



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

## STAATSKOERANT

### VAN DIE REPUBLIEK VAN SUID-AFRIKA

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#### DEPARTMENT OF THE PRIME MINISTER

No. 1358.

30 June 1978.

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

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

#### DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1358.

30 Junie 1978.

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

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

Wet No. 109, 1978

WYSIGINGSWET OP PUBLIKASIES, 1978.

**ALGEMENE VERDUIDELIKENDE NOTA:**

- I** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeningen aan.  
**—** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeningen aan.

**WET**

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

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

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

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

Wysiging van artikel 13 van Wet 42 van 1974.

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

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

2. Artikel 13 van die Hoofwet word hierby gewysig—

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

„(5) Die appèlraad moet—

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

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

(c) (i) indien hy van oordeel is dat daardie publikasie

of voorwerp of uitgawe nie ongewens is nie,

die betrokke verklaring, verbod of beslissing

tersyde stel en, indien hy van oordeel is dat

die verspreiding van daardie publikasie of

voorwerp of uitgawe aan voorwaardes onder-

worpe behoort te wees, die voorwaardes wat

hy goedvind ten opsigte van sodanige ver-

spreding oplê; of

(ii) die betrokke verklaring, verbod of beslissing 30

bekragtig [of tersyde stel].”;

## PUBLICATIONS AMENDMENT ACT, 1978.

Act No. 109, 1978

**GENERAL EXPLANATORY NOTE:**

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

**ACT**

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

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

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

1. Section 8 of the Publications Act, 1974 (hereinafter referred to as the principal Act), is hereby amended by the insertion after paragraph (b) of subsection (1) of the following paragraph:
- "(bA) distribute a publication or object in conflict with any condition imposed under this Act in respect of the distribution thereof, if such imposition has been made known by notice in the Gazette; or"
2. Section 13 of the principal Act is hereby amended—
- (a) by the substitution for subsection (5) of the following subsection:
- “(5) The appeal board shall—
- (a) consider the declaration, prohibition or decision which forms the subject of an appeal under this section;
- (b) decide whether the publication or object or edition in question is undesirable in its opinion; and
- (c) (i) if it is of the opinion that such publication or object or edition is not undesirable, set aside the declaration, prohibition or decision in question and, if it is of the opinion that the distribution of such publication or object or edition should be subject to conditions, impose in respect of such distribution such conditions as it may think fit; or
- (ii) confirm [or set aside] the declaration, prohibition or decision in question.”;

Amendment of  
section 13 of  
Act 42 of 1974.

## Wet No. 109, 1978

## WYSIGINGSWET OP PUBLIKASIES, 1978.

- (b) deur subartikel (6) deur die volgende subartikel te vervang:  
 „(6) Die direkteur moet sonder versuim die appellant van die beslissing van die appèlraad kragtens subartikel (5) verwittig en, indien **die appèlraad die betrokke verklaring, verbod of beslissing tersyde stel** daardie beslissing kragtens subartikel (5) (c) gegee is, moet die direkteur sonder versuim—
- [(i)]** (a) die beslissing van die appèlraad by kennisgewing in die *Staatskoerant* bekend maak; 10  
**[(ii)]** (b) die kennisgewing wat kragtens artikel 12 (3) ten opsigte van die betrokke verklaring, verbod of beslissing gepubliseer is, by kennisgewing in die *Staatskoerant* intrek; en  
**[(iii)]** (c) indien die beslissing **valdus tersyde gestel** van 15 die appèlraad betrekking **gehad** het op 'n beslissing van 'n komitee ten opsigte van 'n aansoek bedoel in artikel 10 (1) (b) of (c)—  
 (i) 'n permit vir die verspreiding, onderworpe aan die voorwaardes, as daar is, wat die appèlraad goed gevind het, of invoer (na gelang van die geval) van die betrokke uitgawe aan die persoon wat daardie aansoek gedaan het, uitrek; of 20  
 (ii) 'n permit wat kragtens artikel 12 (2) uitgereik 25 is, wysig deur ten opsigte van die verspreiding van daardie uitgawe voorwaardes op te lê.”;  
 (c) deur die volgende subartikel na subartikel (6) in te voeg:  
 „(6A) Die voorwaardes wat kragtens hierdie artikel of artikel 14 of 15 deur die appèlraad ten opsigte van 30 die verspreiding van 'n publikasie of voorwerp of 'n uitgawe daarvan opgelê kan word, kan, onder andere—  
 (a) vereis dat die betrokke publikasie of voorwerp of 'n uitgawe daarvan nie aan persone wat in 'n bepaalde ouderdomsgroep val, verkoop, verhuur, uitgeleen 35 of andersins beskikbaar gestel mag word nie;  
 (b) die wyse bepaal waarop die betrokke publikasie of voorwerp of 'n uitgawe daarvan in die openbaar uitgestal of ten toon gestel mag word of nie mag word nie.”. 40

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

## 3. Artikel 14 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (b) van subartikel (4) deur die volgende paragraaf te vervang:  
 „(b) Indien die appèlraad beslis dat die betrokke publikasie of voorwerp of uitgawe—  
 (i) nie ongewens is nie, bekratig hy die betrokke beslissing: Met dien verstande dat—  
 (aa) hy, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp of uitgawe aan voorwaardes onderworpe behoort te wees, die voorwaardes wat hy goedvind ten opsigte van sodanige verspreiding moet ople; 50  
 (bb) indien 'n permit uit hoofde van die beslissing uitgereik is, hy daardie permit, wanneer toepaslik, in ooreenstemming met 'n beslissing bedoel in subparagraph (aa) moet wysig; 55  
 (ii) ongewens is, stel hy die betrokke beslissing tersyde, en indien 'n permit uit hoofde van die beslissing uitgereik is, trek hy daardie permit in.”;  
 (b) deur paragraaf (b) van subartikel (5) deur die volgende paragraaf te vervang:  
 „(b) 'n beslissing van die appèlraad in die voorbehouds- 65 bepaling by subartikel (4) (b) (i) of in subartikel (4) (b) (ii) bedoel, by kennisgewing in die *Staatskoerant* bekend maak.”;

## PUBLICATIONS AMENDMENT ACT, 1978.

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- (b) by the substitution for subsection (6) of the following subsection:
- “(6) The director shall without delay inform the appellant of the decision of the appeal board under subsection (5) and, if [the appeal board sets aside the declaration, prohibition or decision] such decision was given under subsection (5) (c), the director shall without delay—
- (i) make known the decision of the appeal board by notice in the *Gazette*;
- (ii) withdraw by notice in the *Gazette* the notice published under section 12 (3) in respect of the declaration, prohibition or decision in question; and if the decision [so set aside] of the appeal board [related] relates to a decision of a committee in respect of an application under section 10 (1) (b) or (c)—
- (i) issue a permit for the distribution, subject to such conditions, if any, as the appeal board may have thought fit, or importation (as the case may be) of the edition in question to the person who made that application; or
- (ii) amend any permit issued under section 12 (2) by imposing conditions in respect of the distribution of such edition.”;
- (c) by the insertion after subsection (6) of the following subsection:
- “(6A) The conditions which may be imposed under this section or section 14 or 15 by the appeal board in respect of the distribution of a publication or object or edition thereof, may among other things—
- (a) require that the publication or object in question, or an edition thereof, shall not be sold, hired out, lent out or otherwise be made available to persons falling within a specified age group;
- (b) determine the manner in which the publication or object in question, or an edition thereof, shall be or shall not be displayed or exhibited in public.”.

- 3. Section 14 of the principal Act is hereby amended—**
- (a) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
- “(b) If the appeal board decides that the publication or object or edition in question—
- (i) is not undesirable, it shall confirm the decision in question: Provided that—
- (aa) if it is of the opinion that the distribution of such publication or object or edition should be subject to conditions, it shall impose in respect of such distribution such conditions as it may think fit;
- (bb) if a permit was issued in pursuance of the decision, it shall amend such permit, when applicable, in accordance with a decision referred to in subparagraph (aa);
- (ii) is undesirable, it shall set aside the decision in question and, if a permit was issued in pursuance of such decision, it shall withdraw such permit.”;
- (b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:
- “(b) make known a decision of the appeal board referred to in the proviso to subsection (4) (b) (i) or in subsection (4) (b) (ii) by notice in the *Gazette*. ”;

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

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## WYSIGINGSWET OP PUBLIKASIES, 1978.

- (c) deur subartikel (6) deur die volgende subartikel te vervang:  
 „(6) 'n Permit deur die appèlraad kragtens subartikel (4) gewysig of ingetrek, word geag gewysig of ingetrek te wees op die datum waarop die wysiging of intrekking in die *Staatskoerant* bekend gemaak is.”;
- (d) deur subartikel (7) deur die volgende subartikel te vervang:  
 „(7) 'n Beslissing van die appèlraad in die voorbehoudsbepaling by subartikel (4) (b) (i) of in subartikel (4) (b) (ii) bedoel, word by die toepassing van hierdie Wet geag 'n beslissing van 'n komitee te wees.”.

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

- 4. Artikel 15 van die Hoofwet word hierby gewysig—**
- (a) deur paragraaf (d) van subartikel (6) deur die volgende paragraaf te vervang:  
 „(d) indien hy beslis dat die betrokke publikasie of voorwerp nie ongewens is nie, die beslissing in subartikel (1) bedoel wat op daardie publikasie of voorwerp betrekking het, tersyde stel en, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp aan voorwaardes onderworpe behoort te wees, die voorwaardes wat hy goedvind ten opsigte van sodanige verspreiding ople.”;
- (b) deur subartikel (7) deur die volgende subartikel te vervang:  
 „(7) Die direkteur moet sonder versuim 'n beslissing van die appèlraad kragtens subartikel (6) (d) by kennisgewing in die *Staatskoerant* bekend maak.”;
- (c) deur paragraaf (b) van subartikel (9) deur die volgende paragraaf te vervang:  
 „(b) Indien die appèlraad kragtens die bepalings van artikel 14, soos aldus toegepas, beslis dat die betrokke publikasie of voorwerp—  
 (i) nie ongewens is nie, bekratig hy die beslissing bedoel in subartikel (8): Met dien verstande dat hy, indien hy van oordeel is dat die verspreiding van daardie publikasie of voorwerp aan voorwaardes onderworpe behoort te wees, die voorwaardes wat hy goedvind ten opsigte van sodanige verspreiding moet ople;—  
 (ii) ongewens is, stel hy daardie beslissing ter syde.”;
- (d) deur paragraaf (c) van subartikel (9) deur die volgende paragraaf te vervang:  
 „(c) Die direkteur moet sonder versuim 'n beslissing van die appèlraad kragtens die voorbehoudsbepaling by paragraaf (b) (i) of kragtens paragraaf (b) (ii) by kennisgewing in die *Staatskoerant* bekend maak.”.

Wysiging van artikel 31 van Wet 42 van 1974.

- 5. Artikel 31 van die Hoofwet word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:**
- „(6) Die appèlraad moet die beslissing wat die onderwerp van enige appèl of appelle kragtens hierdie artikel is, oorweeg en **[moet]** kan daardie beslissing bekratig of **[ter-syde stel]** kan—
- (a) in die geval van 'n appèl teen 'n beslissing waarvolgens die hou van die betrokke vermaaklikheid of 'n bepaalde gedeelte daarvan verbied is, indien hy van oordeel is dat—  
 (i) die hou van daardie vermaaklikheid of gedeelte daarvan nie ongewens is of sal wees nie;  
 (ii) die in artikel 30 (5) bedoelde voorwaardes of een of meer daarvan ten opsigte van die hou van daardie vermaaklikheid of gedeelte daarvan opgelê behoort te word,

## PUBLICATIONS AMENDMENT ACT, 1978.

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- (c) by the substitution for subsection (6) of the following subsection:
- 5 “(6) A permit amended or withdrawn by the appeal board under subsection (4), shall be deemed to have been amended or withdrawn on the date on which the amendment or withdrawal was made known by notice in the *Gazette*. ”;
- (d) by the substitution for subsection (7) of the following subsection:
- 10 “(7) A decision of the appeal board referred to in the proviso to subsection (4) (b) (i) or in subsection (4) (b) (ii) shall for the purposes of this Act be deemed to be a decision of a committee.”.

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

- 15 (a) by the substitution for paragraph (d) of subsection (6) of the following paragraph:
- “(d) if it decides that the publication or object in question is not undesirable, set aside the decision referred to in subsection (1) which relates to that publication or object and, if it is of the opinion that the distribution of such publication or object should be subject to conditions, impose in respect of such distribution such conditions as it may think fit.”;
- 20 (b) by the substitution for subsection (7) of the following subsection:
- “(7) The director shall without delay make known a decision of the appeal board under subsection (6) (d) by notice in the *Gazette*. ”.
- (c) by the substitution for paragraph (b) of subsection (9) of the following paragraph:
- 30 “(b) If the appeal board decides under the provisions of section 14, as so applied, that the publication or object in question—
- 35 (i) is not undesirable, it shall confirm the decision referred to in subsection (8): Provided that, if it is of the opinion that the distribution of such publication or object should be subject to conditions, it shall impose in respect of such distribution such conditions as it may think fit;
- 40 (ii) is undesirable, it shall set aside that decision.”;
- (d) by the substitution for paragraph (c) of subsection (9) of the following paragraph:
- 45 “(c) The director shall without delay make known a decision of the appeal board under the proviso to paragraph (b) (i) or under paragraph (b) (ii) by notice in the *Gazette*. ”.

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

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

- 50 “(6) The appeal board shall consider the decision which is the subject of any appeal or appeals under this section and shall may confirm or set aside that decision or may—
- (a) in the case of an appeal against a decision in terms of which the giving of the entertainment in question, or any specified part thereof, was prohibited, if it is of the opinion that—
- 55 (i) the giving of such entertainment or part thereof is not or will not be undesirable;
- (ii) the conditions referred to in section 30 (5), or one or more thereof, should be imposed in respect of the giving of such entertainment or part thereof,

Amendment of  
section 31 of  
Act 42 of 1974.

## Wet No. 109, 1978

## WYSIGINGSWET OP PUBLIKASIES, 1978.

Wysiging van artikel 35 van Wet 42 van 1974.

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

in ooreenstemming met sy beslissing daardie beslissing tersyde stel of die betrokke voorwaarde of voorwaardes ten opsigte van die hou van daardie vermaaklikheid oplê;  
 (b) in die geval van 'n appèl teen 'n beslissing waarvolgens 'n voorwaarde opgelê is—  
     (i) daardie voorwaarde skrap en in die plek daarvan enige van die voorwaardes in artikel 30 (5) bedoel, oplê;  
     (ii) benewens daardie voorwaarde enige van bedoelde voorwaardes oplê; of  
     (iii) daardie voorwaarde skrap.".

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

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

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

„Komitees van deskundiges. **35A.** (1) Die voorsitter van die appèlraad kan uit die beweging en moet op versoek van die direktaat of 'n persoon in artikel 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) of 32 (2) (a) bedoel 'n komitee van deskundiges benoem om die appèlraad ten opsigte van 'n publikasie of voorwerp of 'n uitgawe van 'n publikasie of voorwerp, of 'n rolprent, of 'n openbare vermaaklikheid of voorgenome openbare vermaaklikheid wat deur die appèlraad kragtens hierdie Wet ondersoek word, van advies te dien.

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

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

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

(5) (a) Die ampstermy van lede van 'n komitee van deskundiges word by aanstelling bepaal.  
 (b) Die ampsvoorraarde, besoldiging en toelaes van lede van 'n komitee van deskundiges is soos voorgeskryf.

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

## PUBLICATIONS AMENDMENT ACT, 1978.

Act No. 109, 1978

in accordance with its decision set aside such decision or impose the condition or conditions in question in respect of the giving of such entertainment;

5 (b) in the case of an appeal against a decision in terms of which any condition was imposed—

(i) delete that condition and impose in the place thereof any of the conditions referred to in section 30 (5);

10 (ii) impose in addition to that condition any of the said conditions; or

(iii) delete that condition.”

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

section 35 of  
Act 42 of 1974.

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

7. The following sections are hereby inserted in the principal Act after section 35:

Insertion of  
sections 35A  
and 35B in  
Act 42 of 1974.

20 “Committees of experts. 35A. (1) The chairman of the appeal board may of

his own accord and shall at the request of the directorate or any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a) appoint a committee of experts to advise the appeal board in respect of a publication or object or an edition of a publication or object, or any film, or any public entertainment or intended public entertainment examined by the appeal board under this Act.

25 (2) A committee of experts referred to in subsection (1) shall consist of such number of members, but not fewer than three, as may be appointed by the chairman of the appeal board subject to the provisions of section 35B.

30 (3) Any person who has been designated under section 35B (4) and who is appointed as a member of a committee of experts under subsection (2), shall act as chairman of the committee of experts concerned: Provided that if two persons who have been so designated are appointed as members of the same committee of experts, the person who is determined by the chairman of the appeal board shall act as chairman of the committee of experts concerned, while the other person shall act as chairman of that committee in the absence of the first-mentioned person.

35 (4) Three members of a committee of experts shall constitute a quorum and the decision of the majority of members present at a meeting of the committee of experts shall be the decision of the committee of experts: Provided that in the event of an equality of votes the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

40 (5) (a) The period of office of members of a committee of experts shall be determined on appointment.

45 (b) The conditions of office, remuneration and allowances of members of a committee of experts shall be as prescribed.

50 (6) The advice referred to in subsection (1), together with minority opinions if any, shall, during the examination referred to in the said subsection, be made known to the parties concerned in the examination and shall form part of the documents in which reasons are furnished by the appeal board in terms of the provisions of section 36 (5).

## Wet No. 109, 1978

## WYSIGINGSWET OP PUBLIKASIES, 1978.

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

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

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

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

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

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

Wysiging van  
artikel 36 van  
Wet 42 van 1974.

**8. Artikel 36 van die Hoofwet word hierby gewysig—**

(a) deur in paragraaf (b) van subartikel (3) die woorde wat  
subparagraaf (i) voorafgaan deur die volgende woorde te 30  
vervang:

, „Die voorsitter van die appèlraad kan—”;

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

, „(c) Die voorsitter van die appèlraad kan enigiemand 35  
gelas om voor die appèlraad te verskyn en kan so  
iemand gelas om getuenis af te lê wat na die  
oordeel van die voorsitter betrekking het op die  
aangeleentheid wat deur die appèlraad oorweeg  
word.”.

Invoeging van  
artikel 38A in  
Wet 42 van 1974.

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

„Stel van  
regspraak  
vir opinie  
van Hoog-  
gereghof.

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

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

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

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

## PUBLICATIONS AMENDMENT ACT, 1978.

Act No. 109, 1978

- Persons eligible for appointment as members of committee.
- 5           **35B.** (1) No person shall be appointed as a member of a committee of experts unless his name appears on the list referred to in subsection (2).
- (2) The chairman of the appeal board shall annually compile a list of the names of the persons to be designated by the Minister under subsection (3).
- (3) Persons designated by the Minister for the purposes of the list referred to in subsection (2), shall be persons who in the opinion of the Minister are by reason of their educational qualifications and special knowledge of and experience in art, language or literature fit to advise the appeal board in respect of a publication or object or an edition of a publication or object, or any film, or any public entertainment or intended public entertainment examined by the appeal board under this Act.
- (4) The Minister shall designate as many of the persons referred to in subsection (1) as he may deem necessary, to serve, subject to the provisions of the proviso to section 35A (3), as chairmen of committees of experts when they are appointed as members thereof.
- (5) The list referred to in subsection (2) shall be supplemented by the chairman of the appeal board from time to time when necessary after the Minister has designated the person or persons concerned."

8. Section 36 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (b) of subsection (3) for the words preceding subparagraph (i) of the following words:
- "The chairman of the appeal board may direct—";
- (b) by the substitution for paragraph (c) of subsection (3) of the following paragraph:
- "(c) The chairman of the appeal board may direct any person to appear before the appeal board and may direct such person to give evidence which, in the opinion of the chairman, relates to the matter being considered by the appeal board."

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

- “Statement of question of law for opinion of Supreme Court.
- 45           **38A.** (1) At any stage before giving a decision in terms of this Act, the appeal board may of its own accord and shall at the request of the directorate or any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a), state any question of law arising in the course of the proceedings in question of the appeal board, in the form of a special case for the opinion of a division of the Supreme Court of South Africa, and shall transmit that special case to the registrar of that court.
- (2) If such special case is stated at the request of any person referred to in section 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) or 32 (2) (a), he shall lodge with the registrar security to such an amount as the registrar may determine, in respect of any such costs as the court may order such person to pay.
- (3) A question of law referred to in subsection (1) may be argued before the court in question and such court may call for such further information, to be supplied by the appeal board, as it may deem fit.
- (4) The court may give such opinion in respect of the special case, as supplemented by the information referred to in subsection (3), if any, and may make such order as to the costs of the proceedings before it, as it may deem fit: Provided that no order of costs

## Wet No. 109, 1978

## WYSIGINGSWET OP PUBLIKASIES, 1978.

<p>geen kostebevel teen 'n persoon in artikel 13 (1), 14 (3) (b), 23 (1), 24 (2) (b), 31 (1) of 32 (2) (a) bedoel, gegee word in 'n geval waar sodanige persoon nie 'n versoek soos in subartikel (1) bedoel aan die appèlraad gerig het nie.</p> <p>(5) Die direktoraat of 'n persoon in subartikel (1) bedoel, het 'n reg van appèl na die appèlafdeling van die Hooggereghof teen 'n opinie in subartikel (4) bedoel.</p> <p>(6) Die bepalings van subartikel (2) is <i>mutatis mutandis</i> van toepassing ten opsigte van 'n appèl in subartikel (5) bedoel.</p> <p>(7) By die gee van die beslissing in subartikel (1) bedoel, is 'n opinie wat kragtens subartikel (4) of (6) uitgereik is, bindend op die appèlraad."</p>	5 10 15
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Kort titel en inwerkingtreding.

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

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

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## PUBLICATIONS AMENDMENT ACT, 1978.

**Act No. 109, 1978**

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

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

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

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

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

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

(3) (1), H (3) (1A), L (1), M (1), N (1), P (1), Q (1) or Q (2)

(a) In any case in which a defendant is liable for damages for supersession (1) made on the basis of the above-mentioned passing of such legislation.

(2) The circumstances of any person lessened to the supersession (1), shall have a right of action to sue the Supreme Court against the legislative division to which the opinion is issued to in supersession (1).

(3) The provisions of section (2) shall apply to the supersession (1) or (2).

(4) A decision of the Supreme Court passed under supersession (1) shall be binding on the subsequent passing of any law made in respect of supersession (1).

Act, 1958, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

(5) Different dates may be fixed in terms of supersession (1) to respect of different provisions of this Act.



