



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1822.

9 September 1981.

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

No. 57 van 1981: Wysigingswet op Arbeidsverhoudinge, 1981.

No. 1822.

9 September 1981.

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

No. 57 of 1981: Labour Relations Amendment Act, 1981.

Act No. 57, 1981

LABOUR RELATIONS AMENDMENT ACT, 1981

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 Industrial Conciliation Act, 1956, so as to delete the definitions of certain expressions and to define or further define certain expressions; to extend the functions of the National Manpower Commission; to further regulate the functioning and registration of trade unions, employers' organizations, federations of employers' organizations or trade unions, and industrial councils; to make further provision for the composition and functions of the industrial court; to provide for the establishment of works councils; to make provision for the exclusion of certain areas from the operation of certain agreements or awards; to provide further for the regulation of conditions of employment; to repeal the provisions relating to notices to be posted by employers, the registration of employers and the registration and regulation of private registry offices; to further regulate the appointment and powers of inspectors and the appointment of designated agents of industrial councils; to extend the secrecy provisions; to create certain additional offences; to increase certain fines; and to effect certain textual alterations; to repeal certain laws; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 18 August 1981.)

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

Amendment of section 1 of Act 28 of 1956, as amended by section 1 of Act 41 of 1959, section 1 of Act 104 of 1967, section 1 of Act 94 of 1979 and section 1 of Act 95 of 1980.

1. Section 1 of the Industrial Conciliation Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—
 - (a) by the substitution in subsection (1) for the definition of "arbitrator" of the following definition:

"'arbitrator' means an arbitrator appointed or deemed to have been appointed under section 45, **[or]** 46 or 49;"
 - (b) by the deletion in subsection (1) of the definitions of "Black" and "Black area";
 - (c) by the substitution in subsection (1) for the definition of "chairman" of the following definition:

"'chairman', in relation to a trade union, employers' organization, federation, industrial council or a 15 committee thereof, **[or]** conciliation board **[or the industrial court]** or the National Manpower Commission or a committee thereof, includes any person who is responsible for the performance of any of the duties ordinarily performed by a chairman;" 20
 - (d) by the deletion in subsection (1) of the definition of "coloured person";
 - (e) by the deletion in subsection (1) of the expression "17 (1A) (a)" in the definition of "departmental head";

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ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Tot wysiging van die Wet op Nywerheidsversoening, 1956, ten einde die omskrywings van sekere uitdrukkings te skrap en sekere uitdrukkings te omskryf of nader te omskryf; die werksaamhede van die Nasionale Mannekragskommissie uit te brei; die funksionering en registrasie van vakverenigings, werkgewersorganisasies, federasies van werkgewersorganisasies of vakverenigings, en nywerheidsrade verder te reël; verdere voorsiening te maak vir die samestelling en werksaamhede van die nywerheidshof; voorsiening te maak vir die instelling van werkerade; voorsiening te maak vir die uitsluiting van sekere gebiede van die toepassing van sekere ooreenkomste of toekennings; verdere voorsiening te maak vir die reëling van diensvoorwaardes; die bepalinge met betrekking tot kennisgewings wat deur werkgewers aangeplak moet word, die registrasie van werkgewers en die registrasie en reëling van private registrasiekantore te herroep; die aanstelling en bevoegdhede van inspekteurs en die aanstelling van aangewese agente van nywerheidsrade verder te reël; die geheimhoudingsbepalinge uit te brei; sekere verdere misdrywe te skep; sekere boetes te verhoog; en sekere teksveranderings aan te bring; om sekere wette te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Augustus 1981.)

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

1. Artikel 1 van die Wet op Nywerheidsversoening, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—
- 5 (a) deur in subartikel (1) die omskrywing van „ampsdraer” deur die volgende omskrywing te vervang:

„ampsdraer” ’n ander persoon as ’n beampte wat enige amp in ’n **[geregistreerde]** vakvereniging, **[of]** werkgewersorganisasie, **[of]** federasie **[of]** nywerheidsraad beklee, en ook ’n ander lid as ’n lid *ex officio* van ’n komitee van so ’n vereniging, **[of]** organisasie, federasie of nywerheidsraad;”;
- 10 (b) deur in subartikel (1) die omskrywing van „arbiter” deur die volgende omskrywing te vervang:

„arbiter” ’n arbiter wat aangestel is of geag word aangestel te gewees het kragtens artikel 45, **[of]** 46 of 49;”;
- 15 (c) deur in subartikel (1) die omskrywing van „beampte” deur die volgende omskrywing te vervang:

„beampte”, **[’n werknemer van]** met betrekking tot ’n **[geregistreerde]** vakvereniging, **[of]** werkgewers-
- 20

Wysiging van artikel 1 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 41 van 1959, artikel 1 van Wet 104 van 1967, artikel 1 van Wet 94 van 1979 en artikel 1 van Wet 95 van 1980.

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- (f) by the substitution in subsection (1) for the definition of "employee" of the following definition:

"'employee' means

[(a)] any person

[(i)] who is employed by or working for any 5
employer and receiving or entitled to
receive any remuneration, and any other
person whomsoever who in any manner
assists in the carrying on or conducting
of the business of an employer; **[and 10**

**(ii) who may legally reside on land in the
Republic of South Africa,**

**but excluding any person who resides on land
as contemplated in section 21 (1) of the
Development Trust and Land Act, 1936 (Act 15
No. 18 of 1936), or on any land within a
territory which in terms of any other law is a
self-governing territory within the Republic of
South Africa, as well as any person who 20
enters the Republic for the purpose of car-
rying out a contract of service within the
Republic, if upon the termination thereof the
employer is required by law or by the
contract of service or by any other agreement
or undertaking, to repatriate that person, or 25
that person is so required to leave the
Republic;**

**(b) a member of any other group or class of
persons which complies with the requirements
of subparagraph (i) of paragraph (a) of this 30
definition and which the Minister has by
notice in the *Gazette* declared to be employees,
subject to such conditions as he may deem
expedient: Provided that for the purposes of
this paragraph 'group or class of persons' 35
means such group or type of persons as may
be specified or defined in the relevant notice,
and in respect of such specification or defini-
tion the Minister may apply any method of
differentiation on account of experience or 40
length of service or any other method which
he deems advisable: Provided further that no
differentiation on the basis of race or colour
shall be made;]**

and 'employed' and 'employment' have corre- 45
sponding meanings;";

- (g) by the substitution in subsection (1) for the definition of "employers' organization" of the following definition:

"'employers' organization' means any number of 50
employers in any particular undertaking, industry,
trade or occupation associated together **[pri-
marily]** for the purpose, whether by itself or
with other purposes, of regulating relations in
that undertaking, industry, trade or occupation 55
between themselves or some of them and their
employees or some of their employees;";

- (h) by the insertion in subsection (1) after the definition of "employers' organization" of the following definition:

"'federation' means a federation referred to in section 60
80 (1);";

- (i) by the substitution in subsection (1) for the definition of "local authority" of the following definition:

"'local authority' means any institution or body con-
templated in section 84 (1) (f) of the Republic of 65
South Africa Constitution Act, 1961 (Act No. 32
of 1961);";

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- organisasie of federasie, 'n werknemer van sodanige vereniging, organisasie of federasie in diens as sekretaris, assistent-sekretaris of organiseerder van sodanige vereniging, **[of] organisasie of federasie** of in enige ander voorgeskrewe hoedanigheid, hetsy sodanige werknemer in 'n voltydse hoedanigheid in diens is al dan nie, en, met betrekking tot 'n nywerheidsraad, 'n werknemer van 'n raad in diens as sekretaris, assistent-sekretaris, aangewese agent of agent van die raad of in enige ander voorgeskrewe hoedanigheid, hetsy sodanige werknemer in 'n voltydse hoedanigheid in diens is al dan nie;";
- (d) deur in subartikel (1) die omskrywing van „blanke” te skrap;
- (e) deur in subartikel (1) die uitdrukking „17 (1A) (a)” in die omskrywing van „departementshoof” te skrap;
- (f) deur in subartikel (1) na die omskrywing van „departementshoof” die volgende omskrywing in te voeg:
- „federasie 'n federasie bedoel in artikel 80 (1);”;
- (g) deur in subartikel (1) die omskrywing van „gekleurde” te skrap;
- (h) deur in subartikel (1) die omskrywing van „loonreëlende maatregel” deur die volgende omskrywing te vervang:
- „loonreëlende maatregel—
- (a) 'n ooreenkoms, kennisgewing, toekenning, order of vasstelling wat ingevolge hierdie Wet bindend is of was;
- (b) 'n vasstelling wat gemaak is of geag word gemaak te gewees het kragtens die Loonwet, **[1937 (Wet No. 44 van 1937)] 1957 (Wet No. 5 van 1957)**;
- (c) **[’n]** die vasstelling kragtens die Wet op Swart Bouwerkers, 1951 (Wet No. 27 van 1951), gemaak, wat by Goewermentskennisgewing R.1743 van 10 Augustus 1979 gepubliseer is en ingevolge artikel 11 (2) (b) van die Wysigingswet op Nywerheidsversoeniging, 1980 (Wet No. 95 van 1980), van krag bly tot 19 Augustus 1982 **[of**
- (d) **’n order kragtens die Wet op Swart Arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953), gemaak]**;”;
- (i) deur in subartikel (1) die omskrywing van „Minister” deur die volgende omskrywing te vervang:
- „Minister” die Minister van **[Arbeid] Mannekrag**;”;
- (j) deur in subartikel (1) na die omskrywing van „onderneming, nywerheid, bedryf of beroep” die volgende omskrywing in te voeg:
- „order 'n order wat ingevolge artikel 51A gemaak is of geag word gemaak te gewees het;”;
- (k) deur in subartikel (1) die omskrywing van „plaaslike owerheid” deur die volgende omskrywing te vervang:
- „plaaslike owerheid 'n instelling of liggaam wat in artikel 84 (1) (f) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961), beoog word;”;
- (l) deur in subartikel (1) die omskrywing van „private registrasiekantoor” te skrap;
- (m) deur in subartikel (1) die omskrywing van „sekretaris” deur die volgende omskrywing te vervang:
- „sekretaris”, met betrekking tot 'n vakvereniging of werkgewersorganisasie of federasie of nywerheidsraad of versoeningsraad, ook enige persoon wat verantwoordelik is vir die verrigting van enigeen

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- (j) by the substitution in subsection (1) for the definition of "Minister" of the following definition:
 "'Minister' means the Minister of **[Labour]** Manpower;"
- (k) by the substitution in subsection (1) for the definition of "office-bearer" of the following definition: 5
 "'office-bearer' means a person, other than an official, who holds any office in a **[registered]** trade union, **[or]** employers' organization, federation or industrial council, and includes a member, other 10
 than a member *ex officio*, of a committee of such a union, **[or]** organization, federation or industrial council;"
- (l) by the substitution in subsection (1) for the definition of "official" of the following definition: 15
 "'official', **[means an employee of]** in relation to a **[registered]** trade union, **[or]** employers' organization or federation, means an employee of such union, organization or federation employed as secretary, assistant secretary or organizer of 20
 such union, **[or]** organization or federation or in any other prescribed capacity, whether or not such employee is employed in a full-time capacity, and, in relation to an industrial council, means an employee of a council employed as secretary, 25
 assistant secretary, designated agent or agent of the council or in any other prescribed capacity, whether or not such employee is employed in a full-time capacity;"
- (m) by the insertion in subsection (1) after the definition of "official" of the following definition: 30
 "'order' means an order made or deemed to have been made in terms of section 51A;"
- (n) by the deletion in subsection (1) of the definition of "private registry office"; 35
- (o) by the substitution in subsection (1) for the definition of "secretary" of the following definition:
 "'secretary', in relation to a trade union or an employers' organization or a federation or an industrial council or a conciliation board, in- 40
 cludes any person who is responsible for the performance of any of the duties ordinarily performed by a secretary;"
- (p) by the substitution in subsection (1) for the definition of "trade union" of the following definition: 45
 "'trade union' means any number of employees in any particular undertaking, industry, trade or occupation associated together **[primarily]** for the purpose, whether by itself or with other purposes, of regulating relations in that undertaking, industry, 50
 trade or occupation between themselves or some of them and their employers or some of their employers;"
- (q) by the substitution in subsection (1) for the definition of "wage regulating measure" of the following defini- 55
 tion:
 "'wage regulating measure' means—
 (a) an agreement, notice, award, order or determination which is or was binding in terms of this Act; 60
 (b) a determination made or deemed to have been made under the Wage Act, **[1937 (Act No. 44 of 1937)] 1957 (Act No. 5 of 1957)**;"

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van die pligte wat gewoonlik deur 'n sekretaris verrig word;";

(n) deur in subartikel (1) die omskrywings van „Swart gebied” en „Swarte” te skrap;

5 (o) deur in subartikel (1) die omskrywing van „vakvereniging” deur die volgende omskrywing te vervang:
 „vakvereniging” enige aantal werknemers in 'n bepaalde onderneming, nywerheid, bedryf of beroep wat verenig is **[hoofsaaklik]** met die doel, hetsy
 10 alleen of saam met ander doelstellings, om verhoudings tussen hulle of party van hulle en hul werkgewers of party van hul werkgewers in daardie onderneming, nywerheid, bedryf of beroep te reël;";

15 (p) deur in subartikel (1) die omskrywing van „voorsitter” deur die volgende omskrywing te vervang:
 „voorsitter”, met betrekking tot 'n vakvereniging, werkgewersorganisasie, federasie, nywerheidsraad of 'n komitee daarvan, **[of]** versoeningsraad **[of die nywerheidshof]** of die Nasionale Mannekragkommissie of 'n komitee daarvan, ook enige
 20 persoon wat verantwoordelik is vir die verrigting van enigene van die pligte wat gewoonlik deur 'n voorsitter verrig word;";

25 (q) deur in subartikel (1) die omskrywing van „werkgewersorganisasie” deur die volgende omskrywing te vervang:
 „werkgewersorganisasie” enige aantal werkgewers in 'n bepaalde onderneming, nywerheid, bedryf of
 30 beroep wat verenig is **[hoofsaaklik]** met die doel, hetsy alleen of saam met ander doelstellings, om verhoudings tussen hulle of party van hulle en hul werknemers of party van hul werknemers in daardie onderneming, nywerheid, bedryf of beroep te reël;"; en

35 (r) deur in subartikel (1) die omskrywing van „werknemer” deur die volgende omskrywing te vervang:
 „werknemer”

[(a)] enige persoon

40 **[(i)]** 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]**

45 **(ii) wat regtens op grond in die Republiek van Suid-Afrika mag woon,**

50 **maar uitgesonderd enige persoon wat woon op grond bedoel in artikel 21 (1) van die Ontwikkelingsrust en Grond Wet, 1936 (Wet No. 18 van 1936), of op enige grond binne 'n gebied wat ingevolge die een of ander wet 'n selfregerende gebied binne die Republiek van Suid-Afrika is, asook enige persoon wat die Republiek binnekom om 'n dienskontrak binne die Republiek uit te voer indien by die beëindiging van die kontrak die werkgewer daardie persoon volgens wet of volgens die dienskontrak of volgens enige ander ooreenkoms of onderneming moet repatriëer, of daardie persoon aldus die Republiek moet verlaat;**

60 **(b) 'n lid van enige ander groep of klas persone wat aan die vereistes van subparagraaf (i) van paragraaf (a) van hierdie omskrywing voldoen en wat die Minister by kennisgewing in die Staatskoerant tot werknemers verklaar, onderworpe aan die voorwaardes wat hy dienstig ag: Met dien verstande dat by die toepassing van hierdie paragraaf ,groep of**
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- (c) **[a]** the determination made under the Black Building Workers Act, 1951 (Act No. 27 of 1951), which was published by Government Notice R.1743 of 10 August 1979 and remains in force, in terms of section 11 (2) (b) of the Industrial Conciliation Amendment Act, 1980 (Act No. 95 of 1980), until 19 August 1982 **[or**
- (d) **an order made under the Black Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953)]**; and
- (r) by the deletion in subsection (1) of the definition of "white person".

Amendment of
section 2 of
Act 28 of 1956.

2. Section 2 of the principal Act is hereby amended—
- (a) by the deletion in subsection (2) of the expression "except section 63"; and
- (b) by the deletion in subsection (4) of the expression "(3)".

Amendment of
section 2D of
Act 28 of 1956,
as inserted by
section 2 of
Act 94 of 1979
and amended by
section 4 of
Act 95 of 1980.

3. Section 2D of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection:
- "(2A) The commission may, for the purposes of the performance of any of its functions, with the approval of the Minister granted with the concurrence of the Minister of Finance, enter into any contract for the performance of any particular act or particular work or the rendering of particular services, with any person who is in the opinion of the commission fit to perform such act or work or to render such service."**

Amendment of
section 3 of
Act 28 of 1956.

4. Section 3 of the principal Act is hereby amended by the deletion in subsection (1) of the words "private registry offices".

Amendment of
section 4 of
Act 28 of 1956,
as amended by
section 1 of
Act 18 of 1961
and section 3 of
Act 94 of 1979.

5. Section 4 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (b) of subsection (3) for the words "Subject to the provisions of paragraph (c), if" of the word "If";
- (b) by the deletion of paragraphs (c) and (d) of subsection (3);
- (c) by the addition to subsection (4) of the following paragraph:
- "(c) shall have regard only to the members of the objecting union who are eligible for membership of the applicant union."**
- (d) by the deletion of subsection (6); and
- (e) by the substitution for subsection (8) of the following subsection:
- "(8) The provisions of this section [other than the provisions of paragraphs (c) and (d) of subsection (3) and subsection (6)] shall *mutatis mutandis* apply to the registration of employers' organizations."**

Substitution of
section 4A of
Act 28 of 1956,
as inserted by
section 4 of
Act 94 of 1979.

6. (1) The following section is hereby substituted for section 4A of the principal Act:

4A. (1) Any trade union referred to in section 4 (1)

(a) which does not apply for registration under section 4 within three months after the date as from which it may apply for such registration in terms of the said section 4 (1) (a), shall at the expiry of the said three months submit to the registrar a copy of its constitution and furnish him with its head office address and the names of its office-bearers and officials.

(2) Any trade union which contravenes the provisions of subsection (1) shall be guilty of an offence."

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5 klas persone' die groep of tipe persone be-
teken wat in die toepaslike kennisgewing
vermeld of omskryf word, en met betrekking
tot bedoelde vermelding of omskrywing die
Minister enige metode van differensiasie op
grond van ervaring of lengte van diensyd of
10 enige ander metode wat hy raadsaam ag, kan
toepas: Met dien verstande verder dat geen
differensiasie op die grondslag van ras of
kleur gemaak mag word nie;]
en het 'in diens' en 'diens' ooreenstemmende
betekenis;”.

2. Artikel 2 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 2 van
Wet 28 van 1956.

- 15 (a) deur in subartikel (2) die uitdrukking „(behalwe
artikel 63)” te skrap; en
(b) deur in subartikel (4) die uitdrukking „(3)” te skrap.

3. Artikel 2D van die Hoofwet word hierby gewysig deur na
subartikel (2) die volgende subartikel in te voeg:Wysiging van
artikel 2D van
Wet 28 van 1956.
soos ingevoeg deur
artikel 2 van
Wet 94 van 1979
en gewysig deur
artikel 4 van
Wet 95 van 1980.

- 20 „(2A) Die kommissie kan, vir die doeleindes van die
verrigting van enige van sy werksaamhede, met die goed-
keuring van die Minister gegee met die instemming van die
Minister van Finansies, 'n kontrak vir die verrigting van 'n
besondere handeling of besondere werk of die lewering van
besondere dienste aangaan met enigiemand wat na die
25 oordeel van die kommissie geskik is om sodanige handeling
of werk te verrig of sodanige dienste te lewer.”.

4. Artikel 3 van die Hoofwet word hierby gewysig deur in
subartikel (1) die woorde „private registrasiekantore” te skrap.Wysiging van
artikel 3 van
Wet 28 van 1956.

5. Artikel 4 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 4 van
Wet 28 van 1956,
soos gewysig deur
artikel 1 van
Wet 18 van 1961
en artikel 3 van
Wet 94 van 1979.

- 30 (a) deur in paragraaf (b) van subartikel (3) die woorde
„Behoudens die bepalinge van paragraaf (c), indien”
deur die woord „Indien” te vervang;
(b) deur paragrafe (c) en (d) van subartikel (3) te skrap;
(c) deur die volgende paragraaf by subartikel (4) te voeg:
35 „(c) moet die registrateur slegs die lede van die
vereniging wat beswaar maak in aanmerking
neem wat toelaatbaar is vir lidmaatskap van die
vereniging wat aansoek doen.”;
(d) deur subartikel (6) te skrap; en
40 (e) deur subartikel (8) deur die volgende subartikel te
vervang:
„(8) Die bepalinge van hierdie artikel **[uitgesonderd
die bepalinge van paragrafe (c) en (d) van subartikel
(3) en subartikel (6)]** is *mutatis mutandis* op die
45 registrasie van werkgewersorganisasies van toepas-
sing.”.

6. (1) Artikel 4A van die Hoofwet word hierby deur die
volgende artikel vervang:Vervanging van
artikel 4A van
Wet 28 van 1956,
soos ingevoeg deur
artikel 4 van
Wet 94 van 1979.

- 50 „Vakverenig- 4A. (1) Enige vakvereniging in artikel 4 (1) (a)
ings wat nie
aansoek om
registrasie
doen nie. bedoel wat nie binne drie maande na die datum
waarvan hy ingevolge genoemde artikel aansoek om
registrasie kragtens artikel 4 kan doen, sodanige
aansoek doen nie, moet by verstryking van
genoemde drie maande 'n afskrif van sy konstitusie
aan die registrateur voorlê en hom voorsien van die
55 vakvereniging se hoofkantooradres en die name van
sy ampsdraers en beamptes.
(2) Enige vakvereniging wat die bepalinge van
subartikel (1) oortree, is aan 'n misdryf skuldig.”.

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(2) Any registration under section 4A of the principal Act in force immediately prior to the commencement of this section shall be dealt with as if that section had not been substituted by this section.

Repeal of
section 4B of
Act 28 of 1956,
as inserted by
section 4 of
Act 94 of 1979.

7. Section 4B of the principal Act is hereby repealed.

5

Repeal of
section 6 of
Act 28 of 1956.

8. Section 6 of the principal Act is hereby repealed.

Amendment of
section 7 of
Act 28 of 1956,
as amended by
section 2 of
Act 41 of 1959
and section 5 of
Act 94 of 1979.

9. Section 7 of the principal Act is hereby amended—

- (a) by the deletion of subsection (2);
- (b) by the substitution for subsection (5) of the following subsection: 10

“(5) The provisions of **[subsection (2)]** section 4 (3) (a) and (b) and (4) shall *mutatis mutandis* apply in respect of any variation which it is proposed to make in terms of this section the effect of which would be to increase the area or widen the interests of the trade union or employers’ organization, and **[For]** for the purposes of the application of the provisions of section 4 (4), if the registrar acts of his own motion, the date upon which he decides so to act shall be deemed to be the date on which the application was lodged within 20 the meaning of that subsection.”; and

- (c) by the deletion of subsection (6).

Amendment of
section 8 of
Act 28 of 1956,
as amended by
section 3 of
Act 41 of 1959
and section 6 of
Act 94 of 1979.

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

- (a) by the deletion of subsection (3);
- (b) by the substitution in subsection (4) for the words 25 preceding subparagraph (i) of paragraph (a) of the following words:

“In addition to the matters referred to in subsections (1) and (2) **[and (3)]** and subject to the provisions of this section, the constitution of a 30 registered trade union or employers’ organization may provide for any one or more of the following matters—”;

- (c) by the substitution for paragraph (d) of subsection (6) of the following paragraph: 35

“(d) no such union or organization shall grant financial or other assistance to or incur expenditure or carry on any activities or influence or endeavour to influence its members with the object of assisting any political party or any candidate for 40 election to any office or other position in a political party or to any legislative body established by any law;”;

- (d) by the addition of the following subsection:

“(8) The provisions of subsections (5), (6) and (7) 45

shall as from the date of commencement of this subsection *mutatis mutandis* apply to any trade union and employers’ organization which is not registered or deemed to be registered under this Act, and in such application the reference in subsection (6) (c)— 50

- (a) to the commencement of this Act shall be construed as a reference to the commencement of this subsection; and

- (b) to a period exceeding six months from the date of commencement of this Act shall be construed as a 55 reference to a period exceeding one month from the date of commencement of this subsection.”.

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(2) Met 'n registrasie kragtens artikel 4A van die Hoofwet wat onmiddellik voor die inwerkingtreding van hierdie artikel van krag is, word gehandel asof daardie artikel nie deur hierdie artikel vervang is nie.

5 7. Artikel 4B van die Hoofwet word hierby herroep.

Herroeping van artikel 4B van Wet 28 van 1956, soos ingevoeg deur artikel 4 van Wet 94 van 1979.

8. Artikel 6 van die Hoofwet word hierby herroep.

Herroeping van artikel 6 van Wet 28 van 1956.

9. Artikel 7 van die Hoofwet word hierby gewysig—

Wysiging van artikel 7 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 41 van 1959 en artikel 5 van Wet 94 van 1979.

(a) deur subartikel (2) te skrap;

10 (b) deur subartikel (5) deur die volgende subartikel te vervang:

„(5) Die bepalings van **[subartikel (2)]** artikel 4 (3) (a) en (b) en (4) is *mutatis mutandis* van toepassing ten opsigte van enige verandering voorgestel om kragtens hierdie artikel aangebring te word, waarvan die uitwerking sal wees om die gebied of die belange van die vakvereniging of werkgewersorganisasie te vergroot of uit te brei, en [Vir] vir die doeleindes van die toepassing van artikel 4 (4), indien die registrateur uit eie beweging handel, word die datum waarop die registrateur besluit om aldus te handel, geag die datum te wees waarop die aansoek binne die bedoeling van daardie subartikel ingedien is.”; en

(c) deur subartikel (6) te skrap.

10. Artikel 8 van die Hoofwet word hierby gewysig—

Wysiging van artikel 8 van Wet 28 van 1956, soos gewysig deur artikel 3 van Wet 41 van 1959 en artikel 6 van Wet 94 van 1979.

25 (a) deur subartikel (3) te skrap;

(b) deur in subartikel (4) die woorde wat subparagraaf (i) van paragraaf (a) voorafgaan deur die volgende woorde te vervang:

„Benewens die in subartikels (1) en (2) **[en (3)]** bedoelde aangeleenthede en onderworpe aan die bepalings van hierdie artikel, kan die konstitusie van 'n geregistreerde vakvereniging of werkgewersorganisasie vir enige een of meer van die volgende aangeleenthede voorsiening maak—”;

35 (c) deur paragraaf (d) van subartikel (6) deur die volgende paragraaf te vervang:

„(d) mag geen sodanige vereniging of organisasie geldelike of ander steun verleen of enige uitgawes aangaan of enige bedrywighede voortsit of sy lede beïnvloed of probeer beïnvloed met die doel om hulp te verleen aan enige politieke party of enige kandidaat vir verkiesing tot enige amp of ander betrekking in 'n politieke party of tot enige wetgewende liggaam deur die een of ander wet ingestel nie;”; en

45 (d) deur die volgende subartikel by te voeg:

„(8) Die bepalings van subartikels (5), (6) en (7) is vanaf die datum van inwerkingtreding van hierdie subartikel *mutatis mutandis* van toepassing op enige vakvereniging en werkgewersorganisasie wat nie kragtens hierdie Wet geregistreer is of geag word aldus geregistreer te wees nie, en by daardie toepassing word die verwysing in subartikel (6) (c)—

50 (a) na die inwerkingtreding van hierdie Wet uitgelê as 'n verwysing na die inwerkingtreding van hierdie subartikel; en

55 (b) na 'n tydperk van meer as ses maande vanaf die datum van inwerkingtreding van hierdie Wet uitgelê as 'n verwysing na 'n tydperk van meer as een maand vanaf die datum van inwerkingtreding van hierdie subartikel.”.

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Amendment of
section 9 of
Act 28 of 1956.

11. Section 9 of the principal Act is hereby amended by the addition of the following subsection:

"(6) A trade union or an employers' organization which is not registered or deemed to be registered under this Act shall notify the registrar of any alteration made to its constitution within 30 days after it has been made." 5

Amendment of
section 11 of
Act 28 of 1956,
as amended by
section 7 of
Act 94 of 1979.

12. Section 11 of the principal Act is hereby amended—

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

"(1) The secretary of every registered trade union or 10 employers' organization shall retain—

(a) for a period of three years reckoned from the latest date to which they relate—

(i) all books of account, statements of income and expenditure, balance sheets and audi- 15 tor's reports;

(ii) all registers of members and records of moneys (if any) paid by each member; and

(iii) all minutes of meetings,
or in lieu thereof a microfilm or other microform 20 reproduction thereof; and

(b) all substantiating vouchers, correspondence and other documents relating to the affairs of the union or organization or in lieu thereof a micro- 25 film or other microform reproduction thereof for a period of three years from the date of origin of each such document.";

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

"(a) not later than the last day of March in each year 30 forward to the registrar in the prescribed form, a statement, certified by the chairman and the secretary of the union or organization concerned to be in accordance with its records, showing as at the thirty-first day of December of the previous 35 year [and in the case of a trade union in respect of each population group separately] the total number of members, the number of members who are not in good standing according to the register of members and such other details as may be 40 prescribed;";

(c) by the substitution for subsection (4) of the following subsection:

"(4) (a) The head office of every registered trade union or employers' organization shall be situated 45 in the Republic, exclusive of any territory which is a self-governing territory within the Republic in terms of any law.

(b) Whenever any change in the address of the head office of a registered trade union or employers' 50 organization takes place, the secretary of the union or organization concerned shall notify the new address to the registrar within 30 days after the change took place." and

(d) by the addition of the following subsection: 55

"(6) The provisions of this section shall as from the date of commencement of this subsection *mutatis mutandis* apply to any trade union and employers' organization which is not registered or deemed to be 60 registered under this Act."

Amendment of
section 12 of
Act 28 of 1956.

13. Section 12 of the principal Act is hereby amended—

(a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

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11. Artikel 9 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

Wysiging van
artikel 9 van
Wet 28 van 1956.

- 5 „(6) 'n Vakvereniging of 'n werkgewersorganisasie wat nie kragtens hierdie Wet geregistreer is of geag word aldus geregistreer te wees nie moet die registrateur van enige verandering van sy konstitusie in kennis stel binne 30 dae nadat dit aangebring is.”

12. Artikel 11 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 11 van
Wet 28 van 1956,
soos gewysig deur
artikel 7 van
Wet 94 van 1979.

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

- 15 „(1) Die sekretaris van elke geregistreerde vakvereniging of werkgewersorganisasie moet—
(a) vir 'n tydperk van drie jaar bereken vanaf die jongste datum waarop hulle betrekking het—
15 (i) alle rekeningboeke, state van inkomste en uitgawes, balansstate en ouditeursverslae;
(ii) alle lederegisters en aantekeninge van gelde (indien enige) deur elke lid betaal; en
20 (iii) alle notule van vergaderings,
of, in die plek daarvan, 'n mikrofilm- of ander mikroformreproduksie daarvan; en

- (b) alle stawende bewysstukke, korrespondensie en ander stukke wat betrekking het op die sake van die vereniging of organisasie, of, in die plek daarvan, 'n mikrofilm- of ander mikroformreproduksie daarvan, vir 'n tydperk van drie jaar vanaf die datum van ontstaan van elke sodanige stuk, behou.”;

- 30 (b) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

- 35 „(a) nie later nie as die laaste dag van Maart van elke jaar aan die registrateur in die voorgeskrewe vorm 'n staat, deur die voorsitter en sekretaris van die betrokke vereniging of organisasie gesertifiseer as synde in ooreenstemming met sy stukke, stuur wat op die een-en-dertigste dag van Desember van die vorige jaar **[en in die geval van 'n vakvereniging, ten opsigte van elke bevolkingsgroep afsonderlik]** die totale getal lede, die getal lede wat volgens die lederegister nie volwaardig is nie, en die ander besonderhede wat voorgeskryf word, aantoon.”;

- (c) deur subartikel (4) deur die volgende subartikel te vervang:

- 45 „(4) (a) Die hoofkantoor van elke geregistreerde vakvereniging of werkgewersorganisasie moet geleë wees in die Republiek, met uitsluiting van 'n gebied wat ingevolge 'n wet 'n selfregerende gebied binne die Republiek is.

- 50 (b) Wanneer enige verandering van adres van die hoofkantoor van 'n geregistreerde vakvereniging of werkgewersorganisasie plaasvind, moet die sekretaris van die betrokke vereniging of organisasie die registrateur binne 30 dae na die verandering plaasgevind het van die nuwe adres in kennis stel.”; en

- (d) deur die volgende subartikel by te voeg:

- 60 „(6) Die bepalinge van hierdie artikel is vanaf die datum van inwerkingtreding van hierdie subartikel *mutatis mutandis* van toepassing op enige vakvereniging en werkgewersorganisasie wat nie kragtens hierdie Wet geregistreer is of geag word aldus geregistreer te wees nie.”

13. Artikel 12 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 12 van
Wet 28 van 1956.

- 65 (a) deur subartikels (1), (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

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“(1) If at any time the registrar has reason to believe that any provision of the constitution of a registered trade union, **[or]** employers’ organization or federation has not been observed, and that as a result of such non-observance the union, **[or]** organization or federation is unable to function in accordance with its constitution due, either wholly or in part, to—

- (a) the non-existence of its executive body;
- (b) the failure to fill a vacancy in accordance with the requirements of the constitution; or
- (c) any other circumstances arising from the non-observance of the requirements of the constitution,

the registrar may, if in his opinion a substantial number of the members desire that such union, **[or]** organization or federation should continue to function, issue such instructions as he may deem necessary in order to place the union, **[or]** organization or federation in the same position, as nearly as may be, as if the non-observance of the requirements of the constitution had not taken place, and [In] in issuing any such instructions the registrar shall prescribe a procedure which as nearly as practicable conforms to that prescribed in the constitution of the union, **[or]** organization or federation, and **[The] the** registrar may act under this subsection whether or not the constitution of the union, **[or]** organization or federation concerned contains provisions which confer similar powers on him.

(2) Any union, **[or]** organization or federation to which the registrar has, in terms of subsection (1), issued an instruction, shall, on giving effect to that instruction, be deemed for the purposes of this Act and its constitution, to have complied with the provisions of its constitution in regard to the matter to which such instruction relates.

(3) If at any time the registrar has reason to believe that—

- (a) any material irregularity has occurred in connection with any election held in terms of the constitution of a registered trade union, **[or]** employers’ organization, federation or industrial council; **[or]**
- (b) any registered trade union, employers’ organization or federation or any official, office-bearer, committee or other body of [a] such [registered trade] union, [or employers’] organization or federation has failed to observe any provision of the constitution of **[such] the** union, **[or]** organization or federation, or has acted unlawfully, or has acted in a manner which is unreasonable in relation to the members and which has caused serious dissatisfaction amongst a substantial number of the members in good standing; or
- (c) any industrial council or any official, office-bearer, committee or other body of an industrial council has failed to observe any provision of the constitution of the council, or has acted unlawfully,

he may, without prejudice to any legal remedy any interested person may have, conduct an enquiry into such matter.”;

- (b) by the substitution for subsections (11) and (12) of the following subsections, respectively:

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- „(1) As die registrateur te eniger tyd rede het om te vermoed dat 'n bepaling van die konstitusie van 'n geregistreerde vakvereniging, **[of]** werkgewersorganisasie of federasie nie nagekom is nie, en dat as gevolg van sodanige nie-nakoming die vereniging, **[of]** organisasie of federasie nie in staat is om ooreenkomstig sy konstitusie te funksioneer nie, te wyte, òf geheel en al òf gedeeltelik, aan—
- (a) die nie-bestaan van sy uitvoerende liggaam;
- (b) die versuim om 'n vakature ooreenkomstig die voorskrifte van die konstitusie te vul; of
- (c) enige ander omstandigheid wat uit die nie-nakoming van die voorskrifte van die konstitusie voortspruit,
- kan die registrateur, as na sy mening 'n aansienlike aantal van die lede verlang dat sodanige vereniging, **[of]** organisasie of federasie moet bly funksioneer, die opdragte uitreik wat hy nodig ag ten einde die vereniging, **[of]** organisasie of federasie so na moontlik in dieselfde posisie te plaas asof die nie-nakoming van die voorskrifte van die konstitusie nie plaasgevind het nie, en **[By]** by die uitreiking van enige sodanige opdragte moet die registrateur 'n prosedure voorskryf wat so na doenlik met die in die konstitusie van die vereniging, **[of]** organisasie of federasie voorgeskrewe prosedure ooreenkom, en **[Die]** die registrateur kan kragtens hierdie subartikel optree, of die konstitusie van die betrokke vereniging, **[of]** organisasie of federasie bepalings bevat wat soortgelyke bevoegdhede aan hom verleen al dan nie.
- (2) Enige vereniging, **[of]** organisasie of federasie waaraan die registrateur 'n opdrag ingevolge subartikel (1) uitgereik het, word, sodra hy daardie opdrag uitgevoer het, vir die doeleindes van hierdie Wet en sy konstitusie, geag die bepalings van sy konstitusie aangaande die aangeleentheid waarop sodanige opdrag betrekking het, na te gekom het.
- (3) As die registrateur te eniger tyd rede het om te vermoed dat—
- (a) 'n onreëlmatigheid van wesenlike belang in verband met 'n verkiesing gehou ingevolge die konstitusie van 'n geregistreerde vakvereniging, **[of]** werkgewersorganisasie, federasie of nywerheidsraad geskied het; **[of]**
- (b) enige geregistreerde vakvereniging, werkgewersorganisasie of federasie of 'n beampte, ampsdraer, komitee of ander liggaam van **[’n geregistreerde vakvereniging]** sodanige vereniging, **[of]** werkgewersorganisasie organisasie of federasie versuim het om 'n bepaling van die konstitusie van **[sodanige]** die vereniging, **[of]** organisasie of federasie na te kom, of onwettiglik opgetree het, of op 'n wyse gehandel het wat onredelik teenoor die lede is en wat ernstige ontevredenheid onder 'n aansienlike aantal van die volwaardige lede veroorsaak het; of
- (c) enige nywerheidsraad of enige beampte, ampsdraer, komitee of ander liggaam van 'n nywerheidsraad versuim het om 'n bepaling van die konstitusie van die raad na te kom, of onwettiglik opgetree het,
- kan hy, sonder afbreuk te doen aan enige regs middel wat enige belanghebbende persoon mag hê, 'n ondersoek aangaande daardie aangeleentheid instel.”;
- (b) deur subartikels (11) en (12) deur onderskeidelik die volgende subartikels te vervang:

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“(11) If after an enquiry has been conducted under this section the registrar is satisfied that—

- (a) any material irregularity has occurred in connection with any election held in terms of the constitution of the union, **[or]** organization, federation or industrial council concerned; **[or]** 5
- (b) the union, organization or federation concerned or any **[elected]** official, office-bearer, committee or other body of **[the]** such union, **[or]** organization or federation **[concerned]** has failed to 10 observe any provision of the constitution, or has acted unlawfully, or has acted in a manner which is unreasonable in relation to the members and which has caused serious dissatisfaction amongst a substantial number of the members in good 15 standing; or
- (c) the industrial council concerned or the official, office-bearer, committee or other body concerned of an industrial council has failed to observe any provision of the constitution of the council con- 20 cerned, or has acted unlawfully,

he may, in his report to the Minister in terms of subsection (10), either as his only recommendation or in addition to any other recommendation he may deem it expedient to make, recommend the holding of a 25 further election or elections in respect of the post, office, committee or body concerned at such times and places and under such conditions as he may consider necessary (including conditions relating to the supervision of any election and all matters connected with or 30 incidental to such election).

(12) On the receipt of a report in terms of subsection (10) the Minister may cause the report or any portion thereof or such extracts therefrom as he deems fit, to be submitted to the **[executive body of the]** union, **[or]** 35 organization, federation or industrial council concerned for the purpose of inviting **[such body]** it to submit to him in writing within a period fixed by him, not being less than 30 days, any representations **[that body]** it desires to make as to the advisability of giving 40 effect to any recommendations contained in the report.”; and

- (c) by the substitution for subsection (14) of the following subsection:

“(14) Any further election held in accordance with 45 any direction given in terms of subsection (13) shall be deemed to be an election in terms of the constitution of the union, **[or]** organization, federation or industrial council concerned, and as from the date on which the result of the further election is known, the election 50 of the official, office-bearer, committee or other body whose election, failure or action formed the subject of the report shall be void and of no effect.”.

Amendment of
section 13 of
Act 28 of 1956,
as amended by
section 2 of
Act 18 of 1961.

14. Section 13 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (c) of subsection (3) 55 of the following paragraph:

“(c) A liquidator who is in the full-time employment of the State shall pay any fees received by him into the **[Consolidated Revenue Fund]** State Revenue Fund; Provided that a liquidator who has 60 so paid his fees into the **[Consolidated Revenue Fund]** State Revenue Fund may on the recom-

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„(11) Indien die registrateur nadat 'n ondersoek kragtens hierdie artikel ingestel is, oortuig is dat—

(a) 'n onreëlmatigheid van wesenlike belang in verband met 'n verkiesing gehou ingevolge die konstitusie van die betrokke vereniging, **[of]** organisasie, federasie of nywerheidsraad geskied het; **[of]**

(b) die betrokke vereniging, organisasie of federasie of 'n **[verkose]** beampte, ampsdraer, komitee of ander liggaam van die **[betrokke]** vereniging, **[of]** organisasie of federasie versuim het om 'n bepaling van die konstitusie na te kom, of onwettiglik opgetree het, of op 'n wyse gehandel het wat onredelik teenoor die lede is en wat ernstige ontevredenheid onder 'n aansienlike aantal van die volwaardige lede veroorsaak het; of

(c) die betrokke nywerheidsraad of die betrokke beampte, ampsdraer, komitee of ander liggaam van 'n nywerheidsraad versuim het om enige bepaling van die konstitusie van die betrokke raad na te kom, of onwettiglik opgetree het,

kan hy, in sy verslag aan die Minister ingevolge subartikel (10), òf as sy enigste aanbeveling òf benewens enige ander aanbeveling wat hy raadsaam ag om te maak, die hou van 'n verdere verkiesing of verkiesings ten opsigte van die betrokke pos, amp, komitee of liggaam op sodanige tye en plekke en onder die voorwaardes wat hy nodig ag (met inbegrip van voorwaardes met betrekking tot toesig oor enige verkiesing en alle aangeleenthede wat met sodanige verkiesing in verband staan of daarmee saamhang), aanbeveel.

(12) By ontvangs van 'n verslag ingevolge subartikel (10), kan die Minister die verslag of enige gedeelte daarvan of die uittreksels daaruit wat hy goedvind, aan die **[uitvoerende liggaam van die]** betrokke vereniging, **[of]** organisasie, federasie of nywerheidsraad laat stuur vir die doel om **[sodanige liggaam]** daardie vereniging, organisasie, federasie of nywerheidsraad uit te nooi om binne 'n tydperk, wat nie minder as 30 dae moet wees nie, deur hom vasgestel, enige vertoë wat **[daardie liggaam]** daardie vereniging, organisasie, federasie of nywerheidsraad verlang om te maak aangaande die raadsaamheid om uitvoering te gee aan enige aanbevelings in die verslag vervat skriftelik aan hom voor te lê.”; en

(c) deur subartikel (14) deur die volgende subartikel te vervang:

„(14) Enige verdere verkiesing gehou ooreenkomstig enige lasgewing ingevolge subartikel (13) gegee, word geag 'n verkiesing ingevolge die konstitusie van die betrokke vereniging, **[of]** organisasie, federasie of nywerheidsraad te wees, en vanaf die datum waarop die uitslag van die verdere verkiesing bekend is, is die verkiesing van die beampte, ampsdraer, komitee of ander liggaam wie se verkiesing, versuim of handeling die onderwerp van die verslag uitgemaak het, nietig en van geen krag nie.”.

14. Artikel 13 van die Hoofwet word hierby gewysig—

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

„(c) 'n Likwidateur wat in die voltydse diens van die Staat is, moet enige gelde wat hy ontvang in die **[Gekonsolideerde Inkomstefonds]** Staatsinkomstefonds stort: Met dien verstande dat aan 'n likwidateur wat aldus sy gelde in die **[Gekonsolideerde Inkomstefonds]** Staatsinkomstefonds gestort het, op aanbeveling van die

Wysiging van artikel 13 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 18 van 1961.

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mendation of the **[Public Service Commission]** Commission for Administration be paid from moneys appropriated by Parliament an amount which the said Commission considers reasonable, but which shall not exceed the amount paid into the said Fund.”;

- (b) by the substitution in subsection (4) for the words “Consolidated Revenue Fund” of the words “State Revenue Fund”; and
- (c) by the substitution for subsection (5) of the following subsection:

“(5) The registrar may direct that any moneys referred to in subsection (4) be deposited with the Public Debt Commissioners for temporary investment pending the disposal thereof in terms of that subsection, and the moneys so deposited shall be regarded as ‘deposits’ in terms of **[section nine of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911)]** section 5 of the Public Debt Commissioners Act, 1969 (Act No. 2 of 1969).”.

Amendment of
section 14 of
Act 28 of 1956.

15. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Whenever the registrar has reason to believe that a registered trade union or employers’ organization has been wound up or is not functioning as a trade union or employers’ organization, **[or that a trade union has not complied with the requirements of subparagraph (i) of paragraph (a) of subsection (3) of section eight, or whenever the registrar proposes in terms of subsection (2) of section seven to vary the scope of registration of a trade union which is registered for white persons or coloured persons only by the exclusion therefrom of white persons or coloured persons, as the case may be, in the whole of the undertaking, industry, trade or occupation and area in respect of which such union is registered]** he shall publish in the *Gazette* and send to the union or organization by registered post a notice that at the expiry of the period mentioned in that notice, not being less than 30 days from the date of that notice, the registration of the trade union or employers’ organization mentioned therein will, unless cause be shown to the contrary, be cancelled.”.

Substitution of
section 15 of
Act 28 of 1956.

16. The following section is hereby substituted for section 15 of the principal Act:

“Offences by trade unions and employers’ organizations and their officials. 15. Any trade union or employers’ organization which, or any person who, without reasonable excuse, contravenes or fails to comply with any provision of, or requirement, request or demand of the registrar under, the proviso to section 2 (4), section 4 (1), **[paragraph (h) of subsection (1) of section six]** section 7 (3), **[subparagraph (ii) or (iii) of paragraph (a) of subsection (3) or subsection (5) or (6) of section eight]** section 8 (5), (6) or (8), section 10, section 11 or section 14 (5), shall be guilty of an offence.”.

Amendment of
section 16 of
Act 28 of 1956,
as amended by
section 3 of
Act 18 of 1961.

17. Section 16 of the principal Act is hereby amended—
(a) by the substitution for subsection (1) of the following subsection:

“(1) Any person (hereinafter referred to as the appellant) who feels aggrieved by any requirement, request, decision or order of, or any cancellation of the registration of a trade union, employers’ organization or industrial council by, the registrar under section 2,

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- 5 **[Staatsdienskommissie]** Kommissie vir Administrasie, uit gelde wat deur die Parlement beskikbaar gestel word, 'n bedrag betaal kan word wat bedoelde Kommissie as redelik ag maar wat nie die bedrag wat in bedoelde Fonds gestort is te bowe mag gaan nie.”;
- (b) deur in subartikel (4) die woorde „Gekonsolideerde Inkomstefonds” deur die woord „Staatsinkomstefonds” te vervang; en
- 10 (c) deur subartikel (5) deur die volgende subartikel te vervang:
- „(5) Die registrateur kan gelas dat enige in subartikel (4) bedoelde gelde by die **[Openbare Skuld-kommissarisie]** Staatskuldkommissarisie gestort word
- 15 vir tydelike belegging hangende die beskikking daaroor ingevolge hierdie subartikel, en die gelde aldus gestort, word beskou as „deposito's” ingevolge **[artikel nege van die „Openbare Schuld Kommissarissen Wet, 1911” (Wet No. 18 van 1911)]** artikel 5 van die
- 20 Wet op die Staatskuldkommissarisie, 1969 (Wet No. 2 van 1969).”.

15. Artikel 14 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van
artikel 14 van
Wet 28 van 1956.

- 25 „(1) Wanneer die registrateur rede het om te vermoed dat 'n geregistreerde vakvereniging of werkgewersorganisasie gelikwider is of nie as 'n vakvereniging of werkgewersorganisasie funksioneer nie, **[of dat 'n geregistreerde vakvereniging nie aan die voorskrifte van subparagraaf (i) van paragraaf (a) van subartikel (3) van artikel agt voldoen het nie, of wanneer die registrateur voornemens is om ingevolge subartikel (2) van artikel sewe die bestek van registrasie te verander van 'n vakvereniging wat geregistreer is vir blankes of gekleurdes alleen deur die uitsluiting daaruit van blankes of gekleurdes, na gelang van die geval,**
- 30 **in die gehele onderneming, nywerheid, bedryf of beroep en gebied ten opsigte waarvan daardie vereniging geregistreer is]** moet hy 'n kennisgewing in die *Staatskoerant* publiseer en per geregistreerde pos aan die vereniging of organisasie stuur dat by verstryking van die tydperk in daardie kennisgewing vermeld, wat nie minder as 30 dae vanaf die datum van daardie kennisgewing moet wees nie, die registrasie van die vakvereniging of werkgewersorganisasie daarin vermeld, tensy redes daarteen aangevoer word, ingetrek sal word.”.

45 16. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van
artikel 15 van
Wet 28 van 1956.

- „Oortredings 15. 'n Vakvereniging of werkgewersorganisasie of deur vak- enigiemand wat, sonder redelike verontskuldiging, verenigings en werk- enige bepaling van, of enige vereiste, versoek of eis 50 gewersorganisasies en hul van die registrateur kragtens die voorbehoudsbepaling by artikel 2 (4), artikel 4 (1), **[paragraaf (h) van subartikel (1) van artikel ses]** artikel 7 (3), **[subparagraaf (ii) of (iii) van paragraaf (a) van subartikel (3) of subartikel (5) of (6) van artikel agt]** artikel 8 (5), (6) of (8), artikel 10, artikel 11 of 55 artikel 14 (5) oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.”.

17. Artikel 16 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 16 van
Wet 28 van 1956,
soos gewysig deur
artikel 3 van
Wet 18 van 1961.

- 60 (a) deur subartikel (1) deur die volgende subartikel te vervang:
- „(1) Enigiemand (hieronder die appellant genoem) wat veronreg voel deur enige vereiste, versoek, beslissing of bevel van, of enige intrekking van die registrasie van 'n vakvereniging, werkgewersorganisasie of 65 nywerheidsraad deur die registrateur kragtens artikel

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4, **[six]** 7, 8, 9, 14, 19, 21, 22 or 34 may within 30 days of the date of such requirement, request, decision or order or of the relevant notice under section 14 (2), apply to the registrar for a statement of his reasons therefor, and may appeal 5

[(a) in respect of any matter referred to in section six, to the industrial court; or

(b) in respect of any other matter] to the Minister against such requirement, request, decision, order or cancellation within 60 days of the date on which the 10 registrar furnishes such reasons, or if he has not applied for a statement of the registrar's reasons, within 60 days of the date of the said requirement, request, decision or order or of the publication of the notice referred to in section 14 (2): Provided that 15 where a period of less than 60 days has been prescribed or fixed by the registrar under this Act for the carrying out of any such requirement or request, such person shall advise the registrar in writing within such shorter period of his intention to appeal." 20

(b) by the substitution for paragraphs (a), (b) and (d) of subsection (2) of the following paragraphs, respectively:

"(a) An appeal under subsection (1) shall be lodged in the prescribed form and manner and shall be 25 accompanied by such written representations as the appellant may wish to make in regard thereto, and **[Thereupon]** thereupon and in any case not later than 30 days thereafter the registrar shall forward to the Minister **[or the industrial court, as 30 the case may be]** a statement of his reasons for the requirement, request, decision, order or cancellation against which the appeal is made, together with such written representations as he may wish to make in regard thereto. 35

(b) Any other party to the proceedings which gave rise to the appeal who in the opinion of the Minister **[or the industrial court, as the case may be]** is affected by the appeal, shall be afforded an opportunity to submit written representations in 40 regard thereto, to the Minister **[or the industrial court, as the case may be]** within such period as the Minister **[or the industrial court]** may fix.

(d) The Minister **[or the industrial court, as the case may be]** may decide the appeal on the papers 45 referred to in paragraphs (a) and (b) without hearing any party to the appeal personally **[but the industrial court may of its own motion and shall if so requested by the appellant, the registrar or any other party who in the opinion of the 50 industrial court is affected by the appeal, arrange that the matter be argued before it. The hearing by the industrial court of the argument may be adjourned from time to time to any time and date that may seem convenient]."** 55

(c) by the substitution for paragraphs (a), (b) and (c) of subsection (4) of the following paragraphs, respectively:

"(a) The Minister **[or the industrial court, as the case may be]** may confirm or set aside the registrar's 60 requirement, request, decision, order or cancellation.

(b) When setting aside a requirement or request by the registrar the Minister **[or the industrial court, as the case may be]** may substitute such require- 65 ment or request as he **[or it]** may consider necessary, and the requirement or request of the

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2, 4, [ses] 7, 8, 9, 14, 19, 21, 22 of 34, kan binne 30 dae vanaf die datum van die vereiste, versoek, beslissing of bevel of van die betrokke kennisgewing kragtens artikel 14 (2), by die registrateur aansoek doen om 'n uiteensetting van sy redes daarvoor, en kan appelleer

5 **[(a) ten opsigte van 'n in artikel ses bedoelde aangeleentheid, na die nywerheidshof; of**

10 **(b) ten opsigte van enige ander aangeleentheid]** na die Minister.

teen sodanige vereiste, versoek, beslissing, bevel of intrekking binne 60 dae vanaf die datum waarop die registrateur sodanige redes verstrek, of as hy nie om 'n uiteensetting van die registrateur se redes aansoek gedoen het nie, binne 60 dae vanaf die datum van bedoelde vereiste, versoek, beslissing of bevel of van die publikasie van die in artikel 14 (2) bedoelde kennisgewing: Met dien verstande dat waar 'n tydperk van minder as 60 dae voorgeskryf of deur die registrateur kragtens hierdie Wet vasgestel is vir die uitvoering van so 'n vereiste of versoek, sodanige persoon die registrateur binne daardie korter tydperk skriftelik moet laat weet van sy voorneme om te appelleer.”;

25 (b) deur paragrawe (a), (b) en (d) van subartikel (2) deur onderskeidelik die volgende paragrawe te vervang:

„(a) 'n Appèl kragtens subartikel (1) moet in die vorm en op die wyse voorgeskryf, ingedien word, en moet van die skriftelike vertoë wat die appellant verlang om in verband daarmee te maak, vergesel wees, en **[Daarna]** daarna, en in elk geval nie later as 30 dae daarna nie, moet die registrateur 'n uiteensetting van sy redes vir die vereiste, versoek, beslissing, bevel of intrekking waarteen geappelleer word, saam met die skriftelike vertoë wat hy verlang om in verband daarmee te maak, aan die Minister **[of die nywerheidshof, na gelang van die geval]** stuur.

40 (b) Enige ander party by die verrigtinge waaruit die appèl ontstaan het wat na die mening van die Minister **[of die nywerheidshof, na gelang van die geval]** deur die appèl geraak word, word 'n geleentheid gegee om skriftelike vertoë daaromtrent voor te lê aan die Minister **[of die nywerheidshof, na gelang van die geval]** binne die tydperk wat die Minister **[of die nywerheidshof]** vasstel.

45 (d) Die Minister **[of die nywerheidshof, na gelang van die geval]** kan die appèl op die in paragrawe (a) en (b) bedoelde stukke beslis sonder om enige party by die appèl persoonlik aan te hoor **[maar die nywerheidshof kan uit eie beweging en moet, indien aldus versoek deur die appellant, die registrateur of enige ander party wat na die mening van die nywerheidshof deur die appèl geraak word, reël dat die aangeleentheid voor hom beredeneer word. Die aanhoor deur die nywerheidshof van die beredenering kan van tyd tot tyd tot enige tyd en datum wat gerieflik voorkom, verdaag word].”;**

60 (c) deur paragrawe (a), (b) en (c) van subartikel (4) deur onderskeidelik die volgende paragrawe te vervang:

„(a) Die Minister **[of die nywerheidshof, na gelang van die geval]** kan die registrateur se vereiste, versoek, beslissing, bevel of intrekking bevestig of tersyde stel.

65 (b) Wanneer hy 'n vereiste of versoek van die registrateur tersyde stel, kan die Minister **[of die nywerheidshof, na gelang van die geval]** die vereiste of versoek in die plek daarvan stel wat hy nodig ag, en die vereiste of versoek van die

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Minister **[or the industrial court]** shall for the purposes of this Act be deemed to be a requirement or request of the registrar.

- (c) When setting aside a decision or order of the registrar the Minister **[or the industrial court, as the case may be]** shall give such other decision or make such other order as in his **[or its]** opinion the registrar ought to have given or made, and the decision or order of the Minister **[or industrial court]** shall for the purposes of this Act be deemed to be the decision or order of the registrar.”; and
- (d) by the deletion of paragraph (e) of subsection (4).

Amendment of section 17 of Act 28 of 1956, as substituted by section 8 of Act 94 of 1979 and amended by section 5 of Act 95 of 1980.

18. Section 17 of the principal Act is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (b) of 15 the following paragraph:

“(bA) The Minister or, if authorized thereto by the Minister, the president of the industrial court may, if he deems fit, from time to time appoint, on such conditions as the Minister may with the concurrence of the Minister of Finance determine and for such period as the Minister or said president may determine, any fit person as an additional member of the industrial court for a particular purpose connected with the performance of the functions of the industrial court.”;

- (b) by the insertion in subsection (1) after paragraph (cA) of the following paragraph:

“(cB) Whenever both the president and the deputy president of the industrial court are for any reason unable to act as president of that court, the Minister shall designate any other member of the court, if any, to act as that president, and if there is no other member of the court, the Minister shall appoint a person holding the qualification required in terms of paragraph (b) for appointment to the court, to act as president of the court during such inability of the president or the deputy president, and any person so designated or appointed is during such inability deemed for all purposes to be the president of the court.”;

- (c) by the addition to subsection (1) of the following paragraph:

“(e) (i) A member of the industrial court shall not perform any function of the industrial court referred to in subsection (11) (a), unless he has taken an oath or made an affirmation, which shall be subscribed by him, in the form set out below, namely—

‘I do hereby
(full name)
swear/solemnly and sincerely affirm and declare that I will in my capacity as member of the industrial court performing functions referred to in section 17 (11) (a) of the Labour Relations Act, 1956 (Act No. 28 of 1956), administer justice to all persons alike without fear, favour or prejudice, and, as the circumstances of any particular case may require, in accordance with the law and customs of the Republic of South Africa.’

(ii) Any such oath or affirmation shall be taken or made, in the case of the president of the industrial court, before the deputy president of the industrial court, and, in the case of the

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Minister **[of die nywerheidshof]** word by die toepassing van hierdie Wet geag 'n vereiste of versoek van die registrateur te wees.

- (c) Wanneer hy 'n beslissing of bevel van die registrateur tersyde stel, gee die Minister **[of die nywerheidshof, na gelang van die geval]** die ander beslissing of vaardig die ander bevel uit wat na sy mening die registrateur behoort te gegee of uit te gevaardig het, en die beslissing of bevel van die Minister **[of die nywerheidshof]** word by die toepassing van hierdie Wet geag die beslissing of bevel van die registrateur te wees.”; en
- (d) deur paragraaf (e) van subartikel (4) te skrap.

18. Artikel 17 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) die volgende paragraaf na paragraaf (b) in te voeg:

„(bA) Die Minister of, indien daartoe deur die Minister gemagtig, die president van die nywerheidshof kan, indien hy dit dienstig ag, van tyd tot tyd 'n geskikte persoon vir 'n bepaalde doel betrokke by die verrigting van die werksaamhede van die nywerheidshof, as bykomende lid van die nywerheidshof aanstel, op die voorwaardes wat die Minister met die instemming van die Minister van Finansies bepaal en vir die tydperk wat die Minister of genoemde president bepaal.”;

- (b) deur in subartikel (1) die volgende paragraaf na paragraaf (cA) in te voeg:

„(cB) Wanneer sowel die president as die adjunk-president van die nywerheidshof om een of ander rede nie in staat is om as president van daardie hof op te tree nie, moet die Minister 'n ander lid van die hof, as daar is, aanwys om as daardie president op te tree, en as daar geen ander lid van die hof is nie, moet die Minister 'n persoon wat die kwalifikasie besit wat ingevolge paragraaf (b) vir aanstelling in die hof vereis word, aanstel om gedurende bedoelde onvermoë van die president of die adjunk-president as president van die hof op te tree, en 'n persoon aldus aangewys of aangestel, word gedurende daardie onvermoë vir alle doeleindes geag die president van die hof te wees.”;

- (c) deur die volgende paragraaf by subartikel (1) te voeg:

„(e) (i) 'n Lid van die nywerheidshof verrig nie enige

werksaamheid van die nywerheidshof in subartikel (11) (a) bedoel nie tensy hy 'n eed of plegtige verklaring, wat deur hom onderteken moet word, afgelê het, in onderstaande vorm, te wete—

„Ek verklaar hierby onder (volle naam)

eed/plegtig en opreg dat ek in my hoedanigheid van lid van die nywerheidshof wat werksaamhede bedoel in artikel 17 (11) (a) van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), verrig, aan alle persone op gelyke voet reg sal laat geskied sonder vrees, begunstiging of vooroordeel, en, soos die omstandighede van 'n bepaalde geval vereis, ooreenkomstig die reg en gebruike van die Republiek van Suid-Afrika.”

- (ii) So 'n eed of plegtige verklaring moet afgelê word, in die geval van die president van die nywerheidshof, voor die adjunk-president van die nywerheidshof, en, in die geval van

Wysiging van artikel 17 van Wet 28 van 1956, soos vervang deur artikel 8 van Wet 94 van 1979 en gewysig deur artikel 5 van Wet 95 van 1980.

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- other members of the court, before the president of the industrial court.
- (iii) The deputy president or president of the industrial court, as the case may be, shall at the foot of such oath or affirmation endorse a statement of the fact that the oath was taken or affirmation was made before him and of the date on which it was so taken or made and append his signature thereto.”;
- (d) by the addition to subsection (2) of the following paragraph:
- “(c) The functions of the industrial court may be performed as provided in subsection (10), in Pretoria or at any place in the Republic elsewhere than in Pretoria.”;
- (e) by the substitution for subparagraph (i) of paragraph (a) of subsection (19) of the following subparagraph:
- “(i) Subject to the provisions of section 45 (5) and that section as applied by section 46 (5), the president of the industrial court, or any member thereof designated by the president to perform any function of the industrial court, or whenever more than one member has been so designated, the member designated by the president to act as chairman, may, if he deems it expedient to do so, and after consultation with the parties who in his opinion are principally concerned in any matter which is being considered by the industrial court, appoint such number of assessors to represent the interests of employers and employees, respectively, as he considers desirable to assist the industrial court in an advisory capacity in respect of the matter for which they are appointed.”; and
- (f) by the insertion after subsection (20) of the following subsection:
- “(20A) (a) Any person who, while the industrial court is performing its functions in terms of this Act, wilfully insults, disparages or belittles a member of the industrial court or wilfully interrupts the proceedings of the court or otherwise misbehaves himself in the place where the court is so functioning, shall be guilty of an offence, and the presiding member of the court may summarily impose upon such person a penalty prescribed in section 82 (1) (b).
- (b) In respect of any penalty imposed under paragraph (a) the provisions of section 108 (2) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), shall *mutatis mutandis* apply as if such penalty were a sentence imposed by a magistrate’s court.
- (c) Any person who—
- (i) anticipates the findings of the industrial court functioning as mentioned in paragraph (a), in a manner calculated to influence such findings; or
- (ii) wilfully impedes or obstructs any member of the industrial court in the performance of his functions in terms of this Act,
- shall be guilty of an offence.”.

Amendment of section 21 of Act 28 of 1956, as amended by section 5 of Act 41 of 1959 and section 9 of Act 94 of 1979.

19. Section 21 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The **[funds]** moneys of an industrial council and in any fund established as provided in section 24 (1) (r) or 48 (1) (d) surplus to its requirements and those of such fund for expenses shall not be invested otherwise than in—

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die ander lede van die hof, voor die president van die nywerheidshof.

- (iii) Die adjunk-president of president van die nywerheidshof, na gelang van die geval, moet onder aan die eed of plegtige verklaring 'n verklaring endosseer dat dit voor hom afgelê is, die datum van aflegging daarvan vermeld en dit onderteken.”;

- (d) deur die volgende paragraaf by subartikel (2) te voeg:

„(c) Die werksaamhede van die nywerheidshof kan soos in subartikel (10) bepaal, in Pretoria of op 'n plek in die Republiek elders as in Pretoria verrig word.”;

- (e) deur subparagraaf (i) van paragraaf (a) van subartikel (19) deur die volgende subparagraaf te vervang:

„(i) Behoudens die bepalings van artikel 45 (5) en daardie artikel soos toegepas deur artikel 46 (5), kan die president van die nywerheidshof, of 'n lid daarvan deur die president aangewys om 'n werksaamheid van die nywerheidshof te verrig, of wanneer meer as een lid aldus aangewys is, die lid deur die president aangewys om as voorsitter op te tree, as hy dit dienstig ag om dit te doen en na raadpleging met die partye wat na sy mening hoofsaaklik by enige aangeleentheid wat deur die nywerheidshof oorweeg word, betrokke is, die getal assessore om die belange van onderskeidelik werkgewers en werknemers te verteenwoordig wat hy wenslik ag, aanstel om die nywerheidshof in 'n raadgewende hoedanigheid behulpzaam te wees ten opsigte van die aangeleentheid waarvoor hulle aangestel word.”; en

- (f) deur die volgende subartikel na subartikel (20) in te voeg:

„(20A) (a) Iemand wat terwyl die nywerheidshof sy werksaamhede ingevolge hierdie Wet verrig, 'n lid van die nywerheidshof opsetlik beledig, neerhaal of verkleineer of die verrigtinge van die hof opsetlik onderbreek of hom op 'n ander wyse aan wangedrag skuldig maak in die plek waar die hof aldus optree, is aan 'n misdryf skuldig, en die lid van die hof wat voorsit, kan die betrokke persoon op staande voet 'n straf voorgeskryf in artikel 82 (1) (b) oplê.

- (b) Ten opsigte van 'n straf kragtens paragraaf (a) opgelê, is die bepalings van artikel 108 (2) van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), *mutatis mutandis* van toepassing asof bedoelde straf 'n vonnis is wat deur 'n landdroshof opgelê is.

- (c) Iemand wat—

(i) die bevindinge van die nywerheidshof wat optree soos in paragraaf (a) vermeld, vooruitloop op 'n wyse wat bereken is om dit te beïnvloed; of

(ii) 'n lid van die nywerheidshof by die verrigting van sy werksaamhede ingevolge hierdie Wet belemmer of dwarsboom, is aan 'n misdryf skuldig.”;

19. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Die **[fondse]** geld van 'n nywerheidsraad en in enige fonds ingestel soos bepaal in artikel 24 (1) (r) of 48 (1) (d) wat meer is as die raad se benodigdhede of dié van sodanige fonds vir uitgawes, moet nie belê word nie behalwe in—

Wysiging van artikel 21 van Wet 28 van 1956, soos gewysig deur artikel 5 van Wet 41 van 1959 en artikel 9 van Wet 94 van 1979.

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- (i) **[Union or local government stock]** Internal registered stock within the meaning of section 21 of the Exchange and Audit Act, 1975 (Act No. 66 of 1975);
- (ii) **[Union Loan]** National Savings Certificates;
- (iii) Post Office Savings accounts or certificates;
- (iv) Savings accounts, permanent shares or fixed deposits in building societies or banks; or in any other manner approved by the registrar.”

Substitution of section 21A of Act 28 of 1956, as inserted by section 10 of Act 94 of 1979.

20. The following section is hereby substituted for section 21A of the principal Act: 10

“Admission of parties to industrial councils.

21A. After the commencement of this section no additional employers (if the registrar approves) or registered employers’ organizations or registered trade unions shall be admitted as parties to an industrial council unless all the parties to the council have agreed thereto in writing, and the industrial council shall within seven days of the date on which it arrived at a decision on an application for admission advise the employer or registered employers’ organization or registered trade union of its decision in writing: Provided that any employer or registered employers’ organization or registered trade union who or which feels aggrieved by the refusal of his or its application for admission as a party to the industrial council, may within 30 days of the date on which the industrial council decided the application, appeal to the industrial court: Provided further that if the industrial council has not within a period of 70 days of the date on which it received any such application for admission, advised the applicant concerned of its decision thereon, the industrial council shall, in the application of the preceding proviso, be deemed to have refused the application concerned on the last day of the said period.”. 35

Amendment of section 24 of Act 28 of 1956.

21. Section 24 of the principal Act is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (z) of the following paragraph:
“(aa) the registration of employers with the council.”; and 40
- (b) by the substitution for subsection (2) of the following subsection:
“(2) For the purposes of this section, ‘class of employees’, ‘class of his employees’ and ‘employees of a particular class’ include such group or section or type of employees as may be specified or defined in the agreement, 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: Provided that no differentiation **[or discrimination]** on the basis of sex, race or colour shall be made.”. 55

Amendment of section 27 of Act 28 of 1956, as amended by section 11 of Act 94 of 1979.

22. Section 27 of the principal Act is hereby amended by the substitution for subsection (11) of the following subsection:

“(11) Subject to the provisions of subsection (9) of this section and of section 12 (7), as applied by section 30, **[and of section nine of the Black Labour (Settlement of Disputes) 60**

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- (i) **[Effekte van die Unieregering of van 'n plaaslike bestuur]** Binnelandse geregistreerde effekte ooreenkomstig die bedoeling van artikel 21 van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975);
- 5 (ii) **[Unie-leningsertifikate]** Nasionale Spaarsertifikate;
- (iii) Possaarbalkrekeninge of -sertifikate;
- (iv) Spaarrekeninge, permanente aandele of vaste deposito's in bougenootskappe of banke;
- 10 of op enige ander deur die registrateur goedgekeurde wyse."

20. Artikel 21A van die Hoofwet word hierby deur die volgende artikel vervang:

- 15 „Toelating van partye by nywerheidsrade. 21A. Na die inwerkingtreding van hierdie artikel word geen bykomende werkgewers (indien die registrateur dit goedkeur) of geregistreerde werkgewersorganisasies of geregistreerde vakverenigings toegelaat as partye by 'n nywerheidsraad nie tensy al die partye by die raad skriftelik daartoe ingestem het, en die nywerheidsraad moet binne sewe dae
- 20 vanaf die datum waarop hy oor 'n aansoek om toelating as 'n party beslis het, die werkgewer of geregistreerde werkgewersorganisasie of geregistreerde vakvereniging skriftelik van sy beslissing in kennis stel. Met dien verstande dat enige werkgewer
- 25 of geregistreerde werkgewersorganisasie of geregistreerde vakvereniging wat veronreg voel deur die weiering van sy aansoek om toelating as 'n party by die nywerheidsraad, na die nywerheidshof kan appelleer binne 30 dae vanaf die datum waarop die nywerheidsraad oor die aansoek om toelating beslis het. Met dien verstande voorts dat indien die
- 30 nywerheidsraad nie binne 'n tydperk van 70 dae vanaf die datum waarop hy so 'n aansoek om toelating ontvang het, die betrokke aansoeker van sy beslissing daaroor in kennis gestel het nie, die nywerheidsraad by die toepassing van die voorgaande voorbehoudbepaling geag word die betrokke aansoek op die laaste dag van genoemde tydperk te geweier het."
- 35

Vervanging van artikel 21A van Wet 28 van 1956, soos ingevoeg deur artikel 10 van Wet 94 van 1979.

- 40 21. Artikel 24 van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (1) die volgende paragraaf na paragraaf (z) in te voeg:
- 45 „(aa) die registrasie van werkgewers by die raad,"; en
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
- 45 „(2) By die toepassing van hierdie artikel beteken 'klas van werknemers', 'klas van sy werknemers' en 'werknemers van 'n bepaalde klas' ook sodanige groep of afdeling of tipe van werknemers as wat in die ooreenkoms vermeld of omskrywe word, en by die
- 50 maak van so 'n vermelding of omskrywing kan enige metode van differensiasie **[of diskriminasie op grond van ouderdom, geslag, ervaring, lengte van diens tyd of tipe van werk of tipe of klas van perseel of die gebied waarop of waarin werk verrig word of enige ander metode]** wat raadsaam geag word, toegepas word: Met dien verstande dat geen differensiasie **[of diskriminasie]** op die grondslag van geslag, ras of kleur gemaak mag word nie."
- 55

Wysiging van artikel 24 van Wet 28 van 1956.

- 60 22. Artikel 27 van die Hoofwet word hierby gewysig deur subartikel (11) deur die volgende subartikel te vervang:
- „(11) Behoudens die bepalings van subartikel (9) van hierdie artikel en van artikel 12 (7) soos deur artikel 30 toegepas **[en van artikel nege van die Wet op Swart Arbeid]**

Wysiging van artikel 27 van Wet 28 van 1956, soos gewysig deur artikel 11 van Wet 94 van 1979.

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Act, 1953 (Act No. 48 of 1953)] every meeting of a council shall be conducted in private, unless the council otherwise decides.”.

Amendment of
section 28 of
Act 28 of 1956.

23. Section 28 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) The secretary shall submit the minutes of any meeting of the council to the next succeeding ordinary meeting of the council, and the council shall, after causing to be made therein such corrections as it thinks necessary, confirm the minutes by resolution, and the person presiding 10 at the meeting shall sign the minutes so confirmed, and the signed copy, or in lieu thereof a microfilm or other microform reproduction thereof, shall be retained by the secretary of the council in safe custody for a period of five years from the date of confirmation of the minutes.”. 15

Amendment of
section 32 of
Act 28 of 1956.

24. Section 32 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) All accounts and statements referred to in subsections (1) and (2) and all records relating thereto, or in lieu of such accounts, statements and records a microfilm or 20 other microform reproduction thereof, shall be retained by the secretary of the council in safe custody in the office of the council for a period of not less than five years from the latest date to which they relate.”.

Amendment of
section 34 of
Act 28 of 1956,
as amended by
section 1 of
Act 21 of 1970.

25. Section 34 of the principal Act is hereby amended by the 25 substitution for paragraphs (c) and (d) of subsection (4) of the following paragraphs, respectively:

“(c) in the absence of any such direction, such balance, or that portion of it which has not been the subject of such a direction, shall be deposited with the Public Debt 30 Commissioners for temporary investment pending the disposal thereof in terms of this subsection, and the moneys so deposited shall be regarded as ‘deposits’ in terms of **[section nine of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911)]** section 5 of the Public 35 Debt Commissioners Act, 1969 (Act No. 2 of 1969), and **[The]** the registrar may thereafter direct that such moneys or any portion thereof be paid to any new industrial council such as is referred to in paragraph (b); 40

(d) after the expiry of two years from the date on which any such money was deposited with the Public Debt Commissioners, the registrar may direct that the said money or that portion thereof which has not been so paid to a new council, be paid into the **[Consolidated Revenue Fund] State Revenue Fund;**”.

Insertion of
sections 34A and
34B in
Act 28 of 1956.

26. The following sections are hereby inserted in the principal Act after section 34:

“Setting up and functions of works councils.

34A. (1) An employer and all or any of his employees may set up—

(a) in respect of the establishment in which they are employed by him; 50

(b) in respect of any section of such establishment; or

(c) where the employer has more than one establishment in the same undertaking, industry, 55 trade or occupation, in respect of those establishments,

a works council—

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(Beslegting van Geskille), 1953 (Wet No. 48 van 1953)], moet elke vergadering van 'n raad agter geslote deure gehou word, tensy die raad anders besluit.”.

23. Artikel 28 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

Wysiging van
artikel 28 van
Wet 28 van 1956.

„(2) Die sekretaris moet die notule van 'n vergadering van die raad aan die daaropvolgende gewone vergadering van die raad voorlê, en die raad moet, nadat hy die verbeterings wat hy nodig ag daarin laat aanbring het, die notule by besluit bekragtig, en die persoon wat op die vergadering voorsit, moet die aldus bekragtigde notule onderteken, en die ondertekende afskrif, of in die plek daarvan 'n mikrofilm- of ander mikroformreproduksie daarvan, moet deur die sekretaris van die raad vir 'n tydperk van vyf jaar vanaf die datum van bekragtiging van die notule in veilige bewaring gehou word.”.

24. Artikel 32 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

Wysiging van
artikel 32 van
Wet 28 van 1956.

„(4) Alle in subartikels (1) en (2) bedoelde rekeninge en state en alle stukke wat daarop betrekking het, of in die plek van sodanige rekeninge, state en stukke, 'n mikrofilm- of ander mikroformreproduksie daarvan, moet deur die sekretaris van die raad in veilige bewaring in die kantoor van die raad gehou word vir 'n tydperk van minstens vyf jaar vanaf die jongste datum waarop hulle betrekking het.”.

25. Artikel 34 van die Hoofwet word hierby gewysig deur paragrawe (c) en (d) van subartikel (4) deur onderskeidelik die volgende paragrawe te vervang:

Wysiging van
artikel 34 van
Wet 28 van 1956,
soos gewysig deur
artikel 1 van
Wet 21 van 1970.

„(c) by ontstentenis van so 'n lasgewing, moet sodanige balans of daardie gedeelte daarvan wat nie die onderwerp van so 'n lasgewing uitgemaak het nie, vir tydelike belegging hangende die beskikking daaroor ingevolge hierdie subartikel, by die **[Openbare Skuld-kommissaris]** Staatskuldkommissaris gestort word, en die gelde aldus gestort, word beskou as 'depositos' ingevolge **[artikel nege van die 'Openbare Schuld Kommissarissen Wet, 1911' (Wet No. 18 van 1911)]** artikel 5 van die Wet op die Staatskuldkommissaris, 1969 (Wet No. 2 van 1969), en **[Die]** die registrateur kan daarna gelas dat sodanige gelde, of enige gedeelte daarvan, aan 'n in paragraaf (b) bedoelde nuwe nywerheidsraad betaal word;

(d) na verstryking van twee jaar vanaf die datum waarop enige sodanige gelde by die **[Openbare Skuld-kommissaris]** Staatskuldkommissaris gestort is, kan die registrateur gelas dat bedoelde gelde of daardie gedeelte daarvan wat nie aldus aan 'n nuwe raad betaal is nie, in die **[Gekonsolideerde Inkomstefonds]** Staatsinkomstefonds gestort word;”.

26. Die volgende artikels word hierby in die Hoofwet na artikel 34 ingevoeg:

Invoeging van
artikels 34A en
34B in
Wet 28 van 1956.

„Instelling en werksaamhede van werkerade.

34A. (1) 'n Werkgewer en al of enige van sy werknemers kan—

(a) ten opsigte van die inrigting waarin hulle in sy diens is;

(b) ten opsigte van enige afdeling van dié inrigting; of

(c) waar die werkgewer meer as een inrigting waarin hulle in sy diens is in dieselfde onderneming, nywerheid, bedryf of beroep het, ten opsigte van daardie inrigtings,

'n werkerad instel—

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- (i) consisting of such number of members as may be determined by the employer and the said employees;
- (ii) of which not less than one-half of the members shall be elected by the said employees from among their number at such intervals as may be agreed upon between the employer and the employees, and the other members shall be persons designated by the employer to represent him on such council.
- (2) Any such works council shall perform such functions as may be agreed upon by the employer and the employees concerned.

Certain existing committees deemed to have been established under this Act.

34B. Any committee established in terms of the Black Labour Relations Regulation Act, 1953 (Act No. 48 of 1953), which is in existence at the commencement of this section and which performs substantially the same functions as those of a works council set up under section 34A, shall for the purposes of this Act be deemed to be such a works council."

Amendment of section 35 of Act 28 of 1956, as amended by section 4 of Act 18 of 1961 and section 6 of Act 95 of 1980.

27. Section 35 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (e) of subsection (4) of the following paragraph:
- "(e) that any agreement, award or determination entered into or made or deemed to have been entered into or made under this Act which is binding upon the parties to the dispute, or any determination made or deemed to have been made under the Wage Act, [1937 (Act No. 44 of 1937)] 1957 (Act No. 5 of 1957), which is binding upon the parties to the dispute and in respect of which a notice under [subsection (2) of section sixteen] section 14 (2) of the said Act was published less than one year before the date of the application, does not contain provisions dealing with the subject matter of the dispute; and";
- (b) by the substitution in subsection (4) for the words following upon paragraph (g) of the following words:
- "he may, if he deems it expedient to do so, and in the case of a dispute between any employer and employee referred to in section 46 (1) or in the case of a dispute concerning, in the Minister's opinion, an unfair labour practice, he shall, subject to the provisions of this section, approve of the establishment of a conciliation board and cause the necessary steps thereto to be taken;";
- and
- (c) by the substitution for subsection (6) of the following subsection:
- "(6) Notwithstanding the fact that he is not satisfied in respect of one or more of the matters referred to in [subsection] subsections (4) and (5), the Minister may approve of the establishment of a conciliation board [on an application made by or on behalf of an individual employee] if he is of the opinion that special circumstances exist which make it desirable that a conciliation board be established in order that the objects of this Act may be achieved."

Amendment of section 41 of Act 28 of 1956.

28. Section 41 of the principal Act is hereby amended by the substitution for the expression "Secretary for Labour" of the expression "Director-General: Manpower".

Amendment of section 44 of Act 28 of 1956.

29. Section 44 of the principal Act is hereby amended by the substitution in subsection (4) for the expression "Secretary for Labour" of the expression "Director-General: Manpower".

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- (i) wat uit die getal lede bestaan wat deur die werkgewer en genoemde werknemers bepaal word;
- (ii) waarvan minstens die helfte van die lede deur genoemde werknemers uit hul midde gekies word met die tussenpose waarvoor die werkgewer en werknemers ooreengekom het, en die ander lede persone is wat deur die werkgewer aangewys is om hom in dié raad te verteenwoordig.
- (2) So 'n werkeraad verrig die werksaamhede waarvoor die werkgewer en die betrokke werknemers ooreengekom het.
- 34B.** 'n Komitee wat ingevolge die Wet op die Reëling van Swart Arbeidsverhoudinge, 1953 (Wet No. 48 van 1953), ingestel is, wat by die inwerking-treding van hierdie artikel bestaan en wat wesenlik dieselfde werksaamhede as dié van 'n werkeraad kragtens artikel 34A ingestel, verrig, word by die toepassing van hierdie Wet geag so 'n werkeraad te wees."

15 Sekere be-
staande
komitees
geag inge-
volg hierdie
Wet ingestel
te gewees
het.

27. Artikel 35 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (e) van subartikel (4) deur die volgende paragraaf te vervang:
- „(e) dat enige ooreenkoms, toekenning of vasstelling wat kragtens hierdie Wet aangegaan of gemaak is of geag word aldus aangegaan of gemaak te gewees het en wat op die partye by die geskil bindend is, of enige vasstelling wat kragtens die Loonwet, **[1937 (Wet No. 44 van 1937)] 1957 (Wet No. 5 van 1957)**, gemaak is of geag word aldus gemaak te gewees het wat op die partye by die geskil bindend is en ten opsigte waarvan 'n kennisgewing kragtens **[subartikel (2) van artikel sestiën]** artikel 14 (2) van bedoelde Wet minder as een jaar voor die datum van die aansoek gepubliseer is, nie bepalings bevat wat oor die onderwerp van die geskil handel nie; en”;
- (b) deur in subartikel (4) die woorde wat op paragraaf (g) volg, deur die volgende woorde te vervang:
- „kan hy, indien hy dit raadsaam ag om dit te doen, en in die geval van 'n geskil tussen 'n in artikel 46 (1) bedoelde werkgewer en werknemer of in die geval van 'n geskil wat na die Minister se mening 'n onbillike arbeidspraktyk raak, moet hy, behoudens die bepalings van hierdie artikel, die instelling van 'n versoeningsraad goedkeur en die nodige stappe daartoe laat doen.”; en
- (c) deur subartikel (6) deur die volgende subartikel te vervang:
- „(6) Nieteenstaande die feit dat hy nie ten opsigte van een of meer van die in **[subartikel]** subartikels (4) en (5) bedoelde aangeleenthede oortuig is nie, kan die Minister die instelling van 'n versoeningsraad goedkeur **[op 'n aansoek deur of namens 'n individuele werknemer gedoen]** as hy van mening is dat spesiale omstandighede bestaan wat dit wenslik maak dat 'n versoeningsraad ingestel word sodat die oogmerke van hierdie Wet bereik kan word.”.

Wysiging van
artikel 35 van
Wet 28 van 1956,
soos gewysig deur
artikel 4 van
Wet 18 van 1961
en artikel 6 van
Wet 95 van 1980.

28. Artikel 41 van die Hoofwet word hierby gewysig deur die uitdrukking „Sekretaris van Arbeid” deur die uitdrukking „Direkteur-generaal: Mannekrag” te vervang.

Wysiging van
artikel 41 van
Wet 28 van 1956.

29. Artikel 44 van die Hoofwet word hierby gewysig deur in subartikel (4) die uitdrukking „Sekretaris van Arbeid” deur die uitdrukking „Direkteur-generaal: Mannekrag” te vervang.

Wysiging van
artikel 44 van
Wet 28 van 1956.

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Amendment of
section 46 of
Act 28 of 1956,
as amended by
section 9 of
Act 41 of 1959,
section 3 of
Act 104 of 1967,
section 14 of
Act 94 of 1979
and section 8 of
Act 95 of 1980.

30. Section 46 of the principal Act is hereby amended—

- (a) by the substitution in paragraph (b) of subsection (7) for the expression "Secretary for Labour" of the expression "Director-General: Manpower";
- (b) by the substitution for paragraph (a) of subsection (9) 5 of the following paragraph:
 "(a) If a dispute such as is referred to in section 43 (1) (c) has been referred to—
 (i) an industrial council having jurisdiction in respect thereof, and that council has failed to settle such dispute within a period of 30 days reckoned from the date on which the dispute was referred to the council, or within such further period or periods as the Minister may determine, the dispute shall be referred to the industrial court for determination; or
 (ii) a conciliation board and that board has within a period of 30 days reckoned from the date on which the Minister approved of the establishment of the conciliation board, or within such further period or periods as the Minister may determine, failed to settle the dispute, the dispute shall be referred to the industrial court for determination."; and
 (c) by the substitution in paragraph (c) of subsection (9) 25 for the expression "59" of the expression "58".

Amendment of
section 47 of
Act 28 of 1956,
as amended by
section 4 of
Act 104 of 1967.

31. Section 47 of the principal Act is hereby amended by the substitution in paragraph (f) of subsection (3) for the expression "paragraph (a) of subsection (13) of section seventeen" of the expression "section 17 (17) (a)".

Amendment of
section 48 of
Act 28 of 1956,
as amended by
section 2 of
Act 21 of 1970
and section 15 of
Act 94 of 1979.

32. Section 48 of the principal Act is hereby amended—

- (a) by the addition to the proviso to paragraph (c) of subsection (1) of the following paragraph:
 "(iii) a notice shall not be published under this paragraph unless the industrial council has furnished proof to the satisfaction of the Minister that a variation of scope of registration of any party or parties to the council in terms of section 7 by the inclusion therein of the area concerned could by reason of circumstances beyond his or their control not be effected in terms of that section.";
- (b) by the deletion of subsection (3);
- (c) by the substitution in subsection (4) for the words preceding subparagraph (i) of paragraph (a) of the following words:
 "Whenever the Minister has published a notice under paragraph (a), (b), (c) or (d) of subsection (1) **[or under subsection (3)]** he, or any officer authorized thereto by him in writing, may from time to time, at the request of the industrial council concerned, **[or, in the case of a notice under subsection (3), after consultation with the industrial council concerned]** and if he deems it expedient to do so, by notice in the *Gazette*—";
- (d) by the substitution for subsection (5) of the following subsection:
 "(5) The Minister may, at the request of the industrial council concerned, **[or in the case of a notice published under subsection (3) after consultation with the industrial council concerned]** and if he deems it expedient to do so, by notice in the *Gazette* and with effect from a date fixed by him in such notice, cancel in

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30. Artikel 46 van die Hoofwet word hierby gewysig—

(a) deur in paragraaf (b) van subartikel (7) die uitdrukking „Sekretaris van Arbeid” deur die uitdrukking „Direkteur-generaal: Mannekrag” te vervang;

5 (b) deur paragraaf (a) van subartikel (9) deur die volgende paragraaf te vervang:

„(a) Indien ’n geskil soos bedoel in artikel 43 (1) (c)

verwys is na—

10 (i) ’n nywerheidsraad wat regsbevoegheid ten opsigte daarvan besit en die raad nie daarin geslaag het om sodanige geskil binne ’n tydperk van 30 dae bereken vanaf die datum waarop die geskil na die raad verwys is of binne die verdere tydperk of tydperke wat

15 die Minister bepaal, te besleg nie, moet die geskil na die nywerheidshof vir vasstelling verwys word; of
(ii) ’n versoeningsraad en dié raad nie binne ’n tydperk van 30 dae bereken vanaf die datum waarop die Minister die instelling van die versoeningsraad goedgekeur het, of binne sodanige verdere tydperk of tydperke wat die Minister bepaal, die geskil besleg nie, moet die geskil na die nywerheidshof vir vasstelling

25 verwys word.”; en

(c) deur in paragraaf (c) van subartikel (9) die uitdrukking „59” deur die uitdrukking „58” te vervang.

31. Artikel 47 van die Hoofwet word hierby gewysig deur in paragraaf (f) van subartikel (3) die uitdrukking „paragraaf (a) 30 van subartikel (13) van artikel *sewentien*” deur die uitdrukking „artikel 17 (17) (a)” te vervang.

Wysiging van artikel 46 van Wet 28 van 1956, soos gewysig deur artikel 9 van Wet 41 van 1959, artikel 3 van Wet 104 van 1967, artikel 14 van Wet 94 van 1979 en artikel 8 van Wet 95 van 1980.

Wysiging van artikel 47 van Wet 28 van 1956, soos gewysig deur artikel 4 van Wet 104 van 1967.

32. Artikel 48 van die Hoofwet word hierby gewysig—

(a) deur die volgende paragraaf by die voorbehoudsbepaling by paragraaf (c) van subartikel (1) te voeg:

35 „(iii) ’n kennisgewing nie kragtens hierdie paragraaf

40 gepubliseer word nie tensy die nywerheidsraad bewys tot oortuiging van die Minister gelever het dat ’n verandering van bestek van registrasie van enige party of partye by die raad ingevolge artikel 7 deur die betrokke gebied daarby in te sluit, omrede omstandighede buite sy of hulle beheer nie ingevolge daardie artikel bewerkstellig kon word nie.”;

45 (b) deur subartikel (3) te skrap;

(c) deur in subartikel (4) die woorde wat subparagraaf (i) van paragraaf (a) voorafgaan deur die volgende woorde te vervang:

50 „Wanneer die Minister ’n kennisgewing kragtens paragraaf (a), (b), (c) of (d) van subartikel (1) **[of kragtens subartikel (3)]** gepubliseer het, kan hy, of ’n amptenaar wat deur hom skriftelik daartoe gemagtig is, van tyd tot tyd, op versoek van die betrokke nywerheidsraad, **[of, in die geval van ’n kennisgewing kragtens subartikel (3), na oorlegpleging met die betrokke nywerheidsraad]** en as hy dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant*—”;

55 (d) deur subartikel (5) deur die volgende subartikel te vervang:

60 „(5) Die Minister kan, op versoek van die betrokke nywerheidsraad, **[of in die geval van ’n kennisgewing kragtens subartikel (3) gepubliseer, na oorlegpleging met die betrokke nywerheidsraad]** en indien hy dit raadsaam ag om dit te doen, by kennisgewing in die *Staatskoerant* en met ingang van ’n datum deur hom in sodanige kennisgewing vasgestel, ’n kragtens sub-

Wysiging van artikel 48 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 21 van 1970 en artikel 15 van Wet 94 van 1979.

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- whole or in part any notice published under subsection (1) **[(3)]** or (4).";
- (e) by the substitution in subsections (6) and (7) for the expression "(1), (3) or (4)" of the expression "(1) or (4)";
- (f) by the substitution for subsection (9) of the following subsection:
- "(9) The provisions of this section shall *mutatis mutandis* apply to any agreement transmitted, or request made, by a conciliation board: Provided that the conciliation board, or, after the conciliation board has been discharged, the parties who were represented on the conciliation board, shall for the purposes of any request **[or consultation]** such as is referred to in subsection (1), (2), **[(3)]** (4) or (5) be deemed to be the industrial council concerned and the area determined in terms of section 35 (8) shall be deemed to be the area in respect of which the industrial council is registered."; and
- (g) by the substitution for subsection (12) of the following subsection:
- "(12) For the purposes of subsection (1) (c) 'class of employers' and 'class of employees' include such group or section or type of employer or employee as may be specified or defined in the relevant notice, 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: Provided that no differentiation **[or discrimination]** on the basis of sex, race or colour shall be made.".

Amendment of section 49 of Act 28 of 1956, as amended by section 5 of Act 104 of 1967.

33. Section 49 of the principal Act is hereby amended—

- (a) by the substitution in subsection (5) for the expression "Wage Act, 1937 (Act No. 44 of 1937)" of the expression "Wage Act, 1957 (Act No. 5 of 1957)"; and
- (b) by the substitution for subsection (12) of the following subsection:
- "(12) The provisions of paragraphs (b) and (c) of subsections (1) and (2) and subsections **[(3)]** (5), (7), (11) and (12) of section 48 shall *mutatis mutandis* apply to an award referred to in subsection (1) or (11) of this section: Provided that for the purposes of any request **[or consultation]** such as is referred to in the said provisions and for the purpose of determining the representativeness of the parties, the parties upon whom the award is binding in terms of subsection (1) or (11) of this section, shall be deemed to be the industrial council concerned or the parties to the agreement, as the case may be, and the area in which the award is binding shall be deemed to be the area in respect of which the council is registered **[Provided further that the provisions of subsection (3) of section forty-eight may be applied in respect of an award, whether or not that award has been the subject of a request under subsection (1) of that section as applied by this subsection]**.".

Substitution of section 51 of Act 28 of 1956, as amended by section 10 of Act 41 of 1959 and section 16 of Act 94 of 1979.

34. The following section is hereby substituted for section 51 of the principal Act:

"Exemptions and the exclusion of certain areas. 51. (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 an agreement entered into by the

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artikel (1) **[(3)]** of (4) gepubliseerde kennisgewing in die geheel of gedeeltelik intrek.”;

(e) deur in subartikels (6) en (7) die uitdrukking „(1), (3) of (4)” deur die uitdrukking „(1) of (4)” te vervang;

5 (f) deur subartikel (9) deur die volgende subartikel te vervang:

„(9) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op enige ooreenkoms deurgestuur, of versoek gedoen, deur ’n versoeningsraad: Met dien verstande dat die versoeningsraad, of, nadat die versoeningsraad ontslaan is, die partye wat op die versoeningsraad verteenwoordig was, vir die doeleindes van ’n in subartikel (1), (2), **[(3)]** (4) of (5) bedoelde versoek **[of oorlegpleging]** geag word die betrokke nywerheidsraad te wees en die gebied bepaal ingevolge artikel 35 (8) geag word die gebied te wees ten opsigte waarvan die nywerheidsraad geregistreer is.”; en

20 (g) deur subartikel (12) deur die volgende subartikel te vervang:

„(12) By die toepassing van subartikel (1) (c) beteken „klas van werkgewers” en „klas van werknemers” ook sodanige groep of afdeling of tipe van werkgewer of werknemer as wat in die toepaslike kennisgewing vermeld of omskryf 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 diensyd of tipe van werk of tipe of klas van perseel of die gebied waarop of waarin werk verrig word of enige ander metode]** wat raadsaam geag word, toegepas word: Met dien verstande dat geen differensiasie **[of diskriminasie]** op die grondslag van geslag, ras of kleur gemaak mag word nie.”.

35 33. Artikel 49 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (5) die uitdrukking „Loonwet, 1937 (Wet No. 44 van 1937)” deur die uitdrukking „Loonwet, 1957 (Wet No. 5 van 1957)” te vervang; en

40 (b) deur subartikel (12) deur die volgende subartikel te vervang:

„(12) Die bepalings van paragrawe (b) en (c) van subartikels (1) en (2) en subartikels **[(3)]** (5), (7), (11) en (12) van artikel 48 is *mutatis mutandis* van toepassing op ’n in subartikel (1) of (11) van hierdie artikel bedoelde toekenning: Met dien verstande dat vir die doeleindes van ’n in bedoelde bepalings bedoelde versoek **[of oorlegpleging]** en vir die doel om die mate waarin die partye verteenwoordigend is, te bepaal, die partye op wie die toekenning ingevolge subartikel (1) of (11) van hierdie artikel bindend is, geag word die betrokke nywerheidsraad of die partye by die ooreenkoms, na gelang van die geval, te wees, en die gebied waarin die toekenning bindend is, geag word die gebied ten opsigte waarvan die raad geregistreer is, te wees **[Met dien verstande voorts dat die bepalings van subartikel (3) van artikel agt en veertig ten opsigte van ’n toekenning toegepas kan word hetsy daardie toekenning die onderwerp van ’n versoek kragtens subartikel (1) van daardie artikel, soos toegepas deur hierdie subartikel, gewees het al dan nie].**”.

Wysiging van artikel 49 van Wet 28 van 1956, soos gewysig deur artikel 5 van Wet 104 van 1967.

34. Artikel 51 van die Hoofwet word hierby deur die volgende artikel vervang:

65 „Vrystellings en die uitsluiting van sekere gebiede.

51. (1) Wanneer aansoek in die vorm en op die wyse voorgeskryf, gedoen word om die vrystelling van enige persoon of klas persone van almal of enigeen van die bepalings van ’n ooreenkoms

Vervanging van artikel 51 van Wet 28 van 1956, soos gewysig deur artikel 10 van Wet 41 van 1959 en artikel 16 van Wet 94 van 1979.

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parties to a conciliation board which is binding in terms of this Act or from all or any of the provisions of an award and the Minister is of opinion that—

- (a) the terms and conditions of employment of 5 such person or class of persons are substantially not less favourable to him or them than the terms and conditions of employment prescribed by that agreement or award; or
- (b) such person suffers from a physical disability 10 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 15 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 agreement or award concerned to or in respect of 20 that person or class of persons, for such period and subject to such terms and conditions as he may determine, and **[The]** the period for which exemption is granted may commence on a date prior to 25 that on which the exemption is granted, but not earlier than the date on which the application was made in terms of this subsection.

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

(3) Application for exemption from all or any of the provisions of an agreement entered into by parties to an industrial council which is binding in 35 terms of this Act may be made to the industrial council concerned, or to any committee to which the powers of the council under this section have been delegated in terms of section 25, and the powers conferred on the Minister by subsection (1) may 40 *mutatis mutandis* be exercised by such council or committee **[Provided that no such council or committee shall grant exemption from any provision relating to a matter referred to in section 24 (1) (d), as applied under section 48 to persons who are not 45 employees, to enable an employer to make deductions from the remuneration payable to any such person in respect of contributions to any association of persons or body which is not a registered trade union].**

(4) The terms and conditions of an exemption 50 granted under subsection (1) or (3) shall be incorporated in a licence of exemption, signed by an officer or the secretary of the council or committee concerned, as the case may be, and a copy thereof shall be transmitted to such person or persons as 55 the officer or the secretary, as the case may be, 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 60 the person or class of persons to or in respect of whom, the period for and the date from which the

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aangegaan deur die partye by 'n versoeningsraad wat ingevolge hierdie Wet bindend is, of van almal of enigeen van die bepalings van 'n toekenning en die Minister van mening is dat—

5 (a) die bedinge en voorwaardes van diens van sodanige persoon of klas persone vir hom of hulle wesenlik nie minder gunstig is nie as die bedinge en voorwaardes van diens wat deur daardie ooreenkoms of toekenning voorgeskryf word; of

10 (b) sodanige persoon aan 'n liggaamlike ongeskiktheid soos ouderdom of kroniese siekte of swakheid ly en in staat is om alleen deel van die werk te verrig wat van 'n liggaamlik geskikte persoon vereis word; of

15 (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,

20 kan hy, as hy dit raadsaam ag om dit te doen, vrystelling verleen van almal of enigeen van die bepalings van die betrokke ooreenkoms of toekenning aan of ten opsigte van daardie persoon of klas persone vir die tydperk en onderworpe aan die bedinge en voorwaardes wat hy bepaal, en [Die] 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 subartikel gedoen is.

30 (2) Die Minister kan, na goeddunke, van tyd tot tyd deur 'n deur hom ondertekende geskrif dié bevoegdhede wat subartikel (1) aan hom verleen aan enige amptenaar oordra, en hy kan te eniger tyd so 'n oordrag intrek.

35 (3) Aansoek om vrystelling van almal of enigeen van die bepalings van 'n ooreenkoms deur partye by 'n nywerheidsraad aangegaan en wat ingevolge hierdie Wet bindend is, kan by die betrokke nywerheidsraad gedoen word, of by enige komitee waaraan die bevoegdhede van die raad kragtens hierdie artikel ingevolge artikel 25 oorgedra is, en die bevoegdhede deur subartikel (1) aan die Minister verleen, kan *mutatis mutandis* deur sodanige raad of komitee uitgeoefen word **[Met dien verstande dat geen sodanige raad of komitee vrystelling mag verleen nie van enige bepaling met betrekking tot 'n in artikel 24 (1) (d) bedoelde aangeleentheid, soos van toepassing gemaak kragtens artikel 48 op persone wat nie werknemers is nie om 'n werkgewer in staat te stel om aftrekkings van die beloning wat aan so 'n persoon betaalbaar is, te maak ten opsigte van hydraes tot enige genootskap van persone of liggaam wat nie 'n geregistreerde vakvereniging is nie].**

55 (4) Die bedinge en voorwaardes van 'n vrystelling wat kragtens subartikel (1) of (3) verleen word, moet in 'n vrystellingsertifikaat, onderteken deur 'n amptenaar of die sekretaris van die betrokke raad of komitee, na gelang van die geval, ingelyf word en 'n afskrif daarvan moet aan die persoon of persone gestuur word wat die amptenaar of sekretaris, na gelang van die geval, nodig ag: Met dien verstande dat in plaas van sodanige sertifikaat die Minister die publikasie in die *Staatskoerant* kan magtig van 'n kennisgewing waarin die bedinge en voorwaardes van sodanige 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

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exemption is granted, shall be specified in such notice.

(5) Any person who feels aggrieved by any decision of a committee—

- (a) under subsection (3) on an application for exemption; or
- (b) under subsection (8) to withdraw any exemption,

may appeal at any time to the council from that decision, and the council may after considering any reasons which may be submitted by the committee for its decision, confirm that decision or give such other decision as in its opinion the committee ought to have given.

(6) (a) Any person who feels aggrieved by any decision of a council—

- (i) under subsection (3) on an application for exemption; or
 - (ii) under subsection (8) to withdraw any exemption; or
 - (iii) on an appeal under subsection (5), may appeal at any time to the Minister from that decision: Provided that no employer, employers' organization or trade union who or which is a party to the council, and no member of such organization or union, shall have a right of appeal under this subsection save in respect of an application for exemption from a provision such as is referred to in section 24 (1) (x).
- (b) Upon receipt of any such appeal the Minister may require the council to furnish him with the reasons for its decision within a period fixed by him, and and **[The]** the Minister may after considering the reasons furnished by the council and any other matter which he considers relevant, confirm that decision or give such other decision as in his opinion the council ought to have given, and such decision shall for the purposes of this Act be deemed to be the decision of the council.

(7) Any exemption granted to or in respect of any person or class of persons under this section shall be deemed to exempt any employer who employs such person or a member of such class of persons, from the relevant provisions of the agreement or award 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.

(8) Any exemption granted—

- (a) by the Minister or by an officer to whom powers have been delegated under subsection (2), or in pursuance of a decision of the Minister under subsection (6), 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; or
- (c) by an industrial council, or in pursuance of a decision of a council under subsection (5), other than an exemption granted in pursuance

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van wanneer af die vrystelling verleen word, in sodanige kennisgewing vermeld word.

(5) Enige persoon wat veronreg voel deur enige beslissing van 'n komitee—

(a) kragtens subartikel (3) op 'n aansoek om vrystelling; of

(b) kragtens subartikel (8) om 'n vrystelling in te trek,

kan te eniger tyd na die raad teen daardie beslissing appelleer, en die raad kan na oorweging van enige redes wat deur sodanige komitee vir sy beslissing voorgelê word, daardie beslissing bekragtig of die ander beslissing gee wat die komitee na sy mening behoort te gegee het.

(6) (a) Enige persoon wat veronreg voel deur enige beslissing van 'n raad—

(i) kragtens subartikel (3) op 'n aansoek om vrystelling; of

(ii) kragtens subartikel (8) om 'n vrystelling in te trek; of

(iii) op 'n appèl kragtens subartikel 5, kan te eniger tyd na die Minister teen daardie beslissing appelleer: Met dien verstande dat geen werkgewer, werkgewersorganisasie of vakvereniging wat 'n party by die raad is en geen lid van sodanige organisasie of vereniging die reg van appèl kragtens hierdie subartikel besit nie, behalwe ten opsigte van 'n aansoek om vrystelling van 'n in artikel 24 (1) (x) bedoelde bepaling.

(b) By ontvangs van so 'n appèl kan die Minister van die raad vereis om aan hom binne 'n tydperk deur hom vasgestel die redes vir sy beslissing te verskaf, en **[Die]** die Minister kan na oorweging van die redes wat deur die raad verskaf word en enige ander aangeleenthede wat hy ter sake beskou, daardie beslissing bekragtig of die ander beslissing gee wat die raad na sy mening behoort te gegee het, en sodanige beslissing word by die toepassing van hierdie Wet geag die beslissing van die raad te wees.

(7) 'n Vrystelling wat kragtens hierdie artikel aan of ten opsigte van 'n persoon of klas persone verleen word, word geag 'n werkgewer wat daardie persoon of 'n lid van daardie klas persone in diens neem, vry te stel van die toepaslike bepalings van die betrokke ooreenkoms of toekenning in die mate in die vrystellingsertifikaat 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.

(8) Enige vrystelling verleen—

(a) deur die Minister of deur 'n amptenaar aan wie bevoegdhede kragtens subartikel (2) oorgedra is, of ooreenkomstig 'n beslissing van die Minister kragtens subartikel (6), kan te eniger tyd deur die Minister ingetrek word; of

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

(c) deur 'n nywerheidsraad, of ooreenkomstig 'n beslissing van 'n raad kragtens subartikel (5), behalwe 'n vrystelling wat ooreenkomstig 'n

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of a decision of the Minister under subsection (6), may at any time be withdrawn by that council; or

- (d) by a committee of a council, other than an exemption granted in pursuance of a decision of the Minister under subsection (6) or in pursuance of a decision of a council under subsection (5), may at any time be withdrawn by that committee or by any other committee to which in terms of section 25 the power conferred by subsection (3) has been delegated, or by the council.

(9) For the purposes of this section, 'class of persons' includes such group or section or type of person 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: Provided that no differentiation on the basis of sex, race or colour shall be made.

- (10) (a) If any person is expelled from a trade union or an employers' organization upon the members of which a provision such as is referred to in section 24 (1) (x) is binding in terms of this Act, any such provision shall, subject to the provisions of this subsection, not be binding in respect of such person for a period of 30 days from the date of his said expulsion or if application is made to the Minister in terms of paragraph (b), pending the decision of the Minister on such application.
- (b) Any person who has been refused membership of or has been expelled from any trade union or employers' organization referred to in paragraph (a), may within 30 days of the date on which he is notified of such refusal or expulsion apply in the prescribed form to the Minister for a direction in terms of paragraph (c).
- (c) If, after such enquiry as he deems necessary, the Minister is satisfied that the refusal or expulsion which forms the subject of such application was unreasonable and that the applicant is by reason of such refusal or expulsion adversely affected by a provision such as is referred to in paragraph (a), the Minister may direct that any such provision shall, with effect from the date of such direction, not apply in respect of the applicant until he is admitted or re-admitted to membership of a trade union or employers' organization such as is referred to in paragraph (a).
- (d) The Minister may at any time in his discretion cancel any direction given in terms of paragraph (c).
- (e) Any office-bearer, official or member of any trade union or employers' organization who takes any action which is calculated to prevent or terminate the employment of any person by any employer while such employment is permitted by or in terms of this subsection, shall be guilty of an offence.

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beslissing van die Minister kragtens subartikel (6) verleen is, kan te eniger tyd deur daardie raad ingetrek word; of

- (d) deur 'n komitee van 'n raad, behalwe 'n vrystelling wat ooreenkomstig 'n beslissing van die Minister kragtens subartikel (6) of ooreenkomstig 'n beslissing van 'n raad kragtens subartikel (5) verleen is, kan te eniger tyd deur daardie komitee of deur enige ander komitee waaraan die bevoegdheid deur subartikel (3) verleen ingevolge artikel 25 oorgedra is, of deur die raad ingetrek word.

(9) By die toepassing van hierdie artikel beteken 'klas persone' ook die groep of seksie of tipe van persoon 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 diens tyd of tipe van werk of tipe of klas van perseel of die gebied waarop of waarin werk verrig word, of enige ander metode]** wat raadsaam geag word, toegepas word: Met dien verstande dat geen differensiasie op die grondslag van geslag, ras of kleur gemaak mag word nie.

- (10) (a) Indien 'n persoon uitgesit word uit 'n vakvereniging of 'n werkgewersorganisasie op die lede waarvan 'n in artikel 24 (1) (x) bedoelde bepaling ingevolge hierdie Wet bindend is, is so 'n bepaling, behoudens die bepalings van hierdie subartikel, vir 'n tydperk van 30 dae vanaf die datum van sy bedoelde uitsetting of indien aansoek by die Minister ingevolge paragraaf (b) gedoen word, hangende die Minister se beslissing oor sodanige aansoek, nie ten opsigte van sodanige persoon bindend nie.

- (b) Enigiemand wat lidmaatskap geweier is van of uitgesit is uit 'n in paragraaf (a) bedoelde vakvereniging of werkgewersorganisasie, kan binne 30 dae vanaf die datum waarop hy van sodanige weiering of uitsetting in kennis gestel word, op die voorgeskrewe wyse by die Minister om 'n lasgewing ingevolge paragraaf (c) aansoek doen.

- (c) Indien, na die ondersoek wat hy nodig ag, die Minister oortuig is dat die weiering of uitsetting wat die onderwerp van sodanige aansoek uitmaak onredelik was en dat die applikant as gevolg van sodanige weiering of uitsetting nadelig geraak word deur 'n in paragraaf (a) bedoelde bepaling, kan die Minister gelas dat so 'n bepaling, met ingang van die datum van sodanige lasgewing, nie ten opsigte van die applikant van toepassing is nie totdat hy tot lidmaatskap van 'n in paragraaf (a) bedoelde vakvereniging of werkgewersorganisasie toegelaat of hertoegelaat word.

- (d) Die Minister kan te eniger tyd na goeddunke 'n lasgewing wat ingevolge paragraaf (c) gegee is, intrek.

- (e) 'n Ampsdraer, beampte of lid van 'n vakvereniging of werkgewersorganisasie wat enige stap doen wat bereken is om 'n persoon se indiensneming deur of diens by 'n werkgewer te verhoed of te beëindig terwyl sodanige indiensneming of diens deur of ingevolge hierdie subartikel toegelaat word, is aan 'n misdryf skuldig.

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- (11) (a) An application under subsection (1) or (3) for exemption from a provision such as is referred to in section 24 (1) (x) may also be made by any employer in respect of employees or prospective employees upon whom such a provision is binding in terms of this Act. 5
- (b) If any employer has resigned from an employers' organization upon the members of which a provision such as is referred to in paragraph (a) is binding in terms of this Act, such provision shall, subject to the provisions of this subsection, not be binding in respect of such employer for a period of 30 days from the date on which he ceased to be a member of such organization, or if application is made in terms of paragraph (a) within the said period, pending the expiry of a period of 30 days from the date on which he is notified of— 10
- (i) any decision of the Minister under subsection (1) or (6); or 20
- (ii) any decision of an industrial council or a committee thereof under subsection (3) or (5) against which he has not appealed within a period of 30 days from the date on which he was notified of such decision. 25
- (c) Any office-bearer, official or member of any trade union or employers' organization who takes any action which is calculated to prevent or terminate the employment of any person by any employer while such employment is permitted by or in terms of this subsection, shall be guilty of an offence. 30
- (12) Whenever the Minister considers that it will be in the interests of persons residing within any **[Black]** area described by him by notice in the *Gazette* that any agreement or award should not be operative within that area or in respect of any particular class of work in that area, he may, in his discretion, at any time, after consultation with the industrial council or conciliation board concerned, or if the conciliation board has been discharged, with the parties who were represented on the conciliation board or if there is or was no such industrial council or conciliation board, with the parties to the arbitration proceedings which gave rise to the award, by the said notice **[in the Gazette]** exclude that area or that particular class of work in that area from the operation of that agreement or award for such period and subject to such conditions as he may think fit." 40 45 50

Insertion of
section 51A in
Act 28 of 1956.

35. The following section is hereby inserted in the principal Act after section 51:

"Application of conditions of employment in pursuance of proposals by a group or association of employers.

51A. (1) Any group or association of employers engaged in any undertaking, industry, trade or occupation in any area in respect of which no industrial council is registered in respect of such undertaking, industry, trade or occupation, may at any time submit to the Minister proposals concerning the wages or the other conditions of employment of the employees employed in the undertaking, industry, trade or occupation and in the area in question, and request that such proposals be declared binding on all employers and employees 55 60

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(11) (a) 'n Aansoek kragtens subartikel (1) of (3) om vrystelling van 'n in artikel 24 (1) (x) bedoelde bepaling kan ook gedoen word deur 'n werkgever ten opsigte van werknemers of aanstaande werknemers op wie so 'n bepaling ingevolge hierdie Wet bindend is.

(b) Indien 'n werkgever uit 'n werkgewersorganisasie bedank het op die lede waarvan 'n in paragraaf (a) bedoelde bepaling ingevolge hierdie Wet bindend is, is so 'n bepaling, behoudens die bepalings van hierdie subartikel, vir 'n tydperk van 30 dae vanaf die datum waarop hy opgehou het om 'n lid van so 'n organisasie te wees, nie ten opsigte van so 'n werkgever bindend nie, of indien aansoek ingevolge paragraaf (a) binne bedoelde tydperk gedoen word, hangende die verstryking van 'n tydperk van 30 dae vanaf die datum waarop hy in kennis gestel word van—

(i) 'n beslissing van die Minister kragtens subartikel (1) of (6); of

(ii) 'n beslissing van 'n nywerheidsraad of 'n komitee daarvan kragtens subartikel (3) of (5) waarteen hy nie binne 30 dae vanaf die datum waarop hy van so 'n beslissing in kennis gestel word, geappelleer het nie.

(c) 'n Ampsdraer, beampte of lid van 'n vakvereniging of werkgewersorganisasie wat enige stap doen wat bereken is om 'n persoon se indiensneming deur of diens by 'n werkgever te verhoed of te beëindig terwyl sodanige indiensneming of diens deur of ingevolge hierdie subartikel toegelaat word, is aan 'n misdryf skuldig.

(12) Wanneer die Minister beskou dat dit in belang sal wees van persone wat in 'n **[Swart]** gebied wat hy by kennisgewing in die *Staatskoerant* beskrywe, woonagtig is, dat enige ooreenkoms of toekenning nie in daardie gebied of ten opsigte van enige besondere klas werk in daardie gebied van toepassing behoort te wees nie, kan hy, na goeddunke, te eniger tyd, na oorlegpleging met die betrokke nywerheidsraad of versoeningsraad, of indien die versoeningsraad ontslaan is, met die partye wat op die versoeningsraad verteenwoordig was, of indien daar nie so 'n nywerheidsraad of versoeningsraad is of was nie, met die partye by die arbitrasieversrigtinge waaruit die toekenning ontstaan het, by genoemde kennisgewing **[in die Staatskoerant]** daardie gebied of daardie besondere klas werk in daardie gebied van die toepassing van daardie ooreenkoms of toekenning vir die tydperk en onderworpe aan die voorwaardes wat hy goedvind, uitsluit.”

35. Die volgende artikel word hierby in die Hoofwet na artikel 51 ingevoeg:

Invoeging van artikel 51A in Wet 28 van 1956.

„Toepassing van diensvoorwaardes na aanleiding van voorstelle deur 'n groep of vereniging werkgewers.

65

51A. (1) 'n Groep of vereniging werkgewers wat in 'n onderneming, nywerheid, bedryf of beroep betrokke is in 'n gebied ten opsigte waarvan geen nywerheidsraad ten opsigte van sodanige onderneming, nywerheid, bedryf of beroep geregistreer is nie, kan te eniger tyd voorstelle aangaande die lone of die ander diensvoorwaardes van werknemers wat in die betrokke onderneming, nywerheid, bedryf of beroep en in die betrokke gebied in diens is aan die Minister voorlê en versoek dat bedoelde voorstelle bindend verklaar word vir alle werkgewers en

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engaged or employed in such undertaking, industry, trade or occupation and in such area.

(2) Upon receipt of proposals under subsection (1) and after consultation with the wage board established by the Wage Act, 1957 (Act No. 5 of 1957), the Minister may, if he deems it expedient to do so and if he regards the group or association of employers in question as sufficiently representative of employers engaged in the relevant undertaking, industry, trade or occupation and area, make an order in accordance with such proposals.

(3) After making an order under subsection (2) the Minister shall cause to be published in the *Gazette* a notice setting forth the provisions of that order, and from a date specified in the notice the said provisions shall be binding upon employers and employees in the undertaking, industry, trade or occupation and area as defined in the order.

(4) (a) The Minister may, from time to time if he deems it expedient to do so, and after consultation with the wage board mentioned in subsection (2), by notice in the *Gazette*—

(i) as from a date or for a period and in respect of an area specified in that notice, cancel or suspend; or

(ii) as from a date specified in that notice, amend, as he may deem fit,

any one or more of or all the provisions of an order which has been declared binding in terms of subsection (3), including an order referred to in subsection (7).

(b) Subject to the provisions of paragraph (a), the provisions of an order which has been declared binding in terms of subsection (3), shall remain in force until they are superseded by any wage regulating measure which is declared binding for the undertaking, industry, trade or occupation and in the area in question after the said order was made.

(5) The Minister or an officer designated by him for that purpose, may, on application, grant exemption from any provision of an order made under subsection (2), to or in respect of any person for such period and subject to such conditions as the Minister or such officer, as the case may be, may determine.

(6) Any exemption granted—

(a) by the Minister or any such officer may at any time be withdrawn by the Minister; or

(b) by any such officer may at any time be withdrawn by that officer or by any other officer designated by the Minister for that purpose.

(7) Any order made under section 11A of the Black Labour Relations Regulation Act, 1953 (Act No. 48 of 1953), which is in existence at the commencement of this section, shall be deemed to have been made under this section.

(8) An order which has been declared binding in terms of subsection (3) of this section shall, for the purposes of sections 52 to 58, 66, 68, 71, 72, 74 and 82, be deemed to be an agreement binding in terms of this Act upon employers and employees referred to in the said subsection (3)."

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werknemers betrokke by of in diens in daardie onderneming, nywerheid, bedryf of beroep en in daardie gebied.

5 (2) By ontvangs van voorstelle kragtens subartikel (1) en na oorlegpleging met die loonraad ingestel by die Loonwet, 1957 (Wet No. 5 van 1957), kan die Minister, as hy dit dienstig ag om dit te doen en indien hy die betrokke groep of vereniging van werkgewers as voldoende verteenwoordigend van
10 werkgewers in die toepaslike onderneming, nywerheid, bedryf of beroep en gebied beskou, 'n order ooreenkomstig bedoelde voorstelle maak.

(3) Nadat hy 'n order kragtens subartikel (2) gemaak het, moet die Minister 'n kennisgewing in die *Staatskoerant* laat publiseer wat die bepalings van daardie order uiteensit, en vanaf 'n datum in die kennisgewing vermeld, is bedoelde bepalings bindend vir werkgewers en werknemers in die onderneming, nywerheid, bedryf of beroep en gebied soos in die order omskryf.

(4) (a) Die Minister kan van tyd tot tyd, indien hy dit dienstig ag om dit te doen, en na oorlegpleging met die loonraad in subartikel (2) genoem, by kennisgewing in die *Staatskoerant* een of
25 meer van of al die bepalings van 'n order wat ingevolge subartikel (3) bindend verklaar is, met inbegrip van 'n order in subartikel (7) bedoel—

(i) vanaf 'n datum of vir 'n tydperk en ten opsigte van 'n gebied in daardie kennisgewing vermeld, intrek of opskort; of

(ii) vanaf 'n datum in daardie kennisgewing vermeld, wysig soos hy goedvind.

(b) Behoudens die bepalings van paragraaf (a), bly die bepalings van 'n order wat ingevolge subartikel (3) bindend verklaar is, van krag totdat hulle vervang word deur 'n nuwe order of 'n loonreëlende maatregel wat na die maak van die order vir die betrokke onderneming, nywerheid, bedryf of beroep en in die betrokke gebied bindend verklaar word.

(5) Die Minister of 'n amptenaar deur hom vir dié doel aangewys, kan, op aansoek, vrystelling verleen van enige bepaling van 'n order kragtens subartikel (2) gemaak, aan of ten opsigte van enige persoon vir die tydperk en onderworpe aan die voorwaardes wat die Minister of bedoelde amptenaar, na gelang van die geval, bepaal.

(6) 'n Vrystelling wat toegestaan is—

(a) deur die Minister of so 'n amptenaar kan te eniger tyd deur die Minister ingetrek word; of

(b) deur so 'n amptenaar kan te eniger tyd deur dié amptenaar, of deur enige ander amptenaar deur die Minister vir dié doel aangewys, ingetrek word.

(7) 'n Order wat kragtens artikel 11A van die Wet op die Reëling van Swart Arbeidsverhoudinge, 1953 (Wet No. 48 van 1953), gemaak is en wat bestaan by die inwerkingtreding van hierdie artikel, word geag gemaak te wees kragtens hierdie artikel.

(8) By die toepassing van artikels 52 tot 58, 66, 68, 71, 72, 74 en 82 word 'n order wat ingevolge subartikel (3) van hierdie artikel bindend verklaar is, geag 'n ooreenkoms te wees wat ingevolge hierdie Wet bindend is op werkgewers en werknemers in genoemde subartikel (3) bedoel.”

36. Artikel 52 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van artikel 52 van Wet 28 van 1956.

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“(1) No agreement, express or implied, including **[a labour tenant contract or] any service contract, [in terms of the Black Service Contract Act, 1932 (Act No. 24 of 1932)]** whether entered into before or after the coming into operation of any agreement or award 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 employee of remuneration less than that prescribed by that agreement, award 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 any employee of the application to him of any provision of that agreement, award or licence, and any **[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.”.

Amendment of section 53 of Act 28 of 1956, as amended by section 5 of Act 18 of 1961 and section 4 of Act 21 of 1970.

37. Section 53 of the principal Act is hereby amended by the substitution for paragraphs (b) and (c) of subsection (8) of the following paragraphs, respectively:

- “(b) If any moneys so paid to the inspector defined by regulation or the industrial council 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 **[or industrial council concerned]** shall forthwith transmit such moneys to the **[Secretary of Labour] Director-General: Manpower** for payment into the **[Consolidated] State Revenue Fund, and the industrial council concerned shall forthwith pay such moneys into the said Fund.**
- (c) On the application of the **[Secretary for Labour] Director-General: Manpower or industrial council concerned** made at any time within a period of three years from the date of payment into the **[Consolidated] State Revenue Fund** under paragraph (b) the moneys concerned shall be refunded to the **[Secretary for Labour] Director-General: Manpower or that industrial council** for payment to the person entitled thereto.”.

Substitution of section 54 of Act 28 of 1956, as amended by section 6 of Act 18 of 1961 and section 5 of Act 21 of 1970.

38. The following section is hereby substituted for section 54 of the principal Act:

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

54. (1) Whenever any person has been convicted of an offence under subsection (1) of section 53, and the offence consisted of a contravention or failure such as is referred to in subsection (2) or (3) of that section, the court convicting him shall, after it has, in terms of that section, determined the amount underpaid, or the amount 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) or to the industrial council concerned within a period fixed by the court, in instalments or otherwise as determined by the court.

(2) The court may at any time upon the application of an inspector or of an industrial council on its own behalf or on behalf of any fund referred to in section 24 (1) (r) or 48 (1) (d), or of any employee

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„(1) Geen ooreenkoms, uitdruklik of stilswyend, met inbegrip van 'n **[plakkerdienskontrak of]** dienskontrak, **[ingevolge die Swart Dienskontrak Wet, 1932 (Wet No. 24 van 1932)]** hetsy dit aangegaan is voordat of nadat enige ooreenkoms of toekenning wat ingevolge hierdie Wet bindend is in werking getree het of enige vrystellingsertifikaat uitgereik is, het die uitwerking dat dit die betaling aan enige werknemer van minder beloning as dié wat deur daardie ooreenkoms, toekenning of sertifikaat voorgeskryf word, of die toepassing op enige 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 ooreenkoms, toekenning of sertifikaat op hom nie, en enige **[Enige]** persoon 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 elke sodanige ooreenkoms is nietig.”

37. Artikel 53 van die Hoofwet word hierby gewysig deur paragrawe (b) en (c) van subartikel (8) deur onderskeidelik die volgende paragrawe te vervang:

Wysiging van artikel 53 van Wet 28 van 1956, soos gewysig deur artikel 5 van Wet 18 van 1961 en artikel 4 van Wet 21 van 1970.

„(b) Indien enige gelde aldus betaal aan die by regulasie bepaalde inspekteur of die nywerheidsraad 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 **[betrokke]** inspekteur **[of nywerheidsraad]** onverwyld daardie gelde aan die **[Sekretaris van Arbeid] Direkteur-generaal : Mannekrag** deurstuur vir inbetaling in die **[Gekonsolideerde Inkomstefonds] Staatsinkomstefonds**, en die betrokke nywerheidsraad moet daardie gelde onverwyld in genoemde Fonds inbetaal.

(c) Op aansoek van die **[Sekretaris van Arbeid] Direkteur-generaal : Mannekrag** of die betrokke nywerheidsraad gedoen te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van inbetaling in die **[Gekonsolideerde Inkomstefonds] Staatsinkomstefonds** kragtens paragraaf (b), moet die betrokke gelde terugbetaal word aan die **[Sekretaris van Arbeid] Direkteur-generaal : Mannekrag** of daardie nywerheidsraad vir betaling aan die persoon wat daarop geregtig is.”

38. Artikel 54 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 54 van Wet 28 van 1956, soos gewysig deur artikel 6 van Wet 18 van 1961 en artikel 5 van Wet 21 van 1970.

„Bevel aan werkgewer of werknemer om onderbetaalde bedrag of bedrag wat betaal moet word, aan aangewese amptenaar of nywerheidsraad te betaal.

54. (1) Wanneer iemand skuldig bevind is aan 'n misdryf kragtens subartikel (1) van artikel 53, en die misdryf bestaan het uit 'n oortreding of versuim in subartikel (2) of (3) van daardie artikel bedoel, moet die hof wat hom skuldig bevind het, nadat die hof ingevolge daardie artikel die onderbetaalde 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) of aan die betrokke nywerheidsraad te betaal by wyse van paaiemente of andersins, soos deur die hof bepaal.

(2) Die hof kan te eniger tyd op aansoek van 'n inspekteur of van 'n nywerheidsraad ten behoeve van homself of ten behoeve van 'n in artikel 24 (1)

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or employer to whom any amount is payable in terms of section 55 (1) or (2), or of the person convicted, if good cause is shown, reduce or extend the period within which any amount referred to in subsection (1) must be paid to the specified officer 5 or to the industrial council concerned, or vary the amounts of the instalments, or order that any balance outstanding be paid in one lump sum.

(3) An order made under the provisions of this section shall have all the effects of, and may be 10 executed as if it were, a civil judgment in favour of the Government of the **[Union] Republic** or the industrial council concerned, as the case may be.

(4) An order made under the provisions of section 54 of the Industrial Conciliation Act, 1937 (Act No. 15 36 of 1937), shall for the purposes of this Act be deemed to have been made under this section.”.

Substitution of section 55 of Act 28 of 1956, as amended by section 7 of Act 18 of 1961 and section 6 of Act 21 of 1970.

39. The following section is hereby substituted for section 55 of the principal Act:

“Disposal of amounts paid to specified officer or industrial council.

55. (1) Whenever an order is made under section 20 54 against an employer in respect of a contravention or failure such as is referred to in section 53 (2) (a), 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 or to the industrial council 25 concerned (hereinafter in this section referred to as the industrial council), as the court, having regard to the circumstances in which the contravention or failure occurred, deems equitable, shall be paid to the employee in respect of whom the contravention 30 or failure occurred: Provided that—

- (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 agreement, award or licence of exemption he was entitled to receive, or that if he did 35 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 or to the industrial council shall 40 be paid to that employee;
- (b) if the court, having regard to the circumstances in which the contravention or failure occurred, deems it equitable to do so, it may, except in the circumstances referred to in paragraph (a), 45 direct that no portion of the amount so paid to the specified officer or to the industrial council shall be paid to the employee concerned;
- (c) if the court directs that any portion of the amount so paid to the specified officer or to the 50 industrial council shall be paid to the employee concerned, that portion shall not be less than one-fourth thereof.

(2) Whenever an order is made under section 54 against an employee in respect of a contravention or 55 failure such as is referred to in section 53 (3), the

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(r) of 48 (1) (d) bedoelde fonds, of van 'n werknemer of werkgewer aan wie 'n bedrag ingevolge artikel 55 (1) of (2) betaalbaar is, of van die veroordeelde persoon, indien goeie redes aangevoer word, die tydperk waarin 'n in subartikel (1) bedoelde bedrag aan die aangewese amptenaar of aan die betrokke nywerheidsraad betaal moet word, verminder of verleng, of die bedrae van die paaielemente verander, of beveel dat enige onbetaalde saldo in 'n enkele geldsom betaal moet word.

(3) 'n Bevel wat kragtens die bepalinge van hierdie artikel uitgevaardig is, het in alle opsigte die uitwerking van en kan uitgevoer word asof dit 'n siviele vonnis ten gunste van die Regering van die [Unie] Republiek of die betrokke nywerheidsraad, na gelang van die geval, was.

(4) 'n Bevel uitgevaardig kragtens die bepalinge van artikel 54 van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), word by die toepassing van hierdie Wet geag kragtens hierdie artikel uitgevaardig te gewees het."

39. Artikel 55 van die Hoofwet word hierby deur die volgende artikel vervang:

„Beskikking
oor bedrae
aan aange-
wese ampte-
naar of
nywerheids-
raad betaal.

55. (1) Wanneer 'n bevel kragtens artikel 54 ten opsigte van 'n in artikel 53 (2) (a) 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 of aan die betrokke nywerheidsraad (hieronder in hierdie artikel die nywerheidsraad genoem) 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—

(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 ooreenkoms, toekenning 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 of aan die nywerheidsraad 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 of aan die nywerheidsraad 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 of aan die nywerheidsraad betaal word, aan die betrokke werknemer betaal moet word, daardie gedeelte minstens een-vierde daarvan moet wees.

(2) Wanneer 'n bevel kragtens artikel 54 ten opsigte van 'n in artikel 53 (3) bedoelde oortreding of versuim teen 'n werknemer uitgevaardig word,

Vervanging van
artikel 55 van
Wet 28 van 1956,
soos gewysig deur
artikel 7 van
Wet 18 van 1961
en artikel 6 van
Wet 21 van 1970.

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court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer or to the industrial council, as the court, having regard to the circumstances in which the contravention or failure occurred, deems equitable, shall be paid to the employer in respect of whom the contravention or failure occurred. 5

(3) So much of the amount so paid to the specified officer or to the industrial council as is not, in terms of subsection (1) or (2), payable to the employee or employer concerned, shall be paid into the **[Consolidated] State Revenue Fund**. 10

(4) The whole of any amount paid to the specified officer or to the industrial council pursuant to any order made under section 54 against an employer in respect of a contravention or failure such as is referred to in paragraph (b) of subsection (2) of section 53 shall be paid into the **[Consolidated] State Revenue Fund**: Provided that if the employer has also been convicted in respect of the same facts of a contravention or failure such as is referred to in paragraph (a) of that subsection, the provisions of this subsection shall apply only in respect of so much of the amount paid to the specified officer or to the industrial council as the court does not in terms of subsection (1) of this section direct shall be paid to the employee concerned. 15 20 25

(4)*bis* Whenever an order is made under section 54 against an employer in respect of a contravention or failure such as is referred to in section 53 (2) (c), 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 or to the industrial council as the court deems equitable, shall be paid to the council by virtue of section 24 (1) (q) or to any relevant fund referred to in section 24 (1) (r) or 48 (1) (d). 30 35

(5) The provisions of section 53 (8) (b) and (c) shall *mutatis mutandis* apply in respect of any moneys paid to a specified officer or to an industrial council which in terms of subsection (1) or (2) are payable to any employee or employer.”. 40

Amendment of
section 56 of
Act 28 of 1956.

40. Section 56 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 45

“(1) If any person has been convicted of an offence under section 53 (1), and the offence consisted of a contravention or failure such as is referred to in subsection (2) (a) or (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 section 55 (1) or (2) directs shall be paid to him out of the moneys paid to the specified officer or to the industrial council concerned in terms of an order made under section 54.”; and 50 55

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moet die hof wat die bevel uitvaardig, gelas dat soveel van die bedrag wat ingevolge die bevel aan die aangewese amptenaar of aan die nywerheidsraad 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 of aan die nywerheidsraad betaal wat nie ingevolge subartikel (1) of (2) aan die betrokke werknemer of werkgewer betaalbaar is nie, moet in die **[Gekonsolideerde Inkomstefonds]** Staatsinkomstefonds inbetaal word.

(4) Die hele bedrag wat aan die aangewese amptenaar of aan die nywerheidsraad betaal word ooreenkomstig 'n bevel wat kragtens artikel 54 teen 'n werkgewer uitgevaardig word ten opsigte van 'n in paragraaf (b) van subartikel (2) van artikel 53 bedoelde oortreding of versuim, moet in die **[Gekonsolideerde Inkomstefonds]** Staatsinkomstefonds inbetaal word: Met dien verstande dat as die werkgewer ten opsigte van dieselfde feite ook skuldig bevind is aan 'n in paragraaf (a) van daardie subartikel bedoelde oortreding of versuim, die bepaling van hierdie subartikel alleen van toepassing is ten opsigte van daardie gedeelte van die aan die aangewese amptenaar of aan die nywerheidsraad betaalde bedrag wat nie volgens lasgewing van die hof ingevolge subartikel (1) van hierdie artikel aan die betrokke werknemer betaal moet word nie.

(4)*bis* Wanneer 'n bevel kragtens artikel 54 ten opsigte van 'n in artikel 53 (2) (c) 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 of aan die nywerheidsraad betaal word as wat die hof billik ag, aan die nywerheidsraad uit hoofde van artikel 24 (1) (g) of aan enige betrokke fonds in artikel 24 (1) (r) of 48 (1) (d) bedoel, betaal moet word.

(5) Die bepaling van artikel 53 (8) (b) en (c) is *mutatis mutandis* van toepassing ten opsigte van enige gelde wat aan 'n aangewese amptenaar of aan 'n nywerheidsraad betaal word en wat ingevolge subartikel (1) of (2) aan 'n werknemer of werkgewer betaalbaar is."

40. Artikel 56 van die Hoofwet word hierby gewysig—

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

„(1) Indien iemand skuldig bevind is aan 'n misdryf kragtens artikel 53 (1), en die misdryf bestaan het uit 'n in subartikel (2) (a) of (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 word op sy werkgewer of werknemer te verhaal nie, maar is hy geregtig om ten opsigte van bedoelde bedrag alleen die gelde te ontvang wat die hof ingevolge artikel 55 (1) of (2) gelas aan hom betaal moet word uit die gelde wat aan die aangewese amptenaar of aan die betrokke nywerheidsraad betaal word ingevolge 'n bevel kragtens artikel 54 uitgevaardig."; en

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

“(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]** the area in respect of which the court has jurisdiction, 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”.

Amendment of
section 57 of
Act 28 of 1956.

41. Section 57 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 15

“(3) Every person who in terms of subsection (1) or (2) is required to keep a record of any event, shall retain such record or a microfilm or other microform reproduction thereof for a period of three years subsequent to the occurrence of that event, and shall on demand by an inspector made at any time during the said period of three years produce the said record or such reproduction thereof for inspection.”. 20

Substitution of
section 58 of
Act 28 of 1956.

42. The following section is hereby substituted for section 58 of the principal Act: 25

“Wage regulating measures to be kept by employer.

58. (1) Every employer upon whom any agreement, notice, award, order or determination is binding in terms of this Act shall at all times keep a copy thereof available on his premises and shall upon request of an employee make it available to that employee. 30

(2) Any employer who fails to comply with any provision of this section shall be guilty of an offence.”.

Repeal of
section 59 of
Act 28 of 1956.

43. Section 59 of the principal Act is hereby repealed. 35

Amendment of
section 60 of
Act 28 of 1956.

44. Section 60 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister or an officer designated by him for that purpose may, subject to the laws governing the public service, appoint any person as an inspector under this Act.”. 40

Amendment of
section 61 of
Act 28 of 1956,
as amended by
section 11 of
Act 41 of 1959.

45. Section 61 of the principal Act is hereby amended by the substitution for subsection (2)bis of the following subsection:

“(2)bis (a) Any inspector may at any time carry out an investigation to determine whether any trade union, employers’ organization, federation or industrial council is observing the provisions of its constitution and of this Act. 45

(b) An inspector who is carrying out any such investigation may— 50

(i) require any person who is an office-bearer or official of any trade union, **[or]** employers’ organization or federation or a member of any industrial council or of the staff of any industrial council to furnish him, within such period and in such form as he may specify, with any information relating to the activities of that trade union, employers’ organization, federation or industrial council that he may desire to obtain; 55

(ii) require from any person who has the possession or custody or control of any book or document relating to the activities of any trade union, employers’ organization, federation or industrial 60

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

5 „(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 regs-
gebied van die Plaaslike Afdeling Oostelike Dis-
trikte van die Hooggeregshof van Suid-Afrika geleë
is, deur die Solisiteur-generaal]** die gebied ten
10 opsigte waarvan die hof met regsbevoegdheid
beklee is, 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”.

15 41. Artikel 57 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

Wysiging van
artikel 57 van
Wet 28 van 1956.

20 „(3) Elke persoon wat ingevolge subartikel (1) of (2) 'n
aantekening van 'n gebeurtenis moet hou, moet daardie
aantekening of 'n mikrofilm- of ander mikroformreproduk-
sie daarvan behou vir 'n tydperk van drie jaar na daardie
gebeurtenis plaasgevind het, en moet op versoek van 'n
inspekteur te eniger tyd binne bedoelde tydperk van drie
jaar gedoen, bedoelde aantekening of sodanige reproduksie
daarvan vir insae voorlê.”.

25 42. Artikel 58 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van
artikel 58 van
Wet 28 van 1956.

30 „Loon- 58. (1) Elke werkgewer vir wie 'n ooreenkoms,
reëlende kennisgewing, toekenning, order of vasstelling in-
maatreëls gevolge hierdie Wet bindend is, moet te alle tye 'n
deur werk- afskrif daarvan op sy perseel beskikbaar hê en moet
35 gewer gehou op versoek van 'n werknemer dit aan daardie
te word. werknemer beskikbaar stel.
(2) 'n Werkgewer wat versuim om aan 'n bepaling
van hierdie artikel te voldoen, is aan 'n misdryf
35 skuldig.”.

43. Artikel 59 van die Hoofwet word hierby herroep.

Herroeping van
artikel 59 van
Wet 28 van 1956.

44. Artikel 60 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van
artikel 60 van
Wet 28 van 1956.

40 „(1) Die Minister of 'n amptenaar deur hom vir dié doel
aangewys, kan, met inagneming van die wetsbepalings op
die staatsdiens, enige persoon as 'n inspekteur kragtens
hierdie Wet aanstel.”.

45 45. Artikel 61 van die Hoofwet word hierby gewysig deur subartikel (2)*bis* deur die volgende subartikel te vervang:

Wysiging van
artikel 61 van
Wet 28 van 1956,
soos gewysig deur
artikel 11 van
Wet 41 van 1959.

„(2)*bis* (a) 'n Inspekteur kan te eniger tyd 'n ondersoek
instel om te bepaal of enige vakvereniging, werkgewers-
organisasie, federasie of nywerheidsraad die bepalings
van sy konstitusie en van hierdie Wet nakom.

(b) 'n Inspekteur wat so 'n ondersoek instel, kan—

50 (i) enige persoon wat 'n ampsdraer of beampte van
'n vakvereniging, **[of]** werkgewersorganisasie of
federasie of 'n lid van 'n nywerheidsraad of van
die personeel van 'n nywerheidsraad is, gelas om
aan hom, binne die tydperk en in die vorm wat
55 hy mag bepaal, enige inligting met betrekking tot
die aktiwiteite van daardie vakvereniging, werk-
gewersorganisasie, federasie of nywerheidsraad
wat hy verlang om te verkry, te verstrek;

60 (ii) van enige persoon wat 'n boek of stuk betreffende
die aktiwiteite van enige vakvereniging, werk-
gewersorganisasie, federasie of nywerheidsraad in

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council 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 that book or document and may require an explanation of any entries therein, and may seize any such book or document as in his opinion may afford evidence of any offence under this Act. 5

- (c) Any office-bearer or official of any trade union, **[or]** employers' organization or federation and any member of any industrial council or of the staff of any industrial council shall at all times furnish such facilities as are required by the inspector for entering any premises occupied by that trade union, employers' organization, federation or industrial council or for inspecting or examining the books and documents of that trade union, employers' organization, federation or industrial council upon or in those premises or for making any enquiry in relation thereto." 15

Amendment of section 62 of Act 28 of 1956, as amended by section 12 of Act 41 of 1959 and section 7 of Act 21 of 1970.

46. Section 62 of the principal Act is hereby amended— 20

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

"(1) The Minister or an officer designated by him for that purpose, may, at the request of an industrial council, and in his discretion, appoint any person nominated by the council who, in the opinion of the Minister or such officer, is proficient in the use of both official languages, as a designated agent of the council to assist the council in carrying out its functions, including the enforcement of any agreement, **[or]** award or determination which is binding in terms of this Act."; and 25

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

"(5) (a) The Minister may at any time, for a cause which in his opinion is sufficient, after consultation with the industrial council concerned, by notification to an industrial council signed by the registrar, cancel the certificate furnished to a designated agent in terms of subsection (2) of this section, or section 62 (2) of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) **[and]**: Provided that an officer designated by the Minister for that purpose may also so cancel any certificate furnished in terms of subsection (2) to a designated agent of the industrial council appointed as such by an officer designated by the Minister in terms of subsection (1). 40 45

- (b) The **[the]** person who was furnished with **[that]** any certificate referred to in paragraph (a) shall thereupon cease to be a designated agent of **[that]** the said council and shall forthwith return the said certificate to the registrar." 50

Repeal of section 63 of Act 28 of 1956.

47. Section 63 of the principal Act is hereby repealed.

Amendment of section 65 of Act 28 of 1956, as amended by section 1 of Act 61 of 1966.

48. Section 65 of the principal Act is hereby amended— 55

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"No employee or other person shall instigate a strike or incite any employee **[or other person]** to

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5 sy besit of bewaring of onder sy beheer het, die oorlegging daar en dan of op 'n tyd en plek deur die inspekteur bepaal, van daardie boek of stuk eis, en kan daardie boek of stuk ondersoek en uittreksels daaruit en afskrifte daarvan maak, en kan 'n uitleg vorder van enige inskrywings daarin, en kan beslag lê op enige sodanige boek of stuk as wat na sy oordeel bewys kan lewer van 'n misdryf ingevolge hierdie Wet.

10 (c) Enige ampsdraer of beampte van 'n vakvereniging, **[of]** werkgewersorganisasie of federasie en enige lid van 'n nywerheidsraad of van die personeel van 'n nywerheidsraad moet te alle tye die fasiliteite verskaf wat deur die inspekteur vereis word om enige perseel
15 wat deur daardie vakvereniging, werkgewersorganisasie, federasie of nywerheidsraad geokkupeer word, te betree of om die boeke en stukke van daardie vakvereniging, werkgewersorganisasie, federasie of nywerheidsraad op of in daardie perseel te inspekteer
20 of te ondersoek of om enige navraag daaromtrent te doen."

46. Artikel 62 van die Hoofwet word hierby gewysig—

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

25 „(1) Die Minister of 'n amptenaar deur hom vir dié doel aangewys, kan, op versoek van 'n nywerheidsraad, en na goeddunke, enige deur die raad benoemde persoon wat, na die mening van die Minister of sodanige amptenaar, bedrewe is in die gebruik van beide die amptelike tale, as 'n aangewese agent van die raad aanstel om die raad behulpsaam te wees by die uitoefening van sy werksaamhede, met inbegrip van die toepassing van enige ooreenkoms, **[of]** toekenning of vasstelling wat ingevolge hierdie Wet bindend is.”;
30 en

35 (b) deur subartikel (5) deur die volgende subartikel te vervang:

40 „(5) (a) Die Minister kan te eniger tyd, om 'n rede wat na sy mening voldoende is, na oorlegpleging met die betrokke nywerheidsraad, by 'n deur die registrateur ondertekende kennisgewing aan 'n nywerheidsraad, die sertifikaat wat ingevolge subartikel (2) van hierdie artikel of artikel 62 (2) van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937), aan 'n aangewese agent verskaf is, intrek **[en]**: Met dien verstande dat 'n amptenaar deur die Minister vir dié doel aangewys 'n
45 sertifikaat ingevolge subartikel (2) verskaf aan 'n aangewese agent van die nywerheidsraad wat as sodanig aangestel is deur 'n amptenaar wat deur die Minister ingevolge subartikel (1) aangewys is, aldus ook kan intrek.

50 (b) Die **[die]** persoon aan wie **[daardie]** 'n sertifikaat in paragraaf (a) bedoel verskaf is, hou dan op om
55 'n aangewese agent van **[daardie]** genoemde raad te wees en moet onverwyld bedoelde sertifikaat aan die registrateur terugbesorg.”

47. Artikel 63 van die Hoofwet word hierby herroep.

Herroeping van artikel 63 van Wet 28 van 1956.

48. Artikel 65 van die Hoofwet word hierby gewysig—

60 (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

„Geen werknemer of ander persoon mag 'n staking aanstig, of enige werknemer **[of ander**

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take part in or to continue a strike or take part in a strike or in the continuation of a strike, and no employer or other person shall instigate a lock-out or incite any employer or other person to take part in or to continue a lock-out or in the continuation of a lock-out—”;

(b) by the substitution in paragraph (b) of subsection (1) for the expression “subsection (2) of section sixteen of the Wage Act, 1937 (Act No. 44 of 1937)” of the expression “section 14 (2) of the Wage Act, 1957 (Act No. 5 of 1957)”;

(c) by the substitution for subsection (1A) of the following subsection:

“(1A) No employee **[or other person]** shall in pursuance of any combination, agreement or understanding, whether expressed or not, with any body or number of persons who are or have been employed by the same employer or by different employers, commit or take part in committing, and no employee or other person shall incite, instigate, command, aid, advise, encourage or procure any employee **[or other person]** so to commit or so to take part in committing, any act or omission contemplated in paragraph (a) or (b) of the definition of ‘strike’ in section 1 (1) if such act or omission is committed or is to be committed for any purpose other than a purpose referred to in paragraph (ii) of the said definition.”; and

(d) by the insertion after subsection (3) of the following subsection:

“(3A) Any employers’ organization, trade union or federation which grants financial assistance to any person with the object of inducing or enabling such person to commit any offence referred to in subsection (3) or of assisting him in the commission of such offence, shall be guilty of an offence.”.

Insertion of section 65A in Act 28 of 1956.

49. The following section is hereby inserted in the principal Act after section 65:

“Notice of discontinuance of work.

65A. (1) Whenever as the result of a dispute concerning the terms or conditions of employment of an employee or employees there is discontinuance of work, the employer concerned shall forthwith notify the inspector defined by regulation thereof in the prescribed manner.

(2) Any employer who fails to comply with any of the provisions of this section shall be guilty of an offence.”.

Amendment of section 66 of Act 28 of 1956.

50. Section 66 of the principal Act is hereby amended by the substitution in subsection (2) for the expression “Wage Act, 1937 (Act No. 44 of 1937)” of the expression “Wage Act, 1957 (Act No. 5 of 1957)”.

Substitution of section 67 of Act 28 of 1956.

51. The following section is hereby substituted for section 67 of the principal Act:

“Secrecy to be observed.

67. Any representative on an industrial council or a conciliation board, or any alternate to such a representative, or any person who has presided over any meeting of an industrial council or a conciliation board, or any member of a committee of an industrial council, or any designated agent or other official of an industrial council, or any official or office-bearer of any

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- 5 **persoon**] aanhits om aan 'n staking deel te neem of dit voort te sit of aan 'n staking of aan die voortsetting van 'n staking deel te neem nie, en geen werkgewer of ander persoon mag 'n uitsluiting aanstig of enige werkgewer of ander persoon aanhits om aan 'n uitsluiting deel te neem of dit voort te sit of aan 'n uitsluiting of aan die voortsetting van 'n uitsluiting deelneem nie—”;
- 10 (b) deur in paragraaf (b) van subartikel (1) die uitdrukking „subartikel (2) van artikel *sestien* van die Loonwet, 1937 (Wet No. 44 van 1937)” deur die uitdrukking „artikel 14 (2) van die Loonwet, 1957 (Wet No. 5 van 1957)” te vervang;
- 15 (c) deur subartikel (1A) deur die volgende subartikel te vervang:
- 20 „(1A) Geen werknemer [**of ander persoon**] mag na aanleiding van 'n samespanning, ooreenkoms, of verstandhouding, hetsy uitgedruk of nie, met 'n liggaam of aantal persone wat in diens is of was by dieselfde werkgewer of by verskillende werkgewers, 'n in paragraaf (a) of (b) van die omskrywing van 'staking' in artikel 1 (1) beoogde handeling of versuim verrig of deelneem aan die verrigting van so 'n handeling of versuim nie, en geen werknemer of ander persoon mag
- 25 'n werknemer [**of ander persoon**] aanhits, aanstig, beveel, help, adviseer, aanmoedig of verkry om so 'n handeling of versuim aldus te verrig of om aan die verrigting van so 'n handeling of versuim aldus deel te neem nie, indien daardie handeling of versuim verrig word of verrig moet word met 'n ander doel as 'n doel in paragraaf (ii) van genoemde omskrywing bedoel.”;
- 30 en
- (d) deur na subartikel (3) die volgende subartikel in te voeg:
- 35 „(3A) 'n Werkgewersorganisasie, vakvereniging of federasie wat finansiële hulp verleen aan enige persoon met die doel om daardie persoon oor te haal of in staat te stel om 'n misdryf in subartikel (3) bedoel, te pleeg, of om hom met die pleging van daardie misdryf te help, is aan 'n misdryf skuldig.”
- 40

49. Die volgende artikel word hierby in die Hoofwet na artikel 65 ingevoeg:

Invoeging van artikel 65A in Wet 28 van 1956.

- 45 „Kennisgewing van stopsetting van werk.
- 50 **65A. (1)** Wanneer daar as gevolg van 'n geskil aangaande die bedinge of voorwaardes van diens van 'n werknemer of werknemers 'n stopsetting van werk is, moet die betrokke werkgewer onverwyld die inspekteur by regulasie bepaal daarvan op die voorgeskrewe wyse in kennis stel.
- (2) 'n Werkgewer wat versuim om aan enigeen van die bepalings van hierdie artikel te voldoen, is aan 'n misdryf skuldig.”

50. Artikel 66 van die Hoofwet word hierby gewysig deur in subartikel (2) die uitdrukking „Loonwet, 1937 (Wet No. 44 van 1937)” deur die uitdrukking „Loonwet, 1957 (Wet No. 5 van 1957)” te vervang.

Wysiging van artikel 66 van Wet 28 van 1956.

51. Artikel 67 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 67 van Wet 28 van 1956.

- 60 „Geheimhouding bewaar te word.
- 67.** Enige verteenwoordiger op 'n nywerheidsraad of 'n versoeningsraad, of enige plaasvervanger van so 'n verteenwoordiger, of enige persoon wat op 'n vergadering van 'n nywerheidsraad of 'n versoeningsraad voorgesit het, of enige lid van 'n komitee van 'n nywerheidsraad, of enige aangewese agent of ander beampte van 'n nywerheidsraad, of enige

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of the parties to an industrial council or a conciliation board or any other person who has been permitted to attend any meeting of an industrial council or a committee thereof or of a conciliation board, or any member of the industrial court or any mediator, 5 assessor, arbitrator or umpire appointed or deemed to have been appointed under this Act, or any officer who discloses any information in regard to the affairs of any person, firm or business acquired in the exercise of his powers or the performance of his duties under this Act 10 or in the capacity stated or while attending any such meeting, as the case may be, except to the Minister or to an officer or to the industrial court or to a member of the industrial court or to the Board of Trade and Industries or to the wage board established **[under]** by the Wage 15 Act, **[1937 (Act No. 44 of 1937)]** 1957 (Act No. 5 of 1957), or any similar body or to an industrial council or a conciliation board concerned in the matter, or to any committee of such an industrial council, or to a court of law or to any other person for the purposes of this Act or 20 to enable him to exercise the said powers or to perform the said duties effectively, shall be guilty of an offence.”.

Amendment of section 74 of Act 28 of 1956, as amended by section 8 of Act 21 of 1970.

52. Section 74 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the expression 25 “48A”; and
- (b) by the substitution for subsection (5) of the following subsection:

“(5) In any proceedings under this Act, any statement or entry contained in any book or document kept 30 by any employer, principal or contractor, or by his manager, agent or employee, or found upon or in any premises occupied by, or any vehicle used in the business of, that employer, principal or contractor, and any copy or reproduction (whether obtained by micro- 35 filming or any other process) of any such statement or entry, 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 40 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.”.

Amendment of section 76 of Act 28 of 1956, as amended by section 13 of Act 41 of 1959, section 8 of Act 18 of 1961 and section 9 of Act 95 of 1980.

53. Section 76 of the principal Act is hereby amended— 45

- (a) by the substitution for paragraph (b) of subsection (9) of the following paragraph:
- “(b) The parties to any proceedings arising from any application under subsection (3), shall pay to the **[Secretary for Labour]** Director-General: Man- 50 power, for the benefit of the **[Consolidated]** State Revenue Fund, such fees as may be prescribed in such proportions as the industrial court may direct.”;

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beampte of ampsdraer van enigeen van die partye by 'n nywerheidsraad of 'n versoeningsraad of enige ander persoon wat toegelaat is om 'n vergadering van 'n nywerheidsraad of 'n komitee daarvan of van 'n versoeningsraad by te woon, of enige lid van die nywerheidshof, of enige bemiddelaar, assessor, arbiter of skeidsregter wat kragtens hierdie Wet aangesetel is of geag word aldus aangesetel te gewees het, of enige amptenaar wat, behalwe aan die Minister of aan 'n amptenaar of aan die nywerheidshof of aan 'n lid van die nywerheidshof, of aan die Raad van Handel en Nywerheid of aan die loonraad ingestel [ingevolge] by die Loonwet, [1937 (Wet No. 44 van 1937)] 1957 (Wet No. 5 van 1957), of 'n soortgelyke liggaam of aan 'n nywerheidsraad of 'n versoeningsraad wat by die aangeleentheid betrokke is, of aan 'n komitee van so 'n nywerheidsraad, of aan 'n geregshof of aan 'n ander persoon vir die doeleindes van hierdie Wet of om hom in staat te stel om op doeltreffende wyse [bedoelde] sy bevoegdhede uit te oefen of [bedoelde] sy pligte kragtens hierdie Wet te verrig, enige inligting openbaar wat hy in die uitoefening van [sy] bedoelde bevoegdhede of die verrigting van [sy] bedoelde pligte [kragtens hierdie Wet] of in die genoemde hoedanigheid of terwyl hy sodanige vergadering bywoon, na gelang van die geval, met betrekking tot die sake van enige persoon, firma of besigheid verkry het, is aan 'n misdryf skuldig."

- 30 52. Artikel 74 van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (1) die uitdrukking „48A" te skrap;
 en
 (b) deur subartikel (5) deur die volgende subartikel te vervang:

Wysiging van artikel 74 van Wet 28 van 1956, soos gewysig deur artikel 8 van Wet 21 van 1970,

35 „(5) By enige verrigtinge ingevolge hierdie Wet is 'n verklaring of inskrywing wat voorkom in enige boek of stuk wat deur enige 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 of aannemer geokkupeer word, of op of in 'n voertuig wat in die besigheid van daardie werkgewer, prinsipaal of aannemer gebruik word, en enige afskrif of reproduksie (hetsy deur middel van mikroverfilming of 'n ander proses verkry) van so 'n verklaring of inskrywing, 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."

- 55 53. Artikel 76 van die Hoofwet word hierby gewysig—
 (a) deur paragraaf (b) van subartikel (9) deur die volgende paragraaf te vervang:

Wysiging van artikel 76 van Wet 28 van 1956, soos gewysig deur artikel 13 van Wet 41 van 1959, artikel 8 van Wet 18 van 1961 en artikel 9 van Wet 95 van 1980.

60 „(b) Die partye by enige verrigtinge wat voortspruit uit 'n aansoek kragtens subartikel (3) moet aan die [Sekretaris van Arbeid] Direkteur-generaal: Mannekrag ten behoeve van die [Gekonsolideerde Inkomstefonds] Staatsinkomstefonds die gelde wat voorgeskryf word in die dele wat die nywerheidshof gelas, betaal."

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- (b) by the substitution for paragraph (a) of subsection (10) of the following paragraph:

“(a) A determination made under this section shall be final and binding from the date fixed in the determination (which may be a date prior or subsequent to the date of the determination) and in the area specified in the determination, and any relevant wage regulating measure, any determination made under section 77 or any constitution or certificate of registration of any registered trade union, employers’ organization or industrial council, **[and the provisions of section fourteen of the Black Building Workers Act, 1951 (Act No. 27 of 1951)]** shall operate in accordance with such determination.”; and

- (c) by the deletion of subsection (11).

Amendment of section 78 of Act 28 of 1956, as amended by section 1 of Act 43 of 1966.

54. Section 78 of the principal Act is hereby amended—

- (a) by the deletion of the proviso to paragraph (b) of subsection (1A);
- (b) by the insertion of the following subsection after subsection (1B):

“(1C) (a) No employer shall deduct any membership fees payable to a trade union which is not registered or deemed to be registered under this Act from the remuneration of any employee unless the Minister has approved of such deduction.

(b) For the purposes of this subsection, ‘membership fees’ means fees the periodical payment of which is a condition of membership but includes any separate fee, subscription or contribution which entitles a member to any financial or other benefit, and special levy imposed for a particular purpose.”;

- (c) by the substitution in subsection (2) for the expression “Suppression of Communism Act, 1950” of the expression “Internal Security Act, 1950”; and
- (d) by the substitution for subsection (3) of the following subsection:

“(3) Any employer who contravenes subsection (1) or (1C) or fails to comply with subsection (1B) shall be guilty of an offence.”.

Amendment of section 80 of Act 28 of 1956, as amended by section 18 of Act 94 of 1979.

55. Section 80 of the principal Act is hereby amended by the addition of the following subsection:

“(8) The provisions of section 8 (5), (6) (c) and (d) and (7) and section 11 (excluding subsection (2) (a) and (b)) shall *mutatis mutandis* apply in respect of any federation, irrespective of whether or not it is registered or deemed to be registered under this section, in so far as such provisions can be so applied.”.

Amendment of section 81 of Act 28 of 1956.

56. Section 81 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the word “Governor-General” of the words “State President”; and
- (b) by the substitution for subsection (3) of the following subsection:

“(3) Any regulation made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of **[fifty pounds]** R500 or imprisonment for a period of six months.”.

Amendment of section 82 of Act 28 of 1956.

57. Section 82 of the principal Act is hereby amended—

- (a) by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs, respectively:

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(b) deur paragraaf (a) van subartikel (10) deur die volgende paragraaf te vervang:

5 „(a) 'n Vasstelling kragtens hierdie artikel gemaak, is afdoende en bindend vanaf die datum in die vasstelling bepaal (wat 'n datum voor of na die datum van die vasstelling kan wees) en in die gebied in die vasstelling vermeld, en 'n toepaslike loonreëlende maatregel, 'n vasstelling kragtens artikel 77 gemaak of 'n konstitusie of registrasiesertifikaat van 'n geregistreerde vakvereniging, 10 werkgewersorganisasie of nywerheidsraad **[en die bepalinge van artikel veertien van die Wet op Swart Bouwerkers, 1951 (Wet No. 27 van 1951)]** word toegepas ooreenkomstig daardie vasstelling.”; en

15 (c) deur subartikel (11) te skrap.

54. Artikel 78 van die Hoofwet word hierby gewysig—

(a) deur die voorbehoudsbepaling by paragraaf (b) van subartikel (1A) te skrap;

20 (b) deur die volgende subartikel na subartikel (1B) in te voeg:

„(1C) (a) Geen werkgewer mag enige ledegeld betaalbaar aan 'n vakvereniging wat nie kragtens hierdie Wet geregistreer is of geag word aldus geregistreer te wees nie, van die besoldiging van enige werknemer aftrek nie tensy die Minister bedoelde aftrekking goedgekeur het.

25 (b) By die toepassing van hierdie subartikel beteken „ledegeld” geld waarvan die periodieke betaling 'n voorwaarde van lidmaatskap is, en ook enige aparte geld, subskripsiegeld of bydrae wat 'n lid op enige finansiële of ander voordeel geregtig maak of enige spesiale heffing vir 'n besondere doel opgelê.”;

35 (c) deur in subartikel (2) die uitdrukking „Wet op die Onderdrukking van Kommunisme, 1950” deur die uitdrukking „Wet op Binnelandse Veiligheid, 1950” te vervang; en

40 (d) deur subartikel (3) deur die volgende subartikel te vervang:

„(3) 'n Werkgewer wat subartikel (1) of (1C) oortree of versuim om aan subartikel (1B) te voldoen, is aan 'n misdryf skuldig.”.

Wysiging van artikel 78 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 43 van 1966.

45 55. Artikel 80 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

„(8) Die bepalinge van artikel 8 (5), (6) (c) en (d) en (7) en artikel 11 (uitgesonderd subartikel (2) (a) en (b)) is *mutatis mutandis* van toepassing ten opsigte van 'n federasie, ongeag of dit geregistreer is of geag word geregistreer te gewees het kragtens hierdie artikel, al dan nie, vir sover daardie bepalinge aldus toegepas kan word.”.

Wysiging van artikel 80 van Wet 28 van 1956, soos gewysig deur artikel 18 van Wet 94 van 1979.

56. Artikel 81 van die Hoofwet word hierby gewysig—

55 (a) deur in subartikel (1) die woord „Goewerneur-generaal” deur die woord „Staatspresident” te vervang; en

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

60 „(3) Regulasies kragtens subartikel (1) uitgevaardig, kan vir enige oortreding daarvan of versuim om daaraan te voldoen, strawwe voorskryf van hoogstens 'n boete van **[vyftig pond] R500** of gevangenisstraf vir 'n tydperk van ses maande.”.

Wysiging van artikel 81 van Wet 28 van 1956.

57. Artikel 82 van die Hoofwet word hierby gewysig—

65 (a) deur paragrawe (a) en (b) van subartikel (1) deur onderskeidelik die volgende paragrawe te vervang:

Wysiging van artikel 82 van Wet 28 van 1956.

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- “(a) in the case of an offence referred to in section 66 (1), to a fine not exceeding **[three hundred pounds]** R2 000 or imprisonment for a period not exceeding two years or such imprisonment without the option of a fine or both such fine and such imprisonment; and 5
- (b) in the case of any other offence for which no special penalty is prescribed, to a fine not exceeding **[one hundred pounds]** R1 000 or imprisonment for a period not exceeding one year or such imprisonment without the option of a fine or both such fine and such imprisonment.”; and 10
- (b) by the deletion of subsections (2), (3) and (4).

Amendment of section 83 of Act 28 of 1956, as amended by section 15 of Act 41 of 1959.

58. Section 83 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following 15 subsection:

“(3) The provisions of section 54 shall *mutatis mutandis* apply in respect of the difference calculated or estimated in terms of subsection (1) or (2), and any amount paid to the specified officer or to the industrial 20 council concerned in terms of an order made under the said section, as applied by this subsection, shall be paid into the **[Consolidated] State Revenue Fund.**”; and

- (b) by the substitution for paragraphs (a) and (b) of subsection (4) of the following paragraphs, respec- 25 tively:

“(a) If the inspector defined by regulation or the industrial council concerned (where an agreement or award administered by the council is involved) has advised an employer of the amount which in 30 his or its opinion is likely to be determined or estimated by any court under this section in respect of any offence alleged by the inspector or industrial council to have been committed by such employer and that employer has admitted that he 35 is liable for such amount and has paid it to the inspector or the industrial council, such amount shall, if no prosecution in respect of such offence is instituted within a period of 30 days from the date of receipt of the amount, be transmitted by 40 the inspector to the **[Secretary for Labour] Director-General: Manpower** for payment into the **[Consolidated] State Revenue Fund**, and the industrial council shall forthwith pay such amount into the said Fund. 45

- (b) No prosecution in respect of the alleged offence shall be instituted against the employer concerned after the amount referred to in paragraph (a) has been transmitted to the **[Secretary for Labour] Director-General: Manpower** or paid to the in- 50 dustrial council concerned in terms of the said paragraph.”.

Substitution of section 85 of Act 28 of 1956.

59. The following section is hereby substituted for section 85 of the principal Act:

“Section 57 of Act 51 of 1977 not to apply to cer-

85. The provisions of section **[three hundred and fifty one of the Criminal Procedure Act, 1955 (Act No. 56 of 1955)] 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)**, shall not apply in respect 55

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- 5 „(a) met 'n boete van hoogstens **[driehonderd pond]**
 R2 000 of met gevangenisstraf vir 'n tydperk van
 hoogstens twee jaar of met sodanige gevangenis-
 straf sonder die keuse van 'n boete of met
 sodanige boete sowel as sodanige gevangenisstraf,
 in die geval van 'n in artikel 66 (1) bedoelde
 misdryf; en
- 10 (b) met 'n boete van hoogstens **[honderd pond]**
 R1 000 of gevangenisstraf vir 'n tydperk van
 hoogstens een jaar of met daardie gevangenisstraf
 sonder die keuse van 'n boete of met daardie
 boete sowel as daardie gevangenisstraf, in die
 geval van enige ander misdryf waarvoor geen
 spesiale straf voorgeskryf word nie.”; en
- 15 (b) deur subartikels (2), (3) en (4) te skrap.

58. Artikel 83 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (3) deur die volgende subartikel te
 vervang:
- 20 „(3) Die bepalinge van artikel 54 is *mutatis mutandis*
 van toepassing ten opsigte van die verskil bereken of
 beraam ingevolge subartikel (1) of (2), en enige bedrag
 wat ingevolge 'n bevel wat uitgevaardig word kragtens
 bedoelde artikel, soos deur hierdie artikel toegepas,
 aan die aangewese amptenaar of aan die betrokke
 25 nywerheidsraad betaal word, moet in die **[Ge-
 konsolideerde Inkomstefonds]** Staatsinkomstefonds
 inbetaal word.”; en
- (b) deur paragrawe (a) en (b) van subartikel (4) deur
 onderskeidelik die volgende paragrawe te vervang:
- 30 „(a) Indien die by regulasie bepaalde inspekteur of die
 betrokke nywerheidsraad (waar 'n ooreenkoms of
 toekenning wat deur die raad geadministreer
 word, betrokke is) 'n werkgewer in kennis gestel
 35 het van die bedrag wat na sy mening waarskynlik
 deur 'n hof kragtens hierdie artikel vasgestel of
 beraam sal word ten opsigte van enige misdryf
 wat die inspekteur of nywerheidsraad beweer
 deur die werkgewer gepleeg is en daardie werk-
 gewer erken het dat hy aanspreeklik is vir daardie
 40 bedrag en dit betaal het aan die inspekteur of die
 nywerheidsraad, word daardie bedrag, as geen
 vervolging ten opsigte van sodanige misdryf binne
 'n tydperk van 30 dae vanaf die datum van
 ontvangs van die bedrag ingestel word nie, deur
 45 die inspekteur aan die **[Sekretaris van Arbeid]**
Direkteur-generaal: Mannekrag deurgestuur vir
 inbetaling in die **[Gekonsolideerde Inkomstefonds]**
Staatsinkomstefonds, en die nywerheidsraad moet
 50 sodanige bedrag onverwyld in genoemde Fonds
inbetaal.
- (b) Geen vervolging ten opsigte van die beweerde
 misdryf word teen die betrokke werkgewer in-
 gestel nie nadat die in paragraaf (a) bedoelde
 bedrag ingevolge daardie paragraaf aan die **[Se-
 55 kretaris van Arbeid]** Direkteur-generaal: Man-
 nekrag deurgestuur is of aan die betrokke
nywerheidsraad betaal is.”

Wysiging van
 artikel 83 van
 Wet 28 van 1956,
 soos gewysig deur
 artikel 15 van
 Wet 41 van 1959.

59. Artikel 85 van die Hoofwet word hierby deur die volgende artikel vervang:

- 60 „Artikel 57 van Wet 51 van 1977 nie van toepassing op se-
85. Die bepalinge van artikel **[driehonderd een-en-
 vyftig van die Strafproseswet, 1955 (Wet No. 56 van
 1955)]** 57 van die Strafproseswet, 1977 (Wet No. 51
 van 1977), is nie ten opsigte van 'n misdryf wat

Vervanging van
 artikel 85 van
 Wet 28 van 1956.

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tain offences of any offence which consists of a contravention or
under this failure such as is referred to in section 53 (2) or (3)
Act. or section 65 (3A).”.

Substitution of
section 87 of
Act 28 of 1956.

60. The following section is hereby substituted for section 87
of the principal Act:

5

“Short title. **87.** This Act shall be called the Labour Relations
Act, 1956.”.

Substitution of
long title of
Act 28 of 1956,
as substituted by
section 20 of
Act 94 of 1979.

61. The following long title is hereby substituted for the long
title of the principal Act:

“ACT

10

To consolidate and amend the law relating to the registra-
tion and regulation of trade unions and employers’ organ-
izations, the prevention and settlement of disputes be-
tween employers and employees, and the regulation of terms
and conditions of employment by agreement and arbi- 15
tration **[and the control of private registry offices]**; to
provide for the establishment of a National Manpower
Commission and to define its functions; to provide for the
establishment of an industrial court and to define its
functions; and to provide for other incidental matters.”. 20

Continuation of
agreements and
awards.

62. The provisions of any agreement published in terms of
section 48 of the principal Act and any award made in terms of
section 45, 46 or 49 of the said Act prior to the commencement
of this section which differentiate on the basis of sex, shall
remain in force until those provisions are amended or the 25
agreement or award is cancelled or replaced in terms of the
principal Act.

Repeal of Laws,
and savings.

63. (1) The Electrical Wiremen and Contractors Act, 1939
(Act No. 20 of 1939), the Electrical Wiremen and Contractors
Amendment Act, 1955 (Act No. 65 of 1955), the Electrical 30
Wiremen and Contractors Amendment Act, 1957 (Act No. 35 of
1957), and the Electrical Wiremen and Contractors Amendment
Act, 1962 (Act No. 48 of 1962), are hereby repealed.

(2) Subject to the provisions of subsection (3) of this section
and of sections 34B and 51A (7) of the principal Act, the Black 35
Labour Relations Regulation Act, 1953 (Act No. 48 of 1953),
the Black Labour (Settlement of Disputes) Amendment Act,
1955 (Act No. 59 of 1955), the Black Labour Relations
Regulation Amendment Act, 1973 (Act No. 70 of 1973), and the
Black Labour Relations Regulation Amendment Act, 1977 (Act 40
No. 84 of 1977), are hereby repealed.

(3) Any order made in terms of section 11 of the Black
Labour Relations Regulation Act, 1953, and in force at the
commencement of this section shall remain in force as if that
Act had not been repealed by subsection (2), until it is 45
superseded by a wage regulating measure which is declared
binding for the trade and in the area in question in terms of the
principal Act.

Short title and
commencement.

64. (1) This Act shall be called the Labour Relations
Amendment Act, 1981, and shall come into operation on a date 50
fixed by the State President by proclamation in the *Gazette*.

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

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kere mis- bestaan uit 'n in artikel 53 (2) of (3) of artikel 65
drywe volgens (3A) bedoelde oortreding of versuim van toepassing
hierdie Wet nie. "

60. Artikel 87 van die Hoofwet word hierby deur die volgende
5 artikel vervang:

Vervanging van
artikel 87 van
Wet 28 van 1956.

„Kort titel. 87. Hierdie Wet heet die Wet op Arbeids-
verhoudinge, 1956.”

61. Die lang titel van die Hoofwet word hierby deur die
volgende lang titel vervang:

Vervanging van
lang titel van
Wet 28 van 1956,
soos vervang deur
artikel 20 van
Wet 94 van 1979.

10 „WET

Tot samevatting en wysiging van die wet met betrekking tot
die registrasie en reëling van vakverenigings en werkgewers-
organisasies, die voorkoming en beslegting van geskille
15 tussen werkgewers en werknemers, en die reëling van bedinge
en voorwaardes van diens deur ooreenkoms en arbitrasie
[en die beheer van private registrasiekantore]; om voorsie-
ning te maak vir die instelling van 'n Nasionale Mannekrag-
kommissie en om sy werksaamhede te omskryf; om
20 voorsiening te maak vir die instelling van 'n nywerheidshof
en om sy werksaamhede te omskryf; en om voorsiening te
maak vir ander bykomstige aangeleenthede.”

62. Die bepalings van enige ooreenkoms gepubliseer in-
gevolge artikel 48 van die Hoofwet en enige toekenning gemaak
ingevolge artikel 45, 46 of 49 van genoemde Wet voor die
25 inwerkingtreding van hierdie artikel wat op grond van geslag
differensieer, bly van krag totdat daardie bepalings gewysig of
die ooreenkoms of toekenning ingetrek of vervang word
ingevolge die Hoofwet.

Voortbestaan van
ooreenkomste en
toekennings.

63. (1) Die Wet op Elektrotegniese Draadwerkers en Aan-
30 nemers, 1939 (Wet No. 20 van 1939), die Wysigingswet op
Elektrotegniese Draadwerkers en Aannemers, 1955 (Wet No. 65
van 1955), die Wysigingswet op Elektrotegniese Draadwerkers
en Aannemers, 1957 (Wet No. 35 van 1957), en die Wysigings-
wet op Elektrotegniese Draadwerkers en Aannemers, 1962
35 (Wet No. 48 van 1962), word hierby herroep.

Herroeping van
wette, en
voorbehoude.

(2) Behoudens die bepalings van subartikel (3) van hierdie
artikel en van artikels 34B en 51A (7) van die Hoofwet, word
die Wet op die Reëling van Swart Arbeidsverhoudinge, 1953
(Wet No. 48 van 1953), die Wysigingswet op Swart Arbeid
40 (Beslegting van Geskille), 1955 (Wet No. 59 van 1955), die
Wysigingswet op die Reëling van Swart Arbeidsverhoudinge,
1973 (Wet No. 70 van 1973), en die Wysigingswet op die Reëling
van Swart Arbeidsverhoudinge, 1977 (Wet No. 84 van 1977),
hierby herroep.

45 (3) Enige order wat ingevolge artikel 11 van die Wet op die
Reëling van Swart Arbeidsverhoudinge, 1953, gemaak is en wat
by die inwerkingtreding van hierdie artikel van krag is, bly van
krag asof daardie Wet nie deur subartikel (2) herroep is nie,
totdat dit vervang word deur 'n loonreëlende maatregel wat
50 ingevolge die Hoofwet vir die betrokke bedryf en in die betrokke
gebied bindend verklaar word.

64. (1) Hierdie Wet heet die Wysigingswet op Arbeids-
verhoudinge, 1981, en tree in werking op 'n datum wat die
Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel en
inwerkingtreding.

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

