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PRESIDENT'S OFFICE

No. 1502.

10 September 1996

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

No. 42 of 1996: Labour Relations Amendment Act, 1996.

KANTOOR VAN DIE PRESIDENT

No. 1502.

10 September 1996

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

No. 42 van 1996: Wysigingswet op Arbeidsverhoudinge, 1996.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Labour Relations Act, 1995, so as to limit the deduction of agency fees from the wages of employees who are not members of the representative trade union, to those of them who, nevertheless, qualify for membership thereof; to regulate the extension of any collective agreement that has been concluded in a bargaining council and that does not apply to all employees under the jurisdiction of that council; to empower the dispute resolution committee as regards the resolution of disputes between different bargaining councils in the public service; to provide for a council to enter into an agreement with the Commission for Conciliation, Mediation and Arbitration, or any accredited agency, to resolve disputes on the council's behalf; to provide for the referral to that Commission of demarcation disputes arising during arbitration proceedings; to allow of disputes between employees engaged in maintenance services and their employer, to be referred to arbitration in certain circumstances; to adjust the provisions relating to the constitution of a workplace forum and certain other provisions relating to a workplace forum; to provide for the abovementioned Commission to contract with an accredited agency to perform certain functions on the Commission's behalf; to empower the Commission to perform the dispute resolution functions of any council that has failed to do so; to allow, in certain limited circumstances, of a person to continue functioning as a judge of the Labour Court or the Labour Appeal Court after the expiry of his or her appointment as a judge of such a Court; to make certain adjustments to the provisions relating to the Rules Board for Labour Courts and the appointment of acting judges of the Labour Court; to provide for the appointment of acting judges of the Labour Appeal Court; to prescribe the maximum fine payable by a person convicted of the offence contemplated in section 201; to provide that exclusions (from the operation of certain agreements, notices, awards and orders) in force under section 51(12) of the Labour Relations Act, 1956, will continue in force until withdrawn by the Minister of Labour, and that orders (concerning wages or other conditions of employment) in force under section 51A of the latter Act, will continue in force for a certain period; in item 13 of Schedule 7 to defer the date upon which the provisions of sections 25 and 26 relating to agency shop agreements and closed shop agreements, respectively, will become effective; to effect certain technical amendments to the text; and to provide for incidental matters.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Arbeidsverhoudinge, 1995, ten einde die aftrekking van agentskapgelde van die lone van werknemers wat nie lede van die verteenwoordigende vakbond is nie, te beperk tot diesulkes onder hulle wat nietemin vir lidmaatskap daarvan kwalifiseer; die uitbreiding te reël van enige kollektiewe ooreenkoms wat in 'n bedingingsraad gesluit is en wat nie op alle werknemers onder jurisdiksie van daardie raad van toepassing is nie; die geskilbeslegtingskomitee te bemagtig wat betref die beslegting van geskille tussen verskillende bedingingsrade in die staatsdiens; voorsiening te maak vir 'n raad om 'n ooreenkoms aan te gaan met die Kommissie vir Versoening, Bemiddeling en Arbitrasie, of enige geakkrediteerde agentskap, om geskille namens die raad te besleg; voorsiening te maak dat afbakeningsgeskille wat tydens arbitrasieverrigtinge ontstaan, na dié Kommissie verwys word; dit moontlik te maak dat geskille tussen werknemers gemoeid met instandhoudingsdienste, en hul werkgever, in sekere omstandighede na arbitrasie verwys kan word; die bepalinge wat op die konstitusie van 'n werkplekforum betrekking het en sekere ander bepalinge met betrekking tot 'n werkplekforum, aan te pas; voorsiening te maak vir bogenoemde Kommissie om met 'n geakkrediteerde agentskap te kontrakteer om sekere werksaamhede namens die Kommissie te verrig; die Kommissie te magtig om die geskilbeslegtingswerksaamhede te verrig van enige raad wat in gebreke bly om dit te doen; dit in sekere beperkte omstandighede vir 'n persoon moontlik te maak om voort te gaan om as 'n regter van die Arbeidshof of Arbeidsappèlhof te funksioneer ná verstryking van sy of haar aanstelling as 'n regter van so 'n Hof; sekere aanpassings aan te bring aan die bepalinge wat betrekking het op die Reëlsraad vir Arbeidshofe en die aanstelling van waarnemende regters van die Arbeidshof; voorsiening te maak vir die aanstelling van waarnemende regters van die Arbeidsappèlhof; die maksimum boete betaalbaar deur iemand wat skuldig bevind is aan die misdryf beoog in artikel 201, voor te skryf; te reël dat uitsluitings (van die werking van sekere ooreenkomste, kennisgewings, toekennings en orders) van krag ingevolge artikel 51(12) van die Wet op Arbeidsverhoudinge, 1956, van krag bly totdat dit deur die Minister van Arbeid ingetrek word, en dat orders (aangaande lone of ander diensvoorwaardes) van krag ingevolge artikel 51A van laasgenoemde Wet, vir 'n sekere tydperk van krag bly; in item 13 van Bylae 7 die datum uit te stel waarop die bepalinge van artikels 25 en 26 wat, onderskeidelik, betrekking het op agentskapwerkplekooreenkomste en geslote geleedere-ooreenkomste, van krag word; om sekere tegniese wysigings aan die teks aan te bring; en om voorsiening te maak vir bykomstige aangeleenthede.

(Engelse teks deur die President geteken.)
(Goedgekeur op 4 September 1996.)

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

Amendment of section 25 of Act 66 of 1995

1. Section 25 of the Labour Relations Act, 1995 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) A representative *trade union* and an employer or *employers' organisation* may conclude a *collective agreement*, to be known as an agency shop agreement, requiring the employer to deduct an agreed agency fee from the wages of [its] *employees* [who are] identified in the agreement [, and] who are not members of the *trade union* but are eligible for membership thereof.”; and
- (b) in paragraph (d) of subsection (3) by the substitution for the portion preceding subparagraph (i) of the following:
- “no [part of the amount] *agency fee* deducted may be—”.

Amendment of section 26 of Act 66 of 1995

2. Section 26(3) of the principal Act is hereby amended by the substitution in paragraph (d) for the portion preceding subparagraph (i) of the following:

- “It provides that no [part of the amount] *membership subscription or levy* deducted may be—”.

Amendment of section 27 of Act 66 of 1995

3. Section 27 of the principal Act is hereby amended by the addition after subsection (3) of the following subsection:

- “(4) A *bargaining council* may be established for more than one *sector*.”.

Amendment of section 29 of Act 66 of 1995

4. Section 29 of the principal Act is hereby amended by the substitution for the expression “30-dae tydperk” where it occurs in subsections (13) and (14) in the Afrikaans text of the expression “30-daetydperk”.

Amendment of section 30 of Act 66 of 1995

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

- (a) by the substitution in subsection (1) for the portion preceding paragraph (a) of the following:
- “The constitution of every *bargaining council* must at least provide for—”; and
- (b) by the addition after subsection (4) of the following subsection:
- “(5) The procedures for the resolution of *disputes* referred to in subsection (1)(h), (i) and (j) may not entrust dispute resolution functions to the Commission unless the governing body of the *Commission* has agreed thereto.”.

Substitution of section 31 of Act 66 of 1995

6. The following section is hereby substituted for section 31 of the principal Act:

“31. Binding nature of collective agreement concluded in bargaining council

Subject to the provisions of section 32 and the constitution of the *bargaining council*, a *collective agreement* concluded in a *bargaining council* binds [only]—

- (a) the parties to the *bargaining council* who are also parties to the *collective agreement*;
- (b) each party to the *collective agreement* and the members of every other party to the *collective agreement* in so far as the provisions thereof apply to the relationship between such a party and the members of such other party; and
- (c) the members of a registered *trade union* that is a party to the *collective*

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

Wysiging van artikel 25 van Wet 66 van 1995

1. Artikel 25 van die Wet op Arbeidsverhoudinge, 1995 (hieronder die Hoofwet genoem), word hierby gewysig—

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

“(1) ’n Verteenwoordigende *vakbond* en ’n werkgewer of *werkgewersorganisasie* kan ’n *kollektiewe ooreenkoms* sluit, wat bekend staan as ’n agentskapwerkplekooreenkoms, waarby van die werkgewer vereis word om ’n ooreengekome agentskapgeld af te trek van die lone van *werknemers* wat in die ooreenkoms geïdentifiseer word en wat nie lede van die *vakbond* is nie maar vir lidmaatskap daarvan kwalifiseer.”; en

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

“geen [deel van die bedrag] agentskapgeld wat afgetrek word—”.

Wysiging van artikel 26 van Wet 66 van 1995

2. Artikel 26(3) van die Hoofwet word hierby gewysig deur in paragraaf (d) die gedeelte wat subparagraaf (i) voorafgaan deur die volgende te vervang:

“dit bepaal dat geen [deel van die bedrae] lidmaatskapsgeld of -heffing wat afgetrek word—”.

Wysiging van artikel 27 van Wet 66 van 1995

3. Artikel 27 van die Hoofwet word hierby gewysig deur na subartikel (3) die volgende subartikel by te voeg:

“(4) ’n *Bedingsraad* kan vir meer as een *sektor* ingestel word.”.

Wysiging van artikel 29 van Wet 66 van 1995

4. Artikel 29 van die Hoofwet word hierby gewysig deur die uitdrukking “30-dae tydperk” waar dit in subartikels (13) en (14) voorkom deur die uitdrukking “30-daetydperk” te vervang.

Wysiging van artikel 30 van Wet 66 van 1995

5. Artikel 30 van die Hoofwet word hierby gewysig—

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

“Die konstitusie van elke *bedingsraad* moet minstens voorsiening maak vir—”; en

(b) deur na subartikel (4) die volgende subartikel by te voeg:

“(5) Die prosedures vir die beslegting van geskille bedoel in subartikel (1)(h), (i) en (j) mag nie aan die Kommissie geskilbeslegtingswerk-saamhede toevertrou tensy die beheerliggaam van die Kommissie daartoe ingestem het nie.”.

Vervanging van artikel 31 van Wet 66 van 1995

6. Artikel 31 van die Hoofwet word hierby deur die volgende artikel vervang:

“31. Bindende aard van kollektiewe ooreenkoms in bedingsraad gesluit

Behoudens die bepalings van artikel 32 en die konstitusie van die *bedingsraad*, bind ’n *kollektiewe ooreenkoms* wat in ’n *bedingsraad* gesluit is [net]—

(a) die partye by die *bedingsraad* wat ook partye by die *kollektiewe ooreenkoms* is;

(b) elke party by die kollektiewe ooreenkoms en die lede van elke ander party by die *kollektiewe ooreenkoms*, vir sover die bepalings daarvan op die verhouding tussen so ’n party en die lede van so ’n ander party van toepassing is; en

(c) die lede van ’n geregistreerde *vakbond* wat ’n party by die *kollektiewe ooreenkoms* is en die werkgewers wat lede is van ’n geregistreerde

agreement and the employers who are members of a registered *employers' organisation* that is such a party, if the *collective agreement* regulates—

- (i) terms and conditions of employment; or
- (ii) the conduct of the employers in relation to their *employees* or the conduct of the *employees* in relation to their employers.”.

Amendment of section 32 of Act 66 of 1995

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

- (a) by the substitution for paragraphs (b) and (c) of subsection (3) of the following paragraphs:
 - “(b) the majority of all the employees [employed within the registered scope of the bargaining council] who, upon extension of the collective agreement, will fall within the scope of the agreement, are members of the trade unions that are [party] parties to the bargaining council;
 - (c) the members of the *employers' organisations* that are [party] parties to the bargaining council will, upon the extension of the collective agreement, be found to employ the majority of all the employees [employed within the registered scope of the bargaining council] who fall within the scope of the collective agreement;”;
- (b) by the substitution for paragraphs (a) and (b) of subsection (5) of the following paragraphs:
 - “(a) the parties to the bargaining council are sufficiently representative within the registered scope of the bargaining council in the area in respect of which the extension is sought; and
 - (b) the Minister is satisfied that [the] failure to extend the agreement may undermine collective bargaining at sectoral level or in the public service as a whole.”; and
- (c) by the addition after subsection (8) of the following subsection:
 - “(9) For the purposes of extending collective agreements concluded in the Public Service Co-ordinating Bargaining Council or any bargaining council contemplated in section 37(3) or (4)—
 - (a) any reference in this section to an *employers' organisation* must be read as a reference to the State as employer; and
 - (b) subsections (3)(c), (e) and (f) and (4) of this section will not apply.”.

Amendment of section 37 of Act 66 of 1995

8. Section 37(4) of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) A bargaining council must be established in respect of a *sector* designated by the President in terms of paragraph (a), and the provisions of item [3(3) to (9)] 3(4) to (10) of Schedule 1 will apply.”.

Amendment of section 38 of Act 66 of 1995

9. Section 38 of the principal Act is hereby amended—

- (a) by the substitution for subsections (2), (3) and (4) of the following subsections:
 - “(2) The functions of the dispute resolution committee are to resolve any jurisdictional *dispute* between the Public Service Co-ordinating Bargaining Council and any bargaining council [established in terms of] contemplated in section 37(3), or between two or more bargaining councils of the latter type.
 - (3) If there is a jurisdictional *dispute* between the Public Service Co-ordinating Bargaining Council and a bargaining council [established in terms of] contemplated in section 37(3), or between two or more bargaining councils of the latter type, any party to the

- 5 *werkgewersorganisasie* wat so 'n party is, indien die *kollektiewe ooreenkoms* dien ter reëling van—
- (i) diensbedinge en -voorwaardes; of
- (ii) die gedrag of optrede van die werkgewers met betrekking tot hul *werknemers* of die gedrag of optrede van die *werknemers* met betrekking tot hul werkgewers.”.

Wysiging van artikel 32 van Wet 66 van 1995

7. Artikel 32 van die Hoofwet word hierby gewysig—
- 10 (a) deur paragrawe (b) en (c) van subartikel (3) deur die volgende paragrawe te vervang:
- “(b) die meerderheid van al die *werknemers* wat [binne die geregistreerde bestek van die bedingsraad in diens is] by die uitbreiding van die *kollektiewe ooreenkoms*, binne die bestek van die ooreenkoms sal val, lede is van die *vakbonde* wat partye by die
- 15 bedingsraad is;
- (c) die lede van die *werkgewersorganisasies* wat partye by die *bedingsraad* is, by die uitbreiding van die kollektiewe ooreenkoms, gevind sal word werk te verskaf aan die meerderheid van al die *werknemers* wat [binne die geregistreerde bestek van die bedingsraad in diens is] binne die bestek van die *kollektiewe ooreenkoms* val;”;
- 20 (b) deur paragrawe (a) en (b) van subartikel (5) deur die volgende paragrawe te vervang:
- “(a) die partye by die *bedingsraad* voldoende verteenwoordigend is binne die *geregistreerde bestek* van die *bedingsraad* [is] in die gebied ten opsigte waarvan die uitbreiding verlang word; en
- 25 (b) die *Minister* oortuig is dat [’n] versuim om die ooreenkoms uit te brei, kollektiewe bedinging op *sektorale vlak*, of in die *staatsdiens* in die geheel, kan belemmer.”; en
- 30 (c) deur na subartikel (8) die volgende subartikel by te voeg:
- “(9) Vir doeleindes van die uitbreiding van *kollektiewe ooreenkomste* wat in die Koördinerende Staatsdiens Bedingsraad of enige *bedingsraad* beoog in artikel 37(3) of (4) gesluit is—
- 35 (a) word ’n verwysing in hierdie artikel na ’n *werkgewersorganisasie* gelees as ’n verwysing na die Staat as werkgewer; en
- (b) is subartikels (3)(c), (e) en (f) en (4) van hierdie artikel nie van toepassing nie.”.

Wysiging van artikel 37 van Wet 66 van 1995

- 40 8. Artikel 37(4) van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:
- “(b) ’n *Bedingsraad* moet ingestel word ten opsigte van ’n *sektor* deur die President ingevolge paragraaf (a) aangewys, en die bepalings van item [3(3) tot (9)] 3(4) tot (10) van Bylae 1 is van toepassing.”.

45 Wysiging van artikel 38 van Wet 66 van 1995

9. Artikel 38 van die Hoofwet word hierby gewysig—
- (a) deur subartikels (2), (3) en (4) deur die volgende subartikels te vervang:
- 50 “(2) Die werksaamhede van die geskilbeslegtingskomitee is om enige geskille oor jurisdiksie wat ontstaan tussen die Koördinerende Staatsdiens Bedingsraad en ’n *bedingsraad* [ingestel ingevolge] beoog in artikel 37(3), of tussen twee of meer *bedingsrade* van laasgenoemde soort, te besleg.
- (3) Wanneer daar ’n *geskil* oor jurisdiksie bestaan tussen die Koördinerende Staatsdiens Bedingsraad en ’n *bedingsraad* [ingevolge artikel 37(3) ingestel] beoog in artikel 37(3), of tussen twee of meer *bedingsrade* van laasgenoemde soort, kan enige
- 55

dispute may refer the *dispute* in writing to the dispute resolution committee.

- (4) The party who refers the *dispute* to the dispute resolution committee must satisfy [it] that committee that a copy of the referral has been served on [the Public Service Co-ordinating Bargaining Council] all other *bargaining councils* that are parties to the *dispute*.”; and 5

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

- “(6) If the *dispute* remains unresolved, any party to the *dispute* may request that the *dispute* be resolved through arbitration by the dispute resolution committee.”. 10

Amendment of section 43 of Act 66 of 1995

10. Section 43 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) If a *statutory council* concludes a *collective agreement* in terms of subsection (1)(d), the provisions of section 31, [and] 32 and 33 apply, read with the changes required by the context.”. 15

Amendment of section 51 of Act 66 of 1995

11. Section 51 of the principal Act is hereby amended—

- (a) in paragraph (a) of subsection (2) by the addition to the existing provisions, which become subparagraph (i), of the following subparagraph: 20

“(ii) For the purposes of subparagraph (i), a party to a council includes the members of any registered trade union or registered employers' organisation that is a party to the council.”; and

- (b) by the addition after subsection (5) of the following subsection: 25

“(6) A council may enter into an agreement with the Commission or an accredited agency in terms of which the Commission or accredited agency is to perform, on behalf of the council, its dispute resolution functions in terms of this section.”. 30

Substitution of section 52 of Act 66 of 1995

12. The following section is hereby substituted for section 52 of the principal Act:

“52. Accreditation of council or appointment of accredited agency

- (1) With a view to performing its dispute resolution functions in terms of section 51(3), every council must— 35
- (a) apply to the governing body of the Commission for accreditation to perform [any of the functions referred to in section 51] those functions; or
- (b) appoint an accredited agency to perform [any] those of the functions referred to in section [51] 51(3) for which the council is not accredited. 40
- (2) The council must advise the Commission in writing as soon as possible of the appointment of an accredited agency in terms of subsection (1)(b), and the terms of that appointment.”. 45

Amendment of section 53 of Act 66 of 1995

13. Section 53(5) of the principal Act is hereby amended by the substitution for the portion preceding paragraph (a) of the following: 45

“The money of a [bargaining] council or of any fund established by a [bargaining] council that is surplus to its requirements, or the expenses of the fund, may be invested only in—”.

Amendment of section 55 of Act 66 of 1995

14. Section 55 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 50

party by die *geskil* die *geskil* skriftelik na die geskilbeslegtingskomitee verwys.

- (4) Die party wat die *geskil* na die geskilbeslegtingskomitee verwys, moet die komitee oortuig dat 'n afskrif van die verwysing aan **[die Koördinerende Staatsdiens Bedingingsraad]** al die ander *bedingingsrade* wat partye by die *geskil* is, *beteken* is.”; en

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

- “(6) Indien die *geskil* onbesleg bly, kan enige party by die *geskil* versoek dat die *geskil* deur die geskilbeslegtingskomitee deur arbitrasie besleg word.”.

Wysiging van artikel 43 van Wet 66 van 1995

10. Artikel 43 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) Indien 'n *statutêre raad* 'n *kollektiewe ooreenkoms* ingevolge subartikel (1)(d) sluit, is die bepalings van artikels 31 **[en]**, 32 **en** 33, saamgelees met die veranderinge wat in die konteks nodig is, van toepassing.”.

Wysiging van artikel 51 van Wet 66 van 1995

11. Artikel 51 van die Hoofwet word hierby gewysig—

- (a) in paragraaf (a) van subartikel (2) deur by die bestaande bepalings, wat subparagraaf (i) word, die volgende subparagraaf te voeg:

“(ii) By die toepassing van subparagraaf (i) beteken 'n party by 'n *raad* ook die lede van 'n *geregistreerde vakbond* of *geregistreerde werkgewersorganisasie* wat 'n party by die *raad* is.”; en

- (b) deur na subartikel (5) die volgende subartikel by te voeg:

“(6) 'n *Raad* kan met die Kommissie of 'n *geakkrediteerde agentskap* 'n ooreenkoms aangaan ingevolge waarvan die Kommissie of geakkrediteerde agentskap namens die *raad* sy geskilbeslegtingswerkzaamhede ingevolge hierdie artikel sal verrig.”.

Vervanging van artikel 52 van Wet 66 van 1995

12. Artikel 52 van die Hoofwet word hierby deur die volgende artikel vervang:

“52. Akkreditering van raad of aanstelling van geakkrediteerde agentskap

- (1) **[Elke raad moet]** Met die oog op die verrigting van sy *geskilbeslegtingswerkzaamhede* ingevolge artikel 51(3), moet elke *raad*—

(a) by die beheerliggaam van die Kommissie aansoek doen om akkreditasie ten einde **[enige van die werkzaamhede bedoel in subartikel 51]** daardie werkzaamhede te verrig; of

(b) 'n geakkrediteerde agentskap aanstel om **[enige]** van die werkzaamhede bedoel in artikel **[51]** 51(3), dié te verrig waarvoor die *raad* nie geakkrediteer is nie.

- (2) Die *raad* moet die Kommissie so spoedig moontlik skriftelik inlig oor die aanstelling van 'n geakkrediteerde agentskap ingevolge subartikel (1)(b) en oor die voorwaardes rakende dié aanstelling.”.

Wysiging van artikel 53 van Wet 66 van 1995

13. Artikel 53(5) van die Hoofwet word hierby gewysig deur die gedeelte wat paragraaf (a) voorafgaan deur die volgende te vervang:

“Die geld van 'n **[bedingingsraad]** *raad* of van enige fonds deur 'n **[bedingingsraad]** *raad* wat nie vir **[daardie raad se]** sy behoeftes of ter bestryding van die uitgawes van die fonds benodig word nie, mag net belê word—”.

Wysiging van artikel 55 van Wet 66 van 1995

14. Artikel 55 van die Hoofwet word hierby gewysig—

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

“(1) A *council* may delegate any of its powers and functions to a committee on any conditions [but any decision of a committee may be amended or set aside by] imposed by the *council* in accordance with its constitution.”; and

(b) by the deletion of subsection (3).

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Amendment of section 58 of Act 66 of 1995

15. Section 58 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If the *registrar* is satisfied that the *sector* and *area* within which a *council* is representative does not coincide with the *registered scope* of the *council*, the *registrar*, acting independently or in response to an application from the council [or NEDLAC], may vary the *registered scope* of the *council*.”.

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Amendment of section 62 of Act 66 of 1995

16. Section 62 of the principal Act is hereby amended—

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

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“Any registered *trade union*, employer, *employee*, registered *employers’ organisation* or *council* that has a direct or indirect interest in the application contemplated in this section may apply to the Commission in the *prescribed* form and manner for a determination as to—”; and

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

“(3A) In any proceedings before an arbitrator about the interpretation or application of a *collective agreement*, if a question contemplated in subsection (1)(a) or (b) is raised, the arbitrator must adjourn those proceedings and refer the question to the Commission if the arbitrator is satisfied that—

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(a) the question raised—

(i) has not previously been determined by arbitration in terms of this section; and

(ii) is not the subject of an agreement in terms of subsection (2); and

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(b) the determination of the question raised is necessary for the purposes of the proceedings.”.

Amendment of section 63 of Act 66 of 1995

17. Section 63(1) of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

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“(a) the *dispute* [did not arise] has arisen in the course of arbitration proceedings or proceedings in the Labour Court; or”.

Amendment of section 64 of Act 66 of 1995

18. Section 64(2) of the principal Act is hereby amended by the deletion of the word “and” where it occurs at the end of paragraph (b).

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Amendment of section 66 of Act 66 of 1995

19. Section 66 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) In this section ‘secondary strike’ means a *strike*, or conduct in contemplation or furtherance of a *strike*, that is in support of a *strike* by other *employees* against their employer, but does not include a *strike* in pursuit of a demand [and] that has been referred to a *council* if the striking *employees*, employed within the *registered scope* of that *council*, have a material interest in that demand.”.

45

50

- “(1) ’n Raad kan enige van sy bevoegdhede en werksaamhede aan ’n komitee delegeer op enige voorwaardes [delegeer,] deur die raad ooreenkomstig sy konstitusie opgelê [maar enige besluit van ’n komitee kan deur die raad gewysig of tersyde gestel word].”; en
- 5 (b) deur subartikel (3) te skrap.

Wysiging van artikel 58 van Wet 66 van 1995

15 15. Artikel 58 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 10 “(1) Indien die *registrateur* oortuig is dat die *sektor* en *gebied* waarbinne ’n *raad* [**voldoende**] verteenwoordigend is, nie saamval met die *geregisteerde bestek* van die *raad* nie, kan die *registrateur*, handelende op eie inisiatief of in reaksie op ’n aansoek van die *raad* [**of NEOAR**], die *geregisteerde bestek* van die *raad* wysig.”.

Wysiging van artikel 62 van Wet 66 van 1995

- 15 16. Artikel 62 van die Hoofwet word hierby gewysig—

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

20 “’n Geregisteerde *vakbond*, *werkgewer*, *werknemer*, *geregisteerde werknemersorganisasie* of *raad* wat ’n regstreekse of onregstreekse belang het by die aansoek in hierdie artikel beoog, kan in die *voorgeskrewe* vorm en op die *voorgeskrewe* wyse aansoek doen om ’n [**vasstelling ten opsigte van**] *beslissing oor die vraag*—”; en

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

- 25 “(3A) Indien ’n vraag beoog in subartikel (1)(a) of (b) geopper word by enige verrigtinge voor ’n arbiter oor die interpretasie of toepassing van ’n *kollektiewe ooreenkoms*, moet die arbiter daardie verrigtinge verdaag en die vraag na die Kommissie verwys vir beslissing indien die arbiter oortuig is dat—
- 30 (a) die geopperde vraag—
- (i) nie voorheen deur arbitrasie ingevolge hierdie artikel beslis is nie; en
- (ii) nie die onderwerp van ’n ooreenkoms ingevolge subartikel (2) is nie; en
- 35 (b) beslissing van die geopperde vraag vir doeleindes van die verrigtinge nodig is.”.

Wysiging van artikel 63 van Wet 66 van 1995

17. Artikel 63(1) van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

- 40 “(a) die *geskil* [**nie**] in die loop van arbitrasieverrigtinge of verrigtinge in die Arbeidshof ontstaan het [**nie**]; of”.

Wysiging van artikel 64 van Wet 66 van 1995

18. Artikel 64(2) van die Hoofwet word hierby gewysig deur die woord “en” waar dit aan die einde van paragraaf (b) voorkom, te skrap.

Wysiging van artikel 66 van Wet 66 van 1995

- 45 19. Artikel 66 van die Hoofwet word hierby gewysig deur in die Engelse teks subartikel (1) deur die volgende subartikel te vervang:

50 “(1) In this section ‘secondary strike’ means a *strike*, or conduct in contemplation or furtherance of a *strike*, that is in support of a *strike* by other *employees* against their employer but does not include a *strike* in pursuit of a demand [**and**] that has been referred to a council if the striking employees, employed within the registered scope of that council, have a material interest in that demand.”.

Amendment of section 69 of Act 66 of 1995

20. Section 69(2) of the principal Act is hereby amended by the substitution for the portion preceding paragraph (a) of the following:

"Despite any law regulating the right of assembly, a picket authorised in terms of subsection (1) may be held—".

5

Amendment of section 74 of Act 66 of 1995

21. Section 74(7) of the principal Act is hereby amended—

(a) by the deletion of the word "and" where it occurs at the end of paragraph (a); and

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

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"(b) the period referred to in subsection (5)(b), that period will run from the expiry of the period referred to in [subsection (a)] paragraph (a) of this subsection or from the beginning of the next session of Parliament."

Amendment of section 75 of Act 66 of 1995

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22. Section 75 of the principal Act is hereby amended—

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

"(2) If there is no *collective agreement* relating to the provision of a maintenance service, an employer may apply in writing to the essential services committee for a determination that the whole or a part of the employer's business or service is a maintenance service.";

20

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

"(4) The essential services committee must determine, as soon as possible, whether or not the whole or a part of the employer's business or service is a maintenance service."; and

25

(c) by the addition after subsection (4) of the following subsections:

"(5) As part of its determination in terms of subsection (4), the essential services committee may direct that any *dispute* in respect of which the *employees* engaged in a maintenance service would have had the right to strike, but for the provisions of section 65(1)(d)(ii), be referred to arbitration.

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(6) The committee may not make a direction in terms of subsection (5) if—

(a) the terms and conditions of employment of the *employees* engaged in the maintenance service are determined by collective bargaining; or

35

(b) the number of *employees* prohibited from striking because they are engaged in the maintenance service does not exceed the number of *employees* who are entitled to strike.

(7) If a direction in terms of subsection (5) requires a *dispute* to be resolved by arbitration—

40

(a) the provisions of section 74 will apply to the arbitration; and

(b) any arbitration award will be binding on the *employees* engaged in the maintenance service and their employer, unless the terms of the award are varied by a *collective agreement*."

45

Amendment of section 78 of Act 66 of 1995

23. Section 78(a) of the principal Act is hereby amended by the deletion of subparagraph (i).

Amendment of section 80 of Act 66 of 1995

24. Section 80(8) of the principal Act is hereby amended by the deletion of the word "remaining".

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Wysiging van artikel 69 van Wet 66 van 1995

20. Artikel 69(2) van die Hoofwet word hierby gewysig deur in die Engelse teks die gedeelte wat paragraaf (a) voorafgaan, deur die volgende te vervang:

- 5 “Despite any law regulating the right of assembly, a picket authorised in terms of subsection (1) may be held—”.

Wysiging van artikel 74 van Wet 66 van 1995

21. Artikel 74(7) van die Hoofwet word hierby gewysig—

- (a) deur die woord “en” waar dit aan die einde van paragraaf (a) voorkom, te skrap; en
 10 (b) deur paragraaf (b) deur die volgende paragraaf te vervang:
 “(b) die tydperk bedoel in subartikel (5)(b) nie, loop daardie tydperk vanaf die verstryking van die tydperk bedoel in [subartikel (5)(a)] paragraaf (a) van hierdie subartikel, of vanaf die begin van die eersvolgende sitting van die Parlement.”.

15 Wysiging van artikel 75 van Wet 66 van 1995

22. Artikel 75 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) Indien daar nie ’n *kollektiewe ooreenkoms* met betrekking tot die lewering van ’n instandhoudingsdiens is nie, kan ’n werkgewer skriftelik by die komitee vir noodsaaklike dienste aansoek doen om ’n
 20 [vasstelling] beslissing dat die werkgewer se besigheid of diens in die geheel of vir ’n gedeelte daarvan ’n instandhoudingsdiens is.”;
 (b) deur subartikel (4) deur die volgende subartikel te vervang:
 “(4) Die komitee vir noodsaaklike dienste moet so spoedig moontlik beslis of [’n] die werkgewer se besigheid of diens in die geheel of vir ’n
 25 gedeelte daarvan ’n instandhoudingsdiens is, al dan nie.”; en
 (c) deur ná subartikel (4) die volgende subartikels by te voeg:
 “(5) Die komitee vir noodsaaklike dienste kan as deel van sy
 30 beslissing ingevolge subartikel (4) gelas dat ’n *geskil* ten opsigte waarvan die *werknemers* wat met ’n instandhoudingsdiens gemoeid is, as dit nie vir die bepalings van artikel 65(1)(d)(ii) was nie, die reg sou gehad het om te staak, na arbitrasie verwys word.
 (6) Die komitee doen nie ’n lasgewing ingevolge subartikel (5) nie indien—
 35 (a) die diensbedinge en -voorwaardes van die *werknemers* wat met die instandhoudingsdiens gemoeid is, deur kollektiewe bedinging bepaal word; of
 (b) die getal *werknemers* wat verbied word om te staak vanweë hul gemoeidheid met die instandhoudingsdiens, nie die getal *werknemers* wat geregtig is om te staak, te bowe gaan nie.
 40 (7) Indien ’n lasgewing ingevolge subartikel (5) vereis dat ’n *geskil* deur arbitrasie besleg word—
 (a) is die bepalings van artikel 74 op die arbitrasie van toepassing; en
 45 (b) is ’n arbitrasietoekenning bindend op die *werknemers* wat met die instandhoudingsdiens gemoeid is, en hul werkgewer, tensy die terme van die toekenning by wyse van ’n *kollektiewe ooreenkoms* verander word.”.

Wysiging van artikel 78 van Wet 66 van 1995

23. Artikel 78(a) van die Hoofwet word hierby gewysig deur subparagraaf (i) te skrap.

Wysiging van artikel 80 van Wet 66 van 1995

24. Artikel 80(8) van die Hoofwet word hierby gewysig deur die woord “oorblywende” te skrap.

Amendment of section 82 of Act 66 of 1995

25. Section 82(1) of the principal Act is hereby amended—

- (a) by the substitution for paragraph (s) of the following paragraph:
 “(s) provide for the designation of full-time members of the *workplace forum* [where] if there are more than 1000 employees in a *workplace*”; 5
- (b) by the substitution for paragraph (t) of the following paragraph:
 “(t) provide that the [forum] *workplace forum* may invite any expert to attend its meetings [of the *workplace forum*], including meetings with the employer or the employees, and that an expert is entitled to any information to which the *workplace forum* is entitled and to inspect and copy any document that members of the *workplace forum* [is] are entitled to inspect and copy”; 10
- (c) by the deletion of the word “and” where it occurs at the end of paragraph (u);
- (d) by the addition of the word “and” at the end of paragraph (v); and 15
- (e) by the addition after paragraph (v) of the following paragraph:
 “(w) establish the manner in which decisions are to be made.”.

Amendment of section 87 of Act 66 of 1995

26. Section 87 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection: 20

- “(4) A review of the disciplinary codes and procedures, and rules, must be conducted in accordance with the provisions of section 86(2) to (7) except that, in applying section 86(4), either the employer or the *workplace forum* may refer a dispute between them to arbitration or to the Commission.”.

Amendment of section 88 of Act 66 of 1995

27. Section 88 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 25

- “(1) If the employer operates more than one *workplace* and separate *workplace forums* have been established in two or more of those *workplaces*, and if a matter has been referred to arbitration in terms of section 86(4)(a) or (b) or by a *workplace forum* in terms of section 87(4), the employer may give notice in writing to the chairpersons of all the *workplace forums* that no other *workplace forum* may refer a matter that is substantially the same as the matter referred to arbitration.”. 30

Amendment of section 89 of Act 66 of 1995

28. Section 89 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection: 35

- “(2A) The employer must notify the *workplace forum* in writing if of the view that any information disclosed in terms of subsection (1) is confidential.”.

Amendment of section 94 of Act 66 of 1995

29. Section 94(1) of the principal Act is hereby amended by the insertion after paragraph (a) of the following paragraph: 40

- “(aA) a *workplace forum*”.

Amendment of section 103 of Act 66 of 1995

30. Section 103(3) of the principal Act is hereby amended by the insertion of the word “an” between the words “granting” and “order”. 45

Wysiging van artikel 82 van Wet 66 van 1995

25. Artikel 82(1) van die Hoofwet word hierby gewysig—

(a) deur paragraaf (s) deur die volgende paragraaf te vervang:

5 “(s) voorsiening te maak vir die aanwysing van voltydse lede van die *werkplekforum* waar daar meer as 1 000 *werknemers* in ’n *werkplek* is;”;

(b) deur paragraaf (t) deur die volgende paragraaf te vervang:

10 “(t) bepaal dat die [forum] *werkplekforum* enige kundige kan uitnooi om vergaderings [van die *werkplekforum*] daarvan by te woon, wat insluit vergaderings met die werkgever of die *werknemers*, en dat ’n kundige geregtig is op enige inligting waarop die *werkplekforum* geregtig is en om enige dokument na te gaan [of] en te kopieer wat die lede van die *werkplekforum* geregtig is om na te gaan en te kopieer;”;

15 (c) deur die woord “en” waar dit aan die einde van paragraaf (u) voorkom, te skrap;

(d) deur aan die einde van paragraaf (v) die woord “en” by te voeg; en

(e) deur na paragraaf (v) die volgende paragraaf by te voeg:

“(w) die wyse waarop besluite geneem word, vasstel.”.

20 Wysiging van artikel 87 van Wet 66 van 1995

26. Artikel 87 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

25 “(4) Hersiening van die dissiplinêre kodes en prosedures, en reëls, moet ooreenkomstig die bepalings van artikel 86(2) tot (7) geskied, behalwe dat, by die toepassing van artikel 86(4), óf die werkgever óf die *werkplekforum* ’n *geskil* tussen hulle na arbitrasie of na die Kommissie kan verwys.”.

Wysiging van artikel 88 van Wet 66 van 1995

27. Artikel 88 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

30 “(1) Indien die werkgever meer as een *werkplek* in bedryf het en daar afsonderlike *werkplekforums* by twee of meer van daardie *werkplekke* ingestel is, en ’n aangeleentheid [ingevolge artikel 86(4)(a) of (b)] na arbitrasie verwys is ingevolge artikel 86(4)(a) of (b) of deur ’n *werkplekforum* ingevolge artikel 87(4), kan die werkgever skriftelik kennis gee aan die voorsitters van al die *werkplekforums* dat geen ander *werkplekforum* ’n aangeleentheid mag verwys wat wesenlik dieselfde is as die aangeleentheid wat na arbitrasie verwys is nie.”.

35

Wysiging van artikel 89 van Wet 66 van 1995

28. Artikel 89 van die Hoofwet word hierby gewysig deur na subartikel (2) die volgende subartikel in te voeg:

40 “(2A) Die werkgever moet die *werkplekforum* skriftelik in kennis stel indien van oordeel dat enige inligting ingevolge subartikel (1) geopenbaar, vertroulik is.”.

Wysiging van artikel 94 van Wet 66 van 1995

45 29. Artikel 94(1) van die Hoofwet word hierby gewysig deur na paragraaf (a) die volgende paragraaf in te voeg:

“(aA) ’n *werkplekforum*;”.

Wysiging van artikel 103 van Wet 66 van 1995

30. Artikel 103(3) van die Hoofwet word hierby gewysig deur in die Engelse teks die woord “an” tussen die woorde “granting” en “order” in te voeg.

50

Amendment of section 115 of Act 66 of 1995

31. Section 115 of the principal Act is hereby amended—

- (a) in subsection (2) by the deletion of paragraphs (d), (e) and (i); and
- (b) in subsection (3) by the substitution for paragraph (i) of the following paragraph:
 - “(i) the prevention of sexual harassment in the workplace.”

5

Amendment of section 124 of Act 66 of 1995

32. Section 124(1) of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) contract with any person to do work for the Commission **[and]** or contract with an accredited agency to perform, whether for reward or otherwise, any function of the Commission on its behalf; and”

10

Amendment of section 127 of Act 66 of 1995

33. Section 127(4) of the principal Act is hereby amended—

- (a) by the addition of the word “and” at the end of paragraph (f);
- (b) by the substitution for the expression “society; and”, where it occurs at the end of paragraph (g), of the expression “society.”; and
- (c) by the deletion of paragraph (h).

15

Amendment of section 128 of Act 66 of 1995

34. Section 128(1) of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) An accredited *council* or accredited agency may charge a fee for performing any of the functions for which it is accredited in circumstances in which **[this Act] section 140(2)** allows **[the Commission, or]** a commissioner to charge a fee.”

25

Amendment of section 132 of Act 66 of 1995

35. Section 132 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) (a) Any *council* may apply to the governing body in the *prescribed* form for a subsidy for performing any dispute resolution functions that the *council* is required to perform in terms of *this Act*, and for training persons to perform those functions.
- (b) Any accredited agency, or a private agency that has applied for accreditation, may apply to the governing body in the *prescribed* form for a subsidy for performing any dispute resolution functions for which it is accredited or has applied for accreditation, and for training persons to perform those functions.”

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35

Amendment of section 135 of Act 66 of 1995

36. Section 135 of the principal Act is hereby amended—

- (a) by the substitution for the expression “30-dae tydperk” where it occurs in subsection (2) of the Afrikaans text of the expression “30-daetydperk”; and
- (b) in subsection (5) by the substitution for the portion preceding paragraph (a) of the following:
 - “When conciliation has failed, or at the end of the 30 day period or any further period agreed between the parties—”; and
- (c) by the substitution for the expression “sewe-dae tydperk” where it occurs in subsection (6)(b) of the Afrikaans text of the expression “sewedaetydperk”.

45

Wysiging van artikel 115 van Wet 66 van 1995

31. Artikel 115 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (2) paragrawe (d), (e) en (i) te skrap; en
 (b) in subartikel (3) deur na paragraaf (h) die volgende paragraaf in te voeg:
 5 “(i) die voorkoming van seksuele teistering in die werkplek.”.

Wysiging van artikel 124 van Wet 66 van 1995

32. Artikel 124(1) van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

- 10 “(a) met enigiemand kontraktee om werk vir die Kommissie te doen [en] of met enige geakkrediteerde agentskap kontraktee om, hetsy teen vergoeding of andersins, enige werksaamheid van die Kommissie namens hom te verrig; en”.

Wysiging van artikel 127 van Wet 66 van 1995

33. Artikel 127(4) van die Hoofwet word hierby gewysig—

- 15 (a) deur aan die einde van paragraaf (f) die woord “en” by te voeg;
 (b) deur die uitdrukking “gemeenskap is; en”, waar dit aan die einde van paragraaf (g) voorkom, deur die uitdrukking “gemeenskap is.” te vervang; en
 (c) deur paragraaf (h) te skrap.

Wysiging van artikel 128 van Wet 66 van 1995

20 34. Artikel 128(1) van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

- “(a) ’n Geakkrediteerde raad of geakkrediteerde agentskap kan gelde vorder vir die verrigting van enige van die werksaamhede waarvoor hy geakkrediteer is onder omstandighede waar [hierdie Wet die Kommissie, of] artikel 140(2)
 25 ’n kommissaris [toelaat] veroorloof om gelde te vorder.”.

Wysiging van artikel 132 van Wet 66 van 1995

35. Artikel 132 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 30 “(1) (a) ’n Raad kan op die voorgeskrewe vorm by die beheerliggaam om ’n subsidie aansoek doen vir die verrigting van enige geskilbeslegtingswerksaamhede wat die raad volgens voorskrif van hierdie Wet moet verrig, en vir die opleiding van persone om daardie werksaamhede te verrig.
- 35 (b) ’n Geakkrediteerde agentskap, of ’n private agentskap wat om akkreditering aansoek gedoen het, kan op die voorgeskrewe vorm by die beheerliggaam om ’n subsidie aansoek doen vir die verrigting van enige geskilbeslegtingswerksaamhede waarvoor hy geakkrediteer is of om akkreditering aansoek gedoen het, en vir die opleiding van persone om daardie werksaamhede te verrig.”.

Wysiging van artikel 135 van Wet 66 van 1995

36. Artikel 135 van die Hoofwet word hierby gewysig—

- (a) deur die uitdrukking “30-dae tydperk” waar dit in subartikel (2) voorkom deur die uitdrukking “30-daetydperk” te vervang; en
 (b) deur in subartikel (5) die gedeelte wat paragraaf (a) voorafgaan deur die volgende te vervang:
 45 “Wanneer versoening misluk het, of aan die einde van die [30-dae tydperk] 30-daetydperk of enige verdere tydperk waarop tussen die partye ooreengekom is—”; en
 (c) deur die uitdrukking “sewe-dae tydperk” waar dit in subartikel (6)(b) voorkom deur die uitdrukking “sewedaetydperk” te vervang.
 50

Amendment of section 137 of Act 66 of 1995

37. Section 137(4) of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) if the application has been refused, confirm the appointment of the commissioner initially appointed, subject to section 136(4).”.

5

Amendment of section 138 of Act 66 of 1995

38. Section 138(10) of the principal Act is hereby amended by the addition of the word “or” at the end of paragraph (a).

Amendment of section 141 of Act 66 of 1995

39. Section 141(6) of the principal Act is hereby amended by the substitution for the expression “(1)(a)” of the expression “(1)”.

10

Amendment of section 142 of Act 66 of 1995

40. Section 142(1) of the principal Act is hereby amended in paragraph (f) by the addition after subparagraph (ii) of the following subparagraph:

“(iii) take a statement in respect of any matter relevant to the resolution of the dispute from any person on the premises who is willing to make a statement; and”.

15

Amendment of section 147 of Act 66 of 1995

41. Section 147 of the principal Act is hereby amended—

(a) in paragraph (a) of subsection (5) by the substitution for the portion preceding subparagraph (i) of the following:

20

“If at any stage after a *dispute* has been referred to the Commission, it becomes apparent that the *dispute* ought to have been referred to an accredited agency [in terms of a collective agreement between the parties to the dispute], the Commission may—”;

25

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

“(6) [(a)] If at any stage after a *dispute* has been referred to the Commission, it becomes apparent that the *dispute* ought to have been resolved through private dispute resolution in terms of a private agreement between the parties to the *dispute*, the Commission may—

30

[(i)](a) refer the *dispute* to the appropriate person or body for resolution through private dispute resolution procedures; or

[(ii)](b) appoint a commissioner to resolve the *dispute* in terms of *this Act*.”; and

35

(c) by the addition after subsection (7) of the following subsections:

“(8) The Commission may perform any of the dispute resolution functions of a *council* or an accredited agency appointed by the *council* if the *council* or accredited agency fails to perform its dispute resolution functions in circumstances where, in law, there is an obligation to perform them.

40

(9) For the purposes of subsections (2) and (3), a party to a *council* includes the members of a registered *trade union* or registered *employers' organisation* that is a party to the *council*.”.

45

Amendment of section 153 of Act 66 of 1995

42. Section 153 of the principal Act is hereby amended—

(a) by the substitution for subsection (5) of the following subsection:

“(5) [The President, acting on the advice of NEDLAC and the Judicial Service Commission as defined in section 105 of the Constitution, and after consultation with] The Minister of Justice [and the], after consultation with the Judge President of the Labour Court, may appoint one or more persons who meet the requirements of

50

Wysiging van artikel 137 van Wet 66 van 1995

37. Artikel 137(4) van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

- 5 “(b) indien die aansoek geweier is, die aanstelling van die kommissaris wat aanvanklik aangestel is, bekragtig, behoudens artikel 136(4).”.

Wysiging van artikel 138 van Wet 66 van 1995

38. Artikel 138(10) van die Hoofwet word hierby gewysig deur die woord “of” aan die einde van paragraaf (a) by te voeg.

Wysiging van artikel 141 van Wet 66 van 1995

- 10 39. Artikel 141(6) van die Hoofwet word hierby gewysig deur die uitdrukking “(1)(a)” deur die uitdrukking “(1)” te vervang.

Wysiging van artikel 142 van Wet 66 van 1995

40. Artikel 142(1) van die Hoofwet word hierby in paragraaf (f) gewysig deur na subparagraaf (ii) die volgende subparagraaf by te voeg:

- 15 “(iii) ’n verklaring ten opsigte van enige aangeleentheid wat by die beslegting van die *geskil* ter sake is, afneem van enigiemand op die perseel wat bereid is om ’n verklaring af te lê; en”.

Wysiging van artikel 147 van Wet 66 van 1995

- 20 41. Artikel 147 van die Hoofwet word hierby gewysig—
 (a) in paragraaf (a) van subartikel (5), deur die gedeelte wat subparagraaf (i) voorafgaan deur die volgende te vervang:

“Indien dit in enige stadium nadat ’n geskil na die Kommissie verwys is, blyk dat die *geskil* [ingevolge ’n *kollektiewe ooreenkoms tussen die partye by die geskil*] na ’n geakkrediteerde agentskap verwys moes gewees het, kan die Kommissie—”;

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

“(6) [(a)] Indien dit in enige stadium nadat ’n geskil na die Kommissie verwys is, blyk dat die *geskil*, ingevolge ’n private ooreenkoms tussen die partye by die *geskil*, besleg moes word deur private geskilbeslegting, kan die Kommissie—

- 30 [(i)] (a) die *geskil* na die toepaslike persoon of liggaam vir beslegting deur private geskilbeslegtingsprosedures verwys; of

- 35 [(ii)] (b) ’n kommissaris aanstel om daardie *geskil* ingevolge hierdie Wet te besleg.”; en

- (c) deur na subartikel (7) die volgende subartikels by te voeg:

“(8) Die Kommissie kan enige van die geskilbeslegtingswerkzaamhede van ’n raad of ’n geakkrediteerde agentskap wat deur die raad aangestel is, verrig indien die raad of geakkrediteerde agentskap nalaat om sy geskilbeslegtingswerkzaamhede te verrig in omstandighede waar daar regtens ’n verpligting bestaan om dit te verrig.

- 40 (9) By die toepassing van subartikels (2) en (3) beteken ’n party by ’n raad ook die lede van ’n geregistreerde vakbond of geregistreerde werkgewersorganisasie wat ’n party by die raad is.”.

45 Wysiging van artikel 153 van Wet 66 van 1995

42. Artikel 153 van die Hoofwet word hierby gewysig—

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

“(5) [Die President, handelende op advies van NEOAR en die Regterlike Dienskommissie soos omskryf in artikel 105 van die Grondwet, en na oorleg met] Die Minister van Justisie [en die], na oorleg met die Regter-president van die Arbeidshof, kan een of meer persone wat aan die vereistes van subartikel (6) voldoen, aanstel as waar-

- subsection (6) to serve as acting judges of the Labour Court for such a period as the Minister of Justice in each case may determine.”; and
- (b) in subsection (6)(a) by the substitution for subparagraph (ii) of the following subparagraph:
- “(ii) be a person who [has been] is a legal practitioner [for a cumulative period of at least 10 years before that person’s appointment]; and”.

Amendment of section 154 of Act 66 of 1995

43. Section 154 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (5) of the following paragraph:
- “(a) The remuneration payable to a judge of the Labour Court [appointed in terms of section 153(6)] who is a person referred to in section 153(6)(a)(ii), must be the same as that payable to a judge of the Supreme Court.”; and
- (b) by the addition after subsection (7) of the following subsections:
- “(8) Despite the expiry of the period of a person’s appointment as a judge of the Labour Court, that person may continue to perform the functions of a judge of that Court, and will be regarded as such in all respects, only—
- (a) for the purposes of disposing of any proceedings in which that person has taken part as a judge of that Court and which are still pending upon the expiry of that person’s appointment or which, having been so disposed of before or after the expiry of that person’s appointment, have been re-opened; and
- (b) for as long as that person will be necessarily engaged in connection with the disposal of the proceedings so pending or re-opened.
- (9) The provisions of subsections (2) to (8) apply, read with the changes required by the context, to acting judges appointed in terms of section 153(5).”.

Amendment of section 158 of Act 66 of 1995

44. Section 158(1) of the principal Act is hereby amended by the substitution for paragraph (e) of the following paragraph:

- “(e) determine a dispute between a registered trade union [a] or registered employers’ organisation and any one of [its] the members or applicants for membership thereof, about any alleged non-compliance with—
- (i) the constitution of that trade union or employers’ organisation (as the case may be); or
- (ii) section 26(5)(b).”.

Amendment of section 159 of Act 66 of 1995

45. Section 159 of the principal Act is hereby amended—

- (a) in subsection (3) by the substitution for the expression “section 8”, where it occurs in paragraph (e), of the expression “section 6”; and
- (b) by the addition after subsection (6) of the following subsections:
- “(7) (a) A member of the Board who is a judge of the Supreme Court may be paid an allowance determined in terms of subsection (9) in respect of the performance of the functions of a member of the Board.
- (b) Notwithstanding anything to the contrary in any other law, the payment, in terms of paragraph (a), of an allowance to a member of the Board who is a judge of the Supreme Court, will be in addition to any salary or allowances, including allowances for reimbursement of travelling and subsistence expenses, that is paid to that person in the capacity of a judge of that Court.
- (8) A member of the Board who is not a judge of the Supreme Court nor subject to the Public Service Act, 1994, will be entitled to the remuneration, allowances (including allowances for reimbursement of travelling and subsistence expenses), benefits and privileges determined in terms of subsection (9).

nemende regters van die Arbeidshof vir die tydperk wat die Minister van Justisie in elke geval bepaal.”; en

- (b) in subartikel (6)(a) deur subparagraaf (ii) deur die volgende subparagraaf te vervang:

5 “(ii) moet ’n persoon wees wat [as regspraktisyn gepraktiseer het vir ’n kumulatiewe tydperk van minstens 10 jaar voor daardie persoon se aanstelling,] ’n regspraktisyn is; en”.

Wysiging van artikel 154 van Wet 66 van 1995

43. Artikel 154 van die Hoofwet word hierby gewysig—

- 10 (a) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:
 “(a) Die besoldiging betaalbaar aan ’n regter van die Arbeidshof wat [ingevolge artikel 153(6) aangestel is] ’n persoon is soos bedoel in artikel 153(6)(a)(ii), is dieselfde as dié wat aan ’n regter van die Hooggeregshof betaalbaar is.”; en
- 15 (b) deur na subartikel (7) die volgende subartikels by te voeg:
 “(8) Ondanks die verstryking van die tydperk waarvoor ’n persoon as ’n regter van die Arbeidshof aangestel is, kan dié persoon voortgaan om die werksaamhede van ’n regter van daardie Hof te verrig en in alle opsigte as sodanig gereken te word, slegs—
- 20 (a) vir doeleindes van die afhandeling van enige verrigtinge waarin daardie persoon as ’n regter van daardie Hof deelgeneem het en wat by die verstryking van daardie persoon se aanstelling steeds hangende is of wat, nadat dit óf voor óf na die verstryking van daardie persoon se aanstelling aldus afgehandel is, heropen is; en
- 25 (b) vir so lank as wat daardie persoon noodsaaklikerwys betrokke sal wees in verband met die afhandeling van die verrigtinge wat aldus hangende of heropen is.
- 30 (9) Die bepalinge van subartikels (2) tot (8), saamgelees met die veranderinge wat in die konteks nodig is, is van toepassing op waarnemende regters ingevolge artikel 153(5) aangestel.”.

Wysiging van artikel 158 van Wet 66 van 1995

44. Artikel 158(1) van die Hoofwet word hierby gewysig deur paragraaf (e) deur die volgende paragraaf te vervang:

- 35 “(e) ’n *geskil* beslis tussen ’n geregistreerde *vakbond* [**’n**] of geregistreerde *werkgewersorganisasie*, en enigeen van [**sy**] die lede of aansoekers om lidmaatskap daarvan, oor ’n beweerde nie-nakoming van—
- (i) die konstitusie van daardie vakbond of werkgewersorganisasie (na gelang van die geval); of
- 40 (ii) artikel 26(5)(b);”.

Wysiging van artikel 159 van Wet 66 van 1995

45. Artikel 159 van die Hoofwet word hierby gewysig—

- (a) in subartikel (3) deur die uitdrukking “artikel 8” waar dit in paragraaf (e) voorkom, deur die uitdrukking “artikel 6” te vervang; en
- 45 (b) deur na subartikel (6) die volgende subartikels by te voeg:
 “(7)(a) Aan ’n lid van die Raad wat ’n regter van die Hooggeregshof is, kan ten opsigte van die verrigting van die werksaamhede van ’n lid van die Raad ’n toelae betaal word soos ingevolge subartikel (9) bepaal.
- 50 (b) Ondanks enige wetsbepaling tot die teendeel, is die betaling, ingevolge paragraaf (a), van ’n toelae aan ’n lid van die Raad wat ’n regter van die Hooggeregshof is, bykomstig tot enige salaris of toelaes, met inbegrip van toelaes vir die vergoeding van reis- en verblyfuitgawes, wat aan daardie persoon in die hoedanigheid van ’n regter van die Hooggeregshof betaal word.
- 55 (8) ’n Lid van die Raad wat nie ’n regter van die Hooggeregshof is nie en ook nie aan die Staatsdienswet, 1994, onderhewig is nie, is geregtig op

- (9) The remuneration, allowances, benefits and privileges of the members of the Board—
- (a) are determined by the Minister of Justice with the concurrence of the Minister of Finance;
 - (b) may vary according to rank, functions to be performed and whether office is held in a full-time or part-time capacity; and
 - (c) may be varied by the Minister of Justice under any law in respect of any person or category of persons.
- (10) (a) Pending publication in the Government Gazette of rules made by the Board, matters before the Court will be dealt with in accordance with such general directions as the Judge President of the Labour Court, or any other judge or judges of that Court designated by the Judge President for that purpose, may consider appropriate and issue in writing;
- (b) Those directions will cease to be of force on the date of the publication of the Board's rules in the Government Gazette, except in relation to proceedings already instituted before that date. With regard to those proceedings, those directions will continue to apply unless the Judge President of the Labour Court has withdrawn them in writing."

Amendment of section 168 of Act 66 of 1995

46. Section 168(1) the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

- "(c) [three] such number of other judges who are judges of the Supreme Court, as may be required for the effective functioning of the Labour Appeal Court."

Substitution of section 169 of Act 66 of 1995

47. The following section is hereby substituted for section 169 of the principal Act:

"169. Appointment of other judges of Labour Appeal Court

- (1) The President, acting on the advice of *NEDLAC* and the Judicial Service Commission as defined in section 105 of the Constitution, after consultation with the Minister of Justice and the Judge President of the Labour Appeal Court, must appoint the [three] judges of the Labour Appeal Court referred to in section 168(1)(c).
- (2) The Minister of Justice, after consultation with the Judge President of the Labour Appeal Court, may appoint one or more judges of the Supreme Court to serve as acting judges of the Labour Appeal Court."

Amendment of section 170 of Act 66 of 1995

48. Section 170 of the principal Act is hereby amended by the addition after subsection (5) of the following subsections:

- "(6) Despite the expiry of the period of a person's appointment as a judge of the Labour Appeal Court, that person may continue to perform the functions of a judge of that Court, and will be regarded as such in all respects, only—
- (a) for the purposes of disposing of any proceedings in which that person has taken part as a judge of that Court and which are still pending upon the expiry of that person's appointment or which, having been so disposed of before or after the expiry of that person's appointment, have been re-opened; and
 - (b) for as long as that person will be necessarily engaged in connection with the disposal of the proceedings so pending or re-opened.

die besoldiging, toelaes (met inbegrip van toelaes ter vergoeding van reis- en verblyfuitgawes), voordele en voorregte wat ingevolge subartikel (9) bepaal word.

- 5 (9) Die besoldiging, toelaes, voordele en voorregte van die lede van die Raad—
- (a) word deur die Minister van Justisie met die instemming van die Minister van Finansies bepaal;
- (b) kan verskil na gelang van rang, die werksaamhede wat verrig staan te word en of die amp in 'n voltydse of deeltydse hoedanigheid beklee word; en
- 10 (c) kan deur die Minister van Justisie kragtens enige wet ten opsigte van enige persoon of kategorie persone gewysig word.
- 15 (10) (a) Hangende publikasie in die Staatskoerant van reëls deur die Raad gemaak, word daar met aangeleenthede voor die Hof gehandel ooreenkomstig die algemene voorskrifte wat die Regter-president van die Arbeidshof of enige ander regter of regters van daardie Hof vir dié doel deur die Regter-president aangewys, gepas ag en skriftelik uitreik;
- 20 (b) Daardie voorskrifte hou op om van krag te wees op die datum van publikasie van die Raad se reëls in die Staatskoerant, behalwe met betrekking tot verrigtinge wat reeds voor daardie datum ingestel is. Ten aansien van daardie verrigtinge, bly daardie voorskrifte van krag tensy die Regter-president van die Arbeidshof dit skriftelik intrek.”.

25 Wysiging van artikel 168 van Wet 66 van 1995

46. Artikel 168(1) van die Hoofwet word hierby gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:

- 30 “(c) [drie ander] so 'n getal ander regters, wat regters van die Hooggeregshof is, as wat nodig mag wees vir die doeltreffende funksionering van die Arbeidsappèlhof.”.

Vervanging van artikel 169 van Wet 66 van 1995

47. Artikel 169 van die Hoofwet word hierby deur die volgende artikel vervang:

“169. Aanstelling van ander regters van Arbeidsappèlhof

- 35 (1) Die President, handelende op advies van *NEOAR* en die Regterlike Dienskommissie soos omskryf in artikel 105 van die Grondwet, en na oorlegpleging met die Minister van Justisie en die Regter-president van die Arbeidsappèlhof, moet die [drie] regters van die Arbeidsappèlhof in artikel 168(1)(c) bedoel, aanstel.
- 40 (2) Na oorlegpleging met die Regter-president van die Arbeidsappèlhof, kan die Minister van Justisie een of meer regters van die Hooggeregshof aanstel om as waarnemende regters van die Arbeidsappèlhof te dien.”.

Wysiging van artikel 170 van Wet 66 van 1995

48. Artikel 170 van die Hoofwet word hierby gewysig deur na subartikel (5) die volgende subartikels by te voeg:

- 45 “(6) Ondanks die verstryking van die tydperk waarvoor 'n persoon as 'n regter van die Arbeidsappèlhof aangestel is, kan dié persoon voortgaan om die werksaamhede van 'n regter van daardie Hof te verrig en in alle opsigte as sodanig gereken te word, slegs—
- 50 (a) vir doeileindes van die afhandeling van enige verrigtinge waarin daardie persoon as 'n regter van daardie Hof deelgeneem het en wat by die verstryking van daardie persoon se aanstelling steeds hangende is of wat, nadat dit óf voor óf na die verstryking van daardie persoon se aanstelling aldus afgehandel is, heropen is; en
- 55 (b) vir so lank as wat daardie persoon noodsaaklikerwys betrokke sal

- (7) The provisions of subsections (2) to (6) apply, read with the changes required by the context, to acting judges appointed in terms of section 169(2)."

Amendment of section 201 of Act 66 of 1995

49. Section 201 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 5

- "(3) (a) A person convicted of an offence in terms of this section, may be sentenced to a fine **[to be determined by the court, or imprisonment]** not exceeding R10 000.
(b) The *Minister*, in consultation with the Minister of Justice, may from time to time by notice in the Government Gazette, amend the maximum amount of the fine referred to in paragraph (a)."

Amendment of section 207 of Act 66 of 1995

50. Section 207 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 15
 "(1) The *Minister*, after consulting *NEDLAC*, by notice in the Government Gazette, may add to, change or replace any Schedule to *this Act*, including a schedule which at any time may have been added to *this Act*, but excluding Schedules 1 **[and 7]**, 5 and 6,"; and
 (b) by the substitution for subsections (5) and (6) of the following subsections: 20
 "(5) The **[Minister]** *Minister* may add to, change or replace any page header or footnote.
 (6) The **[Minister]** *Minister*, in consultation with the Minister of Trade and Industry and after consulting **[NEDLAC]** *NEDLAC*, by notice in the Government Gazette, may add to *this Act* a further schedule listing 25
 institutions referred to in section 32(4)."

Insertion of section 208A in Act 66 of 1995

51. The following section is hereby inserted in the principal Act after section 208:

"208A. Delegations

- (1) The *Minister*, in writing, may delegate to the Director General or any other officer of the Department of Labour any power, function or duty conferred or imposed upon the *Minister* in terms of *this Act*, except the powers, functions and duties contemplated in section 32 (but excluding subsection (6)), and sections 44, 207 and 208. 30
 (2) A delegation in terms of subsection (1) does not limit or restrict the competence of the *Minister* to exercise or perform any power, function or duty that has been delegated. 35
 (3) The *Minister* may make a delegation subject to any conditions or restrictions that are deemed fit. 40
 (4) The *Minister* may at any time—
 (a) withdraw a delegation made in terms of subsection (1); and
 (b) withdraw or amend any decision made by a person in exercising a power or performing a function or duty delegated in terms of subsection (1)."

Amendment of section 213 of Act 66 of 1995

52. Section 213 of the principal Act is hereby amended by the deletion of the symbols "(d)", "(e)" and "(f)" preceding the definitions of "director", "dispute" and "employee", respectively.

wees in verband met die afhandeling van die verrigtinge wat aldus hangende of heropen is.

- (7) Die bepalings van subartikels (2) tot (6), saamgelees met die veranderinge wat in die konteks nodig is, is van toepassing op waarnemende regters ingevolge artikel 169(2) aangestel.”.

Wysiging van artikel 201 van Wet 66 van 1995

49. Artikel 201 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) (a) Iemand wat skuldig bevind word aan ’n misdryf ingevolge hierdie artikel kan gevonnis word tot ’n boete [deur die Hof vasgestel te word of gevangenisstraf] wat nie R10 000 te bowe gaan nie.

(b) Die *Minister*, in oorleg met die Minister van Justisie, kan van tyd tot tyd by kennisgewing in die Staatskoerant die maksimum bedrag van die boete in paragraaf (a) bedoel, wysig.”.

15 Wysiging van artikel 207 van Wet 66 van 1995

50. Artikel 207 van die Hoofwet word hierby gewysig—

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

“(1) Die *Minister* [kan], na oorlegpleging met *NEOAR*, kan by kennisgewing in die Staatskoerant enige Bylae by *hierdie Wet* verander, vervang of [daaraan toevoeg], daarby byvoeg, met inbegrip van ’n bylae wat te eniger tyd by *hierdie Wet* [toegevoeg] bygevoeg is, maar uitgesonderd Bylaes 1 [en 7], 5 en 6.”; en

(b) deur in die Engelse teks subartikels (5) en (6) deur die volgende subartikels te vervang:

“(5) The [Minister] *Minister* may add to, change or replace any page header or footnote.

(6) The [Minister] *Minister*, in consultation with the Minister of Trade and Industry and after consulting [NEDLAC] *NEDLAC*, by notice in the Government Gazette may add to *this Act* a further schedule listing institutions referred to in section 32(4).”.

Invoeging van artikel 208A in Wet 66 van 1995

51. Die volgende artikel word hierby in die Hoofwet ingevoeg na artikel 208:

“208A. Delegasies

(1) Die *Minister* kan enige bevoegdheid, werksaamheid of plig wat die *Minister* verleen of opgelê word by of ingevolge *hierdie Wet*, behalwe die bevoegdhede, werksaamhede of pligte beoog in artikel 32 (maar uitgesonderd subartikel (6)) en artikels 44, 207 en 208, skriftelik deleger aan die Direkteur-generaal of enige ander beamppte van die Departement van Arbeid.

(2) ’n Delegasie ingevolge subartikel (1) begrens of beperk nie die kompetensie van die *Minister* om enige bevoegdheid, werksaamheid of plig wat gedelegeer is, uit te oefen of te verrig nie.

(3) Die *Minister* kan ’n delegasie verleen onderworpe aan enige voorwaardes of beperkings wat gerade geag word.

(4) Die *Minister* kan te eniger tyd—

(a) ’n delegasie ingevolge subartikel (1) verleen, intrek; en

(b) enige beslissing gedoen deur iemand by die uitoefening van ’n bevoegdheid of die verrigting van ’n werksaamheid of plig wat ingevolge subartikel (1) gedelegeer is, intrek of wysig.”.

Wysiging van artikel 213 van Wet 66 van 1995

52. Artikel 213 van die Hoofwet word hierby gewysig deur in die Engelse teks die simbole “(d)”, “(e)” en “(f)” wat die omskrywings van, onderskeidelik, “director”, “dispute” en “employee” voorafgaan, te skrap.

Amendment of section 214 of Act 66 of 1995

53. Section 214 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) This Act [comes] will come into operation on a date [fixed] to be determined by the President by proclamation in the Government Gazette, except in the case of any provision in relation to which some other arrangement regarding commencement is made elsewhere in this Act.”.

Amendment of Schedule 1 to Act 66 of 1995

54. Schedule 1 to the principal Act is hereby amended by the substitution for paragraph (a) of item 2(6) of the following paragraph:

“(a) issue a certificate of registration that must specify the *registered scope* of the Public [Services] Service Co-ordinating Bargaining Council; and”.

Amendment of Schedule 5 to Act 66 of 1995

55. Schedule 5 to the principal Act is hereby amended by the insertion of the following items after item 2:

“3. Amendment of section 2 of Pension Funds Act, 1956

Section 2 of the Pension Funds Act, 1956 (Act No. 24 of 1956), is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The provisions of this Act shall not apply in relation to any pension fund which has been established in terms of **[an agreement published or deemed to have been published under section 48]** a *collective agreement* concluded in a *council* in terms of the Labour Relations Act, **[1956 (Act No. 28 of 1956)] 1995 (Act No. 66 of 1995)**, except that such fund shall from time to time furnish the registrar with such statistical information as may be requested by the Minister.”.

4. Amendment of section 2 of Medical Schemes Act, 1967

Section 2(1) of the Medical Schemes Act, 1967 (Act No. 72 of 1967), is hereby amended by the substitution for paragraph (g) of the following paragraph:

“(g) shall, subject to the provisions of subsection (2A) apply with reference to a particular medical scheme established under **[an agreement published or deemed to have been published]** a *collective agreement* concluded in a *council* in terms of **[section 48 of]** the Labour Relations Act, **[1956 (Act No. 28 of 1956)] 1995 (Act No. 66 of 1995)**, only if the Minister **[has]**, at the request of the Minister of **[Manpower] Labour** and by notice in the *Gazette*, has declared the said provisions to be applicable with reference to that medical scheme;”.

Amendment of Schedule 7 to Act 66 of 1995

56. Schedule 7 to the principal Act is hereby amended—

(a) by the substitution for sub-item (2) of item 8 of the following sub-item:

“(2) In any pending appeal in terms of section 16 of the Labour Relations Act against the refusal to register or vary the scope of an industrial council, the Minister or the registrar of the Supreme Court, as the case may be, must refer the matter to the registrar of labour relations, who must consider the application anew as if it were an application for registration made in terms of *this Act*.”;

(b) in item 12—

Wysiging van artikel 214 van Wet 66 van 1995

53. Artikel 214 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 5 “(2) *Hierdie Wet tree in werking op 'n datum [wat] deur die President by proklamasie in die Staatskoerant [vasstel] bepaal te word, behalwe in die geval van 'n bepaling met betrekking waartoe daar elders in hierdie Wet 'n ander reëling betreffende inwerkingtreding getref word.*”

Wysiging van Bylae 1 by Wet 66 van 1995

54. Bylae 1 by die Hoofwet word hierby gewysig deur in die Engelse teks paragraaf 10 (a) van item 2(6) deur die volgende paragraaf te vervang:

- “(a) issue a certificate of registration that must specify the *registered scope* of the Public [Services] Service Co-ordinating Bargaining Council; and”.

Wysiging van Bylae 5 by Wet 66 van 1995

55. Bylae 5 by die Hoofwet word hierby gewysig deur die volgende items ná item 15 2 by te voeg:

“3. Wysiging van artikel 2 van Wet op Pensioenfondse, 1956

Artikel 2 van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 20 “(1) Die bepalings van hierdie Wet is nie van toepassing nie met betrekking tot 'n pensioenfonds ingestel [ooreenkomstig 'n ooreen-
- 25 **koms gepubliseer of geag gepubliseer te wees kragtens artikel 48 van] ingevolge 'n kollektiewe ooreenkoms** deur 'n raad gesluit ingevolge die Wet op Arbeidsverhoudinge, [1956 (Wet No. 28 van 1956)] 1995 (Wet No. 66 van 1995), behalwe dat so 'n fonds van tyd tot tyd die registrateur moet voorsien van [sodanige] die statistiese inligting [as] wat deur die Minister versoek mag word [, moet voorsien].”

4. Wysiging van artikel 2 van Wet op Mediese Skemas, 1967

30 Artikel 2(1) van die Wet op Mediese Skemas, 1967 (Wet No. 72 van 1967), word hierby gewysig deur paragraaf (g) deur die volgende paragraaf te vervang:

- 35 “(g) is, behoudens die bepalings van subartikel (2A), van toepassing met betrekking tot 'n bepaalde mediese skema ingestel kragtens [’n ooreenkoms wat gepubliseer is of geag word gepubliseer te wees ingevolge artikel 48 van] die Wet op Arbeidsverhoudinge, [1956 (Wet No. 28 van 1956)] 1995 (Wet No. 66 van 1995), slegs indien die Minister op versoek van die Minister van [Mannekrag] Arbeid en by kennisgewing in die *Staatskoerant* verklaar het dat bedoelde bepalings met betrekking tot daardie mediese skema van toepassing is;”.
- 40

Wysiging van Bylae 7 by Wet 66 van 1995

56. Bylae 7 by die Hoofwet word hierby gewysig—

- (a) deur subitem (2) van item 8 deur die volgende subitem te vervang:

- 45 “(2) By enige hangende appèl ingevolge artikel 16 van die Wet op Arbeidsverhoudinge teen die weiering om 'n nywerheidsraad te registreer of die bestek daarvan te wysig, moet die *Minister* of die griffier van die Hooggeregshof, na gelang van die geval, die aangeleentheid na die registrateur van arbeidsverhoudinge verwys, wat die aansoek van nuuts af moet [hanteer] oorweeg asof dit 'n aansoek om registrasie was wat ingevolge *hierdie Wet* gedoen [was] is.”;
- 50

- (b) in item 12—

- (i) by the substitution for sub-item (1) of the following sub-item:
 - “(1) Any agreement promulgated in terms of section 48, **[and]** any award made in terms of section 50, and any order made in terms of section 51A, of the Labour Relations Act and in force immediately before the commencement of *this Act*, remains in force for a period of 18 months after the commencement of *this Act* or until the expiry of that agreement, whichever is the shorter period, as if **[that]** the Labour Relations Act had not been repealed.”; and
- (ii) by the addition after sub-item (6) of the following sub-item:
 - “(7) An exclusion granted in terms of section 51(12) of the Labour Relations Act will remain in force until it is withdrawn by the Minister.”;
- (c) in item 13—
 - (i) by the substitution for paragraph (b) of sub-item (1) of the following paragraph:
 - “(b) excludes an agreement promulgated in terms of section 48 of the Labour Relations Act **[or section 12 of the Education Labour Relations Act];**”; and
 - (ii) by the substitution for sub-item (5) of the following sub-item:
 - “(5) An existing non-statutory agency shop or closed shop agreement is not binding unless the agreement complies with the provisions of **[sections 25 or 26 of this Act respectively. This provision becomes] this item. Sections 25 and 26 of this Act become effective 180 days after the commencement of *[this Act]* this item.**”; and
- (d) by the substitution for item 19 of the following item:

“19. Collective agreements in South African Police Service

The provisions of the South African Police **[Services Employment] Service Labour Relations Regulations**, read with the changes required by the context, despite the repeal of those regulations, will have the effect and status of a *collective agreement* binding on the State, the parties to the National Negotiating Forum and all the employees within its *registered scope*.”; and

- (e) by the substitution for sub-item (5) of item 22 of the following sub-item:
 - “(5) Any appeal from a decision of the industrial court or the agricultural labour court in terms of sub-item (1) or (2), must be made to the Labour Appeal Court established by section **[151] 167** of *this Act*, and that Labour Appeal Court must deal with the appeal as if the labour relations laws had not been repealed.”.

Amendment of Schedule 8 to Act 66 of 1995

57. Schedule 8 to the principal Act is hereby amended by the substitution for the heading of item 3 of the following heading:

“3. **[Misconduct] Disciplinary measures short of dismissal**”.

Short title and commencement

58. This Act will be called the Labour Relations Amendment Act, 1996, and will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

- (i) deur subitem (1) deur die volgende subitem te vervang:
- “(1) Enige ooreenkoms afgekondig ingevolge artikel 48, [en] enige toekenning gemaak ingevolge artikel 50, en enige order gemaak ingevolge artikel 51A, van die Wet op Arbeidsverhoudinge en van krag onmiddellik vóór die inwerkingtreding van hierdie Wet, bly van krag vir ’n tydperk van 18 maande ná die inwerkingtreding van hierdie Wet of totdat [die] daardie ooreenkoms verstryk, watter ook al die kortste tydperk is, asof [daardie Wet] die Wet op Arbeidsverhoudinge nie herroep was nie.”; en
- (ii) deur na subitem (6) die volgende subitem in te voeg:
- “(7) ’n Uitsluiting ingevolge artikel 51(12) van die Wet op Arbeidsverhoudinge toegestaan, bly van krag totdat dit deur die Minister ingetrek word.”;
- (c) in item 13—
- (i) deur paragraaf (b) van subitem (1) deur die volgende paragraaf te vervang:
- “(b) sluit ’n ooreenkoms nie ’n ooreenkoms in wat ingevolge artikel 48 van die Wet op Arbeidsverhoudinge [of artikel 12 van die Wet op Arbeidsverhoudinge in die Onderwys] afgekondig is nie.”; en
- (ii) deur subitem (5) deur die volgende subitem te vervang: en
- “(5) ’n Bestaande nie-statutêre agentskapwerkplekooreenkoms of geslotegeleedere-ooreenkoms is nie bindend nie tensy die ooreenkoms aan die bepalings van [artikel 25 of 26] hierdie item voldoen. [Hierdie bepaling] Artikels 25 en 26 van hierdie Wet word 180 dae na die inwerkingtreding van [hierdie Wet] hierdie item van krag.”;
- (d) deur in die Engelse teks item 19 deur die volgende item te vervang:

“19. Collective Agreements in South African Police Service

- The provisions of the South African Police [Services Employment] Service Labour Relations Regulations, read with the changes required by the context, despite the repeal of those regulations, will have the effect and status of a *collective agreement* binding on the State, the parties to the National Negotiating Forum and all the employees within its *registered scope*.”; en
- (e) deur subitem (5) van item 22 deur die volgende subitem te vervang:
- “(5) Enige appèl teen ’n beslissing van die nywerheidshof of die landbou-arbeidshof ingevolge subitem (1) of (2) word gerig aan die [Arbeidshof] Arbeidsappèlhof ingestel by artikel [151] 167 van hierdie Wet, en daardie [Arbeidshof] Arbeidsappèlhof hanteer die appèl asof die arbeidsverhoudingswette nie herroep was nie.”.

Wysiging van Bylae 8 by Wet 66 van 1995

57. Bylae 8 by die Hoofwet word hierby gewysig deur die opskrif van item 3 deur die volgende opskrif te vervang:

“3. [Wangedrag] Dissiplinêre maatreëls minder as ontslag”.

45 Kort titel en inwerkingtreding

58. Hierdie Wet heet die Wysigingswet op Arbeidsverhoudinge, 1996, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal te word.