	The repeal of section two in so far as it relates to the granting of a half-holiday to shop assistants. The repeal of section three.
" ..	Ord. No. 7 of 1933.	Shop Hours and Half - holiday Ordinance Amendment Ordinance, 1933.	The repeal of the whole.
Transvaal	Ord. No. 5 of 1923.	Shop Hours Ordinance, 1923.	The repeal of sub-section (2) of section one, as amended by section one of Ordinance No. 12 of 1935 and section one of Ordinance No. 8 of 1936. The deletion in sub-section (3) of section three of the words "and to employ his assistants therein." The repeal of sections seven, eight and nine. The deletion in sub-section (1) of section ten of the words "attendance register or time-table." The repeal of paragraph (1) of section eleven, and the deletion in paragraph (2) of the said section of all the words after the word "inspectors." The repeal of sub-section (2) of section thirteen.
" ..	Ord. No. 10 of 1925.	Shop Hours Amendment Ordinance, 1925.	The repeal of section two.
" ..	Ord. No. 19 of 1928.	Shop Hours Amendment Ordinance, 1928.	The repeal of sections three and four.
" ..	Ord. No. 12 of 1935.	Shop Hours Amendment Ordinance, 1935.	The repeal of section five.
" ..	Ord. No. 8 of 1936.	Shop Hours Amendment Ordinance, 1936.	The repeal of section one.
Union ..	Act No. 10 of 1913.	The Financial Relations Act, 1913.	The deletion in Item 8 of the Second Schedule of the words "and the restriction of hours of work of shop assistants."

Provinsie of Unie.	No. en jaar van Wet.	Kort titel van Wet.	In hoever herroep of gewysig.
Natal ..	Ord. No. 6 van 1931.	Die Verdere Wysigingsordonnansie op Winkelure, 1931.	Die herroeping van die geheel.
Oranje-Vrystaat	Ord. No. 6 van 1925.	Winkelure en Halfvakansiedag Ordonnansie, 1925.	Die herroeping van artikel <i>twaalf</i> , en van artikels <i>veertien</i> tot en met <i>agtien</i> vir sover hul betrekking het op die toekenning van 'n half-vakansiedag aan winkelassistente. Die herroeping van artikels <i>twintig</i> , <i>een-en-twintig</i> en <i>twee-en-twintig</i> . Die skrapping in artikel <i>twee-en-twintig A</i> soos ingevoeg deur artikel <i>vier</i> van Ordonnansie No. 4 van 1932, van die woorde „enige werksuur-register of”. Die skrapping in artikel <i>wyf-en-twintig</i> van alle woorde na die woorde „asof hy die winkelier was”.
"	Ord. No. 9 van 1930.	Winkelure en Half-vakansiedag Wysigings-Ordonnansie, 1930.	Die herroeping van artikel <i>twee</i> .
"	Ord. No. 4 van 1932.	Winkelure en Half-vakansiedag Ordonnansie Wysigings-Ordonnansie, 1932.	Die herroeping van artikel <i>twoe vir</i> sover dit betrekking het op die toekenning van 'n half-vakansiedag aan winkelassistente. Die herroeping van artikel <i>drie</i> .
"	Ord. No. 7 van 1933.	Winkelure en Half-vakansiedag Ordonnansie Wysigings-Ordonnansie, 1933.	Die herroeping van die geheel.
Transvaal	Ord. No. 5 van 1923.	Winkelure Ordonnansie, 1923.	Die herroeping van subartikel (2) van artikel <i>een</i> soos gewysig deur artikel <i>een</i> van Ordonnansie No. 12 van 1935 en artikel <i>een</i> van Ordonnansie No. 8 van 1936. Die skrapping in subartikel (3) van artikel <i>drie</i> van die woorde „en sy bediendes daar-in laat werk”. Die herroeping van artikels <i>sewe</i> , <i>agt</i> en <i>nege</i> . Die skrapping in subartikel (1) van artikel <i>tien</i> van die woorde „aanwesigheidsregister of tydtafel”. Die herroeping van paragraaf (1) van artikel <i>elf</i> en die vervanging in paragraaf (2) van genoemde artikel van alle woorde na die woorde „voorgeskryf” deur die woorde „word”. Die herroeping van subartikel (2) van artikel <i>dertien</i> . Die herroeping van artikel <i>twee</i> .
"	Ord. No. 10 van 1925.	Winkelure Wysigings Ordonnansie, 1925.	Die herroeping van artikels <i>drie</i> en <i>vier</i> .
"	Ord. No. 19 van 1928.	Winkelure-Wysigingsordonnansie, 1928.	Die herroeping van artikel <i>vyf</i> .
"	Ord. No. 12 van 1935.	Winkelure-Wysigingsordonnansie, 1935.	Die herroeping van artikel <i>een</i> .
"	Ord. No. 8 van 1936.	Winkelure-Wysigingsordonnansie, 1936.	Die skrapping in Item 8 van die Tweede Bylae van die woorde „en de beperking van de werkuren van winkelbedienden”.
Unie ..	Wet No. 10 van 1913.	„Finansiële Verhoudingswet, 1913.”	

BILL

To make provisions for the regulation of hire-purchase agreements and of instalment sales subject to resolute conditions, and for matters incidental thereto.

(Introduced by the MINISTER OF COMMERCE AND INDUSTRIES.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Definitions.

1. (1) In this Act, unless inconsistent with the context—

“hire-purchase agreement” means any agreement whereby goods are sold subject to the condition that the ownership in such goods shall not pass merely by the transfer of the possession of such goods, and the purchase price is to be paid in instalments, two or more of which are payable after such transfer; 10 and includes any other agreement which has or agreements which together have the same import, whatever from such agreement or agreements may take: Provided that any agreement which or agreements which together provide for the letting and hiring 15 of goods, with the right to purchase such goods only after two or more periodical payments have been made in respect thereof shall, whether or not the agreement or agreements may be terminated by either party or one of the parties before such right is 20 exercised, for the purposes of this Act, be deemed to be of the said import;

“cash price” in relation to any goods, means—

- (a) the price stated in respect of those goods to the prospective buyer under section *three*; or 25
- (b) if no such statement was made, the price at which the seller ordinarily sells similar goods for a cash amount in money in the same locality; or
- (c) if there is no price referred to in paragraph (a) or (b), the ruling price at which similar goods 30 are sold for a cash amount in money in the same locality;

“agreement” means an instalment sale agreement or hire-purchase agreement;

“instalment sale agreement” means any agreement of 35 purchase and sale whereby ownership in the goods sold passes upon delivery, and the purchase price is to be paid in instalments, two or more of which are payable after delivery, and under which the seller would be entitled to the return of the goods 40 sold if the buyer should fail to comply with any one or more provisions thereof; and includes any other agreement which has or agreements which together have the same import, whatever form such agreement or agreements may take; 45

“purchase price” means the total sum payable under any agreement, to the seller by the buyer, exclusive of any sum payable in terms of the agreement as a penalty or as damages for the breach thereof;

“buyer” or “seller” means the person who, in terms of 50 any agreement, is the buyer or the seller, as the case may be.

(2) If any seller has agreed that any part of the purchase price may be discharged otherwise than by the payment of money, any such discharge shall, subject to the provisions 55 of section *eight*, be deemed to be a payment of that part of the purchase price.

Application of Act.

2. (1) The provisions of this Act shall—

- (a) apply to all agreements relating to movables, entered into after the commencement of this Act, under which 60 the purchase price does not exceed five hundred pounds; and
- (b) not apply to any agreement under which the State is the seller,

WETSONTWERP

Om voorsiening te maak vir die reëling van huurkoop-kontrakte en verkope op afbetaling onder ontbindende voorwaardes, en vir daarmee in verband staande sake.

(Ingedien deur die MINISTER VAN HANDEL EN NYWERHEID.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Woordbepaling.
5 Wet—

- „huurkoopkontrak” ’n kontrak waarby goed verkoop word onder voorwaarde dat die eiendomsreg op die goed nie bloot deur oordrag van die besit van die goed oorgaan nie, en die koopprys in paaiemente betaal moet word, twee of meer waarvan na bedoelde oordrag betaalbaar is ; en ook enige ander kontrak wat of kontrakte wat tesame dieselfde strekking het, watter vorm daardie kontrak of kontrakte ookal mag aanneem : Met dien verstande dat ’n kontrak wat of kontrakte wat tesame voorsiening maak vir die huur en verhuur van goed, met die reg om daardie goed alleen na twee of meer termynbetalings ten aansien daarvan gedoen is, te koop, by die toepassing van hierdie Wet geag word van genoemde strekking te wees, onverskillig of die kontrak of kontrakte deur albei partye of een van die partye voor die uitoefening van daardie reg beëindig kan word ;
- 10 „kontantprys” met betrekking tot goed—
 - (a) die prys ingevolge artikel *drie* ten opsigte van daardie goed aan die toekomstige koper mee-gedeel ; of
 - (b) as bedoelde mededeling nie gedoen is nie, die prys waarteen die verkoper gewoonlik soortgelyke goed in dieselfde omgewing vir ’n kontantbedrag geld verkoop ; of
 - (c) as daar geen in paragraaf (a) of (b) bedoelde prys bestaan nie, die heersende prys waarteen soortgelyke goed in dieselfde omgewing vir ’n kontantbedrag geld verkoop word ;
- 15 „kontrak” ’n kontrak van verkoop op afbetaling of ’n huurkoopkontrak ;
- 20 „kontrak van verkoop op afbetaling” ’n kontrak van koop en verkoop waarby die eiendomsreg op die verkoopde goed by lewering oorgaan, en die koopprys in paaiemente betaal moet word, twee of meer waarvan na lewering betaalbaar is, en kragtens welke die verkoper op teruggawe van die verkoopde goed geregtig sou wees, indien die koper sou versuim om aan een of meer van die bepalings daarvan te voldoen ;
- 25 en ook enige ander kontrak wat of kontrakte wat tesame dieselfde strekking het, watter vorm daardie kontrak of kontrakte ookal mag aanneem ;
- 30 „koopprys” die totaalbedrag wat kragtens ’n kontrak deur die koper aan die verkoper betaalbaar is, met uitsluiting van enige bedrag wat luidens die kontrak betaalbaar is as ’n boete of as skadevergoeding vir kontrakbreuk ;
- 35 „koper” of „verkoper” die persoon wat volgens ’n kontrak, na gelang van die geval, die koper of verkoper is.
- 40 „(2) Indien ’n verkoper ooreengekom het dat enige gedeelte van die koopprys anders as deur die betaling van geld vereffen kan word, word sodanige vereffening, behoudens die bepalings van artikel *agt*, geag betaling van daardie gedeelte van die koopprys te wees.
- 45 **60 2.** (1) Die bepalings van hierdie Wet—
 - (a) is van toepassing op alle kontrakte met betrekking tot roerende goed wat na die inwerkingtreding van hierdie Wet gesluit word, en luidens welke die koopprys nie meer as vyf honderd pond bedra nie ; en
 - (b) is nie van toepassing nie op ’n kontrak luidens welke die Staat die verkoper is.

Toepassing van
Wet.

(2) Section *nine* (except paragraph (b) of sub-section (1) thereof), sections *eleven*, *twelve*, *thirteen* and *fourteen*, and sections *fifteen* and *sixteen*, in so far as they relate to actions commenced after the commencement of this Act, shall apply also in respect of agreements in force at and entered into before the commencement of this Act, under which the purchase price does not exceed the said amount. 5

Prospective buyer
to be informed
of cash price of
goods.

3. (1) Before any agreement is entered into in respect of any goods the prospective seller shall state in writing to the prospective buyer, otherwise than in any note or memorandum of the agreement, a price at which the goods may be purchased by him for a cash amount in money. 10

(2) If any seller enters into any agreement without having complied with the provisions of sub-section (1), he shall be deemed to have sold the goods to which the agreement relates, 15 to the buyer at a price which is ten per cent. less than the purchase price, and the amount of each instalment under such agreement shall be adjusted accordingly.

Certain provisions
in instalment
sale agreements
to be in writing.

4. No provision in or in connection with any instalment sale agreement for the payment of any amount as damages, 20 or for any forfeiture or penalty, or for the acceleration of the payment of any instalment or the return of the goods sold, in the event of non-fulfilment by the buyer of any obligation under the agreement, or upon the occurrence of any other contingency, shall be of any force or effect, unless 25 a note or memorandum of such provision is made and signed by or on behalf of the buyer and all other parties to the agreement, and a copy of such note or memorandum is delivered or sent to the buyer within seven days of the making of the 30 agreement.

Hire-purchase
agreements to be
in writing.

5. (1) No hire-purchase agreement shall be of any force or effect unless it is entered into in writing and signed by or on behalf of the buyer and all other parties to the agreement, and a copy thereof is delivered or sent to the buyer within 35 seven days of the making of the agreement.

(2) Every such agreement shall contain—

- (a) a statement of the price at which the goods may be purchased for a cash amount in money;
- (b) a statement of the purchase price of the goods, the amount paid by the buyer in pursuance of the provisions of section *eight*, the amount of each of the instalments by which the purchase price is to be paid, and the date, or the mode of determining the date, upon which each instalment is payable;
- (c) a description of the goods sufficient to identify them; 45 and
- (d) the terms as to the reservation and passing of ownership in the goods.

(3) If any such agreement does not comply with the provisions of sub-section (2), other than paragraph (a), the goods 50 shall be deemed to have been sold to the buyer without any reservation as to the ownership therein.

(4) If any such agreement does not comply with the provisions of paragraph (a) of sub-section (2), the provisions of sub-section (2) of section *three* shall *mutatis mutandis* apply. 55

6. Any provision in any contract whereby—

- (a) any person acting on behalf of the seller in connection with the conclusion of any agreement or the negotiations which precede the conclusion of the agreement, is constituted or deemed to be the agent of the buyer; 60 or
- (b) the seller is relieved from liability for any act, omission or representation of any person acting on his behalf in the said connection; or
- (c) the liability of the seller in pursuance of any guarantee 65 or warranty which would, but for such provision, be implied in any agreement, is excluded or restricted; or
- (d) the property in any goods to which any agreement relates will not pass upon payment of all the instalments payable in respect of those goods, or, as the case may be, the buyer will be debarred from exercising any right to purchase the goods to which the agreement relates upon payment of all the instalments payable in respect of those goods before he may, in 75 terms of such agreement, exercise the said right; or
- (e) the seller or any person acting on his behalf is authorized to enter upon any premises for the purpose of taking possession of goods which have been sold 80

Invalidity of
certain pro-
visions.

(2) Artikel *nege* (behalwe paragraaf (b) van sub-artikel (1) daarvan), artikels *elf*, *twaalf*, *dertien* en *veertien*, asook artikels *vijftien* en *sestien*, vir sover hul betrekking het op sake wat na die inwerkingtreding van hierdie Wet aanhangig gemaak is, is ook van toepassing ten opsigte van kontrakte wat van krag is by en aangegaan is voor die inwerkingtreding van hierdie Wet, en luidens welke die koopprys nie meer as genoemde bedrag bedra nie.

3. (1) Voordat 'n kontrak ten opsigte van enige goed Kontantprys van goed moet aan koper mee-gedeel word.

10 aangegaan word, moet die toekomstige verkoper skriftelik aan die toekomstige koper, op 'n ander wyse as in 'n aantekening of memorandum van die kontrak, 'n prys medeel waarteen die goed deur hom vir 'n kontantbedrag geld gekoop kan word.

15 (2) Indien 'n verkoper 'n kontrak aangaan sonder dat hy aan die by sub-artikel (1) bepaalde voldoen het, word hy geag die goed waarop die kontrak betrekking het aan die koper te verkoop het teen 'n prys wat tien persent minder bedra as die koopprys, en die bedrag van elke paaiemement onder daardie 20 kontrak word dienooreenkomsdig gereël.

4. Geen voorsiening in of in verband met 'n kontrak van verkoop op afbetaling, vir betaling van enige bedrag as skade-vergoeding, of vir 'n verbeuring of straf, of vir vervroegde betaling van enige paaiemement of teruggawe van die verkooppte 25 goed, ingeval die koper 'n verpligting ingevolge die kontrak nie nakom nie of 'n ander gebeurlikheid plaasvind, is geldig nie, tensy 'n aantekening of memorandum van daardie voorsiening gemaak is en onderteken is deur of ten behoeve van die koper en alle ander partye by die kontrak, en 'n afskrif 30 van daardie aantekening of memorandum binne sewe dae na die totstandkoming van die kontrak aan die koper aangelever of gestuur is.

5. (1) Geen huurkoopkontrak is geldig nie tensy dit skriftelik aangegaan is en onderteken is deur of ten behoeve van die 35 koper en alle ander partye by die kontrak, en 'n afskrif daarvan binne sewe dae na die totstandkoming van die kontrak aan die koper aangelever of gestuur is.

(2) Iedere sodanige kontrak moet—
 40 (a) die prys vermeld waarteen die goed vir 'n kontantbedrag geld gekoop kan word ;
 (b) die koopprys van die goed vermeld, asook die bedrag ingevolge die bepalings van artikel *agt* deur die koper betaal, die bedrag van elkeen van die paaiememente waarin die koopprys betaal moet word, en die verval-datum van elke paaiemement, of die manier om daardie 45 datum vas te stel ;
 (c) 'n genoegsame beskrywing van die goed bevat om hul te kan aanwys ; en
 (d) die voorwaardes wat betref die voorbehoud en oor-gang van die eiendomsreg op die goed, vermeld.

50 (3) Indien so 'n kontrak nie aan die bepalings van sub-artikel (2), behalwe paragraaf (a), voldoen nie, word die goed geag sonder enige voorbehoud wat betref die eiendomsreg daarop, aan die koper verkoop te gewees het.

55 (4) Indien so 'n kontrak nie aan die bepalings van paragraaf (a) van sub-artikel (2) voldoen nie, is die bepalings van sub-artikel (2) van artikel *drie mutatis mutandis* van toepassing.

6. Enige bepaling in enige ooreenkoms waardeur—
 60 (a) iemand wat namens die verkoper optree in verband met die sluiting van 'n kontrak of die onderhandelings wat die sluiting van die kontrak voorafgaan, as gevoldmagtigde van die koper aangestel word of geag word sulks te wees ; of
 (b) die verkoper onthef word van aanspreeklikheid vir die doen en late of vir enige voorstelling van iemand wat in bedoelde verband namens hom optree ; of
 65 (c) die aanspreeklikheid van die verkoper ingevolge enige garansie of waarborg wat, as daardie bepaling nie daar was nie, 'n stilstwyende beding van die kontrak sou wees, uitsluit of beperk ; of
 (d) die eiendomsreg op enige goed waarop 'n kontrak betrekking het, nie by betaling van al die paaiememente wat ten opsigte van daardie goed betaalbaar is, sal oorgaan nie, of, na gelang van die geval, die koper belet sal word om die reg tot aankoop van die goed waarop die kontrak betrekking het, uit te oefen by betaling van al die paaiememente wat ten opsigte van daardie goed betaalbaar is alvorens hy luidens die kontrak genoemde reg kan uitoefen ; of
 70 (e) die verkoper of iemand wat namens hom optree gemagtig word om 'n perseel te betree ten einde goed

Ongeldigheid van sekere bepalings.

Purchase price and interest.	<p>under any agreement, or is relieved from liability for any such entry; or</p> <p>(f) the buyer chooses a <i>domicilium citandi</i> at a place not referred to in section sixteen, shall be of no force or effect.</p>	5
One-fifth of purchase price to be paid in cash when agreement entered into.	<p>7. (1) The purchase price of goods sold under any agreement shall not exceed the cash price of the goods by more than ten per cent., and the rate of interest payable under any agreement upon any unpaid instalment of the purchase price shall not exceed six per cent. per annum.</p> <p>(2) Any provision in any agreement for a purchase price which exceeds the cash price by more than ten per cent., or for a rate of interest upon any unpaid instalment which exceeds six per cent. per annum, shall, in respect of that portion of the purchase price which exceeds the cash price by more than ten per cent. or of that portion of the interest which exceeds the rate of six per cent. per annum, as the case may be, be of no force or effect.</p>	10
Buyer entitled to statement of account etc., and seller to inform- ation as to where- abouts of goods.	<p>8. No agreement (other than an agreement under which a local authority is the seller) under which the purchase price exceeds ten pounds, shall be of any force or effect unless at least one-fifth of the purchase price is paid in a cash amount in money at the time the agreement is entered into.</p> <p>9. (1) If the buyer makes a written request therefor to the seller and tenders to the seller one shilling for expenses, the seller shall, within four days after the tender is received, supply to the buyer—</p> <ul style="list-style-type: none"> (a) a statement signed by or on behalf of the seller, showing— <ul style="list-style-type: none"> (i) the amount paid under the agreement by or on behalf of the buyer; (ii) the amount due under the agreement and unpaid, the date upon which each unpaid instalment became due, and the amount of each such instalment; and (iii) the amount which is to become payable under the agreement, the date or mode of determining the date upon which each future instalment is to become payable, and the amount of each such instalment; and 	20
	<ul style="list-style-type: none"> (b) in the case of an instalment sale agreement, a copy of any note or memorandum referred to in section four, or of the agreement, if the agreement was entered into in or reduced to writing, and in the case of a hire-purchase agreement, a copy of the agreement. 	40
Cession or hypothecation of and authority to collect periodical income.	<p>(2) If the seller under any hire-purchase agreement, at any time before the ownership in the goods sold has passed, makes a written request therefor to the buyer, the buyer shall, within seven days after the request is received, inform the seller where the goods are kept at the time when the information is given, or if the information is sent by post, at the time when it is posted.</p> <p>(3) Any person who fails to comply with the provisions of sub-section (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds.</p>	45
Limitation of seller's right to enforce certain provisions of agreement.	<p>10. (1) Any cession or hypothecation to secure any payment under any agreement of so much of any periodical amount payable under a contract of service or towards the maintenance of any person, as in itself or together with any other portion of the said amount which is subject to any prior cession or hypothecation to secure any payment under any other agreement exceeds twenty-five per cent. of the said amount, shall to the extent to which it is a cession or hypothecation in excess of such percentage of the said amount be of no force or effect.</p> <p>(2) Any authority given to any person for the purpose of securing any payment under any agreement, by the person entitled to any such periodical amount, to receive or collect the said amount or any part thereof, shall at all times be revocable.</p> <p>11. No seller shall, by reason of any failure on the part of the buyer to carry out any obligation under any agreement, be entitled to enforce—</p> <ul style="list-style-type: none"> (a) any provision in the agreement for the acceleration of the payment of any instalment, unless an instalment or any part thereof which is not less than one-tenth of the purchase price, or two or more instalments or parts of instalments which together are not less than one-twentieth of the purchase price, are due and unpaid; or 	55

- wat kragtens 'n kontrak verkoop is in besit te neem,
of onthef word van aanspreeklikheid ter oorsake van
sodanige betreding ; of
- 5 (f) die koper 'n *domisilium citandi* kies op 'n plek wat nie
in artikel *sestien* bedoel word nie,
is van nul en gener waarde.
7. (1) Die koopprys van goed kragtens 'n kontrak verkoop Koopprys en
mag die kontantprys van die goed nie met meer as tien persent rente.
te bowe gaan nie, en die koers waarteen rente op enige on-
10 betaalde paaiemint van die koopprys kragtens 'n kontrak
betaalbaar is, mag ses persent per jaar nie te bowe gaan nie.
- (2) Enige voorsiening in 'n kontrak vir 'n koopprys wat die
kontantprys met meer as tien persent te bowe gaan, of vir 'n
rentekoers op enige onbetaalde paaiemint wat ses persent per
15 jaar te bowe gaan, is, wat betref daardie gedeelte van die
koopprys wat die kontantprys met meer as tien persent te
bowe gaan, of daardie gedeelte van die rente wat die koers
van ses persent per jaar te bowe gaan, na gelang van die geval,
van nul en gener waarde.
- 20 8. Geen kontrak (behalwe 'n kontrak waaronder 'n plaaslike Een-vyfde van
bestuursliggaam die verkoper is) kragtens welke die koopprys moet
meer as tien pond bedra, is geldig nie, tensy minstens een-
vyfde van die koopprys by die sluiting van die kontrak in 'n
kontantbedrag geld betaal word.
- 25 9. (1) Indien die koper die verkoper skriftelik daarom versoek Koper is ge-
en aan die verkoper een sjieling vir koste aanbied, moet die regtig op
verkoper binne vier dae na ontvangs van die aanbod, die rekeningstaat
koper voorsien van— ens., en ver-
koper op in-
ligting omtrent
waar goed is.
- (a) 'n staat deur of ten behoeve van die verkoper onder-
30 teken, waarin aangegee word—
(i) die bedrag deur of ten behoeve van die koper
ingevolge die kontrak betaal ;
(ii) die bedrag wat ingevolge die kontrak opeisbaar
en onbetaald is, die datum waarop elke onbetaalde
35 paaiemint verval het, en die bedrag van elke
sodanige paaiemint ; en
(iii) die bedrag wat ingevolge die kontrak betaalbaar
sal word, die vervaldatum van elke toekomstige
paaiemint of die manier om daardie datum vas
40 te stel, en die bedrag van elke sodanige paaiemint ;
en
- (b) in die geval van 'n kontrak van verkoop op afbetaling
'n afskrif van enige aantekening of memorandum in
artikel *vier* bedoel, of van die kontrak, as dit skriftelik
45 aangegaan of op skrif gestel is, en in die geval van 'n
huurkoopkontrak, 'n afskrif van die kontrak.
- (2) Indien die verkoper onder 'n huurkoopkontrak, te eniger
tyd voordat die eiendomsreg op die verkopte goed oorgegaan
het, die koper skriftelik daarom versoek, moet die koper, binne
50 sewe dae na ontvangs van die versoek, die verkoper medeeel
waar die goed gehou word wanneer die mededeling geskied, of
as die mededeling met die pos gestuur word, wanneer dit op
die pos gedoen word.
- (3) Iemand wat versuim om die bepalings van sub-artikel
55 (1) of (2) na te kom, is skuldig aan 'n misdryf en by skuldig-
bevinding strafbaar met 'n boete van hoogstens vyf-en-twintig
pond.
10. (1) 'n Sessie of hypothekering ter versekering van enige Sessie of hypothe-
betaling ingevolge 'n kontrak, van soveel van 'n periodieke kering en magtiging
bedrag betaalbaar kragtens 'n dienskontrak of tot onderhoud tot insameling van
60 van enige persoon, as wat alleen of tesame met 'n ander ge- periodieke
deelte van genoemde bedrag wat onderworpe is aan 'n vorige inkomste.
- 65 sessie of hypothekering ter versekering van enige betaling
ingevolge 'n ander kontrak, meer bedra as vyf-en-twintig
genoemde bedrag, is, tot die mate waarin dit 'n
70 sessie of hypothekering is van meer as daardie persentasie van
genoemde bedrag, van nul en gener waarde.
- (2) 'n Magtiging aan iemand verleent ter versekering van
enige betaling ingevolge 'n kontrak, deur iemand wat op so 'n
75 periodieke bedrag geregtig is, tot ontvangs of insameling van Beperking van
genoemde bedrag of gedeelte daarvan, is te alle tye herroeplik.
verkoper se reg om sekere bepalings van kontrak af te dwing.
11. Geen verkoper is, ter oorsake van 'n versuim aan die
kant van die koper om 'n verpligting ingevolge 'n kontrak na
te kom, geregtig om—
- 75 (a) 'n voorsiening in die kontrak vir vervroegde betaling
van enige paaiemint af te dwing nie, tensy 'n paaie-
ment of gedeelte daarvan wat minstens een-tiende
van die koopprys bedra, of twee of meer paaieminte of
gedeeltes van paaieminte wat tesame minstens een-
80 twintigste van die koopprys bedra, opeisbaar en
onbetaald is ; of

(b) any provision in the agreement for the payment of any amount as damages, or for any forfeiture or penalty, or for the acceleration of the payment of any instalment, unless he has made written demand to the buyer to carry out the obligation in question within a period stated in such demand, not being less than ten days, and the buyer has failed to comply with such demand. 5

Buyer's right to be reinstated after return of goods to seller.

12. If the seller has, as a result of the failure of the buyer to pay any instalment due under any agreement, recovered possession, otherwise than by an order of court, of any goods to which the agreement relates, the buyer shall be entitled if he pays all arrears due under the agreement within a period of twenty-one days after the seller recovered possession of the goods, to the return of the goods at the seller's place of business or, if he has no place of business or if the buyer so requests, at the premises in which the goods are kept, and to be re-instated in his rights under the agreement. 10 15

Payment of instalments before due date.

13. The buyer shall at all times be entitled to pay any instalment of the purchase price under any agreement before it is due, and shall, if he pays the whole of the purchase price remaining unpaid, together with such interest as may have accrued up to the date upon which the payment is made, in one amount, be entitled to a reduction in the purchase price equal to five per cent. of such instalments as are not due 25 at the said date. 20 25

Buyer's rights upon termination, rescission or breach of agreement.

14. (1) If any agreement is terminated or rescinded at the instance of the seller, the buyer shall not be bound to make any payment or to perform any other act, and shall not incur the forfeiture of any payment, by which the seller would be 30 placed in a better financial position than that in which he would have been if the agreement had expired after regular performance by the buyer of all his obligations thereunder. 35

Powers of court.

(2) If the buyer fails to carry out any obligation under any agreement, or if any other contingency occurs, upon the occurrence of which the seller is entitled, in terms of the agreement, to take any action against the buyer, and the agreement is not terminated or rescinded, the buyer shall not be bound to make any payment or to perform any other act, by which the seller would be placed in a better financial 40 position than that in which he would have been if the buyer had carried out the obligation in question, or if such contingency had not occurred. 45

15. (1) In any action by the seller for the return of any goods to which any agreement relates, the court may, without prejudice to any other power, and subject to the provisions of section fourteen—

(a) make an order for the return of the goods to the seller, subject to repayment by the seller of so much of the purchase price received by him, as the court 50 may deem just; or

(b) make an order for the return of a part of the goods to the seller and for the transfer to the buyer of the seller's title to the remainder of the goods; or

(c) make an order for the transfer to the buyer of the 55 seller's title to part of the goods, and an order referred to in paragraph (e) in respect of the remainder of the goods; or

(d) make an order referred to in paragraph (b), subject to—

(i) repayment by the seller of so much of the purchase price received by him, or

(ii) payment by the buyer of so much of the unpaid balance of the purchase price,

as the court may deem just; or

(e) make an order requiring the goods to be sold by public auction, by an auctioneer nominated by the court, within a period stated in the order, or if the parties so agree, by private treaty.

(2) No order shall be made in terms of sub-paragraph (ii) 70 of paragraph (d) of sub-section (1), unless the buyer satisfies the court that the order will be carried out forthwith.

(3) Any order referred to in paragraph (e) of sub-section (1) shall state the total amount found by the court to be payable under the agreement and the total amount of payments 75 so found to have been made thereunder.

(4) If any goods are sold in pursuance of an order referred to in paragraph (e) of sub-section (1), the auctioneer or, in the case of a sale by private treaty, the seller, shall, after deducting the costs, if any, awarded by the court against the 80

- (b) 'n voorsiening in die kontrak vir betaling van 'n bedrag as skadevergoeding, of vir 'n verbeuring of straf, of vir die vervroegde betaling van 'n paaiement, af te dwing nie, tensy hy skriftelik van die koper geëis het dat hy die betrokke verpligting moet nakom binne 'n in die eis vermelde tydperk wat nie minder as tien dae is nie, en die koper versuim het om aan die eis te voldoen.
- 12.** Indien die verkoper as gevolg van die versuim van die Reg van koper 10 koper om 'n paaiement wat ingevolge 'n kontrak opeisbaar is, op herstel na te betaal, goed waarop die kontrak betrekking het op ander teruggawe van wyse as deur 'n bevel van die hof in sy besit teruggekry het, goed aan ver- is die koper, by betaling binne 'n tydperk van een-en-twintig koper. dae nadat die verkoper die goed in sy besit teruggekry het,
- 15.** van alle agterstallige bedrae wat ingevolge die kontrak opeisbaar is, geregtig op teruggawe van die goed by die verkoper se besigheidsplek, of as hy geen besigheidsplek het nie of as die koper dit versoek, by die perseel waarop die goed gehou word, en om in sy regte ingevolge die kontrak herstel te word.
- 20.** **13.** Die koper is te alle tye geregtig om enige paaiement Betaling van van die koopprys ingevolge 'n kontrak voor die vervaldag te paaiemente betaal, en is, as hy die hele koopprys wat nog onbetaald is, voor vervaldag. met die rente wat tot op die datum waarop die betaling geskied, opgeloop het, in een bedrag betaal, geregtig op 'n ver-
- 25.** mindering van die koopprys gelyk aan vyf persent van die paaiemente wat op genoemde datum nie opeisbaar is nie.
- 14.** (1) Indien 'n kontrak van die kant of op versoek van Regte van koper die verkoper beëindig of ontbind word, is die koper nie verplig by beëindiging, tot enige betaling of die verrigting van enige ander handeling, ontbinding of nie- 30 en loop hy geen verbeuring van enige betaling op nie, waar- nakoming van deur die verkoper in 'n beter vermoënstoestand gestel sou kontak.
- word as dié waarin hy sou verkeer het by afloop van die kontrak na reëlmataige nakoming deur die koper van al sy verpligtings ingevolge die kontrak.
- 35.** (2) Indien die koper versuim om 'n verpligting ingevolge 'n kontrak na te kom, of indien 'n ander gebeurlikheid plaasvind, by die plaasvind waarvan die verkoper volgens die kontrak geregtig is om stappe teen die koper te doen, en die kontrak nie beëindig of ontbind word nie, is die koper nie verplig tot enige 40 betaling of die verrigting van enige ander handeling waardeur die verkoper in 'n beter vermoënstoestand gestel sou word as dié waarin hy sou verkeer het as die koper die betrokke verpligting sou nagekom het of as daardie gebeurlikheid nie sou plaasgevind het nie.
- 45.** **15.** (1) By 'n aksie deur die verkoper vir teruggawe van goed Bevoegdhede waarop 'n kontrak betrekking het, kan die hof, sonder ver- van die hof. mindering van enige ander bevoegdheid, en met inagneming van die bepaling van artikel *veertien*—
- (a) beveel dat die goed aan die verkoper teruggegee word, 50 onderhewig aan terugbetaling deur die verkoper van soveel van die koopprys wat hy ontvang het as wat die hof billik mag ag ; of
 - (b) beveel dat gedeelte van die goed aan die verkoper teruggegee word en dat die verkoper se reg op die res van die goed aan die koper oorgedra word ; of
 - (c) beveel dat die verkoper se reg op gedeelte van die goed aan die koper oorgedra word, en ten opsigte van die res van die goed 'n in paragraaf (e) bedoelde bevel gee ; of
 - (d) 'n in paragraaf (b) bedoelde bevel gee, onderhewig 60 aan—
 - (i) terugbetaling deur die verkoper van soveel van die koopprys wat hy ontvang het ; of
 - (ii) betaling deur die koper van soveel van die on- betaalde restant van die koopprys, as wat die hof billik mag ag ; of
 - (e) 'n bevel gee wat voorskryf dat die goed deur 'n afslaer 65 deur die hof benoem binne 'n tydperk in die bevel vermeld, by openbare veiling, of as die partye daar toe ooreenkome, uit die hand, verkoop moet word.
- (2) 'n Bevel ooreenkomsdig sub-paragraaf (ii) van paragraaf 70 (d) van sub-artikel (1) word nie gegee nie, tensy die koper die hof oortuig dat die bevel onverwyld uitgevoer sal word.
- (3) 'n In paragraaf (e) van sub-artikel (1) bedoelde bevel 75 moet die totaalbedrag vermeld wat volgens bevinding van die hof kragtens die kontrak betaalbaar is, asook die totaalbedrag wat volgens sodanige bevinding uit kragte daarvan gedoen is.
- (4) Indien goed ingevolge 'n in paragraaf (e) van sub- 80 artikel (1) bedoelde bevel verkoop word, moet die afslaer of, in die geval van 'n verkoop uit die hand, die verkoper, na aftrek van die koste deur die hof teen die koper toegeken

buyer, the costs incidental to the sale, and the total amount stated in the order to be payable under the agreement less the total amount of payments so stated to have been made thereunder, pay over the balance of the proceeds of the sale to the buyer.

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(5) If the net proceeds of the sale are insufficient to discharge the buyer's liability in respect of any costs so awarded and his liability under the agreement, the seller may recover the deficiency by action in a competent court.

(6) If damages have been awarded against the seller in the proceedings, the amount thereof or so much of the said amount as the court may determine, shall be deemed to have been paid by the buyer in respect of the purchase price of the goods, and thereupon the damages shall accordingly be remitted either in whole or in part.

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(7) Pending the hearing of any such action the court shall, in addition to any other powers, have power, upon the application of the seller, to make such orders as the court may deem just for the purpose of protecting the goods from damage or depreciation, including orders restricting or prohibiting the use of the goods or giving directions as to their custody.

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Jurisdiction.

16. (1) Notwithstanding anything in any other law contained, a magistrate's court shall, subject to the provisions of sub-section (2), have jurisdiction in all matters relating to or arising out of agreements to which this Act applies.

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(2) No court other than the court within whose area of jurisdiction the place where the buyer is ordinarily resident or employed or ordinarily carries on any business, profession, trade or calling, is situate, shall, except with the consent of the buyer given specifically with reference to the proceedings in such court, have jurisdiction in any matter relating to or arising out of any agreement: Provided that the foregoing provisions of this sub-section shall not apply if there is no place in the Union where the buyer is so resident or employed, or does so carry on any business, profession, trade or calling.

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Waiver of rights by buyer.

17. No waiver by any buyer of any right under this Act shall be of any force or effect.

Repeal of section 71 of Act 29 of 1926.

18. Section *seventy-one* of the Insolvency Act, 1916, Amendment Act, 1926, is hereby repealed.

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Amendment of section 84 of Act 24 of 1936.

19. Section *eighty-four* of the Insolvency Act, 1936, is hereby amended by the substitution in sub-section (1) for the words "provided for the passing of the ownership of that property when certain payments prescribed in the agreement have been made" of the words "is a hire-purchase agreement in terms of section *one* of the Hire Purchase Act, 1939".

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Short title.

20. This Act shall be called the Hire-Purchase Act, 1939.

(as daar sulke koste is), die koste in verband met die verkoop, en die totaalbedrag in die bevel vermeld as betaalbaar kragtens die kontrak min die totaalbedrag van betalings aldus vermeld as uit kragte daarvan gedoen, die restant van die 5 opbrengs van die verkoop aan die koper oorbetal.

(5) Indien die netto opbrengs van die verkoop onvoldoende is om die koper se aanspreeklikheid ten opsigte van aldus toegekende koste en sy aanspreeklikheid ingevolge die kontrak, te delg, kan die verkoper die tekort by wyse van aksie in 'n 10 bevoegde hof verhaal.

(6) Indien in die geding skadevergoeding teen die verkoper toegeken is, word die bedrag daarvan of soveel van daardie bedrag as wat die hof mag bepaal, geag deur die koper betaal te gewees het ten opsigte van die koopprys van die goed, en 15 daarop word die skadevergoeding dienooreenkomsdig geheel of ten dele kwytgeskeld.

(7) Die hof is, benewens enige ander bevoegdheid, bevoeg om tydens afwagting van die verhoor van so 'n aksie, op aansoek van die verkoper, sodanige bevele te gee as wat die hof billik 20 mag ag ten einde die goed teen skade of waardevermindering te beskerm, met inbegrip van bevele wat die gebruik van die goed beperk of verbied, of wat voorskrifte inhoud omtrent hul bewaring.

16. (1) Ondanks andersluidende bepalings in 'n ander wet **Jurisdiksie**. 25 vervat, het 'n magistraatshof, met inagneming van die bepalings van sub-artikel (2), jurisdiksie in alle aangeleenthede wat in verband staan met of ontstaan uit kontrakte waarop hierdie Wet van toepassing is.

(2) Geen ander hof as die hof binne wie se regssgebied die 30 plek geleë is waar die koper gewoonlik woon of in diens is of besigheid dryf of 'n professie, bedryf of beroep uitoefen, het, behalwe met toestemming van die koper bepaaldelik met verwysing na die geding in daardie hof verleen, jurisdiksie in enige aangeleenthed wat in verband staan met of ontstaan uit 'n 35 kontrak: Met dien verstande dat die voorgaande bepalings van hierdie sub-artikel nie van toepassing is nie as daar geen plek in die Unie is nie waar die koper aldus woon of in diens is of aldus besigheid dryf of 'n professie, bedryf of beroep uitoeften.

40 17. 'n Afstand deur 'n koper van enige reg kragtens hierdie **Afstand van regte deur koper.** Wet, is van nul en gener waarde.

18. Artikel *een-en-sewentig* van die „Insolventie Wet, 1916, Herroeping van artikel 71 van Wijzigingswet, 1926”, word hiermee herroep. **Wysiging van artikel 84 van Wet 24 van 1936.**

45 19. Artikel *vier-en-tagtig* van die Insolvensiewet, 1936, word hiermee gewysig deur in sub-artikel (1) die woorde „voorsiening gemaak het vir die oorgang van die eiendom van daardie goed wanneer sekere in die ooreenkoms voorgeskrewe betalings gedaan is” te vervang deur die woorde „'n huurkoopkontrak is volgens artikel *een* van die Wet op Huurkoop, 1939”.

50 20. Hierdie Wet heet die Wet op Huurkoop, 1939. **Kort titel.**