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GOVERNMENT GAZETTE

STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1358.

30 June 1978.

No. 1358.

30 Junie 1978.

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

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

No. 109 of 1978: Publications Amendment Act, 1978.

No. 109 van 1978: Wysigingswet op Publikasies, 1978.

Wet No. 109, 1978

WYSIGINGSWET OP PUBLIKASIES, 1978.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die bepalinge van die Wet op Publikasies, 1974, ten einde voorsiening te maak vir die oplegging van voorwaardes ten opsigte van die verspreiding van sekere publikasies of voorwerpe of uitgawes daarvan wat nie ongewens is nie; vir die wysiging deur die appèlraad van sekere beslissings van komitees wat op die hou van openbare vermaaklikhede of bepaalde gedeeltes daarvan betrekking het; vir die instelling van komitees van deskundiges ten einde die appèlraad in sekere omstandighede van advies te dien; vir die oordrag van sekere bevoegdhede van die appèlraad aan die voorsitter daarvan; vir die verwysing van sekere regsrae wat in die loop van die verrigtinge voor die appèlraad ontstaan het, vir opinie na 'n afdeling van die Hooggeregshof van Suid-Afrika; en vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 20 Junie 1978.)

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

Wysiging van
artikel 8 van
Wet 42 van 1974,
soos gewysig deur
artikel 6 van
Wet 79 van 1977.

1. Artikel 8 van die Wet op Publikasies, 1974 (hieronder die Hoofwet genoem), word hierby gewysig deur die volgende 5 paragraaf na paragraaf (b) van subartikel (1) in te voeg:

„(bA) 'n publikasie of voorwerp in stryd met 'n voorwaarde wat kragtens hierdie Wet ten opsigte van die verspreiding daarvan opgelê is, versprei nie, indien sodanige oplegging by kennisgewing in die Staatskoerant bekend 10 gemaak is; of”.

Wysiging van
artikel 13 van
Wet 42 van 1974.

2. Artikel 13 van die Hoofwet word hierby gewysig—

(a) deur subartikel (5) deur die volgende subartikel te vervang:

„(5) Die appèlraad moet— 15

(a) die verklaring, verbod of beslissing wat die onderwerp van 'n appèl kragtens hierdie artikel uitmaak, oorweeg;

(b) beslis of die betrokke publikasie of voorwerp of uitgawe na sy oordeel ongewens is; en 20

(c) (i) indien hy van oordeel is dat daardie publikasie of voorwerp of uitgawe nie ongewens is nie, die betrokke verklaring, verbod of beslissing tersyde stel en, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp of uitgawe aan voorwaardes onderworpe behoort te wees, die voorwaardes wat hy goedvind ten opsigte van sodanige verspreiding opelê; of 25

(ii) die betrokke verklaring, verbod of beslissing 30 bekragtig **[of tersyde stel]**.”;

PUBLICATIONS AMENDMENT ACT, 1978.

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GENERAL EXPLANATORY NOTE:

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

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Publications Act, 1974, so as to provide for the imposition of conditions in respect of the distribution of certain publications or objects or editions thereof which are not undesirable; for the amendment by the appeal board of certain decisions of committees relating to the giving of public entertainments or specified parts thereof; for the establishment of committees of experts so as to advise the appeal board in certain circumstances; for the transfer of certain powers of the appeal board to the chairman thereof; for the reference of certain questions of law arising in the course of the proceedings before the appeal board, for opinion to a division of the Supreme Court of South Africa; and for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 20 June 1978.)*

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

1. Section 8 of the Publications Act, 1974 (hereinafter referred to as the principal Act), is hereby amended by the insertion after paragraph (b) of subsection (1) of the following paragraph:—
 “(bA) distribute a publication or object in conflict with any condition imposed under this Act in respect of the distribution thereof, if such imposition has been made known by notice in the *Gazette*; or”.

Amendment of section 8 of Act 42 of 1974, as amended by section 6 of Act 79 of 1977.

2. Section 13 of the principal Act is hereby amended—
 (a) by the substitution for subsection (5) of the following subsection:
 “(5) The appeal board shall—
 (a) consider the declaration, prohibition or decision which forms the subject of an appeal under this section;
 (b) decide whether the publication or object or edition in question is undesirable in its opinion; and
 (c) (i) if it is of the opinion that such publication or object or edition is not undesirable, set aside the declaration, prohibition or decision in question and, if it is of the opinion that the distribution of such publication or object or edition should be subject to conditions, impose in respect of such distribution such conditions as it may think fit; or
 (ii) confirm **[or set aside]** the declaration, prohibition or decision in question.”;

Amendment of section 13 of Act 42 of 1974.

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(b) deur subartikel (6) deur die volgende subartikel te vervang:

„(6) Die direkteur moet sonder versuim die appellant van die beslissing van die appèlraad kragtens subartikel (5) verwittig en, indien **[die appèlraad die betrokke 5 verklaring, verbod of beslissing tersyde stel]** daardie beslissing kragtens subartikel (5) (c) gegee is, moet die direkteur sonder versuim—

[(i)] (a) die beslissing van die appèlraad by kennisgewing in die *Staatskoerant* bekend maak; 10

[(ii)] (b) die kennisgewing wat kragtens artikel 12 (3) ten opsigte van die betrokke verklaring, verbod of beslissing gepubliseer is, by kennisgewing in die *Staatskoerant* intrek; en

[(iii)] (c) indien die beslissing **[aldus tersyde gestel]** van 15 die appèlraad betrekking **[gehad]** het op 'n beslissing van 'n komitee ten opsigte van 'n aansoek bedoel in artikel 10 (1) (b) of (c)—

(i) 'n permit vir die verspreiding, onderworpe aan 20 die voorwaardes, as daar is, wat die appèlraad goedgevind het, of invoer (na gelang van die geval) van die betrokke uitgawe aan die persoon wat daardie aansoek gedoen het, uitreik; of

(ii) 'n permit wat kragtens artikel 12 (2) uitgereik 25 is, wysig deur ten opsigte van die verspreiding van daardie uitgawe voorwaardes op te lê.”;

(c) deur die volgende subartikel na subartikel (6) in te voeg:

„(6A) Die voorwaardes wat kragtens hierdie artikel

of artikel 14 of 15 deur die appèlraad ten opsigte van 30 die verspreiding van 'n publikasie of voorwerp of 'n uitgawe daarvan opgelê kan word, kan, onder andere—

(a) vereis dat die betrokke publikasie of voorwerp of 'n uitgawe daarvan nie aan persone wat in 'n bepaalde ouderdomsgroep val, verkoop, verhuur, uitgeleen 35 of andersins beskikbaar gestel mag word nie;

(b) die wyse bepaal waarop die betrokke publikasie of voorwerp of 'n uitgawe daarvan in die openbaar 40 uitgestal of ten toon gestel mag word of nie mag word nie.”.

Wysiging van
artikel 14 van
Wet 42 van 1974,
soos gewysig deur
artikel 8 van
Wet 79 van 1977.

3. Artikel 14 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (b) van subartikel (4) deur die volgende paragraaf te vervang:

„(b) Indien die appèlraad beslis dat die betrokke 45 publikasie of voorwerp of uitgawe—

(i) nie ongewens is nie, bekragtig hy die betrokke beslissing: Met dien verstande dat—

(aa) hy, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp of uitgawe aan voorwaardes 50 onderworpe behoort te wees, die voorwaardes wat hy goedgevind ten opsigte van sodanige verspreiding moet oplê;

(bb) indien 'n permit uit hoofde van die beslissing uitgereik is, hy daardie permit, 55 wanneer toepaslik, in ooreenstemming met 'n beslissing bedoel in subparagraaf (aa) moet wysig;

(ii) ongewens is, stel hy die betrokke beslissing tersyde, en indien 'n permit uit hoofde van die 60 beslissing uitgereik is, trek hy daardie permit in.”;

(b) deur paragraaf (b) van subartikel (5) deur die volgende paragraaf te vervang:

„(b) 'n beslissing van die appèlraad in die voorbehouds- 65 bepaling by subartikel (4) (b) (i) of in subartikel (4) (b) (ii) bedoel, by kennisgewing in die *Staatskoerant* bekend maak.”;

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(b) by the substitution for subsection (6) of the following subsection:

“(6) The director shall without delay inform the appellant of the decision of the appeal board under subsection (5) and, if **the appeal board sets aside the declaration, prohibition or decision** such decision was given under subsection (5) (c), the director shall without delay—

[(i)] (a) make known the decision of the appeal board by notice in the *Gazette*;

[(ii)] (b) withdraw by notice in the *Gazette* the notice published under section 12 (3) in respect of the declaration, prohibition or decision in question; and

[(iii)] (c) if the decision **[so set aside]** of the appeal board **[related]** relates to a decision of a committee in respect of an application under section 10 (1) (b) or (c)—

(i) issue a permit for the distribution, subject to such conditions, if any, as the appeal board may have thought fit, or importation (as the case may be) of the edition in question to the person who made that application; or

(ii) amend any permit issued under section 12 (2) by imposing conditions in respect of the distribution of such edition.”;

(c) by the insertion after subsection (6) of the following subsection:

“(6A) The conditions which may be imposed under this section or section 14 or 15 by the appeal board in respect of the distribution of a publication or object or edition thereof, may among other things—

(a) require that the publication or object in question, or an edition thereof, shall not be sold, hired out, lent out or otherwise be made available to persons falling within a specified age group;

(b) determine the manner in which the publication or object in question, or an edition thereof, shall be or shall not be displayed or exhibited in public.”.

3. Section 14 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (4) of the following paragraph:

“(b) If the appeal board decides that the publication or object or edition in question—

(i) is not undesirable, it shall confirm the decision in question: Provided that—

(aa) if it is of the opinion that the distribution of such publication or object or edition should be subject to conditions, it shall impose in respect of such distribution such conditions as it may think fit;

(bb) if a permit was issued in pursuance of the decision, it shall amend such permit, when applicable, in accordance with a decision referred to in subparagraph (aa);

(ii) is undesirable, it shall set aside the decision in question and, if a permit was issued in pursuance of such decision, it shall withdraw such permit.”;

(b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

“(b) make known a decision of the appeal board referred to in the proviso to subsection (4) (b) (i) or in subsection (4) (b) (ii) by notice in the *Gazette*.”;

Amendment of
section 14 of
Act 42 of 1974,
as amended by
section 8 of
Act 79 of 1977.

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Wysiging van
artikel 15 van
Wet 42 van 1974,
soos gewysig deur
artikel 9 van
Wet 79 van 1977.

Wysiging van
artikel 31 van
Wet 42 van 1974.

- (c) deur subartikel (6) deur die volgende subartikel te vervang:
„(6) 'n Permit deur die appèlraad kragtens subartikel (4) gewysig of ingetrek, word geag gewysig of ingetrek te wees op die datum waarop die wysiging of intrekking in die *Staatskoerant* bekend gemaak is.”;
- (d) deur subartikel (7) deur die volgende subartikel te vervang:
„(7) 'n Beslissing van die appèlraad in die voorbehoudsbepaling by subartikel (4) (b) (i) of in subartikel (4) (b) (ii) bedoel, word by die toepassing van hierdie Wet geag 'n beslissing van 'n komitee te wees.”.
4. Artikel 15 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (d) van subartikel (6) deur die volgende paragraaf te vervang:
„(d) indien hy beslis dat die betrokke publikasie of voorwerp nie ongewens is nie, die beslissing in subartikel (1) bedoel wat op daardie publikasie of voorwerp betrekking het, tersyde stel en, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp aan voorwaardes onderworpe behoort te wees, die voorwaardes wat hy goedgevind ten opsigte van sodanige verspreiding oplê.”;
- (b) deur subartikel (7) deur die volgende subartikel te vervang:
„(7) Die direkteur moet sonder versuim 'n beslissing van die appèlraad kragtens subartikel (6) (d) by kennisgewing in die *Staatskoerant* bekend maak.”;
- (c) deur paragraaf (b) van subartikel (9) deur die volgende paragraaf te vervang:
„(b) Indien die appèlraad kragtens die bepalings van artikel 14, soos aldus toegepas, beslis dat die betrokke publikasie of voorwerp—
(i) nie ongewens is nie, bekragtig hy die beslissing bedoel in subartikel (8): Met dien verstande dat hy, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp aan voorwaardes onderworpe behoort te wees, die voorwaardes wat hy goedgevind ten opsigte van sodanige verspreiding moet oplê;
(ii) ongewens is, stel hy daardie beslissing tersyde.”;
- (d) deur paragraaf (c) van subartikel (9) deur die volgende paragraaf te vervang:
„(c) Die direkteur moet sonder versuim 'n beslissing van die appèlraad kragtens die voorbehoudsbepaling by paragraaf (b) (i) of kragtens paragraaf (b) (ii) by kennisgewing in die *Staatskoerant* bekend maak.”.
5. Artikel 31 van die Hoofwet word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:
„(6) Die appèlraad moet die beslissing wat die onderwerp van enige appèl of appèlle kragtens hierdie artikel is, oorweeg en **[moet]** kan daardie beslissing bekragtig of **[tersyde stel]** kan—
(a) in die geval van 'n appèl teen 'n beslissing waarvolgens die hou van die betrokke vermaaklikheid of 'n bepaalde gedeelte daarvan verbied is, indien hy van oordeel is dat—
(i) die hou van daardie vermaaklikheid of gedeelte daarvan nie ongewens is of sal wees nie;
(ii) die in artikel 30 (5) bedoelde voorwaardes of een of meer daarvan ten opsigte van die hou van daardie vermaaklikheid of gedeelte daarvan opgelê behoort te word,

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(c) by the substitution for subsection (6) of the following subsection:

5 “(6) A permit amended or withdrawn by the appeal board under subsection (4), shall be deemed to have been amended or withdrawn on the date on which the amendment or withdrawal was made known by notice in the *Gazette*.”;

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

10 “(7) A decision of the appeal board referred to in the proviso to subsection (4) (b) (i) or in subsection (4) (b) (ii) shall for the purposes of this Act be deemed to be a decision of a committee.”.

4. Section 15 of the principal Act is hereby amended—

15 (a) by the substitution for paragraph (d) of subsection (6) of the following paragraph:

20 “(d) if it decides that the publication or object in question is not undesirable, set aside the decision referred to in subsection (1) which relates to that publication or object and, if it is of the opinion that the distribution of such publication or object should be subject to conditions, impose in respect of such distribution such conditions as it may think fit.”;

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

25 “(7) The director shall without delay make known a decision of the appeal board under subsection (6) (d) by notice in the *Gazette*.”.

(c) by the substitution for paragraph (b) of subsection (9) of the following paragraph:

30 “(b) If the appeal board decides under the provisions of section 14, as so applied, that the publication or object in question—

35 (i) is not undesirable, it shall confirm the decision referred to in subsection (8): Provided that, if it is of the opinion that the distribution of such publication or object should be subject to conditions, it shall impose in respect of such distribution such conditions as it may think fit;

40 (ii) is undesirable, it shall set aside that decision.”;

(d) by the substitution for paragraph (c) of subsection (9) of the following paragraph:

45 “(c) The director shall without delay make known a decision of the appeal board under the proviso to paragraph (b) (i) or under paragraph (b) (ii) by notice in the *Gazette*.”.

Amendment of
section 15 of
Act 42 of 1974,
as amended by
section 9 of
Act 79 of 1977.

5. Section 31 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

50 “(6) The appeal board shall consider the decision which is the subject of any appeal or appeals under this section and **[shall] may** confirm **[or set aside]** that decision or may—

55 (a) in the case of an appeal against a decision in terms of which the giving of the entertainment in question, or any specified part thereof, was prohibited, if it is of the opinion that—

(i) the giving of such entertainment or part thereof is not or will not be undesirable;

60 (ii) the conditions referred to in section 30 (5), or one or more thereof, should be imposed in respect of the giving of such entertainment or part thereof,

Amendment of
section 31 of
Act 42 of 1974.

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in ooreenstemming met sy beslissing daardie beslissing tersyde stel of die betrokke voorwaarde of voorwaardes ten opsigte van die hou van daardie vermaaklikheid oplê;

(b) in die geval van 'n appèl teen 'n beslissing waarvolgens 'n voorwaarde opgelê is—

(i) daardie voorwaarde skrap en in die plek daarvan enige van die voorwaardes in artikel 30 (5) bedoel, oplê;

(ii) benewens daardie voorwaarde enige van bedoelde voorwaardes oplê; of

(iii) daardie voorwaarde skrap.”

Wysiging van
artikel 35 van
Wet 42 van 1974.

6. Artikel 35 van die Hoofwet word hierby gewysig deur subartikel (8) deur die volgende subartikel te vervang:

„(8) Die voorsitter van die appèlraad kan na goedgekeurde iemand raadpleeg wat na die oordeel van die **[appèlraad]** voorsitter 'n deskundige is oor 'n aangeleentheid betreffende die werksaamhede van die appèlraad.”

Invoeging van
artikels 35A
en 35B in
Wet 42 van 1974.

7. Die volgende artikels word hierby in die Hoofwet na artikel 35 ingevoeg:

„Komitees
van deskundiges.

35A. (1) Die voorsitter van die appèlraad kan uit

die beweging en moet op versoek van die direktoraat of 'n persoon in artikel 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) of 32 (2) (a) bedoel 'n komitee van deskundiges benoem om die appèlraad ten opsigte van 'n publikasie of voorwerp of 'n uitgawe van 'n publikasie of voorwerp, of 'n rolprent, of 'n openbare vermaaklikheid of voorgenome openbare vermaaklikheid wat deur die appèlraad kragtens hierdie Wet ondersoek word, van advies te dien.

(2) 'n Komitee van deskundiges in subartikel (1) bedoel, bestaan uit die getal lede, maar minstens drie, wat deur die voorsitter van die appèlraad behoudens die bepalinge van artikel 35B aangestel word.

(3) Iemand wat kragtens artikel 35B (4) aangewys is en wat kragtens subartikel (2) as lid van 'n komitee van deskundiges aangestel word, tree as voorsitter van die betrokke komitee van deskundiges op: Met dien verstande dat indien twee persone wat aldus aangewys is, as lede van dieselfde komitee van deskundiges aangestel word, die persoon wat deur die voorsitter van die appèlraad bepaal word as voorsitter van die betrokke komitee van deskundiges optree, terwyl die ander persoon in die afwesigheid van die eersgenoemde persoon as voorsitter van daardie komitee optree.

(4) Drie lede van 'n komitee van deskundiges maak 'n kworum uit en die beslissing van die meerderheid van die lede wat op 'n vergadering van die komitee van deskundiges aanwesig is, maak 'n besluit van die komitee van deskundiges uit: Met dien verstande dat by 'n staking van stemme die persoon wat by die betrokke vergadering voorsit, benewens sy beraadslagende stem ook 'n beslissende stem het.

(5) (a) Die ampstermyn van lede van 'n komitee van deskundiges word by aanstelling bepaal.

(b) Die ampsvoorwaardes, besoldiging en toelaes van lede van 'n komitee van deskundiges is soos voorgeskryf.

(6) Die advies bedoel in subartikel (1), tesame met minderheidsmenings as daar is, word tydens die ondersoek in genoemde subartikel bedoel, bekend gemaak aan die partye wat by die ondersoek betrokke is en maak deel uit van die stukke waarin die appèlraad redes ingevolge die bepalinge van artikel 36 (5) verstrekk.

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- in accordance with its decision set aside such decision or impose the condition or conditions in question in respect of the giving of such entertainment;
- (b) in the case of an appeal against a decision in terms of which any condition was imposed—
- (i) delete that condition and impose in the place thereof any of the conditions referred to in section 30 (5);
 - (ii) impose in addition to that condition any of the said conditions; or
 - (iii) delete that condition.

6. Section 35 of the principal Act is hereby amended by the substitution for subsection (8) of the following subsection: Amendment of section 35 of Act 42 of 1974.

- “(8) The chairman of the appeal board may in **[its]** his discretion consult any person who in the opinion of the **[appeal board]** chairman is an expert on any matter relating to the functions of the appeal board.”

7. The following sections are hereby inserted in the principal Act after section 35: Insertion of sections 35A and 35B in Act 42 of 1974.

- “Committees of experts. **35A.** (1) The chairman of the appeal board may of his own accord and shall at the request of the directorate or any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a) appoint a committee of experts to advise the appeal board in respect of a publication or object or an edition of a publication or object, or any film, or any public entertainment or intended public entertainment examined by the appeal board under this Act.
- (2) A committee of experts referred to in subsection (1) shall consist of such number of members, but not fewer than three, as may be appointed by the chairman of the appeal board subject to the provisions of section 35B.
- (3) Any person who has been designated under section 35B (4) and who is appointed as a member of a committee of experts under subsection (2), shall act as chairman of the committee of experts concerned: Provided that if two persons who have been so designated are appointed as members of the same committee of experts, the person who is determined by the chairman of the appeal board shall act as chairman of the committee of experts concerned, while the other person shall act as chairman of that committee in the absence of the first-mentioned person.
- (4) Three members of a committee of experts shall constitute a quorum and the decision of the majority of members present at a meeting of the committee of experts shall be the decision of the committee of experts: Provided that in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.
- (5) (a) The period of office of members of a committee of experts shall be determined on appointment.
- (b) The conditions of office, remuneration and allowances of members of a committee of experts shall be as prescribed.
- (6) The advice referred to in subsection (1), together with minority opinions if any, shall, during the examination referred to in the said subsection, be made known to the parties concerned in the examination and shall form part of the documents in which reasons are furnished by the appeal board in terms of the provisions of section 36 (5).

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Persone wat as lede van komitees van deskundiges aangestel kan word.

35B. (1) Niemand word as 'n lid van 'n komitee van deskundiges aangestel nie tensy sy naam verskyn op die lys in subartikel (2) bedoel.

(2) Die voorsitter van die appèlraad moet elke jaar 'n lys van die name saamstel van persone wat deur die Minister kragtens subartikel (3) aangewys word.

(3) Persone wat deur die Minister vir die doeleindes van die lys in subartikel (2) bedoel, aangewys word, moet persone wees wat na die oordeel van die Minister uit hoofde van hul opvoedkundige kwalifikasies en besondere kennis van en ondervinding in kuns, taal of letterkunde, geskik is om die appèlraad ten opsigte van 'n publikasie of voorwerp of 'n uitgawe van 'n publikasie of voorwerp, of 'n rolprent, of 'n openbare vermaaklikheid of voorgenome openbare vermaaklikheid wat deur die appèlraad kragtens hierdie Wet ondersoek word, van advies te dien.

(4) Die Minister wys soveel van die persone in subartikel (1) bedoel aan as wat hy nodig ag om behoudens die bepalings van die voorbehoudsbepaling by artikel 35A (3) as voorsitters van komitees van deskundiges te dien wanneer hulle as lede daarvan aangestel word.

(5) Die lys in subartikel (2) bedoel word van tyd tot tyd wanneer nodig deur die voorsitter van die appèlraad aangevul nadat die Minister die betrokke persoon of persone aangewys het."

Wysiging van artikel 36 van Wet 42 van 1974.

8. Artikel 36 van die Hoofwet word hierby gewysig—

(a) deur in paragraaf (b) van subartikel (3) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

„Die voorsitter van die appèlraad kan—”;

(b) deur paragraaf (c) van subartikel (3) deur die volgende paragraaf te vervang:

„(c) Die voorsitter van die appèlraad kan enigiemand gelas om voor die appèlraad te verskyn en kan so iemand gelas om getuienis af te lê wat na die oordeel van die voorsitter betrekking het op die aangeleentheid wat deur die appèlraad oorweeg word.”

Invoeging van artikel 38A in Wet 42 van 1974.

9. Die volgende artikel word hierby in die Hoofwet na artikel 38 ingevoeg:

„Stel van regspraak vir opinie van Hooggeregshof.

38A. (1) Op enige stadium voordat hy 'n beslissing ingevolge hierdie Wet gee, kan die appèlraad uit eie beweging en moet hy op versoek van die direktoraat of 'n persoon in artikel 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) of 32 (2) (a) bedoel, enige regspraak wat in die loop van die betrokke verrigtinge van die appèlraad ontstaan, in die vorm van 'n spesiale saak stel vir die opinie van 'n afdeling van die Hooggeregshof van Suid-Afrika, en moet daardie spesiale saak aan die griffier van daardie hof stuur.

(2) Indien bedoelde spesiale saak gestel word op versoek van 'n persoon in artikel 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) of 32 (2) (a) bedoel, moet hy by die griffier sekerheid stel vir die bedrag wat die griffier bepaal ten opsigte van die koste wat die hof daardie persoon gelas om te betaal.

(3) 'n Regsvraag in subartikel (1) bedoel, kan voor die betrokke hof beredeneer word en daardie hof kan die verdere inligting wat hy nodig ag, wat deur die appèlraad verstrekk moet word, aanvra.

(4) Die hof kan die opinie wat hy goedvind ten opsigte van die spesiale saak, aangevul deur enige inligting in subartikel (3) bedoel, as daar is, en die bevel betreffende die koste van die verrigtinge voor hom, uitreik wat hy goedvind: Met dien verstande dat

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Persons
eligible for
appointment
as members
of committee.

35B. (1) No person shall be appointed as a member of a committee of experts unless his name appears on the list referred to in subsection (2).

(2) The chairman of the appeal board shall annually compile a list of the names of the persons to be designated by the Minister under subsection (3).

(3) Persons designated by the Minister for the purposes of the list referred to in subsection (2), shall be persons who in the opinion of the Minister are by reason of their educational qualifications and special knowledge of and experience in art, language or literature fit to advise the appeal board in respect of a publication or object or an edition of a publication or object, or any film, or any public entertainment or intended public entertainment examined by the appeal board under this Act.

(4) The Minister shall designate as many of the persons referred to in subsection (1) as he may deem necessary, to serve, subject to the provisions of the proviso to section 35A (3), as chairmen of committees of experts when they are appointed as members thereof.

(5) The list referred to in subsection (2) shall be supplemented by the chairman of the appeal board from time to time when necessary after the Minister has designated the person or persons concerned."

8. Section 36 of the principal Act is hereby amended—

Amendment of
section 36 of
Act 42 of 1974.

(a) by the substitution in paragraph (b) of subsection (3) for the words preceding subparagraph (i) of the following words:

"The chairman of the appeal board may direct—";

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

"(c) The chairman of the appeal board may direct any person to appear before the appeal board and may direct such person to give evidence which, in the opinion of the chairman, relates to the matter being considered by the appeal board."

9. The following section is hereby inserted in the principal Act after section 38:

Insertion of
section 38A in
Act 42 of 1974.

"Statement of
question of
law for
opinion of
Supreme
Court.

38A. (1) At any stage before giving a decision in terms of this Act, the appeal board may of its own accord and shall at the request of the directorate or any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a), state any question of law arising in the course of the proceedings in question of the appeal board, in the form of a special case for the opinion of a division of the Supreme Court of South Africa, and shall transmit that special case to the registrar of that court.

(2) If such special case is stated at the request of any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a), he shall lodge with the registrar security to such an amount as the registrar may determine, in respect of any such costs as the court may order such person to pay.

(3) A question of law referred to in subsection (1) may be argued before the court in question and such court may call for such further information, to be supplied by the appeal board, as it may deem fit.

(4) The court may give such opinion in respect of the special case, as supplemented by the information referred to in subsection (3), if any, and may make such order as to the costs of the proceedings before it, as it may deem fit: Provided that no order of costs

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geen kostebevel teen 'n persoon in artikel 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) of 32 (2) (a) bedoel, gegee word in 'n geval waar sodanige persoon nie 'n versoek soos in subartikel (1) bedoel aan die appèlraad gerig het nie.

(5) Die direktoraat of 'n persoon in subartikel (1) bedoel, het 'n reg van appèl na die appèlafdeling van die Hooggeregshof teen 'n opinie in subartikel (4) bedoel.

(6) Die bepalings van subartikel (2) is *mutatis mutandis* van toepassing ten opsigte van 'n appèl in subartikel (5) bedoel.

(7) By die gee van die beslissing in subartikel (1) bedoel, is 'n opinie wat kragtens subartikel (4) of (6) uitgereik is, bindend op die appèlraad."

Kort titel en
inwerkingtreding.

10. (1) Hierdie Wet heet die Wysigingswet op Publikasies, 1978, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

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5 shall be made against any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a) in any case in which a request as referred to in subsection (1) was not made to the appeal board by such person.

(5) The directorate or any person referred to in subsection (1), shall have a right of appeal to the appellate division of the Supreme Court against an opinion referred to in subsection (4).

10 (6) The provisions of subsection (2) shall apply *mutatis mutandis* in respect of an appeal referred to in subsection (5).

15 (7) An opinion given under subsection (4) or (6) shall be binding on the appeal board when giving the decision referred to in subsection (1).”.

10. (1) This Act shall be called the Publications Amendment Act, 1978, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*. Short title and commencement.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.

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shall be made against any person referred to in section 13 (1), 14 (3), 15 (1), 24 (2), 25 (1), 26 (1) or 32 (2) (b) in any case in which a request as referred to in subsection (1) was not made to the appeal board by such person.

(5) The director or any person referred to in subsection (1) shall have a right of appeal to the appellate division of the Supreme Court against an opinion referred to in subsection (4).

(6) The provisions of subsection (2) shall apply mutatis mutandis in respect of an appeal referred to in subsection (5).

(7) An opinion given under subsection (4) or (6) shall be binding on the appeal board when giving the decision referred to in subsection (1).

10. (1) This Act shall be called the Publications Amendment Act, 1978, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.



