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GOVERNMENT GAZETTE

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STATE PRESIDENT'S OFFICE

No. 1158.

2 July 1993

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

No. 85 of 1993: Occupational Health and Safety Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1158.

2 Julie 1993

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

No. 85 van 1993: Wet op Beroepsgesondheid en Veiligheid, 1993.

ACT

To provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work; to establish an advisory council for occupational health and safety; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 23 June 1993.)*

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

Definitions

1. (1) In this Act, unless the context otherwise indicates—

- (i) “approved inspection authority” means an inspection authority approved by the chief inspector: Provided that an inspection authority approved by the chief inspector with respect to any particular service shall be an approved inspection authority with respect to that service only; (xxiv) 5
- (ii) “biological monitoring” means a planned programme of periodic collection and analysis of body fluid, tissues, excreta or exhaled air in order to detect and quantify the exposure to or absorption of any substance or organism by persons; (xi) 10
- (iii) “building” includes—
 - (a) any structure attached to the soil; 15
 - (b) any building or such structure or part thereof which is in the process of being erected; or
 - (c) any prefabricated building or structure not attached to the soil; (xv)
- (iv) “chief executive officer”, in relation to a body corporate or an enterprise conducted by the State, means the person who is responsible for the overall management and control of the business of such body corporate or enterprise; (xxviii) 20
- (v) “chief inspector” means the officer designated under section 27 as chief inspector, and includes any officer acting as chief inspector; (xxvii) 25
- (vi) “Council” means the Advisory Council for Occupational Health and Safety established by section 2; (xli)
- (vii) “danger” means anything which may cause injury or damage to persons or property; (xxiii) 30
- (viii) “Department” means the Department of Manpower; (xii)
- (ix) “employee” means, subject to the provisions of subsection (2), any person who is employed by or works for an employer and who receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person; (liii) 35
- (x) “employer” means, subject to the provisions of subsection (2), any person who employs or provides work for any person and remunerates that person or expressly or tacitly undertakes to remunerate him, but excludes a labour broker as defined in section 1(1) of the Labour Relations Act, 1956 (Act No. 28 of 1956); (lii) 40

WET

Om voorsiening te maak vir die gesondheid en veiligheid van persone by die werk en vir die gesondheid en veiligheid van persone in verband met die gebruik van bedryfstoerusting en masjinerie; die beskerming van ander persone as persone by die werk teen bedreigings vir gesondheid en veiligheid wat ontstaan uit of in verband met die bedrywighede van persone by die werk; 'n adviesraad vir beroepsgesondheid en veiligheid in te stel; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 23 Junie 1993.)*

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

Woordomskrywing

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - 5 (i) “beampte” ’n beampte of werknemer soos omskryf in artikel 1(1) van die Staatsdienswet, 1984 (Wet No. 111 van 1984); (xxxvii)
 - (ii) “bedreiging” ’n bron van of blootstelling aan gevaar; (xiii)
 - 10 (iii) “bedryfstoerusting” ook vaste toebehore, bybehore, implemente, toerusting, gereedskap en toestelle, en enigiets wat vir enige doeleinde in verband met sodanige bedryfstoerusting gebruik word; (xxxix)
 - (iv) “behoorlik gebruik” met redelike versigtigheid gebruik, en met inagneming van enige inligting, instruksie of advies wat deur die ontwerper, vervaardiger, invoerder, verkoper of voorsiener verskaf is; (xlii)
 - 15 (v) “beloning” enige betaling in kontant of in *natura* of in sowel kontant as *natura*, aan iemand gedoen of verskuldig na aanleiding van die diens van so iemand; (xlv)
 - 20 (vi) “beroepsgeneeskunde” die voorkoming, diagnose en behandeling van siekte, besering en nadelige effekte op die gesondheid wat geassosieer word met ’n bepaalde soort werk; (xxxiv)
 - (vii) “beroepsgeneeskundige” ’n geneesheer soos omskryf in die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), wat beskik oor ’n kwalifikasie in beroepsgeneeskunde of ’n ekwivalente kwalifikasie welke kwalifikasie of ekwivalent as sodanig deur die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad in genoemde Wet bedoel, erken word; (xxxv)
 - 25 (viii) “beroepsgesondheid” ook beroepshigiëne, beroepsgeneeskunde en biologiese monitering; (xxxi)
 - 30 (ix) “beroepsgesondheidspraktisyn” ’n beroepsgeneeskundige of ’n persoon wat beskik oor ’n kwalifikasie in beroepsgesondheid wat as sodanig erken word deur die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad soos bedoel in die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepe, 1974 (Wet No. 56 van 1974), of die Suid-Afrikaanse Raad op Verpleging soos bedoel in die Wet op Verpleging, 1978 (Wet No. 50 van 1978); (xxxii)
 - 35 (x) “beroepshigiëne” die antispasie, herkenning, evaluering en kontro-
40 lering van toestande wat ontstaan in of vanuit die werkplek en wat siekte of ’n nadelige effek op die gesondheid van persone kan veroorsaak; (xxxiii)
 - (xi) “biologiese monitering” ’n beplande program van periodieke versameling en ontleding van liggaamsvloeistowwe, weefsels,

- (xi) "employment" or "employed" means employment or employed as an employee; (xiii)
- (xii) "explosives" means any substance or article as listed in Class I: Explosives in the South African Bureau of Standards Code of Practice for the Identification and Classification of Dangerous Substances and Goods, SABS 0228; (xxxvii) 5
- (xiii) "hazard" means a source of or exposure to danger; (ii)
- (xiv) "health and safety committee" means a committee established under section 19; (xix)
- (xv) "health and safety equipment" means any article or part thereof which is manufactured, provided or installed in the interest of the health or safety of any person; (xxi) 10
- (xvi) "health and safety representative" means a person designated in terms of section 17(1); (xxii)
- (xvii) "health and safety standard" means any standard, irrespective of whether or not it has the force of law, which, if applied for the purposes of this Act, will in the opinion of the Minister promote the attainment of an object of this Act; (xx) 15
- (xviii) "healthy" means free from illness or injury attributable to occupational causes; (xviii) 20
- (xix) "incident" means an incident as contemplated in section 24(1); (l)
- (xx) "industrial court" means the industrial court referred to in section 17 of the Labour Relations Act, 1956 (Act No. 28 of 1956); (xxxvi)
- (xxi) "inspection authority" means any person who with the aid of specialized knowledge or equipment or after such investigations, tests, sampling or analyses as he may consider necessary, and whether for reward or otherwise, renders a service by making special findings, purporting to be objective findings, as to— 25
 - (a) the health of any person;
 - (b) the safety or risk to health of any work, article, substance, plant or machinery, or of any condition prevalent on or in any premises; or 30
 - (c) the question of whether any particular standard has been or is being complied with, with respect to any work, article, substance, plant or machinery, or with respect to work or a condition prevalent on or in any premises, or with respect to any other matter, 35
 and by issuing a certificate, stating such findings, to the person to whom the service is rendered; (xxix)
- (xxii) "inspector" means a person designated under section 28; (xxx) 40
- (xxiii) "listed work" means any work declared to be listed work under section 11; (xvii)
- (xxiv) "local authority" means—
 - (a) any institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961); 45
 - (b) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);
 - (c) any other institution or body or the holder of any office declared by the Minister by notice in the *Gazette* to be a local authority for the purposes of this Act; (xl) 50
- (xxv) "machinery" means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to performing work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy; (xxxiii) 55
- (xxvi) "major hazard installation" means an installation—
 - (a) where more than the prescribed quantity of any substance is or may be kept, whether permanently or temporarily; or

- ekskreta of uitgeasemde lug ten einde die blootstelling aan of absorpsie van enige substansie of organisme in persone vas te stel en te kwantifiseer; (ii)
- 5 (xii) "Departement" die Departement van Mannekrag; (viii)
 (xiii) "diens" of "in diens" diens of in diens as 'n werknemer; (xi)
 (xiv) "ernstige voorval" 'n gebeurtenis van rampspoedige afmetings, wat voortspruit uit die gebruik van bedryfstoeusting of masjinerie of uit bedrywighede by 'n werkplek; (xxvii)
- 10 (xv) "gebou" ook—
 (a) 'n struktuur wat aan die grond geheg is;
 (b) 'n gebou of so 'n struktuur of gedeelte daarvan wat in die proses van oprigting is; of
 (c) enige voorafvervaardigde gebou of struktuur wat nie aan die grond geheg is nie; (iii)
- 15 (xvi) "gebruiker", met betrekking tot bedryfstoeusting of masjinerie, die persoon wat bedryfstoeusting of masjinerie vir sy eie voordeel gebruik of wat beheer oor die gebruik van bedryfstoeusting of masjinerie het, maar nie ook 'n verhuurder van, of enige persoon in diens in verband met, daardie bedryfstoeusting of masjinerie nie; (liii)
- 20 (xvii) "gelyste werk" werk wat kragtens artikel 11 tot gelyste werk verklaar is; (xxiii)
 (xviii) "gesond" vry van siekte of besering te wyte aan beroepsoorsaak; (xviii)
- 25 (xix) "gesondheids- en veiligheidskomitee" 'n komitee wat kragtens artikel 19 ingestel is; (xiv)
 (xx) "gesondheids- en veiligheidsstandaard" 'n standaard, ongeag of dit regs krag het of nie, wat na die oordeel van die Minister by die toepassing daarvan vir die doeleindes van hierdie Wet die bereiking van 'n oogmerk van hierdie Wet sal bevorder; (xvii)
- 30 (xxi) "gesondheids- en veiligheidsstoeusting" enige artikel of deel daarvan wat vervaardig, voorsien of geïnstalleer is in die belang van die gesondheid of veiligheid van enige persoon; (xv)
 (xxii) "gesondheids- en veiligheidsvertegenwoordiger" 'n persoon ingevolge artikel 17(1) aangewys; (xvi)
- 35 (xxiii) "gevaar" enigiets wat besering of skade aan 'n persoon of eiendom kan veroorsaak; (vii)
 (xxiv) "goedgekeurde inspeksie-owerheid" 'n inspeksie-owerheid deur die hoofinspekteur goedgekeur: Met dien verstande dat 'n inspeksie-owerheid wat deur die hoofinspekteur met betrekking tot enige bepaalde diens goedgekeur is, slegs met betrekking tot daardie diens 'n goedgekeurde inspeksie-owerheid is; (i)
- 40 (xxv) "hierdie Wet" ook 'n regulasie; (lii)
 (xxvi) "hoërisiko-installasie" 'n installasie—
 (a) waar meer as die voorgeskrewe hoeveelheid van 'n substansie op die perseel daarvan aangehou word of aangehou kan word, hetsy permanent of tydelik; of
 (b) waar 'n substansie in sodanige vorm en hoeveelheid geproduseer, geprosesseer, gebruik, gehanteer of opgeberg word dat dit die potensiaal het om 'n ernstige voorval te veroorsaak; (xxvi)
- 50 (xxvii) "hoofinspekteur" die beampte kragtens artikel 27 as hoofinspekteur aangewys, en ook 'n beampte wat as hoofinspekteur waarneem; (v)
- 55 (xxviii) "hoof- uitvoerende beampte", met betrekking tot 'n regspersoon of 'n onderneming wat deur die Staat bedryf word, die persoon wat vir die algehele bestuur en beheer van die besigheid van so 'n regspersoon of onderneming verantwoordelik is; (iv)
- 60 (xxix) "inspeksie-owerheid" 'n persoon wat met behulp van gespesialiseerde kennis of toerusting, of na die ondersoek, toetse, monsterneming of ontleding wat hy nodig vind, en hetsy teen vergoeding of andersins, 'n diens lewer deur spesiale bevindings te maak wat objektiewe bevindings heet te wees, betreffende—

- (b) where any substance is produced, processed, used, handled or stored in such a form and quantity that it has the potential to cause a major incident; (xxvi)
- (xxvii) "major incident" means an occurrence of catastrophic proportions, resulting from the use of plant or machinery, or from activities at a workplace; (xiv) 5
- (xxviii) "mandatary" includes an agent, a contractor or a subcontractor for work, but without derogating from his status in his own right as an employer or a user; (xxxii)
- (xxix) "medical surveillance" means a planned programme of periodic examination (which may include clinical examinations, biological monitoring or medical tests) of employees by an occupational health practitioner or, in prescribed cases, by an occupational medicine practitioner; (xxxiv) 10
- (xxx) "Minister" means the Minister of Manpower; (xxxv) 15
- (xxxi) "occupational health" includes occupational hygiene, occupational medicine and biological monitoring; (viii)
- (xxxii) "occupational health practitioner" means an occupational medicine practitioner or a person who holds a qualification in occupational health recognized as such by the South African Medical and Dental Council as referred to in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), or the South African Nursing Council as referred to in the Nursing Act, 1978 (Act No. 50 of 1978); (ix) 20
- (xxxiii) "occupational hygiene" means the anticipation, recognition, evaluation and control of conditions arising in or from the workplace, which may cause illness or adverse health effects to persons; (x) 25
- (xxxiv) "occupational medicine" means the prevention, diagnosis and treatment of illness, injury and adverse health effects associated with a particular type of work; (vi) 30
- (xxxv) "occupational medicine practitioner" means a medical practitioner as defined in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), who holds a qualification in occupational medicine or an equivalent qualification which qualification or equivalent is recognized as such by the South African Medical and Dental Council referred to in the said Act; (vii) 35
- (xxxvi) "office" means an office as defined in section 1(1) of the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983); (xxxi)
- (xxxvii) "officer" means an officer or employee as defined in section 1(1) of the Public Service Act, 1984 (Act No. 111 of 1984); (i) 40
- (xxxviii) "organism" means any biological entity which is capable of causing illness to persons; (xxxviii)
- (xxxix) "plant" includes fixtures, fittings, implements, equipment, tools and appliances, and anything which is used for any purpose in connection with such plant; (iii) 45
- (xl) "premises" includes any building, vehicle, vessel, train or aircraft; (xxxix)
- (xli) "prescribed" means prescribed by regulation; (xlix)
- (xlii) "properly used" means used with reasonable care, and with due regard to any information, instruction or advice supplied by the designer, manufacturer, importer, seller or supplier; (iv) 50
- (xliii) "reasonably practicable" means practicable having regard to—
- (a) the severity and scope of the hazard or risk concerned;
 - (b) the state of knowledge reasonably available concerning that hazard or risk and of any means of removing or mitigating that hazard or risk; 55
 - (c) the availability and suitability of means to remove or mitigate that hazard or risk; and
 - (d) the cost of removing or mitigating that hazard or risk in relation to the benefits deriving therefrom; (xlii) 60

- (a) die gesondheid van enige persoon;
- (b) die veiligheid of risiko vir die gesondheid van enige werk, artikel, substansie, bedryfstoeusting of masjinerie, of van 'n toestand wat op of in 'n perseel voorkom; of
- 5 (c) die vraag of enige spesifieke standaard nagekom is of nagekom word ten opsigte van enige werk, artikel, substansie, bedryfstoeusting of masjinerie, of ten opsigte van werk of 'n toestand wat op of in enige perseel voorkom, of ten opsigte van enige ander aangeleentheid,
- 10 en 'n sertifikaat waarin sodanige bevindings vermeld word aan die persoon aan wie die diens gelewer word, uit te reik; (xxi)
- (xxx) "inspekteur" 'n persoon kragtens artikel 28 aangewys; (xxii)
- (xxxi) "kantoor" 'n kantoor soos omskryf in artikel 1(1) van die Wet op Basiese Diensvoorwaardes, 1983 (Wet No. 3 van 1983); (xxxvi)
- 15 (xxxii) "lashebbber" ook 'n agent, 'n kontrakteur of subkontrakteur vir werk, maar sonder om afbreuk te doen aan sy status as 'n werkgewer of gebruiker in eie reg; (xxviii)
- (xxxiii) "masjinerie" enige artikel of kombinasie van artikels wat aanme-
kaargesit, ingerig of verbind is en wat gebruik word of bedoel is
20 om gebruik te word vir die omskepping van enige vorm van energie om werk te verrig, of wat gebruik word of bedoel is om gebruik te word, hetsy dit bykomend daarby is al dan nie, vir die ontwikkeling, ontvangs, opberging, insluiting, inperking, om-
vorming, geleiding, oordra of beheer van enige vorm van energie;
25 (xxv)
- (xxxiv) "mediese waaktoesig" 'n beplande program van periodieke onder-
soeke (wat kliniese ondersoeke, biologiese monitering en mediese
toetse kan insluit) van werknemers deur 'n beroepsgesondheids-
praktisyn of, in voorgeskrewe gevalle, deur 'n beroepsgeneeskun-
30 dige; (xxix)
- (xxxv) "Minister" die Minister van Mannekrag; (xxx)
- (xxxvi) "nywerheidshof" die nywerheidshof bedoel in artikel 17 van die
Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956); (xx)
- 35 (xxxvii) "ontploffbare stowwe" enige substansie of artikel gelys in Klas I:
Ontploffbare Stowwe in die Suid-Afrikaanse Buro vir Standaarde
se Gebruikskode vir die Identifikasie en Klassifikasie van Gevaar-
like Substanse en Goedere, SABS 0228; (xii)
- (xxxviii) "organisme" enige biologiese entiteit wat siekte by die mens kan
veroorsoek; (xxxviii)
- 40 (xxxix) "perseel" ook 'n gebou, voertuig, vaartuig, trein of lugvaartuig;
(xl)
- (xl) "plaaslike owerheid"—
- (a) 'n instelling of liggaam beoog in artikel 84(1)(f) van die Wet
op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961);
- 45 (b) 'n streeksdiensteraad ingestel kragtens artikel 3 van die Wet
op Streeksdiensterade, 1985 (Wet No. 109 van 1985);
- (c) enige ander instelling of liggaam of die bekleër van die een of
ander amp wat die Minister by kennisgewing in die *Staats-
koerant* vir die doeleindes van hierdie Wet tot 'n plaaslike
50 owerheid verklaar; (xxiv)
- (xli) "Raad" die Adviesraad vir Beroepsgesondheid en Veiligheid by
artikel 2 ingestel; (vi)
- (xlii) "redelikerwys uitvoerbaar" uitvoerbaar met inagneming van—
- 55 (a) die ernstigheidsgraad en omvang van die betrokke bedreiging
of risiko;
- (b) die stand van geredelik beskikbare kennis betreffende daardie
bedreiging of risiko en van enige metode om die bedreiging of
risiko te verwyder of te verminder;
- 60 (c) die beskikbaarheid en geskiktheid van metodes om daardie
bedreiging of risiko te verwyder of te verminder; en
- (d) die koste daaraan verbonde om daardie bedreiging of risiko te

- (xliv) "regulation" means a regulation made under section 43; (xliii)
 - (xlv) "remuneration" means any payment in money or in kind or both in money and in kind, made or owing to any person in pursuance of such person's employment; (v)
 - (xlvii) "risk" means the probability that injury or damage will occur; (xlv) 5
 - (xlvii) "safe" means free from any hazard; (xlvii)
 - (xlviii) "sell" includes—
 - (a) offer or display for sale or import into the Republic for sale; or
 - (b) exchange, donate, lease or offer or display for leasing; (xlviii)
 - (xlix) "shop" means a shop as defined in section 1(1) of the Basic 10
Conditions of Employment Act, 1983 (Act No. 3 of 1983); (lv)
 - (l) "standard" means any provision occurring—
 - (a) in a specification, compulsory specification, code of practice or standard method as defined in section 1 of the Standards Act, 1993 (Act No. 29 of 1993); or 15
 - (b) in any specification, code or any other directive having standardization as its aim and issued by an institution or organization inside or outside the Republic which, whether generally or with respect to any particular article or matter and whether internationally or in any particular country or territory, seeks to promote standardization; (xlv) 20
 - (li) "substance" includes any solid, liquid, vapour, gas or aerosol, or combination thereof; (xlv)
 - (lii) "this Act" includes any regulation; (xxv)
 - (liii) "user", in relation to plant or machinery, means the person who 25
uses plant or machinery for his own benefit or who has the right of control over the use of plant or machinery, but does not include a lessor of, or any person employed in connection with, that plant or machinery; (xvi)
 - (liv) "work" means work as an employee or as a self-employed person, 30
and for such purpose an employee is deemed to be at work during the time that he is in the course of his employment, and a self-employed person is deemed to be at work during such time as he devotes to work as a self-employed person; (li)
 - (lv) "workplace" means any premises or place where a person performs 35
work in the course of his employment. (liv)
- (2) The Minister may by notice in the *Gazette* declare that a person belonging to a category of persons specified in the notice shall for the purposes of this Act or any provision thereof be deemed to be an employee, and thereupon any person vested and charged with the control and supervision of the said person shall for the 40
said purposes be deemed to be the employer of such person.
- (3) This Act shall not apply in respect of—
- (a) a mine, a mining area or any works as defined in the Minerals Act, 1991 (Act No. 50 of 1991), except in so far as that Act provides otherwise;
 - (b) any load line ship (including a ship holding a load line exemption 45
certificate), fishing boat, sealing boat and whaling boat as defined in section 2(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), or any floating crane, whether or not such ship, boat or crane is in or out of the water within any harbour in the Republic or within the territorial 50
waters thereof,
- or in respect of any person present on or in any such mine, mining area, works, ship, boat or crane.

- verwyder of te verminder in verhouding tot die voordele wat daaruit voortspruit; (xliii)
- (xliii) "regulasie", 'n regulasie kragtens artikel 43 uitgevaardig; (xliv)
- (xlv) "risiko" die waarskynlikheid dat 'n besering of skade sal plaasvind; (xlv)
- (xlv) "standaard" enige bepaling wat voorkom—
- (a) in 'n spesifikasie, verpligte spesifikasie, gebruikskode of standaardmetode soos omskryf in artikel 1 van die Wet op Standaarde, 1993 (Wet No. 29 van 1993); of
- (b) in 'n spesifikasie, kode of enige ander voorskrif wat standaardisering ten doel het en wat uitgereik is deur 'n instelling of organisasie binne of buite die Republiek wat, hetsy in die algemeen of met betrekking tot enige bepaalde artikel of aangeleentheid en hetsy internasionaal of in 'n bepaalde land of gebied, hom vir die bevordering van standaardisering beywer; (l)
- (xlv) "substansie" ook 'n vaste stof, vloeistof, damp, gas of aërosol, of kombinasie daarvan; (li)
- (xlvii) "veilig" vry van enige bedreiging; (xlvii)
- (xlviii) "verkoop" ook—
- (a) vir verkoop aanbied of uitstal of vir verkoop in die Republiek invoer; of
- (b) verruil, skenk of verhuur of vir verhuring aanbied of uitstal; (xlviii)
- (xlix) "voorgeskryf" by regulasie voorgeskryf; (xli)
- (l) "voorval" 'n voorval in artikel 24(1) beoog; (xix)
- (li) "werk" werk as 'n werknemer of as 'n persoon in eie diens, en vir dié doel word 'n werknemer geag te werk gedurende die tyd wat hy in die loop van sy diens is, en word 'n persoon in eie diens geag te werk gedurende die tyd wat hy wy aan werk as 'n persoon in eie diens; (liv)
- (lii) "werkgever", behoudens die bepalings van subartikel (2), enige persoon wat iemand in diens het of aan hom werk verskaf en wat daardie persoon beloon of uitdruklik of stilswyend onderneem om hom te beloon, maar nie ook 'n arbeidsmakelaar soos omskryf in artikel 1(1) van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), nie; (x)
- (liii) "werknemer", behoudens die bepalings van subartikel (2), 'n persoon wat in diens is by of werk vir 'n werkgever en 'n beloning ontvang of geregtig is om dit te ontvang of wat onder die aanwysing of toesig van 'n werkgever of enige ander persoon werk; (ix)
- (liv) "werkplek" 'n perseel of plek waar 'n persoon werk in die loop van sy diens verrig; (lv)
- (lv) "winkel" 'n winkel soos omskryf in artikel 1(1) van die Wet op Basiese Diensvoorwaardes, 1983 (Wet No. 3 van 1983). (xlix)
- (2) Die Minister kan by kennisgewing in die *Staatskoerant* verklaar dat 'n persoon wat behoort tot 'n kategorie persone in die kennisgewing vermeld by die toepassing van hierdie Wet of 'n bepaling daarvan geag word 'n werknemer te wees, en daarop word iemand wat bekleed en belas is met die beheer en toesig oor bedoelde persoon, by sodanige toepassing geag die werkgever van daardie persoon te wees.
- (3) Hierdie Wet is nie van toepassing nie ten opsigte van—
- (a) 'n myn, 'n mynterrein of 'n bedryf soos omskryf in die Mineralewet, 1991 (Wet No. 50 van 1991), behalwe vir sover daardie Wet anders bepaal;
- (b) enige laslynskip (met inbegrip van 'n skip wat beskik oor 'n laslynvrystellingsertifikaat), vissersboot, robbevaarder en walvisvaarder soos omskryf in artikel 2(1) van die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), of enige drywende hyskraan, hetsy sodanige skip, boot, vaarder of hyskraan binne of buite die water binne enige hawe in die Republiek of binne die territoriale waters daarvan is, of nie, of ten opsigte van enige persoon wat op of in enige sodanige myn, mynterrein, bedryf, skip, boot, vaarder of hyskraan aanwesig is.

Establishment of Advisory Council for Occupational Health and Safety

2. There is hereby established an Advisory Council for Occupational Health and Safety.

Functions of Council

3. (1) The Council shall— 5
- (a) advise the Minister with regard to—
 - (i) matters of policy arising out of or in connection with the application of the provisions of this Act;
 - (ii) any matter relating to occupational health and safety;
 - (b) perform the functions assigned to it by this Act or referred to it by the Minister. 10
- (2) The Council may—
- (a) with a view to the performance of its functions, do such research and conduct such investigations as it may deem necessary;
 - (b) make rules relating to the calling of meetings of the Council, the determining of a quorum for and the procedure at such meetings, and generally relating to all matters which may be necessary for the effective performance of the functions of the Council or, subject to section 6, of a technical committee; 15
 - (c) advise the Department concerning— 20
 - (i) the formulation and publication of standards, specifications or other forms of guidance for the purpose of assisting employers, employees and users to maintain appropriate standards of occupational health and safety;
 - (ii) the promotion of education and training in occupational health and safety; and 25
 - (iii) the collection and dissemination of information on occupational health and safety.
- (3) The Council may for the purposes of the performance of any of its functions, with the approval of the Minister, and with the concurrence of the Minister of State Expenditure, enter into an agreement for the performance of a particular act or particular work or for the rendering of a particular service, on such conditions and at such remuneration as may be agreed upon, with anybody who in the opinion of the Council is fit to perform such act or work or to render such service. 30
- (4) Subject to the laws governing the Public Service, the Minister shall provide the Council with such personnel as he may deem necessary for the effective performance of the functions of the Council, and such persons shall perform their functions subject to the control and directions of the chief inspector. 35

Constitution of Council

4. (1) The Council shall consist of 20 members, namely— 40
- (a) the chief inspector, *ex officio*, who shall be the chairman;
 - (b) one officer serving in the Department;
 - (c) the Workmen's Compensation Commissioner, or his nominee;
 - (d) one person nominated by the Minister for National Health and Welfare;
 - (e) one person nominated by the Minister of Mineral and Energy Affairs; 45
 - (f) six persons to represent the interests of employers;
 - (g) six persons to represent the interests of employees;
 - (h) one person who in the opinion of the Minister has knowledge of occupational safety matters;
 - (i) one person who in the opinion of the Minister has knowledge of occupational medicine and who was recommended by the Minister for National Health and Welfare; 50
 - (j) one person who in the opinion of the Minister has knowledge of occupational hygiene.
- (2) The members referred to in subsection (1)(b) up to and including (j) shall be appointed by the Minister. 55

Instelling van Adviesraad vir Beroepsgesondheid en Veiligheid

2. Hierby word 'n Adviesraad vir Beroepsgesondheid en Veiligheid ingestel.

Werkzaamhede van Raad

3. (1) Die Raad moet—
- 5 (a) die Minister van advies dien betreffende—
- (i) beleidsake wat ontstaan uit of in verband met die toepassing van die bepalings van hierdie Wet;
- (ii) enige aangeleentheid rakende beroepsgesondheid en veiligheid;
- 10 (b) die werkzaamhede verrig wat by hierdie Wet aan hom opgedra is of deur die Minister na hom verwys word.
- (2) Die Raad kan—
- (a) met die oog op die verrigting van sy werkzaamhede die navorsing doen en ondersoeke onderneem wat hy nodig ag;
- 15 (b) reëls maak in verband met die belê van vergaderings van die Raad, die bepaling van 'n kworum vir en die prosedure by sulke vergaderings en in die algemeen betreffende alle aangeleenthede wat nodig is vir die doeltreffende uitoefening van die werkzaamhede van die Raad of, behoudens artikel 6, van 'n tegniese komitee;
- 20 (c) die Departement adviseer betreffende—
- (i) die opstel en publikasie van standarde, spesifikasies of ander vorme van voorligting ten einde werkgewers, werknemers en gebruikers behulpzaam te wees om geskikte standarde van beroepsgesondheid en veiligheid te handhaaf;
- 25 (ii) die bevordering van opvoeding en opleiding in beroepsgesondheid en veiligheid; en
- (iii) die insameling en verspreiding van inligting oor beroepsgesondheid en veiligheid.
- (3) Die Raad kan vir die doeleindes van die verrigting van enige van sy werkzaamhede met die goedkeuring van die Minister en met die instemming van
- 30 die Minister van Staatsbesteding 'n ooreenkoms aangaan vir die verrigting van 'n bepaalde handeling of bepaalde werk of vir die lewering van 'n bepaalde diens, op die voorwaardes en teen die beloning waarop ooreengekom word, met enigiemand wat na die mening van die Raad geskik is om sodanige handeling of werk te verrig of sodanige diens te lewer.
- 35 (4) Behoudens die wette op die Staatsdiens voorsien die Minister die Raad van die personeel wat hy nodig ag vir die doeltreffende verrigting van die werkzaamhede van die Raad, en sodanige persone verrig hul werkzaamhede onderworpe aan die beheer en voorskrifte van die hoofinspekteur.

Samestelling van Raad

- 40 4. (1) Die Raad bestaan uit 20 lede, naamlik—
- (a) die hoofinspekteur, *ex officio*, wat die voorsitter is;
- (b) een beampte wat by die Departement in diens is;
- (c) die Ongevallekommissaris, of sy genomineerde;
- 45 (d) een persoon benoem deur die Minister vir Nasionale Gesondheid en Welsyn;
- (e) een persoon benoem deur die Minister van Mineraal- en Energiesake;
- (f) ses persone om werkgewersbelange te verteenwoordig;
- (g) ses persone om werknemersbelange te verteenwoordig;
- 50 (h) een persoon wat na die mening van die Minister kennis het van aangeleenthede rakende beroepsveiligheid;
- (i) een persoon wat na die mening van die Minister kennis het van beroepsgeneeskunde en wat deur die Minister vir Nasionale Gesondheid en Welsyn aanbeveel is;
- 55 (j) een persoon wat na die mening van die Minister kennis het van beroepshigiëne.
- (2) Die lede in subartikel (1)(b) tot en met (j) bedoel, word deur die Minister aangestel.

Period of office and remuneration of members of Council

5. (1) The members of the Council referred to in section 4(2) shall be appointed for a period of three years, and on such conditions as the Minister may determine with the concurrence of the Minister of State Expenditure.

(2) Any person whose period of office as a member of the Council has expired shall be eligible for reappointment. 5

(3) A member referred to in section 4(1)(f), (g), (h), (i) or (j) who is not an officer may be paid from money appropriated for such purpose by Parliament such allowances as the Minister may determine with the concurrence of the Minister of State Expenditure. 10

Establishment of technical committees of Council

6. (1) The Council may with the approval of the Minister establish one or more technical committees to advise the Council on any matter regarding the performance by the Council of its functions.

(2) A member of a technical committee shall be appointed by the Council by reason of his knowledge of the matter for which the committee is established, and such a member need not be a member of the Council. 15

(3) A meeting of a technical committee shall be held at such time and place as may be determined by the chairman of the Council, and in accordance with rules approved by the Council. 20

(4) A member of a technical committee who is not an officer may be paid from money appropriated for such purpose by Parliament such allowances as the Minister may determine with the concurrence of the Minister of State Expenditure.

Health and safety policy

7. (1) The chief inspector may direct— 25
(a) any employer in writing; and
(b) any category of employers by notice in the *Gazette*,
to prepare a written policy concerning the protection of the health and safety of his employees at work, including a description of his organization and the arrangements for carrying out and reviewing that policy. 30

(2) Any direction under subsection (1) shall be accompanied by guide-lines concerning the contents of the policy concerned.

(3) An employer shall prominently display a copy of the policy referred to in subsection (1), signed by the chief executive officer, in the workplace where his employees normally report for service. 35

General duties of employers to their employees

8. (1) Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees.

(2) Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular— 40

- (a) the provision and maintenance of systems of work, plant and machinery that, as far as is reasonably practicable, are safe and without risks to health;
- (b) taking such steps as may be reasonably practicable to eliminate or mitigate any hazard or potential hazard to the safety or health of employees, before resorting to personal protective equipment; 45
- (c) making arrangements for ensuring, as far as is reasonably practicable, the safety and absence of risks to health in connection with the production, processing, use, handling, storage or transport of articles or substances; 50
- (d) establishing, as far as is reasonably practicable, what hazards to the health or safety of persons are attached to any work which is performed, any article or substance which is produced, processed, used, handled, stored or transported and any plant or machinery which is used in his business, and he shall, as far as is reasonably practicable, further 55

Ampstermyn en besoldiging van lede van Raad

5. (1) Die lede van die Raad in artikel 4(2) bedoel, word aangestel vir 'n tydperk van drie jaar, en op die voorwaardes wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.
- 5 (2) Iemand wie se ampstermyn as lid van die Raad verstryk het, kan weer aangestel word.
- (3) Aan 'n lid bedoel in artikel 4(1)(f), (g), (h), (i) of (j) wat nie 'n beampte is nie kan daar uit geld wat die Parlement vir dié doel bewillig die toelaes betaal word wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.

10 Instelling van tegniese komitees van Raad

6. (1) Die Raad kan met die goedkeuring van die Minister een of meer tegniese komitees instel ten einde die Raad te adviseer aangaande enige aangeleentheid betreffende die verrigting deur die Raad van sy werksaamhede.
- (2) 'n Lid van 'n tegniese komitee word deur die Raad aangewys vanweë sy kennis van die aangeleentheid waarvoor die komitee ingestel word, en so 'n lid 15
hoef nie 'n lid van die Raad te wees nie.
- (3) 'n Vergadering van 'n tegniese komitee word gehou op 'n tyd en plek wat die voorsitter van die Raad bepaal, en volgens reëls deur die Raad goedgekeur.
- (4) Aan 'n lid van 'n tegniese komitee wat nie 'n beampte is nie kan daar uit 20
geld wat die Parlement vir dié doel bewillig die toelaes betaal word wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.

Gesondheids- en veiligheidsbeleid

7. (1) Die hoofinspekteur kan—
- (a) enige werkgewer skriftelik; en
- 25 (b) enige kategorie van werkgewers by kennisgewing in die *Staatskoerant*, gelas om 'n skriftelike beleid betreffende die beskerming van die gesondheid en veiligheid van sy werknemers by die werk, met inbegrip van 'n uiteensetting van sy organisasie en die reëlings vir die uitvoering en hersiening van daardie beleid, op te stel.
- 30 (2) 'n Lasgewing kragtens subartikel (1) gaan vergesel van riglyne betreffende die inhoud van bedoelde beleid.
- (3) 'n Werkgewer moet 'n afskrif van die beleid in subartikel (1) bedoel, wat deur die hoof- uitvoerende beampte onderteken is, prominent vertoon in die werkplek waar sy werknemers normaalweg vir diens aanmeld.

35 Algemene pligte van werkgewers teenoor hul werknemers

8. (1) Elke werkgewer moet, vir sover dit redelikerwys uitvoerbaar is, 'n werkomgewing wat veilig en sonder risiko vir die gesondheid van sy werknemers is, tot stand bring en onderhou.
- (2) Sonder om afbreuk te doen aan die algemeenheid van 'n werkgewer se 40
pligte ingevolge subartikel (1), sluit die aangeleenthede waarop daardie pligte betrekking het in besonder in—
- (a) die verskaffing en instandhouding van stelsels van werk, bedryfstoe-
rusting en masjinerie wat, vir sover dit redelikerwys uitvoerbaar is,
veilig en sonder gesondheidsrisiko's is;
- 45 (b) om die stappe te doen wat redelikerwys uitvoerbaar is om enige bedreiging of potensiële bedreiging vir die gesondheid of veiligheid van werknemers, te verwyder of te verminder voordat daar van persoonlike beskermende toerusting gebruik gemaak word;
- (c) die tref van reëlings om veiligheid en afwesigheid van gesondheids-
risiko's vir sover dit redelikerwys uitvoerbaar is, te verseker ten opsigte 50
van die produksie, prosessering, gebruik, hantering, opberging of vervoer van artikels of substansies;
- (d) om vas te stel, vir sover dit redelikerwys uitvoerbaar is, watter 55
bedreigings vir die gesondheid of veiligheid van persone verbonde is aan enige werk wat verrig word, enige artikel of substansie wat geproduseer, geprosesseer, gebruik, gehanteer, opgeberg of vervoer word en enige bedryfstoerusting of masjinerie wat in sy onderneming gebruik word, en hy moet, vir sover dit redelikerwys uitvoerbaar is, verder vasstel watter voorsorgmaatreëls getref moet word ten opsigte

establish what precautionary measures should be taken with respect to such work, article, substance, plant or machinery in order to protect the health and safety of persons, and he shall provide the necessary means to apply such precautionary measures;

- (e) providing such information, instructions, training and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees; 5
- (f) as far as is reasonably practicable, not permitting any employee to do any work or to produce, process, use, handle, store or transport any article or substance or to operate any plant or machinery, unless the precautionary measures contemplated in paragraphs (b) and (d), or any other precautionary measures which may be prescribed, have been taken; 10
- (g) taking all necessary measures to ensure that the requirements of this Act are complied with by every person in his employment or on premises under his control where plant or machinery is used; 15
- (h) enforcing such measures as may be necessary in the interest of health and safety;
- (i) ensuring that work is performed and that plant or machinery is used under the general supervision of a person trained to understand the hazards associated with it and who have the authority to ensure that precautionary measures taken by the employer are implemented; and 20
- (j) causing all employees to be informed regarding the scope of their authority as contemplated in section 37(1)(b). 25

General duties of employers and self-employed persons to persons other than their employees 25

9. (1) Every employer shall conduct his undertaking in such a manner as to ensure, as far as is reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not thereby exposed to hazards to their health or safety. 30

(2) Every self-employed person shall conduct his undertaking in such a manner as to ensure, as far as is reasonably practicable, that he and other persons who may be directly affected by his activities are not thereby exposed to hazards to their health or safety.

General duties of manufacturers and others regarding articles and substances for use at work 35

10. (1) Any person who designs, manufactures, imports, sells or supplies any article for use at work shall ensure, as far as is reasonably practicable, that the article is safe and without risks to health when properly used and that it complies with all prescribed requirements. 40

(2) Any person who erects or installs any article for use at work on or in any premises shall ensure, as far as is reasonably practicable, that nothing about the manner in which it is erected or installed makes it unsafe or creates a risk to health when properly used.

(3) Any person who manufactures, imports, sells or supplies any substance for use at work shall— 45

- (a) ensure, as far as is reasonably practicable, that the substance is safe and without risks to health when properly used; and
- (b) take such steps as may be necessary to ensure that information is available with regard to the use of the substance at work, the risks to health and safety associated with such substance, the conditions necessary to ensure that the substance will be safe and without risks to health when properly used and the procedures to be followed in the case of an accident involving such substance. 50

(4) Where a person designs, manufactures, imports, sells or supplies an article or substance for or to another person and that other person undertakes in writing 55

- van sodanige werk, artikel, substansie, bedryfstoeusting of masjinerie ten einde die gesondheid en veiligheid van persone te beskerm, en hy moet die nodige middele voorsien om sodanige voorsorgmaatreëls te tref;
- 5 (e) die verskaffing van die inligting, instruksies, opleiding en toesig wat nodig is om, vir sover dit redelikerwys uitvoerbaar is, die gesondheid en veiligheid van sy werknemers by die werk te verseker;
- 10 (f) vir sover dit redelikerwys uitvoerbaar is, om nie toe te laat dat 'n werknemer enige werk doen of enige artikel of substansie produseer, prosesseer, gebruik, hanteer, opberg of vervoer of enige bedryfstoeusting of masjinerie bedien nie, tensy die voorsorgmaatreëls in paragrawe (b) en (d) beoog of enige ander voorsorgmaatreëls wat voorgeskryf is, getref is;
- 15 (g) om alle redelike stappe te doen om te verseker dat die vereistes van die Wet nagekom word deur elke persoon in sy diens of op persele onder sy beheer waar bedryfstoeusting of masjinerie gebruik word;
- (h) om die maatreëls af te dwing wat nodig is in belang van gesondheid en veiligheid;
- 20 (i) om te verseker dat werk verrig word en bedryfstoeusting of masjinerie gebruik word onder die algemene toesig van 'n persoon wat opgelei is om die bedreigings verbonde daaraan te verstaan, en wat die bevoegdheid het om te verseker dat voorsorgmaatreëls deur die werkgewer getref, geïmplementeer word; en
- 25 (j) om alle werknemers in te lig aangaande die omvang van hul bevoegdheid soos beoog by artikel 37(1)(b).

Algemene pligte van werkgewers en persone in eie diens teenoor persone wat nie hul werknemers is nie

9. (1) Elke werkgewer moet, vir sover dit redelikerwys uitvoerbaar is, sy onderneming op so 'n wyse bedryf dat persone wat nie in sy diens is nie en wat
30 regstreeks geraak word deur sy bedrywighede, nie daardeur aan bedreigings vir hul gesondheid of veiligheid blootgestel word nie.

(2) Elke persoon in eie diens moet, vir sover dit redelikerwys uitvoerbaar is, sy onderneming op so 'n wyse bedryf dat hy en ander persone wat regstreeks
35 geraak word deur sy bedrywighede, nie daardeur aan bedreigings vir hul gesondheid of veiligheid blootgestel word nie.

Algemene pligte van vervaardigers en andere betreffende artikels en substansies vir gebruik by werk

10. (1) Iemand wat 'n artikel ontwerp, vervaardig, invoer, verkoop of verskaf vir gebruik by die werk moet verseker, vir sover dit redelikerwys uitvoerbaar is,
40 dat die artikel veilig en sonder gesondheidsrisiko's is wanneer dit behoorlik gebruik word en dat dit aan alle voorgeskrewe vereistes voldoen.

(2) Iemand wat 'n artikel op of in enige perseel oprig of installeer vir gebruik by die werk, moet verseker, vir sover dit redelikerwys uitvoerbaar is, dat niks
45 ten opsigte van die wyse waarop dit opgerig of geïnstalleer word, dit onveilig maak of 'n gesondheidsrisiko skep wanneer dit behoorlik gebruik word nie.

(3) Iemand wat 'n substansie vervaardig, invoer, verkoop of verskaf vir gebruik by die werk moet—

(a) verseker, vir sover dit redelikerwys uitvoerbaar is, dat die substansie veilig en sonder gesondheidsrisiko's is wanneer dit behoorlik gebruik
50 word; en

(b) die stappe doen wat nodig is om te verseker dat inligting beskikbaar is betreffende die gebruik van die substansie by die werk, die veiligheids- en gesondheidsrisiko's wat geassosieer word met sodanige substansie, die voorwaardes wat nodig is om te verseker dat die substansie veilig en
55 sonder gesondheidsrisiko's is wanneer dit behoorlik gebruik word en die prosedures wat gevolg moet word in die geval van 'n ongeluk waarby sodanige substansie betrokke is.

(4) Waar iemand 'n artikel of substansie ontwerp, vervaardig, invoer, verkoop of verskaf vir of aan 'n ander persoon en daardie ander persoon onderneem

to take specified steps sufficient to ensure, as far as is reasonably practicable, that the article or substance will comply with all prescribed requirements and will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed upon him by this section to such an extent as may be reasonable having regard to the terms of the undertaking. 5

Listed work

11. (1) The Minister may, subject to the provisions of subsections (2) and (3), by notice in the *Gazette* declare any work, under the conditions or circumstances specified in the notice, to be listed work. 10

(2) (a) Before the Minister declares any work to be listed work, he shall cause to be published in the *Gazette* a draft of his proposed notice and at the same time invite interested persons to submit to him in writing within a specified period, comments and representations in connection with the proposed notice.

(b) A period of not less than three months shall elapse between the publication of the draft notice and the notice under subsection (1). 15

(3) The provisions of subsection (2) shall not apply—

(a) if the Minister in pursuance of comments and representations received in terms of subsection (2)(a), decides to publish the notice referred to in subsection (1) in an amended form; and 20

(b) to any declaration in terms of subsection (1) in respect of which the Minister is of the opinion that the public interest requires that it be made without delay.

(4) A notice under subsection (1) may at any time be amended or withdrawn by like notice. 25

General duties of employers regarding listed work

12. (1) Subject to such arrangements as may be prescribed, every employer whose employees undertake listed work or are liable to be exposed to the hazards emanating from listed work, shall, after consultation with the health and safety committee established for that workplace— 30

(a) identify the hazards and evaluate the risks associated with such work constituting a hazard to the health of such employees, and the steps that need to be taken to comply with the provisions of this Act;

(b) as far as is reasonably practicable, prevent the exposure of such employees to the hazards concerned or, where prevention is not reasonably practicable, minimize such exposure; and 35

(c) having regard to the nature of the risks associated with such work and the level of exposure of such employees to the hazards, carry out an occupational hygiene programme and biological monitoring, and subject such employees to medical surveillance. 40

(2) Every employer contemplated in subsection (1) shall keep the health and safety representatives designated for their workplaces or sections of the workplaces, informed of the actions taken under subsection (1) in their respective workplaces or sections thereof and of the results of such actions: Provided that individual results of biological monitoring and medical surveillance relating to the work of the employee, shall only with the written consent of such employee be made available to any person other than an inspector, the employer or the employee concerned. 45

Duty to inform

13. Without derogating from any specific duty imposed on an employer by this Act, every employer shall— 50

(a) as far as is reasonably practicable, cause every employee to be made conversant with the hazards to his health and safety attached to any work

- skriftelik om bepaalde stappe te doen wat voldoende is om te verseker, vir sover dit redelikerwys uitvoerbaar is, dat die artikel of substansie aan alle voorgeskrewe vereistes sal voldoen en veilig en sonder gesondheidsrisiko's sal wees wanneer dit behoorlik gebruik word, het die onderneming die effek om
- 5 eersgenoemde persoon te onthef van die plig deur hierdie artikel op hom gelê in die mate wat redelik is met inagneming van die bepalings van die onderneming.

Gelyste werk

11. (1) Die Minister kan, behoudens die bepalings van subartikels (2) en (3), by kennisgewing in die *Staatskoerant* enige werk, onder die toestande of
- 10 omstandighede gespesifiseer in die kennisgewing, tot gelyste werk verklaar.
- (2) (a) Voordat die Minister 'n werk tot gelyste werk verklaar, moet hy 'n konsep van sy voorgenome kennisgewing in die *Staatskoerant* laat publiseer en terselfdertyd belanghebbende persone uitnooi om kommentaar en vertoë in verband met die voorgenome kennisgewing, binne 'n vermelde tydperk skrif-
- 15 telik aan hom voor te lê.
- (b) 'n Tydperk van minstens drie maande moet verstryk tussen die publikasie van die konsepkennisgewing en die kennisgewing kragtens subartikel (1).
- (3) Die bepalings van subartikel (2) is nie van toepassing nie—
- (a) indien die Minister as gevolg van kommentaar en vertoë wat ingevolge
- 20 subartikel (2)(a) ontvang is, besluit om die kennisgewing in subartikel (1) bedoel in 'n gewysigde vorm te publiseer; en
- (b) op 'n verklaring ingevolge subartikel (1) ten opsigte waarvan die Minister van mening is dat die openbare belang vereis dat dit onverwyld gedoen word.
- 25 (4) 'n Kennisgewing kragtens subartikel (1) kan te eniger tyd by dergelike kennisgewing gewysig of herroep word.

Algemene pligte van werkgewers ten opsigte van gelyste werk

12. (1) Behoudens die maatreëls wat voorgeskryf word, moet elke werkgewer wie se werknemers gelyste werk verrig of moontlik blootgestel kan word aan
- 30 bedreigings wat uit gelyste werk voortspruit, na oorleg met die gesondheids- en veiligheidskomitee ingestel vir daardie werkplek—
- (a) die bedreigings identifiseer en 'n beraming maak van die risiko's verbonde aan sodanige werk wat vir die gesondheid van die werknemers 'n bedreiging inhou en van die stappe wat gedoen moet word om
- 35 aan die bepalings van hierdie Wet te voldoen;
- (b) vir sover dit redelikerwys uitvoerbaar is, die blootstelling van daardie werknemers aan die betrokke bedreigings voorkom of, waar voorkoming nie redelikerwys uitvoerbaar is nie, sodanige blootstelling tot die minimum beperk; en
- 40 (c) met inagneming van die aard van die risiko's verbonde aan sodanige werk en die vlak van blootstelling van die werknemers aan die bedreigings, 'n beroepshigiëneprogram en biologiese monitering uitvoer en daardie werknemers aan mediese waaktoesig onderwerp.
- (2) Elke werkgewer in subartikel (1) bedoel, moet die gesondheids- en
- 45 veiligheidsverteenwoordigers wat vir hulle werkplekke of afdelings van die werkplekke aangewys is, ingelig hou oor die optrede wat kragtens subartikel (1) in daardie werkplekke of afdelings daarvan plaasgevind het en oor die resultate van daardie optrede: Met dien verstande dat individuele resultate van biologiese monitering en mediese waaktoesig wat verband hou met die werk van die
- 50 werknemer, slegs met die skriftelike toestemming van die werknemer aan iemand anders as 'n inspekteur, die werkgewer of die betrokke werknemer beskikbaar gestel word.

Plig om in te lig

13. Sonder om afbreuk te doen aan enige bepaalde plig wat 'n werkgewer deur
- 55 hierdie Wet opgelê word, moet elke werkgewer—
- (a) sover dit redelikerwys uitvoerbaar is, toesien dat elke werknemer vertrouwd gemaak word met die bedreigings ten opsigte van sy gesond-

which he has to perform, any article or substance which he has to produce, process, use, handle, store or transport and any plant or machinery which he is required or permitted to use, as well as with the precautionary measures which should be taken and observed with respect to those hazards;

- (b) inform the health and safety representatives concerned beforehand of inspections, investigations or formal inquiries of which he has been notified by an inspector, and of any application for exemption made by him in terms of section 40; and
- (c) inform a health and safety representative as soon as reasonably practicable of the occurrence of an incident in the workplace or section of the workplace for which such representative has been designated.

General duties of employees at work

14. Every employee shall at work—

- (a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions;
- (b) as regards any duty or requirement imposed on his employer or any other person by this Act, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given to him, and obey the health and safety rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of health or safety;
- (d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable report such situation to his employer or to the health and safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer; and
- (e) if he is involved in any incident which may affect his health or which has caused an injury to himself, report such incident to his employer or to anyone authorized thereto by the employer, or to his health and safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter.

Duty not to interfere with or misuse things

- 15. No person shall intentionally or recklessly interfere with or misuse anything which is provided in the interest of health or safety.**

Chief executive officer charged with certain duties

16. (1) Every chief executive officer shall as far as is reasonably practicable ensure that the duties of his employer as contemplated in this Act, are properly discharged.

(2) Without derogating from his responsibility or liability in terms of subsection (1), a chief executive officer may assign any duty contemplated in the said subsection, to any person under his control, which person shall act subject to the control and directions of the chief executive officer.

(3) The provisions of subsection (1) shall not, subject to the provisions of section 37, relieve an employer of any responsibility or liability under this Act.

(4) For the purpose of subsection (1), the head of department of any department of State shall be deemed to be the chief executive officer of that department.

Health and safety representatives

- 17. (1)** Subject to the provisions of subsection (2), every employer who has more

- heid en veiligheid verbonde aan enige werk wat hy moet verrig, enige artikel of substansie wat hy moet produseer, prosesseer, gebruik, hanteer, opberg of vervoer en enige bedryfstoerusting of masjinerie wat van hom verwag word of wat hy toegelaat word om te gebruik, asook met die voorsorgmaatreëls wat getref en nagekom moet word ten opsigte van daardie bedreigings;
- 5 (b) die betrokke gesondheids- en veiligheidsverteenwoordigers vooraf inlig ten opsigte van inspeksies, ondersoeke of formele ondersoeke waarvan hy deur 'n inspekteur in kennis gestel is, en van enige aansoek om
- 10 vrystelling ingevolge artikel 40 deur hom gedoen; en
- (c) 'n gesondheids- en veiligheidsverteenwoordiger so gou as wat dit redelikerwys uitvoerbaar is, inlig ten opsigte van die voorkoms van 'n voorval in die werkplek of afdeling van die werkplek waarvoor daardie verteenwoordiger aangewys is.

15 Algemene pligte van werknemers by werk

14. Elke werknemer moet by die werk—
- (a) redelike sorg dra vir sy eie veiligheid en gesondheid en dié van ander persone wat geraak mag word deur sy optrede of versuim;
- 20 (b) vir sover hierdie Wet enige plig opleë of vereiste stel aan sy werkgewer of enige ander persoon, met daardie werkgewer of ander persoon saamwerk om dit moontlik te maak dat die plig of vereiste uitgevoer of nagekom word;
- (c) 'n wettige opdrag wat aan hom gegee is, uitvoer, en die gesondheids- en veiligheidsreëls en -prosedures wat voorgeskryf is deur sy werkgewer of
- 25 iemand deur die werkgewer daartoe gemagtig in die belang van gesondheid of veiligheid gehoorsaam;
- (d) indien 'n toestand wat onveilig of ongesond is, onder sy aandag kom, so gou moontlik sodanige toestand aanmeld by sy werkgewer, of by die gesondheids- en veiligheidsverteenwoordiger vir sy werkplek of afdeling daarvan, na gelang van die geval, wat dit by die werkgewer moet
- 30 aanmeld; en
- (e) indien hy betrokke is by 'n voorval wat sy gesondheid kan beïnvloed of wat 'n besering aan homself veroorsaak het, daardie voorval so gou as moontlik maar nie later nie as die einde van 'n bepaalde skof
- 35 waartydens die voorval plaasgevind het by sy werkgewer of iemand deur die werkgewer daartoe gemagtig of sy gesondheids- en veiligheidsverteenwoordiger aanmeld, tensy die omstandighede van so 'n aard was dat die aanmelding van die voorval nie moontlik was nie, in welke geval hy die voorval so gou moontlik daarna moet aanmeld.

40 Plig om nie met voorwerpe in te meng of dit te misbruik nie

15. Niemand mag opsetlik of op 'n roekelose wyse met enige voorwerp wat in belang van gesondheid of veiligheid voorsien is, inmeng of dit misbruik nie.

Hoof- uitvoerende beampste belas met sekere pligte

16. (1) Elke hoof- uitvoerende beampste moet, vir sover dit redelikerwys
- 45 uitvoerbaar is, toesien dat die pligte van sy werkgewer in hierdie Wet beoog, behoorlik uitgevoer word.

(2) Sonder om afbreuk te doen aan sy verantwoordelikheid of aanspreeklikheid ingevolge subartikel (1) kan 'n hoof- uitvoerende beampste enige plig in genoemde subartikel beoog, opdra aan iemand onder sy beheer, welke persoon

50 behoudens die beheer en opdragte van die hoof- uitvoerende beampste optree.

(3) Die bepalinge van subartikel (1) onthef nie 'n werkgewer, behoudens die bepalinge van artikel 37, van enige verantwoordelikheid of aanspreeklikheid kragtens hierdie Wet nie.

(4) By die toepassing van subartikel (1) word die departementshoof van enige

55 Staatsdepartement geag die hoof- uitvoerende beampste van daardie departement te wees.

Gesondheids- en veiligheidsverteenwoordigers

17. (1) Behoudens die bepalinge van subartikel (2) moet elke werkgewer wat

than 20 employees in his employment at any workplace, shall, within four months after the commencement of this Act or after commencing business, or from such time as the number of employees exceeds 20, as the case may be, designate in writing for a specified period health and safety representatives for such workplace, or for different sections thereof. 5

(2) An employer and his employees or their representatives shall consult in good faith regarding the arrangements and procedures for the nomination or election, period of office and subsequent designation of health and safety representatives in terms of subsection (1): Provided that if such consultation fails, the matter shall be referred for arbitration to an inspector, whose decision shall be final. 10

(3) Arbitration by an inspector in terms of subsection (2) shall not be subject to the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), and a failure of the consultation contemplated in that subsection shall not be deemed to be a dispute in terms of the Labour Relations Act, 1956 (Act No. 28 of 1956). 15

(4) Only those employees employed in a full-time capacity at a specific workplace and who are acquainted with conditions and activities at that workplace or section thereof, as the case may be, shall be eligible for designation as health and safety representatives for that workplace or section. 20

(5) The number of health and safety representatives for a workplace or section thereof shall in the case of shops and offices be at least one health and safety representative for every 100 employees or part thereof, and in the case of all other workplaces at least one health and safety representative for every 50 employees or part thereof: Provided that those employees performing work at a workplace other than that where they ordinarily report for duty, shall be deemed to be working at the workplace where they so report for duty. 25

(6) If an inspector is of the opinion that the number of health and safety representatives for any workplace or section thereof, including a workplace or section with 20 or fewer employees, is inadequate, he may by notice in writing direct the employer to designate such number of employees as the inspector may determine as health and safety representatives for that workplace or section thereof in accordance with the arrangements and procedures referred to in subsection (2). 30

(7) All activities in connection with the designation, functions and training of health and safety representatives shall be performed during ordinary working hours, and any time reasonably spent by any employee in this regard shall for all purposes be deemed to be time spent by him in the carrying out of his duties as an employee. 35

Functions of health and safety representatives

18. (1) A health and safety representative may perform the following functions in respect of the workplace or section of the workplace for which he has been designated, namely— 40

- (a) review the effectiveness of health and safety measures;
- (b) identify potential hazards and potential major incidents at the workplace; 45
- (c) in collaboration with his employer, examine the causes of incidents at the workplace;
- (d) investigate complaints by any employee relating to that employee's health or safety at work;
- (e) make representations to the employer or a health and safety committee on matters arising from paragraphs (a), (b), (c) or (d), or where such representations are unsuccessful, to an inspector; 50
- (f) make representations to the employer on general matters affecting the health or safety of the employees at the workplace;
- (g) inspect the workplace, including any article, substance, plant, machinery or health and safety equipment at that workplace with a view to the health and safety of employees, at such intervals as may be agreed upon 55

meer as 20 werknemers by enige werkplek in sy diens het, binne vier maande nadat hierdie Wet van krag geword het of sy besigheid 'n aanvang geneem het, of die getal werknemers in sy diens 20 persone oorskry, na gelang van die geval, gesondheids- en veiligheidsverteenwoordigers vir 'n bepaalde tydperk skriftelik

5 aanwys vir sodanige werkplek, of vir verskillende afdelings daarvan.

(2) 'n Werkgewer en sy werknemers of hulle verteenwoordigers moet te goeder trou oorleg pleeg betreffende die reëlins en prosedures vir die benoeming of verkiesing, ampstyd en daaropvolgende aanwysing van gesondheids- en veiligheidsverteenwoordigers ingevolge subartikel (1): Met dien verstande dat

10 indien sodanige oorlegpleging misluk, die saak vir arbitrasie verwys word na 'n inspekteur, wie se beslissing finaal is.

(3) Arbitrasie deur 'n inspekteur ingevolge subartikel (2) is nie onderworpe aan die bepalings van die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), nie, en 'n mislukking van die oorlegpleging in daardie subartikel beoog, word nie

15 geag 'n geskil te wees ingevolge die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), nie.

(4) Slegs daardie werknemers wat in 'n heeltydse hoedanigheid by 'n bepaalde werkplek in diens is en wat vertrouwd is met toestande en bedrywighede by daardie werkplek of afdeling daarvan, na gelang van die geval, kan as

20 gesondheids- en veiligheidsverteenwoordigers vir daardie werkplek of afdeling aangewys word.

(5) Die aantal gesondheids- en veiligheidsverteenwoordigers vir 'n werkplek of afdeling daarvan, moet in die geval van winkels en kantore ten minste een gesondheids- en veiligheidsverteenwoordiger vir elke 100 werknemers of

25 gedeelte daarvan wees, en in die geval van alle ander werkplekke ten minste een gesondheids- en veiligheidsverteenwoordiger vir elke 50 werknemers of gedeelte daarvan: Met dien verstande dat daardie werknemers wat werk verrig by 'n ander werkplek as waar hulle gewoonlik vir diens aanmeld, geag word werksaam te wees by die werkplek waar hulle aldus vir diens aanmeld.

(6) Indien 'n inspekteur van oordeel is dat die aantal gesondheids- en veiligheidsverteenwoordigers vir enige bepaalde werkplek of afdeling daarvan, met inbegrip van 'n werkplek of afdeling met 20 of minder werknemers, ontoereikend is, kan hy die werkgewer skriftelik gelas om die aantal werknemers

35 daardie werkplek of afdeling daarvan aan te wys ooreenkomstig die reëlins en prosedures in subartikel (2) bedoel.

(7) Alle bedrywighede in verband met die aanwysing, werksaamhede en opleiding van gesondheids- en veiligheidsverteenwoordigers word gedurende gewone werkure verrig, en enige tyd wat redelikerwys deur 'n werknemer

40 hierdie verband bestee word, word vir alle doeleindes geag tyd te wees wat hy in die uitvoering van sy pligte as 'n werknemer bestee het.

Werksaamhede van gesondheids- en veiligheidsverteenwoordigers

18. (1) 'n Gesondheids- en veiligheidsverteenwoordiger kan die volgende werksaamhede verrig ten opsigte van die werkplek of afdeling van die werkplek

45 waarvoor hy aangewys is, naamlik—

- (a) die doeltreffendheid van gesondheids- en veiligheidsmaatreëls nagaan;
- (b) potensiële bedreigings en potensiële ernstige voorvalle by die werkplek identifiseer;
- (c) in samewerking met sy werkgewer, die oorsake van voorvalle by die

50 werkplek ondersoek;

(d) klagtes deur enige werknemer met betrekking tot daardie werknemer se gesondheid of veiligheid by die werkplek ondersoek;

(e) tot die werkgewer of 'n gesondheids- en veiligheidskomitee vertoë rig oor sake voortspruitend uit paragraaf (a), (b), (c) of (d), of waar die

55 vertoë onsuksesvol is, tot 'n inspekteur;

(f) tot die werkgewer oor algemene sake wat die gesondheid of veiligheid van die werknemers by die werkplek raak, vertoë rig;

(g) die werkplek, met inbegrip van enige artikel, substansie, bedryfstoe-

60 rusting, masjinerie of gesondheids- en veiligheidstoerusting by daardie werkplek, inspekteer met die oog op die gesondheid en

- with the employer: Provided that the health and safety representative shall give reasonable notice of his intention to carry out such an inspection to the employer, who may be present during the inspection;
- (h) participate in consultations with inspectors at the workplace and accompany inspectors on inspections of the workplace; 5
- (i) receive information from inspectors as contemplated in section 36; and
- (j) in his capacity as a health and safety representative attend meetings of the health and safety committee of which he is a member, in connection with any of the above functions.
- (2) A health and safety representative may, in respect of the workplace or section of the workplace for which he has been designated— 10
- (a) visit the site of an incident and attend any inspection *in loco*;
- (b) attend any investigation or formal inquiry held in terms of this Act;
- (c) in so far as is reasonably necessary to perform his functions, inspect any document which the employer is required to keep in terms of this Act; 15
- (d) accompany an inspector on any inspection;
- (e) with the approval of the employer (which approval shall not be unreasonably withheld), be accompanied by a technical adviser, on any inspection; and
- (f) participate in any internal health or safety audit. 20
- (3) An employer shall provide such facilities, assistance and training as a health and safety representative may reasonably require and as have been agreed upon for the carrying out of his functions.
- (4) A health and safety representative shall not incur any civil liability by reason of the fact only that he failed to do anything which he may do or is required to do 25 in terms of this Act.

Health and safety committees

19. (1) An employer shall in respect of each workplace where two or more health and safety representatives have been designated, establish one or more health and safety committees and, at every meeting of such a committee as contemplated in subsection (4), consult with the committee with a view to initiating, developing, promoting, maintaining and reviewing measures to ensure the health and safety of his employees at work. 30
- (2) A health and safety committee shall consist of such number of members as the employer may from time to time determine: Provided that— 35
- (a) if one health and safety committee has been established in respect of a workplace, all the health and safety representatives for that workplace shall be members of the committee;
- (b) if two or more health and safety committees have been established in respect of a workplace, each health and safety representative for that workplace shall be a member of at least one of those committees; and 40
- (c) the number of persons nominated by an employer on any health and safety committee established in terms of this section shall not exceed the number of health and safety representatives on that committee.
- (3) The persons nominated by an employer on a health and safety committee 45 shall be designated in writing by the employer for such period as may be determined by him, while the health and safety representatives shall be members of the committee for the period of their designation in terms of section 17(1).
- (4) A health and safety committee shall hold meetings as often as may be necessary, but at least once every three months, at a time and place determined by the committee: Provided that an inspector may by notice in writing direct the members of a health and safety committee to hold a meeting at a time and place determined by him: Provided further that, if more than 10 per cent of the employees at a specific workplace has handed a written request to an inspector, the inspector may by written notice direct that such a meeting be held. 50 55

- veiligheid van werknemers, met die tussenposes waarop met die werkgewer ooreengekom word: Met dien verstande dat die gesondheids- en veiligheidsverteenvoordiger redelike kennis van sy voorneme om so 'n inspeksie uit te voer, moet gee aan die werkgewer, wat tydens die inspeksie teenwoordig kan wees;
- (h) aan besprekings met inspekteurs by die werkplek deelneem en inspekteurs op inspeksies van die werkplek vergesel;
- (i) inligting van inspekteurs ontvang soos beoog in artikel 36; en
- (j) in sy hoedanigheid as 'n gesondheids- en veiligheidsverteenvoordiger vergaderings van die gesondheids- en veiligheidskomitees waarvan hy lid is in verband met enige van die voormelde werksaamhede bywoon.
- (2) 'n Gesondheids- en veiligheidsverteenvoordiger kan, ten opsigte van die werkplek of afdeling van die werkplek waarvoor hy aangewys is—
- (a) die terrein van 'n voorval besoek en 'n inspeksie ter plaatse meemaak;
- (b) enige ondersoek of formele ondersoek ingevolge hierdie Wet bywoon;
- (c) vir sover dit redelikerwys nodig is om sy werksaamhede te verrig, enige dokument wat sy werkgewer ingevolge hierdie Wet moet byhou, inspekteer;
- (d) 'n inspekteur tydens enige inspeksie vergesel;
- (e) met die goedkeuring van die werkgewer (welke goedkeuring nie onredelik weerhou mag word nie) deur 'n tegniese adviseur tydens enige inspeksie vergesel word; en
- (f) deelneem in enige interne gesondheids- of veiligheidsoudit.
- (3) 'n Werkgewer moet die fasiliteite, bystand en opleiding voorsien wat 'n gesondheids- en veiligheidsverteenvoordiger redelikerwys nodig het, en waarop ooreengekom is, vir die uitvoering van sy pligte.
- (4) 'n Gesondheids- en veiligheidsverteenvoordiger doen nie enige siviele aanspreeklikheid op nie slegs omdat hy versuim het om iets te doen wat hy ingevolge hierdie Wet kan of moet doen.

30 Gesondheids- en veiligheidskomitees

19. (1) 'n Werkgewer moet ten opsigte van elke werkplek waar twee of meer gesondheids- en veiligheidsverteenvoordigers aangewys is, een of meer gesondheids- en veiligheidskomitees instel en by elke vergadering van sodanige komitee soos beoog in subartikel (4), oorleg pleeg met die komitee met die oog op die instelling, ontwikkeling, bevordering, instandhouding en hersiening van metodes om die gesondheid en veiligheid van sy werknemers by die werk te verseker.
- (2) 'n Gesondheids- en veiligheidskomitee bestaan uit die getal lede wat die werkgewer van tyd tot tyd bepaal: Met dien verstande dat—
- (a) indien een gesondheids- en veiligheidskomitee ten opsigte van 'n werkplek ingestel is, al die gesondheids- en veiligheidsverteenvoordigers vir daardie werkplek lede van die komitee moet wees;
- (b) indien twee of meer gesondheids- en veiligheidskomitees ten opsigte van 'n werkplek ingestel is, elke gesondheids- en veiligheidsverteenvoordiger vir daardie werkplek 'n lid van ten minste een van daardie komitees moet wees; en
- (c) die getal persone wat deur 'n werkgewer benoem word in enige gesondheids- en veiligheidskomitee ingestel ingevolge hierdie artikel nie meer mag wees as die getal gesondheids- en veiligheidsverteenvoordigers in daardie komitee nie.
- (3) Die persone wat deur 'n werkgewer benoem word in 'n gesondheids- en veiligheidskomitee, word skriftelik deur die werkgewer aangewys vir die tydperk wat hy mag bepaal, terwyl die gesondheids- en veiligheidsverteenvoordigers lede van die komitee is vir die tydperk van hulle aanwysing ingevolge artikel 17(1).
- (4) 'n Gesondheids- en veiligheidskomitee vergader so dikwels as wat nodig is, maar ten minste een keer elke drie maande op 'n tyd en plek deur die komitee bepaal: Met dien verstande dat 'n inspekteur by skriftelike kennisgewing kan gelas dat die lede van 'n gesondheids- en veiligheidskomitee 'n vergadering hou op 'n tyd en plek wat hy bepaal: Met dien verstande voorts dat, indien meer as 10 persent van die werknemers by 'n bepaalde werkplek 'n skriftelike versoek daartoe aan 'n inspekteur rig, die inspekteur by skriftelike kennisgewing kan gelas dat so 'n vergadering gehou word.

(5) The procedure at meetings of a health and safety committee shall be determined by the committee.

(6) (a) A health and safety committee may co-opt one or more persons by reason of his or their particular knowledge of health or safety matters as an advisory member or as advisory members of the committee. 5

(b) An advisory member shall not be entitled to vote on any matter before the committee.

(7) If an inspector is of the opinion that the number of health and safety committees established for any particular workplace is inadequate, he may in writing direct the employer to establish for such workplace such number of health and safety committees as the inspector may determine. 10

Functions of health and safety committees

20. (1) A health and safety committee—

(a) may make recommendations to the employer or, where the recommendations fail to resolve the matter, to an inspector regarding any matter affecting the health or safety of persons at the workplace or any section thereof for which such committee has been established; 15

(b) shall discuss any incident at the workplace or section thereof in which or in consequence of which any person was injured, became ill or died, and may in writing report on the incident to an inspector; and 20

(c) shall perform such other functions as may be prescribed.

(2) A health and safety committee shall keep record of each recommendation made to an employer in terms of subsection (1)(a) and of any report made to an inspector in terms of subsection (1)(b).

(3) A health and safety committee or a member thereof shall not incur any civil liability by reason of the fact only that it or he failed to do anything which it or he may or is required to do in terms of this Act. 25

(4) An employer shall take the prescribed steps to ensure that a health and safety committee complies with the provisions of section 19(4) and performs the duties assigned to it by subsections (1) and (2). 30

General prohibitions

21. (1) The Minister may by notice in the *Gazette* declare—

(a) that no employer shall require or permit any employee belonging to a category of employees specified in the notice to perform work on or in any premises on or in which an activity specified in the notice is carried out which in the opinion of the Minister is an activity which threatens or is likely to threaten the health or safety of an employee belonging to that category of employees, or that no employer shall require or permit any such employee to perform any work on or in such premises otherwise than on the conditions specified in the notice; 35 40

(b) that no employer shall require or permit any employee to perform any work in connection with the carrying out of a process specified in the notice which in the opinion of the Minister is a process which threatens or is likely to threaten the health or safety of an employee, or that no employer shall require or permit an employee to perform any work in connection with the carrying out of such a process otherwise than on the conditions specified in the notice; and 45

(c) that no employer shall require or permit any employee, otherwise than on the conditions specified in the notice, to perform any work on or in any premises where an article or substance specified in the notice is produced, processed, used, handled, stored or transported which in the opinion of the Minister is an article or substance which threatens or is likely to threaten the health or safety of an employee. 50

(5) Die prosedure by vergaderings van 'n gesondheids- en veiligheidskomitee word deur die komitee bepaal.

(6) (a) 'n Gesondheids- en veiligheidskomitee kan een of meer persone vanweë sy of hul besondere kennis van gesondheids- of veiligheidsaangeleenthede as 'n adviserende lid of as adviserende lede van die komitee koöpteer.

(b) 'n Adviserende lid mag nie stem oor enige aangeleentheid wat voor die komitee dien nie.

(7) Indien 'n inspekteur van oordeel is dat die getal gesondheids- en veiligheidskomitees wat vir 'n bepaalde werkplek ingestel is, ontoereikend is, kan hy die werkgewer skriftelik gelas om vir daardie werkplek die getal gesondheids- en veiligheidskomitees in te stel wat die inspekteur bepaal.

Wersaamhede van gesondheids- en veiligheidskomitees

20. (1) 'n Gesondheids- en veiligheidskomitee—

(a) kan aanbevelings doen by die werkgewer of, waar die aanbevelings nie tot 'n oplossing van die aangeleentheid lei nie, by 'n inspekteur, oor enige aangeleentheid rakende die gesondheid of veiligheid van persone by die werkplek of 'n afdeling daarvan waarvoor so 'n komitee ingestel is;

(b) moet enige voorval by die werkplek of afdeling daarvan waarin of as gevolg waarvan enige persoon beseer is, siek geword het of gesterf het, bespreek en kan oor die voorval skriftelik aan 'n inspekteur verslag doen; en

(c) moet die ander wersaamhede verrig wat voorgeskryf word.

(2) 'n Gesondheids- en veiligheidskomitee moet aantekening hou van elke aanbeveling aan 'n werkgewer kragtens subartikel (1)(a) gedoen en van enige verslag aan 'n inspekteur kragtens subartikel (1)(b) gedoen.

(3) 'n Gesondheids- en veiligheidskomitee of 'n lid daarvan doen nie enige siviele aanspreeklikheid op nie slegs omdat hy versuim het om iets te doen wat hy ingevolge hierdie Wet kan of moet doen.

(4) 'n Werkgewer moet die voorgeskrewe stappe doen om te verseker dat 'n gesondheids- en veiligheidskomitee aan die bepalings van artikel 19(4) voldoen en die pligte wat by subartikels (1) en (2) daaraan opgedra is, verrig.

Algemene verbodsbepalings

21. (1) Die Minister kan by kennisgewing in die *Staatskoerant* verklaar—

(a) dat geen werkgewer 'n werknemer wat behoort tot 'n kategorie werknemers in die kennisgewing vermeld, mag verplig of toelaat om enige werk op of in enige perseel te verrig nie waarop of waarin 'n bedrywigheid in die kennisgewing vermeld, verrig word wat na die oordeel van die Minister 'n bedrywigheid is wat die gesondheid of veiligheid van 'n werknemer wat tot daardie kategorie werknemers behoort, bedreig of waarskynlik sal bedreig, of dat geen werkgewer so 'n werknemer kan verplig of toelaat om op of in so 'n perseel enige werk te verrig nie behalwe op die voorwaardes in die kennisgewing vermeld;

(b) dat geen werkgewer 'n werknemer mag verplig of toelaat om enige werk te verrig nie in verband met die uitvoering van 'n proses in die kennisgewing vermeld wat na die oordeel van die Minister 'n proses is wat die gesondheid of veiligheid van 'n werknemer bedreig of waarskynlik sal bedreig, of dat geen werkgewer 'n werknemer mag verplig of toelaat om enige werk te verrig nie in verband met die uitvoering van so 'n proses behalwe op die voorwaardes in die kennisgewing vermeld; en

(c) dat geen werkgewer 'n werknemer mag verplig of toelaat om, behalwe op die voorwaardes in die kennisgewing vermeld, enige werk op of in enige perseel te verrig nie waar 'n artikel of substansie in die kennisgewing vermeld, geproduseer, geprosesseer, gebruik, gehanteer, opgeberg of vervoer word wat na die oordeel van die Minister 'n artikel of substansie is wat die gesondheid of veiligheid van 'n werknemer bedreig of waarskynlik sal bedreig.

(2) (a) The Minister shall, before he publishes a notice under subsection (1), cause a draft of his proposed notice to be published in the *Gazette* and at the same time invite interested persons to submit to him in writing, within a specified period, comments and representations in connection with the proposed notice.

(b) The provisions of paragraph (a) shall not apply if the Minister, in pursuance of comments and representations received, decides to publish the notice referred to in subsection (1) in an amended form. 5

(3) A notice under subsection (1) may at any time be amended or withdrawn by like notice.

(4) A notice shall not be issued under subsection (1) or (3) unless the Minister for National Health and Welfare and the Council have been consulted. 10

(5) A notice issued or deemed to have been issued under section 13 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), and which was in force immediately prior to the commencement of this Act, shall be deemed to have been issued under this section. 15

Sale of certain articles prohibited

22. Subject to the provisions of section 10(4), if any requirement (including any health and safety standard) in respect of any article, substance, plant, machinery or health and safety equipment or for the use or application thereof has been prescribed, no person shall sell or market in any manner whatsoever such article, substance, plant, machinery or health and safety equipment unless it complies with that requirement. 20

Certain deductions prohibited

23. No employer shall in respect of anything which he is in terms of this Act required to provide or to do in the interest of the health or safety of an employee, make any deduction from any employee's remuneration or require or permit any employee to make any payment to him or any other person: Provided that where an employee intentionally causes loss of or damage to health or safety equipment, his employer may, after a proper investigation, recover such loss or damage from that employee. 25 30

Report to inspector regarding certain incidents

24. (1) Each incident occurring at work or arising out of or in connection with the activities of persons at work, or in connection with the use of plant or machinery, in which, or in consequence of which—

(a) any person dies, becomes unconscious, suffers the loss of a limb or part of a limb or is otherwise injured or becomes ill to such a degree that he is likely either to die or to suffer a permanent physical defect or likely to be unable for a period of at least 14 days either to work or to continue with the activity for which he was employed or is usually employed; 35

(b) a major incident occurred; or 40

(c) the health or safety of any person was endangered and where—

(i) a dangerous substance was spilled;

(ii) the uncontrolled release of any substance under pressure took place;

(iii) machinery or any part thereof fractured or failed resulting in flying, falling or uncontrolled moving objects; or 45

(iv) machinery ran out of control,

shall, within the prescribed period and in the prescribed manner, be reported to an inspector by the employer or the user of the plant or machinery concerned, as the case may be. 50

(2) In the event of an incident in which a person died, or was injured to such an extent that he is likely to die, or suffered the loss of a limb or part of a limb, no

(2) (a) Die Minister moet, voordat hy 'n kennisgewing kragtens subartikel (1) publiseer, 'n konsep van sy voorgename kennisgewing in die *Staatskoerant* laat publiseer en terselfdertyd belanghebbende persone uitnoodig om kommentaar en vertoë in verband met die voorgename kennisgewing binne 'n vermeldde tyd skriftelik aan hom voor te lê.

(b) Die bepalings van paragraaf (a) is nie van toepassing nie indien die Minister as gevolg van die kommentaar en vertoë wat ontvang is, besluit om die kennisgewing in subartikel (1) bedoel in 'n gewysigde vorm te publiseer.

(3) 'n Kennisgewing kragtens subartikel (1) kan te eniger tyd by dergelike kennisgewing gewysig of herroep word.

(4) 'n Kennisgewing word nie kragtens subartikel (1) of (3) uitgereik nie tensy oorleg met die Minister vir Nasionale Gesondheid en Welsyn en die Raad gepleeg is.

(5) 'n Kennisgewing uitgereik of geag uitgereik te gewees het kragtens artikel 13 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), en wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was, word geag kragtens hierdie artikel uitgereik te gewees het.

Verkoop van sekere artikels verbode

22. Behoudens die bepalings van artikel 10(4), indien enige vereiste (met inbegrip van 'n gesondheids- of veiligheidsstandaard) ten opsigte van enige artikel, substansie, bedryfstoeusting, masjinerie of gesondheids- en veiligheids- toerusting of vir die gebruik of aanwending daarvan voorgeskryf is, mag niemand sodanige artikel, substansie, bedryfstoeusting, masjinerie of gesondheids- en veiligheids- toerusting verkoop of op enige ander wyse hoe- genaamd bemark nie tensy dit aan daardie vereiste voldoen.

Sekere aftrekkings verbode

23. Geen werkgewer mag ten opsigte van enigiets wat hy ingevolge hierdie Wet verplig is om in belang van die gesondheid of veiligheid van 'n werknemer te verskaf of te doen, enige aftrekking van enige werknemer se beloning maak of vereis of toelaat dat enige werknemer enige betaling aan hom of enige ander persoon maak nie: Met dien verstande dat waar 'n werknemer opsetlik verlies van of skade aan gesondheids- of veiligheids- toerusting veroorsaak het, sy werkgewer, na 'n behoorlike ondersoek, sodanige verlies of skade op daardie werknemer kan verhaal.

35 Aanmelding van sekere voorvalle by inspekteur

24. (1) Elke voorval wat by die werk plaasvind of wat voortspruit uit of in verband staan met die bedrywighede van persone by die werk, of met die gebruik van bedryfstoeusting of masjinerie, waarin, of as gevolg waarvan—

(a) iemand sterf, bewusteloos raak, 'n ledemaat of deel van 'n ledemaat verloor, of dermate andersins beseer of siek word dat hy waarskynlik óf sal sterf óf aan 'n permanente liggaamsgebrek sal ly of waarskynlik vir 'n tydperk van minstens 14 dae óf nie kan werk nie óf nie die bedrywigheid waarvoor hy in diens geneem is of gewoonlik in diens is, kan voortsit nie;

(b) 'n ernstige voorval plaasgevind het; of

(c) die gesondheid of veiligheid van enige persoon bedreig is en waar—

(i) 'n gevaarlike substansie gestort is;

(ii) die onbeheerste loslating van enige substansie onder druk plaasvind;

(iii) masjinerie of enige deel daarvan gebreek of geweier het wat gelei het tot vlieënde, vallende of onbeheerde bewegende voorwerpe; of

(iv) masjinerie buite beheer geraak het,

moet, binne die voorgeskrewe tydperk en op die voorgeskrewe wyse, deur die werkgewer of die gebruiker van die betrokke bedryfstoeusting of masjinerie, na gelang van die geval, by 'n inspekteur aangemeld word.

(2) In die geval van 'n voorval waar 'n persoon dood is, of dermate beseer is dat hy waarskynlik sal sterf, of 'n ledemaat of gedeelte van 'n ledemaat

person shall without the consent of an inspector disturb the site at which the incident occurred or remove any article or substance involved in the incident therefrom: Provided that such action may be taken as is necessary to prevent a further incident, to remove the injured or dead, or to rescue persons from danger.

(3) The provisions of subsections (1) and (2) shall not apply in respect of— 5

(a) a traffic accident on a public road;

(b) an incident occurring in a private household, provided the householder forthwith reports the incident to the South African Police; or

(c) any accident which is to be investigated under section 12 of the Aviation Act, 1962 (Act No. 74 of 1962). 10

(4) A member of the South African Police to whom an incident was reported in terms of subsection (3)(b), shall forthwith notify an inspector thereof.

Report to chief inspector regarding occupational disease

25. Any medical practitioner who examines or treats a person for a disease described in the Second Schedule to the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or any other disease which he believes arose out of that person's employment, shall within the prescribed period and in the prescribed manner report the case to the person's employer and to the chief inspector. 15

Victimization forbidden

26. No employer shall dismiss an employee, or reduce the rate of his remuneration, or alter the terms or conditions of his employment to terms or conditions less favourable to him, or alter his position relative to other employees employed by that employer to his disadvantage, by reason of the fact, or because he suspects or believes, whether or not the suspicion or belief is justified or correct, that that employee has given information to the Minister or to any other person charged with the administration of a provision of this Act which in terms of this Act he is required to give or which relates to the terms, conditions or circumstances of his employment or to those of any other employee of his employer, or has complied with a lawful prohibition, requirement, request or direction of an inspector, or has given evidence before a court of law or the industrial court, or has done anything which he may or is required to do in terms of this Act or has refused to do anything which he is prohibited from doing in terms of this Act. 20 25 30

Designation and functions of chief inspector

27. (1) The Minister shall designate an officer serving in the Department as chief inspector for the purposes of this Act. 35

(2) The chief inspector shall perform his functions subject to the control and supervision of the Director-General of the Department and may perform any function assigned to an inspector by this Act.

(3) (a) The chief inspector may delegate any power conferred upon him by this Act, excluding a power referred to in section 35(1) or delegated to him under section 42, to any other officer or authorize any such officer to perform any duty assigned to him by this Act. 40

(b) No delegation of a power under paragraph (a) shall prevent the exercise of such power by the chief inspector himself. 45

(4) Whenever the chief inspector is absent or unable to perform his functions as chief inspector or whenever the designation of a chief inspector is pending, the Minister may designate any other officer serving in the Department to act as chief inspector during the chief inspector's absence or incapacity or until a chief inspector is designated. 50

(5) Any person who immediately prior to the commencement of this Act was designated as chief inspector under section 19 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), shall be deemed to have been designated as chief inspector under subsection (1) of this section.

verloor het, mag niemand die terrein waar die voorval plaasgevind het sonder die toestemming van 'n inspekteur versteur of enige artikel of substansie wat by die voorval betrokke was, daarvandaan verwyder nie: Met dien verstande dat die stappe wat nodig is, gedoen kan word om 'n verdere voorval te voorkom,

5 persone wat beseer of gedood is, te verwyder, of persone van gevaar te red.

(3) Die bepalings van subartikels (1) en (2) is nie van toepassing nie ten opsigte van—

(a) 'n verkeersongeluk op 'n openbare pad;

10 (b) 'n voorval wat plaasvind in 'n private huishouding, mits die huishouer die voorval onverwyld by die Suid-Afrikaanse Polisie aanmeld; of

(c) 'n ongeluk wat kragtens artikel 12 van die Lugvaartwet, 1962 (Wet No. 74 van 1962), ondersoek moet word.

(4) 'n Lid van die Suid-Afrikaanse Polisie by wie 'n voorval ingevolge subartikel (3)(b) aangemeld is, stel onverwyld 'n inspekteur daarvan in kennis.

15 **Verslag aan hoofinspekteur aangaande beroepsiekte**

25. 'n Mediese praktisyn wat iemand ondersoek of behandel vir 'n siekte wat in die Tweede Bylae by die Ongevallewet, 1941 (Wet No. 30 van 1941), beskryf is of enige ander siekte wat hy vermoed ontstaan het as gevolg van daardie persoon se diens, moet binne die voorgeskrewe tydperk en op die voorgeskrewe
20 wyse die geval by daardie persoon se werkgewer en by die hoofinspekteur aanmeld.

Verbod op viktimisasie

26. 'n Werkgewer mag nie 'n werknemer uit sy diens ontslaan, of die skaal van sy beloning verminder, of die bedinge of voorwaardes van sy diens verander na
25 bedinge of voorwaardes wat vir hom minder gunstig is, of sy posisie in vergelyking met ander werknemers in die diens van daardie werkgewer tot sy nadeel verander nie, as gevolg van die feit, of omrede hy vermoed of glo, hetsy die vermoede of geloof geregverdig of juis is of nie, dat daardie werknemer aan die Minister of aan iemand anders belas met die uitvoering van 'n bepaling van
30 hierdie Wet inligting verstrek het wat hy ingevolge hierdie Wet verplig is om te verstrek of wat betrekking het op die bedinge, voorwaardes of omstandighede van sy diens of op dié van 'n ander werknemer van sy werkgewer, of 'n wettige verbod, vereiste, versoek of lasgewing van 'n inspekteur nagekom het, of voor
'n geregshof of die nywerheidshof getuienis afgelê het, of iets gedoen het wat hy
35 ingevolge hierdie Wet kan of moet doen of geweier het om iets te doen wat hy ingevolge hierdie Wet nie mag doen nie.

Aanwysing en werksaamhede van hoofinspekteur

27. (1) Die Minister wys 'n beampte wat by die Departement in diens is, as hoofinspekteur vir die doeleindes van hierdie Wet aan.

40 (2) Die hoofinspekteur verrig sy werksaamhede onderworpe aan die beheer en toesig van die Direkteur-generaal van die Departement en kan enige werksaamheid by hierdie Wet aan 'n inspekteur opgedra, verrig.

(3) (a) Die hoofinspekteur kan 'n bevoegdheid by hierdie Wet aan hom verleen, behalwe 'n bevoegdheid vermeld in artikel 35(1) of kragtens artikel 42
45 aan hom gedelegeer, aan enige ander beampte deleger of so 'n beampte magtig om 'n plig by hierdie Wet aan hom opgedra, te verrig.

(b) Geen delegering van 'n bevoegdheid kragtens paragraaf (a) belet die uitoefening van die betrokke bevoegdheid deur die hoofinspekteur self nie.

(4) Wanneer die hoofinspekteur afwesig is of nie in staat is om sy werksaam-
50 hede as hoofinspekteur te verrig nie of wanneer die aanwysing van 'n hoofinspekteur hangende is, kan die Minister 'n ander beampte wat by die Departement in diens is, aanwys om gedurende die afwesigheid of onvermoë van die hoofinspekteur of totdat 'n hoofinspekteur aangewys word, as hoofinspekteur waar te neem.

55 (5) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet as hoofinspekteur aangewys was kragtens artikel 19 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), word geag as hoofinspekteur kragtens subartikel (1) van hierdie artikel aangewys te gewees het.

Designation of inspectors by Minister

28. (1) The Minister may designate any person as an inspector to perform, subject to the control and directions of the chief inspector, any or all of the functions assigned to an inspector by this Act.

(2) Each inspector designated under subsection (1) shall be furnished with a certificate signed by or on behalf of the Minister and stating that he has been designated as an inspector: Provided that if his designation as inspector is limited to any particular function or functions, his certificate shall state such limitation.

(3) Whenever an inspector designated under subsection (1) performs a function under this Act in the presence of any person affected thereby the inspector shall on demand by such person produce to him the certificate referred to in subsection (2).

(4) Any officer who immediately prior to the commencement of this Act was designated as an inspector under section 20 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), shall be deemed to have been designated as an inspector under subsection (1) of this section.

Functions of inspectors

29. (1) An inspector may, for the purposes of this Act—

(a) without previous notice, at all reasonable times, enter any premises which are occupied or used by an employer or on or in which an employee performs any work or any plant or machinery is used, or which he suspects to be such premises;

(b) question any person who is or was on or in such premises, either alone or in the presence of any other person, on any matter to which this Act relates;

(c) require from any person who has control over or custody of a book, record or other document on or in those premises, to produce to him forthwith, or at such time and place as may be determined by him, such book, record or other document;

(d) examine any such book, record or other document or make a copy thereof or an extract therefrom;

(e) require from such a person an explanation of any entry in such book, record or other document;

(f) inspect any article, substance, plant or machinery which is or was on or in those premises, or any work performed on or in those premises or any condition prevalent on or in those premises or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;

(g) seize any such book, record or other document or any such article, substance, plant or machinery or a part or sample thereof which in his opinion may serve as evidence at the trial of any person charged with an offence under this Act or the common law: Provided that the employer or user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;

(h) direct any employer, employee or user, including any former employer, employee or user, to appear before him at such time and place as may be determined by him and question such employer, employee or user either alone or in the presence of any other person on any matter to which this Act relates;

(i) perform any other function as may be prescribed.

(2) (a) An interpreter, a member of the South African Police or any other assistant may, when required by an inspector, accompany him when he performs his functions under this Act.

(b) For the purposes of this Act an inspector's assistant shall, while he acts under the instructions of an inspector, be deemed to be an inspector.

(3) When an inspector enters any premises under subsection (1) the employer occupying or using those premises and each employee performing any work

Aanwysing van inspekteurs deur Minister

28. (1) Die Minister kan enige persoon as 'n inspekteur aanwys om enige van of al die werksaamhede by hierdie Wet aan 'n inspekteur opgedra, onderworpe aan die beheer en voorskrifte van die hoofinspekteur te verrig.
- 5 (2) Elke inspekteur kragtens subartikel (1) aangewys, moet van 'n sertifikaat voorsien word wat deur of namens die Minister onderteken is en waarin verklaar word dat hy as 'n inspekteur aangewys is: Met dien verstande dat indien sy aanwysing as inspekteur tot 'n bepaalde werksaamheid of werksaamhede beperk is, sy sertifikaat daardie beperking moet vermeld.
- 10 (3) Wanneer 'n inspekteur kragtens subartikel (1) aangewys 'n werksaamheid kragtens hierdie Wet verrig in die teenwoordigheid van iemand wat daardeur geraak word, moet die inspekteur op versoek van so iemand die sertifikaat in subartikel (2) bedoel aan hom toon.
- (4) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet as 'n inspekteur aangewys was kragtens artikel 20 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), word geag as 'n inspekteur kragtens subartikel (1) van hierdie artikel aangewys te gewees het.
- 15

Werksaamhede van inspekteurs

29. (1) 'n Inspekteur kan, vir die doeleindes van hierdie Wet—
- 20 (a) sonder kennisgewing vooraf, te eniger redelike tyd enige perseel betree wat deur 'n werkgewer geokkupeer of gebruik word of waarop of waarin 'n werknemer werk verrig of enige bedryfstoerusting of masjinerie gebruik word, of wat hy vermoed sodanige perseel te wees;
- 25 (b) iemand wat op of in so 'n perseel is of was, óf alleen óf in die teenwoordigheid van iemand anders betreffende 'n aangeleentheid waarop hierdie Wet betrekking het, ondervra;
- (c) van iemand wat beheer of toesig het oor 'n boek, rekord of ander stuk op of in daardie perseel, vereis dat so 'n boek, rekord of ander stuk dadelik of op die tyd en plek wat hy bepaal, aan hom voorgelê word;
- 30 (d) so 'n boek, rekord of ander stuk ondersoek of 'n afskrif daarvan of 'n uittreksel daaruit maak;
- (e) van so iemand 'n verduideliking van 'n inskrywing in so 'n boek, rekord of stuk vereis;
- 35 (f) enige artikel, substansie, bedryfstoerusting of masjinerie wat op of in daardie perseel is of was, of enige werk wat op of in die perseel gedoen word of enige toestand wat op of in daardie perseel heers, inspekteur of enige artikel, substansie, bedryfstoerusting of masjinerie of 'n deel of monster daarvan vir ondersoek of ontleding verwyder;
- 40 (g) beslag lê op so 'n boek, rekord of ander stuk of op so 'n artikel, substansie, bedryfstoerusting of masjinerie of 'n deel of monster daarvan wat na sy oordeel as bewys kan dien by die verhoor van iemand op 'n aanklag weens 'n misdryf kragtens hierdie Wet of die gemene reg: Met dien verstande dat die werkgewer of gebruiker van die betrokke artikel, substansie, bedryfstoerusting of masjinerie, na gelang van die geval, afskrifte van sodanige boek, rekord of stuk mag maak voor sodanige beslaglegging;
- 45 (h) 'n werkgewer, werknemer of gebruiker, met inbegrip van 'n voormalige werkgewer, werknemer of gebruiker, gelas om voor hom te verskyn op die plek en tyd wat hy bepaal en so 'n werkgewer, werknemer of gebruiker, óf alleen óf in die teenwoordigheid van iemand anders, betreffende enige aangeleentheid waarop hierdie Wet betrekking het, ondervra;
- 50 (i) enige ander werksaamheid wat voorgeskryf word, verrig.
- (2) (a) 'n Tolk, 'n lid van die Suid-Afrikaanse Polisie of enige ander assistent kan, wanneer 'n inspekteur dit nodig ag, hom by die verrigting van sy werksaamhede kragtens hierdie Wet vergesel.
- (b) By die toepassing van hierdie Wet word 'n inspekteur se assistent terwyl hy optree kragtens die opdragte van 'n inspekteur, geag 'n inspekteur te wees.
- (3) Wanneer 'n inspekteur 'n perseel kragtens subartikel (1) betree, moet die
- 60 werkgewer wat daardie perseel okkupeer of gebruik en elke werknemer wat

thereon or therein and any user of plant or machinery thereon or therein, shall at all times provide such facilities as are reasonably required by the inspector to enable him and his assistant (if any) to perform effectively and safely his or their functions under this Act.

(4) When an inspector removes or seizes any article, substance, plant, machinery, book, record or other document as contemplated in subsection (1)(f) or (g), he shall issue a receipt to the owner or person in control thereof. 5

Special powers of inspectors

30. (1) (a) Whenever an employer performs an act or requires or permits an act to be performed, or proposes to perform an act or to require or permit an act to be performed, which in the opinion of an inspector threatens or is likely to threaten the health or safety of any person, the inspector may in writing prohibit that employer from continuing or commencing with the performance of that act or from requiring or permitting that act to be continued or commenced with, as the case may be. 10 15

(b) Whenever a user of plant or machinery uses or proposes to use any plant or machinery, in a manner or in circumstances which in the opinion of an inspector threatens or is likely to threaten the health or safety of any person who works with such plant or machinery or who is or may come within the vicinity thereof, the inspector may in writing prohibit that user from continuing or commencing with the use of such plant or machinery or in that manner or those circumstances, as the case may be. 20

(c) An inspector may in writing prohibit an employer from requiring or permitting an employee or any employee belonging to a category of employees specified in the prohibition to be exposed in the course of his employment for a longer period than a period specified in the prohibition, to any article, substance, organism or condition which in the opinion of an inspector threatens or is likely to threaten the health or safety of that employee or the employee belonging to that category of employees, as the case may be. 25

(d) A prohibition imposed under paragraph (a), (b) or (c) may at any time be revoked by an inspector in writing if arrangements to the satisfaction of the inspector have been made to dispose of the threat which gave rise to the imposition of the prohibition. 30

(2) In order to enforce a prohibition imposed under subsection (1)(a) or (b), an inspector may block, bar, barricade or fence off that part of the workplace, plant or machinery to which the prohibition applies, and no person shall interfere with or remove such blocking, bar, barricade or fence. 35

(3) Whenever an inspector is of the opinion that the health or safety of any person at a workplace or in the course of his employment or in connection with the use of plant or machinery is threatened on account of the refusal or failure of an employer or a user, as the case may be, to take reasonable steps in the interest of such person's health or safety, the inspector may in writing direct that employer or user to take such steps as are specified in the direction within a specified period. 40

(4) Whenever an inspector is of the opinion that an employer or a user has failed to comply with a provision of a regulation applicable to him, the inspector may in writing direct that employer or user to take within a period specified in the direction such steps as in the inspector's opinion are necessary to comply with the said provision, and are specified in the direction. 45

(5) A period contemplated in subsection (3) or (4) may at any time be extended by an inspector by notice in writing to the person concerned. 50

(6) An employer shall forthwith bring the contents of a prohibition, direction or notice under this section to the attention of the health and safety representatives and employees concerned.

daarop of daarin werk verrig en 'n gebruiker wat bedryfstoerusting of masjinerie daarop of daarin gebruik, te alle tye die fasiliteite verskaf wat redelikerwys deur die inspekteur vereis word ten einde hom en sy assistent (as daar is) in staat te stel om sy of hul werkzaamhede kragtens hierdie Wet effektief en veilig te verrig.

- 5 (4) Wanneer 'n inspekteur enige artikel, substansie, bedryfstoerusting, masjinerie, boek, rekord of ander stuk soos bedoel in subartikel (1)(f) of (g) verwyder of daarop beslag lê, moet hy skriftelik ontvangs aan die eienaar of persoon in beheer daarvan erken.

Spesiale bevoegdhede van inspekteurs

- 10 30. (1) (a) Wanneer 'n werkgewer 'n handeling verrig of vereis of toelaat dat 'n handeling verrig word, of beoog om 'n handeling te verrig of om te vereis of toe te laat dat 'n handeling verrig word, wat na die oordeel van 'n inspekteur die
15 gesondheid of veiligheid van enige persoon bedreig of waarskynlik sal bedreig, kan die inspekteur daardie werkgewer skriftelik verbied om met die verrigting van daardie handeling voort te gaan of te begin of om te vereis of toe te laat dat daar met daardie handeling voortgegaan of begin word, na gelang van die geval.

- (b) Wanneer 'n gebruiker bedryfstoerusting of masjinerie gebruik of beoog om dit te gebruik op 'n wyse of in omstandighede wat na die oordeel van 'n inspekteur die gesondheid of veiligheid van enige persoon wat met daardie
20 bedryfstoerusting of masjinerie werk of wat in die nabyheid daarvan is of mag kom, bedreig of waarskynlik sal bedreig, kan die inspekteur daardie gebruiker skriftelik verbied om met die gebruik van daardie bedryfstoerusting of masjinerie of op daardie wyse of in daardie omstandighede voort te gaan of te begin, na gelang van die geval.

- 25 (c) 'n Inspekteur kan skriftelik 'n werkgewer verbied om van 'n werknemer of enige werknemer wat tot 'n kategorie werknemers behoort wat in die verbod vermeld is, te vereis of hom toe te laat om in die loop van sy diens vir 'n langer tydperk as 'n tydperk wat in die verbod vermeld is, blootgestel te word aan enige artikel, substansie, organisme of toestand wat, na die oordeel van die inspek-
30 teur, die gesondheid of veiligheid van daardie werknemer of die werknemer wat behoort tot daardie kategorie werknemers, na gelang van die geval, bedreig of waarskynlik sal bedreig.

- (d) 'n Verbod kragtens paragraaf (a), (b) of (c) opgelê, kan te eniger tyd skriftelik deur 'n inspekteur opgehef word indien reëlins tot bevrediging van die
35 inspekteur getref is om die bedreiging wat tot die oplegging van die verbod aanleiding gegee het, uit die weg te ruim.

- (2) Ten einde 'n verbod af te dwing wat ingevolge subartikel (1)(a) of (b) opgelê is, kan 'n inspekteur daardie deel van die betrokke werkplek, bedryfstoe-
40 rusting of masjinerie waarop die verbod van toepassing is, versper, afsluit, verskans of afkamp, en niemand mag met sodanige versperring, afsluiting, verskansing of afkamping inmeng of dit verwyder nie.

- (3) Wanneer 'n inspekteur van mening is dat die gesondheid of veiligheid van enige persoon by 'n werkplek of in die loop van sy diens of in verband met die gebruik van bedryfstoerusting of masjinerie bedreig word vanweë die weiering
45 of versuim van 'n werkgewer of 'n gebruiker, na gelang van die geval, om redelike stappe te doen in die belang van sodanige persoon se gesondheid of veiligheid, kan die inspekteur skriftelik die werkgewer of gebruiker gelas om binne 'n genoemde tydperk die stappe te doen wat in die lasgewing vermeld word.

- 50 (4) Wanneer 'n inspekteur van mening is dat 'n werkgewer of 'n gebruiker versuim het om te voldoen aan 'n bepaling van 'n regulasie wat op hom van toepassing is, kan die inspekteur skriftelik daardie werkgewer of gebruiker gelas om binne 'n tydperk in die lasgewing vermeld die stappe te doen wat, na die mening van die inspekteur, nodig is om aan die genoemde bepaling te voldoen,
55 en in die lasgewing uiteengesit word.

- (5) 'n Tydperk bedoel in subartikel (3) of (4) kan te eniger tyd deur 'n inspekteur by skriftelike kennisgewing aan die betrokke persoon verleng word.

- (6) 'n Werkgewer moet onverwyld die inhoud van 'n verbod, lasgewing of kennisgewing ingevolge hierdie artikel onder die aandag van die betrokke
60 gesondheids- en veiligheidsvertegenwoordigers en werknemers bring.

Investigations

31. (1) An inspector may investigate the circumstances of any incident which has occurred at or originated from a workplace or in connection with the use of plant or machinery which has resulted, or in the opinion of the inspector could have resulted, in the injury, illness or death of any person in order to determine whether it is necessary to hold a formal investigation in terms of section 32. 5

(2) After completing the investigation in terms of subsection (1) the inspector shall submit a written report thereon, together with all relevant statements, documents and information gathered by him, to the attorney-general within whose area of jurisdiction such incident occurred and he shall at the same time submit a copy of the report, statements and documents to the chief inspector. 10

(3) Upon receipt of a report referred to in subsection (2), the attorney-general shall deal therewith in accordance with the provisions of the Inquests Act, 1959 (Act No. 58 of 1959), or the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as the case may be. 15

(4) An inspector holding an investigation shall not incur any civil liability by virtue of anything contained in the report referred to in subsection (2).

Formal inquiries

32. (1) The chief inspector may, and he shall when so requested by a person producing *prima facie* evidence of an offence, direct an inspector to conduct a formal inquiry into any incident which has occurred at or originated from a workplace or in connection with the use of plant or machinery which has resulted, or in the opinion of the chief inspector could have resulted, in the injury, illness or death of any person. 20

(2) For the purposes of an inquiry referred to in subsection (1) an inspector may subpoena any person to appear before him on a day and at a place specified in the subpoena and to give evidence or to produce any book, document or thing which in the opinion of the inspector has a bearing on the subject of the inquiry. 25

(3) Save as is otherwise provided in this section, the law governing criminal trials in magistrates' courts shall *mutatis mutandis* apply to obtaining the attendance of witnesses at an inquiry under this section, the administering of an oath or affirmation to them, their examination, the payment of witness fees to them and the production by them of books, documents and things. 30

(4) Any inquiry under this section shall be held in public: Provided that the presiding inspector may exclude from the place where the inquiry is held, any person whose presence is, in his opinion, undesirable or not in the public interest. 35

(5) (a) The presiding inspector may designate any person to lead evidence and to examine any witness giving evidence at a formal inquiry.

(b) Any person who has an interest in the issue of the formal inquiry may personally or by representative, advocate or attorney put such questions to a witness at the inquiry to such extent as the presiding inspector may allow. 40

(c) The following persons shall have an interest as referred to in paragraph (b), namely—

(i) any person who was injured or suffered damage as a result of the incident forming the subject of the inquiry; 45

(ii) the employer or user, as the case may be, involved in the incident;

(iii) any person in respect of whom in the opinion of the presiding inspector it can reasonably be inferred from the evidence that he could be held responsible for the incident;

(iv) a trade union recognized by the employer concerned or any trade union of which a person referred to in subparagraph (i) or (iii) is a member; 50

(v) any owner or occupier of any premises where the said incident occurred;

(vi) any other person who, at the discretion of the presiding inspector, can prove such interest.

(6) (a) An inquiry may, if it is necessary or expedient, be adjourned at any time by the presiding inspector. 55

Ondersoeke

31. (1) 'n Inspekteur kan ondersoek instel na die omstandighede van enige voorval wat plaasgevind het by of ontstaan het in 'n werkplek of in verband met die gebruik van bedryfstoeusting of masjinerie wat gelei het, of na die mening van die inspekteur kon gelei het, tot die besering, siekte of dood van enige persoon ten einde te bepaal of dit nodig is dat 'n formele ondersoek ingevolge artikel 32 gehou word.

(2) Na voltooiing van die ondersoek ingevolge subartikel (1) moet die inspekteur 'n skriftelike verslag daaroor, tesame met alle relevante verklarings, stukke en inligting deur hom ingewin, stuur aan die prokureur-generaal binne wie se regsgebied die voorval plaasgevind het en hy moet terselfdertyd 'n afskrif van die verslag, verklarings en stukke aan die hoofinspekteur stuur.

(3) By ontvangs van 'n verslag bedoel in subartikel (2), moet die prokureur-generaal daarmee handel ooreenkomstig die bepalings van die Wet op Geregte-lyke Doodsondersoeke, 1959 (Wet No. 58 van 1959), of die Strafproseswet, 1977 (Wet No. 51 van 1977), na gelang van die geval.

(4) 'n Inspekteur wat 'n ondersoek hou, doen nie enige siviele aanspreeklikheid op nie vanweë enigiets vervat in die verslag in subartikel (2) bedoel.

Formele ondersoeke

32. (1) Die hoofinspekteur kan, en moet wanneer hy daartoe versoek word deur 'n persoon wat *prima facie*-getuienis van 'n misdryf voorlê, 'n inspekteur gelas om 'n formele ondersoek te hou na enige voorval wat plaasgevind het of ontstaan het in 'n werkplek of in verband met die gebruik van bedryfstoeusting of masjinerie wat die besering, siekte of dood van enige persoon tot gevolg gehad het, of na die mening van die hoofinspekteur tot gevolg kon gehad het.

(2) Vir die doeleindes van 'n ondersoek in subartikel (1) bedoel, kan die inspekteur enige persoon dagvaar om op 'n dag en plek in die dagvaarding genoem voor hom te verskyn en getuienis af te lê of om enige boek, stuk of saak oor te lê wat na die oordeel van die inspekteur op die onderwerp van die ondersoek betrekking het.

(3) Behalwe waar anders in hierdie artikel bepaal, is die reg wat strafregtelike verhoor in landdroshowe reël *mutatis mutandis* van toepassing op die verkryging van getuies by 'n ondersoek kragtens hierdie artikel, die oplegging op hulle van 'n eed of bevestiging, hul ondervraging, die betaling van getuiegeld aan hulle en die oorlegging deur hulle van boeke, stukke en sake.

(4) 'n Ondersoek kragtens hierdie artikel word in die openbaar gehou: Met dien verstande dat die voorsittende inspekteur enige persoon wie se teenwoordigheid, na sy mening, onwenslik of nie in die openbare belang is nie, van die plek waar die ondersoek gehou word, kan uitsluit.

(5) (a) Die voorsittende inspekteur kan enigiemand aanwys om getuienis te lei en enige getuie by 'n formele ondersoek te ondervra.

(b) Iemand wat 'n belang by die uitslag van die formele ondersoek het, kan persoonlik of deur 'n verteenwoordiger, advokaat of prokureur 'n getuie by die ondersoek ondervra in die mate wat die voorsittende inspekteur toelaat.

(c) Die volgende persone het 'n belang soos in paragraaf (b) bedoel, naamlik—

(i) iemand wat beseer of skade berokken is as gevolg van die voorval wat die onderwerp van die ondersoek uitmaak;

(ii) die werkgewer of gebruiker, na gelang van die geval, wat by die voorval betrokke is;

(iii) iemand ten opsigte van wie na die mening van die voorsittende inspekteur daar uit die getuienis redelikerwys afgelei kan word dat hy vir die voorval aanspreeklik gehou kan word;

(iv) 'n vakbond wat deur die betrokke werkgewer erken word of 'n vakbond waarvan 'n persoon in subparagraaf (i) of (iii) bedoel, 'n lid is;

(v) die eienaar of okkupeerder van 'n perseel waar bedoelde voorval plaasgevind het;

(vi) enige ander persoon wat na die oordeel van die voorsittende inspekteur so 'n belang kan bewys.

(6) (a) 'n Ondersoek kan, indien dit nodig of dienstig is, te eniger tyd deur die voorsittende inspekteur verdaag word.

(b) An inquiry adjourned under paragraph (a) may at any stage be continued by an inspector other than the inspector before whom the inquiry commenced, and may after an adjournment again be continued by the inspector before whom the inquiry commenced.

(7) An affidavit made by any person in connection with the incident in respect of which the inquiry is held, shall at the discretion of the presiding inspector upon production be admissible as proof of the facts stated therein, and the presiding inspector may, at his discretion, subpoena the person who made such an affidavit to give oral evidence at the inquiry or may submit written interrogatories to him for reply, and such interrogatories and any reply thereto purporting to be a reply from such person shall likewise be admissible in evidence at the inquiry: Provided that the presiding inspector shall afford any person present at the inquiry the opportunity to refute the facts stated in such document, evidence or reply.

(8) (a) Whenever in the course of any inquiry it appears to the presiding inspector that the examination of a witness is necessary and that the attendance of such witness cannot be procured without a measure of delay, expense or inconvenience which in the circumstances would be unreasonable, the presiding inspector may dispense with such attendance and may appoint a person to be a commissioner to take the evidence of such witness, whether within or outside the Republic, in regard to such matters or facts as the presiding inspector may indicate.

(b) Any person referred to in subsection (5)(b) may in person or through a representative, advocate or attorney appear before such commissioner in order to examine the said witness.

(c) The evidence recorded in terms of this subsection shall be admissible in evidence at the inquiry.

(9) At the conclusion of an inquiry under this section, the presiding inspector shall compile a written report thereon.

(10) The evidence given at any inquiry under this section shall be recorded and a copy thereof shall be submitted by the presiding inspector together with his report to the chief inspector, and in the case of an incident in which or as a result of which any person died or was seriously injured or became ill, the inspector shall submit a copy of the said evidence and the report to the attorney-general within whose area of jurisdiction such incident occurred.

(11) Nothing contained in this section shall be construed as preventing the institution of criminal proceedings against any person or as preventing any person authorized thereto from issuing a warrant for the arrest of or arresting any person, whether or not an inquiry has already commenced.

(12) Upon receipt of a report referred to in subsection (10), the attorney-general shall deal therewith in accordance with the provisions of the Inquests Act, 1959 (Act No. 58 of 1959), or the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as the case may be.

(13) An inspector presiding at any formal inquiry shall not incur any civil liability by virtue of anything contained in the report compiled in terms of subsection (9).

Joint inquiries

33. (1) The provisions of section 32 shall not affect the provisions of any law requiring and regulating inquests or other inquiries in case of death resulting from other than natural causes, and in respect of each incident referred to in that section in which or in consequence of which any person has died there shall be held, in addition to an inquiry under the said section, such inquest or inquiry as is required by any such law, but an inquiry under the said section and an inquest held by a judicial officer under the Inquests Act, 1959 (Act No. 58 of 1959), may be held jointly.

(2) At such a joint inquiry and inquest the judicial officer shall preside and thereupon the provisions of the Inquests Act, 1959, shall apply, but the inspector

(b) 'n Ondersoek wat kragtens paragraaf (a) verdaag is, kan te eniger tyd voortgesit word deur 'n ander inspekteur as die inspekteur voor wie die ondersoek begin het, en kan na 'n verdaging weer voortgesit word deur die inspekteur voor wie die ondersoek begin het.

- 5 (7) 'n Beëdigde verklaring wat gedoen is deur iemand in verband met die voorval ten opsigte waarvan die ondersoek gehou word, is na goeë dunnke van die voorsittende inspekteur, by voorlegging toelaatbaar as bewys van die feite daarin gestel, en die voorsittende inspekteur kan na goeë dunnke die persoon wat so 'n beëdigde verklaring gedoen het, dagvaar om mondelinge getuieis by die
10 ondersoek af te lê of kan geskrewe vraagpunte aan hom voorlê om op te antwoord, en sodanige vraagpunte en enige antwoord daarop wat voorgee om 'n antwoord te wees van sodanige persoon, word insgelyks aanvaar as getuieis by die ondersoek: Met dien verstande dat die voorsittende inspekteur enige persoon wat by die ondersoek teenwoordig is 'n geleentheid moet gee om die
15 feite genoem in sodanige dokument, verklaring of antwoord, te weerlê.

- (8) (a) Wanneer dit in die loop van die ondersoek vir die voorsittende inspekteur blyk dat die ondervraging van 'n getuie nodig is en dat die bywoning van sodanige getuie nie verkry kan word nie sonder 'n mate van vertraging, uitgawe of ongerief wat onder die omstandighede onredelik sou wees, kan die
20 voorsittende inspekteur afsien van sodanige bywoning en kan hy iemand aanstel as 'n kommissaris om getuieis van daardie getuie af te neem, hetsy binne of buite die Republiek, ten opsigte van die sake of feite wat die voorsittende inspekteur aandui.

- (b) Iemand in subartikel (5)(b) bedoel, kan persoonlik of deur middel van 'n
25 verteenwoordiger, advokaat of prokureur voor sodanige kommissaris verskyn ten einde genoemde getuie te ondervra.

(c) Die getuieis wat ingevolge hierdie subartikel opgeteken word, is toelaatbaar as getuieis by die ondersoek.

- (9) By die beëindiging van 'n ondersoek kragtens hierdie artikel, moet die
30 voorsittende inspekteur 'n skriftelike verslag daaroor opstel.

- (10) Die getuieis by 'n ondersoek kragtens hierdie artikel afgelê, word afgeneem en 'n afskrif daarvan word deur die voorsittende inspekteur saam met sy verslag aan die hoofinspekteur gestuur, en in die geval van 'n voorval waarin of na aanleiding waarvan iemand beswyk het of ernstig beseer is of siek geword
35 het, moet die inspekteur 'n afskrif van bedoelde getuieis en die verslag stuur aan die prokureur-generaal binne wie se regsgebied sodanige voorval plaasgevind het.

- (11) Niks in hierdie artikel word uitgelê om die instelling van strafregtelike verrigtinge teen iemand te belet nie, of om iemand wat daartoe gemagtig is, te
40 belet om 'n lasbrief ter inhegtenisneming uit te reik of om iemand in hegtenis te neem nie, hetsy 'n ondersoek reeds 'n aanvang geneem het of nie.

- (12) By ontvangs van 'n verslag bedoel in subartikel (10), moet die prokureur-generaal daarmee handel ooreenkomstig die bepalings van die Wet op Geregtelike Doodsondersoeke, 1959 (Wet No. 58 van 1959), of die Strafproseswet, 1977
45 (Wet No. 51 van 1977), na gelang van die geval.

(13) 'n Inspekteur wat by 'n formele ondersoek voorsit, doen nie enige siviele aanspreeklikheid op nie vanweë enigiets vervat in die verslag ingevolge subartikel (9) opgestel.

Gesamentlike ondersoeke

- 50 33. (1) Die bepalings van artikel 32 raak nie die bepalings van 'n wet waardeur geregtelike doodsondersoeke of ander ondersoeke in die geval van dood weens ander oorsake as natuurlike oorsake, vereis en gereël word nie, en ten opsigte van elke voorval in genoemde artikel bedoel waarin of na aanleiding waarvan iemand beswyk het, moet daar, benewens 'n ondersoek kragtens genoemde
55 artikel, ook die geregtelike doodsondersoek of ander ondersoek deur so 'n wet vereis, ingestel word, maar 'n ondersoek kragtens genoemde artikel en 'n geregtelike doodsondersoek deur 'n regterlike beampte kragtens die Wet op Geregtelike Doodsondersoeke, 1959 (Wet No. 58 van 1959), kan gesamentlik ingestel word.

- 60 (2) By sodanige gesamentlike ondersoek en geregtelike doodsondersoek moet die regterlike beampte voorsit, en daarop is die bepalings van die Wet op

and the judicial officer shall each make the report required of them by section 32(9) and that Act, respectively.

Obstruction of investigation or inquiry or presiding inspector or failure to render assistance

34. No person shall, in relation to any investigation or inquiry held in terms of section 31 or 32— 5

- (a) without reasonable justification fail to comply with any lawful direction, subpoena, request or order issued or given by the presiding inspector;
- (b) refuse or fail to answer to the best of his knowledge any question lawfully put to him by or with the concurrence of the presiding inspector: 10
Provided that no person shall be obliged to answer any question whereby he may incriminate himself;
- (c) in any manner whatsoever advise, encourage, incite, order or persuade any person who has been directed, subpoenaed, requested or ordered to do something by the presiding inspector, not to comply with such 15
direction, subpoena, request or order or in any manner prevent him from doing so;
- (d) refuse or fail, when required thereto by the presiding inspector, to furnish him with the means or to render him the necessary assistance for holding such inquiry; 20
- (e) refuse or fail, when required thereto by the presiding inspector, to attend an inquiry; or
- (f) intentionally insult the presiding inspector or his assistant or intentionally interrupt the proceedings thereof. 25

Appeal against decision of inspector

25

35. (1) Any person aggrieved by any decision taken by an inspector under a provision of this Act may appeal against such decision to the chief inspector, and the chief inspector shall, after he has considered the grounds of the appeal and the inspector's reasons for the decision, confirm, set aside or vary the decision or substitute for such decision any other decision which the inspector in the chief 30
inspector's opinion ought to have taken.

(2) Any person who wishes to appeal in terms of subsection (1), shall within 60 days after the inspector's decision was made known, lodge such an appeal with the chief inspector in writing, setting out the grounds on which it is made.

(3) Any person aggrieved by a decision taken by the chief inspector under subsection (1) or in the exercise of any power under this Act, may appeal against such decision to the industrial court, and the industrial court shall inquire into and consider the matter forming the subject of the appeal and confirm, set aside or vary the decision or substitute for such decision any other decision which the chief 40
inspector in the opinion of the industrial court ought to have taken.

(4) Any person who wishes to appeal in terms of subsection (3), shall within 60 days after the chief inspector's decision was given, lodge such appeal with the registrar of the industrial court in accordance with the rules of the industrial court.

(5) An appeal under subsection (1) or (3) in connection with a prohibition imposed under section 30(1)(a) or (b) shall not suspend the operation of such 45
prohibition.

Disclosure of information

36. No person shall disclose any information concerning the affairs of any other person obtained by him in carrying out his functions in terms of this Act, except—

- (a) to the extent to which it may be necessary for the proper administration 50
of a provision of this Act;
- (b) for the purposes of the administration of justice; or

Geregtelike Doodsondersoeke, 1959, van toepassing, maar die inspekteur en die regterlike beamppte moet elkeen die verslag opstel wat onderskeidelik deur artikel 32(9) en daardie Wet van hulle vereis word.

Dwarsboming van ondersoek of voorsittende inspekteur of versuim om hulp te verleen

34. Niemand mag, met betrekking tot 'n ondersoek ingevolge artikel 31 of 32—

- (a) sonder redelike verskoning in gebreke bly om 'n wettige lasgewing, dagvaarding, versoek of bevel uitgereik of gegee deur die voorsittende inspekteur, na te kom nie;
- (b) weier of versuim om na sy beste wete te antwoord op 'n vraag regtens aan hom gestel deur of met die instemming van die voorsittende inspekteur nie: Met dien verstande dat niemand verplig kan word om 'n vraag te beantwoord waardeur hy homself kan inkrimineer nie;
- (c) iemand wat deur die voorsittende inspekteur gelas, gedagvaar, versoek of beveel is om iets te doen, op enige wyse hoegenaamd adviseer, aanmoedig, aanhits, beveel of oorhaal om nie sodanige lasgewing, dagvaarding, versoek of bevel na te kom nie of hom op enige wyse verhinder om dit te doen nie;
- (d) weier of versuim om, wanneer die voorsittende inspekteur dit vereis, hom van die middele te voorsien of aan hom die nodige hulp te verleen wat nodig is om sodanige ondersoek in te stel nie;
- (e) weier of versuim om, wanneer die voorsittende inspekteur dit vereis, 'n ondersoek by te woon nie; of
- (f) die voorsittende inspekteur of sy assistent opsetlik beledig of die verrigtinge daarvan opsetlik onderbreek nie.

Appel teen besluit van inspekteur

35. (1) Iemand wat hom veronreg voel deur 'n besluit wat deur 'n inspekteur kragtens 'n bepaling van hierdie Wet geneem is, kan by die hoofinspekteur teen daardie besluit appel aanteken, en die hoofinspekteur moet na oorweging van die gronde van die appel en die inspekteur se redes vir die besluit, die besluit bekragtig, tersyde stel of wysig of die besluit deur enige ander besluit vervang wat die inspekteur na die hoofinspekteur se mening moes geneem het.

(2) Iemand wat 'n appel ingevolge subartikel (1) wil aanteken, moet sodanige appel binne 60 dae nadat die besluit van die inspekteur bekendgemaak is, skriftelik by die hoofinspekteur indien en die gronde waarop appel aangeteken word, uiteensit.

(3) Iemand wat hom veronreg voel deur 'n besluit wat deur die hoofinspekteur kragtens subartikel (1) of by die uitoefening van enige bevoegdheid ingevolge hierdie Wet geneem is, kan by die nywerheidshof teen daardie besluit appel aanteken, en die nywerheidshof moet die aangeleentheid wat die onderwerp van die appel uitmaak, ondersoek en oorweeg en die besluit bekragtig, tersyde stel of wysig of die besluit deur die ander besluit vervang wat die hoofinspekteur na die nywerheidshof se oordeel moes geneem het.

(4) Iemand wat wil appelleer ingevolge subartikel (3), moet sodanige appel binne 60 dae nadat die beslissing van die hoofinspekteur gegee is by die registrateur van die nywerheidshof indien ooreenkomstig die reëls van die nywerheidshof.

(5) 'n Appel kragtens subartikel (1) of (3) in verband met 'n verbod kragtens artikel 30(1)(a) of (b) opgelê, skort nie die werking van die verbod op nie.

Bekendmaking van inligting

36. Niemand mag inligting openbaar wat hy by die verrigting van sy werksaamhede ingevolge hierdie Wet met betrekking tot die sake van iemand anders verkry het nie, behalwe—

- (a) in die mate waarin dit vir die behoorlike uitvoering van 'n bepaling van hierdie Wet nodig mag wees;
- (b) vir die doel van die regspleging; of

- (c) at the request of a health and safety representative or a health and safety committee entitled thereto.

Acts or omissions by employees or mandataries

37. (1) Whenever an employee does or omits to do any act which it would be an offence in terms of this Act for the employer of such employee or a user to do or omit to do, then, unless it is proved that— 5

- (a) in doing or omitting to do that act the employee was acting without the connivance or permission of the employer or any such user;
- (b) it was not under any condition or in any circumstance within the scope of the authority of the employee to do or omit to do an act, whether lawful or unlawful, of the character of the act or omission charged; and 10
- (c) all reasonable steps were taken by the employer or any such user to prevent any act or omission of the kind in question,

the employer or any such user himself shall be presumed to have done or omitted to do that act, and shall be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, in itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission. 15

(2) The provisions of subsection (1) shall *mutatis mutandis* apply in the case of a mandatary of any employer or user, except if the parties have agreed in writing to the arrangements and procedures between them to ensure compliance by the mandatary with the provisions of this Act. 20

(3) Whenever any employee or mandatary of any employer or user does or omits to do an act which it would be an offence in terms of this Act for the employer or any such user to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer or user. 25

(4) Whenever any employee or mandatary of the State commits or omits to do an act which would be an offence in terms of this Act, had he been the employee or mandatary of an employer other than the State and had such employer committed or omitted to do that act, he shall be liable to be convicted and sentenced in respect thereof as if he were such an employer. 30

(5) Any employee or mandatary referred to in subsection (3) may be so convicted and sentenced in addition to the employer or user.

(6) Whenever the employee or mandatary of an employer is convicted of an offence consisting of a contravention of section 23, the court shall, when making an order under section 38(4), make such an order against the employer and not against such employee or mandatary. 35

Offences, penalties and special orders of court

38. (1) Any person who—

- (a) contravenes or fails to comply with a provision of section 7, 8, 9, 10(1), (2) or (3), 12, 13, 14, 15, 16(1) or (2), 17(1), (2) or (5), 18(3), 19(1), 20(2) or (4), 22, 23, 24(1) or (2), 25, 26, 29(3), 30(2) or (6), 34 or 36; 40
- (b) contravenes or fails to comply with a direction or notice under section 17(6), 19(4) or (7), 21(1) or 30(1)(a), (b) or (c) or (3), (4) or (6);
- (c) contravenes or fails to comply with a condition of an exemption under section 40(1); 45
- (d) in any record, application, statement or other document referred to in this Act wilfully furnishes information or makes a statement which is false in any material respect;
- (e) hinders or obstructs an inspector in the performance of his functions; 50
- (f) refuses or fails to comply to the best of his ability with any requirement or request made by an inspector in the performance of his functions;
- (g) refuses or fails to answer to the best of his ability any question which an inspector in the performance of his functions has put to him;

- (c) op versoek van 'n gesondheids- en veiligheidsvertegenwoordiger of 'n gesondheids- en veiligheidskomitee wat daarop geregtig is.

Dade of versuime van werknemers of lashebbers

37. (1) Wanneer 'n werknemer 'n daad of versuim begaan wat 'n misdryf
5 ingevolge hierdie Wet sou wees as die werkgewer van daardie werknemer of 'n
gebruiker dit begaan of nagelaat het, dan, tensy daar bewys word dat—
- (a) die werkgewer of so 'n gebruiker daardie daad of versuim van die
werknemer nie oogluikend toegelaat het of veroorloof het nie;
 - (b) 'n daad of versuim, hetsy wettig of onwettig, van die ten laste gelegde
10 aard onder geen voorwaarde of omstandigheid binne die bestek van die
bevoegdheid van die werknemer geval het nie; en
 - (c) die werkgewer of gebruiker alle redelike stappe gedoen het om so 'n
daad of versuim te voorkom,
- word vermoed dat die werkgewer of so 'n gebruiker self daardie daad of versuim
15 begaan het, en kan hy ten opsigte daarvan skuldig bevind en gevonnissen word; en
die feit dat hy 'n daad of versuim van die betrokke aard verbied het, word nie
op sigself aanvaar as voldoende bewys dat hy alle redelike stappe gedoen het om
die daad of versuim te voorkom nie.
- (2) Die bepalinge van subartikel (1) is *mutatis mutandis* van toepassing in die
20 geval van 'n lashebber van enige werkgewer of gebruiker, behalwe as die partye
skriftelik ooreengekom het oor die reëlings en prosedures om nakoming van die
bepalings van hierdie Wet deur die lashebber te verseker.
- (3) Wanneer enige werknemer of lashebber van 'n werkgewer of gebruiker 'n
daad of versuim begaan wat 'n misdryf ingevolge hierdie Wet sou wees as die
25 werkgewer of so 'n gebruiker dit begaan, kan hy ten opsigte daarvan skuldig
bevind en gevonnissen word asof hy die werkgewer of gebruiker was.
- (4) Wanneer enige werknemer of lashebber van die Staat 'n daad of versuim
begaan wat 'n misdryf ingevolge hierdie Wet sou wees as hy die werknemer of
lashebber van 'n werkgewer behalwe die Staat was en so 'n werkgewer daardie
30 daad of versuim begaan het, kan hy ten opsigte daarvan skuldig bevind word
asof hy so 'n werkgewer was.
- (5) Enige werknemer of lashebber in subartikel (3) bedoel, kan benewens die
werkgewer of gebruiker aldus skuldig bevind en gevonnissen word.
- (6) Wanneer 'n werknemer of lashebber van 'n werkgewer skuldig bevind
35 word aan 'n misdryf wat bestaan uit 'n oortreding van artikel 23, moet die hof
wanneer hy 'n bevel uit hoofde van artikel 38(4) uitreik, dit teen die werkgewer
uitreik en nie teen die werknemer of lashebber nie.

Misdrywe, strawwe en spesiale hofbevele

38. (1) Iemand wat—
- (a) 'n bepaling van artikel 7, 8, 9, 10(1), (2) of (3), 12, 13, 14, 15, 16(1) of
40 (2), 17(1), (2) of (5), 18(3), 19(1), 20(2) of (4), 22, 23, 24(1) of (2), 25,
26, 29(3), 30(2) of (6), 34 of 36 oortree of versuim om daaraan te
voldoen;
 - (b) 'n bepaling van 'n lasgewing of kennisgewing kragtens artikel 17(6),
45 19(4) of (7), 21(1) of 30(1)(a), (b) of (c) of (3), (4) of (6) oortree of
versuim om daaraan te voldoen;
 - (c) 'n voorwaarde van 'n vrystelling kragtens artikel 40(1) oortree of
versuim om daaraan te voldoen;
 - (d) in enige rekord, aansoek, staat of ander stuk bedoel in hierdie Wet
50 opsetlik inligting verstrek of 'n verklaring doen wat in 'n wesenlike
opsig vals is;
 - (e) 'n inspekteur by die verrigting van sy werksaamhede hinder of belem-
mer;
 - (f) weier of versuim om na sy beste vermoë aan 'n vereiste of versoek wat
55 'n inspekteur by die verrigting van sy werksaamhede aan hom gestel
het, te voldoen;
 - (g) weier of versuim om na sy beste vermoë 'n vraag wat 'n inspekteur by
die verrigting van sy werksaamhede aan hom gestel het, te beant-
woord;

- (h) wilfully furnishes to an inspector information which is false or misleading;
- (i) gives himself out as an inspector;
- (j) having been subpoenaed under section 32 to appear before an inspector, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend on the day and at the place specified in the subpoena, or fails to remain in attendance until the inspector has excused him from further attendance; 5
- (k) having been called under section 32, without sufficient cause (the onus of proof whereof shall rest upon him)— 10
 - (i) refuses to appear before the inspector;
 - (ii) refuses to be sworn or to make affirmation as a witness after he has been directed to do so;
 - (iii) refuses to answer, or fails to answer to the best of his knowledge and belief, any question put to him; or 15
 - (iv) refuses to comply with a requirement to produce a book, document or thing specified in the subpoena or which he has with him;
- (l) tampers with or discourages, threatens, deceives or in any way unduly influences any person with regard to evidence to be given or with regard to a book, document or thing to be produced by such a person before an inspector under section 32; 20
- (m) prejudices, influences or anticipates the proceedings or findings of an inquiry under section 32 or 33;
- (n) tampers with or misuses any safety equipment installed or provided to any person by an employer or user; 25
- (o) fails to use any safety equipment at a workplace or in the course of his employment or in connection with the use of plant or machinery, which was provided to him by an employer or such a user;
- (p) wilfully or recklessly does anything at a workplace or in connection with the use of plant or machinery which threatens the health or safety of any person, 30

shall be guilty of an offence and on conviction be liable to a fine not exceeding R50 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(2) Any employer who does or omits to do an act, thereby causing any person to be injured at a workplace, or, in the case of a person employed by him, to be injured at any place in the course of his employment, or any user who does or omits to do an act in connection with the use of plant or machinery, thereby causing any person to be injured, shall be guilty of an offence if that employer or user, as the case may be, would in respect of that act or omission have been guilty of the offence of culpable homicide had that act or omission caused the death of the said person, irrespective of whether or not the injury could have led to the death of such person, and on conviction be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment. 45

(3) Whenever a person is convicted of an offence consisting of a failure to comply with a provision of this Act or of any direction or notice issued thereunder, the court convicting him may, in addition to any punishment imposed on him in respect of that offence, issue an order requiring him to comply with the said provision within a period determined by the court. 50

(4) Whenever an employer is convicted of an offence consisting of a contravention of a provision of section 23, the court convicting him shall inquire into and determine the amount which contrary to the said provision was deducted from the remuneration of the employee concerned or recovered from him and shall then act with respect to the said amount *mutatis mutandis* in accordance with sections 28 and 29 of the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983), as if such amount is an amount underpaid within the meaning of those sections. 55

- (h) opsetlik aan 'n inspekteur inligting verstrek wat vals of misleidend is;
- (i) hom as 'n inspekteur voordoen;
- (j) nadat hy kragtens artikel 32 gedagvaar is om voor 'n inspekteur te verskyn, sonder voldoende rede (waarvan die bewyslas op hom rus)
- 5 versuim om op die dag en plek in die dagvaarding vermeld, aanwesig te wees of aanwesig te bly totdat die inspekteur hom van verdere aanwesigheid verskoon;
- (k) nadat hy kragtens artikel 32 opgeroep is, sonder voldoende rede (waarvan die bewyslas op hom rus)—
- 10 (i) weier om voor die inspekteur te verskyn;
- (ii) weier om as getuie die eed af te lê of 'n bevestiging te doen nadat hy gelas is om dit te doen;
- (iii) weier om 'n vraag wat aan hom gestel word, te beantwoord of versuim om so 'n vraag na sy beste wete en geloof te beantwoord;
- 15 of
- (iv) weier om te voldoen aan 'n vereiste om 'n boek, stuk of saak in die dagvaarding vermeld of wat hy by hom het, oor te lê;
- (l) hom met iemand bemoei of hom afskrik, dreig of mislei of op enige wyse onbehoorlik beïnvloed met betrekking tot getuienis wat so 'n
- 20 persoon voor 'n inspekteur kragtens artikel 32 moet aflê of met betrekking tot 'n boek, stuk of saak wat so iemand aldus aan 'n inspekteur moet oorlê;
- (m) die verrigtinge of bevindings van 'n ondersoek kragtens artikel 32 of 33 benadeel, beïnvloed of vooruitloop;
- 25 (n) hom bemoei met of misbruik maak van enige veiligheidstoerusting wat deur 'n werkgewer of gebruiker geïnstalleer of aan 'n persoon verskaf is;
- (o) versuim om enige veiligheidstoerusting by 'n werkplek of in die loop van sy diens of in verband met die gebruik van bedryfstoe­rusting of
- 30 masjinerie te gebruik wat deur 'n werkgewer of gebruiker aan hom verskaf is;
- (p) opsetlik of op 'n roekelose wyse iets by 'n werkplek of in verband met die gebruik van bedryfstoe­rusting of masjinerie doen wat die gesond­heid of veiligheid van iemand bedreig,
- 35 is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R50 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel daardie boete as daardie gevangenisstraf.
- (2) 'n Werkgewer wat 'n daad of versuim begaan wat veroorsaak dat iemand by 'n werkplek, of, in die geval van iemand wat by hom in diens is, by enige plek
- 40 in die loop van sy diens, beseer word, of 'n gebruiker wat 'n daad of versuim in verband met die gebruik van bedryfstoe­rusting of masjinerie begaan wat veroorsaak dat iemand beseer word, is aan 'n misdryf skuldig indien daardie werkgewer of gebruiker, na gelang van die geval, ten opsigte van daardie daad of versuim aan die misdryf van strafbare manslag skuldig sou wees as daardie
- 45 daad of versuim die dood van bedoelde persoon veroorsaak het, hetsy die besering tot die dood van so 'n persoon kon gelei het of nie, en by skuldigbe­vinding strafbaar met 'n boete van hoogstens R100 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sowel daardie boete as daardie gevangenisstraf.
- 50 (3) Wanneer iemand skuldig bevind word aan 'n misdryf wat bestaan uit 'n versuim om aan 'n bepaling van hierdie Wet of van 'n lasgewing of kennisgewing daarkragtens uitgereik, te voldoen, kan die hof wat hom skuldig bevind, benewens enige straf hom ten opsigte van daardie misdryf opgelê, 'n bevel uitreik waarin hy aangesê word om binne 'n tydperk deur die hof bepaal aan
- 55 bedoelde bepaling te voldoen.
- (4) Wanneer 'n werkgewer skuldig bevind word aan 'n misdryf wat bestaan uit 'n oortreding van 'n bepaling van artikel 23, moet die hof wat hom skuldig bevind, ondersoek instel na en die bedrag bepaal wat strydig met bedoelde bepaling van die betrokke werknemer se beloning afgetrek of van hom gevorder
- 60 is en daarop met betrekking tot die bedoelde bedrag *mutatis mutandis* ooreen­komstig artikels 28 en 29 van die Wet op Basiese Diensvoorwaardes, 1983 (Wet No. 3 van 1983), optree asof daardie bedrag 'n onderbetaalde bedrag is ooreenkomstig die bedoeling van daardie artikels.

Proof of certain facts

39. (1) Whenever in any legal proceedings in terms of this Act it is proved that any person was present on or in any premises, that person shall, unless the contrary is proved, be presumed to be an employee.

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

(3) In any legal proceedings in terms of this Act, any statement or entry contained in any book or document kept by any employer or user or by his employee or mandatary, or found on or in any premises occupied or used by that employer or user, and any copy or reproduction 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 or user or by any employee or mandatary of that employer or user within the scope of his authority.

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

(5) (a) Whenever at the trial of any person charged with a contravention of section 22 it is proved that the accused sold or marketed any article, substance, plant, machinery or health and safety equipment contemplated in that section, it shall be presumed, until the contrary is proved, that such article, substance, plant, machinery or health and safety equipment did not at the time of the sale or marketing thereof comply with the said requirements.

(b) At any trial any document purporting to be a certificate or statement by an approved inspection authority and in which it is alleged that the article, substance, plant, machinery or health and safety equipment forming the subject of the charge complies with the requirements prescribed in respect thereof or with any particular standard, shall on its mere production at that trial by or on behalf of the accused be accepted as *prima facie* proof of the facts stated therein.

(6) Notwithstanding the provisions of section 31(3) of the Standards Act, 1993 (Act No. 29 of 1993), whenever in any legal proceedings in terms of this Act the question arises whether any document contains the text of a health and safety standard incorporated in the regulations under section 44, any document purporting to be a statement by a person who in that statement alleges that he is an inspector and that a particular document contains the said text, shall on its mere production at those proceedings by any person be *prima facie* proof of the facts stated therein.

(7) The records to be kept by a health and safety committee in terms of section 20(2), including any document purporting to be certified by an inspector as a true extract from any such records, shall on their mere production at any legal proceedings by any person be admissible as evidence of the fact that a recommendation or report recorded in such records was made by a health and safety committee to an employer or inspector concerned.

Exemptions

40. (1) The Minister may, for such period and on such conditions as may be

Bewys van sekere feite

39. (1) Wanneer by enige geregtelike verrigtinge ingevolge hierdie Wet bewys word dat 'n persoon teenwoordig was op of in enige perseel, word daardie persoon, tensy die teendeel bewys word, vermoed 'n werknemer te wees.
- 5 (2) By ontstentenis van bevredigende bewys van ouderdom, word die ouderdom van 'n persoon, by enige geregtelike verrigtinge ingevolge hierdie Wet, vermoed die waarskynlike ouderdom van daardie persoon te wees; maar enige belanghebbende persoon wat ontevrede is met daardie verklaring kan, op eie
- 10 koste, vereis dat die persoon wie se ouderdom ter sprake is, voor 'n distriksgeneesheer verskyn en deur hom ondersoek word, en 'n verklaring vervat in 'n sertifikaat deur die distriksgeneesheer wat daardie persoon ondersoek het, aangaande wat volgens sy mening die waarskynlike ouderdom van daardie persoon is, is afdoende bewys van die ouderdom van daardie persoon, dog slegs
- 15 vir die doel van bedoelde verrigtinge.
- (3) By enige geregtelike verrigtinge ingevolge hierdie Wet is 'n verklaring of inskrywing wat voorkom in enige boek of stuk wat deur 'n werkgewer of gebruiker of deur sy werknemer of lashebber gehou word, of wat gevind word op of in enige perseel wat deur daardie werkgewer of gebruiker geokkupeer of
- 20 gebruik word, en enige afskrif of reproduksie van sodanige verklaring of inskrywing, toelaatbaar as 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 of gebruiker of deur enige werknemer of lashebber van daardie werkgewer of gebruiker binne die bestek
- 25 van sy bevoegdheid gemaak is nie.
- (4) Wanneer by enige geregtelike verrigtinge ingevolge hierdie Wet bewys word dat 'n onware verklaring of inskrywing voorkom in 'n rekord wat deur iemand gehou is, word vermoed, totdat die teendeel bewys word, dat hy daardie aantekening opsetlik vervals het.
- 30 (5) (a) Wanneer daar by die verhoor van iemand op aanklag van 'n oortreding van artikel 22 bewys word dat die beskuldigde enige artikel, substansie, bedryfstoerusting, masjinerie of gesondheids- en veiligheidstoerusting verkoop of bemark het soos in daardie artikel bedoel, word daar vermoed, totdat die teendeel bewys word, dat daardie artikel, substansie, bedryfstoerusting, masjinerie of gesondheids- en veiligheidstoerusting ten tyde van die verkoop of
- 35 bemarking daarvan nie aan bedoelde vereistes voldoen het nie.
- (b) By sodanige verhoor word 'n geskrif wat 'n sertifikaat of verklaring heet te wees van 'n goedgekeurde inspeksie-owerheid en waarin beweer word dat die artikel, substansie, bedryfstoerusting, masjinerie of gesondheids- en veiligheids-
- 40 toerusting wat die onderwerp van die aanklag uitmaak aan die vereistes wat ten opsigte daarvan voorgeskryf is of aan 'n bepaalde standaard voldoen, by blote voorlegging daarvan by daardie verhoor deur of namens die beskuldigde, as *prima facie*-bewys aanvaar van die feite daarin vermeld.
- (6) Ondanks die bepalinge van artikel 31(3) van die Wet op Standaarde, 1993
- 45 (Wet No. 29 van 1993), wanneer by enige geregtelike verrigtinge ingevolge hierdie Wet die vraag ontstaan of een of ander geskrif die teks bevat van 'n gesondheids- en veiligheidsstandaard wat kragtens artikel 44 by die regulasies ingelyf is, word 'n geskrif wat 'n verklaring heet te wees van iemand wat in die verklaring beweer dat hy 'n inspekteur is en dat 'n bepaalde geskrif bedoelde
- 50 teks bevat, by blote voorlegging daarvan by sodanige verrigtinge deur enig-iemand, as *prima facie*-bewys van die feite daarin vermeld, aanvaar.
- (7) Die aantekeninge wat 'n gesondheids- en veiligheidskomitee ingevolge artikel 20(2) moet hou, met inbegrip van 'n stuk wat gesertifiseer heet te wees deur 'n inspekteur as 'n ware uittreksel uit sodanige aantekeninge, is by blote
- 55 voorlegging daarvan by enige geregtelike verrigtinge deur enige persoon, toelaatbaar as getuienis van die feit dat 'n aanbeveling of aanmelding in daardie aantekeninge opgeteken, deur 'n gesondheids- en veiligheidskomitee aan 'n betrokke werkgewer of inspekteur gedoen is.

Vrystellings

- 60 40. (1) Die Minister kan, vir die tydperk en op die voorwaardes wat hy bepaal,

determined by him, exempt any employer or user or any category of employers or users, generally or with respect to any particular employee or category of employees or users or with respect to any matter, from any of or all the provisions of this Act or the provisions of a notice or direction issued under this Act.

(2) The period for which exemption may be granted under subsection (1) may commence on a date earlier than the date on which exemption is granted, but not earlier than the date on which application for such exemption was made to the Minister. 5

(3) An exemption under subsection (1) shall—

(a) in the case of the exemption of a particular employer or user, be granted by issuing to such employer or user a certificate of exemption in which his name and the scope, period and conditions of the exemption are specified; 10

(b) in the case of the exemption of a category of employers or of a category of such users, be granted by the publication in the *Gazette* of a notice in which that category of employers or users is described and the scope, period and conditions of the exemption are specified: 15

Provided that the Minister may grant exemption—

(i) to an organization of employers or an organization of users in accordance with the requirements of either paragraph (a) or paragraph (b); 20

(ii) from any health and safety standard incorporated in the regulations under section 44, in any manner which he may deem expedient.

(4) A certificate of exemption contemplated in subsection (3)(a) and a notice contemplated in subsection (3)(b) may at any time be amended or withdrawn by the Minister. 25

(5) An exemption under subsection (1) shall lapse—

(a) upon termination of the period for which it was granted;

(b) upon withdrawal of the relevant certificate or notice under subsection (4). 30

(6) Any exemption granted under section 32 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), to the extent to which it grants exemption from the operation of a provision similar to a provision in respect of which exemption may be granted under subsection (1) of this section, which exemption has at the commencement of this Act not lapsed as contemplated in subsection (5) of the said section 32, shall be deemed to have been granted under this section. 35

This Act not affected by agreements

41. Subject to the provisions of sections 10(4) and 37(2), a provision of this Act or a condition specified in any notice or direction issued thereunder or subject to which exemption was granted to any person under section 40, shall not be affected by any condition of any agreement, whether such agreement was entered into before or after the commencement of this Act or before or after the imposition of any such condition, as the case may be. 40

Delegation and assignment of functions

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42. (1) The Minister may delegate any power conferred upon him by or under this Act, except the power contemplated in section 43, to an officer.

(2) A delegation under subsection (1) shall not prevent the exercise of the relevant power by the Minister himself.

(3) The Minister may authorize any provincial administration or local authority to perform any function referred to in this Act. 50

(4) An authorization under subsection (3) shall not prevent the performance of the relevant function by the Minister, the chief inspector or an inspector, as the case may be.

Regulations

55

43. (1) The Minister may make regulations—

enige werkgewer of gebruiker of kategorie werkgewers of gebruikers, in die algemeen of met betrekking tot 'n bepaalde werknemer of kategorie werknemers of gebruikers of met betrekking tot die een of ander aangeleentheid, vrystel van enige van of al die bepalings van hierdie Wet of die bepalings van 'n kennisgewing of lasgewing kragtens hierdie Wet uitgereik.

(2) Die tydperk waarvoor vrystelling kragtens subartikel (1) verleen word, kan op 'n vroeër datum begin as dié waarop die vrystelling verleen word, maar nie vroeër as die datum waarop daar by die Minister aansoek om sodanige vrystelling gedoen is nie.

10 (3) 'n Vrystelling kragtens subartikel (1) word—

(a) in die geval van die vrystelling van 'n bepaalde werkgewer of gebruiker, verleen deur die uitreiking aan die werkgewer of gebruiker van 'n vrystellingsertifikaat waarin sy naam en die bestek, tydperk en voorwaardes van die vrystelling vermeld word;

15 (b) in die geval van die vrystelling van 'n kategorie werkgewers of van 'n kategorie van bedoelde gebruikers, verleen deur die publikasie van 'n kennisgewing in die *Staatskoerant* waarin daardie kategorie werkgewers of gebruikers beskryf en die bestek, tydperk en voorwaardes van die vrystelling vermeld word;

20 Met dien verstande dat die Minister vrystelling—

(i) aan 'n organisasie van werkgewers of 'n organisasie van gebruikers kan verleen ooreenkomstig die voorskrifte van óf paragraaf (a) óf paragraaf (b);

25 (ii) van 'n gesondheids- en veiligheidstandaard wat kragtens artikel 44 by die regulasies ingelyf is, kan verleen op enige wyse wat hy dienstig ag.

(4) 'n Vrystellingsertifikaat beoog in subartikel (3)(a) en 'n kennisgewing beoog in subartikel (3)(b) kan te eniger tyd deur die Minister gewysig of ingetrek word.

(5) 'n Vrystelling kragtens subartikel (1) verval—

30 (a) by verstryking van die tydperk waarvoor dit verleen is;

(b) by die intrekking van die betrokke sertifikaat of kennisgewing kragtens subartikel (4).

(6) 'n Vrystelling verleen kragtens artikel 32 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), in die mate waarin dit vrystelling verleen van die werking van 'n bepaling soortgelyk aan 'n bepaling ten opsigte waarvan vrystelling kragtens subartikel (1) van hierdie artikel verleen kan word, welke vrystelling by die inwerkingtreding van hierdie Wet nie verval het nie soos beoog in subartikel (5) van genoemde artikel 32, word geag kragtens hierdie artikel verleen te gewees het.

40 Hierdie Wet nie geraak deur ooreenkomste

41. Behoudens die bepalings van artikels 10(4) en 37(2) word 'n bepaling van hierdie Wet of 'n voorwaarde vermeld in 'n kennisgewing of lasgewing daarkragtens uitgereik of waarop vrystelling aan iemand kragtens artikel 40 verleen is, nie geraak deur 'n voorwaarde van 'n ooreenkoms nie, hetsy so 'n ooreenkoms aangegaan is voor of na die inwerkingtreding van hierdie Wet of voor of na die oplegging van so 'n voorwaarde, na gelang van die geval.

Delegering en opdra van werksaamhede

42. (1) Die Minister kan 'n bevoegdheid by hierdie Wet aan hom verleen, behalwe 'n bevoegdheid in artikel 43 beoog, aan 'n beampte deleger.

50 (2) 'n Delegering kragtens subartikel (1) belet nie die uitoefening van die betrokke bevoegdheid deur die Minister self nie.

(3) Die Minister kan 'n provinsiale administrasie of plaaslike owerheid magtig om enige werksaamheid in hierdie Wet bedoel, te verrig.

55 (4) 'n Magtiging kragtens subartikel (3) belet nie die Minister, die hoofinspekteur of 'n inspekteur, na gelang van die geval, om die betrokke werksaamheid te verrig nie.

Regulasies

43. (1) Die Minister kan regulasies uitvaardig—

- (a) as to any matter which in terms of this Act shall or may be prescribed;
- (b) which in the opinion of the Minister are necessary or expedient in the interest of the health and safety of persons at work or the health and safety of persons in connection with the use of plant or machinery, or the protection of persons other than persons at work against risks to health and safety arising from or connected with the activities of persons at work, including regulations as to—
- (i) the planning, layout, construction, use, alteration, repair, maintenance or demolition of buildings;
 - (ii) the design, manufacture, construction, installation, operation, use, handling, alteration, repair, maintenance or conveyance of plant, machinery or health and safety equipment;
 - (iii) the training, safety equipment or facilities to be provided by employers or users, the persons to whom and the circumstances in which they are to be provided and the application thereof;
 - (iv) the health or safety measures to be taken by employers or users;
 - (v) the occupational hygiene measures to be taken by employers or users;
 - (vi) any matter regarding the biological monitoring or medical surveillance of employees;
 - (vii) the production, processing, use, handling, storage or transport of, and the exposure of employees and other persons to, hazardous articles, substances or organisms or potentially hazardous articles, substances or organisms, including specific limits, thresholds or indices of or for such exposure;
 - (viii) the performance of work in hazardous or potentially hazardous conditions or circumstances;
 - (ix) the emergency equipment and medicine to be held available by employers and users, the places where such equipment and medicine are to be held, the requirements with which such equipment and medicine shall comply, the inspection of such equipment and medicine, the application of first-aid and the qualifications which persons applying first-aid shall possess;
 - (x) the compilation by employers of health and safety directives in respect of a workplace, the matters to be dealt with in such directives and the manner in which such directives shall be brought to the attention of employees and other persons at such a workplace;
 - (xi) the registration of persons performing hazardous work or using or handling plant or machinery, the qualifications which such persons shall possess and the fees payable to the State in respect of such registration;
 - (xii) the accreditation, functions, duties and activities of approved inspection authorities;
 - (xiii) the consultations between an employer and employees on matters of health and safety;
 - (xiv) subject to section 36, the provision of information by an employer or user to employees or the public on any matter to which this Act relates;
 - (xv) the conditions under which any employer is prohibited from permitting any person to partake of food or to smoke on or in any premises where a specified activity is carried out;
 - (xvi) the conditions under which the manufacture of explosives and activities incidental thereto may take place;
- (c) as to the preventive and protective measures for major hazard installations with a view to the protection of employees and the public against the risk of major incidents;

- (a) betreffende enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word;
- (b) wat na die oordeel van die Minister nodig of wenslik is in belang van die gesondheid en veiligheid van persone by die werk of die gesondheid en veiligheid van persone in verband met die gebruik van bedryfstoeusting of masjinerie, of die beskerming van ander persone as persone by die werk, teen gesondheids- en veiligheidsrisiko's wat ontstaan uit of verband hou met die bedrywighede van persone by die werk, met inbegrip van regulasies betreffende—
- (i) die beplanning, uitleg, konstruksie, gebruik, verandering, herstel, onderhoud of sloping van geboue;
- (ii) die ontwerp, vervaardiging, konstruksie, installering, werking, gebruik, hantering, verandering, herstel, onderhoud of vervoer van bedryfstoeusting, masjinerie of gesondheids- en veiligheids-toerusting;
- (iii) die opleiding, veiligheidstoeusting of fasiliteite wat deur werkgewers of gebruikers verskaf moet word, die persone aan wie en die omstandighede waarin dit verskaf moet word en die aanwending daarvan;
- (iv) die gesondheids- of veiligheidsmaatreëls wat deur werkgewers of gebruikers getref moet word;
- (v) die maatreëls aangaande beroepshigiëne wat deur werkgewers of gebruikers getref moet word;
- (vi) enige aangeleentheid met betrekking tot die biologiese monitering of mediese waaktoesig van werknemers;
- (vii) die produksie, prosessering, gebruik, hantering, opberging of vervoer van, en die blootstelling van werknemers en ander persone aan, gevaarlike artikels, substansies of organismes of potensieel gevaarlike artikels, substansies of organismes, met inbegrip van spesifieke limiete, drempels of aanduidings van of vir sodanige blootstelling;
- (viii) die verrigting van werk in toestande of omstandighede wat gevaarlik of potensieel gevaarlik is;
- (ix) die noodhulptoeusting en geneeskundige middels wat deur werkgewers en gebruikers beskikbaar gehou moet word, die plekke waar sodanige toerusting en middels gehou moet word, die vereistes waaraan sodanige toerusting en middels moet voldoen, die inspeksie van sodanige toerusting en middels, die toepassing van noodhulp en die kwalifikasies wat persone wat noodhulp toepas, moet hê;
- (x) die opstel van gesondheids- en veiligheidsvoorskrifte ten opsigte van 'n werkplek deur werkgewers, die aangeleenthede wat in sodanige voorskrifte behandel moet word en die wyse van bekendstelling van sodanige voorskrifte aan werknemers en ander persone by so 'n werkplek;
- (xi) die registrasie van persone wat gevaarlike werk verrig of bedryfstoeusting of masjinerie gebruik of hanteer, die kwalifikasies wat sodanige persone moet besit, en die gelde wat ten opsigte van sodanige registrasie aan die Staat betaalbaar is;
- (xii) die akkreditering, funksies, pligte en bedrywighede van goedgekeurde inspeksie-owerhede;
- (xiii) die onderhandelinge tussen 'n werkgever en werknemers betreffende gesondheids- en veiligheidsaangeleenthede;
- (xiv) behoudens artikel 36, die verskaffing van inligting betreffende enige saak wat met hierdie Wet verband hou, deur 'n werkgever of gebruiker aan werknemers of die publiek;
- (xv) die omstandighede waarin 'n werkgever verbied word om iemand toe te laat om op of in enige perseel waar 'n bepaalde bedrywigheid uitgevoer word, te eet of te rook;
- (xvi) die toestande waaronder die vervaardiging van ontplofbare stowwe en enige verwante bedrywigheid mag plaasvind;
- (c) betreffende die voorkomende en beskermende maatreëls vir hoërisiko-installasies met die oog op die beskerming van werknemers en die publiek teen die risiko van ernstige voorvalle;

- (d) as to the registration of premises where employees perform any work or where plant or machinery is used and the fee payable to the State in respect of such registration;
- (e) whereby provision is made for the continuation of any registration under this Act; 5
- (f) as to the registration of plant and machinery and the fee payable to the State in respect of such registration;
- (g) as to the establishment of one or more committees for the administration of a provision of the regulations, the constitution of such committees, the functions of such committees, the procedure to be followed at meetings 10 of such committees, the allowances which may be paid to members of such committees from money appropriated by Parliament for such purpose and the person by whom such allowances shall be fixed;
- (h) prescribing the records to be kept and the returns to be rendered by employers and users and the person or persons to whom such returns 15 shall be rendered;
- (i) as to the designation and functions of health and safety representatives and health and safety committees and the training of health and safety representatives;
- (j) as to the activities of self-employed persons; and 20
- (k) as to any other matter the regulation of which is in the opinion of the Minister necessary or desirable for the effective carrying out of the provisions of this Act.

(2) No regulation shall be made by the Minister except after consultation with the Council, and no regulation relating to State income or expenditure or to any health matter shall be made by the Minister except after consultation also with the Minister of State Expenditure and the Minister for National Health and Welfare, respectively. 25

(3) In making regulations the Minister may apply any method of differentiation that he may deem advisable: Provided that no differentiation on the basis of race or colour shall be made. 30

(4) A regulation may in respect of any contravention thereof or failure to comply therewith prescribe a penalty of a fine, or imprisonment for a period not exceeding 12 months, and, in the case of a continuous offence, not exceeding an additional fine of R200 or additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment shall not exceed 90 days. 35

(5) A regulation made under section 35 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), which was in force immediately prior to the commencement of this Act and which could have been made under this section, shall be deemed to have been made under this section. 40

Incorporation of health and safety standards in regulations

44. (1) The Minister may by notice in the *Gazette* incorporate in the regulations any health and safety standard or part thereof, without stating the text thereof, by mere reference to the number, title and year of issue of that health and safety standard or to any other particulars by which that health and safety standard is sufficiently identified. 45

(2) No health and safety standard shall be incorporated in the regulations except after consultation with the Council.

(3) Any health and safety standard incorporated in the regulations under subsection (1) shall for the purposes of this Act, in so far as it is not repugnant to any regulation made under section 43, be deemed to be a regulation, but not before the expiry of two months from the date of incorporation thereof. 50

(4) Whenever any health and safety standard is at any time after the incorporation thereof as aforesaid, amended or substituted by the competent authority, the notice incorporating that health and safety standard shall, unless 55

- (d) betreffende die registrasie van persele waar werknemers werk verrig of bedryfstoerusting of masjinerie gebruik word en die geld wat ten opsigte van sodanige registrasie aan die Staat betaalbaar is;
- 5 (e) waarby voorsiening gemaak word vir die voortsetting van enige registrasie ingevolge hierdie Wet;
- (f) betreffende die registrasie van bedryfstoerusting en masjinerie en die geld wat ten opsigte van sodanige registrasie aan die Staat betaalbaar is;
- 10 (g) betreffende die instelling van een of meer komitees vir die uitvoering van 'n bepaling van die regulasies, die samestelling van die komitees, die werksaamhede van die komitees, die prosedure wat op vergaderings van die komitees gevolg moet word, die toelaes wat uit geld deur die Parlement vir dié doel bewillig aan lede van die komitees betaal kan word en die persoon deur wie sodanige toelaes vasgestel moet word;
- 15 (h) waarby voorgeskryf word die rekords wat gehou moet word en die opgawes wat verstrekk moet word deur werkgewers en gebruikers en die persoon of persone aan wie sodanige opgawes verstrekk moet word;
- (i) betreffende die aanwysing en werksaamhede van gesondheids- en veiligheidsverteenwoordigers en gesondheids- en veiligheidskomitees
- 20 en die opleiding van gesondheids- en veiligheidsverteenwoordigers;
- (j) betreffende die bedrywighede van persone in eie diens; en
- (k) betreffende enige ander aangeleentheid waarvan die reëling na die oordeel van die Minister nodig of wenslik is vir die doeltreffende uitvoering van die bepalings van hierdie Wet.
- 25 (2) Geen regulasie word deur die Minister uitgevaardig nie behalwe na oorleg met die Raad, en geen regulasie wat betrekking het op staatsinkomste of -uitgawe of op 'n gesondheidsaangeleentheid word deur die Minister uitgevaardig nie behalwe na oorleg ook met onderskeidelik die Minister van Staatsbesteding en die Minister vir Nasionale Gesondheid en Welsyn.
- 30 (3) By die uitvaardiging van regulasies kan die Minister enige grondslag van differensiasie wat hy raadsaam ag, toepas: Met dien verstande dat geen differensiasie op grond van ras of kleur gemaak mag word nie.
- (4) 'n Regulasie kan ten opsigte van enige oortreding daarvan of 'n versuim om daaraan te voldoen, 'n straf voorskryf van 'n boete, of gevangenisstraf wat
- 35 'n tydperk van 12 maande nie te bowe gaan nie, en, in die geval van 'n aanhoudende misdryf, wat nie 'n bykomende boete van R200 of bykomende gevangenisstraf van een dag vir elke dag waarop die misdryf voortduur, te bowe gaan nie: Met dien verstande dat die duur van sodanige bykomende gevangenisstraf in geen geval 90 dae oorskry nie.
- 40 (5) 'n Regulasie uitgevaardig kragtens artikel 35 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was en kragtens hierdie artikel uitgevaardig sou kon word, word geag kragtens hierdie artikel uitgevaardig te gewees het.

45 Inlywing van gesondheids- en veiligheidstandaarde by regulasies

44. (1) Die Minister kan by kennisgewing in die *Staatskoerant* enige gesondheids- en veiligheidstandaard of deel daarvan, sonder om die teks daarvan te vermeld, by die regulasies inlyf by wyse van 'n blote verwysing na die nommer, titel en jaar van uitreiking van daardie gesondheids- en veiligheidstandaard of na die ander besonderhede waardeur daardie gesondheids- en veiligheidstandaard voldoende geïdentifiseer word.
- 50 (2) Geen gesondheids- en veiligheidstandaard word by die regulasies ingelyf nie behalwe na oorleg met die Raad.
- (3) 'n Gesondheids- en veiligheidstandaard kragtens subartikel (1) by die
- 55 regulasies ingelyf, word by die toepassing van hierdie Wet, vir sover dit nie strydig is met enige regulasie kragtens artikel 43 uitgevaardig nie, geag 'n regulasie te wees, maar nie voor verloop van 'n tydperk van twee maande vanaf die datum van inlywing daarvan nie.
- (4) Wanneer 'n gesondheids- en veiligheidstandaard te eniger tyd na die
- 60 inlywing daarvan soos voormeld, deur die bevoegde owerheid gewysig of vervang word, word die kennisgewing wat daardie gesondheids- en veiligheid-

otherwise stated therein, be deemed to refer to that health and safety standard as so amended or substituted, as the case may be.

(5) The chief inspector shall keep a register of particulars of every publication in which a health and safety standard incorporated in the regulations under subsection (1), and every amendment or substitution of any such health and safety standard, was published, and also of the place in the Republic where such publication is obtainable or otherwise available for inspection, and he shall make that register or an extract therefrom available free of charge to persons having an interest, for inspection. 5

(6) The provisions of section 31 of the Standards Act, 1993 (Act No. 29 of 1993), shall not apply to any incorporation of a health and safety standard or of any amendment or substitution of a health and safety standard under this section. 10

(7) Any safety standard which was immediately prior to the commencement of this Act incorporated under section 36 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), in the regulations made under that Act, shall be deemed to be a health and safety standard incorporated under this section. 15

Serving of notices

45. Unless another method is prescribed, a notice under this Act shall be served—

- (a) by delivering a copy thereof to the person upon whom it is to be served; 20
- (b) by leaving such a copy at the usual or last known place of residence or business of such a person; or
- (c) by sending such a copy by registered post to the usual or last known place of residence or business of such a person.

Jurisdiction of magistrates' courts

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46. Notwithstanding anything to the contrary contained in any law—

- (a) a magistrate's court shall have jurisdiction to impose any penalty or to make any order provided for in this Act;
- (b) no magistrate's court shall be competent to pronounce upon the validity of any regulation made under this Act. 30

State bound

47. This Act shall bind the State.

Conflict of provisions

48. In so far as any provision of the Explosives Act, 1956 (Act No. 26 of 1956), is repugnant to a provision of this Act the provisions of this Act shall apply. 35

Repeal of laws

49. The Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), the Machinery and Occupational Safety Amendment Act, 1989 (Act No. 40 of 1989), and the Machinery and Occupational Safety Amendment Act, 1991 (Act No. 97 of 1991), are hereby repealed. 40

Short title and commencement

50. (1) This Act shall be called the Occupational Health and Safety Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act. 45

standaard inlyf, tensy anders daarin bepaal, geag te verwys na daardie gesondheids- en veiligheidstandaard soos aldus gewysig of vervang, na gelang van die geval.

(5) Die hoofinspekteur moet 'n register hou van besonderhede van elke publikasie waarin 'n gesondheids- en veiligheidstandaard wat kragtens sub-artikel (1) by die regulasies ingelyf is, en elke wysiging of vervanging van sodanige gesondheids- en veiligheidstandaard, gepubliseer is, en ook van die plek in die Republiek waar sodanige publikasie verkrygbaar is of andersins ingesien kan word, en hy moet daardie register of uittreksel daaruit kosteloos aan belanghebbende persone ter insae beskikbaar stel.

(6) Die bepalings van artikel 31 van die Wet op Standaarde, 1993 (Wet No. 29 van 1993), is nie op 'n inlywing van 'n gesondheids- en veiligheidstandaard kragtens hierdie artikel van toepassing nie.

(7) 'n Veiligheidstandaard wat onmiddellik voor die inwerkingtreding van hierdie Wet kragtens artikel 36 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), ingelyf was by die regulasies kragtens daardie Wet uitgevaardig, word geag 'n gesondheids- en veiligheidstandaard te wees wat kragtens hierdie artikel ingelyf is.

Betekening van kennisgewings

45. Tensy 'n ander metode bepaal word, word 'n kennisgewing kragtens hierdie Wet beteken—

- (a) deur 'n afskrif daarvan te oorhandig aan die persoon aan wie dit beteken moet word;
- (b) deur sodanige afskrif by sodanige persoon se gewone of jongsbekende woon- of sakeplek te laat; of
- (c) deur sodanige afskrif per aangetekende pos na sodanige persoon se gewone of jongsbekende woon- of sakeplek te stuur.

Regsbevoegdheid van landdroshowe

46. Ondanks andersluidende wetsbepalings—

- (a) is 'n landdroshof regsbevoeg om enige straf op te lê of om enige bevel uit te reik waarvoor hierdie Wet voorsiening maak;
- (b) is geen landdroshof bevoeg om 'n oordeel uit te spreek oor die regsgeldigheid van enige regulasie kragtens hierdie Wet uitgevaardig nie.

Staat gebonde

47. Hierdie Wet bind die Staat.

Botsing van bepalings

48. Vir sover 'n bepaling van die Wet op Ontploffbare Stowwe, 1956 (Wet No. 26 van 1956), met 'n bepaling van hierdie Wet strydig is, geld die bepalings van hierdie Wet.

Herroeping van wette

49. Die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), die Wysigingswet op Masjinerie en Beroepsveiligheid, 1989 (Wet No. 40 van 1989), en die Wysigingswet op Masjinerie en Beroepsveiligheid, 1991 (Wet No. 97 van 1991), word hierby herroep.

Kort titel en inwerkingtreding

50. (1) Hierdie Wet heet die Wet op Beroepsgesondheid en Veiligheid, 1993, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die Staatskoerant bepaal.

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

