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DEPARTMENT OF LABOUR.

DEPARTEMENT VAN ARBEID.

The following Bill is published for general information:—

Onderstaande Wetsontwerp word ter algemene inligting gepubliseer:—

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BILL

To consolidate and amend the law relating to the establishment of a wage board, the determination of terms and conditions of employment and other incidental matters.

(To be introduced by the MINISTER OF LABOUR.)

BE IT ENACTED by the Queen'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 the context otherwise indicates—

- (i) "area" includes any number of areas whether or not contiguous; (v) 5
- (ii) "board" means the wage board established by section *three* or in relation to any function which has been assigned to a division in terms of this Act, the division to which such function has been so assigned; (xi) 10
- (iii) "determination" means a determination made or deemed to have been made under section *fourteen* and includes any determination as amended or deemed to have been amended under section *fifteen* or as extended or deemed to have been extended under section *seventeen*; (xiv) 15
- (iv) "division" means a division of the board established or deemed to have been established under section *three*; (i)
- (v) "employee" means any person employed by, or working for any employer, and receiving, or being entitled to receive, any remuneration and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer; and "employed" and "employment" have corresponding meanings; (xix) 20
- (vi) "employer" means any person whatsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person whatsoever in any manner to assist him in the carrying on or conducting of his business; and "employ" and "employment" have corresponding meanings; (xvii) 30
- (vii) "employers' organization" means an employers' organization registered or deemed to have been registered under the Industrial Conciliation Act; (xviii) 35
- (viii) "inspector" means an inspector appointed or deemed to have been appointed under section *twenty-six*; (vii) 40
- (ix) "Industrial Conciliation Act" means the Industrial Conciliation Act, 1937 (Act No. 36 of 1937); (ix)
- (x) "licence of exemption" means a licence issued or deemed to have been issued under section *nineteen*; (xvi) 45
- (xi) "Minister" means the Minister of Labour; (viii)
- (xii) "officer" means a person on the fixed establishment of the public service or an inspector; (ii)
- (xiii) "premises" means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel; (x) 50
- (xiv) "prescribed" means prescribed by or under this Act; (xv)
- (xv) "regulation" means a regulation made or deemed to have been made and in force under this Act; (xii) 55
- (xvi) "remuneration" means any payment in money or in kind or both in money and in kind, made or owing to any person, which arises in any manner whatsoever out of employment; and "remunerate" has a corresponding meaning; (iv) 60
- (xvii) "this Act" includes any regulation; (vi)

WETSONTWERP

Tot samevatting en wysiging van die wetsbepalings met betrekking tot die instelling van 'n loonraad, die vasstelling van bedinge en voorwaardes van diens en ander in verband staande aangeleenthede.

(Ingedien te word deur die MINISTER VAN ARBEID.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

1. In hierdie Wet, tensy uit die samehang anders blyk, Woordbepaling.
5 beteken—

- (i) „afdeling”, 'n afdeling van die raad wat kragtens artikel *drie* ingestel is of geag word ingestel te gewees het; (iv)
- 10 (ii) „amptenaar”, 'n persoon op die vaste diensstaat van die staatsdiens en ook 'n inspekteur; (xii)
- (iii) „bedryf”, ook enige werkverrigting, proses, nywerheid, besigheid, werk, onderneming (met inbegrip van 'n openbare utiliteits-onderneming), beroep, professie of roeping, en ook 'n groep bedrywe of 'n afdeling van 'n bedryf; (xviii)
- 15 (iv) „beloning”, 'n betaling in kontant of in natura of beide in kontant en in natura gemaak of verskuldig aan enige persoon, en wat op enige wyse hoegenaamd uit diens ontstaan; en het „beloon” 'n ooreenstemmende betekenis; (xvi)
- 20 (v) „gebied”, ook 'n aantal gebiede, hetsy aangrensend al dan nie; (i)
- (vi) „hierdie Wet”, ook 'n regulasie; (xvii)
- 25 (vii) „inspekteur”, 'n inspekteur wat kragtens artikel *ses-en-twintig* aangestel is of geag word aangestel te gewees het; (viii)
- (viii) „Minister”, die Minister van Arbeid; (xi)
- (ix) „Wet op Nywerheidsversoening”, die Wet op Nywerheidsversoening, 1956 (Wet No. 28 van 1956); (ix)
- 30 (x) „perseel”, enige grond en enige gebou of struktuur bo of onder die oppervlakte van grond en ook enige voertuig, vliegtuig of vaartuig; (xiii)
- (xi) „raad”, die loonraad ingestel by artikel *drie* of, met betrekking tot enige werksaamheid wat aan 'n afdeling ingevolge hierdie Wet opgedra is, die afdeling waaraan sodanige werksaamheid aldus opgedra is; (ii)
- 35 (xii) „regulasie”, 'n regulasie wat ingevolge hierdie Wet uitgevaardig is of geag word uitgevaardig te gewees het en van krag is; (xv)
- 40 (xiii) „vakvereniging”, 'n vakvereniging wat kragtens die Nywerheid-versoeningswet geregistreer is of geag word geregistreer te gewees het; (xix)
- (xiv) „vasstelling”, 'n vasstelling wat kragtens artikel *veertien* gemaak is of geag word gemaak te gewees het en ook 'n vasstelling soos kragtens artikel *vyftien* gewysig of geag word gewysig te gewees het of soos kragtens artikel *sewentien* uitgebrei of geag word uitgebrei te gewees het; (iii)
- 45 (xv) „voorgeskrewe” of „voorgeskryf”, by of kragtens hierdie Wet voorgeskryf; (xiv)
- 50 (xvi) „vrystellingsertifikaat”, 'n sertifikaat wat kragtens artikel *negentien* uitgereik is of geag word uitgereik te gewees het; (x)
- (xvii) „werkgever”, enige persoon hoegenaamd wat enige persoon in diens het of aan hom werk verskaf, en wat daardie persoon beloon, of uitdruklik of stilswyend onderneem om hom te beloon, of wat enige persoon hoegenaamd toelaat om hom op enige wyse te help om sy besigheid voort te sit of te drywe; en het „in diens hê”, „in diens neem” en „diens” ooreenstemmende betekenis; (vi)
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- (xviii) "trade" includes any function, process, industry, business, work, undertaking (including a public utility undertaking), occupation, profession or calling, and includes a group of trades or a section of any trade; (iii) 5
- (xix) "trade union" means a trade union registered or deemed to have been registered under the Industrial Conciliation Act. (xiii)

Application
of Act.

2. (1) This Act shall, subject to the provisions of sub-section (2), apply to every trade. 10

(2) This Act shall not apply to persons in respect of their employment in farming operations, or in domestic service in private households, nor to officers of Parliament in respect of their employment as such, nor to persons employed by the State in respect of their employment as such, nor to the performance of work in a charitable institution for which the persons performing it receive no remuneration, nor to work in or in connection with any university, college, school or other educational institution maintained wholly or partly from public funds, as part of the education or training of the persons performing it, nor to university students in respect of their employment in any trade as part of their university training if such employment is required for the completion of their curricula. 15

(3) A determination shall not apply— 25

- (a) to any person in respect of any matter regulated in any agreement, notice or award which is binding on such person in terms of the Industrial Conciliation Act; or
- (b) to any apprentices to whom the Apprenticeship Act, 1944 (Act No. 37 of 1944), applies. 30

Establishment
and functions
of wage board.

3. (1) There is hereby established a board to be known as the wage board which shall, subject to the provisions of sub-section (4), consist of three members to be appointed by the Minister. 35

(2) One of the members of the board shall be designated by the Minister as chairman of the board.

(3) (a) A member of the board shall hold office for such period and subject to such conditions as the Minister may determine and may be re-appointed on the termination of any period for which he has been appointed. 40

(b) Any casual vacancy that occurs on the board shall be filled by the appointment by the Minister of another member and any person so appointed shall hold office for the unexpired portion of the period of office of his predecessor. 45

(4) The Minister may at any time appoint one or more additional members of the board for such period or for the purpose of such investigation as he may deem necessary, and in respect of such period or in relation to any matter connected with or arising from such investigation, any reference in this Act to a member of the board shall, unless the context otherwise indicates, include a reference to such additional member. 50

(5) (a) The Minister may at any time, if after consultation with the chairman of the board, he deems it expedient to do so, establish a division of the board for the purpose of performing such function of the board as the Minister may assign to it. 55

(b) Any division shall consist of three members to be appointed by the Minister of whom at least one shall be a member (other than an additional member) of the board and such member or, if more than one such member have been appointed, then such one of them as the Minister may designate, shall be the chairman of the division. 65

(c) A division so established shall in relation to any function assigned to it, have all the powers conferred by this Act upon the board, and in relation to any such function, any reference in this Act to a member of the board, shall include a reference to a member of a division. 70

(d) The Minister may, if he deems it expedient to do so, refer any recommendation of a division to the board for confirmation or any amendments which the board may consider necessary and any recommendation so 75

- (xviii) „werkgewersorganisasie”, 'n werkgewersorganisasie wat kragtens die Nywerheid-versoeningswet geregistreer is of geag word geregistreer te gewees het; (vii)
- 5 (xix) „werknemer”, enige persoon wat in diens is by of werk verrig vir enige werkgewer en beloning ontvang of geregtig is om dit te ontvang, en enige ander persoon hoegenaamd wat op enige wyse help om die besigheid van 'n werkgewer voort te sit of te drywe; en het „in
- 10 diens” en „diens” ooreenstemmende betekenis. (v)
2. (1) Behoudens die bepalings van sub-artikel (2) is hierdie Toepassing
Wet op elke bedryf van toepassing. van Wet.
- (2) Hierdie Wet is nie van toepassing op persone ten opsigte van hul diens in boerderybedrywighede of in huishoudelike diens in private huishoudings nie, nòg op amptenare van die Parlement ten opsigte van hul diens as sodanig, nòg op persone in diens van die Staat ten opsigte van hul diens as sodanig, nòg op die verrigting van werk in 'n liefdadigheidsinrigting waarvoor die persone wat dit verrig geen beloning ontvang nie, nòg op werk wat aan of in verband met enige universiteit, kollege, skool of ander opvoedkundige inrigting wat geheel en al of gedeeltelik uit staatsfondse onderhou word, verrig word as deel van die opvoeding of opleiding van die persone wat dit verrig, nòg op universiteitsstudente ten opsigte van hul diens
- 25 in enige bedryf as deel van hul universiteitsopleiding as daardie diens vereis word vir die voltooiing van hul leergange.
- (3) 'n Vastelling is nie van toepassing nie—
- (a) op 'n persoon ten opsigte van enige aangeleentheid wat gereël word deur 'n ooreenkoms, kennisgewing of toekenning wat op so 'n persoon ingevolge die
- 30 Wet op Nywerheidsversoening bindend is; of
- (b) op 'n vakleerling op wie die Wet op Vakleerlinge, 1944 (Wet No. 37 van 1944), van toepassing is.
3. (1) Hierby word 'n raad, genoem die loonraad, ingestel Instelling en
35 wat, behoudens die bepalings van sub-artikel (4), bestaan uit werksaamhede
drie lede wat deur die Minister aangestel word. van loonraad.
- (2) Een van die lede van die raad word deur die Minister as voorsitter van die raad aangewys.
- (3) (a) 'n Lid van die raad beklee sy amp vir die tydperk en onderworpe aan die voorwaardes wat die Minister bepaal, en kan by verstryking van die tydperk waarvoor hy aangestel is, weer aangestel word.
- 40 (b) 'n Toevallige vakature wat in die raad ontstaan word aangevul deur die aanstelling deur die Minister van 'n ander lid, en 'n aldus aangestelde persoon beklee
- 45 sy amp vir die onverstreke gedeelte van die amps-termyn van sy voorganger.
- (4) Die Minister kan te eniger tyd een of meer addisionele lede van die raad vir die tydperk of vir die doel van die ondersoek wat hy nodig ag, aanstel, en ten opsigte van so 'n tydperk of met betrekking tot enige aangeleentheid wat in verband staan met of ontstaan uit so 'n ondersoek, sluit 'n verwysing in hierdie Wet na 'n lid van die raad, tensy uit die samehang anders blyk, 'n verwysing na sodanige addisionele lid in.
- 50 (5) (a) Die Minister kan te eniger tyd, indien hy na oorlegpleging met die voorsitter van die raad, dit raadsaam ag om dit te doen, 'n afdeling van die raad instel om sodanige werksaamheid van die raad te verrig as wat die Minister aan hom mag opdra.
- 60 (b) 'n Afdeling bestaan uit drie lede wat deur die Minister aangestel word, waarvan minstens een 'n lid (behalwe 'n addisionele lid) van die raad moet wees en so 'n lid of, indien meer as een sodanige lid aangestel word, dan dié een van hulle wat die Minister aanwys, is die voorsitter van die afdeling.
- 65 (c) 'n Afdeling aldus ingestel het, met betrekking tot enige werksaamheid wat aan hom opgedra word, al die bevoegdhede wat by hierdie Wet aan die raad verleen word, en met betrekking tot so 'n bevoegdheid, sluit 'n verwysing in hierdie Wet na 'n lid van die raad 'n verwysing na 'n lid van 'n afdeling in.
- 70 (d) Die Minister kan, indien hy dit raadsaam ag om dit te doen, enige aanbeveling van 'n afdeling na die raad vir goedkeuring of enige wysigings wat die raad nodig ag, verwys, en 'n aanbeveling wat aldus
- 75

confirmed or amended shall be deemed to be a recommendation submitted by the board in terms of this Act.

(6) The Minister may appoint—

- (a) any person to be temporary chairman of the board; 5
- (b) any person to be a temporary member of the board;
- (c) any member of the board (other than an additional member) to be temporary chairman of any division; and

(d) any person to be a temporary member of any division, 10 while the chairman or any member of the board or the chairman or any member of such division, as the case may be, is for any reason unable to perform his functions.

(7) There shall be payable to the members of the board and of any division (including additional and temporary members) 15 such remuneration and allowances in respect of their services as the Minister may, in consultation with the Minister of Finance determine.

(8) (a) If after consultation with the chairman of the board, the Minister is of opinion that it will assist the board 20 if the employees and employers in any particular trade are represented on the board during any investigation into that trade, the Minister may, after consultation with such trade union and employers' organization as in his opinion are principally concerned in such 25 investigation, appoint one or more assessors to represent the employees and an equal number of assessors to represent the employers on the board during such investigation.

(b) Any assessors so appointed may serve on the board in 30 an advisory capacity until completion of the investigation in respect of which they were appointed.

(c) Any such assessor shall be entitled to such allowances as may be prescribed.

(9) If any member of the public service is appointed a mem- 35 ber, additional member or temporary member of the board or of a division, the period of his service as a member, additional member or temporary member of the board or of a division shall, for the purposes of any rights in respect of pension which he derives under any law, be reckoned as part of, and continuous 40 with, the period of his employment in the public service, and the conditions of his employment during the period of his service as a member, additional member, or temporary member of the board or of a division shall be governed by the same provisions by which the conditions of his employment would 45 have been governed in the public service had he not been so appointed: Provided that the Minister may on the recommendation of the Public Service Commission and with the approval of the Minister of Finance approve of the payment to him during the period of his service as a member, additional member or 50 temporary member of the board or of a division, in addition to his emoluments as a member of the public service, of an allowance which shall not form part of his pensionable emoluments.

(10) No proceedings of the board shall be invalid by reason only of the fact that a vacancy existed in its membership or 55 that any member, additional member, temporary member or assessor was not present during the whole of or any part of the proceedings.

(11) The functions and duties of the board shall be—

- (a) to make investigations and submit reports to the 60 Minister when requested to do so in terms of section four;
- (b) to submit recommendations to the Minister in terms of this Act; and
- (c) to deal with all matters necessary or incidental to the 65 performance of its functions under this Act.

Investigation
by the board.

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

(2) The Minister shall determine the terms of reference of 70 the board for the purpose of any such investigation and shall specify therein—

- (a) the trade and area concerned; and
- (b) whether the investigation is to be conducted in respect of all employees or any one or more classes of employees 75 in such trade.

goedgekeur of gewysig word, word geag 'n aanbeveling te wees wat die raad ingevolge hierdie wet voorgelê het.

- (6) Die Minister kan—
- 5 (a) enige persoon as tydelike voorsitter van die raad;
 (b) enige persoon as 'n tydelike lid van die raad;
 (c) enige lid van die raad (behalwe 'n addisionele lid) as tydelike voorsitter van 'n afdeling; en
 (d) enige persoon as tydelike lid van 'n afdeling.
- 10 aanstel terwyl die voorsitter of 'n lid van die raad of die voorsitter of 'n lid van so 'n afdeling, na gelang van die geval, om enige rede nie in staat is om sy werksaamhede te verrig nie.
- (7) Aan die lede van die raad en van 'n afdeling (met inbegrip van addisionele en tydelike lede) word die besoldiging en
- 15 toelaes ten opsigte van hul dienste betaal wat die Minister in oorleg met die Minister van Finansies, bepaal.

- (8) (a) Indien die Minister, na oorlegpleging met die voorsitter van die raad, van oordeel is dat dit die raad van hulp sal wees indien die werknemers en werkgewers in 'n bepaalde bedryf gedurende 'n ondersoek na daardie bedryf in die raad verteenwoordig word, kan die Minister, na oorlegpleging met die vakvereniging en werkgewersorganisasie wat na sy mening hoofsaaklik by sodanige ondersoek betrokke
- 20 is een of meer assessore aanstel om die werknemers, en 'n gelyke aantal assessore om die werkgewers gedurende so 'n ondersoek in die raad te verteenwoordig.
- (b) Assessore aldus aangestel kan in 'n raadgewende hoedanigheid in die raad dien totdat die ondersoek ten opsigte waarvan hulle aangestel is, voltooi is.
- 25 (c) So 'n assessor is op sodanige toelaes as wat voorgeskryf word, geregtig.
- 30

- (9) As 'n lid van die staatsdiens aangestel word as lid, addisionele lid of tydelike lid van die raad of van 'n afdeling, word sy dienstyd as lid, addisionele lid of tydelike lid van die raad of van 'n afdeling vir die doel van enige pensioenregte wat hy kragtens enige wetsbepaling ontvang, gereken as deel van en aaneenlopend met sy dienstyd in die staatsdiens, en sy diensvoorwaardes gedurende sy dienstyd as lid, addisionele lid of tydelike lid van die raad of van 'n afdeling word beheer deur dieselfde bepalings waardeur sy diensvoorwaardes in die staatsdiens beheer sou gewees het as hy nie aldus aangestel was nie: Met dien verstande dat die Minister, op aanbeveling
- 35 van die Staatsdienskommissie en met goedkeuring van die Minister van Finansies, kan goedkeur dat daar, benewens sy besoldiging as lid van die staatsdiens, gedurende sy dienstyd as lid, addisionele lid of tydelike lid van die raad of van 'n afdeling 'n toelaag aan hom betaal word wat nie deel van sy
- 40 pensioendraende besoldiging uitmaak nie.
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- (10) Geen verrigtinge van die raad is ongeldig bloot op grond van die feit dat 'n vakature in sy ledetal bestaan het of dat 'n lid, addisionele lid, tydelike lid of assessor nie gedurende die geheel of enige gedeelte van die verrigtinge aanwesig was nie.
- 55

- (11) Die werksaamhede en pligte van die raad is—
- (a) om ondersoeke in te stel en verslae aan die Minister voor te lê wanneer hy ingevolge artikel vier versoek word om dit te doen;
- 60 (b) om aanbevelings ingevolge hierdie Wet aan die Minister voor te lê; en
- (c) om met alle aangeleenthede te handel wat nodig is vir of in verband staan met die verrigting van sy werksaamhede kragtens hierdie Wet.

- 65 4. (1) Die Minister kan die raad te eniger tyd versoek om 'n ondersoek in te stel na en 'n verslag voor te lê aangaande enige bedryf. Ondersoek deur raad.

- (2) Die Minister bepaal die opdrag van die raad vir die doel van so 'n ondersoek en vermeld daarin—
- 70 (a) die betrokke bedryf en gebied; en
- (b) of die ondersoek ten opsigte van alle werknemers of een of meer klasse werknemers in bedoelde bedryf, ingestel moet word.

(3) In specifying any class of employees under paragraph (b) of sub-section (2), the Minister may apply any method of differentiation or of discrimination based on age, sex, experience, length of employment or type of work or type or class of premises or the area on or in which work is performed or any other method he may deem advisable: Provided that the Minister shall not differentiate or discriminate on the basis of race or colour. 5

(4) (a) The board may, unless the Minister has directed otherwise, decide that any investigation and report in pursuance of a request under sub-section (1) shall be carried out and made by any member of the board (other than an additional member) either alone or in conjunction with any additional member, as the board may decide. 10

(b) The provisions of sections *five* and *ten* shall *mutatis mutandis* apply in respect of any such investigation by a member of the board or such member and an additional member, and for the purposes of those provisions as applied by this paragraph such member or members, as the case may be, shall be deemed to be the board, and the reference in sub-section (5) of section *ten* to the person presiding at a meeting of the board, shall be deemed to be a reference to the member of the board who is carrying out the investigation either alone or in conjunction with an additional member. 15 20 25

(5) If, after consultation with the board, the Minister is of the opinion—

(a) that any investigation in respect of which a request has been made to the board under sub-section (1) should not be proceeded with; or 30

(b) that the terms of reference determined under sub-section (2) should be amplified or altered in any respect, he may withdraw the request made to the board in respect of such investigation and in the case of a withdrawal in pursuance of paragraph (b), make a new request to the board. 35

Contents of report.

5. A report submitted in connection with any investigation made under section *four*, shall contain information showing as at the time of the investigation and, in so far as the information is available and is considered relevant by the board, at any previous time, the terms and conditions of employment in the trade concerned, in respect of all employees or the class or classes of employees specified in the board's terms of reference, and may contain information as to any other matter which, in the opinion of the board, is relevant to the investigation. 40 45

Minister may direct board to submit a recommendation.

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

(2) Any such direction may be given at the same time as the request for an investigation is made or at any time thereafter, and may be withdrawn at any time before the submission of a recommendation. 50

(3) If a direction under sub-section (1) is given after the submission of the relevant report, the Minister may direct that the recommendation shall be submitted in respect of such portion of the trade concerned or such class or classes of employees or such portion of the area concerned as he may specify. 55

Matters to be considered by the board before it makes a recommendation.

7. The board shall, before it makes any recommendation, take into consideration— 60

(a) any representations made to it in terms of section *nine*;

(b) any report or reservation submitted to it in terms of sub-section (2) of section *eleven*, in relation to the trade concerned; 65

(c) any information made available to it in relation to the trade concerned, by the Board of Trade and Industries, the Industrial Tribunal established under the Industrial Conciliation Act, any department of State or any similar authority; 70

(d) the ability of employers in the trade concerned to carry on their businesses successfully should any recommendation proposed to be made by the board, be carried into effect, regard being had to distance from 75

(3) By die vermelding van 'n klas werknemers kragtens paragraaf (b) van sub-artikel (2), kan die Minister enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van diens tyd of soort werk of soort of klas perseel of die gebied waarop of waarin werk verrig word of enige ander metode wat hy raadsaam ag, toepas: Met dien verstande dat geen differensiasie of diskriminasie op grond van ras of kleur deur die Minister gemaak mag word nie.

10 (4) (a) Die raad kan, tensy die Minister anders gelas, besluit dat 'n ondersoek en verslag na aanleiding van 'n versoek kragtens sub-artikel (1), deur 'n lid van die raad (behalwe 'n addisionele lid) hetsy alleen of tesame met 'n addisionele lid, soos die raad mag besluit, ingestel en gedoen moet word.

15 (b) Die bepalings van artikels vyf en tien is *mutatis mutandis* van toepassing ten opsigte van so 'n ondersoek deur 'n lid van die raad of so 'n lid en 'n addisionele lid, en by die toepassing van daardie bepalings soos by hierdie paragraaf toegepas, word so 'n lid of lede, na gelang van die geval, geag die raad te wees, en
20 die verwysing in sub-artikel (5) van artikel tien na die persoon wat op 'n vergadering van die raad voorsit word geag 'n verwysing te wees na die lid van die raad wat die ondersoek instel, hetsy alleen of tesame met 'n addisionele lid.

(5) Indien die Minister, na oorlegpleging met die raad, van oordeel is—

30 (a) dat 'n ondersoek ten opsigte waarvan 'n versoek kragtens sub-artikel (1) aan die raad gedoen is, nie voortgesit behoort te word nie; of

(b) dat die kragtens sub-artikel (2) bepaalde opdrag in enige opsig aangevul of gewysig behoort te word, kan hy die versoek wat aan die raad ten opsigte van so 'n ondersoek gedoen is, terugtrek en, in die geval van 'n terugtrekking ingevolge paragraaf (b), 'n nuwe versoek aan die raad doen.

5. 'n Verslag wat in verband met 'n ingevolge artikel vier Inhoud van ingestelde ondersoek voorgelê word, bevat gegewens wat die verslag. bedinge en voorwaardes van diens in die betrokke bedryf ten tye van die ondersoek en, vir sover die gegewens beskikbaar is, en deur die raad ter sake geag word, op enige vorige tydstip, 40 ten opsigte van alle werknemers of die klas of klasse werknemers vermeld in die raad se opdrag, aantoon, en kan gegewens aangaande enige ander aangeleentheid bevat wat na die raad se oordeel by die ondersoek ter sake is.

45 6. (1) Die Minister kan die raad gelas om benewens 'n Minister kan verslag kragtens artikel vier, 'n aanbeveling aan hom voor te lê, betreffende die bedinge en voorwaardes van diens wat ten raad gelas om 'n aanbeveling opsigte van die betrokke werknemers toegepas moet word. voor te lê.

(2) So 'n lasgewing kan op dieselfde tydstip uitgereik word 50 as dié waarop die versoek om 'n ondersoek gedoen word of te eniger tyd daarna, en kan te eniger tyd voor die voorlegging van 'n aanbeveling teruggetrek word.

(3) Indien 'n lasgewing kragtens sub-artikel (1) na die voorlegging van die tersaaklike verslag uitgereik word, kan die 55 Minister gelas dat die aanbeveling ten opsigte van die gedeelte van die betrokke bedryf of die klas of klasse werknemers of die gedeelte van die betrokke gebied wat hy aandui, voorgelê word.

7. Voordat hy 'n aanbeveling maak, moet die raad in oor- 60 weging neem—

(a) enige vertoë wat ingevolge artikel nege aan hom gemaak word;

65 (b) enige verslag of voorbehoud in verband met die betrokke bedryf wat ingevolge sub-artikel (2) van artikel elf aan hom voorgelê word;

(c) enige inligting wat in verband met die betrokke bedryf tot sy beskikking gestel word deur die Raad van Handel en Nywerheid, die Nywerheidshof onder die Wet op Nywerheidsversoening ingestel, enige 70 Staatsdepartement of enige soortgelyke owerheid;

(d) of werkgewers in die betrokke bedryf, met inagneming van afstande van marke, transportkoste en ander omstandighede wat die saak raak, in staat sal wees om hul besighede met goeie gevolg voort te sit as

Aangeleenthede wat die raad moet oorweeg voordat hy 'n aanbeveling doen.

markets, cost of transport and any other relevant circumstances;

- (e) the cost of living in any area in which the trade concerned is being carried on;
- (f) the value of any board, rations, lodging or other benefits supplied by employers to employees in the trade concerned or to the class or classes of employees concerned; and
- (g) every other prescribed matter.

Matters on which board may make recommendations.

8. (1) A recommendation submitted by the board in pursuance of any direction under section six may include provisions as to all or some or any of the following matters—

- (a) the minimum rate at which remuneration shall be paid by any employer to each of his employees or to each member of any class of his employees and any increase or reduction thereof or, in addition to such minimum rate, any payment at such rate or upon such basis or principles or by reference to such factors or circumstances (including cost of living) as may be specified in the recommendation; 20
- (b) the minimum average rate of remuneration which shall be paid by any employer to his employees or to the members of any class of his employees: Provided that different minimum average rates may be provided for different fractions of any class of employees; 25
- (c) the minimum rate at which remuneration shall be paid by any employer to each employee or to each member of any class of employees successively on the expiration of specified periods or intervals, or which shall be paid to any employee or any member of any class of employees according to experience or any other standard; 30
- (d) the prohibition of deductions from remuneration payable to any employee or class of employees, other than deductions which the employer is required or permitted to make in terms of the recommendation or of any law or order of a competent court; 35
- (e) the prohibition or restriction of set-off of debts mutually owing between an employer and his employee;
- (f) the method of calculating minimum rates of remuneration, or minimum average rates of remuneration; 40
- (g) the day of the week, date, time, place and manner of payment of remuneration, the statements to be furnished by the employer to the employee concerning the payment, the container in which the money payable shall be contained, the information to be written upon the container, and generally, any other provision as to the manner of payment; 45
- (h) the payment by an employer to an employee, who has performed during any period piece-work (irrespective of the amount thereof), of a remuneration for the piece-work performed by that employee during that period, which shall be not less than the remuneration which would have been payable to the said employee had he been employed as a time-worker during that period; 50
- (i) the keeping by an employer of records of work performed by a piece-worker, and the form of such records;
- (j) the prohibition or the regulation of the giving out to, or the performance by, an employee of piece-work or taskwork; 60
- (k) the prohibition of the performance of work on premises or at places of a specified description or type or used for a specified purpose, or elsewhere than on such premises or at such places; 65
- (l) the maximum number of employees of any class who may be employed by an employer in proportion to the number of employees of any other class, or to the total number of employees employed by him; 70
- (m) the prohibition of any payment to or the acceptance of any payment by an employer, either directly or indirectly, in respect of the employment or training of an employee;
- (n) notices to be exhibited by employers; 75
- (o) the prohibition of the employment of any person under a specified age;

- 'n aanbeveling wat die raad voornemens is om te maak, toegepas word;
- (e) die lewenskoste in 'n gebied waarin die betrokke bedryf beoefen word;
- 5 (f) die waarde van etes, rantsoene, huisvesting of ander voordele wat deur werkgewers aan werknemers in die betrokke bedryf, of aan die betrokke klas of klasse werknemers verskaf word; en
- (g) elke ander voorgeskrewe aangeleentheid.
- 10 8. (1) 'n Aanbeveling wat deur die raad ingevolge 'n opdrag Aangeleenthede kragtens artikel ses voorgelê word, kan bepalinge bevat aan- waaroor raad gaande almal of sommige of enigeen van onderstaande aange- aanbevelings leenthede— kan doen.
- (a) die minimum skaal waarteen beloning deur 'n werk- 15 gewer aan elk van sy werknemers of aan elke lid van 'n klas van sy werknemers betaal moet word en enige verhoging of vermindering daarvan of, benewens so 'n minimum skaal, enige betaling teen so 'n skaal of op so 'n grondslag of volgens sulke beginsels of met 20 verwysing na sulke faktore of omstandighede (insluitende lewensduurte) as wat in die aanbeveling vermeld mag word;
- (b) die minimum gemiddelde skaal van beloning wat deur 25 'n werkgewer aan sy werknemers of aan die lede van 'n klas van sy werknemers betaal moet word: Met dien verstande dat verskillende minimum gemiddelde skale bepaal kan word vir verskillende onderdele van 'n klas werknemers;
- (c) die minimum skaal waarteen beloning deur 'n werk- 30 gewer betaal moet word aan elke werknemer of aan elke lid van 'n klas werknemers agtereenvolgens na verloop van vermelde tydperke of tussenpose, of wat 'n werknemer of 'n lid van 'n klas werknemers volgens ervaring of enige ander maatstaf betaal moet word;
- 35 (d) die verbod op aftrekkings van beloning betaalbaar aan enige werknemer of klas werknemers behalwe aftrekkings wat die werkgewer ingevolge die aanbeveling of enige wetsbepaling of bevel van 'n bevoegde hof moet of kan maak;
- 40 (e) die verbod op of beperking van skuldvergelyking van skulde wedersyds verskuldig tussen 'n werkgewer en sy werknemer;
- (f) die metode van berekening van minimum skale van 45 beloning of minimum gemiddelde skale van beloning;
- (g) die dag van die week, datum, tyd, plek en wyse van betaling van beloning, die state deur die werkgewer aangaande die betaling aan die werknemer verstrekte word, die houer waarin die geld wat betaal moet 50 word, geplaas moet word, die inligting op die houer geskryf te word, en oor die algemeen, enige ander bepalinge aangaande die wyse van betaling;
- (h) die betaling deur 'n werkgewer aan 'n werknemer, wat 55 gedurende enige tydperk stukwerk (afgesien van die hoeveelheid daarvan) verrig het, van 'n beloning vir die stukwerk wat gedurende daardie tydperk deur daardie werknemer verrig is, wat nie minder moet wees nie as die beloning wat aan bedoelde werknemer betaalbaar sou gewees het as hy gedurende daardie 60 tydperk as 'n tydwerker in diens was;
- (i) die hou deur 'n werkgewer van aantekeninge van werk deur 'n stukwerker verrig en die vorm van sodanige 65 aantekeninge;
- (j) die verbod op of die reëling van die uitgee van stukwerk of taakwerk aan of die verrigting daarvan deur 'n werknemer;
- (k) die verbod op die verrigting van werk op of in persele 70 of by plekke van 'n vermelde beskrywing of soort of wat vir 'n vermelde doel gebruik word, of elders as op of in sodanige perseel of by sodanige plekke;
- (l) die maksimum getal werknemers van enige klas wat 75 deur 'n werkgewer in diens geneem kan word in verhouding tot die getal werknemers van enige ander klas of tot die totale getal werknemers in sy diens;
- (m) die verbod op enige betaling aan, of die aanname van enige betaling deur, 'n werkgewer of regstreeks of onregstreeks, ten opsigte van die indiensneming of 80 opleiding van 'n werknemer;
- (n) kennisgewings deur werkgewers vertoon te word;
- (o) die verbod op die indiensneming van enige persoon onder 'n vermelde ouderdom;

- (p) when any work is given out on contract to any person by a principal or contractor, whether or not that principal or contractor is himself an employer in or is engaged in the trade concerned, the rates at which, the basis of or the principles upon which, payment shall be made to that person for the work; 5
- (q) the prohibition of the payment of remuneration otherwise than in money;
- (r) the prohibition, restriction or regulation of overtime work; 10
- (s) the issue by an employer to any member of a specified class of his employees, on the termination of his employment, of a certificate setting forth the period during which he has been employed and such other particulars as may be specified in the recommendation; 15
- (t) the keeping by a member of a specified class of employees of a record containing such particulars as may be prescribed in the recommendation;
- (u) the payment by an employer to an employee and the payment or forfeiture by an employee to an employer of an amount in lieu of notice of termination of employment; 20
- (v) the prohibition of the performance of work on a contract basis on the principal's premises; 25

and generally, as to any matter affecting or connected with the remuneration or other terms or conditions of employment of all employees or of the members of any class or classes of employees whether remunerated according to time worked or work performed or on any other basis, the scope of this provision not being limited in any way by the mention in this sub-section of particular matters. 30

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

(3) Notwithstanding anything to the contrary in this Act, a recommendation— 35

- (a) may provide that the provisions or any specified provisions thereof shall not apply to such portion of the trade covered by the terms of reference of the board, or such class of employees or type of work or class of premises or area so covered, as may be specified in the recommendation; 40
- (b) may contain provisions in respect of persons or any class of persons on whom any determination is binding in terms of this Act and may provide for the exclusion of such persons from such determination. 45

(4) For the purposes of this section, "class of employees" and "class of his employees" includes such group or section or type of employees as may be specified or defined by the board, and the board may, in so specifying or defining, apply any method of differentiation or discrimination based on age, sex, experience, length of employment or type of work or type or class of premises or the area on or in which work is performed or any other method it may deem advisable: Provided that the board shall not differentiate or discriminate on the basis of race or colour. 55

Representations
to board by
interested persons.

9. (1) The board shall, in connection with every investigation, give to persons interested an opportunity of making representations to it, and shall, for that purpose, publish in the *Gazette* a notice setting forth its terms of reference and stating the period within which, the persons with whom and the address at which such representations shall be lodged. 60

(2) Whenever the board is directed by the Minister to submit to him a recommendation, it shall, unless the direction was contained in the terms of reference in respect of which a notice has already been published under sub-section (1), or, if not so contained, was given before publication of any such notice and is referred to therein, give to all persons interested an opportunity of making representations to it; and to that end the procedure prescribed in sub-section (1) shall *mutatis mutandis* apply. 70

(3) The representations referred to in sub-sections (1) and (2) shall be submitted in writing: Provided that the board may in its discretion permit oral representations to be made in lieu of or in addition to any written representations. 75

Collection of
information.

10. (1) Every person engaged or employed in or connected with any trade which is being investigated by the board shall,

- (p) wanneer werk aan 'n persoon op kontrak uitgegee word deur 'n prinsipaal of aannemer, hetsy daardie prinsipaal of aannemer self 'n werkgewer is in of betrokke is by die betrokke bedryf al dan nie, die skale waarteen, of die grondslag waarop of beginsels waarvolgens betaling aan daardie persoon gemaak moet word vir die werk;
- (q) die verbod op die betaling van beloning behalwe met geld;
- (r) die verbod op of beperking of reëling van oortydwerk;
- (s) die uitreiking deur 'n werkgewer aan 'n lid van 'n vermelde klas van sy werknemers by beëindiging van sy diens, van 'n sertifikaat wat die tydperk gedurende welke hy in diens was en die ander besonderhede wat in die aanbeveling vermeld word, uiteensit;
- (t) die hou deur 'n lid van 'n vermelde klas werknemers van 'n aantekening wat die besonderhede wat in die aanbeveling voorgeskryf word, bevat;
- (u) die betaling deur 'n werkgewer aan 'n werknemer en die betaling of verbeuring deur 'n werknemer aan 'n werkgewer van 'n bedrag in plaas van kennisgewing van diensbeëindiging;
- (v) die verbod op die verrigting van werk op 'n kontrak-basis op of in die persele van die prinsipaal;
- 25 en, oor die algemeen, aangaande enige aangeleentheid rakende of wat in verband staan met die beloning of ander bedinge of voorwaardes van diens van alle werknemers of van die lede van enige klas of klasse werknemers, hetsy hul beloon word volgens tyd gewerk of werk verrig of op enige ander grondslag.
- 30 Die bestek van hierdie artikel word op generlei wyse beperk deur die vermelding in hierdie sub-artikel van besondere aangeleenthede nie.
- (2) Die raad kan ten opsigte van 'n in sub-artikel (1) bedoelde aangeleentheid verskillende bepalinge ten opsigte van verskil-
- 35 lende klasse werknemers of verskillende gebiede aanbeveel.
- (3) Ondanks andersluidende bepalinge van hierdie Wet, kan 'n aanbeveling—
- (a) bepaal dat die bepalinge of enige vermelde bepalinge daarvan nie van toepassing is nie op die gedeelte van die bedryf wat in die raad se opdrag ingesluit is, of die klas werknemers of soort werk of klas persele of gebied aldus ingesluit, wat in die aanbeveling vermeld word;
- 40 (b) bepalinge bevat ten opsigte van persone of enige klas persone op wie 'n vasstelling ingevolge hierdie Wet bindend is en kan voorsiening maak vir die uitsluiting van sulke persone uit so 'n vasstelling.
- (4) By die toepassing van hierdie artikel beteken „klas werknemers” en „klas van sy werknemers” ook die groep of
- 50 seksie of tipe werknemers wat deur die raad vermeld of omskrywe word, en by so 'n vermelding of omskrywing kan die raad enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van diens tyd of soort werk of soort of klas perseel of die gebied waarop of
- 55 waarin werk verrig word of enige ander metode wat hy raadsaam ag, toepas: Met dien verstande dat geen differensiasie of diskriminasie op grond van ras of kleur deur die raad gemaak mag word nie.
9. (1) Die raad moet in verband met elke ondersoek aan
- 60 belanghebbende persone die geleentheid gee om vertoë aan hom te rig en moet vir daardie doel in die *Staatkoerant* 'n kennisgewing publiseer wat sy opdrag uiteensit en waarin vermeld word die tydperk waarin, die persone by wie en die adres waar sulke vertoë ingedien moet word.
- 65 (2) Wanneer die raad deur die Minister gelas word om 'n aanbeveling aan hom voor te lê, moet die raad, tensy die lasgewing vervat is in die opdrag ten opsigte waarvan kennis alreeds kragtens sub-artikel (1) gegee is, of, indien nie so vervat nie, gegee is voor die bekendmaking van so 'n kennisgewing en daarin genoem word, aan alle belanghebbende persone die
- 70 geleentheid gee om vertoë aan die raad te rig; en vir daardie doel is die prosedure wat in sub-artikel (1) voorgeskryf word *mutatis mutandis* van toepassing.
- (3) Die in sub-artikels (1) en (2) bedoelde vertoë moet skriftelik voorgelê word: Met dien verstande dat die raad na goed-
- 75 dunke kan toelaat dat mondelinge vertoë in plaas van of benevens enige skriftelike vertoë gedoen mag word.

Vertoë aan raad
deur belangheb-
bende persone.

10. (1) Enigiemand wat betrokke of in diens is by of ver-
- Insameling
bonde is aan 'n bedryf wat deur die raad ondersoek word, van gegewens.

if required by the board to do so, furnish to the board, within a period and in a form specified by the board, any information indicated by the board.

(2) Any person who fails to comply with any requirement of the board under sub-section (1) shall be guilty of an offence. 5

(3) The board may subpoena or direct to be subpoenaed, any person who in its opinion may be able to give material information concerning the subject of any investigation which is being carried out by it, or who it suspects or believes has in his possession or custody or under his control any book, document 10 or thing which has any bearing upon the subject of the investigation, to appear before it at a time and place specified in the subpoena, to be interrogated or to produce that book, document or thing. The board may retain for examination any book, document or thing so produced. 15

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

(5) The person presiding at any meeting of the board may call and administer an oath to or accept an affirmation from 20 any person present at the meeting who was or might have been summoned in terms of sub-section (3) and the person so presiding and any other member of the board may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control: Provided that the 25 person presiding at the meeting may in his discretion disallow any question which in his opinion is not relevant to the investigation which is being carried out by the board.

(6) If any person, being duly subpoenaed under sub-section (3), fails, without sufficient cause, to attend at the time and 30 place specified in the subpoena, or to remain in attendance until excused by the board from further attendance, or if any person called in terms of sub-section (5) refuses to be sworn or to affirm as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge 35 and belief all questions lawfully put to him, or to produce any book, document or thing in his possession or custody or under his control, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing before, 40 the board, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or produce any book, document or thing before a court of law, shall apply.

(7) The interrogation of any witness by the board shall be conducted in public unless the board otherwise decides: 45 Provided that at the request of any witness the interrogation of that witness shall be conducted in private: Provided further, that the board may, in its discretion, and with the consent of the witness, authorize the presence of any specified person at the 50 interrogation of that witness.

(8) The board may, for any reason which it may deem sufficient, order that any interrogation be made by or that any book, document or thing be produced before, a member of the board or an officer designated for the purpose by the board; and any such member of the board or officer may administer 55 an oath to or accept an affirmation from any witness so appearing before him; and the provisions of this section shall, *mutatis mutandis*, apply to such interrogation or the production or retention of any such book, document or thing and the member or officer so designated by the board shall for the purposes of 60 the application of this sub-section be deemed to be a member of the board presiding at a meeting of the board.

(9) Any person subpoenaed to appear before the board or a member of the board or an officer designated in terms of sub-section (8), may, if the board, member or officer, as the case 65 may be, is satisfied that he has by reason of his appearance in obedience to the subpoena suffered any pecuniary loss or been put to any expense, be paid out of public moneys appropriated by Parliament the prescribed allowances or the amount of such loss and expense, whichever is the lesser: Provided that if 70 the person subpoenaed is in the full-time employment of the State the allowances or amount payable to him shall be determined in accordance with the laws governing his employment.

(10) The board or any member of the board or a division, or any officer designated thereto by the board, may at any time 75 for the purposes of any investigation enter any premises occu-

moet, indien hy deur die raad daartoe aangesê word, binne 'n tydperk en in 'n vorm deur die raad vermeld, aan die raad die deur die raad aangeduide gegewens verstrek.

(2) Iemand wat versuim om te voldoen aan 'n vereiste van die raad kragtens sub-artikel (1), is aan 'n misdryf skuldig.

(3) Die raad kan enigiemand wat volgens sy oordeel in staat is om gegewens van belang te verstrek omtrent die onderwerp wat deur die raad ondersoek word, of wat na sy vermoede of geloof besit of bewaring het van of beheer het oor enige boek, geskrif of ding wat in verband staan met die onderwerp wat ondersoek word, dagvaar, of gelas dat hy gedagvaar word, om voor hom op 'n tyd en plek in die subpoena vermeld te verskyn, om ondervra te word, of om daardie boek, geskrif of ding voor te lê. Die raad kan enige boek, geskrif of ding wat aldus voorgelê is, vir besigtiging behou.

(4) 'n Subpoena uitgereik by die uitoefening van die by sub-artikel (3) verleende bevoegdhede moet deur 'n lid van die raad of deur 'n amptenaar wat deur die raad daartoe gelas is, onderteken word.

(5) Die persoon wat by 'n vergadering van die raad voorsit, kan enige op die vergadering aanwesige persoon wat kragtens sub-artikel (3) gedagvaar is of kon geword het, oproep en aan hom 'n eed oplê of van hom 'n bevestiging afneem; en die persoon wat aldus voorsit en enige ander lid van die raad kan hom ondervra en van hom verlang dat hy enige boek, geskrif of ding wat in sy besit of bewaring is, of waaroor hy beheer het, voorlê: Met dien verstande dat die persoon wat by die vergadering voorsit na goeë dunnke 'n vraag kan belet wat volgens sy oordeel nie op die ondersoek wat deur die raad gedoen word, betrekking het nie.

(6) As 'n persoon wat kragtens sub-artikel (3) behoorlik gedagvaar is, sonder voldoende rede versuim om op die in die subpoena vermelde tyd en plek te verskyn, of om aanwesig te bly totdat die raad hom van verdere bywoning vrystel, of as 'n persoon wat kragtens sub-artikel (5) opgeroep is, weier om as 'n getuie ingesweer of bevestig te word of sonder voldoende rede versuim om op alle aan hom wettiglik gestelde vrae ten volle en op bevredigende wyse tot sy beste kennis en geloof te antwoord, of om 'n boek, geskrif of ding wat hy in besit of bewaring het, of waaroor hy beheer het, voor te lê, is hy aan 'n misdryf skuldig: Met dien verstande dat die regsreëls betreffende privilegie, soos van toepassing op 'n getuie wat gedagvaar is om getuie af te lê, of 'n boek, geskrif of ding voor te lê, in 'n geregshof, van toepassing is in verband met die ondervraging van so 'n persoon deur, of die voorlegging van so 'n boek, geskrif of ding aan, die raad.

(7) Die ondervraging van 'n getuie deur die raad moet in die openbaar geskied, tensy die raad anders besluit: Met dien verstande dat op versoek van 'n getuie die ondervraging van daardie getuie privaat moet geskied: Met dien verstande voorts dat die raad, na eie goeë dunnke en met die toestemming van die getuie, die teenwoordigheid van enige vermeldde persoon by die ondervraging van daardie getuie kan toelaat.

(8) Die raad kan, om enige rede wat hy voldoende ag, gelas dat 'n ondervraging gedoen word deur, of dat 'n boek, geskrif of ding voorgelê word aan, 'n lid van die raad of 'n amptenaar wat vir daardie doel deur die raad aangewys word; en so 'n lid van die raad of amptenaar kan aan 'n getuie wat aldus voor hom verskyn, 'n eed oplê of van hom 'n bevestiging afneem; en die bepalinge van hierdie artikel is *mutatis mutandis* van toepassing op bedoelde ondervraging of die voorlegging of behoud van so 'n boek, geskrif of ding, en die lid of amptenaar wat aldus deur die raad aangewys word, word by die toepassing van hierdie sub-artikel beskou as 'n lid van die raad wat by 'n vergadering van die raad voorsit.

(9) Aan iemand wat gedagvaar is om voor die raad of 'n lid van die raad of 'n ingevolge sub-artikel (8) aangewese amptenaar te verskyn kan, as die raad, lid of amptenaar, na gelang van die geval, oortuig is dat hy as gevolg van sy verskynning by gehoorsaming van die dagvaarding enige geldelike verlies gely het of enige onkoste moes aangaan, die voorgeskrewe toelae of die bedrag van sodanige verlies en onkoste, na gelang van watter die minste is, uit gelde deur die Parlement beskikbaar gestel, betaal word: Met dien verstande dat indien die persoon wat as getuie gedagvaar is, in die voltydse diens van die Staat is, die toelae of die bedrag aan hom betaalbaar ooreenkomstig die wetsbepalinge wat sy diens reël, betaal moet word.

(10) Die raad of enige lid van die raad of 'n afdeling, of enige amptenaar wat deur die raad daartoe aangewys is, kan te eniger tyd vir die doel van enige ondersoek, enige perseel

pied or used by any employer engaged in or suspected by the board or such member of being engaged in the trade being investigated, and every such employer and every person employed by him shall at all times furnish such facilities as are required by the board or such member or such officer for entering such premises and for making such inspections on the premises as may be deemed advisable by the board or such member or such officer. 5

(11) Any person who wilfully hinders or insults the board or any member of the board or an officer designated in terms of sub-section (8) in the exercise of any of the powers conferred upon it or him by this section, shall be guilty of an offence. 10

Submission of
reports and re-
commendations.

11. (1) A report or a recommendation signed by the majority of the members of the board shall be the report or recommendation, as the case may be, of the board: Provided that any member of the board who has taken part in any investigation may submit to the board a separate report or a reservation to any report on that investigation, and any member of the board may submit to the board a reservation to any recommendation. 15

(2) (a) Whenever any investigation has been carried out under sub-section (4) of section *four* by any member of the board, or such member and any additional member, the report by such member or members in respect of such investigation shall be submitted to the board and any such report in respect of an investigation which has been carried out by a member and an additional member may be submitted in the form of a joint report or separate reports by such members, and any such member may submit to the board a reservation to any such joint report. 20 25 30

(b) The board shall transmit every such report or reservation to the Minister together with its observations thereon.

(3) The board shall as soon as possible submit to the Minister any report or recommendation in pursuance of any request or direction under this Act, and shall transmit with such report or recommendation any report or reservation referred to in the proviso to sub-section (1) together with its observations thereon: Provided that the board may at any time prior to the publication under section *thirteen* of any recommendation made by it, alter that recommendation. 35 40

(4) The board may, if for any reason it considers it desirable to do so, submit interim reports to the Minister and the provisions of this section shall *mutatis mutandis* apply to any such report. 45

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

(6) Any recommendation may be submitted in separate parts either simultaneously or successively and, subject to the provisions of this section, every part so submitted shall for the purposes of this Act be deemed to be a recommendation by the board: Provided that the board shall submit a separate report in relation to each such part of a recommendation. 50

(7) Every report and recommendation and every reservation thereto shall be laid on the Tables of both Houses of Parliament within thirty days after the receipt thereof by the Minister, if Parliament is then in session, or, if Parliament is not then in session, within thirty days after the commencement of its next ensuing session. 55

Secrecy to be
observed.

12. (1) Any person who is or was a member of the board or any officer or any interpreter or assistant referred to in sub-section (1) of section *twenty-seven* who discloses, except to the Minister or to an officer or to the board or to the Board of Trade and Industries or to the Industrial Tribunal established under the Industrial Conciliation Act or any similar body which is concerned with the matter or to a court of law, or, save for the purposes of this Act, to any other person, any information in relation to any person, firm or business acquired in the exercise of his powers under this Act or in the performance of his duties in carrying out this Act shall be guilty of an offence. 60 65 70

(2) The Minister may, notwithstanding the provisions of sub-section (1), make public, in such manner or form as he may think fit, any report of the board and any report or reservation transmitted to him under section *eleven*, and any observations made thereon by the board, and any information as to remuneration or conditions of employment or other information 75

wat geokkupeer of gebruik word deur 'n werkgewer wat by die bedryf wat ondersoek word, betrokke is of deur die raad of so 'n lid vermoed word betrokke te wees, betree en iedere sodanige werkgewer en iedere persoon by hom in diens, moet te alle 5 tye die fasiliteite verskaf wat die raad of so 'n lid of amptenaar vereis om bedoelde perseel te betree en om die inspeksies op die perseel uit te voer wat die raad of so 'n lid of amptenaar raadsaam ag.

(11) Enigiemand wat die raad of enige lid van die raad of 10 'n amptenaar aangewys kragtens sub-artikel (8), by die uitoefening van enige bevoegdheid aan hom by hierdie artikel verleen, opsetlik hinder of beledig, is aan 'n misdryf skuldig.

11. (1) 'n Verslag of aanbeveling onderteken deur die meerderheid van die lede van die raad is die verslag of aanbeveling, 15 na gelang van die geval, van die raad: Met dien verstande dat enige lid van die raad wat aan 'n ondersoek deelgeneem het, 'n afsonderlike verslag of 'n voorbehoud tot enige verslag oor daardie ondersoek aan die raad kan voorlê, en enige lid van die raad kan aan die raad 'n voorbehoud tot enige aanbeveling 20 voorlê.

Voorlegging van verslae en aanbevelings.

(2) (a) Wanneer 'n ondersoek kragtens sub-artikel (4) van artikel vier deur 'n lid van die raad of so 'n lid en 'n addisionele lid, gedoen is, moet die verslag deur bedoelde lid of lede ten opsigte van bedoelde ondersoek aan die raad voorgelê word en so 'n verslag ten opsigte van 'n ondersoek wat deur 'n lid en 'n addisionele lid gedoen is, kan in die vorm van 'n gesamentlike verslag of afsonderlike verslae deur bedoelde lede voorgelê word, en so 'n lid kan aan die raad 'n voorbehoud tot so 'n gesamentlike verslag voorlê. 30

(b) Die raad moet iedere sodanige verslag of voorbehoud tesame met sy opmerkings daaroor aan die Minister deurstuur.

(3) Die raad moet so gou doenlik enige verslag of aanbeveling na aanleiding van 'n versoek of lasgewing kragtens hierdie Wet aan die Minister voorlê, en tesame met so 'n verslag of aanbeveling enige in die voorbehoudsbepaling by sub-artikel (1) bedoelde verslag of voorbehoud en sy opmerkings 40 daaroor, deurstuur: Met dien verstande dat die raad te eniger tyd voor die publikasie kragtens artikel dertien van 'n aanbeveling wat deur hom gedoen is, daardie aanbeveling kan wysig.

(4) Die raad kan indien hy om enige rede dit raadsaam ag 45 om dit te doen, tussentydse verslae aan die Minister voorlê en die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op so 'n verslag.

(5) 'n Aanbeveling kan terselfdertyd as 'n verslag of te eniger tyd daarna voorgelê word.

(6) 'n Aanbeveling kan in afsonderlike dele hetsy gelyktydig of opeenvolgend voorgelê word, en, behoudens die bepalings van hierdie artikel, word iedere deel aldus voorgelê by die toepassing van hierdie Wet geag 'n aanbeveling van die raad te wees: Met dien verstande dat die raad 'n afsonderlike verslag 55 met betrekking tot iedere sodanige deel van 'n aanbeveling moet voorlê.

(7) Iedere verslag en aanbeveling en iedere voorbehoud daartoe word in beide Huise van die Parlement ter Tafel gelê binne dertig dae na ontvangs daarvan deur die Minister, 60 as die Parlement dan in sitting is, en as die Parlement nie dan in sitting is nie, dan binne dertig dae na die aanvang van sy eersvolgende sitting.

12. (1) Iemand wat 'n lid van die raad is of was of 'n amptenaar of 'n in sub-artikel (1) van artikel sewe-en-twintig 65 bedoelde tolk of assistent wat, behalwe aan die Minister of aan 'n amptenaar of aan die raad of aan die Raad van Handel en Nywerheid of die Nywerheidshof onder die Wet op Nywerheidsversoening ingestel of enige soortgelyke owerheid wat by die aangeleentheid betrokke is of aan 'n geregshof, of, 70 behalwe vir die doel van hierdie Wet, aan enige ander persoon enige inligting onthul wat hy by die uitoefening van sy bevoegdhede kragtens hierdie Wet of by die verrigting van sy pligte by die uitvoering van hierdie Wet ingewin het in verband met enige persoon, firma of besigheid, is aan 'n misdryf skuldig.

Geheimhouding bewaar te word.

(2) Ondanks die bepalings van sub-artikel (1), kan die Minister op 'n wyse of in 'n vorm wat hy wenslik ag, enige verslag van die raad en enige verslag of voorbehoud wat kragtens artikel elf aan hom deurgestuurd is, en enige opmerkings daaroor deur die raad, en enige gegewens aangaande beloning 80 en diensvoorwaardes of ander gegewens wat kragtens hierdie

acquired under this Act as to any group or class of person firms or businesses in any area, and any information as to any individual person, firm or business: Provided that where such information relates to the finances or the trade processes of any person, firm or business, the name or identity of such person, firm or business shall not be disclosed.

Publication of
recommendation.

13. (1) After the receipt by him of any recommendation submitted by the board, the Minister may, if he deems it expedient to do so—

(a) cause to be published in the *Gazette* a notice setting forth the recommendation and containing an invitation to all persons whose interests may be affected directly or indirectly, and who have any objections to the making of a determination in accordance with the recommendation, to lodge them in writing with an officer at an address stated in the notice, within a period specified in the notice, which shall not be shorter than fourteen days as from the date of publication of the notice; and

(b) cause to be published in one or more newspapers, within seven days after the publication of the notice referred to in paragraph (a), a statement directing the attention of all concerned to that notice.

(2) The officer with whom any objection has been lodged in response to an invitation published in terms of sub-section (1), shall refer it to the board for consideration by it.

(3) The board shall consider every objection referred to it in terms of sub-section (2), and shall report thereon to the Minister, and may abide by its previous recommendation or make such amendments therein as in the opinion of the board are called for by reason of the objections or otherwise.

(4) Before submitting a report under sub-section (3) the board may carry out such further investigation as it may consider necessary and the provisions of section *ten* shall *mutatis mutandis* apply in respect of any such investigation.

Making of
determination.

14. (1) Upon consideration of a recommendation to which no objection has been lodged, or to which an objection has been lodged but which has not been amended by the board in terms of sub-section (3) of section *thirteen*, or upon consideration of an amended recommendation submitted under the provisions of the said sub-section, the Minister may, if he deems it expedient to do so, make a determination, which shall be in accordance with the recommendation or, if the recommendation has been amended, in accordance with the amended recommendation: Provided that no determination shall be made unless the relevant recommendation has been published in terms of sub-section (1) of section *thirteen*; but whenever an amended recommendation has been submitted under sub-section (3) of that section, which, in the opinion of the Minister, does not differ materially from the recommendation which has been so published, the Minister may make a determination without publishing the amended recommendation.

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

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

Amendment of
determinations.

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

(2) The Minister may at any time request the board to consider the advisability of amending any determination generally, or of amending any particular provision of a determination otherwise than under sub-section (1).

(3) (a) Upon receipt of a request under sub-section (2), the board shall cause to be published in the *Gazette* a notice setting forth the fact that it has received the said request and the purport thereof, and stating the period within which, the officer with whom and the

Wet ingewin is aangaande enige groep of kategorie persone, firmas of besighede in enige gebied, en enige gegewens aangaande enige individuele persoon, firma of besigheid, bekendmaak: Met dien verstande dat waar bedoelde gegewens betrekking het op die finansies of bedryfsprosesse van 'n persoon, firma of besigheid, die naam of identiteit van bedoelde persoon, firma of besigheid nie openbaar gemaak word nie.

13. (1) Na ontvangs van 'n aanbeveling wat deur die raad voorgelê is, kan die Minister, as hy dit dienstig ag— Publikasie van aanbeveling.
- 10 (a) 'n kennisgewing in die *Staatskoerant* laat publiseer wat die aanbeveling uiteensit en wat alle persone wie se belange regstreeks of onregstreeks geraak word en wat besware het dat 'n vasstelling ooreenkomstig die aanbeveling gemaak word, uitnoodig om die besware binne 'n tydperk in die kennisgewing vasgestel en
- 15 wat nie korter mag wees nie as veertien dae vanaf die datum van publikasie van die kennisgewing, skriftelik in te dien by 'n amptenaar by 'n in die kennisgewing vermelde adres; en
- 20 (b) binne sewe dae na die publikasie van die in paragraaf (a) genoemde kennisgewing in een of meer nuusblaai 'n verklaring laat publiseer wat die aandag van alle betrokke persone op daardie kennisgewing vestig.
- (2) Die amptenaar by wie 'n beswaar ingedien is in antwoord op 'n uitnodiging wat ingevolge sub-artikel (1) gepubliseer is, moet dit na die raad verwys vir oorweging deur die raad.
- (3) Die raad moet elke beswaar wat ingevolge sub-artikel (2) na hom verwys word, oorweeg en aan die Minister daaroor verslag doen, en hy kan by sy vorige aanbeveling bly of die wysigings daarin aanbring wat na oordeel van die raad weens
- 30 die besware of andersins vereis word.
- (4) Voordat die raad 'n verslag kragtens sub-artikel (3) voorlê, kan hy die verdere ondersoek instel wat hy nodig ag, en die bepalings van artikel tien is *mutatis mutandis* ten opsigte van so 'n ondersoek van toepassing.

14. (1) Na oorweging van 'n aanbeveling waarteen geen beswaar ingedien is nie, of waarteen 'n beswaar ingedien is maar wat nie deur die raad ingevolge sub-artikel (3) van artikel dertien gewysig is nie, of na oorweging van 'n gewysigde aanbeveling wat ingevolge die bepalings van bedoelde sub-artikel voorgelê is, kan die Minister, as hy dit dienstig ag om dit te doen, 'n vasstelling maak wat ooreenkomstig die aanbeveling of, indien die aanbeveling gewysig is, ooreenkomstig die gewysigde aanbeveling is: Met dien verstande dat geen vasstelling gemaak word nie tensy die tersaaklike aanbeveling ingevolge sub-artikel (1) van artikel dertien gepubliseer is; maar wanneer 'n gewysigde aanbeveling ingevolge sub-artikel (3) van daardie artikel voorgelê is wat na die Minister se oordeel nie wesenlik verskil van die aanbeveling wat aldus gepubliseer is nie, kan
- 40 die Minister 'n vasstelling maak sonder om die gewysigde aanbeveling te publiseer.
- (2) Nadat die Minister so 'n vasstelling gemaak het, moet hy in die *Staatskoerant* 'n kennisgewing laat publiseer wat daardie feit meld en die bepalings van die vasstelling uiteensit, en wat die datum vanaf welke hulle bindend is, meld, en behoudens enige uitsluiting ingevolge sub-artikel (3), is genoemde bepalings vanaf daardie datum bindend.
- (3) Die Minister kan na oorlegpleging met die raad, in 'n kragtens sub-artikel (2) gepubliseerde kennisgewing of by kennisgewing in die *Staatskoerant* te eniger tyd daarna, vir 'n tydperk wat hy in daardie kennisgewing vasstel, enige gedeelte van die betrokke bedryf, of enige klas werknemers of enige gebied of gedeelte van 'n gebied, in die kennisgewing vermeld, uit 'n vasstelling uitsluit.

- 65 15. (1) Op aanbeveling van die raad kan die Minister by kennisgewing in die *Staatskoerant* enige wysiging in 'n vasstelling aanbring wat volgens sy oordeel 'n weglating of fout herstel of 'n bepaling ophelder. Wysiging van vasstellings.
- (2) Die Minister kan die raad te eniger tyd versoek om die wenslikheid te oorweeg van 'n algemene wysiging van 'n vasstelling of van 'n wysiging, op 'n ander wyse as kragtens sub-artikel (1), van 'n bepaalde bepaling van 'n vasstelling.
- (3) (a) Nadat die raad 'n versoek ingevolge sub-artikel (2) ontvang het, moet hy 'n kennisgewing in die *Staatskoerant* laat publiseer, waarin die feit dat die raad bedoelde versoek ontvang het en die strekking daarvan, vermeld word en waarin bepaal word binne
- 75 watter tydperk, by watter amptenaar en aan watter

address at which any representations in regard to the said amendment may be lodged.

- (b) The board may in its discretion permit oral representations to be made in lieu of or in addition to any written representations under this sub-section. 5

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

(5) The provisions of sub-section (4) of section *four*, and of sections *eight*, *ten* and *eleven* shall *mutatis mutandis* apply in respect of any investigation conducted and any report and recommendation submitted by the board under this section.

(6) If the board has, under sub-section (4), recommended to the Minister an amendment of any determination, the Minister may, if he deems it expedient to do so, act in accordance with the provisions of section *thirteen* and of sub-section (1) of section *fourteen* as if the reference in those provisions to a determination were a reference to an amendment of a determination, and he may thereafter by notice in the *Gazette* amend the relevant determination in accordance with the board's recommendation or amended recommendation, as the case may be. 15 20

(7) Any amendment of a determination made under sub-section (1) or (6) shall take effect as from a date fixed by the Minister in the notice in the *Gazette* whereby the amendment is made. 25

Cancellation
or suspension
of determination.

16. The Minister may, if he deems it expedient, and after consultation with the board, by notice in the *Gazette*, and as from a date or for a period and in respect of any area specified in that notice, cancel or suspend one or more or all of the provisions of any determination: Provided that the Minister shall before publishing such a notice, give to the employers and employees bound by the determination an opportunity of setting forth their views in regard to the proposed cancellation or suspension. 30

Extension of area
of application of
determination.

17. (1) The Minister may at any time request the board to consider the advisability of extending all or any of the provisions of any determination to such area as he may specify. 35

(2) The provisions of sub-sections (3) and (4) of section *fifteen* shall *mutatis mutandis* apply in respect of any request under sub-section (1), and the provisions of sub-section (4) of section *four* and of sections *ten* and *eleven* shall *mutatis mutandis* apply in respect of any investigation conducted or any report or recommendation submitted by the board under such firstmentioned provisions as applied by this sub-section. 40

(3) The board may recommend that all the provisions of the relevant determination or such provisions thereof as may be specified in the recommendation, be extended to the area concerned or any part thereof, either in the form in which such provisions appear in the determination or in such amended form as the board may specify and the provisions of section *eight* shall *mutatis mutandis* apply in respect of such last-mentioned specification. 45 50

(4) Upon receipt of a recommendation under sub-section (3), the Minister may *mutatis mutandis* in accordance with the procedure applicable to the amendment of a determination under sub-section (6) of section *fifteen*, extend the relevant determination in accordance with the board's recommendation and such extension shall take effect as from a date fixed by the Minister in the notice in the *Gazette* whereby the extension is effected. 55 60

Period of
operation of
determination.

18. The provisions of a determination shall, subject to the provisions of sub-section (3) of section *two*, and except to the extent of any exclusion under a subsequent determination by reason of a provision referred to in paragraph (b) of sub-section (3) of section *eight*, or of any exclusion under sub-section (3) of section *fourteen* or any suspension under section *sixteen*, remain binding until they are cancelled in terms of the last-mentioned section or until they are superseded by a new determination. 65

Exemptions.

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

- (a) the terms and conditions of employment of such person or class of persons are substantially not less favourable 75

- adres vertoë omtrent bedoelde wysiging ingedien kan word.
- (b) Die raad kan na goeëdunke mondelinge vertoë in plaas van of benewens enige skriftelike vertoë kragtens hierdie sub-artikel toelaat.
- 5 (4) Nadat die raad die ondersoek ingestel het wat hy nodig ag en alle vertoë ingevolge sub-artikel (3) gedoen en enige ander tersaaklike aangeleentheid oorweeg het, lê die raad 'n verslag en aanbeveling aan die Minister voor.
- 10 (5) Die bepalings van sub-artikel (4) van artikel vier en van artikels agt, tien en elf is *mutatis mutandis* van toepassing ten opsigte van 'n ondersoek en enige verslag en aanbeveling wat deur die raad kragtens hierdie artikel gedoen of voorgelê word.
- 15 (6) As die raad ingevolge sub-artikel (4) by die Minister 'n wysiging van 'n vasstelling aanbeveel het, kan die Minister, as hy dit dienstig ag, handel volgens die bepalings van artikel dertien en van sub-artikel (1) van artikel veertien asof die verwysing, in daardie bepalings na 'n vasstelling 'n verwysing was na 'n wysiging van 'n vasstelling en hy kan daarna by
- 20 kennisgewing in die *Staatskoerant* die betrokke vasstelling ooreenkomstig die raad se aanbeveling of gewysigde aanbeveling, na gelang van die geval, wysig.
- (7) 'n Wysiging van 'n vasstelling ingevolge sub-artikel (1) of
- 25 (6) tree in werking op 'n datum wat die Minister vasstel in die kennisgewing in die *Staatskoerant* waarby die wysiging gemaak word.
16. Indien die Minister dit dienstig ag, kan hy, na oorleg- Intrekking of
pleging met die raad, by kennisgewing in die *Staatskoerant* opskorting van
30 en vanaf 'n datum of vir 'n tydperk en ten opsigte van 'n gebied vasstelling.
in daardie kennisgewing vermeld een of meer van, of al, die bepalings van 'n vasstelling van tyd tot tyd intrek of opskort: Met dien verstande dat die Minister die werkgewers en werknemers op wie die vasstelling bindend is, voor die publikasie
- 35 van so 'n kennisgewing, in die geleentheid moet stel om hul sienswyses in verband met die voorgestelde intrekking of opskorting uiteen te sit.
17. (1) Die Minister kan die raad te eniger tyd versoek om die wenslikheid te oorweeg om al of enige van die bepalings van 'n
40 vasstelling uit te brei tot die gebied wat hy vermeld.
- (2) Die bepalings van sub-artikels (3) en (4) van artikel vyftien is *mutatis mutandis* van toepassing ten opsigte van 'n versoek kragtens sub-artikel (1), en die bepalings van sub-artikel (4) van artikel vier en van artikels tien en elf is *mutatis*
45 *mutandis* van toepassing ten opsigte van 'n ondersoek ingestel of 'n verslag of aanbeveling voorgelê deur die raad kragtens eersbedoelde bepalings soos by hierdie sub-artikel toegepas.
- (3) Die raad kan aanbeveel dat al die bepalings van die betrokke vasstelling of die bepalings daarvan wat in die aan-
50 beveling vermeld word, tot die betrokke gebied of 'n gedeelte daarvan, hetsy in die vorm waarin bedoelde bepalings in die vasstelling verskyn of in so 'n gewysigde vorm as wat die raad mag vermeld, uitgebrei word, en die bepalings van artikel agt is *mutatis mutandis* van toepassing ten opsigte van laasbedoelde
55 vermelding.
- (4) By ontvangs van 'n aanbeveling kragtens sub-artikel (3), kan die Minister *mutatis mutandis* ooreenkomstig die prosedure wat van toepassing is op die wysiging van 'n vasstelling kragtens sub-artikel (6) van artikel vyftien, die betrokke vasstelling
60 ooreenkomstig die raad se aanbeveling uitbrei en so 'n uitbreiding is van krag vanaf 'n datum wat deur die Minister vasgestel word in die kennisgewing in die *Staatskoerant* waarby die uitbreiding teweeggebring word.
18. Behoudens die bepalings van sub-artikel (3) van artikel
65 twee, en behalwe tot die mate van 'n uitsluiting kragtens 'n latere vasstelling vanweë 'n in paragraaf (b) van sub-artikel (3) van artikel agt bedoelde bepalings of van 'n uitsluiting kragtens sub-artikel (3) van artikel veertien of enige opskorting kragtens artikel sestien, bly die bepalings van 'n vasstelling
70 bindend totdat hulle ingevolge laasbedoelde artikel ingetrek word of totdat dit deur 'n nuwe vasstelling vervang word.
19. (1) Wanneer aansoek in die vorm en op die wyse voor- Vrstellings.
geskryf gedoen word om die vrystelling van enige persoon of klas persone van almal of enigeen van die bepalings van 'n
75 vasstelling wat ingevolge hierdie Wet bindend is, en die Minister van oordeel is dat—
- (a) die bedinge en voorwaardes van diens van sodanige persoon of klas persone vir hom of hulle wesenlik

- to him or them than the terms and conditions of employment prescribed by that determination; or
- (b) such person suffers from a physical disability such as old age, or chronic sickness or infirmity and is capable of doing only part of the work required of an able-bodied person; or
 - (c) special circumstances exist which justify, in the interests of such person, or class of persons an exemption of that person or class of persons, under this section,

he may, if he deems it expedient to do so, grant exemption from all or any of the provisions of the determination concerned to or in respect of that person or class of persons, for such period and subject to such terms and conditions as he may determine. The period for which exemption is granted may commence on a date prior to that on which the exemption is granted but not earlier than the date on which the application was made in terms of this sub-section.

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

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

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

(5) Any exemption granted—

- (a) by the Minister or by an officer to whom powers have been delegated under sub-section (2), may at any time be withdrawn by the Minister; or
- (b) by an officer to whom powers have been so delegated may at any time be withdrawn by that officer or by any other officer to whom powers have been so delegated.

(6) For the purposes of this section, "class of persons" includes such group or section or type of persons as may be specified or defined in the licence of exemption, and in the making of any such specification or definition any method of differentiation or discrimination based on age, sex, experience, length of employment or type of work or type or class of premises or the area on or in which work is performed, or any other method which is deemed to be advisable, may be applied.

Failure to observe provisions of determination or licence of exemption.

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

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

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

- nie minder gunstig is nie as die bedinge en voorwaardes van diens wat deur daardie vasstelling voorgeskryf word; of
- 5 (b) sodanige persoon aan 'n liggaamlike ongeskiktheid soos ouderdom of kroniese siekte of swakheid ly en in staat is om slegs deel van die werk te verrig wat van 'n liggaamlik geskikte persoon vereis word; of
- (c) besondere omstandighede bestaan wat in belang van sodanige persoon of klas persone 'n vrystelling van daardie persoon of klas persone kragtens hierdie artikel regverdig,

kan hy, as hy dit raadsaam ag om dit te doen, vrystelling verleen van almal of enigeen van die bepalings van die betrokke vasstelling aan of ten opsigte van daardie persoon of klas persone vir die tydperk en onderworpe aan die bedinge en voorwaardes wat hy bepaal. Die tydperk waarvoor vrystelling verleen word, kan op 'n datum begin vroeër as dié waarop vrystelling verleen word maar nie vroeër nie as die datum waarop aansoek ingevolge hierdie sub-artikel gedoen is.

20 (2) Die Minister kan, na goeddunke, deur 'n deur hom ondertekende geskrif die bevoegdhede wat sub-artikel (1) aan hom verleen aan enige amptenaar oordra; en hy kan te eniger tyd so 'n oordrag terugtrek.

(3) Die bedinge en voorwaardes van 'n vrystelling wat 25 kragtens sub-artikel (1) verleen word, moet in 'n vrystellingsertifikaat, onderteken deur 'n amptenaar, ingelyf word en 'n afskrif daarvan moet aan die persoon of persone gestuur word wat die amptenaar nodig ag. Met dien verstande dat in plaas van so 'n sertifikaat die Minister die publikasie in die *Staatskoerant* kan magtig van 'n kennisgewing waarin die bedinge en voorwaardes van so 'n vrystelling ingelyf word; en in daardie geval moet die persoon of klas persone aan of ten opsigte van wie, die tydperk waarvoor en die datum van wanneer af die vrystelling verleen word, in bedoelde kennisgewing vermeld word.

35 (4) 'n Vrystelling wat kragtens hierdie artikel aan of ten opsigte van 'n persoon of klas persone verleen word, stel 'n werkgewer wat daardie persoon of 'n lid van daardie klas persone in diens neem, vry van die toepaslike bepalings van die betrokke vasstelling tot die mate in die vrystellingsertifikaat 40 vermeld, en die bedinge en voorwaardes ingelyf in die vrystellingsertifikaat is bindend op die persoon of elke lid van die klas persone aan of ten opsigte van wie vrystelling verleen is, en indien daardie persoon of 'n lid van daardie klas 'n werknemer is, op elke persoon wat hom in diens neem.

45 (5) 'n Vrystelling verleen—

(a) deur die Minister of deur 'n amptenaar aan wie bevoegdhede kragtens sub-artikel (2) oorgedra is, kan te eniger tyd deur die Minister teruggetrek word; of

50 (b) deur 'n amptenaar aan wie bevoegdhede aldus oorgedra is, kan te eniger tyd teruggetrek word deur daardie amptenaar of deur enige ander amptenaar aan wie bevoegdhede aldus oorgedra is.

(6) By die toepassing van hierdie artikel beteken „klas persone” ook die groep of afdeling of soort persone wat in die vrystellingsertifikaat vermeld of omskrywe word en by die maak van so 'n vermelding of omskrywing kan enige metode van differensiasie of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van dienstryd of soort werk of soort of 60 klas perseel of die gebied waarop of waarin werk verrig word, of enige ander metode raadsaam geag, toegepas word.

20. (1) Iemand wat 'n bepaling van 'n vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is, oortree, of versuim om daaraan te voldoen, is aan 'n misdryf 65 skuldig.

(2) Indien die veroordeelde persoon 'n werkgewer was en die misdryf bestaan het uit die oortreding van, of versuim om te voldoen aan, 'n bepaling van so 'n vasstelling of vrystellingsertifikaat met betrekking—

70 (a) tot enige in paragraaf (a), (c) of (h) van sub-artikel (1) van artikel *agt* bedoelde aangeleentheid, of tot betaling ten opsigte van oortyd of maaltje of ten opsigte van of in plaas van verlof of in plaas van kennisgewing van beëindiging van diens of tot betaling op die vervaldatum van die volle beloning verskuldig aan 'n werknemer, of, in die geval van 'n vrystellingsertifikaat, tot enige beloning aan 'n werknemer 75 daarvolgens verskuldig; of

(b) tot enige in paragraaf (b) of (l) van sub-artikel (1) van artikel *agt* bedoelde aangeleentheid,

Versuim om aan bepalings van vasstelling of vrystellingsertifikaat te voldoen.

the court convicting him shall enquire into and determine the difference between the amount which he paid and the amount which he would have paid if the contravention or failure of which he has been convicted had not occurred, and, in the case of a contravention or failure referred to in paragraph (a), whether the employee concerned did or did not agree to accept less than the remuneration which under the provisions of the relative determination or licence of exemption he was entitled to receive, and whether, if he did so agree, he did or did not know of his rights under those provisions, and if he did know of those rights, the circumstances under which he so agreed: Provided that if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall, to the best of its ability, estimate the difference. If no amount has been paid the amount which would have been paid if the contravention or failure had not occurred, shall, for the purposes of this sub-section, be deemed to be the difference. The difference so determined or the amount at which it is so estimated is in this section and in sections *twenty-one* and *twenty-three* referred to as the amount underpaid.

(3) If the person convicted was an employee and the offence consisted of the contravention of or failure to comply with any provision of any such determination or licence of exemption relating to the giving of notice upon termination of employment and such determination or licence of exemption provides for the payment or forfeiture by an employee of an amount in lieu of notice, the court convicting him shall enquire into and determine the difference between any amount which he paid or forfeited and the amount which he was required to pay or forfeit in terms of the relevant provision of the determination or licence of exemption: Provided that if the court is unable on all the evidence, whether given before or after conviction, to determine the difference exactly, it shall to the best of its ability estimate the difference. If no amount has been paid or forfeited, the amount which the employee concerned was required to pay or forfeit in terms of the relevant provision of the determination or licence of exemption shall for the purposes of this sub-section be deemed to be the difference. The difference so determined or the amount at which it is so estimated is in sections *twenty-one* and *twenty-three* referred to as the amount to be paid.

(4) The court shall, when acting under sub-section (2), give to the employer an opportunity of submitting evidence regarding the amount underpaid and the circumstances in which the underpayment took place, and, if the offence consisted of a contravention or a failure such as is referred to in paragraph (a) of that sub-section, give to the employee concerned a similar opportunity.

(5) The proceedings of the court under the provisions of sub-sections (2), (3) and (4) shall take place before sentence is passed, and shall be deemed to form part of the trial.

(6) If the offence consisted of a contravention or failure referred to in sub-section (2), and the amount underpaid is greater than the maximum amount of the fine prescribed by section *thirty-seven*, the maximum amount of the fine to which the person convicted shall be liable in terms of that section shall be increased to an amount equal to the amount underpaid.

(7) It shall not be a defence to any charge for a contravention or failure referred to in sub-section (2) or (3) to prove that the act or omission with which the accused is charged was due to lack of means.

(8) (a) Any employer who is notified in writing by the inspector defined by regulation that any moneys as determined by such inspector are payable to any person by such employer in terms of any determination or licence of exemption which is or was binding in terms of this Act and who admits that the moneys so determined are so payable, may pay such moneys to the said inspector for payment to the person entitled thereto.

(b) If any moneys so paid to the inspector defined by regulation have at the expiry of a period of six months as from the date of receipt thereof not been paid to the person entitled thereto, the inspector shall forthwith transmit such moneys to the Secretary for Labour for payment into the Consolidated Revenue Fund.

moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is tussen die bedrag wat hy betaal het en die bedrag wat hy sou betaal het as die oortreding of versuim waaraan hy skuldig bevind is nie plaasgevind het nie, en, in die 5 geval van 'n in paragraaf (a) bedoelde oortreding of versuim, of die betrokke werknemer ingestem het of nie ingestem het nie, om minder te ontvang as die beloning, wat hy kragtens die bepalings van die betrokke vasstelling of vrystellingsertifikaat geregtig was om te ontvang, en, indien hy aldus ingestem het, of 10 hy bewus was of nie bewus was nie, van sy regte kragtens daardie bepalings, en, indien hy van daardie regte bewus was, die omstandighede waarin hy aldus ingestem het: Met dien verstande dat indien die hof uit al die getuienis, hetsy dit voor skuldigbevinding afgelê is of daarna, nie in staat is om die verskil presies 15 vas te stel nie, hy die verskil na die beste van sy vermoë moet beraam. As geen bedrag betaal is nie word die bedrag wat betaal sou gewees het indien die oortreding of versuim nie plaasgevind het nie by die toepassing van hierdie sub-artikel geag die verskil te wees. Die verskil wat aldus vasgestel is, of die bedrag 20 waarop dit aldus beraam is, word in hierdie artikel en in artikels *een-en-twintig* en *drie-en-twintig* die onderbetaalde bedrag genoem.

(3) Indien die veroordeelde persoon 'n werknemer was en die misdryf bestaan het uit die oortreding van, of versuim 25 om te voldoen aan, 'n bepaling van so 'n vasstelling of vrystellingsertifikaat met betrekking tot die gee van kennis by beëindiging van diens en sodanige vasstelling of vrystellingsertifikaat voorsiening maak vir die betaling of verbeuring deur 'n werknemer van 'n bedrag in plaas van kennisgewing, 30 moet die hof wat hom skuldig bevind, ondersoek instel na en vasstel wat die verskil is tussen enige bedrag wat hy betaal of verbeur het en die bedrag wat hy ingevolge die toepaslike bepaling van die vasstelling of vrystellingsertifikaat moes betaal of verbeur het: Met dien verstande dat indien die hof uit al 35 die getuienis, hetsy dit voor skuldigbevinding afgelê is of daarna, nie in staat is om die verskil presies vas te stel nie, hy die verskil na die beste van sy vermoë moet beraam. As geen bedrag betaal of verbeur is nie, word die bedrag wat die betrokke werknemer ingevolge die toepaslike bepaling van die vasstelling 40 of vrystellingsertifikaat moes betaal of verbeur het, by die toepassing van hierdie sub-artikel geag die verskil te wees. Die verskil aldus vasgestel, of die bedrag waarop dit aldus beraam is, word in artikels *een-en-twintig* en *drie-en-twintig* die bedrag wat betaal moet word, genoem.

(4) Die hof moet, wanneer hy kragtens sub-artikel (2) optree, 45 aan die werkgewer 'n geleentheid gee om getuienis voor te lê aangaande die onderbetaalde bedrag en die omstandighede waarin die onderbetaling plaasgevind het en, as die misdryf bestaan het uit 'n in paragraaf (a) van daardie sub-artikel 50 bedoelde oortreding of versuim, aan die betrokke werknemer 'n soortgelyke geleentheid gee.

(5) Die verrigtinge van die hof kragtens sub-artikels (2), 55 (3) en (4) moet plaasvind voordat die vonnis uitgespreek word en word geag deel van die verhoor uit te maak.

(6) As die misdryf bestaan het uit 'n in sub-artikel (2) be- 60 doelde oortreding of versuim, en die onderbetaalde bedrag groter is as die maksimum bedrag van die geldboete voorgeskryf by artikel *sewe-en-dertig*, moet die maksimum bedrag van die geldboete waarmee die veroordeelde persoon volgens 65 daardie artikel strafbaar is, verhoog word tot 'n bedrag wat gelykstaan aan die onderbetaalde bedrag.

(7) Dit is geen verweer teen 'n aanklag weens 'n oortreding of versuim in sub-artikel (2) of (3) bedoel om te bewys dat die 70 handeling of versuim waarvan die beskuldigde aangekla word, aan gebrek aan middele te wyte was nie.

(8) (a) 'n Werkgewer wat deur die by regulasie bepaalde- 75 inspekteur skriftelik in kennis gestel word dat enige gelde soos deur bedoelde inspekteur vasgestel aan 'n persoon deur daardie werkgewer betaalbaar is ingevolge 'n vasstelling of vrystellingsertifikaat wat kragtens hierdie Wet bindend is of was en wat erken dat die gelde aldus vasgestel aldus betaalbaar is, kan die gelde betaal aan bedoelde inspekteur vir betaling aan die persoon wat daarop geregtig is.

(b) Indien enige gelde aldus betaal aan die by regulasie 80 bepaalde inspekteur by die verstryking van 'n tydperk van ses maande vanaf die datum van ontvangs daarvan nie aan die persoon wat daarop geregtig is, betaal is nie, moet die inspekteur onverwyld daardie gelde aan die Sekretaris van Arbeid deurstuur vir inbetaling in die Gekonsolideerde Inkomstefonds.

- (c) On the application of the Secretary for Labour made at any time within a period of three years from the date of payment into the Consolidated Revenue Fund under paragraph (b) the moneys concerned shall be refunded to the Secretary for Labour for payment to the person entitled thereto. 5

Order upon employer or employee to pay specified officer amount underpaid or to be paid.

21. (1) Whenever any person is convicted of an offence under sub-section (1) of section *twenty*, and the offence consists of a contravention or failure referred to in sub-section (2) or (3) of that section, the court convicting him shall, after it has, in terms of that section, determine the amount underpaid, or to be paid, as the case may be, order him to pay an amount equal to the amount so determined to an officer specified by the court (hereinafter referred to as the specified officer) within a period fixed by the court, in instalments or otherwise, as fixed by the court. 15

(2) The court may at any time upon the application of an inspector or of any employee or employer to whom any amount is payable in terms of sub-section (1) or (2) of section *twenty-two* or of the person convicted, if good cause is shown, reduce or extend the period within which any such amount must be paid to the specified officer or vary the amounts of the instalments or order than any balance outstanding be paid in one lump sum. 20

(3) An order made under the provisions of this section shall have all the effects of, and may be executed as if it were, a civil judgment in favour of the Government of the Union. 25

Disposal of amounts paid to specified officer.

22. (1) Whenever an order is made under section *twenty-one* against an employer in respect of a contravention or failure referred to in paragraph (a) of sub-section (2) of section *twenty*, the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer, as the court, having regard to the circumstances under which the contravention or failure occurred, deems equitable, shall be paid to the employee in respect of whom the contravention or failure occurred: Provided that— 30

- (a) if the court finds that the employee concerned did not agree to accept less than the minimum remuneration which under the provisions of the relative determination or licence of exemption he was entitled to receive, or that, if he did so agree, he so agreed not knowing of his rights under those provisions, the court shall direct that the whole of the amount so paid to the specified officer shall be paid to that employee; 40
- (b) if the court, having regard to the circumstances under which the contravention or failure occurred, deems it equitable to do so, it may, except in the circumstances referred to in paragraph (a), direct that no portion of the amount so paid to the specified officer shall be paid to the employee concerned; 50
- (c) if the court directs that any portion of the amount so paid to the specified officer shall be paid to the employee concerned, that portion shall not be less than one-fourth thereof. 55

(2) Whenever an order is made under section *twenty-one* against an employee in respect of a contravention or failure referred to in sub-section (3) of section *twenty*, the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer, as the court, having regard to the circumstances under which the contravention or failure occurred, deems equitable, shall be paid to the employer in respect of whom the contravention or failure occurred. 60

(3) So much of the amount so paid to the specified officer as is not, in terms of sub-section (1) or (2), payable to the employee or employer concerned, shall be paid into the Consolidated Revenue Fund. 65

(4) The whole of any amount paid to the specified officer pursuant to any order made under section *twenty-one* against an employer in respect of a contravention or failure referred to in paragraph (b) of sub-section (2) of section *twenty* shall be paid into the Consolidated Revenue Fund: Provided that if the employer has also been convicted in respect of the same facts 70

- (c) Op aansoek van die Sekretaris van Arbeid gedoen te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van inbetaling in die Gekonsolideerde Inkomstefonds kragtens paragraaf (b), moet die betrokke gelde terugbetaal word aan die Sekretaris van Arbeid vir betaling aan die persoon wat daarop geregtig is.

21. (1) Wanneer iemand skuldig bevind word aan 'n misdryf kragtens sub-artikel (1) van artikel *twintig*, en die misdryf bestaan het uit 'n oortreding of versuim in sub-artikel (2) of (3) van daardie artikel bedoel, moet die hof wat hom skuldig bevind, nadat die hof ingevolge daardie artikel die onderbetalde bedrag of die bedrag wat betaal moet word, na gelang van die geval, vasgestel het, so iemand beveel om binne 'n tydperk deur die hof bepaal 'n bedrag wat gelykstaan aan die aldus vasgestelde bedrag aan 'n deur die hof aangewese amptenaar (hieronder die aangewese amptenaar genoem) te betaal by wyse van paaiemente of andersins, soos deur die hof bepaal.

Bevel aan werkgewer of werknemer om onderbetalde bedrag of bedrag wat betaal moet word aan aangewese amptenaar te betaal.

(2) Die hof kan te eniger tyd op aansoek van 'n inspekteur, of van 'n werknemer of werkgewer aan wie 'n bedrag ingevolge sub-artikel (1) of (2) van artikel *twee-en-twintig* betaalbaar is, of van die veroordeelde persoon, indien goeie redes aangevoer word, die tydperk waarin so 'n bedrag aan die aangewese amptenaar betaal moet word, verkort of verleng, of die bedrae van die paaiemente verander, of beveel dat enige onbetaalde balans in 'n enkele geldsom betaal moet word.

(3) 'n Bevel wat kragtens die bepalinge van hierdie artikel uitgevaardig word, het in alle opsigte die uitwerking van en kan uitgevoer word asof dit 'n siviele vonnis ten gunste van die Regering van die Unie was.

22. (1) Wanneer 'n bevel kragtens artikel *een-en-twintig* ten opsigte van 'n in paragraaf (a) van sub-artikel (2) van artikel *twintig* bedoelde oortreding of versuim teen 'n werkgewer uitgevaardig word, moet die hof wat die bevel uitvaardig, gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar betaal word as wat die hof billik ag, met inagneming van die omstandighede waarin die oortreding of versuim plaasgevind het, betaal word aan die werknemer ten opsigte van wie die oortreding of versuim plaasgevind het: Met dien verstande dat—

Beskikking oor bedrae aan aangewese amptenaar betaal.

(a) as die hof bevind dat die betrokke werknemer nie ingestem het om minder aan te neem as die minimum beloning wat hy kragtens die bepalinge van die betrokke vasstelling of vrystellingsertifikaat geregtig was om te ontvang nie, of, indien hy aldus ingestem het, dat hy aldus ingestem het terwyl hy onbewus was van sy regte kragtens daardie bepalinge, die hof moet gelas dat die hele bedrag wat aldus aan die aangewese amptenaar betaal word, aan daardie werknemer betaal moet word;

(b) as die hof, met inagneming van die omstandighede waarin die oortreding of versuim plaasgevind het, dit billik ag om dit te doen, die hof, behalwe in die in paragraaf (a) bedoelde omstandighede, kan gelas dat geen gedeelte van die bedrag wat aldus aan die aangewese amptenaar betaal word aan die betrokke werknemer betaal moet word nie;

(c) as die hof gelas dat 'n gedeelte van die bedrag wat aldus aan die aangewese amptenaar betaal word, aan die betrokke werknemer betaal moet word, daardie gedeelte minstens een-vierde daarvan moet wees.

(2) Wanneer 'n bevel kragtens artikel *een-en-twintig* ten opsigte van 'n in sub-artikel (3) van artikel *twintig* bedoelde oortreding of versuim teen 'n werknemer uitgevaardig word, moet die hof wat die bevel uitvaardig, gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar betaal word as wat die hof billik ag, met inagneming van die omstandighede waarin die oortreding of versuim plaasgevind het, betaal moet word aan die werkgewer ten opsigte van wie die oortreding of versuim plaasgevind het.

(3) Daardie gedeelte van die bedrag aldus aan die aangewese amptenaar betaal, wat nie ingevolge sub-artikel (1) of (2) aan die betrokke werknemer of werkgewer betaalbaar is nie, moet in die Gekonsolideerde Inkomstefonds inbetaal word.

(4) Die hele bedrag wat aan die aangewese amptenaar betaal word ooreenkomstig 'n bevel wat kragtens artikel *een-en-twintig* teen 'n werkgewer uitgevaardig word ten opsigte van 'n in paragraaf (b) van sub-artikel (2) van artikel *twintig* bedoelde oortreding of versuim, moet in die Gekonsolideerde Inkomstefonds inbetaal word: Met dien verstande dat as die werkgewer ten opsigte van dieselfde feite ook skuldig bevind is

of a contravention or failure referred to in paragraph (a) of that sub-section, the provisions of this sub-section shall apply only in respect of so much of the amount paid to the specified officer as the court does not in terms of sub-section (1) of this section direct shall be paid to the employee concerned.

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

Right of employee or employer to recover by civil proceedings; how far affected by Act.

23. (1) If any person is convicted of an offence under sub-section (1) of section *twenty*, and the offence consists of a contravention or failure referred to in paragraph (a) of sub-section (2) or in sub-section (3) of that section, the employee or employer (as the case may be) in respect of whom the contravention or failure occurred shall not be entitled by civil legal proceedings to recover from his employer or employee any portion of the amount underpaid or to be paid, but shall be entitled to receive in respect of such amount only the moneys which the court in terms of sub-section (1) or (2) of section *twenty-two* directs shall be paid to him out of the moneys paid to the specified officer in terms of an order made under section *twenty-one*.

(2) Subject to the provisions of sub-section (3), nothing contained in section *twenty*, *twenty-one* or *twenty-two* or in sub-section (1) of this section shall affect any right which any employee may have to recover by civil legal proceedings from his employer—

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

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

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

(a) the employee produces to the court a certificate signed by the attorney-general of the province in which is situate the area of jurisdiction of the court, or where that area of jurisdiction is situate within the area of jurisdiction of the Eastern Districts Local Division of the Supreme Court of South Africa, by the solicitor-general, stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base the cause of action; or

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

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

Provisions of determination or licence of exemption cannot be varied by agreement or be waived.

24. (1) No agreement, express or implied, including a labour tenant contract or service contract in terms of the Native Service Contract Act, 1932 (Act No. 24 of 1932), whether entered into before or after coming into operation of any determination that is binding in terms of this Act or the grant of any licence of exemption, shall operate to permit of the payment to any

aan 'n in paragraaf (a) van daardie sub-artikel bedoelde oortreding of versuim, die bepalinge van hierdie sub-artikel slegs van toepassing is ten opsigte van daardie gedeelte van die aan die aangewese amptenaar betaalde bedrag wat nie, volgens las-
5 gewing van die hof ingevolge sub-artikel (1) van hierdie artikel, aan die betrokke werknemer betaal moet word nie.

(5) Die bepalinge van paragrawe (b) en (c) van sub-artikel (8) van artikel *twintig* is *mutatis mutandis* van toepassing ten opsigte van enige gelde wat aan 'n aangewese amptenaar betaal
10 word en wat ingevolge sub-artikel (1) of (2) van hierdie artikel aan 'n werknemer of werkgewer betaalbaar is.

23. (1) Indien iemand skuldig bevind word aan 'n misdryf kragtens sub-artikel (1) van artikel *twintig*, en die misdryf bestaan het uit 'n in paragraaf (a) van sub-artikel (2) of in sub-
15 artikel (3) van daardie artikel bedoelde oortreding of versuim, is die werknemer of werkgewer (na gelang van die geval) ten opsigte van wie die oortreding of versuim plaasgevind het, nie geregtig om deur siviele geregtelike stappe enige gedeelte van die onderbetaalde bedrag of die bedrag wat betaal moet
20 word op sy werkgewer of werknemer te verhaal nie, maar is hy geregtig om ten opsigte van bedoelde bedrag slegs die gelde te ontvang wat die hof ingevolge sub-artikel (1) of (2) van artikel *twee-en-twintig* gelas aan hom betaal moet word uit die gelde wat aan die aangewese amptenaar betaal word inge-
25 volge 'n bevel kragtens artikel *een-en-twintig* uitgevaardig.

(2) Behoudens die bepalinge van sub-artikel (3), maak die bepalinge van artikel *twintig*, *een-en-twintig* of *twee-en-twintig* of van sub-artikel (1) van hierdie artikel geen inbreuk nie op enige reg wat 'n werknemer besit om deur siviele geregtelike
30 stappe op sy werkgewer te verhaal—

(a) waar sy werkgewer, of die bestuurder, agent of werknemer van sy werkgewer skuldig bevind is aan 'n misdryf bestaande uit 'n in paragraaf (a) van sub-artikel (2) van artikel *twintig* bedoelde oortreding of versuim wat ten opsigte van daardie werknemer plaasgevind het, enige bedrag wat bo die onderbetaalde bedrag kragtens 'n ooreenkoms tussen hom en sy werkgewer aan hom verskuldig is;
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(b) waar nóg sy werkgewer nóg die bestuurder, agent of werknemer van sy werkgewer aldus skuldig bevind is, enige bedrag wat sy werkgewer kragtens die bepalinge van 'n vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet op sy werkgewer bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkgewer, verplig is om aan hom te betaal.
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(3) 'n Werknemer aan wie sy werkgewer nie die volle beloning wat hy behoort te betaal het ingevolge enige vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is of was, betaal het nie, is nie geregtig om deur middel van
50 siviele geregtelike stappe die aan hom onderbetaalde bedrag of 'n gedeelte van daardie bedrag op sy werkgewer te verhaal nie, tensy—

(a) die werknemer aan die hof 'n sertifikaat voorlê onderteken deur die prokureur-generaal van die provinsie waarin die regsgebied van die hof geleë is, of ingeval daardie regsgebied binne die regsgebied van die Plaaslike Afdeling Oostelike Distrikte van die Hoogeregshof van Suid-Afrika geleë is, deur die sollisiteur-generaal, waarin gemeld word dat hy weier om te vervolg ten opsigte van die oortreding of versuim waarop die werknemer voornemens is om die grond van aksie te baseer; of
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(b) die werkgewer of die bestuurder, agent of werknemer van die werkgewer op 'n aanklag weens daardie oortreding of versuim vrygespreek is.
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(4) Die bepalinge van paragraaf (a) van sub-artikel (2) en van sub-artikel (3) is *mutatis mutandis* van toepassing ten opsigte van die reg van 'n werkgewer om deur siviele geregtelike stappe enige bedrag wat die werknemer ingevolge 'n
70 vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is of was, of ingevolge 'n ooreenkoms tussen hom en sy werkgewer, aan sy werkgewer behoort te betaal het in plaas van kennisgewing van diensbeëindiging, of enige gedeelte van daardie bedrag, op sy werknemer te verhaal.

24. (1) Geen ooreenkoms, uitdruklik of stilswyend, met inbegrip van 'n plakkerdienskontrak of dienskontrak ingevolge die Naturelledienskontrak Wet, 1932 (Wet No. 24 van 1932), hetsy dit aangegaan is voordat of nadat 'n vasstelling wat ingevolge hierdie Wet bindend is, in werking getree het, of 'n vry-
80 stellingsertifikaat uitgereik is, het die uitwerking dat dit die Bepalinge van vasstelling of vrystellingsertifikaat kan nie deur ooreenkoms verander word nie, nóg kan daarvan afstand gedoen word.

employee of remuneration less than that prescribed by that determination or licence, or of the application to any employee of any treatment, or the grant to him of any benefits, less favourable to him than the treatment or benefits so prescribed, nor shall it effect any waiver by an employee of the application to him of any provision of that determination, or licence. Any person who enters into any agreement purporting to permit of any such payment, application or grant or to effect any such waiver shall be guilty of an offence, and every such agreement shall be void.

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

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

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

Victimization
forbidden.

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

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

(b) that employee has refused or omitted to do any act which an employer may not require or permit an employee to do in terms of sub-section (2) or (3) of section *twenty-four*; or

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

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

Appointment
of inspectors.

26. (1) The Minister may, subject to the laws governing 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 Act.

Powers of
inspectors.

27. (1) Any inspector may, without previous notice, at any time enter any premises whatsoever and may, while he is upon or in the premises or at any other time, question any person

betaling aan 'n werknemer van minder beloning as dié wat deur daardie vasstelling of sertifikaat voorgeskryf word, of die toepassing op 'n werknemer van enige behandeling of die toekenning aan hom van enige voordele wat vir hom minder gunstig is as die aldus voorgeskrewe behandeling of voordele, veroorloof nie, nóg bewerkstellig dit 'n afstand deur enige werknemer van die toepassing van enige bepaling van daardie vasstelling of sertifikaat op hom nie. Iemand wat 'n ooreenkoms aangaan wat so 'n betaling, toepassing of toekenning heet te veroorloof of om so 'n afstand heet te bewerkstellig, is aan 'n misdryf skuldig, en so 'n ooreenkoms is nietig.

(2) 'n Werkgewer wat vereis of toelaat dat 'n werknemer enige beloning aan hom betaal of terugbetaal wat kragtens 'n vasstelling wat ingevolge hierdie Wet bindend is of was, of kragtens 'n vrystellingsertifikaat, of ooreenkomstig 'n lasgewing wat kragtens sub-artikel (1) van artikel twee-en-twintig gegee is aan daardie werknemer, betaalbaar of betaal is, of enige handeling verrig of toelaat dat enige handeling verrig word waarvan 'n regstreekse of onregstreekse gevolg is dat daardie werknemer die voordeel of 'n gedeelte van die voordeel van 'n aldus betaalde beloning ontnem word, is aan 'n misdryf skuldig.

(3) 'n Werkgewer wat vereis of toelaat dat 'n werknemer 'n kwitansie uitreik vir, of andersins voorgee dat hy ontvang het, meer as wat hy werklik by wyse van beloning ontvang het, is aan 'n misdryf skuldig.

(4) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing ten opsigte van enige bepaling van 'n vasstelling met betrekking tot enigeen van die in paragraaf (p) van sub-artikel (1) van artikel agt bedoelde aangeleenthede en ten opsigte van enige prinsipaal of aannemer of ander persoon op wie daardie bepaling kragtens hierdie Wet bindend is of was.

25. 'n Werkgewer wat, hetsy 'n vasstelling op hom ingevolge hierdie Wet bindend is al dan nie, 'n werknemer uit sy diens ontslaan, of die skaal van sy beloning verminder, of die bedinge of voorwaardes van sy diens verander na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers in sy diens tot sy nadeel verander as gevolg van die feit, of omrede hy vermoed of glo, hetsy die vermoede of geloof geregverdig of juis is al dan nie, dat—

Viktimisasie
verbied.

(a) daardie werknemer aan die Minister of aan die raad of aan 'n afdeling of aan 'n lid of tydelike of addisionele lid van die raad of van 'n afdeling of aan 'n assessor wat in die raad dien, of aan 'n amptenaar, inligting verstrek het wat hy by of kragtens hierdie Wet verplig is om te verstrek of wat betrekking het op die bedinge of voorwaardes van sy diens of op dié van ander werknemers van sy werkgewer, of 'n wettige vereiste van 'n inspekteur nagekom het, of voor 'n gereghof getuienis afgelê het; of

(b) daardie werknemer geweier of nagelaat het om 'n handeling te verrig wat 'n werkgewer ingevolge sub-artikel (2) of (3) van artikel vier-en-twintig 'n werknemer nie mag verplig of toelaat om te verrig nie; of

(c) daardie werknemer behoort of behoort het aan 'n vakvereniging of ander organisasie van werknemers waarvan die oogmerk is of was om die belange van werknemers teenoor hul werkgewers te beskerm of te bevorder, of buite gewone werkure, of, met die goedkeuring van die werkgewer, binne werkure deelneem of deelgeneem het aan die stigting of wettige werksaamhede van so 'n vereniging of organisasie, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens driehonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met beide sodanige boete en sodanige gevangenisstraf.

26. (1) Die Minister kan, met inagneming van die wetsbepalings op die staatsdiens, enige persoon as 'n inspekteur kragtens hierdie Wet aanstel.

Aanstelling van
inspekteurs.

(2) Aan elke inspekteur word 'n sertifikaat verskaf wat onderteken is deur 'n amptenaar wat deur die Minister daartoe aangewys is, en waarin gemeld word dat hy as 'n inspekteur kragtens hierdie Wet aangestel is.

27. (1) 'n Inspekteur kan te eniger tyd, sonder voorafgaande kennisgewing, enige perseel hoegenaamd, binnegaan, en kan, terwyl hy op of in die perseel is of te eniger ander tyd,

Bevoegdheids van
inspekteurs.

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 all books and documents which are or have been upon or in the premises or in the possession or custody or under the control of any employer by whom the premises are occupied or used, or of any employee of that employer, or may at any time and at any place require from any person who has the possession or custody or control of any book or document relating to the business of any person who is or was an employer, the production then and there, or at a time and place fixed by the inspector, of that book or document, and may examine and make extracts from and copies of all such books and documents, and may require an explanation of any entries in any such books or documents, and may seize any such books or documents as in his opinion may afford evidence of any offence under this Act. An inspector may take with him into or on to any premises any interpreter or other assistant or any member of a police force.

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

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

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

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

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

(7) Any inspector exercising any power or performing any duty conferred or imposed upon him by this Act, shall, on demand, produce the certificate issued or deemed to have been issued to him in terms of sub-section (2) of section *twenty-six*.

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

(9) Any person who—

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

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

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

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

Registration
of employers.

28. (1) Every employer upon whom any determination is binding in terms of this Act shall—

(a) within one month of the date on which the determination becomes binding upon him, and in the event of his starting business after the publication under section *fourteen, fifteen or seventeen*, of the notice by virtue of which the determination becomes binding upon him, within one month of the date on which he so starts business, furnish to the inspector defined by regulation a written statement in the prescribed form, setting forth his full name, and, if the employer is a partnership, the full names of all the partners, and, if the employer is a company, the full names of its

enige persoon wat op of in die perseel is of was, in die teenwoordigheid of afgesonderd van andere ondervra, en kan eis dat daardie persoon daar en dan, of op 'n tyd en plek wat die inspekteur bepaal, alle boeke en geskrifte voorlê wat op of in 5 die perseel of in besit of bewaring of onder beheer van enige werkgewer deur wie die perseel geokkupeer of gebruik word, of van enige werknemer van daardie werkgewer is of was, of kan te eniger tyd en te eniger plek van iemand wat die besit of bewaring of beheer het oor 'n boek of geskrif betref-

10 fende die besigheid van iemand wat 'n werkgewer is of was, daar en dan of op 'n tyd en plek deur die inspekteur bepaal, die voorlegging van daardie boek of geskrif eis, en kan al daardie boeke en geskrifte ondersoek en daarvan uittreksels en afskrifte maak, en kan 'n uitleg vorder van aantekeninge

15 in sulke boeke of geskrifte en kan enige sodanige boeke of geskrifte wat na sy oordeel bewys mag oplewer van 'n misdryf volgens hierdie Wet, in beslag neem. 'n Tolk of ander assistent of enige lid van die polisiemag kan 'n inspekteur vergesel as hy enige perseel binnegaan of betree.

20 (2) 'n Werkgewer 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 om die boeke en geskrifte op of in die perseel te besigtig of te ondersoek,

25 of om enige navraag daaromtrent te doen.

(3) 'n Inspekteur kan eis dat enige werknemer enige houer waarin geld wat by wyse van beloning aan hom betaal is of moet word, gehou is of word, en enige staat wat aan hom in verband met die betaling deur sy werkgewer verstrekkend is of 30 verstrekkend moet word, aan die inspekteur voorlê, en kan die inhoud van die houer ondersoek en die houer en staat behou.

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

35 (5) 'n Inspekteur kan eis dat 'n werkgewer alle betalings wat aan enigeen van sy werknemers verskuldig is, in die teenwoordigheid van 'n inspekteur maak.

(6) Wanneer werk aan 'n persoon deur 'n prinsipaal of aannemer op kontrak uitgegee is, kan 'n inspekteur met betrek- 40 king tot daardie prinsipaal of aannemer al die bevoegdhede uitoefen wat by hierdie artikel aan 'n inspekteur met betrekking tot 'n werkgewer verleen word.

(7) 'n Inspekteur wat 'n bevoegdheid uitoefen of 'n plig verrig wat by hierdie Wet aan hom verleen of opgedra word, 45 moet, op versoek, die sertifikaat toon wat ingevolge subartikel (2) van artikel *ses-en-twintig* aan hom uitgereik is of geag word uitgereik te gewees het.

(8) Iemand wat valslik voorgee dat hy 'n inspekteur is, is aan 'n misdryf skuldig.

50 (9) Iemand wat—

(a) weier of in gebreke bly om enige vraag wat 'n inspekteur by die uitoefening van sy werksaamhede aan hom gestel het, na sy beste vermoë te beantwoord; of

55 (b) weier of in gebreke bly om na sy beste vermoë te voldoen aan 'n vereiste wat 'n inspekteur by die uitoefening van sy werksaamhede gestel het; of

(c) 'n inspekteur by die uitoefening van sy werksaamhede hinder, 60 is aan 'n misdryf skuldig.

(10) By die toepassing van hierdie artikel word 'n tolk, terwyl hy optree onder die regmagtige bevel van die inspekteur wat hy vergesel, geag 'n inspekteur te wees en enige vraag gestel deur, antwoord gegee aan, vereiste gestel deur of belemmering van 'n tolk terwyl hy aldus optree, word geag te wees 65 'n vraag gestel deur, antwoord gegee aan, vereiste gestel deur of belemmering van 'n inspekteur.

28. (1) Elke werkgewer op wie 'n vasstelling ingevolge hierdie Wet bindend is, moet— Registrasie van werkgewers.

70 (a) binne een maand vanaf die datum waarop die vasstelling op hom bindend word, en, ingeval hy na die publikasie kragtens artikel *veertien*, *vyftien* of *sewentien* van die kennisgewing uit hoofde waarvan die vasstelling op hom bindend word, besigheid begin, binne een maand vanaf die datum waarop hy aldus 75 besigheid begin, aan die by regulasie bepaalde inspekteur 'n skriftelike verklaring verstrekkend in die voorgeskrewe vorm waarin sy volle naam en, indien die werkgewer 'n vennootskap is, die volle name van al die vennote, en, indien die werkgewer 'n maatskappy is, die volle name van sy sekretaris en sy 80

secretary and its directors and managers, the name under and the address or addresses at which he carries on business and such other information as may be prescribed: Provided that if any determination is superseded by a further determination, an employer 5 who is the holder of a current certificate of registration issued under this section shall be deemed to have complied with the provisions of this sub-section;

- (b) in the event of any change in the name under or the address or addresses at which business is carried on, 10 or among the partners, or, if the employer is a company, of its secretary or among its directors or managers, or in the event of the sequestration of the employer's estate, or, if the employer is a company, of the winding-up of the company, or in the event of 15 the transfer or abandonment of the business carried on, or the acquisition or commencement of any other business, furnish to the inspector defined by regulation, within fourteen days of the change, sequestration, winding-up, transfer, abandonment, acquisition or 20 commencement, a written statement in the prescribed form setting forth full particulars of the change, sequestration, winding-up, transfer, abandonment, acquisition or commencement, as the case may be.

(2) On receipt of the statement referred to in paragraph 25 (a) of sub-section (1), the inspector shall issue to the employer a certificate of registration in the prescribed form: Provided that no such certificate shall be issued to an employer against whom an order has been made or deemed to have been made under section *twenty-one* of this Act, section *fifty-four* of the 30 Industrial Conciliation Act, section *twenty-one* of the Native Building Workers Act, 1951 (Act No. 27 of 1951), or section *sixteen* of the Native Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953), unless on the date of receipt of the said statement all amounts which, subject to any extension or 35 variation granted in terms of the relevant provision, he is required by that order to pay to a specified officer on or before that date, have been so paid.

(3) If the inspector is unable to issue a certificate of registration to an employer by reason of the proviso to sub-section 40 (2), he shall notify the employer of that fact by written notice which may be delivered to him or to any person who apparently resides or is employed at the address at which, according to the latest information furnished by the employer in terms of sub-section (1), the employer carries on business, or may be 45 posted by registered letter addressed to the employer in the name under and to the address at which according to the said information, he carries on business.

(4) If any employer who is the holder of a current certificate of registration issued under this section fails to pay to the 50 specified officer any amount which by any order made under any provision referred to in the proviso to sub-section (2), he is required to pay to that officer on or before the date on which, subject to any extension or variation granted in terms of the relevant provision, he is by that order required to pay 55 it, the inspector shall by written notice addressed to him cancel that certificate and call upon him to return the certificate to him. Every such notice may be delivered or posted in the manner provided in sub-section (3).

(5) The person to whom any notice has been addressed 60 under sub-section (4) shall, within seven days after he receives it or becomes aware that it has been issued, return the certificate of registration issued to him to the inspector.

(6) If at any time any person whose certificate of registration has been cancelled in terms of sub-section (4) pays to the 65 specified officer the whole amount which by every order made against him under any provision referred to in sub-section (2) he is required to pay to that officer, he shall be entitled, upon complying with the provisions of sub-section (1), to have issued to him a fresh certificate of registration. 70

(7) Upon the application of any person to whom a certificate has not been issued by reason of the proviso to sub-section (2) or whose certificate or registration has been cancelled in terms

- 5 direkteure en bestuurders, die naam waaronder en die adres of adresse waar hy besigheid dryf, en sodanige ander inligting as wat voorgeskryf word, uiteengesit word: Met dien verstande dat as 'n vas-
- 10 stelling deur 'n verdere vasstelling vervang word, 'n werkgewer wat in besit is van 'n geldende registrasiesertifikaat wat kragtens hierdie artikel uitgereik is, geag word aan die bepalings van hierdie sub-artikel te voldoen het;
- 15 (b) in die geval van 'n verandering in die naam waaronder, of die adres of adresse waar besigheid gedryf word, of onder die vennote, of, as die werkgewer 'n maatskappy is, van sy sekretaris of onder sy direkteure of bestuurders of in die geval van die sekwestrasie van die werkgewer se boedel, of, as die werkgewer 'n maatskappy is, van die likwidasië van die maatskappy, of in die geval van die oordrag of beëindiging van die besigheid wat gedryf word, of
- 20 die verkryging of begin van 'n ander besigheid, aan die by regulasie bepaalde inspekteur binne veertien dae vanaf die verandering, sekwestrasie, likwidasië, oordrag, beëindiging, verkryging of begin, 'n skriftelike verklaring in die voorgeskrewe vorm verstrekk waarin volledige besonderhede van die verandering, sekwestrasie, likwidasië, oordrag, beëindiging, verkryging of begin, na gelang van die geval, uiteengesit word.
- 25 (2) By ontvangs van die in paragraaf (a) van sub-artikel (1) bedoelde verklaring, moet die inspekteur 'n registrasiesertifikaat in die voorgeskrewe vorm aan die werkgewer uitgereik: Met dien verstande dat so 'n sertifikaat nie uitgereik word nie aan 'n werkgewer teen wie 'n bevel kragtens artikel een-en-twintig van hierdie Wet, artikel vier-en-veertig van die Wet op Nywerheidsversoening, artikel een-en-twintig van die
- 30 Wet op Naturellebouwerkers, 1951 (Wet No. 27 of 1951), of artikel sesien van die Wet op Naturelle-arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953), uitgevaardig is of geag word uitgevaardig te gewees het, tensy op die datum van ontvangs van bedoelde verklaring alle bedrae wat hy, met
- 40 inagneming van enige verlenging of verandering ingevolge die toepaslike bepaling toegestaan, volgens daardie bevel, op of voor daardie datum aan 'n aangewese amptenaar moet betaal, aldus betaal is.
- (3) Indien die inspekteur vanweë die voorbehoudsbepaling
- 45 by sub-artikel (2) nie by magte is om 'n registrasiesertifikaat aan 'n werkgewer uit te reik nie, moet hy die werkgewer van daardie feit in kennis stel by skriftelike kennisgewing wat afgelewer kan word aan hom of aan enige persoon wat blykbaar woonagtig of in diens is by die adres waar, volgens die
- 50 jongste inligting deur die werkgewer ingevolge sub-artikel (1) verstrekk, die werkgewer besigheid dryf of wat gepos kan word per aangetekende brief gerig aan die werkgewer in die naam waaronder en na die adres waar hy volgens bedoelde inligting besigheid dryf.
- 55 (4) Indien 'n werkgewer wat die houer is van 'n geldende registrasiesertifikaat kragtens hierdie artikel uitgereik, versuim om aan die aangewese amptenaar enige bedrag te betaal wat hy volgens enige kragtens 'n in die voorbehoudsbepaling by sub-artikel (2) bedoelde wetsbepaling uitgevaardigde bevel
- 60 aan daardie amptenaar moet betaal, op of voor die datum waarop hy, met inagneming van enige verlenging of verandering kragtens die toepaslike bepaling toegestaan, volgens daardie bevel dit moet betaal, moet die inspekteur by skriftelike kennisgewing aan hom gerig daardie sertifikaat intrek
- 65 en hom aansê om die sertifikaat aan hom terug te besorg. Elke sodanige kennisgewing kan op die in sub-artikel (3) voorgeskrewe wyse afgelewer of op die pos gedoen word.
- (5) Die persoon aan wie 'n kennisgewing kragtens sub-artikel (4) gerig is, moet binne sewe dae nadat hy dit ontvang of van
- 70 die uitreiking daarvan bewus geword het, die registrasiesertifikaat wat aan hom uitgereik is, aan die inspekteur terugbesorg.
- (6) Indien 'n persoon wie se registrasiesertifikaat ingevolge sub-artikel (4) ingetrek is, te eniger tyd aan die aangewese
- 75 amptenaar die hele bedrag betaal wat hy volgens elke kragtens 'n in sub-artikel (2) bedoelde wetsbepaling teen hom uitgevaardigde bevel aan daardie amptenaar moet betaal, is hy, by nakoming van die bepalings van sub-artikel (1), geregtig op die uitreiking aan hom van 'n nuwe registrasiesertifikaat.
- 80 (7) Op aansoek van enige persoon aan wie vanweë die voorbehoudsbepaling by sub-artikel (2) nie 'n sertifikaat uitgereik is nie, of wie se registrasiesertifikaat ingevolge sub-artikel

of sub-section (4), the Minister may at any time, in his discretion, and upon good cause shown, direct that a certificate be issued to him, subject to such conditions as the Minister may impose.

(8) The provisions of this section shall be observed and shall be applicable in respect of each separate determination which is binding upon an employer in terms of this Act. 5

(9) Any employer upon whom any determination is binding in terms of this Act and who—

(a) fails to comply with any of the provisions of sub-section (1) or (5); or 10

(b) carries on business after the expiry of the relevant period referred to in paragraph (a) of sub-section (1) without having complied with the requirements of that sub-section; or

(c) carries on business after the inspector defined by 15 regulation has notified him under sub-section (3) that a certificate of registration cannot be issued to him by reason of the proviso to sub-section (2), or has in terms of sub-section (4) cancelled the certificate of registration issued to him, 20

shall be guilty of an offence.

Records to be kept by employers, principals and contractors.

29. (1) Every employer upon whom any determination is binding in terms of this Act which relates to remuneration to be paid, time to be worked or such other particulars as may be prescribed, shall at all times keep in the prescribed form and 25 manner, in respect of all persons employed by him, records of the remuneration paid, of the time worked and of those other particulars: Provided that an inspector may in writing signed by him authorize any such employer to keep records in some other form if the records kept in such other form will in the 30 opinion of the inspector enable him to ascertain therefrom the required particulars.

(2) Whenever any determination which regulates the rates at which, the basis of, or the principles upon which, payment shall be made by a principal or contractor to any person to 35 whom any work is given out on contract by that principal or contractor for that work, is binding upon a principal or contractor, every such principal or contractor, whether or not he is an employer in or is engaged in the trade concerned, shall at all times keep records of payments made by him to any 40 person to whom he has so given out work on contract and of such other particulars as may be prescribed, and every such person to whom work has been so given out on contract shall at all times keep records of payments received by him from any such principal or contractor in respect of such work and of 45 such other particulars as may be prescribed.

(3) Every person who in terms of sub-section (1) or (2) is required to keep a record of any event, shall retain such record for a period of three years subsequent to the occurrence of that event, and shall on demand by an inspector made at any time 50 during the said period of three years produce the said record for inspection.

(4) The provisions of sub-section (3) shall *mutatis mutandis* apply in respect of records kept in terms of section *twenty-nine* 55 of the Wage Act, 1937, (Act No. 44 of 1937).

(5) Any person who feels aggrieved by any decision of an inspector under sub-section (1) may appeal at any time within sixty days thereafter, to the Minister who may confirm the inspector's decision or give such other decision as in his opinion the inspector ought to have given; and the decision of the 60 Minister shall for the purposes of this Act be deemed to be the decision of the inspector.

(6) Any person who fails to comply with any provision of this section applicable to him or who makes any false entry in any such record knowing the same to be false, shall be 65 guilty of an offence.

Notices to be posted by employer.

30. (1) Every employer upon whom any determination is binding in terms of this Act 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 70 may from time to time direct, notices in the prescribed form, in legible characters, in both official languages of the Union—

(a) containing the prescribed summaries of or extracts from the provisions of this Act;

(4) ingetrek is, kan die Minister te eniger tyd, na goeddunke, en as goeie redes aangevoer word, gelas dat 'n sertifikaat aan hom uitgereik word, onderworpe aan die voorwaardes wat die Minister oplê.

5 (8) Die bepalings van hierdie artikel moet nagekom word en is van toepassing ten opsigte van elke afsonderlike vasstelling wat ingevolge hierdie Wet op 'n werkgewer bindend is.

(9) 'n Werkgewer op wie 'n vasstelling ingevolge hierdie Wet bindend is en wat—

10 (a) versuim om aan een of ander van die bepalings van sub-artikel (1) of (5) te voldoen; of

(b) na verstryking van die toepaslike tydperk bedoel in paragraaf (a) van sub-artikel (1), besigheid dryf sonder dat hy aan die vereistes van daardie sub-artikel

15 voldoen het; of

(c) besigheid dryf nadat die by regulasie bepaalde inspekteur hom kragtens sub-artikel (3) in kennis gestel het dat 'n registrasiesertifikaat nie aan hom uitgereik kan word nie vanweë die voorbehoudsbepaling by sub-artikel (2), of die registrasiesertifikaat aan hom

20 uitgereik ingevolge sub-artikel (4) ingetrek het, is aan 'n misdryf skuldig.

29. (1) Elke werkgewer op wie 'n vasstelling ingevolge hierdie Wet bindend is, wat betrekking het op beloning wat 25 betaal moet word, tyd wat gewerk moet word, of sodanige ander besonderhede as wat voorgeskryf word, moet te alle tye ten opsigte van alle persone by hom in diens aantekeninge in die vorm en op die wyse voorgeskryf, hou van die beloning wat betaal is, die tyd wat gewerk is en van daardie ander 30 besonderhede: Met dien verstande dat 'n inspekteur skriftelik onder sy handtekening so 'n werkgewer kan magtig om aantekeninge in 'n ander vorm te hou mits die aantekeninge wat in daardie ander vorm gehou word na die mening van die inspekteur hom in staat sal stel om daaruit die vereiste besonderhede te wete te kom.

Aantekeninge deur werkgewers, prinsipale en aannemers gehou te word.

(2) Wanneer 'n vasstelling wat die skale waarteen, die grondslag waarop, of die beginsels waarvolgens, betaling deur 'n prinsipaal of aannemer gemaak moet word aan enige persoon aan wie werk op kontrak uitgegee word deur daardie 40 prinsipaal of aannemer vir daardie werk, bindend is op 'n prinsipaal of aannemer, moet elke sodanige prinsipaal of aannemer, hetsy hy 'n werkgewer is in, of betrokke is by die betrokke bedryf, al dan nie, te alle tye aantekeninge hou van betalings wat deur hom gemaak is aan enige persoon aan wie 45 hy aldus werk op kontrak uitgegee het en van sodanige ander besonderhede as wat voorgeskryf word, en elke sodanige persoon aan wie werk aldus op kontrak uitgegee is, moet te alle tye aantekeninge hou van betalings deur hom van so 'n prinsipaal of aannemer ontvang ten opsigte van sodanige 50 werk en van sodanige ander besonderhede as wat voorgeskryf word.

(3) Elke persoon wat ingevolge sub-artikel (1) of (2) 'n aantekening van 'n gebeurtenis moet hou, moet daardie aantekening behou vir 'n tydperk van drie jaar na daardie gebeurtenis plaasgevind het, en moet op versoek van 'n inspekteur 55 te eniger tyd binne bedoelde tydperk van drie jaar gedoen, bedoelde aantekening vir insae voorlê.

(4) Die bepalings van sub-artikel (3) is *mutatis mutandis* van toepassing ten opsigte van aantekeninge wat ingevolge 60 artikel *nege-en-twintig* van die Loonwet, 1937 (Wet No. 44 van 1937), gehou is.

(5) Enigiemand wat hom veronreg voel deur 'n beslissing van 'n inspekteur kragtens sub-artikel (1), kan te eniger tyd binne sestig dae daarna na die Minister appelleer, en die 65 Minister kan die beslissing van die inspekteur bekrachtig of sodanige ander beslissing gee as wat die inspekteur na sy mening behoort te gegee het; en die beslissing van die Minister word by die toepassing van hierdie Wet geag die beslissing van die inspekteur te wees.

70 (6) Iemand wat versuim om aan 'n bepaling van hierdie artikel wat op hom van toepassing is, te voldoen, of wat in so 'n aantekening 'n valse inskrywing maak wetende dat dit vals is, is aan 'n misdryf skuldig.

30. (1) Elke werkgewer op wie 'n vasstelling ingevolge hierdie Wet bindend is, moet op 'n in die oogvallende plek 75 op sy perseel deur hom bepaal te word en op die ander plekke op sy perseel wat 'n inspekteur van tyd tot tyd aanwys, kennisgewings in die voorgeskrewe vorm, in leesbare letters, in beide amptelike tale van die Unie, aanheg en aangeheg hou wat—

Kennisgewings deur werkgewer aangeplak te word.

80 (a) die voorgeskrewe opsommings van of uittreksels uit die bepalings van hierdie Wet bevat;

- (b) containing the official address of the inspector defined by regulation;
 - (c) containing a copy of the said determination or such summaries or extracts from the provisions thereof as may be prescribed in such determination; and 5
 - (d) if the determination contains any reference to remuneration, specifying the day of the week or date on and the time and place at which remuneration will ordinarily be paid each week or month, as the case may be.
- (2) Any employer who fails to comply with any of this 10 section shall be guilty of an offence.

Alleged
partnerships.

31. (1) Whenever in any trade in respect of which any determination is or was binding in terms of this Act, there is working in any business or other concern any person who is suspected by an inspector to be employed in such business or concern but who claims or in respect of whom it is claimed that his position in relation to that business or concern is not that of an employee but is determined by an agreement or partnership or by some other agreement for the carrying on thereof, the inspector may require from any person so claiming the 20 existence of such an agreement, the production of that agreement, and may make a copy thereof or make extracts therefrom, or, if the agreement is not in writing, or is not wholly in writing, may require any person so claiming to make a statement on oath of all the terms of the agreement or of such terms thereof as 25 are not in writing, and may further require any such person to make a statement on oath as to the actual amounts received or receivable under that agreement and the actual hours worked by every person who claims or in respect of whom it is claimed that his position is so determined by the agreement, in respect of 30 any period to be specified by the inspector. Any such person failing, when required to do so, to produce to the inspector any such agreement or to make any such statement on oath, shall be guilty of an offence.

(2) Whenever under any agreement referred to in sub-section 35 (1) the remuneration of any party thereto consists wholly or partly of a share in the taking or profits, and, in any proceedings under this Act in which any question is raised as to the application of any determination to any party receiving such a share, it is proved— 40

- (a) that the agreement is terminable by any party thereto by giving less than three months' notice; or
- (b) that the amount which any party thereto received under the terms thereof over any period specified in the charge was less than the remuneration which he would have 45 been entitled to receive for his services for the same period under any determination which is or was binding in terms of this Act, if he had been an employee,

he shall be presumed to be an employee and any other party to the agreement shall be presumed to be an employer, unless 50 it is proved that the agreement was not made with the object of evading any provisions of any determination which is or was binding in terms of this Act.

Acts or omissions
by managers,
agents or
employees.

32. (1) Whenever any manager, agent or employee of any 55 employer does or omits to do any act which it would be an offence under this Act for the employer to do or omit to do, then, unless it is proved that—

- (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or 60 permission of the employer; and
- (b) all reasonable steps were taken by the employer to prevent any act or omission of the kind in question; and
- (c) it was not under any condition or in any circumstance 65 within the scope of the authority or in the course of the employment of the manager, agent or employee to do or omit to do an act, whether lawful or unlawful, of the character of the act or omission charged,

the employer shall be presumed himself to have done or omitted 70 to do that act and be liable to be convicted and sentenced in respect thereof; and the fact that the employer issued instructions

- (b) die amptelike adres van die by regulasie bepaalde inspekteur bevat;
- (c) 'n afskrif van bedoelde vasstelling of sodanige opsommings van of uittreksels uit die bepalinge daarvan bevat as wat in daardie vasstelling voorgeskryf word; en
- (d) as die vasstelling enige verwysing na beloning bevat, die dag van die week of datum waarop, en die tyd wanneer en die plek waar beloning gewoonlik elke week of maand, na gelang van die geval, betaal sal word, vermeld.
- (2) 'n Werkgewer wat versuim om aan 'n bepaling van hierdie artikel te voldoen, is aan 'n misdryf skuldig.

31. (1) Wanneer daar in enige bedryf ten opsigte waarvan 'n vasstelling ingevolge hierdie Wet bindend is of was, 'n persoon in enige besigheid of ander onderneming werksaam is wat deur 'n inspekteur vermoed word in daardie besigheid of onderneming in diens te wees, maar wat beweer of ten opsigte van wie beweer word dat sy posisie met betrekking tot daardie besigheid of onderneming nie dié van 'n werknemer is nie maar bepaal word deur 'n vennootskapsooreenkoms of deur een of ander ooreenkoms vir die voortsetting daarvan, kan die inspekteur van enigiemand wat aldus die bestaan van so 'n ooreenkoms beweer, die voorlegging van daardie ooreenkoms vereis, en kan 'n afskrif daarvan maak of uittreksels daaruit maak, of indien die ooreenkoms nie skriftelik is nie of nie in sy geheel skriftelik is nie, van 'n persoon wat aldus beweer, vereis dat hy onder eed 'n verklaring aflê van al die bepalinge van die ooreenkoms of van die bepalinge daarvan wat nie skriftelik is nie, en kan voorts so 'n persoon aansê om ten opsigte van 'n tydperk deur die inspekteur vermeld te word onder eed 'n verklaring af te lê aangaande die werklike bedrae kragtens daardie ooreenkoms ontvang of ontvangbaar en die werklike ure gewerk deur elke persoon wat beweer, of ten opsigte van wie beweer word, dat sy posisie aldus bepaal word deur die ooreenkoms. So 'n persoon wat versuim, wanneer hy aangesê word om dit te doen, om so 'n ooreenkoms aan die inspekteur voor te lê of om onder eed so 'n verklaring af te lê, is aan 'n misdryf skuldig.
- (2) Wanneer kragtens 'n in sub-artikel (1) bedoelde ooreenkoms, die beloning van 'n party daarby geheel en al of gedeeltelik uit 'n aandeel van die ontvangste of winste bestaan, en, by enige verrigtinge ingevolge hierdie Wet, waarby 'n vraag ontstaan aangaande die toepassing van 'n vasstelling op 'n party wat so 'n aandeel ontvang, daar bewys word—
- (a) dat die ooreenkoms deur 'n party daarby beëindig kan word deur minder as drie maande kennis te gee; of
- (b) dat die bedrag wat 'n party daarby oor enige tydperk in die aanklag vermeld kragtens die bepalinge daarvan ontvang het, minder was as die beloning wat hy geregtig sou gewees het om kragtens 'n vasstelling wat ingevolge hierdie Wet bindend is of was vir sy dienste vir dieselfde tydperk te ontvang, as hy 'n werknemer was,
- word hy vermoed 'n werknemer te wees, en enige ander party by die ooreenkoms word vermoed 'n werkgewer te wees, tensy bewys word dat die ooreenkoms nie aangegaan is met die doel om enige bepaling van 'n vasstelling wat ingevolge hierdie Wet bindend is of was, te ontduik nie.

Beweerde vennootskappe.

32. (1) Wanneer 'n bestuurder, agent of werknemer van 'n werkgewer 'n handeling verrig of versuim om dit te verrig, en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkgewer dit verrig of versuim om dit te verrig, dan, tensy bewys word dat—
- (a) by die verrigting van daardie handeling of versuim om dit te verrig, die bestuurder, agent of werknemer sonder die oogluikende toelating of toestemming van die werkgewer gehandel het; en
- (b) die werkgewer alle redelike stappe gedoen het om 'n handeling of versuim van die onderhawige soort te voorkom; en
- (c) 'n handeling of versuim, hetsy wettig of onwettig, van die ten laste gelegde soort onder geen voorwaarde of in geen omstandigheid binne die bestek van die bevoegdheid of in die loop van die diens van die bestuurder, agent of werknemer geval het nie, word vermoed dat die werkgewer self daardie handeling verrig het of versuim het om dit te verrig, en kan hy ten opsigte daarvan skuldig bevind en gevonnissen word; en die feit dat die

Handelinge of versuime van bestuurders, agente of werknemers.

forbidding any act or omission of the kind in question shall not⁷ of itself, be sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence 5 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. 10

(4) Whenever the manager, agent or employee of an employer is convicted of an offence referred to in sub-section (2) of section *twenty*, the court shall make an order against the employer under section *twenty-one*, and the provisions of this Act relating to such orders shall *mutatis mutandis* be applicable; but no such 15 order shall be made against any such manager, agent or employee.

False statements.

33. Any person who furnishes or makes or causes to be furnished or made any return or statement, written or otherwise, in terms of any provision of this Act or for the purposes of or 20 in connection with any application, request, appeal, proceedings or investigation under this Act, which is to his knowledge false in any material particular, shall be guilty of an offence.

Evidence.

34. (1) Proof of the publication in the *Gazette* of any notice under section *fourteen*, *fifteen* or *seventeen* shall be conclusive 25 proof that all the provisions of this Act in respect of matters precedent and incidental to the making, amendment or extension of a determination or the publication of such a notice as the case may be, have been complied with.

(2) In the absence of satisfactory proof of age, the age of 30 any person shall, in any proceedings under this Act, be presumed to be that stated by an inspector to be in his opinion the probable age of that person; but any interested person who is dissatisfied with that statement of opinion may, at his own expense, require that the person whose age is in question appear before 35 and be examined by a district surgeon, and a statement contained in a certificate by the district surgeon who examined that person as to what in his opinion is the probable age of that person shall, but only for the purpose of the said proceedings, be conclusive proof of the age of that person. 40

(3) Whenever in any proceedings under this Act it is proved that any person was present upon or in any premises on or in which any trade in respect of which any determination is binding in terms of this Act was being carried on or was in charge of any vehicle used in any such trade, whether or not it 45 was being driven at the time, that person shall, unless the contrary is proved, be presumed to be an employee.

(4) An employee shall be deemed to be working in the employment of an employer, in addition to any period during which he is actually so working— 50

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

(b) during any other period during which he is present 55 upon or in any such premises; and

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

Provided that if it is proved during what portion of any period 60 referred to in paragraph (b) or (c) any such employee actually worked in his employment, the presumption established by this sub-section shall not apply in respect of that employee in relation to that period.

(5) In any proceedings under this Act, any statement or 65 entry contained in any book or document kept by any employer, principal or contractor, or by his manager, agent or employee, or found upon or in any premises occupied by, or upon any

werkgewer bevele uitgereik het wat 'n handeling of versuim van die onderhawige soort verbied het, word op sigself nie aangeneem as voldoende bewys dat hy alle redelike stappe gedoen het om die handeling of versuim te voorkom nie.

5 (2) Wanneer 'n bestuurder, agent of werknemer van 'n werkgewer 'n handeling verrig of versuim om dit te verrig en dit 'n misdryf ingevolge hierdie Wet sou wees indien die werkgewer dit verrig of versuim om dit te verrig, kan hy ten opsigte daarvan skuldig bevind en gevonniss word asof hy die

10 werkgewer was.

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

(4) Wanneer die bestuurder, agent of werknemer van 'n werkgewer skuldig bevind word aan 'n in sub-artikel (2) van 15 artikel *twintig* bedoelde misdryf, moet die hof kragtens artikel *een-en-twintig* teen die werkgewer 'n bevel uitvaardig, en die bepalings van hierdie Wet met betrekking tot sulke bevele is *mutatis mutandis* van toepassing; maar so 'n bevel mag nie 20 nie.

33. Iemand wat enige opgawe of verklaring, hetsy skriftelik of andersins, ingevolge 'n bepaling van hierdie Wet of vir die doeleindes van of in verband met enige aansoek, versoek, 25 appèl, verrigtinge of ondersoek kragtens hierdie Wet, verstrek of maak, of laat verstrek of maak, wat hy weet in 'n wesenlike besonderheid vals is, is aan 'n misdryf skuldig. *Valse verklaring.*

34. (1) Bewys van die publikasie in die *Staatskoerant* van 'n kennisgewing kragtens artikel *veertien*, *vyftien* of *sewentien* is afdoende bewys dat aan alle bepalings van hierdie Wet 30 met betrekking tot sake wat die maak, wysiging of uitbreiding van 'n vasstelling of die publikasie van so 'n kennisgewing, na gelang van die geval, voorafgaan of daarmee in verband staan, voldoen is. *Bewyslewering.*

(2) By ontstentenis van bevredigende bewys van ouderdom, 35 word die ouderdom van 'n persoon, by enige verrigtinge ingevolge hierdie Wet, vermoed dié te wees wat deur 'n inspekteur verklaar word na sy mening die waarskynlike ouderdom van daardie persoon te wees; maar enige belanghebbende persoon wat ontevrede is met daardie verklaring van mening, 40 kan, op eie koste, vereis dat die persoon wie se ouderdom onder bespreking is, voor 'n distriksgeneesheer verskyn en deur hom ondersoek word, en 'n verklaring vervat in 'n sertifikaat deur die distriksgeneesheer wat daardie persoon ondersoek het, aangaande wat volgens sy mening die waarskynlike ouderdom 45 van daardie persoon is, is afdoende bewys van die ouderdom van daardie persoon, dog alleen vir die doel van bedoelde verrigtinge.

(3) Wanneer by verrigtinge ingevolge hierdie Wet bewys word dat 'n persoon teenwoordig was op of in enige perseel 50 waarop of waarin enige bedryf ten opsigte waarvan 'n vasstelling ingevolge hierdie Wet bindend is, besig was om voortgesit te word, of toesig gehad het oor enige voertuig wat in so 'n bedryf gebruik word, hetsy die voertuig op daardie tydperk bestuur word al dan nie, word daardie persoon, tensy die 55 teendeel bewys word, vermoed 'n werknemer te wees.

(4) Benewens enige tydperk waarin hy werklik aldus werkzaam is, word 'n werknemer geag in die diens van 'n werkgewer werkzaam te wees—

(a) gedurende enige tydperk gedurende welke hy ooreenkomstig die vereistes van sy werkgewer aanwesig 60 is op of in enige perseel waarin die bedryf waarin hy in diens is, voortgesit word;

(b) gedurende enige ander tydperk gedurende welke hy op of in so 'n perseel aanwesig is; en

65 (c) gedurende enige tydperk gedurende welke hy toesig het oor 'n voertuig wat gebruik word in die bedryf waarin hy in diens is, hetsy die voertuig bestuur word al dan nie:

Met dien verstande dat as bewys word gedurende watter 70 gedeelte van 'n in paragraaf (b) of (c) bedoelde tydperk so 'n werknemer werklik in sy diens gewerk het, die vermoede wat by hierdie sub-artikel geskep word, nie ten opsigte van daardie werknemer met betrekking tot daardie tydperk van toepassing is nie.

75 (5) By enige verrigtinge ingevolge hierdie Wet, is 'n verklaring of inskrywing wat voorkom in enige boek of geskrif wat deur 'n werkgewer, prinsipaal of aannemer of deur sy bestuurder, agent of werknemer gehou word, of wat gevind word op of in 'n perseel wat deur daardie werkgewer, prinsipaal 80 of aannemer geokkupeer word, of op of in 'n voertuig wat

vehicle used in the business of, that employer, principal or contractor, shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that employer, principal or contractor, or by any manager, agent or employee of that employer, principal or contractor in the course of his work as manager or in the course of his agency or employment.

(6) If an employer has, in respect of any period, failed to keep the records which in terms of section *twenty-nine*, he is required to keep, or to retain such records for the period specified in sub-section (3) of that section, or has falsified such records or caused them to be falsified, then in any proceedings under this Act, an employee employed by him during the period in respect of which the failure or the falsification has occurred shall be presumed to have worked in his employment each week throughout the period of his employment falling within the period in respect of which the failure or the falsification occurred, not less than the ordinary hours of work specified in any determination applicable to that employee in terms of this Act: Provided that if it is proved what hours any such employee actually worked in his employment during any particular week, the presumption established by this sub-section shall not apply in respect of that employee in relation to that week.

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

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

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

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

(11) Whenever any person is charged under section *thirty-three* with having furnished, made or caused to be furnished or made any return or statement which to his knowledge is false in any material particular and it is proved that such

in die besigheid van daardie werkgewer, prinsipaal of aannemer gebruik word, toelaatbaar by wyse van getuienis teen hom as 'n erkenning van die feite in daardie verklaring of inskrywing uiteengesit, tensy bewys word dat daardie verklaring of inskrywing nie deur daardie werkgewer, prinsipaal of aannemer of deur 'n bestuurder, agent of werknemer van daardie werkgewer, prinsipaal of aannemer in die loop van sy werk as bestuurder of in die loop van sy agentskap of diens gemaak is nie.

(6) As 'n werkgewer versuim het om ten opsigte van een of ander tydperk, die aantekeninge te hou wat hy volgens artikel *nege-en-twintig* moet hou, of om sulke aantekeninge vir die in sub-artikel (3) van daardie artikel vermelde tydperk te behou, of sulke aantekeninge vervals of laat vervals het, dan word by verrigtinge ingevolge hierdie Wet vermoed dat 'n werknemer wat by hom in diens was gedurende die tydperk ten opsigte waarvan die versuim of vervalsing plaasgevind het, elke week dwarsdeur sy dienstyd wat binne die tydperk val ten opsigte waarvan die versuim of vervalsing plaasgevind het, in sy diens nie minder gewerk het nie as die gewone werkure vermeld in 'n vasstelling wat ingevolge hierdie Wet op daardie werknemer van toepassing is: Met dien verstande dat as bewys word watter ure so 'n werknemer werklik gedurende enige besondere week in sy diens gewerk het, die vermoede wat by hierdie sub-artikel geskep word nie ten opsigte van daardie werknemer met betrekking tot daardie week van toepassing is nie.

(7) Wanneer by verrigtinge ingevolge hierdie Wet bewys word dat 'n onware verklaring of inskrywing voorkom in 'n aantekening wat deur iemand gehou is, word vermoed, tot dat die teendeel bewys word, dat hy daardie aantekening opsetlik vervals het.

(8) Wanneer iemand ingevolge artikel *twintig* aangekla word weens versuim om 'n persoon wat gedurende enige tydperk by hom in diens was, teen die skaal van beloning te betaal waarteen hy ingevolge die bepalinge van 'n vasstelling of vrystellingsertifikaat wat ingevolge hierdie Wet op hom bindend is, ten opsigte van daardie tydperk daardie persoon moes betaal het, en dit bewys word dat daardie persoon gedurende enige tydperk wat deur die aanklag gedek word, by die beskuldigde in diens was, en dat die beskuldigde ingevolge daardie vasstelling of vrystellingsertifikaat ten opsigte van daardie tydperk 'n sekere bedrag aan daardie persoon as minimum skaal van beloning moes betaal het, word dit vermoed, tot dat die teendeel bewys word, dat die beskuldigde nie daardie bedrag aan daardie persoon betaal het nie.

(9) Wanneer iemand ingevolge artikel *twintig* aangekla word weens versuim om aan enige persoon die bedrag te betaal wat hy kragtens die bepalinge van 'n vasstelling met betrekking tot een of ander van die in paragraaf (p) van sub-artikel (1) van artikel *agt* bedoelde aangeleenthede aan daardie persoon moes betaal het vir enige werk wat deur hom aan daardie persoon op kontrak uitgegee is, en dit bewys word dat die in die aanklag bedoelde werk deur die beskuldigde aan daardie persoon op kontrak uitgegee is, en dat die beskuldigde ingevolge daardie vasstelling, 'n sekere bedrag aan daardie persoon vir daardie werk moes betaal het, word dit vermoed, tot dat die teendeel bewys word, dat die beskuldigde nie daardie bedrag aan daardie persoon betaal het nie.

(10) Wanneer iemand ingevolge artikel *vyf-en-twintig* daarvan aangekla word dat hy 'n persoon uit sy diens ontslaan het of die skaal van sy beloning verminder het, of die bedinge of voorwaardes van sy diens verander het na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers tot sy nadeel verander het, as gevolg van 'n in paragraaf (a), (b) of (c) van daardie sub-artikel bedoelde feit en in die aanklag vermeld, of as gevolg van sy vermoede of geloof in die bestaan van so 'n feit in die aanklag vermeld, en dit bewys word dat die beskuldigde daardie persoon ontslaan het, of die skaal van sy beloning verminder het, of die bedinge of voorwaardes van sy diens verander het na bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie met betrekking tot ander werknemers tot sy nadeel verander het, word vermoed, tot dat die teendeel bewys word, dat die beskuldigde dit gedoen het as gevolg van die feit of vermoede of geloof, na gelang van die geval, in die aanklag vermeld.

(11) Wanneer 'n persoon ingevolge artikel *drie-en-dertig* daarvan aangekla word dat hy 'n opgawe of verklaring, wat hy weet in 'n wesenlike besonderheid vals is, verstrek of gemaak

return or statement is false in the material particular stated in the charge, the accused shall be presumed, until the contrary is proved, at all relevant times to have known that such return or statement was false in the particular stated in the charge.

Minister may state special case to Appellate Division.

35. Whenever the Minister has any doubt as to the correctness of any decision given by any provincial or local division of the Supreme Court as to the interpretation of any provision of this Act, he may submit that decision to the Appellate Division of the Supreme Court by way of a special case and cause the matter to be argued before the said Division in order that it may determine the said question for the future guidance of all courts.

Regulations.

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

(a) any matter which by this Act is required or permitted to be prescribed; and

(b) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

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

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

Penalties.

37. (1) Any person who is convicted of any offence under the provisions of this Act for which no special penalty is prescribed, shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) Any employer on being convicted a second or subsequent time in respect of a contravention or failure referred to in sub-section (2) of section *twenty*, shall be liable, in addition to any penalty that may be imposed under sub-section (1) of this section, to be ordered to surrender to the court by a specified date any certificate of registration issued to him in terms of section *twenty-eight*.

(3) Any person against whom an order has been made under sub-section (2) who, after the specified date, continues to carry on business or starts a new business in the same trade as that in respect of which the determination for the contravention of which, or failure to comply with which, he was so convicted, is or was binding, shall, if he employs any persons, be guilty of an offence and liable on conviction to imprisonment for a period not exceeding one year without the option of a fine.

(4) The fact that any such employer holds a licence under the Licences Consolidation Act, 1925 (Act No. 32 of 1925), or the Liquor Act, 1928 (Act No. 30 of 1928), or any other law, shall not be a valid defence to a charge against him under the provisions of sub-section (3).

Jurisdiction of magistrate's courts.

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

Section 351 of Act No. 56 of 1955 not to apply to certain offences under this Act.

39. The provisions of section *three hundred and fifty-one* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), shall not apply in respect of any offence which consists of a contravention or failure referred to in sub-section (2) or (3) of section *twenty*.

Repeal of laws.

40. (1) The Wage Act, 1937 (Act No. 44 of 1937), and the Wage Amendment Act, 1942 (Act No. 22 of 1942), are, subject to the provisions of sub-section (2) of this section, hereby repealed.

(2) Any notice, regulation, determination, order, board, division, appointment, record, licence of exemption, certificate or other document issued, made, kept or established or deemed to have been issued, made, kept or established, and any other action taken or deemed to have been taken, under any provision of a law repealed by sub-section (1), shall be deemed to have been issued, made, kept, established or taken under the corresponding provision of this Act.

Short title and commencement.

41. This Act shall be called the Wage Act, 1956, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

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Gewysigde Sluitingsdatum vir die Aanname van Proklamasies, Goewermentskennisgewings, ens., vir Publikasie in die *Staatskoerant*.

Aangesien Woensdag, 10 Oktober 1956, 'n openbare vakansiedag is, sal die onderstaande sluitingsdatum van toepassing wees:—

Vir die *Staatskoerant* van Vrydag, 12 Oktober 1956, moet alle kennisgewings hierdie kantoor voor of om 3 nm. op Donderdag, 4 Oktober 1956, bereik.

S. A. MYBURGH,
Staatsdrukker.

Amended Closing Date for the Acceptance of Proclamations, Government Notices, etc., for Insertion in the *Government Gazette*.

As Wednesday, 10th October, 1956, is a public holiday, the following closing date will apply:—

For the *Government Gazette* of Friday, 12th October, 1956, all notices must reach this office not later than 3 p.m. on Thursday, 4th October, 1956.

S. A. MYBURGH,
Government Printer.

AFRIKAANSE WOORDEBOEK, DEEL II.

Deel twee van die Afrikaanse Woordeboek bevattende die letters D, E en F is nou van die Staatsdrukker teen die volgende pryse verkrygbaar:—

- (1) Gewone Linneband: £3. 3s. per eksemplaar.
- (2) Leerband: £5. 5s. per eksemplaar.

Die Staatsdrukker, Pretoria.

AFRIKAANSE WOORDEBOEK, DEEL II.

Copies of the Second Volume of "Die Afrikaanse Woordeboek" containing the letters D, E and F are now obtainable from the Government Printer at the following prices:—

- (1) Linen bound: £3. 3s. per copy.
- (2) Leather bound: £5. 5s. per copy.

The Government Printer, Pretoria.