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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 981.

3 June 1977.

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

No. 69 of 1977: Railways and Harbours Acts Amendment Act, 1977.

No. 981.

3 Junie 1977.

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

No. 69 van 1977: Wysigingswet op Spoorweg- en Hawewette, 1977.

Act No. 69, 1977

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1977.

ACT

To amend section 1 of the Railways and Harbours Control and Management (Consolidation) Act, 1957, so as to amend the definition of "ship" and to insert the new definitions "dangerous goods" and "extremely dangerous goods"; to amend section 2 of the said Act so as to place the powers of the Administration, in as far as the S.A. Airways are concerned, beyond all doubt; to insert section 8A in the said Act so as to provide for certain conditions regarding the use of a whistle, siren or hooter of a train; to substitute section 14 of the said Act so as to provide for the payment into the revenue of the Administration of fines and amounts recovered under the aforementioned Act and/or the regulations framed thereunder; to substitute sections 20, 28, 33 and 38, amend sections 24 and 64 and repeal sections 18, 29, 30 and 32 and the Third and Fourth Schedules of the said Act so as to provide for a revised procedure for dealing with claims; to amend section 57B of the said Act so as to amend the provisions relating to assault on or interference with a member of the S.A. Railways Police Force in the exercise of his powers or performance of his duties; to amend section 4 of the Railways and Harbours Service Act, 1960, so as to delete the proviso regarding the appointment of citizens of a Commonwealth country or of the Republic of Ireland; to amend section 11 of the said Act so as to provide for the apportionment, between the Revenue Fund and the New Superannuation Fund, of gratuities payable to servants whose services are prematurely dispensed with on the grounds of reduction in or reorganization of staff or by mutual agreement; to amend section 28bis of the said Act so as to rectify the text of subsection (4) of the aforementioned section; to amend section 1 of the Railway Construction Act, 1968, so as to amend the length and construction costs of the railway line between Empangeni and Richards Bay; and to provide for other incidental matters.

(English text signed by the State President.)

(Assented to 25 May 1977.)

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

Amendment of section 1 of Act 70 of 1957, as amended by section 5 of Act 25 of 1959,

1. Section 1 of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (hereinafter called "the Control and Management Act"), is hereby amended—

(a) by the insertion, in subsection (1), after the definition of "Bantu beer" of the following definition:

WET

Tot wysiging van artikel 1 van die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957, om die woordoms krywing „skip” te wysig en om die nuwe woordoms krywings „gevaarlike goedere” en „uiters gevaarlike goedere” in te voeg; tot wysiging van artikel 2 van gemelde Wet om die bevoegdthede van die Administrasie vir sover dit die S.A. Lugdiens betref bo alle twyfel te plaas; tot invoeging van artikel 8A in gemelde Wet om vir sekere voorwaardes met betrekking tot die gebruik van ’n fluit, sirene of toeter van ’n trein voorsiening te maak; tot vervanging van artikel 14 van gemelde Wet om voorsiening daarvoor te maak dat boetes of bedrae wat verhaal word kragtens voormelde Wet en/of die regulasies daarkragtens uitgevaardig, in die kas van die Administrasie gestort word; tot vervanging van artikels 20, 28, 33 en 38, wysiging van artikels 24 en 64 en herroeping van artikels 18, 29, 30 en 32 en die Derde en Vierde Bylaes by gemelde Wet om voorsiening te maak vir ’n hersiene prosedure vir afhandeling van eise; tot wysiging van artikel 57B van gemelde Wet om die bepalings betreffende aanranding op of bemoeiing met ’n lid van die S.A. Spoorwegpolisie in die uitoefening van sy bevoegdthede of verrigting van sy werksaamhede te wysig; tot wysiging van artikel 4 van die Wet op Spoorweg- en Hawediens, 1960, om die voorbehoudsbepaling betreffende die aanstelling van burgers van ’n Statebondslan of van die Republiek van Ierland te skrap; tot wysiging van artikel 11 van gemelde Wet om voorsiening te maak vir die verdeling, tussen die Inkomste- en die Nuwe Superannuasiefonds, van gratifikasies betaalbaar aan dienare wie se dienste op grond van vermindering in of reorganisasie van personeel of deur wedersydse ooreenkoms vroeër beëindig word; tot wysiging van artikel 28bis van voormelde Wet om die teks van subartikel (4) van voormelde artikel reg te stel; tot wysiging van artikel 1 van die Spoorwegaanlegwet, 1968, om die lengte en aanlegkoste van die spoorlyn tussen Empangeni en Richardsbaai te wysig; en om vir ander aangeleenthede wat daarmee in verband staan, voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)

(Goedgekeur op 25 Mei 1977.)

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

1. Artikel 1 van die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957 (hierna „die Beheer- en Bestuurwet” genoem), word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van „gesagvoerder” die volgende omskrywing in te voeg:

Wysiging van artikel 1 van Wet 70 van 1957, soos gewysig deur artikel 5 van Wet 25 van 1959,

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section 6 of Act 62 of 1961, section 5 of Act 62 of 1962, sections 11 and 44 of Act 6 of 1965, section 2 of Act 24 of 1971, section 2 of Act 44 of 1974 and section 1 of Act 8 of 1976.

“(iiiA) ‘dangerous goods’ means goods declared from time to time by the Administration to be dangerous goods; (viiA);

(b) by the deletion, in subsection (1), of the word “aircraft” in the definition of “ship”; and

(c) by the insertion, in subsection (1), after the new definition of “dangerous goods” of the following definition:

“(iiiB) ‘extremely dangerous goods’ means goods declared from time to time by the Administration to be extremely dangerous goods; (xxiiiA)”.

Amendment of section 2 of Act 70 of 1957, as amended by section 1 of Act 4 of 1958, section 3 of Act 7 of 1963, section 5 of Act 39 of 1963, section 2 of Act 54 of 1964, sections 12 and 44 of Act 6 of 1965, section 1 of Act 60 of 1968, section 3 of Act 32 of 1969, section 3 of Act 24 of 1971, section 3 of Act 44 of 1974 and section 5 of Act 46 of 1975.

2. Section 2 of the Control and Management Act is hereby amended—

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

“(2) to purchase or in any other manner acquire, sell or otherwise dispose of, build, construct, repair, hire, let or charter, from or to any person, and control, manage, maintain and work ships for the carriage of persons and goods and accommodation for such ships, and any land and appliances required for the purpose of mooring, and all things incidental thereto, and to make contracts in connection therewith;” and

(b) by the insertion after subsection (2) of the following subsection:

“(2)bis to control, manage, maintain and work air services under the title of ‘South African Airways’ for the carriage of persons and goods, and to make contracts in connection therewith;”.

Insertion of section 8A in Act 70 of 1957.

3. The following section is hereby inserted after section 8 of the Control and Management Act:

“Warning. 8A. (1) The use of a whistle, siren or hooter of a train for at least three seconds as a warning while approaching a level crossing discharges the Administration and its servants of the legal obligation to give users of the crossing audible warning of the approach of the train.

(2) The use of a whistle, siren or hooter of a train shall be obligatory only during the hours of 05h00 to 23h00 and no legal obligation shall rest on the Administration to give users of a crossing audible warning of the approach of a train between 23h01 and 04h59.

(3) The use by the Administration of a whistle, siren or hooter, at any time, in the exercise of any of its functions in terms of this Act shall be deemed not to constitute a nuisance in law.”.

Substitution of section 14 of Act 70 of 1957.

4. (1) The following section is hereby substituted for section 14 of the Control and Management Act:

“Payment of fines to the Administration. 14. Notwithstanding anything to the contrary in any law contained any fine or amount recovered under this Act and/or the regulations framed thereunder, shall be paid into the revenue of the Administration.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1977.

Repeal of section 18 of Act 70 of 1957, as amended by section 19 of Act 6 of 1965.

5. Section 18 of the Control and Management Act is hereby repealed.

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„(viiA) „gevaarlike goedere’ goedere wat van tyd tot tyd deur die Administrasie as gevaarlike goedere verklaar word; (iiiA);

(b) deur in subartikel (1) die woord „vliegtuig” in die omskrywing van „skip” te skrap; en

(c) deur in subartikel (1) na die omskrywing van „trein” die volgende omskrywing in te voeg:

„(xxiiiA) „uiters gevaarlike goedere’ goedere wat van tyd tot tyd deur die Administrasie as uiters gevaarlike goedere verklaar word; (iiiB)”.

artikel 6 van Wet 62 van 1961, artikel 5 van Wet 62 van 1962, artikels 11 en 44 van Wet 6 van 1965, artikel 2 van Wet 24 van 1971, artikel 2 van Wet 44 van 1974 en artikel 1 van Wet 8 van 1976.

2. Artikel 2 van die Beheer- en Bestuurwet word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) om skepe vir die vervoer van persone en goedere en akkommodasie vir sulke skepe, asmede grond en toestelle wat vir die vasmering benodig word, en alle daarmee in verband staande voorwerpe van of aan enigiemand te koop of op enige ander wyse te verkry, te verkoop of andersins van die hand te sit, te bou, aan te lê, te herstel, te huur, te verhuur of te vervrag, en te beheer, te bestuur, in stand te hou en te eksploiteer, en om in verband daarmee kontrakte te sluit;”;

(b) deur die volgende subartikel na subartikel (2) in te voeg:

„(2)bis om lugdienste onder die benaming „Suid-Afrikaanse Lugdiens” vir die vervoer van persone en goedere te beheer, te bestuur, in stand te hou en te eksploiteer, en om in verband daarmee kontrakte te sluit;”.

Wysiging van artikel 2 van Wet 70 van 1957, soos gewysig deur artikel 1 van Wet 4 van 1958, artikel 3 van Wet 7 van 1963, artikel 5 van Wet 39 van 1963, artikel 2 van Wet 54 van 1964, artikels 12 en 44 van Wet 6 van 1965, artikel 1 van Wet 60 van 1968, artikel 3 van Wet 32 van 1969, artikel 3 van Wet 24 van 1971, artikel 3 van Wet 44 van 1974 en artikel 5 van Wet 46 van 1975.

3. Die volgende artikel word hierby na artikel 8 van die Beheer- en Bestuurwet ingevoeg:

„Waarskuwing. 8A. (1) Die gebruik van ’n fluit, sirene of toeter van ’n trein vir ten minste drie sekondes as ’n waarskuwing terwyl die trein ’n spoorwegoorgang nader, onthef die Administrasie en sy dienare van die regsverpligting om aan die gebruikers van die oorgang hoorbare waarskuwing van die aankoms van die trein te gee.

(2) Die gebruik van ’n fluit, sirene of toeter van ’n trein is slegs verpligtend gedurende die ure 05h00 tot 23h00 en geen regsverpligting sal op die Administrasie rus om van 23h01 tot 04h59 aan gebruikers van ’n oorgang hoorbare waarskuwing van die aankoms van ’n trein te gee nie.

(3) Die gebruik deur die Administrasie van ’n fluit, sirene of toeter, te enige tyd, in die uitoefening van enige van sy funksies kragtens hierdie Wet, word nie regtens geag ’n oorlas te wees nie.”.

Invoeging van artikel 8A in Wet 70 van 1957.

4. (1) Artikel 14 van die Beheer- en Bestuurwet word hierby deur die volgende artikel vervang:

„Betalings van boetes 14. Ondanks andersluidende wetsbepalings word alle boetes of bedrae wat ingevolge hierdie Wet en/of die regulasies daarkragtens uitgevaardig, verhaal word, in die kas van die Administrasie gestort.”.

(2) Subartikel (1) word geag op 1 April 1977 in werking te getree het.

Vervanging van artikel 14 van Wet 70 van 1957.

5. Artikel 18 van die Beheer- en Bestuurwet word hierby herroep.

Herroeping van artikel 18 van Wet 70 van 1957.

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Substitution of
section 20 of
Act 70 of 1957.

6. Section 20 of the Control and Management Act is hereby renumbered and substituted by the following section:

“Adminis-
tration
may impose
conditions.

18. (1) The Administration may impose conditions, not inconsistent with this Act or any regulation, with respect to contracts of carriage and with regard to the interchange of traffic with other carriers or railway administrations.

(2) The Administration shall keep at each station on the railways a copy of the said conditions, and shall allow any person to inspect it free of charge at all reasonable times.”

Amendment of
section 24 of
Act 70 of 1957.

7. Section 24 of the Control and Management Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If, after the Administration has fulfilled its obligations to deliver or has duly offered to fulfil the same, the consignee neglects or refuses to accept and remove the goods within the time specified in any regulations or in any consignment note, the Administration may relieve itself from further liability by placing the goods in a warehouse on account of the consignee and giving notice thereof to him, and any such warehousing shall be considered as being for the sole benefit of the consignee or consignor as the case may be.”

Substitution of
section 28 of
Act 70 of 1957,
as amended by
sections 21 and 44
of Act 6 of 1965.

8. The following section is hereby substituted for section 28 of the Control and Management Act:

“Dangerous
goods.

28. (1) Subject to anything to the contrary contained in this Act and excluding dangerous goods brought upon a railway for the purpose of the tender of such goods to the Administration for transport, no person shall bring or take with him upon a railway a loaded firearm, dangerous goods or extremely dangerous goods.

(2) No person shall consign extremely dangerous goods upon a railway and the Administration is not liable for any loss, cost or expense whatsoever suffered or incurred or no matter how caused, as a result of the acceptance, transport, delivery or storage of extremely dangerous goods.

(3) The Administration is under no obligation to accept dangerous goods for transport, but should such goods be accepted for transport, the consignor shall make a declaration in writing in regard to the nature and type of the goods and shall further indicate the nature of the goods distinctly on the outside of the package containing the goods.

(4) Any person contravening the provisions of subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight hundred rand or, in default of payment, to imprisonment for a period not exceeding two years, or to both such fine and imprisonment, and the goods may furthermore be confiscated or destroyed, and in addition such person shall be liable for any loss, damage or injury which may be caused by reason of any such goods aforesaid having been so brought upon the railway or tendered for transport and transported by the Administration.

(5) The provisions of this section shall apply in addition to, and not in substitution for, any other law relating to explosives.

(6) The provisions of this section shall not apply to dangerous goods or loaded firearms which a member of the South African Defence Force, South African Police, South African Railways Police, Department of

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6. Artikel 20 van die Beheer- en Bestuurwet word hierby hernommer en deur die volgende artikel vervang:

Vervanging van artikel 20 van Wet 70 van 1957.

„Admini-
strasie
kan voor-
waardes
stel.

18. (1) Die Administrasie kan met betrekking tot kontrakte van vervoer en met betrekking tot die uitwisseling van vrag met ander karweiers of spoorwegbesture, voorwaardes stel wat nie met hierdie Wet of 'n regulasie onbestaanbaar is nie.

(2) Die Administrasie hou by elke stasie op die spoorweë 'n eksemplaar van bedoelde voorwaardes, en laat iedereen toe om te alle redelike tye kosteloos insae daarvan te hê.”.

7. Artikel 24 van die Beheer- en Bestuurwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van artikel 24 van Wet 70 van 1957.

„(1) Indien die Administrasie sy verpligtings tot aflewering nagekom het of behoorlik aangebied het om dit na te kom, en die geadresseerde daarna versuim of weier om die goedere binne die in die regulasies of in 'n vragbrief bepaalde tyd aan te neem of af te haal, kan die Administrasie hom van verdere aanspreeklikheid bevry deur die goedere vir rekening van die geadresseerde in 'n pakhuis te plaas en hom daarvan in kennis te stel, en sodanige plasing in 'n pakhuis word geag uitsluitlik ten bate van die geadresseerde of afsender, na gelang van die geval, te geskied het.”.

8. Artikel 28 van die Beheer- en Bestuurwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 28 van Wet 70 van 1957, soos gewysig deur artikels 21 en 44 van Wet 6 van 1965.

„Gevaarlike
goedere.

28. (1) Behoudens andersluidende bepalings van hierdie Wet, en uitgesonderd gevaarlike goedere wat op 'n spoorweg gebring word met die doel om dit aan die Administrasie vir vervoer aan te bied, mag niemand 'n gelaaide vuurwapen, gevaarlike goedere of uiters gevaarlike goedere op 'n spoorweg bring of met hom saamneem nie.

(2) Niemand mag uiters gevaarlike goedere op 'n spoorweg versend nie en die Administrasie is nie aanspreeklik vir enige verlies, koste of uitgawe hoegenaamd, deur wie ook al gely, gemaak of aangegaan of hoe dit ook al ontstaan, as gevolg van die aanname, vervoer, aflewering of berging van uiters gevaarlike goedere nie.

(3) Die Administrasie is nie verplig om gevaarlike goedere vir vervoer aan te neem nie, maar indien sodanige goedere wel vir vervoer aangeneem word, moet die afsender 'n skriftelike verklaring ten aansien van die aard en soort van die goedere doen en die aard daarvan duidelik aan die buitekant van die verpakking daarvan aangee.

(4) Iemand wat die bepalings van subartikel (1) of (2) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens agthonderd rand of, by wanbetaling, met gevangenisstraf van hoogstens twee jaar, of met sodanige boete sowel as sodanige gevangenisstraf; verder kan die goedere verbeurd verklaar of vernietig word en is hy daarbenewens aanspreeklik vir verlies, skade of besering wat veroorsaak word as gevolg daarvan dat sulke goedere soos voormeld op die spoorweg gebring of vir vervoer aangebied en deur die Administrasie vervoer is.

(5) Die bepalings van hierdie artikel geld benewens enige ander wet wat op ontplofbare stowwe van toepassing is, en vervang dit nie.

(6) Die bepalings van hierdie artikel is nie van toepassing op gevaarlike goedere of gelaaide vuurwapens wat 'n lid van die Suid-Afrikaanse Weermag, Suid-Afrikaanse Polisie, Suid-Afrikaanse Spoorweg-

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Prisons or a servant of the Administration may take with him upon a railway in the course of his employment or duty as such.

(7) The provisions of this section shall not apply to dangerous goods which a passenger, with the authority of a competent servant, takes with him upon a railway for medical purposes."

Repeal of
section 29 of
Act 70 of 1957.

9. Section 29 of the Control and Management Act is hereby repealed.

Repeal of
section 30 of
Act 70 of 1957,
as amended by
section 38 of
Act 44 of 1959
and section 22 of
Act 6 of 1965.

10. Section 30 of the Control and Management Act is hereby repealed.

Repeal of
section 32 of
Act 70 of 1957.

11. Section 32 of the Control and Management Act is hereby repealed.

Substitution of
section 33 of
Act 70 of 1957.

12. The following section is hereby substituted for section 33 of the Control and Management Act:

"Owner of
goods suing
for loss
need not
prove how
loss caused.

33. In any legal proceedings against the Administration for compensation for loss, destruction or deterioration of goods (other than live animals and birds) delivered to it for transport by railway under railway risk conditions of contract, it shall not be necessary for the claimant to prove how the loss, destruction or deterioration was caused."

Substitution of
section 38 of
Act 70 of 1957,
as amended by
section 27 of
Act 6 of 1965,
section 2 of
Act 60 of 1968
and section 6 of
Act 46 of 1975.

13. The following section is hereby substituted for section 38 of the Control and Management Act:

"Compensation
for livestock
killed or
injured by
trains.

38. (1) The Administration shall make compensation to the owner of any livestock killed or injured by a train: Provided that no compensation shall be payable in respect of any livestock killed or injured where the killing or injury is due to the negligence of the owner or his servant.

(2) No person shall be entitled to recover any sum of money under this section for the killing or injury of any livestock who, within seventy-two hours after the livestock has been killed or injured, fails to give notice to the nearest officer in charge of a station, or platelayer in charge of a section, of the killing or injury and of the number and kind of the livestock so killed or injured in respect of which compensation is claimed: Provided that if a servant of the Administration was aware of the killing or injury, it shall be sufficient compliance with this section if such notice be given a reasonable time after such killing or injury.

(3) The carcasses or remains of all livestock killed and all injured livestock in respect of which any claim is made under this section shall be diligently and to the best of his ability kept and preserved by the owner making the claim, for a period of not less than three full days from the time when the killing or injury took place or until such time as the carcasses or remains have been inspected by a person appointed to ascertain the value of the livestock killed or injured: Provided that if any livestock is seriously injured or maimed, and the owner, his servant or a servant of the Administration, considers it advisable, he may kill

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polisie, Departement van Gevangenis of 'n dienaar van die Administrasie in die loop van sy diens of plig as sodanig op 'n spoorweg mag meeneem nie.

(7) Die bepaling van hierdie artikel is nie van toepassing op gevaarlike goedere wat 'n passasier met die magtiging van 'n bevoegde dienaar vir mediese doeleindes met hom op 'n spoorweg saamneem nie."

9. Artikel 29 van die Beheer- en Bestuurwet word hierby herroep.

Herroeping van artikel 29 van Wet 70 van 1957.

10. Artikel 30 van die Beheer- en Bestuurwet word hierby herroep.

Herroeping van artikel 30 van Wet 70 van 1957, soos gewysig deur artikel 38 van Wet 44 van 1959 en artikel 22 van Wet 6 van 1965.

11. Artikel 32 van die Beheer- en Bestuurwet word hierby herroep.

Herroeping van artikel 32 van Wet 70 van 1957.

12. Artikel 33 van die Beheer- en Bestuurwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 33 van Wet 70 van 1957.

„Eienaar van goedere wat eis instel vir verlies hoef nie oorsaak van verlies te bewys nie.

33. In 'n regsgeding teen die Administrasie om vergoeding weens verlies, vernietiging of waardevermindering van goedere (uitgesonderd lewende diere en voëls) wat vir vervoer per spoor teen spoorwegrisiko-kontrakvoorwaardes aan hom afgelewer is, is dit nie vir die eiser nodig om te bewys hoe die verlies, vernietiging of waardevermindering veroorsaak is nie."

13. Artikel 38 van die Beheer- en Bestuurwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 38 van Wet 70 van 1957, soos gewysig deur artikel 27 van Wet 6 van 1965, artikel 2 van Wet 60 van 1968 en artikel 6 van Wet 46 van 1975.

„Vergoeding weens dood of besering van lewende hawe deur treine.

38. (1) Die Administrasie betaal vergoeding aan die eienaar van lewende hawe wat deur 'n trein gedood of beseer word: Met dien verstande dat geen vergoeding ten opsigte van gedode of beseerde lewende hawe betaalbaar is nie waar die dood of besering te wyte is aan die nalatigheid van die eienaar of sy dienaar.

(2) Niemand is geregtig op vergoeding ingevolge hierdie artikel op grond van die dood of besering van lewende hawe nie as hy binne twee-en-sewentig uur nadat die lewende hawe gedood of beseer is, in gebreke bly om aan die naaste amptenaar in beheer van 'n stasie of baanmeester in beheer van 'n baanvak, kennis te gee van die dood of besering en van die aantal en soort van die aldus gedode of beseerde lewende hawe waarvoor vergoeding geëis word: Met dien verstande dat as 'n dienaar van die Administrasie kennis gedra het van die dood of besering, hierdie artikel voldoende nagekom word indien sodanige kennisgewing binne 'n redelike tyd na die dood of besering geskied.

(3) Die karkasse of oorblyfsels van alle gedode lewende hawe en alle beseerde lewende hawe ten opsigte waarvan vergoeding ingevolge hierdie artikel geëis word, moet deur die eienaar wat die eis instel, sorgvuldig en so goed hy kan, behou en bewaar word vir minstens drie volle dae vanaf die tyd waarop die lewende hawe gedood of beseer is, of tot tyd en wyl die karkasse of oorblyfsels besigtig is deur 'n persoon wat aangestel is om die waarde van die gedode of beseerde lewende hawe vas te stel: Met dien verstande dat as lewende hawe ernstig beseer of vermink is, en die eienaar, sy dienaar of 'n dienaar van die Administrasie dit raadsaam ag, hy sodanige lewende hawe vankant kan maak sonder dat die kwessie

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such livestock without in any way thereby affecting the question of the liability or otherwise of the Administration for the value of such livestock.

(4) A person who fails diligently and to the best of his ability to keep and preserve the carcasses and remains of livestock killed or injured as aforesaid or a person who makes under this section any claim for compensation determined by a court of competent jurisdiction to be fraudulent or grossly excessive shall not be entitled to any of the benefits of this section. A person who makes any such claim with intent to defraud shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of fraud.

(5) Compensation payable under this section to the owner of any livestock killed or injured shall not exceed the amount prescribed by regulation payable in respect of livestock killed or injured while being transported by the Administration in terms of a contract of carriage.

(6) The provisions of this section shall not apply to the Administration's road motor transport services."

Amendment of section 57B of Act 70 of 1957, as inserted by section 5 of Act 47 of 1973.

14. Section 57B of the Control and Management Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) (a) Any person who assaults any member of the Force in the exercise of his powers or the performance of his duties or functions, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding twelve months.

(b) Any person who—

(i) resists or wilfully hinders or obstructs any member of the Force in the exercise of his powers or the performance of his duties or functions or, in the exercise of his powers or the performance of his duties or functions by a member of the Force, wilfully interferes with such member or his uniform or equipment or any part thereof; or

(ii) in order to compel any such member to do or to abstain from doing any act in respect of the exercise of his powers or the performance of his duties or functions, or on account of such member having done or abstained from doing such an act, threatens or suggests the use of violence to, or restraint upon such member or any of his relatives or dependants, or threatens or suggests any injury to the property of such member or of any of his relatives or dependants,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or imprisonment for a period not exceeding twelve months or both such fine and such imprisonment."

Amendment of section 64 of Act 70 of 1957, as amended by section 9 of Act 62 of 1962 and substituted by section 2 of Act 57 of 1970.

15. Section 64 of the Control and Management Act is hereby amended—

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

"(1) Subject to the provisions of subsections (3) and (4), no legal proceedings whatsoever shall be brought against the Administration or a servant of the Administration (hereinafter called 'the defendant') unless the same be commenced within twelve months after the cause of such proceedings arose."

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aangaande die aanspreeklikheid of andersins van die Administrasie vir die waarde van sodanige lewende hawe op enigerlei wyse daardeur geraak word.

(4) Iemand wat versuim om soos voormeld die karkasse en oorblyfsels van lewende hawe wat gedood of beseer is, sorgvuldig en so goed hy kan te behou en te bewaar, of iemand wat ingevolge hierdie artikel 'n eis om vergoeding instel wat volgens beslissing van 'n bevoegde hof bedrieglik of verregaande oordrewe is, is nie op die voordele van hierdie artikel geregtig nie. Iemand wat so 'n eis instel met die oogmerk om te bedrieg, begaan 'n misdryf en is by skuldigbevinding strafbaar met die strawwe waarmee die misdaad van bedrog volgens wet strafbaar is.

(5) Die vergoeding wat ingevolge hierdie artikel aan die eienaar van gedode of beseerde lewende hawe betaalbaar is, oorskry nie die by regulasie voorgeskrewe bedrag betaalbaar ten opsigte van lewende hawe wat kragtens 'n kontrak van vervoer deur die Administrasie vervoer en gedood of beseer is nie.

(6) Die bepalinge van hierdie artikel is nie op die Administrasie se padmotorvervoerdienste van toepassing nie."

14. Artikel 57B van die Beheer- en Bestuurwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van artikel 57B van Wet 70 van 1957, soos ingevoeg deur artikel 5 van Wet 47 van 1973.

„(1) (a) Iemand wat 'n lid van die Mag by die uitoefening van sy bevoegdheid of die verrigting van sy pligte of werksaamhede aanrand, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande.

(b) Iemand wat—

(i) 'n lid van die Mag by die uitoefening van sy bevoegdheid of die verrigting van sy pligte of werksaamhede weerstaan of opsetlik hinder of belemmer of, by die uitoefening van sy bevoegdheid of die verrigting van sy pligte of werksaamhede deur 'n lid van die Mag, hom opsetlik met so 'n lid of sy uniform of uitrusting of enige deel daarvan bemoei; of

(ii) ten einde so 'n lid te dwing om 'n handeling met betrekking tot die uitoefening van sy bevoegdheid of die verrigting van sy pligte of werksaamhede te verrig of na te laat, of omdat so 'n lid so 'n handeling verrig of nagelaat het, dreig om geweld of dwang te gebruik of die gebruik van geweld of dwang voorstel teen daardie lid of enige van sy nabestaandes of afhanklikes, of dreig om die eiendom van daardie lid of van enige van sy nabestaandes of afhanklikes te beskadig of die beskadiging daarvan voorstel,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyf honderd rand of gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met bedoelde boete sowel as bedoelde gevangenisstraf."

15. Artikel 64 van die Beheer- en Bestuurwet word hierby gewysig—

Wysiging van artikel 64 van Wet 70 van 1957, soos gewysig deur artikel 9 van Wet 62 van 1962 en vervang deur artikel 2 van Wet 57 van 1970.

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

„(1) Behoudens die bepalinge van subartikels (3) en (4), word geen regsgeding hoegenaamd teen die Administrasie of 'n dienaar van die Administrasie (hieronder 'die verweerder' genoem) ingestel nie, tensy daarmee 'n aanvang gemaak word binne twaalf maande nadat die oorsaak van sodanige regsgeding ontstaan het.";

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

“(3) Subject to the provisions of section 38 (2) no claim against the defendant shall be enforced and the defendant shall not be liable—

- (a) (i) for the damage to or destruction of a freight container in which goods were packed and despatched; or
- (ii) for the killing of livestock forming part of a consignment of livestock, or for the injury to or delay of livestock accepted for transport; or
- (iii) for the killing of or injury to livestock by a train as contemplated in section 38; or
- (iv) for damage to or destruction of property by fire as contemplated in sections 69 and 70, unless the claim has been lodged in the manner prescribed by regulation within fourteen days of the date on which the consignment of goods or livestock referred to in paragraph (a) (i) and (a) (ii) has been delivered to the consignee, or the livestock referred to in paragraph (a) (iii) has been killed or injured, or the property referred to in paragraph (a) (iv) has been damaged or destroyed;
- (b) for the loss of a part of a consignment of goods, or for the damage to or delay of goods accepted for transport, unless the claim has been lodged in the manner prescribed by regulation within thirty days of the date on which the consignment of goods has been delivered to the consignee;
- (c) for the loss of a full consignment of goods or the death of a full consignment of livestock accepted for transport, unless the claim has been lodged in the manner prescribed by regulation within sixty days of the date on which the consignment referred to has been accepted by the defendant for transport;
- (d) for the injury or death of a passenger referred to in section 8 (2), unless, in the case of a passenger who travelled by rail, the claim has been lodged in the manner prescribed by regulation within ninety days of the date of the injury or death and, in the case of a passenger who travelled on the defendant's road motor services, a claim for injury or death other than in terms of the provisions of the Compulsory Motor Vehicle Insurance Act, 1972 (Act No. 56 of 1972), has been lodged in a manner prescribed by regulation within the period prescribed for claims under that act;
- (e) for the injury or death of a servant in terms of the proviso to Section 17 (1) of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), unless the claim is lodged within ninety days from the date on which the first payment of compensation for death or permanent disablement is made in terms of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941);
- (f) for the injury or death of any person other than a person referred to in paragraph (c) or (d), caused by a train on a level crossing or on a railway line, or for the damage or destruction of property other than the property referred to in paragraph (a) or (b) caused by a train on a level crossing or on a railway line, unless the claim has been lodged in the manner prescribed by regulation within ninety days from the date on which the person was injured or fatally injured or the property damaged or destroyed;

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(b) deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Onderworpe aan die bepalings van artikel 38 (2) word geen eis teen die verweerder afgedwing nie en sal die verweerder nie aanspreeklik wees nie—

(a) (i) vir die beskadiging of vernietiging van 'n vraghouer waarin goedere verpak en versend was; of

(ii) vir die dood van lewende hawe wat 'n gedeelte uitmaak van 'n besending lewende hawe, of vir die besering of vertraging van lewende hawe wat vir vervoer aangeneem is; of

(iii) vir die dood of besering van lewende hawe deur 'n trein soos bedoel in artikel 38; of

(iv) vir beskadiging of vernietiging van eiendom deur 'n brand soos bedoel in artikels 69 en 70, tensy die eis binne veertien dae vanaf die datum waarop die in paragraaf (a) (i) en (a) (ii) bedoelde besending goedere of lewende hawe aan die geadresseerde afgelewer is, of die in paragraaf (a) (iii) bedoelde lewende hawe gedood of beseer is, of die in paragraaf (a) (iv) bedoelde eiendom beskadig of vernietig is, op die by regulasie voorgeskrewe wyse ingedien word;

(b) vir die verlies van 'n gedeelte van 'n besending goedere, of vir die beskadiging of vertraging van goedere wat vir vervoer aangeneem is, tensy die eis binne dertig dae vanaf die datum waarop die besending goedere aan die geadresseerde afgelewer is, op die by regulasie voorgeskrewe wyse ingedien word;

(c) vir die verlies van 'n volle besending goedere of die dood van 'n volle besending lewende hawe wat vir vervoer aangeneem is, tensy die eis binne sestig dae vanaf die datum waarop die bedoelde besending deur die verweerder vir vervoer aangeneem is, op die by regulasie voorgeskrewe wyse ingedien word;

(d) vir die besering of dood van 'n in artikel 8 (2) bedoelde passasier, tensy, in die geval van 'n passasier wat per spoor gereis het, die eis binne negentig dae vanaf die datum van die besering of dood op die by regulasie voorgeskrewe wyse by die verweerder ingedien word, en, in die geval van 'n passasier wat met verweerder se padvervoerdienste gereis het, enige eis vir besering of dood anders as 'n eis kragtens die bepalings van die Wet op Verpligte Motorvoertuigversekering, 1972 (Wet No. 56 van 1972), binne die tydperk vir eise kragtens daardie wet voorgeskryf en op 'n by regulasie voorgeskrewe vorm ingedien word;

(e) vir die besering of dood van 'n dienaar kragtens die voorbehoudsbepaling by artikel 17 van die Wet op Spoorweg- en Hawediens, 1960 (Wet No. 22 van 1960), tensy die eis ingedien word binne negentig dae vanaf die datum waarop die eerste betaling van skadeloosstelling vir dood of blywende arbeidsongeskiktheid kragtens die Ongevallewet, 1941 (Wet No. 30 van 1941) geskied;

(f) vir die besering of dood van 'n persoon anders as 'n persoon bedoel in paragrafe (c) of (d), veroorsaak deur 'n trein op 'n spooroorlog of op 'n spoorlyn, of vir die beskadiging of vernietiging van eiendom anders as in paragraaf (a) of (b) bedoel, op 'n spooroorlog of op 'n spoorlyn, tensy die eis binne negentig dae vanaf die datum waarop die persoon beseer of gedood of die eiendom beskadig of vernietig is, op die by regulasie voorgeskrewe wyse ingedien word; en

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(g) for any other death, injury, loss or damage, however caused, unless a written claim has been lodged with the defendant by hand or post within ninety days of the date on which the cause of the claim has arisen:

Provided that if a court having jurisdiction is satisfied on application being made to it that the defendant is in no way prejudiced by reason of a failure to lodge such claim within the period required under this Act and that, having regard to any special circumstances, the claimant could not reasonably have been expected to have lodged such claim within the period so required, such court may grant the claimant special leave to lodge such claim, and may make such order as to the costs of the application as may be just.”;

(c) by the insertion of the following subsections after subsection (3):

“(4) Notwithstanding the provisions of subsection (3) (b), no claim shall be enforced against the defendant and the defendant shall not be liable, under that subsection, for damage of goods accepted by him for transport, unless the goods so damaged are kept available for inspection by servants of the defendant for a minimum period of fourteen days from the date on which the claim has been lodged with the defendant: Provided that in the case of perishable goods the consignment is kept available only until a qualified health inspector has inspected the goods and has made a report in writing thereon.

(5) The provisions of this section shall not apply to passengers or goods transported by the Administration by air.”.

Repeal of the Third Schedule to Act 70 of 1957, as amended by section 42 of Act 6 of 1965 and substituted by section 2 of Act 18 of 1966 and section 9 of Act 46 of 1975.

16. The Third Schedule to the Control and Management Act is hereby repealed.

Repeal of the Fourth Schedule to Act 70 of 1957, as amended by sections 43 and 44 of Act 6 of 1965.

17. The Fourth Schedule to the Control and Management Act is hereby repealed.

Amendment of section 4 of Act 22 of 1960, as amended by section 10 of Act 62 of 1962, section 7 of Act 47 of 1973 and section 8 of Act 8 of 1976.

18. Section 4 of the Railways and Harbours Service Act, 1960 (hereinafter called “the Service Act”), is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) No person shall be appointed in a permanent capacity or on probation or in a temporary capacity to any office or post in the Service unless such person is a citizen of the Republic of South Africa and is of good character and free from any mental or physical defect, disease or infirmity which would be likely to interfere with the proper performance of his duty or to render necessary his retirement therefrom earlier than the prescribed age of retirement.”.

Amendment of section 11 of Act 22 of 1960, as amended by section 6 of Act 44 of 1974 and substituted by section 9 of Act 8 of 1976.

19. (1) Section 11 of the Service Act is hereby amended—

(a) by the deletion, in paragraphs (a) and (b), of the words “from revenue”;

(b) by the substitution, in paragraph (b), for the words “fund of which he is a member” of the words “New Fund”;

(c) by the substitution for subparagraph (iii) of paragraph (c) of the following subparagraph:

“(iii) The term ‘pay’ as used in the scale means pay as at

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(g) vir enige ander dood, besering, verlies of skade, hoe ook al veroorsaak, tensy die eis skriftelik binne negentig dae vanaf die datum waarop die oorsaak van die eis ontstaan het, per hand of pos by die verweerder ingedien word:

Met dien verstande dat as 'n bevoegde hof, by aansoek aan hom gerig, oortuig is dat die verweerder geensins benadeel word uit hoofde van versuim om sodanige eis binne die by hierdie Wet vereiste tyd in te dien en dat, met inagneming van besondere omstandighede, dit nie redelikerwys van die eiser verwag kon gewees het om sodanige eis binne die aldus vereiste tyd in te dien nie, daardie hof aan die eiser spesiale verlof kan toestaan om so 'n eis in te stel, en so 'n bevel betreffende die koste van die aansoek kan verleen as wat billik geag word.”;

(c) deur die volgende subartikels na subartikel (3) in te voeg:

„(4) Ondanks die bepalinge van subartikel (3) (b), word geen eis, kragtens daardie subartikel, teen die verweerder afgedwing en sal die verweerder nie aanspreeklik wees vir die beskadiging van goedere wat deur hom vir vervoer aangeneem is nie, tensy die goedere wat beskadig is vir 'n minimum tydperk van veertien dae vanaf die datum waarop die eis ingedien word, deur die eiser beskikbaar gehou word vir inspeksie deur dienare van die verweerder: Met dien verstande dat in die geval van bederfbare goedere, die besending beskikbaar gehou word slegs totdat 'n bevoegde gesondheidsinspekteur die goedere geïnspekteer en skriftelik verslag daaroor gedoen het.

(5) Die bepalinge van hierdie artikel is nie van toepassing op passasiers of goedere wat deur die Administrasie per lug vervoer word nie.”.

16. Die Derde Bylae by die Beheer- en Bestuurwet word hierby herroep.

Herroeping van die Derde Bylae by Wet 70 van 1957, soos gewysig deur artikel 42 van Wet 6 van 1965, en vervang deur artikel 2 van Wet 18 van 1966 en artikel 9 van Wet 46 van 1975.

17. Die Vierde Bylae by die Beheer- en Bestuurwet word hierby herroep.

Herroeping van die Vierde Bylae by Wet 70 van 1957, soos gewysig deur artikels 43 en 44 van Wet 6 van 1965.

18. Artikel 4 van die Wet op Spoorweg- en Hawediens, 1960 (hierna „die Dienswet” genoem), word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Niemand mag in 'n vaste hoedanigheid of op proef of in 'n tydelike hoedanigheid in 'n betrekking of pos in die Diens aangestel word nie tensy so iemand 'n burger van die Republiek van Suid-Afrika is en tensy so iemand 'n goeie sedelike karakter het en nie aan 'n geestes- of liggaamlike gebrek, siekte of swakheid ly nie wat allig die behoorlike uitvoering van sy pligte sou kon belemmer of sy uitdienstreding vroeër as die voorgeskrewe aftreeleefityd sou noodsaak”.

Wysiging van artikel 4 van Wet 22 van 1960, soos gewysig deur artikel 10 van Wet 62 van 1962, artikel 7 van Wet 47 van 1973 en artikel 8 van Wet 8 van 1976.

19. (1) Artikel 11 van die Dienswet word hierby gewysig—

(a) deur in paragraaf (a) en (b) die woorde „uit inkomste” te skrap;

(b) deur in paragraaf (b) die woorde „fonds waarvan hy 'n lid is” deur die woorde „Nuwe Fonds” te vervang;

(c) deur subparagraaf (iii) van paragraaf (c) deur die volgende subparagraaf te vervang:

„(iii) Die uitdrukking „besoldiging” soos in die skaal gebesig, beteken besoldiging op die datum van

Wysiging van artikel 11 van Wet 22 van 1960, soos gewysig deur artikel 6 van Wet 44 van 1974 en vervang deur artikel 9 van Wet 8 van 1976.

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the date on which service terminates and means and includes pensionable emoluments.”;

(d) by the substitution, in paragraph (d), for the words “fund of which he is a member” of the words “New Fund”; and

(e) by the substitution for paragraph (e) of the following paragraph:

“(e) (i) A gratuity payable in terms of paragraph (a) or (b) (2) and a cash sum payable in terms of paragraph (b) (1) shall be paid proportionately from revenue and from the New Fund, in accordance with a fixed formula as determined by the General Manager.

(ii) An annuity payable in terms of paragraph (b) (1) shall be paid from revenue until the annuitant has attained the age fixed for superannuation, and an annuity which so ceases to be paid from revenue shall be paid from the New Fund.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 June 1975.

Amendment of section 28bis of Act 22 of 1960, as inserted by section 16 of Act 7 of 1963 and amended by section 57 of Act 6 of 1965 and section 12 of Act 47 of 1973.

20. Section 28bis of the Service Act is hereby amended by the substitution, in subsection (4), for the expression “section 28” of the words “this section”.

Amendment of section 1 of Act 38 of 1968.

21. Section 1 of the Railway Construction Act, 1968, is hereby amended by the substitution, in subsection (1), for the words “eleven miles” of the words “eight miles (thirteen kilometres)” and for the words “three million seven hundred and fifty thousand rand” of the words “three million six hundred and seventy thousand rand”.

Application of Act to South West Africa.

22. This Act and any amendment thereof shall, with the exception of section 21, apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Short title and date of commencement.

23. (1) This Act shall be called the Railways and Harbours Acts Amendment Act, 1977.

(2) Except as otherwise provided, this Act shall come into operation on the date of promulgation in the *Gazette*: Provided, however, that sections 1 (a) and (c), 5 to 13 and 15 to 17, shall come into force on a date or dates proclaimed by the State President in the *Gazette*.

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diensbeëindiging, en tewens pensioengewende emolumente.”;

(d) deur in paragraaf (d) die woorde „fonds waarvan hy lid is” deur die woorde „Nuwe Fonds” te vervang; en

(e) deur paragraaf (e) deur die volgende paragraaf te vervang:

„(e) (i) ’n Gratifikasie betaalbaar kragtens paragraaf (a) of (b) (2) en ’n kontantbedrag betaalbaar kragtens paragraaf (b) (1) word na verhouding uit inkomste en uit die Nuwe Fonds betaal, ooreenkomstig ’n vaste formule soos deur die Hoofbestuurder bepaal.

(ii) ’n Jaargeld betaalbaar kragtens paragraaf (b) (1) word uit inkomste betaal totdat die jaargeldtrekker die vir superannuasie vasgestelde leeftyd bereik het, en ’n jaargeld waarvan die betaling aldus gestaak word, word uit die Nuwe Fonds betaal.”.

(2) Subartikel (1) word geag op 1 Junie 1975 in werking te getree het.

20. Artikel 28bis van die Dienswet word hierby gewysig deur in subartikel (4) die uitdrukking „artikel 28” deur die woorde „hierdie artikel” te vervang.

Wysiging van artikel 28bis van Wet 22 van 1960, soos ingevoeg deur artikel 16 van Wet 7 van 1963 en gewysig deur artikel 57 van Wet 6 van 1965 en artikel 12 van Wet 47 van 1973.

21. Artikel 1 van die Spoorwegaanlegwet, 1968, word hierby gewysig deur in subartikel (1) die woorde „elf myl” deur die woorde „agt myl (dertien kilometer)” en die woorde „driemiljoen sewehonderd-en-vyftigduisend rand” deur die woorde „driemiljoen seshonderd-en-sewentigduisend rand” te vervang.

Wysiging van artikel 1 van Wet 38 van 1968.

22. Hierdie Wet en ’n wysiging daarvan is, met uitsondering van artikel 21, ook in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing.

Toepassing van Wet op Suidwes-Afrika.

23. (1) Hierdie Wet heet die Wysigingswet op Spoorweg- en Hawewette, 1977.

Kort titel en datum van inwerkingtreding.

(2) Behalwe soos andersins bepaal, tree hierdie Wet in werking op die datum waarop dit in die *Staatskoerant* gepromulgeer word: Met dien verstande egter dat artikels 1 (a) en (c), 5 tot 13 en 15 tot 17 in werking tree op ’n datum of datums deur die Staatspresident in die *Staatskoerant* geproklameer.

