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BUITENGEWONE
OFFISIËLE KOERANT
VAN SUIDWES-AFRIKA.



OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA.

UITGAWE OP GESAG.

PUBLISHED BY AUTHORITY.

1/- Maandag, 24 Maart 1952.

WINDHOEK

Monday, 24th March, 1952.

No. 1663.

Die volgende Ontwerpordonnansie, wat gedurende die volgende Sessie van die Wetgewende Vergadering voorgelê sal word, word vir algemene inligting gepubliseer.

J. NESER,
Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

Ordonnansie op Loon en Nywerheidsversoening
1952. 2623

ONTWERPORDONNANSIE

Ter instelling van 'n loonraad; ter versiening in die vaststelling van diensvoorwaardes, die registrasie en reëling van vakverenigings en werkgewersorganisasies, die voorkoming en skikking van geskille tussen werkgewers en werknemers, die reëling van diensvoorwaardes deur ooreenkomms en arbitrasie, en ander verbandhoudende sake.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Goewerneur-generaal dermate sodanige toestemming nodig is, vooraf verkreë en deur hoöskap van die Administrateur aan die Wetgewende Vergadering meegeedel ooreenkomstig die bepalings van artikel ses-en-twintig van die „Zuidwest Afrika Konstitusie Wet 1925“ (Wet 42 van 1925), soos gewysig by artikel sesienf van die Wysigingswet op Aangeleenthede van Suidwes-Afrika 1949 (Wet 23 van 1949) van die Parlement van die Unie van Suid-Afrika, VERORDEN:—

1. Hierdie Ordonnansie word ingedeel in hoofstukke wat onderskeidelik oor die volgende sake gaan —

Hoofstuk I: Loonvaststelling (artikel drie tot negentien).

Hoofstuk II: Die Skikking van Nywerheidsgeskille (artikel twintig tot agt-en-veertig).

Hoofstuk III: Administratiewe en Algemene Sake (artikel negen-en-veertig tot tagtig).

2. (1) Behoudens die bepalings van sub-artikel (2) is hierdie Ordonnansie van toepassing op elke bedryf.

(2) Hierdie Ordonnansie is nie van toepassing op persone ten opsigte van hul diensneming in die boerdery of as bediendes in die private huishouding nie, nóg — behoudens die bepalings van sub-artikel (3) en (4) — werknemers by die Unie-regering insluitende sy Departement van Spoorweë en Havens, nóg werknemers by die Administrasie van Suidwes-Afrika ten opsigte van hul werk as sodanig, nóg onbesoldigde werk in 'n liefdadigheidsinrigting, nóg werk van 'n betreffende universiteitskollege, skool of ander onderwysinrigting wat geheel of ten dele openbare geldelike steun geniet en waar die werksaamheid tot die opleiding of opvoeding van die werkliede bydra nie.

The following Draft Ordinance, which will be introduced during the next Session of the Legislative Assembly is published for general information.

J. NESER,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

Wage and Industrial Conciliation Ordinance,
1952. 2623

DRAFT ORDINANCE

To establish a wage board, to provide for the determination of conditions of employment, to make provisions for the registration and regulation of trade unions and employers' organizations, for the prevention and settlement of disputes between employers and employees, for the regulation of conditions of employment by agreement and arbitration, and for other incidental matters.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General in so far as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section twenty-six of the South West Africa Constitution Act, 1925 (Act No. 42 of 1925), as amended by section sixteen of the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949), of the Parliament of the Union of South Africa, as follows:—

1. This Ordinance is divided into Chapters relating to the following matters respectively:—

Chapter I: Wage Determinations (sections three to nineteen).

Chapter II: Settlement of Industrial Disputes (sections twenty to forty-eight).

Chapter III: Administrative and General (sections forty-nine to eighty).

2. (1) This Ordinance shall, subject to the provisions of sub-section (2) apply to every trade.

(2) This Ordinance shall not apply to persons in respect of their employment in farming operations or in domestic service in private households, nor, subject to the provisions of sub-sections (3) and (4) to persons employed by the Government of the Union, including that Government in its Department of Railways and Harbours, or by the Administration of South West Africa in respect of their employment as such nor to the performance of work in a charitable institution for which the persons performing it receive no remuneration nor to work in or in connection with any university college, school or other educational institution maintained wholly or partly from public funds as part of the education or training of the persons performing it.

(3) 'n Vereniging (gestig voor ð na die inwerking-treding van hierdie Ordonnansie) waarvan die lede almal diensneem by die Unie-regering, insluitende sy Departement van Spoorweë en Hawens, of by die Administrasie van Suidwes-Afrika, kan ooreenkomstig artikel *twenty* by die Sekretaris aansoek doen om registrasie ingevolge Hoofstuk II hiervan, al is die lede nie in 'n besondere bedryf werksaam nie; en as die Sekretaris met die oog op die sake genoem in sub-artikel (2) van daardie artikel geneë neem met die registrasie, registreer hy daardie vereniging as 'n vakvereniging ingevolge die bepalings van daardie artikel, en daarop geld die bepalings van artikel *een-en-twintig* tot en met *twee-en-dertig* sowel as artikel *een-en-sewentig* so 'n vereniging asof dit 'n vakvereniging is.

(4) Elke werknemer by die Unie-regering, insluitende sy Departement van Spoorweë en Hawens, of by die Administrasie van Suidwes-Afrika, kan met Administrateurs-toestemming as die verteenwoordiger of die alternatiewe verteenwoordiger van die een of die ander kant aan die verrigtinge van 'n versoeningsraad deelneem, of kan as bemiddelaar, arbiter of eindbeslisser optree.

(5) 'n Loonvasstelling ingevolge Hoofstuk I geld niemand —

(a) solank hy gebonde is aan die bedinge van enige ooreenkoms, kennisgewing of toekening ingevolge Hoofstuk II nie, onverskillig of die loonvasstelling bindend word voor ð na die inwerking-treding van so 'n ooreenkoms, kennisgewing of toekening, nóg geld dit

(b) vakleerlinge op wie die Vakleerlinge-Ordonnansie 1938 (Ordonnansie 12 van 1938), soos gewysig, van toepassing is nie.

(3) An association composed wholly of persons employed by the Government of the Union, including that Government in its Department of Railways and Harbours, or the Administration of South West Africa whether the association exists at the commencement of this Ordinance or is established after that commencement, may in accordance with the provisions of section *twenty*, and notwithstanding that its members are not employed in any particular trade, apply to the Secretary for registration under Chapter II of this Ordinance and if the Secretary is satisfied in respect of the matters mentioned in subsection (2) of that section, he shall, subject to the provisions of that section, register that association as a trade union, and thereupon the provisions of sections *twenty-one* to *thirty-two* inclusive, and section *seventy-one* shall apply to that association as if it were a trade union.

(4) Any person employed by the Government of the Union, including that Government in its Department of Railways and Harbours, or by the Administration of South West Africa, may, subject to the consent of the Administrator, serve as the representative or the alternate to a representative, of any party to a conciliation board, or as a mediator, arbitrator or umpire.

(5) A determination in terms of Chapter I shall not apply—

(a) to any persons while they are bound by the provisions of any agreement, notice or award under Chapter II, whether the determination becomes binding on a date prior or subsequent to the taking effect of such agreement, notice or award; or

(b) to any apprentices to whom the Apprenticeship Ordinance, 1938 (Ordinance No. 12 of 1938), as amended, applies.

HOOFSTUK I.

LOONVASSTELLINGS.

3. (1) 'n Loonraad word hierby ingestel, en behoudens die bepalings van sub-artikel (2), bestaan so 'n Loonraad uit drie lede aangestel deur die Administrateur.

(2) Met die oog op enige bepaalde ondersoek kan die Administrateur, by oortuiging dat die werkgewers en die werknemers in die betrokke bedryf werkgewersorganisasies en vakverenigings het wat die betrokke belange voldoende verteenwoordig, en na beraad met sodanige werkgewersorganisasies en vakverenigings, twee bykomende raadslede, wat onderskeidelik die werkgewers en die werknemers se belange verteenwoordig, aanstel teen sodanige besiddiging en op sodanige ander voorwaardes soos hy goetvind.

(3) Die Administrateur wys een van die lede van die Loonraad tot voorsitter aan.

(4) Geen verrigtinge van die Loonraad is ongeldig bloot weens 'n toernaglike vakature of weens die afwesigheid van 'n lid of bykomende lid vir 'n deel van, of die hele, vergadering nie.

(5) Enige lid van die Loonraad, of sodanige lid en twee bykomende lede, het by 'n ondersoek al die bevoegdhede van die Loonraad, en voldoen aan die vereistes van hierdie Ordonnansie betreffende die Loonraad.

4. (1) Behoudens die bepalings van hierdie artikel is dit die Loonraad se plig om in opdrag van die Administrateur ondersoek in te stel na, en om aan hom verslag uit te bring oor, 'n bedryf in 'n streek wat daardie opdrag aanwys.

(2) Die Loonraad kan besluit dat 'n ondersoek en verslag ooreenkomstig 'n opdrag uitgevoer moet word deur enigeen van sy lede alleen, of in medewerking met die bykomende lede.

CHAPTER I.

WAGE DETERMINATIONS.

3. (1) There is hereby established a wage board, which, subject to the provisions of sub-section (2) shall consist of three members, who shall be appointed by the Administrator.

(2) The Administrator may, for the purposes of any particular investigation, and if he is satisfied that the employers and employees within the trade concerned are organized into employers' organizations and trade unions sufficiently representative of the interests concerned, after consultation with such employers' organizations or trade unions, appoint two additional members to represent the interests of the said employers and employees respectively; such additional members shall be appointed at such rate and upon such other conditions as the Administrator may determine.

(3) One of the members of the board shall be designated by the Administrator as chairman thereof.

(4) No proceedings of the board shall be invalid by reason only of the fact that a vacancy existed in its membership or that any member or additional member was not present during the whole of or any part of the proceedings.

(5) Any member of the board, or such a member with the two additional members, shall, in making any investigation possess all the powers of the board, and shall conform to the requirements of this Ordinance relative to the board.

4. (1) Subject to the provisions of this section it shall be the duty of the board on a reference to it by the Administrator to investigate and report to the Administrator concerning the trade in the area specified in that reference.

(2) The board may decide that any investigation and report in pursuance of any reference shall be carried out and made by any member of the board alone or in conjunction with the additional members.

5. In sy opdragte aan die Loonraad uit hoofde van artikel vier kan die Administrateur gelas dat die ondersoek moet gaan oor al die werknemers, of oor 'n bepaalde klas of klasse werknemers, in enige bedryf in enige streek. By die toepassing van hierdie artikel beteken „bedryf” sodanige bedryf of bedryfdeel soos die Administrateur in sodanige bedryf, en „klas werknemers” sodanige groep, sy opdrag aanwys, en „werknemers” soos die Administrateur in afdeling of soort werknemers soos die Administrateur in sy opdrag bepaal of omskryf, en by daardie bepaling of omskrywing kan die Administrateur na goedgeunkte onderskei tussen die een en die ander klas werknemer op grond van ouderdom, geslag, ondervinding, dienstyd, werksoort, of soort of klas perseel waarop die werk geskied, of op 'n ander grond syns insiens gerude: Met dien verstande dat die Administrateur nie op grond van ras of kleur onderskei nie.

6. Die Loonraad, 'n lid, of sodanige lid met die bykomende lede, moet by elke ondersoek verslag uitbring oor—

- (a) die diensvoorwaardes, insluitende die loontarif van elke of alle betrokke klasse werknemers in die betrokke bedryf ten tyde van die ondersoek, sowel as van te vore, dermate sodanige inligting ter sake en verkrygbaar is, en
- (b) enige ander saak wat syns insiens met die ondersoek in verband staan.

7. (1) Op Administrateursversoek moet die Loonraad 'n aanbeveling doen in die verslag wat hy uitbring weens 'n opdrag uit hoofde van sub-artikel (1) van artikel vier.

(2) So 'n versoek kan in die opdrag self geskied, of te eniger tyd daarna. Geskied die versoek te eniger tyd nadat die verslag aan die Administrateur voorgelê is, kan die Administrateur na die goedgeunkte bepaal dat die aanbeveling oor die hele bedryf moet gaan, of 'n deel daarvan, of oor sodanige klas of klasse werknemers in die betrokke streek of streke soos by aanwys.

(3) 'n Aanbeveling kan in die verslag self gedoen word, of te eniger tyd daarna.

(4) 'n Aanbeveling kan gaan oor enigeen van die sake waarop artikel nege dui en waaroor die Loonraad so 'n aanbeveling wenslik ag.

8. Voordat hy 'n aanbeveling doen, moet die Loonraad op die onderstaande punte let:—

- (a) Vertoë wat aan hom gerig word ooreenkomstig artikel elf;
 - (b) Verslae en voorbehoude oor die betrokke bedryf aan hom gerig ooreenkomstig sub-artikel (1) van artikel dertien;
 - (c) inligting wat enige Afdeling van die Administrasie hom oor die betrokke bedryf inedeel;
 - (d) die vraag of werkgewers in die betrokke bedryf hul saak met welslae sou kon voortvoer as die voorgestelde aanbeveling van die Loonraad uitgevoer sou moes word, met inagneming van markstande, vervoerkoste, en ander verbandhoudende faktore;
 - (e) die levensduurte in die streek waar die bedryf uitgeoefen word;
 - (f) die waarde van maontlike etes, rantsoene, losies en ander geriewe wat werkgewers aan werknemers in die betrokke bedryf, of aan die betrokke klas(se) werknemers verskaf; en
 - (g) elke ander saak voorgeskryf by regulasie;
- en kan daarby enige soortgelyke vaststelling in die Unie betreffende 'n soortgelyke bedryf in ag neem, sowel as enige ander inligting wat hy as ter sake beskou.

9. (1) 'n Aanbeveling kan een of meer of almal van die ondergenoemde sake behels —

- (a) die minimale tarief van —

5. The Administrator may, in any reference to the board under section four, direct that the investigation shall be in respect of all employees, or of any one or more classes of employees, in any trade in any area. For the purposes of this section “trade” means such trade or such portion of a trade as may be defined by the Administrator in the reference, and “class of employees” includes such group or section or type of employees as may be specified or defined by the Administrator in the reference, and the Administrator may, in so specifying or defining, apply any method of differentiation or of discrimination based on age, sex, experience, length of employment or type of work or type or class of premises on or in which work is performed or any other method he may deem advisable: Provided that the Administrator shall not differentiate or discriminate on the basis of race or colour.

6. The board, a member of the board, or such a member with the additional members shall in connection with every investigation report—

- (a) upon the conditions of employment, including the rates of remuneration in the trade concerned in respect of all employees or the class or classes of employees concerned, at the time of the investigation and, in so far as information is available and is relevant, at any previous time; and
- (b) upon any other matter which in its opinion is relevant to the investigation.

7. (1) The board shall, if the Administrator so directs, submit to him, in addition to any report submitted in pursuance of any reference under sub-section (1) of section four, a recommendation.

(2) Any such direction may be given at the same time as the reference is made, or at any time thereafter. If such a direction is given at any time after the submission of a report the Administrator may, in his discretion, direct that the recommendation shall be submitted in respect of the whole trade or such section of the trade or in respect of all such class or classes of employees in such area or areas as he may specify.

(3) A recommendation may be submitted at the same time as a report or at any time thereafter.

(4) Any recommendation may deal with any of the matters referred to in section nine on which the board deems it expedient to make a recommendation.

8. The board shall, before it makes any recommendation, take into consideration—

- (a) any representations made to it in terms of section eleven;
- (b) any report or reservation submitted to it in terms of sub-section (1) of section thirteen, in relation to the trade concerned;
- (c) any information made available to it in relation to the trade concerned, by any branch of the Administration;
- (d) the ability of employers in the trade concerned to carry on their businesses successfully should any recommendation proposed to be made by the board be carried into effect, regard being had to distance from markets, cost of transport and any other relevant circumstances;
- (e) the cost of living in any area in which the trade concerned is being carried on;
- (f) the value of any board, rations, lodging or other benefits supplied by employers to employees in the trade concerned or to the class or classes of employees concerned; and
- (g) every other matter prescribed by regulation;

and may take into consideration any determination made in the Union in respect of any similar trade, and any other information which it may consider relevant.

9. (1) A recommendation may include provisions as to all or some or any of the following matters—

- (a) the minimum rate of—

- (i) die besoldiging, en enige vermindering of vermeerdering daarvan onder gegewe faktore of omstandighede, en ooreenkomstig maontlik voorgeskrewe stelsels of reëls; en
- (ii) enige bykomende besoldiging (hetsy konstant of wisselend as waarde-persentasie van die basiese besoldiging, of andersins wisselend en bepaalbaar onder gegewe omstandighede en faktore, en ooreenkomstig maontlik voorgeskrewe stelsels of reëls; of deels konstant en deels sodanig wisselend) weens 'n werklike of waarskynlike lewensduurte-styging, wat 'n werkgewer aan sy werknemers, of 'n klas werknemers, moet betaal of teken;
- (b) boekhouding deur 'n lid van 'n bepaalde klas werknemers van sodanige besonderhede soos die aanbeveling voorskryf;
- (c) die minimale skaal waarteen 'n werkgewer 'n werknemer of 'n lid van 'n bepaalde klas werknemers om die beurt na afluop van bepaalde tydperke of met bepaalde tussenposes, moet besoldig, of waarteen 'n werkgewer 'n werknemer of enige klas werknemers volgens sy of hulle ondervinding of 'n ander maatstaf moet besoldig;
- (d) kortings wat 'n werkgewer van sy werknemerslone mag aftrek, bo en behalwe sodanige maontlike kortings soos 'n bevoegde hof beveel of soos die wet vereis of veroorloof;
- (e) die stelsel waarvolgens minimale loonskale bereken word;
- (f) die weksdag, datum, tyd, plek, en die prosedure van betaling of vergoeding, die betaalstate wat die werkgewer betreffende betaling aan die werknemer moet versorg, die soort omslag wat die besoldiging moet inhou, die inligting wat daar buite op die omslag geskryf moet staan, en, oor die algemeen, enige ander bepaling betreffende die besoldigings-prosedure;
- (g) die besoldiging deur die werkgewer van 'n werknemer wat korter of langer stukwerk verrig het, onverskillig hoeveel, vir die tydperk daarvan: Met dien verstande dat sodanige besoldiging niks minder mag bedra as wat die betrokke werknemer sou verdien het as hy vir daardie tydperk 'n tydwerker was nie;
- (h) die instandhouding deur 'n werkgewer van stukwerk-registers, en die vorm van sodanige registers;
- (i) die verbodding of reëling van die opdrag van stukwerk of dagwerk aan 'n werknemer en sy verrigting daarvan;
- (j) die verbod op die verrigting van werk op persele en plekke van 'n aangewese aard of soort, of wat met 'n aangewese doel gebruik word, of van werk wat elders as op sodanige persele of sodanige plekke geskied;
- (k) die maksimale getal werknemers van enige klas wat 'n werkgewer in diens kan neem in verhouding tot die getal werknemers van enige ander klas, of met die totaal aan werknemers in sy diens;
- (l) die verbod op regstreekse of onregstreekse betaling aan, of die aanname van enige betaling deur, 'n werkgewer weens die indiensneming of opleiding van 'n werknemer;
- (m) kennisgewings wat deur werkgewers vertoon moet word;
- (n) die verbod op werkgewing aan enigiemand jonger as 'n aangewese ouderdom;
- (o) die skaal, die grondslag of die beginsels waarvolgens betaling moet geskied vir kontrakwerk wat 'n prinsipiël of kontrakteur uitgee, of daardie prinsipiël of kontrakteur self 'n werkgewer in die betrokke bedryf of bedryfdeel is, al dan nie;
- (i) the remuneration, and any increase or reduction thereof effected by reference to any specified factors or circumstances, and in accordance with any prescribed methods or rules; and
- (ii) any additional remuneration (whether fixed, or variable as a percentage of the value of the main remuneration or otherwise variable and determinable by reference to any specified factors or circumstances and in accordance with any prescribed methods or rules, or partly fixed and partly variable as aforesaid) in respect of any increase or probable increase in the cost of living,
- which any employer shall pay or grant to each of his employees or to each member of any class of his employees;
- (b) the keeping by a member of a specified class of employees, of a record containing such particulars as may be prescribed in the recommendation;
- (c) the minimum rate at which remuneration shall be paid by any employer to each employee or to each member of any class of employees successively on the expiration of specified periods or intervals, or which shall be paid to any employee or any member of any class of employees according to experience or any other standard;
- (d) deductions which may be made by an employer from any remuneration payable to any of his employees in addition to deductions which by any law or any order of any competent court he is required or permitted to make;
- (e) the method of calculating minimum rates of remuneration;
- (f) the day of the week, date, time, place and manner of payment or remuneration, the statements to be furnished by the employer to the employee concerning the payment, the container in which the money to be paid shall be enclosed and the information to be written upon the container, and, generally, any other provisions as to the manner of payment;
- (g) the payment by an employer to an employee, who has performed during any period piece-work (irrespective of the amount thereof) of a remuneration for the piece-work performed by that employee during that period, which shall be not less than the remuneration which would have been payable to the said employee had he been employed as a time-worker during that period;
- (h) the maintenance by an employer of records of work performed by a piece-worker, and the form of such records;
- (i) the prohibition or the regulation of the giving out to, or the performance by, an employee of piece-work or taskwork;
- (j) the prohibition of the performance of work on premises or at places of a specified description or type or used for a specified purpose, or elsewhere than on such premises or at such places;
- (k) the maximum number of employees of any class who may be employed by an employer in proportion to the number of employees of any other class, or to the total number of employees employed by him;
- (l) the prohibition of any payment to or the acceptance of any payment by an employer, either directly or indirectly, in respect of the employment or training of any employee;
- (m) notices to be exhibited by employers;
- (n) the prohibition of the employment of any person under a specified age;
- (o) where any work is given out on contract to any person by a principal or contractor, whether or not that principal or contractor is himself an employer in or is engaged in the trade or section of trade concerned, the rates at which, the basis of or the principles upon which, payment shall be made to that person for the work;

- (p) die verbod op besoldiging buiten met geld;
- (q) die verbod, reëling of beperking van oortydse werk;
- (r) die uitreiking deur 'n werkgewer aan 'n lid van 'n bepaalde klas van sy werknemers, by die beëindiging van sy diens, van 'n sertifikaat met besonderhede van sy dienstryperk en ander besonderhede wat die aanbeveling uiteensit;

- (p) the prohibition of the payment of remuneration otherwise than in money;
- (q) the prohibition or limitation or regulation of overtime work;
- (r) the issue by an employer to any member of a specified class of his employees, on the termination of his employment, of a certificate setting forth the period during which he has been employed and such other particulars as may be specified in the recommendation;

en, oor die algemeen, betreffende enige saak in verband met die besoldiging of ander diensvoorwaardes van enige werknemer of klas(-se) werknemers, of hulle volgens werktyd, taak, of 'n ander grondslag besoldig word. Die bestek van hierdie bepaling word gesins beperk deurdat hierdie sub-artikel besondere sake noem nie.

and, generally, as to any matter affecting or connected with the remuneration or other conditions of employment of all employers or of the members of any class or classes of employees, whether remunerated according to time worked or work performed or on any other basis, the scope of this provision not being limited in any way by the mention in this sub-section of particular matters.

(2) Die Loonraad kan verskillende voorskrifte doen betreffende enige saak wat sub-artikel (1) vir verskillende klasse werknemers of vir verskillende streke bepaal.

(2) The board may recommend varying provisions in respect of any matter specified in sub-section (1) for different classes of employees or for different areas.

(3) By die toepassing van hierdie artikel omvat „klas werknemers” en „klas van sy werknemers” sodanige groep, afdeling of soort werknemers soos die Loonraad moontlik bepaal of omskryf, en by sodanige bepaling of omskrywing in die Loonraad na goeëdunke onderskei tussen die een en die ander klas op grond van ouderdom, geslag, onderverdeling, dienstryd, werksort, soort of klas perseel waarop die werk geskied, of op 'n ander grond syns insiens geradec. Met dien verstande dat die Loonraad nie op grond van ras of kleur mag onderskei nie.

(3) For the purposes of this section, “class of employees” and “class of his employees” includes such group or section or type of employees as may be specified or defined by the board, and the board may, in so specifying or defining, apply any method of differentiation or discrimination based on age, sex, experience, length of employment or type of work or type or class of premises on or in which work is performed or any other method it may deem advisable: Provided that the board shall not differentiate or discriminate on the basis of race or colour.

10. Die Loonraad kan te eniger tyd voor die afkondiging kragtens artikel vyftien van enigen van sy aanbevelings, sodanige aanbeveling wysig.

10. The board may at any time prior to the publication under section fifteen of any recommendation made by it, alter that recommendation.

11. (1) By elke ondersoek moet die Loonraad aan belanghebbendes geleentheid gee om vertoë aan hom te rig, en daarvoor moet die Loonraad die strekking van die Administrateur se opdrag aan hom, en die bestek van die opgedrae ondersoek, in die *Offisiële Kverant* bekend laat maak met vermelding van die tydperk waarin, die persone by wie, en die adres waaraan, sodanige vertoë gerig moet word.

11. (1) The board shall, in connection with every investigation, give to persons interested an opportunity of making representations to it, and shall, for that purpose, publish in the *Gazette*, a notice setting forth the terms of the Administrator's reference, the scope of the investigation applied for, and stating the period within which, the persons with whom and the address at which such representations shall be lodged.

(2) Wanneer ook al die Administrateur die Loonraad gelas om 'n aanbeveling aan hom voor te lê, moet die Loonraad alle belanghebbendes geleentheid gee om vertoë aan die Loonraad te rig, tensy die lasgewing deel uitmaak van die opdrag waaroor kennisgewing reeds uit hoofde van sub-artikel (1) geskied het, of (as dit nie aldus deel uitmaak nie) geskied het vóór die verskyning van sodanige kennisgewing, en daarin genoem word; en te dien einde moet die procedure gevolg word wat sub-artikel (1) voorskryf betreffende 'n Administrateursopdrag.

(2) Whenever the board is directed by the Administrator to submit to him a recommendation, it shall, unless the direction was contained in the reference in respect of which a notice has already been published under sub-section (1), or, if not so contained, was given before publication of any such notice and is referred to therein, give to all persons interested an opportunity of making representations to it; and to that end the procedure prescribed in sub-section (1) with regard to a reference by the Administrator shall be followed.

(3) Die vertoë waarop sub-artikel (1) en (2) dui, moet op skrif aan die Loonraad gerig word, tensy die Loonraad, na die goeëdunke, mondelinge vertoë toelaat.

(3) The representations referred to in sub-sections (1) and (2) shall be submitted in writing, unless the board in its discretion permits oral representations to be made.

12. (1) Vir die doel van 'n ondersoek deur die Loonraad of deur 'n lid van die Loonraad of deur so 'n lid bedryf werk, of daarvan verbonde is, binne 'n tydperk en op 'n wysc wat die Raad of raadslid voorskryf, enige inligting verstrek waartoe die Raad of raadslid hom versoek.

12. (1) For the purpose of any investigation by the board, or by a member of the board or by such a member with additional members every person engaged or employed in or connected with the trade concerned shall, if required by the board or by that member furnish to the board or member within a period and in a form specified by the board or member, any information indicated by the board or member.

(2) Elkeen wat 'n versoek uit hoofde van sub-artikel (1) deur die Raad of 'n raadslid aan hom gerig, verontagsaam of wat in antwoord op sodanige versoek opsetlik valse inligting aan die Raad verstrek, is skuldig aan 'n oortreding.

(2) Any person who fails to comply with any requirement of the board, or a member of the board made under sub-section (1), or who, being required under that sub-section to furnish any information, furnishes to the board or member any information which he knows to be false, shall be guilty of an offence.

(3) Die Raad kan elkeen wat syns insiens belangrike inligting kan verstrek oor die saak wat die Raad ondersoek of wat na raadsvermoede of -mening 'n verbandhoudende boek, dokument of ding besit of bewaar of

(3) The board may summon or direct to be summoned any person who in its opinion may be able to give material information concerning the subject of any investigation which is being carried out by it, or who it suspects or believes has in his possession or custody or under his control any book, document or thing which has any

beheer, dagvaar of laat dagvaar om op 'n tyd en plek wat die dagvaarding vermeld ter ondervraging of ter voorlegging van sodanige boek, dokument of ding voor die Raad te verskyn. Die Raad kan enige aldus voorgelegde boek, dokument of ding ter besigtiging behou.

(4) 'n Dagvaarding uitgereik kragtens bevoegdheid uit hoofde van sub-artikel (3) moet deur 'n raadslid of raadsgelastigde onderteken word.

(5) Die voorsittende lid by 'n raadsvergadering kan enige aanwesige wat kragtens sub-artikel (3) gedagvaar is, of kon geword het, oproep, en hom 'n eed opleë; en sodanige voorsittende lid en enige ander raadslid kan hom ondervra en die voorlegging van enige boek, dokument of ding in sy besit, bewaring, of beheer, van hom opeis: Met dien verstande dat die voorsittende lid 'n vraag wat syns insiens geen betrekking op die Raad se ondersoek het nie, kan belet.

(6) As iemand wat behoorlik kragtens sub-artikel (3) gedagvaar is, sonder voldoende rede versuim om te verskyn op die tyd en plek waartoe die dagvaarding hom aansê, of om aanwesig te bly totdat die Raad hom van verdere bywoning verskoon, of as iemand wat kragtens sub-artikel (5) opgeroep is, weier om hom as getuie te laat insweer, of sonder voldoende rede versuim om met sy hele kennis en oortuiging volledig en bevredigend te antwoord op elke regmatige vraag, of om enige boek, dokument of ding voor te lê wat hy besit, bewaar of beheer, is hy aan 'n oortreding skuldig: Met dien verstande dat die Raad die regsreëls op privilegie betreffende die ondervraging van iemand wat voor 'n hof gedagvaar is om getuie af te lê, of om 'n boek, dokument of ding voor te lê, in hierdie verband moet eerbiedig.

(7) 'n Getuie wat na beëdiging opsetlik 'n vals antwoord gee op 'n vraag wat 'n raadslid aan hom stel, of wat opsetlik 'n vals verklaring aflê, word gehou vir skuldig aan meened.

(8) Tensy die Raad anders besluit, ondervra hy 'n getuie in die openbaar: Met dien verstande dat die ondervraging van 'n getuie op sy versoek privaat moet plaasvind: Met dien verstande voorts dat die Raad na die goedgeunkte, en met die toestemming van die getuie, die teenwoordigheid van 'n bepaalde persoon by die ondervraging van sodanige getuie kan magtig.

(9) Die Raad kan, om enige rede syns insiens voldoende, gelas dat 'n ondervraging gedoen moet word deur, of dat 'n boek, dokument of ding voorgelê moet word aan, 'n lid of 'n bykomende lid van die Raad, of 'n daartoe aangewese beampte van die Raad; en so 'n lid, bykomende lid of beampte van die Raad kan 'n eed opleë aan enige getuie wat voor hom verskyn; en die bepallings van hierdie artikel geld met die nodige veranderinge sodanige ondervraging of die voorlegging of terughouding van so 'n boek, dokument of ding; en die lid, bykomende lid of aangewese beampte word by die toepassing van hierdie sub-artikel gehou vir 'n raadslid wat by 'n raadsvergadering voorsit.

(10) As 'n raadslid of -beampte, na gelang, oortuig is dat iemand geldelike verlies gely het, of onkoste moes aangaan weens 'n dagvaarding om voor die Raad, of 'n raadslid, of so 'n raadslid en die bykomende lede, of 'n beampte aangewys ingevolge sub-artikel (9) te verskyn, kan sodanige raadslid of -beampte gelas dat so-iemand uit staatsgelde 'n toelag moet ontvang wat moontlik by regulasie voorgeskryf word, of dat sy geldelike verlies of onkoste hom vergoed moet word, watter bedrag ook al die minste is.

(11) Elkeen wat die Raad of 'n raadslid of 'n bykomende lid of 'n beampte aangewys ingevolge sub-artikel (9) by die uitvoering van enige van sy bevoegdhede ingevolge hierdie artikel opsetlik binder of beledig,

bearing upon the subject of the investigation, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document or thing. The board may retain for examination any book or document or thing so produced.

(4) A summons issued in the exercise of the powers conferred by sub-section (3) shall be signed by a member of the board or by an officer directed by the board to do so.

(5) The person presiding at any meeting of the board may call and administer an oath to any person present at the meeting who was or might have been summoned in terms of sub-section (3); and the person so presiding and any other member of the board may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control: Provided that the person presiding at the meeting may in his discretion disallow any question which in his opinion is not relevant to the investigation which is being carried out by the board.

(6) If any person, being duly summoned under sub-section (3), fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused by the board from further attendance, or if any person called in terms of sub-section (5) refuses to be sworn as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him, or to produce any book, document or thing in his possession or custody or under his control, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing before the board, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law, shall apply.

(7) Any witness who, after having been sworn, gives a false answer to any question put to him by any member of the board, or makes a false statement on any matter, knowing that answer or statement to be false, shall be deemed to be guilty of perjury.

(8) The interrogation of any witness by the board shall be conducted in public unless the board otherwise decides: Provided that at the request of any witness the interrogation of that witness shall be conducted in private: Provided further, that the board may, in his discretion; and with the consent of the witness, authorize the presence of any specified person at the interrogation of that witness.

(9) The board may, for any reason which it may deem sufficient, order that any interrogation be made by, or that any book, document or thing be produced before a member or additional member of the board or an officer designated for the purpose by the board; and any such member, additional member of the board or officer may administer an oath to any witness appearing before him; and the provisions of this section shall, *mutatis mutandis*, apply to such interrogation or the production or retention of any such book, document or thing and the member or additional member of the board or officer so designated by the board shall for the purposes of the application of this sub-section be deemed to be a member of the board presiding at a meeting of the board.

(10) Any person summoned to appear before the board or a member of the board or such member with additional members or an officer designated in terms of sub-section (9), may, if the board member or officer, as the case may be, is satisfied that he has by reason of his appearance in obedience to the summons suffered any pecuniary loss or been put to any expense, be paid out of public moneys any allowances that may be prescribed by regulation, or the amount of such loss and such expense, whichever is the less.

(11) Any person who wilfully hinders or insults the board or any member or additional member of the board or an officer designated in terms of sub-section (9) in the exercise of any of the powers conferred upon him

is skuldig aan 'n oortreding; en, as so-iemand 'n getuie is, kan die Raad, of 'n raadslid, -beampte, of bykomende lid, na gelang, beveel dat die vergoeding wat so-iemand uit hoofde van sub-artikel (10) sou toegekomp het, weer-lou of verminder moet word.

13. (1) Die verslag van 'n raadslid, of van so 'n lid en die bykomende lede, sowel as 'n afsonderlike verslag of voorbehoud voorgelê uit hoofde van die voorbehoudsbepaling van sub-artikel (2), moet aan die Raad voorgelê word, en die Raad moet elke sodanige verslag of voorbehoud met sy op- en aanmerkings daaroor aan die Administrateur deurstuur.

(2) 'n Verslag of aanbeveling geteken deur 'n meerderheid van raadslede word gehou vir 'n verslag of aanbeveling, na gelang, van die Raad: Met dien verstande dat enige raadslid wat aan 'n ondersoek deelgeneem het, 'n afsonderlike verslag oor die ondersoek of oor die voorbehoud op 'n verslag oor die ondersoek aan die Raad kan voorlê, en dat enige raadslid sy voorbehoud op enige aanbeveling van die Raad kan voorlê.

(3) Die Raad kan na goeiddunke tussentydse verslae uitbring.

(4) Elke verslag, aanbeveling en voorbehoud wat die Administrateur ontvang, lê hy gedurende 'n sitting van die Wetgewende Vergadering binne veertien dae na ontvangens ter Tafel; hou die Wetgewende Vergadering dan egter geen sitting nie, dan binne veertien dae nadat die eersvolgende sitting begin.

14. (1) Elke raadslid of -beampte of bykomende lid wat enige inligting betreffende enige persoon, firma of saakonderneming, in die loop van sy ampsoffisiële verkere, aan 'n ander buiten die Administrateur of die Raad, of 'n raadslid of -beampte, of 'n bykomende lid, of 'n geregs-hof bekend maak, is skuldig aan 'n oortreding, tensy die uitvoering van die bepaling van hierdie Ordonnansie hom tot so 'n bekendmaking verplig.

(2) Ondanks die bepaling van sub-artikel (1) kan die Administrateur enige raadsverslag, en enige verslag of voorbehoud uit hoofde van artikel *dertien* aan hom voorgelê, en enige desbetreffende op- of aanmerkings van die Raad, en enige inligting oor besoldiging, diensvoorwaardes, of enigiets anders wat uit die werking van hierdie Ordonnansie blyk in verband met 'n groep of klas persone, firmas of saakondernemings in enige streek of oor 'n individu, firma of saakonderneming volgens die vorm of wyse wat hy goedvind, openbaar: Met dien verstande dat die naam of identiteit van daardie individua, firma of saakonderneming geheim moet bly.

15. (1) As die Administrateur by ontvangens van 'n raadsaanbeveling dit wenslik ag, kan hy —

(a) in die *Offisiële Koerant* 'n kennisgewing laat verskyn wat die aanbeveling uiteensê en 'n uitnodiging bevat aan almal wie se belange moontlik regstreeks of onregstreeks getref word en wat beswaar het teen 'n vaststelling volgens die aanbeveling, om sodanige beswaar skriftelik te rig aan 'n beampte by 'n adres en binne 'n tydperk (minstens veertien dae na verskyning) wat die kennisgewing aangee;

(b) binne sewe dae na die verskyning van die kennisgewing waarom paragraaf (a) gaan, 'n verwysing in een of meer nuusblaaie laat druk waarby die aandag van alle belanghebbendes op die kennisgewing gevestig word.

(2) Die beampte aan wie 'n beswaar na aanleiding van die uitnodiging ooreenkomstig sub-artikel (1) gerig is, moet sodanige beswaar ter oorweging aan die Raad voorlê.

(3) Die Raad moet elke beswaar oorweeg wat ingevolge sub-artikel (2) aan hom gerig is, en moet daarvoor verslag doen by die Administrateur. In so 'n verslag of kan hy wysigings daarin aanbring wat toe 'n beswaar of ander oorweging hom syns insiens noep.

or it by this section shall be guilty of an offence; and, if he is a witness, the board, member, additional member or officer, as the case may be, may order that no payment or only a reduced payment shall be made to him under sub-section (10).

13. (1) The report of any member, or of such a member with additional members, including any separate report or reservation submitted under the proviso to sub-section (2), shall be submitted to the board; and the board shall transmit every such report or reservation to the Administrator with its observations thereon.

(2) A report or a recommendation signed by a majority of the members of the board shall be deemed to be the report or recommendation, as the case may be, of the board: Provided that any member of the board who has taken part in any investigation may submit to the board a separate report on that investigation or a reservation to any report on that investigation, and any member of the board may submit to the board a reservation to any recommendation.

(3) The board may, if it thinks fit, submit interim reports.

(4) Every report and recommendation and every reservation thereto shall be laid on the Table of the Legislative Assembly within fourteen days after the receipt thereof by the Administrator if the Legislative Assembly is then in session, or, if the Legislative Assembly is not then in session, within fourteen days after the commencement of its next ensuing session.

14. (1) Any member, additional member, the board or any officer who discloses except to the Administrator or to an officer or to the board or to a court of law, or, save for the purposes of this Ordinance, to any other person, any information in relation to any person, firm, or business acquired in the exercise of his powers under this Ordinance or in the performance of his duties in carrying out this Ordinance shall be guilty of an offence.

(2) The Administrator may, notwithstanding the provisions of sub-section (1), make public, in such manner or form as he may think fit, any report of the board and any report or reservation transmitted to him under section *thirteen*, and any observations made thereon by the board, and any information as to remuneration or conditions of employment or other information acquired under this Ordinance, as to any group or class of persons, firms or businesses in any area, and any information as to any individual person, firm or business: Provided that there be no disclosure of the name or identity of that person, firm or business.

15. (1) After the receipt by him of any recommendation submitted by the board, the Administrator may, if he deems it expedient to do so—

(a) cause to be published in the *Gazette* a notice setting forth the recommendation and containing an invitation to all persons whose interests may be affected directly or indirectly and who have any objections to the making of a determination in accordance with the recommendation, to lodge them in writing with an officer at an address stated in the notice, within a period defined in the notice, which shall not be shorter than fourteen days as from the date of publication of the notice, and

(b) cause to be published in one or more newspapers, within seven days after the publication of the notice referred to in paragraph (a), a statement directing the attention of all concerned to that notice.

(2) The officer with whom any objection has been lodged in response to the invitation published in terms of sub-section (1) shall refer it to the board for consideration by it.

(3) The board shall consider every objection referred to it in terms of sub-section (2), and shall report thereon to the Administrator, and may abide by its previous recommendation or make such amendments therein as in the opinion of the board are called for by reason of the objections or otherwise.

16. (1) By die oorweging van 'n aanbeveling waarteen geen beswaar geopper is nie, of wat ongewysig gebly het nadat die Raad 'n geopperde beswaar ooreenkomsig sub-artikel (3) van artikel vyftien oorweeg het, of by ontvangs van 'n gewysigde aanbeveling wat hom ingevolge sub-artikel (3) van daardie artikel voorgelê word, kan die Administrateur, as hy dit wenslik ag, 'n vasstelling in die voeg van òf die ongewysigde òf die gewysigde aanbeveling doen: Met dien verstande —

- (a) dat daar geen vasstelling plaasvind tensy kennisgewing ooreenkomsig sub-artikel (1) van artikel vyftien geskied het nie; maar waar 'n gewysigde aanbeveling ingevolge sub-artikel (3) van daardie artikel aan die Administrateur voorgelê is wat syns insiens wesenlik ooreenkomsig met die verskene aanbeveling; kan hy tot vasstelling oorgaan sonder om die wysigings bekend te maak; en
- (b) dat die Administrateur, na oorleg met die Raad, enige deel van 'n bedryf, klas werknemer, enige streek of streekdeel waaroor die aanbeveling gaan, soos hy bepaal, van die vasstelling kan uitsluit vir solank hy van tyd tot tyd aangee.

(2) Nadat hy so 'n vasstelling gedoen het, laat die Administrateur 'n kennisgewing daarvan in die *Offisiële Koerant* verskyn, met 'n uiteensetting van die bepalings daarvan, 'n oopgaaf van die datum waarvandaan die bepalings in werking tree, en van elke afdeling van die bedryf, elke klas werknemers, streek of streekdeel wat daarby uitgesluit is, en, behoudens sodanige uitsluitels, is die genoemde bepalings vanaf so 'n datum bindend.

(3) Die bepalings van 'n vasstelling wat ingevolge sub-artikel (2) van hierdie artikel of sub-artikel (3) van artikel *negentien* in werking is, bly, behoudens die bepalings van paragraaf (a) van sub-artikel (5) van artikel *twee* en buiten waar hul ingevolge artikel *agtien* opgeskort word, in werking totdat hulle ingevolge die haasgenoemde artikel ingetrek word, of totdat 'n nuwe vasstelling hulle vervang.

17. (1) Op raadsaanbeveling kan die Administrateur by kennisgewing in die *Offisiële Koerant* 'n vasstelling wysig waar so 'n wysiging 'n minder belangrike vegting of ander fout syns insiens sou verhelp of 'n bepaling sou verduidelik.

(2) Voordat die Administrateur 'n wysiging ingevolge sub-artikel (1) bekendmaak, laat hy 'n kennisgewing van die beoogde wysiging in die *Offisiële Koerant* verskyn met 'n oopgaaf van die tydperk waarbinne, die naam van die persoon by wie, en die adres waaraan vertoë betreffende die genoemde wysiging gerig moet word.

(3) Die Administrateur kan die Raad versoek om die wenslikheid van die wysiging van 'n vasstelling in die algemeen, of aparte bepalings daarvan in die besonder, te oorweeg op ander wyse buiten dié wat sub-artikel (1) of (2) aangee.

(4) By ontvangs van 'n versoek uit hoofde van sub-artikel (3) moet die Raad kennisgewing daarvan in die *Offisiële Koerant* laat verskyn met 'n oopgaaf van die strekking daarvan, die tydperk waarbinne, die persoon by wie, en die adres waaraan vertoë betreffende die genoemde wysiging gerig moet word.

(5) Nu oorweging van al die vertoë uit hoofde van sub-artikel (4), en van moontlike ander verbandhoudende sake, moet die Raad 'n verslag en aanbeveling aan die Administrateur voorleë.

(6) Die bepalings van sub-artikel (2) van artikel vier, en van artikel *nege, tien, twaalf, en dertien* geld met die nodige veranderinge elke ondersoek, verslag en aanbeveling wat die Raad uit hoofde van hierdie artikel doen.

16. (1) Upon consideration of a recommendation, to which no objection has been lodged or to which an objection has been lodged and has been considered by the board in terms of sub-section (3) of section fifteen but which has not been amended by the board, or upon receipt of an amended recommendation submitted under the provisions of sub-section (3) of that section, the Administrator, may, if he deems it expedient to do so, make a determination, which shall be in accordance with the recommendation or, if the recommendation has been amended, in accordance with the amended recommendation: Provided that—

- (a) no determination shall be made unless publication in terms of sub-section (1) of section fifteen has been effected; but whenever an amended recommendation has been submitted under sub-section (3) of that section, which, in the opinion of the Administrator, does not differ materially from the recommendation in respect of which such publication has been effected, the Administrator may make a determination without any publication in respect of the amendments; and
- (b) the Administrator may, after consultation with the board, exclude from the determination for such period as he may from time to time determine any section of a trade, class of employee or any area or part of any area embraced within the recommendation, as he may specify.

(2) After making any such determination, the Administrator shall cause to be published in the *Gazette* a notice stating that fact and setting forth the provisions of the determination and specifying the date as from which they shall be binding and every section of any trade, class of employees, or area or part of any area which he has excluded from the determination; and the said provisions shall, subject to any such exclusions, be binding as from that date.

(3) The provisions of a determination which, in terms of sub-section (2) of this section or sub-section (3) of section nineteen, have become operative, shall, subject to the provisions of paragraph (a) of sub-section (5) of section two, and except to the extent to which in terms of section eighteen they are suspended, remain operative until they are cancelled in terms of the last-mentioned section, or until they are superseded by a fresh determination.

17. (1) On the recommendation of the board the Administrator may, by notice in the *Gazette*, make any amendment to a determination which, in his opinion, rectifies a minor omission or error or clarifies any provision.

(2) Before publishing any notice under sub-section (1), the Administrator shall cause to be published in the *Gazette* a notice setting forth the proposed amendment and stating the period within which, the person with whom and the address at which any representations in regard thereto may be lodged.

(3) The Administrator may request the board to consider the advisability of amending any determination generally, or of amending any particular provision of a determination otherwise than under sub-sections (1) and (2).

(4) Upon receipt of a request under sub-section (3), the board shall cause to be published in the *Gazette* a notice setting forth the fact that it has received the said request and the purport thereof, and stating the period within which, the person with whom and the address at which any representations in regard to the said amendment may be lodged.

(5) After consideration of all representations lodged under sub-section (4), and of any other relevant matter, the board shall submit a report and recommendation to the Administrator.

(6) The provisions of sub-section (2) of section four and of sections nine, ten, twelve and thirteen shall, *mutatis mutandis*, apply in connection with any investigation conducted and to any report and recommendation submitted by the board under this section.

(2) As die Sekretaris betreffende 'n aansoek, al word dit gedoen binne of na die tydperk wat sub-artikel (1) voorskryf, oortuig is dat —

- (a) die vereistes van hierdie artikel nagekom is; en
- (b) die grondwet met hierdie Ordonnansie strook, en niks strydigs met enige wetsbepaling bevat nie, nóg enigiets wat die doeleindes van enige wet sal verduidelik nie; en
- (c) die vakvereniging of werkgewersorganisasie nie gestig is om die bepaling van enige wet te ontdruk nie,

registreer hy, behoudens die bepalinge van sub-artikel (3) en (4), die vakvereniging of werkgewersorganisasie as verteenwoordiger van die betrokke belange in die betrokke streek, of van sodanige beperkte belange of kleiner streek soos hy bepaal, en besorg hy aan die vereniging of organisasie 'n registrasiesertifikaat volgens die vorm voorgeskryf by regulasie saam met een afskrif van die grondwet met 'n getuigskrif onder sy hand daarop dat hy die grondwet goedkeur; en die grondwet geld dan vanaf die registrasiedatum van die vakvereniging of werkgewersorganisasie.

(3) As die Sekretaris daarvan oortuig is dat 'n reeds geregistreerde vakvereniging of werkgewersorganisasie genoegsaam verteenwoordigend is van die hele betrokke streek, of 'n bepaalde deel daarvan, of van al die betrokke belange, of 'n bepaalde deel daarvan, ten opsigte waarvan die vereniging of organisasie om registrasie aansoek doen, weier die Sekretaris om die aansoekende vakvereniging of werkgewersorganisasie te registreer ten opsigte van die streek of streekdeel, belange of belangedeel, na gelang, en as die Sekretaris dit gerade ag, kan hy die aansoekende vakvereniging of werkgewersorganisasie laat registreer ten opsigte van sodanige streek of belange wat binne die perke van die aansoek ressorteer en wat syns insiens ontoereikend verteenwoordig word deur 'n reeds geregistreerde vakvereniging of werkgewersorganisasie.

(4) Waar die Sekretaris redelik vermoed dat 'n reeds geregistreerde vakvereniging of werkgewersorganisasie 'n doelmatige verteenwoordiger is van die streek- of belangedeel of -deel waarvoor die aansoek gemaak, maar tog nie daarvan oortuig is nie, moet hy of registreer of by kennisgewing in die *Offisiële Koerant* so 'n vereniging of organisasie van die aansoek verwittig en uitnodig om hom skriftelik of andersins, soos hy aandui, binne een maand na die verwittiging of bekendmaking moontlike besware teen die registrasie mee te deel, en daarop oorweeg die Sekretaris die behoorlik aldus voorgelegde besware. Elke vereniging of organisasie wat 'n beswaar opper, moet aan die Sekretaris binne die tydperk wat hy aangee, moontlik gevraagde inligting verskaf.

(5) Elke tak van 'n vakvereniging of werkgewersorganisasie wat in die Unie registreer is, kan om registrasie as sodanig in die Gebied aansoek doen asof so 'n tak 'n vakvereniging of werkgewersorganisasie was wat uit hoofde van sub-artikel (1) om registrasie aansoek doen. By sy aansoek moet so 'n tak of takke 'n afskrif van sy grondwet wat regmatig in die Unie geld en wat die lidmaatskap van Gebiedsbewoners uitdruklik veroorloof, aan die Sekretaris besorg, tesame met 'n stel beheerreëls op sy sake in die Gebied wat strook met die bepalinge van artikel vyf-en-twintig, en daardie beheerreëls word dan as sy grondwet beskou, en die bepalinge van hierdie artikel geld dan met die nodige veranderinge sodanige aansoek en registrasie.

21. Elke vakvereniging of werkgewersorganisasie wat ingevolge hierdie Ordonnansie geregistreer word, is 'n persoon wat regens kan eis en verweer, en wat (behoudens die wetsverbodende en -beperkings op die verkryging of besit van grond) vaste sowel as roerende eiendom kan koop of andersins kan verkry, besit en verveem.

(2) If the Secretary is satisfied in respect of any application, whether it is made within or after the close of the period fixed by sub-section (1), that—

- (a) the requirements of this section have been complied with; and
- (b) the constitution is consistent with this Ordinance and does not contain provisions which are contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law; and
- (c) the union or organization has not been formed for the purpose of evading the provisions of any law,

he shall, except as provided in sub-sections (3) and (4), register the union or organization in respect of the interests and in respect of the area for which it applies for registration (or in respect of such smaller interests or areas as he may determine) and shall forward to the union or organization a certificate of its registration in the form prescribed by regulation, together with one copy of the constitution with a certificate written thereon, signed by him, stating the fact that he has approved thereof, and the constitution shall have effect as from the date of registration of the union or organization.

(3) If the Secretary is satisfied that a trade union or employers' organization already registered is sufficiently representative in the whole of the area in respect of which the applicant union or organization seeks registration or in any part thereof, of the whole of the interests in respect of which it seeks registration or of any part thereof, he shall refuse to register the applicant union or organization in respect of that area or of that part thereof or in respect of those interests or that part thereof, as the case may be, and he may, if he deems it expedient to do so, register the applicant union or organization in respect of such area or interests falling within the limits of those in respect of which application for registration is sought as he is satisfied are not sufficiently represented by the union or organization already registered.

(4) If in the opinion of the Secretary there exist reasonable grounds for supposing that a trade union or employers' organization already registered is sufficiently representative in the whole or any part of the area in respect of which the applicant union or organization seeks registration of the whole or any part of the interests in respect of which it seeks registration; but he is not satisfied that that is so, he shall, by direct communication with the union or organization already registered or by notice published in the *Gazette*, inform that union or organization of the application and invite it to submit to him in writing or otherwise, as indicated by him, within one month of the communication or publication, as the case may be, any objection which it may have to the registration, and shall take into consideration any objection duly so submitted to him. Any union or organization submitting any such objection shall furnish the Secretary within a period fixed by him with such information as he may require.

(5) Any branch or all branches of any trade union or employers' organization which is registered in the Union may make application to be registered as a trade union or employers' organization within the Territory, as if such branch or branches were a trade union or employers' organization making application for registration in terms of sub-section (1). Upon making application such branch or branches shall lodge with the Secretary a copy of the constitution lawfully operative within the Union specifically authorising membership of persons in the Territory together with a set of rules governing the conduct of its affairs within the Territory conforming to the provisions of section twenty-five which set of rules shall be deemed to be its constitution, and the provisions of this section shall *mutatis mutandis* apply in respect of such application and registration.

21. Every trade union or employers' organization shall upon registration under this Ordinance become a body corporate, and shall be capable in law of suing and being sued and, subject to the provisions of any law prohibiting or restricting the acquisition or holding of land, of purchasing or otherwise acquiring, holding and alienating property, movable or immovable.

22. (1) Word 'n vakvereniging of werkgewersorganisasie ingevolge hierdie Ordonnansie geregistreer, dan gaan die regte en verpligtinge van sy lede in hul hoedanigheid as lede oor op die vakvereniging of werkgewersorganisasie.

(2) Tensy die grondwet van 'n geregistreerde vakvereniging of werkgewersorganisasie anders bepaal, is nie-mand bloot as lidmaat, ampsdraer of amptenaar van so 'n vakvereniging of werkgewersorganisasie aanspreeklik vir die verpligtinge van sodanige vereniging of organisasie nie.

23. (1) Wanneer ook al die Sekretaris daarvan oortuig word dat die streek of die belange waarvoor 'n vakvereniging of werkgewersorganisasie geregistreer staan, nie vereniging of belange wat die vereniging of organisasie dien nie, kan die Sekretaris uit die beweging na bespreking met daardie vakvereniging of werkgewersorganisasie, of op versoek van daardie vereniging of organisasie, die geregistreerde bestek of streek daarvan verander, en sy register-aantekening dienoooreenkomstig wysig.

(2) Die Sekretaris kan te eniger tyd die sekretaris van die betrokke vakvereniging of werkgewersorganisasie gelas om die registrasiesertifikaat wat daaraan uitgereik is, aan hom in te lewer, en die sekretaris moet binne veertien dae daarna die registrasiesertifikaat by die Sekretaris inlewer.

(3) By ontvangs van die registrasiesertifikaat bring die Sekretaris die nodige veranderinge aan, en besorg hy dit aan die vereniging of organisasie terng, of reik hy 'n nuwe registrasiesertifikaat aan daardie vereniging of organisasie uit.

(4) Die bepalinge van sub-artikel (3) en (4) van artikel twintig geld met die nodige veranderinge elke voorgestelde wysiging uit hoofde van hierdie artikel wat die streek of die belange van die vakvereniging of werkgewersorganisasie sou uitsit.

24. 'n Vakvereniging of werkgewersorganisasie mag slegs ingevolge hierdie Ordonnansie geregistreer word.

25. Die grondwet van elke geregistreerde vakvereniging of werkgewersorganisasie moet die onderstaande sake reël —

- (a) die kwalifikasies van lidmaatskap en die wyse waarop die bedrae van maontlike ledegeld vasgestel word;
- (b) die aanstelling, afsdanking en bevoegdiede van ampsdraers en amptenare;
- (c) die belegging en leiding van vergaderings van die vakvereniging of werkgewersorganisasie se lede of lede-verteenwoordigers;
- (d) die verkiesing van verteenwoordigers in 'n veroeningsraad;
- (e) eiendomsverkryging en -beheer;
- (f) die boekhouding en die periodieke ouditering van rekenings minstens een keer per kalenderjaar: en die beskikbaarstelling van gearremerkte afskrifte van goeuditerde rekenings en ouditeursverslae daaroor aan lede;
- (g) die byhouding van lederegisters en 'n opgaaf van elke lid se (maontlike) ledegeldbetaling, en die tydperke waarvoor sodanige betalings gaa;
- (h) die omstandighede waaronder 'n lid die voordele van sy lidmaatskap verbeur;
- (i) die wysiging van die grondwet;
- (j) die likwidering van die vakvereniging of werkgewersorganisasie; en
- (k) sodanige ander aangeleenthede soos daar by regulasie voorgeskryf word;

en kan bepaal aan watter doeleindes sy geldmiddelle bestee moet word, en die voordele waarop sy lede geregtig kan word, en die boetes, aanslae en verbodings waarvoor hulle aanspreeklik is, en kan voorsiening maak vir die instelling van 'n uitvoerende komitee, en ander komitees, en 'n geheime stemming en, in so 'n geval, watter stem-prosedure gevolg en watter beheer daaroor uitgeoefen moet word, en kan bowendien elke ander gevoeglike saak reël waarvoor, na die Sekretaris meen, 'n vakvereniging of

22. (1) Upon the registration under this Ordinance of any trade union or employers' organization, all rights and liabilities of the members thereof in their capacity as such shall devolve upon the union or organization.

(2) Unless it is otherwise provided by the constitution of a registered trade union or employers' organization, no person shall, by reason only of the fact that he is a member, office-bearer or official of that union or organization, be liable for any of the obligations of that union or organization.

23. (1) If at any time the Secretary is satisfied that the area or the interests in respect of which any trade union or employers' organization is registered do not coincide with the area or interests served by that union or organization, he may of his own motion, after consultation with that union or organization, or at its request, vary the area or interests in respect of which it is registered, and shall, in that event make the necessary alterations in his registers.

(2) The Secretary may at any time require the secretary of the union or organization concerned to transmit to him the certificate of registration issued to it, and the secretary shall within fourteen days of being so called upon transmit to the Secretary the certificate of registration.

(3) The Secretary shall, upon receipt by him of the certificate of registration, make the necessary alterations therein, and he shall return it to the union or organization, or issue to that union or organization a fresh certificate.

(4) The provisions of sub-sections (3) and (4) of section twenty shall, *mutatis mutandis*, apply in respect of any variation proposed to be made in terms of this section, the effect of which would be to increase the area or widen the interests of the trade union or employers' organization.

24. No trade union or employers' organization shall be registered otherwise than under this Ordinance.

25. The constitution of every registered trade union or employers' organization shall provide for the following matters—

- (a) the qualifications of membership, and the manner in which the amounts of the subscriptions (if any) to be paid by members shall be determined;
- (b) the appointment, removal and powers of office-bearers and officials;
- (c) the calling and conduct of meetings of members or of representatives of members of the union or organization;
- (d) the election of representatives on any conciliation board;
- (e) the acquisition and control of property;
- (f) the keeping of books of account and the periodical auditing of books and accounts at least once every calendar year, and the making available to members of true copies of the audited accounts and of the auditor's reports thereon;
- (g) the maintenance of a register of members and a record of the subscriptions (if any) paid by each member, and the periods to which those payments relate;
- (h) the circumstances under which a member shall cease to be entitled to any of the benefits of membership;
- (i) the alteration of the constitution;
- (j) the winding-up of the union or organization; and
- (k) such other matters as are prescribed by regulation;

and may define the purposes to which any of its funds may be applied and the benefits to which members may become entitled, and prescribe the fines, levies and forfeitures to which they are liable and provide for the establishment of an executive committee and other committees and provide for the holding of ballots, in which case it shall prescribe the manner in which any ballot shall be conducted and controlled, and deal with any other matter which in the opinion of the Secretary is

werkgewersorganisasie, na gelang, mag beskik: Met dien verstande dat waar die Sekretaris twyfel of 'n bepaling wettig is al dan nie, of meen dat 'n bepaling teenoor die lede of die publiek onbillik is, hy sodanige bepaling kan belet, en slegs bepalings wat syms insiens teenoor die lede of die publiek, na gelang, wettig en billik is, hoef goel te keur.

26. (1) 'n Geregistreerde vakvereniging of werkgewersorganisasie kan sy grondwet volgens die bepalings daarvan wysig.

(2) Die sekretaris van die vakvereniging of werkgewersorganisasie moet drie afskrifte van elke besluit ter wysiging van die geregistreerde vakvereniging of werkgewersorganisasie se grondwet aan die Sekretaris besorg tesame met 'n sertifikaat, wat hy self en sy voorsitter teken, ten effekte dat die grondwet se grondwetwysigingsbepalings nagekom is.

(3) As 'n geregistreerde vakvereniging of werkgewersorganisasie by so 'n besluit—

(a) sy bestaende grondwet met 'n nuwe wil vervang, en die Sekretaris daarmee genoeg neem dat die voorgestelde nuwe grondwet met hierdie Ordonnansie strook, en geen bepalings bevat wat teen enige wettlike bepalings indruis nóg op die verdeling van enige wetsbedoelings gemik is nie; of

(b) slegs besondere bepalings van sy grondwet wil wysig, en die Sekretaris daarmee genoeg neem dat die voorgestelde wysigings geensins die grondwet onbestaanbaar met hierdie Ordonnansie sou maak nie, nóg teen enige wetsbepaling sou indruis, nóg op die verdeling van enige wetsbedoelings gemik is nie, kan hy die voorgestelde nuwe grondwet of die wysiging, na gelang, goedkeur, en daarop besorg hy een van die afskrifte van die besluit aan die sekretaris van die vakvereniging of die werkgewersorganisasie met 'n getuiskrif, deur hom daarop geteken, van sy goedkeuring en die datum daarvan, en vanaf daardie datum tree die nuwe grondwet of die wysiging in werking.

(4) Die voorbehoud van artikel vyf-en-twintig geld met die nodige veranderinge elke wysiging wat ingevolge sub-artikel (2) voorgelê word.

(5) Wil 'n geregistreerde vakvereniging of werkgewersorganisasie sy geregistreerde naam verander, dan moet so 'n verandering net soos 'n grondwetwysiging aangebring word, en as die desbetreffende bepalings van hierdie artikel nagekom is, reik die Sekretaris 'n nuwe sertifikaat uit en verander hy sy register dienoreenkomstig.

27. Waar die grondwet van 'n geregistreerde vakvereniging of werkgewersorganisasie aan die vereniging of die organisasie self, of aan 'n komitee of ampdraers of amptenare daarvan, die reg verleen om 'n geheime stemming te hou, of om aan 'n staking of uitsluiting deel te neem, of om dit aan die gang te sit, voort te voer of te beëindig, mag sodanige vereniging of organisasie of komitee of ampdraers of amptenare geensins daardie reg aan andere oordra nie.

28. (1) Binne dertig dae nadat die Sekretaris hom skriftelik daartoe versoek, moet die sekretaris van elke geregistreerde vakvereniging of werkgewersorganisasie 'n opgaaf aan die Sekretaris verstrek van sy vereniging of organisasie se ledetal op die tydstip wat die Sekretaris aangee, met vermelding van die getal lede wie se ledesgeld dan meer as drie maande agterstallig is, of gelyksoortige besonderhede oor enige klas of groep lede in die streek waarvoor dit geregistreer is, of in enige deel daarvan, of in enige ander streek.

(2) Wanneer 'n geregistreerde vakvereniging of werkgewersorganisasie, ampdraers of amptenare, of lede van 'n uitvoerende komitee of bestuur aansel of kies,

suitable to be dealt with in the constitution of a trade union or employers' organization, as the case may be: Provided that if the Secretary is unable to decide whether any provision is, or is not, in accordance with law or is of the opinion that any provision is unreasonable in relation to the members or the public, he shall refuse to approve of such provision and shall approve only of such provisions as he is satisfied, are in accordance with law and reasonable in relation to the members or the public, as the case may be.

26. (1) A registered trade union or employers' organization may, in a manner directed by its constitution, alter its constitution.

(2) Three copies of every resolution for the alteration of the constitution of a registered trade union or an employers' organization shall be transmitted to the Secretary by the secretary of the trade union or employers' organization, together with a certificate signed by him and by the chairman of the union or organization, stating that the provisions of the constitution regulating the alteration of the constitution have been complied with.

(3) If by any such resolution any registered trade union or employers' organization proposes—

(a) to substitute a new constitution for its existing constitution, and the Secretary is satisfied that the proposed new constitution would be consistent with this Ordinance and would not contain provisions which are contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law; or

(b) to alter particular provisions only of its constitution, and the Secretary is satisfied that the proposed alterations would not cause the constitution to be inconsistent with this Ordinance or to contain provisions which are contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law,

he shall approve the proposed new constitution or alteration, as the case may be, and shall return one of the copies of the resolution to the Secretary of the union or organization, with a certificate written thereon and signed by him, stating the fact of his approval and the date on which his approval was given; and as from that date the new constitution or the alteration, as the case may be, shall have effect.

(4) The proviso to section twenty-five shall, *mutatis mutandis*, apply in respect of any alteration submitted in terms of sub-section (2).

(5) Should any registered trade union or employers' organization desire to change the name under which it is registered, such change shall be effected in the same manner as an alteration of the constitution, and if the provisions of this section in relation thereto have been complied with, the Secretary shall issue a new certificate and make the necessary alterations in his registers.

27. Whenever under the constitution of a registered trade union or employers' organization the power to take any ballot or to take part in or to continue or to discontinue any strike or lock-out is exercisable by the union or organization or any committee or office-bearers or officials thereof, the union or organizations, or any committee or office-bearers or officials thereof, shall not delegate that power to any other person or body.

28. (1) The secretary of every registered trade union or employers' organization shall, within thirty days after the receipt by him of a written request by the Secretary, furnish to him a statement showing, as at any date specified by the Secretary, the number of members of the union or organization, and the number of such members whose subscriptions were in arrear for a period exceeding three months, or similar particulars in respect of any class or group of such members in the area in respect of which it is registered or in any part thereof or in any other area.

(2) Whenever any election or appointment of office-bearers or officials or members of the executive committee or committee of management of a registered trade

moet die sekretaris van die betrokke vakvereniging of werkgewersorganisasie die name en adresse van die aangevelde of verkosenes binne dertig dae na die aanstelling of verkiesing aan die Sekretaris besorg, letsy daar 'n verandering van ampsdraers, amptenare of lede ingetree het, al dan nie.

(3) Wanneer die hoofkantoor van 'n geregistreerde vakvereniging of werkgewersorganisasie sy adres verander, moet die sekretaris daarvan die nuwe adres binne dertig dae na so 'n verandering aan die Sekretaris mededeel.

(4) Waar die grondwet van 'n geregistreerde vakvereniging of werkgewersorganisasie die instelling van takke reël, moet die sekretaris daarvan binne dertig dae na die instelling van 'n nuwe takvereniging of organisasie die name en adresse van die tak se voorsitter en die sekretaris en besonderhede oor die tak se lidmaatskap aan die Sekretaris mededeel.

29. (1) As die Sekretaris te eniger tyd rede het om te vermoed dat 'n vakvereniging of werkgewersorganisasie of enige van sy ampsdraers of amptenare die bepalinge van die grondwet verontagsaam, of andersins onwettig optree, en as hy die vakvereniging of werkgewersorganisasie op die onregmatige gewys het, maar binne 'n deur hom toegeweze tydperk geen bevredigende antwoord ontvang het nie, kan die Sekretaris ondersoek instel na die wyse waarop daardie vakvereniging of werkgewersorganisasie of sy ampsdraers of amptenare sy of hul plicte en bevoegdhede ingevolge hierdie Ordonnansie of die betrokke grondwet uitoefen, of kan die Sekretaris 'n beampte (in hierdie artikel heet hy die gemagtigde) aanstel om sodanige ondersoek waar te neem.

(2) Met die oog op so 'n ondersoek kan die Sekretaris of sy gemagtigde enigemand dagvaar wat syns insiens belangrike inligting oor die betrokke ondersoek kan verstrek, of wat na sy vermoede of oortuiging 'n boek, geskrif of ding betreffende die ondersoek besit, bewaar of beheer, dagvaar om voor hom te verskyn ter ondervraging of ter inlewering van sodanige boek, geskrif of ding op 'n plek en tyd wat die dagvaarding aangee. As die betrokke vakvereniging of werkgewersorganisasie of ampsdraers of amptenare die Sekretaris (of sy gemagtigde) oortuig van die redelikhed van die vermoede dat enigemand sodanige inligting kan verstrek of sodanige boek, geskrif of ding besit, bewaar of beheer, moet die Sekretaris so-iemand aldus dagvaar. Die Sekretaris mag 'n aldus ingelewerde boek, geskrif of ding ter ondersoeking behou.

(3) Die Sekretaris of sy gemagtigde kan enigemand wat die ondersoek bywoon en wat ingevolge sub-artikel (2) gedagvaar is of kon gewees het, oproep, en aan hom 'n eed oplee en hom ondertra en hom gelas om enige boek, geskrif of ding wat hy besit, bewaar of beheer, in te lever.

(4) As enigemand 'n behoorlike dagvaarding ingevolge sub-artikel (2) verontagsaam, deurdat hy sonder voldoende rede teen die bepaalde tyd van die bepaalde plek weglief of die ondersoek nie bywoon totdat die Sekretaris of sy gemagtigde hom verskoon het nie, of as enigemand wat ingevolge sub-artikel (3) gedagvaar is, weier om as getuie ingesweer te word, of sonder voldoende rede versuim om regmatig gestelde vrae volledig en bevredigend en met sy hele kennis en oortuiging te beantwoord, of om 'n boek, geskrif of ding wat hy besit, bewaar of beheer, in te lever, is hy skuldig aan 'n oortreding: Met dien verstande dat die regsreëls op privilegie betreffende getuieswearing of die inlewering van 'n boek, geskrif of ding by 'n geregtshof, van toepassing is op die ondervraging van so-iemand deur, of die inlewering van so 'n boek, geskrif of ding aan, die Sekretaris of sy gemagtigde.

(5) Elke getuie wat na beëdiging opsetlik 'n valse antwoord gee op 'n vraag wat die Sekretaris of sy gemagtigde aan hom stel, of wat opsetlik 'n valse verklaring oor 'n saak afleë, word gelou vir skuldig aan meined.

(6) Die ondervraging van 'n getuie deur die Sekretaris of sy gemagtigde geskied privaat, tensy die Sekretaris of sy gemagtigde anders besluit: Met dien verstande dat die

union or employers' organization takes place, the secretary of the union or organization concerned shall notify the names and addresses of the persons elected or appointed to the Secretary within thirty days after the election or appointment took place, whether or not there have been any changes amongst the office-bearers, officials or members.

(3) Whenever any change in the address of the head office of a registered trade union or employers' organization takes place, the secretary of the union or organization concerned shall notify the new address to the Secretary within thirty days after the change took place.

(4) The secretary of a registered trade union or employers' organization, the constitution of which provides for the establishment of branches, shall, within thirty days of the establishment of any new branch, notify the Secretary of the names and addresses of the chairman and secretary thereof and particulars of its membership.

29. (1) If at any time the Secretary has reason to believe that a trade union or employers' organization or any of its office-bearers or officials is not observing the provisions of its constitution or is otherwise acting unlawfully, and if, after he has brought the matter to the notice of that union or organization, he does not receive from it within a period specified by him a satisfactory explanation, he may conduct an enquiry into the carrying out by that union or organization or its office-bearers or officials of its or their powers and duties under this Ordinance or its constitution, or authorize any officer (in this section referred to as the authorized officer) to do so.

(2) For the purpose of any such enquiry the Secretary or the authorized officer may summon any person who in his opinion may be able to give material information concerning the subject of the enquiry, or who he suspects or believes has in his possession or custody or under his control any book, document or thing which has any bearing upon the subject of the enquiry, to appear before him at a time and place specified in the summons, to be interrogated or to produce that book, document or thing. If the trade union or employers' organization or office-bearer or official concerned satisfies the Secretary that there is reasonable ground for supposing that any person is able to give such information or has in his possession or custody or under his control any such book, document or thing, he shall so summon that person. The Secretary may retain for examination any book, document or thing so produced.

(3) The Secretary or the authorized officer may call and administer an oath to any person present at the enquiry who was or might have been summoned in terms of sub-section (2), and may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control.

(4) If any person, being duly summoned under sub-section (2), fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused by the Secretary or the authorized officer from further attendance, or if any person called in terms of sub-section (3) refuses to be sworn as a witness, or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him or to produce any book, document or thing in his possession or custody or under his control, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing before the Secretary or the authorized officer, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law, shall apply.

(5) Any witness, who, after having been sworn, gives a false answer to any question put to him by the Secretary or the authorized officer, or makes a false statement on any matter, knowing that answer or statement to be false, shall be deemed to be guilty of perjury.

(6) The interrogation of any witness by the Secretary or authorized officer shall be conducted in private, unless the Secretary or authorized officer otherwise decides:

ondervraging van 'n getuie op sy eie versoek privaat moet geskied: Met dien verstande voorts dat die Sekretaris of sy gemagtigde na eie goeddunke en met die getuie se toestemming enige vermelde persoon kan magtig om die ondervraging van die getuie by te woon.

(7) Die Sekretaris of sy gemagtigde kan om enige rede sy insiens voldoende gelas dat die ondervraging waargeneem moet word deur, of dat 'n boek, geskrif of ding ingelewer moet word by, 'n beampte wat hy daartoe aanwys; en so 'n beampte kan die eed opleë aan enige getuie wat voor hom verskyn; en die bepalings van hierdie artikel is met die nodige veranderinge van toepassing op sodanige ondervraging, of op die inlewing van, of beslaglegging op, sodanige boek, geskrif of ding.

(8) As enigiemand gedagvaar is om voor die Sekretaris of sy gemagtigde te verskyn, en die Sekretaris of sy gemagtigde oortuig is dat so-ienand weens sy verskyning in antwoord op 'n dagvaarding, of voor 'n beampte wat aangewys is ingevolge sub-artikel (7), geldverlies gelyk het, of onkoste behoep het, dan kan daar uit staatsgelde toeloes volgens regulasie aan so 'n gedagvaarde betaal word, of die bedrag van sodanige geldverlies en sodanige onkoste, watter ook al die minste is.

(9) Na afloop van 'n ondersoek moet die Sekretaris of sy gemagtigde 'n verslag aan die Administrateur voorlê, en die Administrateur mag so 'n verslag, of 'n deel daarvan, of uittreksels daaruit, na eie goeddunke bekeend maak: Met dien verstande dat die Administrateur die verslag of die deel of uittreksel wat hy bekeend wil maak, vooruit aan die uitvoerende komitee of die bestuurskomitee van die betrokke vakvereniging of werkgewersorganisasie voorlê, sodat die komitee aan die Administrateur vertoë kan rig oor die raadsaamheid van so 'n bekendmaking.

(10) Elkeen wat die Sekretaris of sy gemagtigde, of die beampte aangewys ingevolge sub-artikel (7), by die uitoefening van enige van die bevoegdhede wat hierdie artikel hom verleen, opsettlik hinder of beledig, is aan 'n oortreding skuldig; en, is hy 'n getuie, dan kan die Sekretaris of die gemagtigde gelas dat die geldbedrag wat hom ingevolge sub-artikel (8) sou toegekóm het, weerhoof of verminder moet word.

30. Dermate die grondwetlike bepalings van 'n geregistreerde vakvereniging of werkgewersorganisasie betreffende die ontbinding van sodanige vakvereniging of werkgewersorganisasie, ontorekend is, kan die Sekretaris na goeievinde stappe doen ter likwidering van die bates.

31. (1) Wanneer die Sekretaris met rede vermoed dat 'n geregistreerde vakvereniging of werkgewersorganisasie gelikwider is, of dat dit nie meer as sodanige optree nie, kan hy in die *Offisiële Koeraant* 'n kennisgewing laat verskyn, en die betrokke vakvereniging of werkgewersorganisasie per aangetekende pos mededel, dat die registrasie van daardie vakvereniging of werkgewersorganisasie na afloop van die tydperk genoem in die kennisgewing, maar minstens veertien dae na die kennisgewingsdatum, geskrapsal word, tensy die vakvereniging of werkgewersorganisasie die teendeel van sy vermoede bewys.

(2) Na afloop van die tydperk genoem in so 'n kennisgewing soos sub-artikel (1) voorskryf, kan die Sekretaris die registrasie van die vakvereniging of werkgewersorganisasie skrap en die skrapping in die *Offisiële Koeraant* bekendmaak, tensy hy egter vooraf oortuig word van die teendeel van sy vermoede.

(3) As enigeen wat met die likwidering van die vakvereniging of werkgewersorganisasie belas is, of enige lid, ampsdraer, amptenaar of skuldteiser van die vakvereniging of werkgewersorganisasie misnoeg is oor die skrapping van die registrasie daarvan, kan die Hooggeregshof van Suidwes-Afrika, op aansoek van die likwidateur of die lid, ampsdraer, amptenaar of skuldteiser, en na kennisgewing aan die Sekretaris (wat die reg op verhoor het as hy dit verlang) die skrapping ter syde stel as die Hooggeregshof oortuig is dat die vakvereniging of werkgewers-

Provided that at the request of any witness the interrogation of that witness shall be conducted in private: Provided, further, that the Secretary or authorized officer may, in his discretion, and with the consent of the witness, authorize the presence of any specified person at the interrogation of that witness.

(7) The Secretary or authorized officer may, for any reason which he may deem sufficient, order that any interrogation be made by, or that any book, document or thing be produced before, an officer designated for the purpose by him; and any such officer may administer the oath to any witness appearing before him; and the provisions of this section shall, *mutatis mutandis*, apply to such interrogation or the production or retention of any such book, document or thing.

(8) Any person summoned to appear before the Secretary or the authorized officer may if the Secretary or the authorized officer is satisfied that he has by reason of his appearance in obedience to the summons or before an officer designated in terms of sub-section (7) suffering any pecuniary loss or been put to any expense, be paid out of public moneys any allowances that may be prescribed by regulation, or the amount of such loss and such expense, whichever is the less.

(9) On the completion of an enquiry, the Secretary or the authorized officer shall submit a report to the Administrator, who may make such publication of the report or of a portion thereof or of extracts therefrom as he may deem advisable: Provided that before any such publication is made the Administrator shall submit the report or the portion thereof or the extracts therefrom which he proposes to publish to the executive committee or committee of management of the trade union or employers' organization concerned and afford that committee an opportunity of submitting to him representations as to the advisability of making such publication.

(10) Any person who wilfully hinders or insults the Secretary or the authorized officer or the officer designated in terms of sub-section (7) in the exercise of any of the powers conferred upon him by this section shall be guilty of an offence; and if he is a witness, the Secretary or the authorized officer may order that no payment or only a reduced payment be made to him under sub-section (8).

30. To the extent to which the provisions of the constitution of any registered trade union or employers' organization relating to the winding-up of that union or organization may be inadequate, the Secretary may take such steps as he may deem fit to dispose of any assets.

31. (1) When the Secretary has reasonable cause to believe that a registered trade union or employers' organization has been wound up or is not functioning as a trade union or employers' organization, he may publish in the *Gazette* and send to the union or organization by registered post a notice that at the expiration of a period mentioned in that notice, not being less than fourteen days from the date of that notice, the registration of the trade union or employers' organization mentioned therein will, unless cause is shown to the contrary, be cancelled.

(2) At the expiration of the period mentioned in any such notice as is described in sub-section (1), the Secretary may, unless cause to the contrary to his satisfaction is previously shown, cancel the registration of the union or organization, and shall publish notice thereof in the *Gazette*.

(3) If any person charged with the winding-up of the union or organization or any member, office-bearer or official or creditor of the union or organization feels aggrieved by the cancellation of the registration of the union or organization, the High Court of South West Africa may, on the application of the person so charged or the member, office-bearer, official or creditor, and on notice being given to the Secretary who shall be entitled to be heard by the court if he so desires, if satisfied that at the time of the cancellation the union or organization had not been wound up or that it was, or otherwise that it is just that the cancellation of the

(2) Wanneer so 'n geskil onder die Administrateur se aandag kom, en dit oor diensvoorwaardes gaan, of oor die indieshouding of aflank van iemand wat die soort taak verrig of verrig het waarop artikel vier-en-veertig dui, kan hy aan die Sekretaris opdrag gee om een of elkeen van die geskilvoerende te gelas om binne 'n aangegewe tydperk volledige uiteensettinge van die geskilpunte en hul siaswyses daaromtrent aan hom voor te lê. By die opdrag, of te eniger tyd daarna, kan die Administrateur een of elkeen van die geskilvoerende gelas om sodanige bykomende inligting soos hy nodig ag, aan hom te besorg binne 'n tydperk wat hy aangee. Die Administrateur kan 'n sodanige tydperk aangegee ingevolge hierdie sub-artikel, van tyd tot tyd verleng.

(3) Waar die Administrateur by oorweging van 'n uiteensetting of inligting ingevolge sub-artikel (2) aan hom voorgelê, meen dat 'n hangende geskil die voortsetting van so 'n diens waarskynlik geheel of deels bedreig, kan hy die instelling van 'n versoeningsraad goedgekeur ter oorweging en beslissing van die geskil, en kan die Administrateur stappe ter aanstelling van so 'n raad doen, al het daar geen aansoek daarvoor ingevolge sub-artikel (1) geskied nie.

(4) Elkeen wat weier of versuim om aan enige ver-eiste te voldoen wat ingevolge sub-artikel (2) aan hom gestel word, is skuldig aan 'n oortreding.

(5) Die Administrateur kan 'n uiteensetting van die geskilpunte laat opstel, en so 'n uiteensetting is dan die versoeningsraad se opdrag: Met dien verstande dat die teenpartye aan die geskil tog met Administrateursgoedgeuring op 'n wysiging of uitbreiding van so 'n opdrag kan ooreenkom.

34. (1) 'n Versoeningsraad moet deur ooreenkoms of andersins die geskil wat aan hom voorgelê word, probeer skik, en so 'n ooreenkoms kan enigeen van die sake omvat wat artikel nege van hierdie Ordonnansie noem.

(2) Wanneer 'n versoeningsraad 'n geskil deur ooreenkoms geskik het, en ingevolge paragraaf (b) van artikel veertig so 'n ooreenkoms ingevolge artikel ses-en-veertig tot bindende ooreenkoms wil laat verklaar, moet die voorsitter, die vise-voorsitter en die sekretaris van die raad, of enige drie van sy raadslede wat behoorlik deur die raad daartoe gemagtig is, die ooreenkoms onderteken en aan die Administrateur besorg.

35. (1) 'n Versoeningsraad tel soveel verteenwoordigers soos die Administrateur bepaal.

(2) Die helfte van die verteenwoordigers word aangestel deur die werknemers, en die ander helfte deur die werkgewers, met verteenwoordiging in die raad.

(3) Die werknemers in die werkgewers met verteenwoordiging in die raad moet vir elkeen of enigeen van hulle verteenwoordigers 'n alternatiewe verteenwoordiger aanstel.

(4) As iemand wat 'n verteenwoordiger of alternatiewe verteenwoordiger mag aanstel, dit versuim binne die tydperk wat die Administrateur daarvoor bepaal (sodanige tydperk moet minstens veertien dae wees, gereken vanaf die dag waarop die Administrateur die versoeningsraad se instelling goedgekeur het) of, waar die Administrateur geen tydperk bepaal het toe, dit versuim binne dertig dae vanaf die dag waarop die Administrateur die versoeningsraad se instelling goedgekeur het, kan die Administrateur self namens so-iemand 'n verteenwoordiger of alternatiewe verteenwoordiger aanstel.

(5) Die verteenwoordigers van die geskilvoerende werkgewers of werknemers moet werkgewers of werknemers in die betrokke bedryf wees, of ampsdraers van die betrokke vakverenigings of werkgewersorganisasies, tensy die Administrateur 'n ander reëling goedgekeur.

36. Die Administrateur verskaf sodanige sekretariële en klerklike hulp aan die versoeningsraad soos hy nodig ag vir die raad se doelmatige pligsvervulling.

(2) Whenever the existence of such a dispute comes to the notice of the Administrator, he may, if it concerns the conditions of employment, continued employment or dismissal of any person who is or has been performing work connected with any of the services referred to in section forty-four, direct the Secretary to require all or any of the parties to the dispute to submit to him, within a specified period, statements setting out fully the matters which are the subject of dispute and their views in connection therewith. The Administrator may either at the time these statements are demanded or at any subsequent time require all or any of such parties to furnish to him, within a specified period, whatever additional information he may consider necessary. Any period specified by the Administrator under this sub-section may be extended by him from time to time.

(3) If, after he has considered any statement or information submitted in terms of sub-section (2), the Administrator is of the opinion that the continuation of the whole or of any part of any such service is likely to be endangered unless the dispute is settled, he may approve of the establishment of a conciliation board for the consideration and determination of the dispute and take steps for its appointment, notwithstanding that application has not been made under sub-section (1).

(4) Any person who refuses or fails to comply with any requirement made in terms of sub-section (2) shall be guilty of an offence.

(5) The Administrator shall cause a statement to be prepared setting forth the matters in dispute, and that statement shall be the terms of reference to the conciliation board: Provided that both parties to the dispute may, subject to the approval of the Administrator, agree to an alteration or extension of the terms of reference.

34. (1) A conciliation board shall endeavour to settle by agreement or otherwise the dispute referred to it and any such agreement may include any of the matters referred to in section nine of this Ordinance.

(2) Whenever a conciliation board has settled a dispute by agreement and in terms of paragraph (b) of section forty desires such agreement to be declared binding under section forty-six, a copy of such agreement shall be signed by the chairman, the vice-chairman and the secretary to the board, or by any three members of the board duly authorized thereto by the board, and shall be transmitted to the Administrator.

35. (1) A conciliation board shall consist of such number of representatives as the Administrator may determine.

(2) Half the number of representatives shall be appointed by the employees and half by the employers represented on the board.

(3) The employees and the employers represented on the conciliation board shall appoint alternates to each or any of the representatives appointed by them.

(4) If any person who is entitled to appoint a representative or alternate does not do so within a period, not being less than fourteen days, to be fixed by the Administrator, reckoned from the date upon which he approved of the establishment of the board, or if no period has been so fixed, within thirty days from that date, the Administrator may himself appoint a representative or alternate on behalf of that person.

(5) Representatives of employers and employees involved in the dispute shall be employers and employees in the trade concerned or office-bearers of the trade unions or employers' organization concerned unless otherwise approved by the Administrator.

36. The Administrator shall provide every conciliatory board with such secretarial and clerical assistance as he may deem necessary for the effectual exercise of the functions of the board.

37. (1) 'n Versoeningsraad kies 'n voorsitter en 'n vise-voorsitter uit sy lede.

(2) Kan die raad nie 'n moontlike vakature in die amp van vise-voorsitter of vise-voorsitter vul nie, dan kan die Administrateur, na afloop van 'n tydperk wat hy vasstel en aan die raad bekend maak, 'n voorsitter of vise-stel en aan die raad bekend maak, 'n voorsitter of andersins voorsitter wat hy self kies uit die raadslede of andersins voorsitter en enigeen wat aldus aangestel word, beklee die amptelike amp van voorsitter of vise-voorsitter, na gelang, totdat die raad die aangewese ampsdrager gekies het.

(3) Die voorsitter, of in sy afwesigheid die vise-voorsitter, sit by elke raadsvergadering voor, behoudens die bepaling van sub-artikel (2) van artikel twee-en-veertig; en is die voorsitter en vise-voorsitter albei afwesig, dan sit iemand voor wat die lede uit hul midde kies, behoudens die genoemde bepaling.

(4) Is die voorsitter of die vise-voorsitter nie 'n lid van die raad nie, dan het hy geen stemreg nie.

(5) 'n Versoeningsraad hou sy vergaderings op sodanige plekke en tye soos die raad of die voorsitter telkens bepaal.

(6) Behoudens die bepaling van sub-artikel (7) is 'n meerderheid van die raad se volle ledetal die kworum by 'n vergadering.

(7) Is daar nie genoeg lede vir 'n kworum by 'n vergadering nie, word die vergadering minstens sewe dae uitgestel, en moet daar aan die lede sodanige kennisgewing geskied soos moontlike regulasies voorskryf, en by daardie vergadering is vier of meer van die aanwesige lede 'n kworum: Met dien verstande dat as al die verteenwoordigers van die werkgewers, of al die verteenwoordigers van die werknemers in die raad, nie by so 'n tweede vergadering is nie, die aanwesige verteenwoordigers as 'n kworum beskou word; en hulle kan dan getuienis verhoor en daaroor verslag doen, en te dien einde kan hulle die bevoegdheid uitoefen wat artikel agt-en-dertig aan 'n versoeningsraad verleen.

(8) As 'n verteenwoordiger van die werkgewers of van die werknemers nie by 'n vergadering is nie, is enige alternatiewe verteenwoordiger van of die werkgewers of die werknemers onderskeidelik by daardie vergadering sy plaasvervanger, en word hy in elke opsig beskou as 'n verteenwoordiger van of die werkgewers of die werknemers, na gelang.

(9) Vir elke werkgewersvertteenwoordiger wat nie by 'n vergadering is nie, en namens wie daar geen alternatiewe verteenwoordiger ingevolge sub-artikel (8) optree, moet een werknemersvertteenwoordiger by sodanige vergadering buite stemming bly; en die aanwesige werknemersvertteenwoordigers besluit deur 'n meerderheidstem wie van hulle aldus buite stemming moet bly.

(10) Is 'n werknemersvertteenwoordiger nie by 'n vergadering nie, en tree geen alternatiewe verteenwoordiger ingevolge sub-artikel (8) namens hom op nie, dan geld die bepaling van sub-artikel (9) met die nodige veranderinge.

(11) As minstens twee-derdes van die verteenwoordigers wat ingevolge hierdie artikel stemgeregtig is, by 'n vergadering ten gunste van 'n besluit stem, is so 'n besluit 'n raadsbesluit.

(12) Hoogstens een inspekteur, of 'n beaunte wat skriftelik deur 'n inspekteur daartoe gemagtig is, mag 'n raadsvergadering bywoon, en mag aan die verrigtinge deelneem, wanneer daar besprekings gevoer word oor die belange van persone wat in die betrokke bedryf staan, maar nie die werknemers of werkgewers met verteenwoordiging in die raad is nie. 'n Inspekteur (of 'n beaunte daartoe gemagtig) mag, op versoek van die voorsitter, of met sy toestemming, aan ander verrigtinge van die raad deelneem, maar het geen stemreg nie.

37. (1) The chairman and the vice-chairman of a conciliation board shall be chosen by the board from amongst its members.

(2) If the board fails to fill any vacancy which may exist in the office of chairman or of vice-chairman, the Administrator shall, after the expiration of a period to be fixed by him, and notified to the board, appoint as chairman or as vice-chairman any person selected by himself from amongst the members or otherwise; and any person so appointed shall hold office until a chairman or vice-chairman, as the case may be, shall have been chosen by the board.

(3) The chairman, and in his absence, the vice-chairman, shall, subject to the provisions of sub-section (2) of section forty-two, preside at all meetings of the board; and if the chairman and the vice-chairman are both absent from any meeting, that meeting shall, subject to the said provisions, be presided over by a person chosen by the members present from amongst their number.

(4) If the chairman or vice-chairman has not been selected from amongst the members he shall not be entitled to vote.

(5) Meetings of a conciliation board shall be held at such times and places as the board or the chairman may from time to time determine.

(6) Subject to the provisions of sub-section (7), a majority of the total number of members shall form a quorum at any meeting.

(7) If the number of members present at the time and place fixed for a meeting is insufficient to form a quorum, a meeting of the board shall, upon such notification to members as may be prescribed by regulation, be held on a date not less than seven days thereafter, and at that meeting four or any greater number of members present shall form a quorum: Provided that if all the representatives of the employers or all the representatives of the employees on the board are absent from such adjourned meeting, the representatives who are present shall be deemed to form a quorum and may take evidence and report thereon and for this purpose may exercise the powers conferred on a conciliation board by section thirty-eight.

(8) If any representative of the employers or of the employees is absent from any meeting, any alternate of the employers or of the employees, respectively, may act in his stead at that meeting; and at that meeting he shall in all respects be regarded as a representative of the employers or of the employees, as the case may be.

(9) For every representative of the employers who is absent from any meeting, and in whose stead an alternate of the employers does not, in terms of sub-section (8), act, one representative of the employees shall not be allowed to vote at that meeting; and the representatives of the employees present at that meeting shall determine by a majority vote which of their number shall be so excluded from voting.

(10) If any representative of the employees is absent from any meeting, and an alternate of the employees does not, in terms of sub-section (8), act in his stead, the provisions of sub-section (9) shall, *mutatis mutandis*, apply.

(11) A decision in favour of which not less than two-thirds of the representatives present at the meeting at which the decision is taken, and who are entitled to vote in terms of this section have voted, shall be the decision of the board.

(12) One inspector, but not more than one (or an officer authorised thereto in writing by an inspector), shall be entitled to attend any meeting of a board, and may take part in the proceedings whenever the interests of persons engaged or employed in the trade concerned who are not employees or employers represented on the board are under discussion. An inspector (or an officer so authorized) may take part in other proceedings of the board at the request of or with the permission of the chairman. An inspector (or an officer so authorized) shall not be entitled to vote.

(2) Wanneer so 'n geskil onder die Administrateur se aandag kom, en dit oor diensvoorwaardes gaan, of oor die indienshouding of afdanking van iemand wat die soort taak verrig of verrig het waarop artikel vier-en-veertig dui, kan hy aan die Sekretaris opdrag gee om een of elkeen van die geskilvoerende te gelas om binne 'n aangegewe tydperk volledige uiteensettings van die geskilpunte en hul sinswyses daaromtrent aan hom voor te lê. By die opdrag, of te eniger tyd daarna, kan die Administrateur een of elkeen van die geskilvoerendes gelas om sodanige bykomende inligting soos hy nodig ag, aan hom te besorg binne 'n tydperk wat hy aangee. Die Administrateur kan 'n sodanige tydperk aangegee ingevolge hierdie sub-artikel, van tyd tot tyd verleeng.

(3) Waar die Administrateur by oorweging van 'n uiteensetting of inligting ingevolge sub-artikel (2) aan hom voorgelê, meen dat 'n hangende geskil die voortsetting van so 'n diens waarskynlik geheel of deels bedreig, kan hy die instelling van 'n versoeningsraad goedgekeur ter oorweging en beslissing van die geskil, en kan die Administrateur stapte ter aanstelling van so 'n raad doen, al het daar geen aansoek daarvoor ingevolge sub-artikel (1) geskied nie.

(4) Elkeen wat weier of versuim om aan enige ver-eiste te voldoen wat ingevolge sub-artikel (2) aan hom gestel word, is skuldig aan 'n oortreding.

(5) Die Administrateur kan 'n uiteensetting van die geskilpunte laat opstel, en so 'n uiteensetting is dan die versoeningsraad se opdrag. Met dien verstande dat die teenpartye aan die geskil tog met Administrateursgoedkeuring op 'n wysiging of uitbreiding van so 'n opdrag kan ooreenkom.

34. (1) 'n Versoeningsraad moet deur ooreenkoms of andersins die geskil wat aan hom voorgelê word, probeer skik, en so 'n ooreenkoms kan enigeen van die sake omvat wat artikel nege van hierdie Ordonnansie noem.

(2) Wanneer 'n versoeningsraad 'n geskil deur ooreenkoms geskik het, en ingevolge paragraaf (b) van artikel veertig so 'n ooreenkoms ingevolge artikel ses-en-veertig tot bindende ooreenkoms wil laat verklaar, moet die voorsitter, die vise-voorsitter en die sekretaris van die raad, of enige drie van sy raadslede wat behoorlik deur die raad daartoe gemagtig is, die ooreenkoms onderteken en aan die Administrateur besorg.

35. (1) 'n Versoeningsraad tel soveel verteenwoordigers soos die Administrateur bepaal.

(2) Die helfte van die verteenwoordigers word aangestel deur die werknemers, en die ander helfte deur die werkgewers, met verteenwoordiging in die raad.

(3) Die werknemers en die werkgewers met verteenwoordiging in die raad moet vir elkeen of enigeen van hulle verteenwoordigers 'n alternatiewe verteenwoordiger aanstel.

(4) As iemand wat 'n verteenwoordiger of alternatiewe verteenwoordiger mag aanstel, dit versuim binne die tydperk wat die Administrateur daarvoor bepaal (sodanige tydperk moet minstens veertien dae wees, gereken vanaf die dag waarop die Administrateur die versoeningsraad se instelling goedgekeur het) of, waar die Administrateur geen tydperk bepaal het nie, dit versuim binne dertig dae vanaf die dag waarop die Administrateur die versoeningsraad se instelling goedgekeur het, kan die Administrateur self namens so iemand 'n verteenwoordiger of alternatiewe verteenwoordiger aanstel.

(5) Die verteenwoordigers van die geskilvoerende werkgewers of werknemers moet werkgewers of werknemers in die betrokke bedryf wees, of amptnare van die betrokke vakverenigings of werkgewersorganisasies, tensy die Administrateur 'n ander reëling goedgekeur.

36. Die Administrateur verskaf sodanige sekretariële en klerklike hulp aan die versoeningsraad soos hy nodig ag vir die raad se doelmattige pligsvervulling.

(2) Whenever the existence of such a dispute comes to the notice of the Administrator, he may, if it concerns the conditions of employment, continued employment or the dismissal of any person who is or has been performing work connected with any of the services referred to in section forty-four, direct the Secretary to require all or any of the parties to the dispute to submit to him, within a specified period, statements setting out fully the matters which are the subject of dispute and their views in connection therewith. The Administrator may either at any time these statements are demanded or at any subsequent time require all or any of such parties to furnish to him, within a specified period, whatever additional information he may consider necessary. Any period specified by the Administrator under this sub-section may be extended by him from time to time.

(3) If, after he has considered any statement or information submitted in terms of sub-section (2), the Administrator is of the opinion that the continuation of the whole or of any part of any such service is likely to be endangered unless the dispute is settled, he may approve of the establishment of a conciliation board for the consideration and determination of the dispute and take steps for its appointment, notwithstanding that application has not been made under sub-section (1).

(4) Any person who refuses or fails to comply with any requirement made in terms of sub-section (2) shall be guilty of an offence.

(5) The Administrator shall cause a statement to be prepared setting forth the matters in dispute, and that statement shall be the terms of reference to the conciliation board: Provided that both parties to the dispute may, subject to the approval of the Administrator, agree to an alteration or extension of the terms of reference.

34. (1) A conciliation board shall endeavour to settle by agreement or otherwise the dispute referred to it and any such agreement may include any of the matters referred to in section nine of this Ordinance.

(2) Whenever a conciliation board has settled a dispute by agreement and in terms of paragraph (b) of section forty desires such agreement to be declared binding under section forty-six, a copy of such agreement shall be signed by the chairman, the vice-chairman and the secretary to the board, or by any three members of the board duly authorized thereto by the board, and shall be transmitted to the Administrator.

35. (1) A conciliation board shall consist of such number of representatives as the Administrator may determine.

(2) Half the number of representatives shall be appointed by the employees and half by the employers represented on the board.

(3) The employees and the employers represented on the conciliation board shall appoint alternates to each or any of the representatives appointed by them.

(4) If any person who is entitled to appoint a representative or alternate does not do so within a period, not being less than fourteen days, to be fixed by the Administrator, reckoned from the date upon which he approved of the establishment of the board, or if no period has been so fixed, within thirty days from that date, the Administrator may himself appoint a representative or alternate on behalf of that person.

(5) Representatives of employers and employees involved in the dispute shall be employers and employees in the trade concerned or office-bearers of the trade unions or employers' organization concerned unless otherwise approved by the Administrator.

36. The Administrator shall provide every conciliatory board with such secretarial and clerical assistance as he may deem necessary for the effectual exercise of the functions of the board.

37. (1) 'n Versoeningsraad kies 'n voorsitter en 'n vise-voorsitter uit sy lede.

(2) Kan die raad nie 'n moontlike vakature in die amp van vise-voorsitter of vice-voorsitter vul nie, dan kan die Administrateur, na afloop van 'n tydperk wat hy vasstel en aan die raad bekend maak, 'n voorsitter of vise-voorsitter wat hy self kies uit die raadslede of andersins aanstel; en onigeneer wat aldus aangestel word, beklede die amp van voorsitter of vise-voorsitter, na gelang, totdat die raad die aangewese ampsdraer gekies het.

(3) Die voorsitter, of in sy afwesigheid die vise-voorsitter, sit by elke raadsvergadering voor, behoudens die bepalings van sub-artikel (2) van artikel twee-en-veertig; en is die voorsitter en vise-voorsitter albei afwesig, dan sit iemand voor wat die lede uit hul midde kies, behoudens die genoemde bepalings.

(4) Is die voorsitter of die vise-voorsitter nie 'n lid van die raad nie, dan het hy geen stemreg nie.

(5) 'n Versoeningsraad hou sy vergaderings op sodanige plekke en tye soos die raad of die voorsitter telkens bepaal.

(6) Behoudens die bepalings van sub-artikel (7) is 'n meerderheid van die raad se volle ledeletal die kworum by 'n vergadering.

(7) Is daar nie genoeg lede vir 'n kworum by 'n vergadering nie, word die vergadering minstens sewe dae uitgestel, en moet daar aan die lede sodanige kennisgewing geskied soos moontlike regulasies voorskryf, en by daardie vergadering is vier of meer van die aanwesige lede 'n kworum. Met dien verstande dat as al die verteenwoordigers van die werkgewers, of al die verteenwoordigers van die werknemers in die raad, nie by 'n tweede vergadering is nie, die aanwesige verteenwoordigers as 'n kworum beskou word; en hulle kan dan getuienis verhoor en daaroor verslag doen, en te dien einde kan hulle die bevoegdheid uitoefen wat artikel agt-en-dertig aan 'n versoeningsraad verleen.

(8) As 'n verteenwoordiger van die werkgewers of van die werknemers nie by 'n vergadering is nie, is enige alternatiewe verteenwoordiger van dié die werkgewers of dié die werknemers ondersekdelik by daardie vergadering sy plasvervanger, en word hy in elke opsig beskou as 'n verteenwoordiger van dié die werkgewers of die werknemers, na gelang.

(9) Vir elke werkgewersvertenwoordiger wat nie by 'n vergadering is nie, en namens wie daar geen alternatiewe vertenwoordiger ingevolge sub-artikel (8) optree nie, moet een werknemersvertenwoordiger by sodanige vergadering buite stemming bly; en die aanwesige werknemersvertenwoordigers besluit deur 'n meerderheidstem wie van hulle aldus buite stemming moet bly.

(10) Is 'n werknemersvertenwoordiger nie by 'n vergadering nie, en tree geen alternatiewe vertenwoordiger ingevolge sub-artikel (8) namens hom op nie, dan geld die bepalings van sub-artikel (9) met die nodige veranderinge.

(11) As minstens twee-derdes van die vertenwoordigers wat ingevolge hierdie artikel stemgeregtig is, by 'n vergadering ten gunste van 'n besluit stem, is so 'n besluit 'n raadsbesluit.

(12) Hoogstens een inspekteur, of 'n beampte wat skriftelik deur 'n inspekteur daartoe genagtig is, mag 'n raadsvergadering bywoon, en mag aan die verrigtinge deelneem, wanneer daar besprekings gevoer word oor die belang van persone wat in die betrokke bedryf staan, maar wat nie werknemers of werkgewers met verteenwoordiging in die raad is nie. 'n Inspekteur (of 'n beampte daartoe genagtig) mag, op versoek van die voorsitter, of met sy toestemming, aan ander verrigtinge van die raad deelneem, maar het geen stemreg nie.

37. (1) The chairman and the vice-chairman of a conciliation board shall be chosen by the board from amongst its members.

(2) If the board fails to fill any vacancy which may exist in the office of chairman or of vice-chairman, the Administrator shall, after the expiration of a period to be fixed by him, and notified to the board, appoint as chairman or as vice-chairman any person selected by himself from amongst the members or otherwise; and any person so appointed shall hold office until a chairman or vice-chairman, as the case may be, shall have been chosen by the board.

(3) The chairman, and in his absence, the vice-chairman, shall, subject to the provisions of sub-section (2) of section forty-two, preside at all meetings of the board; and if the chairman and the vice-chairman are both absent from any meeting, that meeting shall, subject to the said provisions, be presided over by a person chosen by the members present from amongst their number.

(4) If the chairman or vice-chairman has not been selected from amongst the members he shall not be entitled to vote.

(5) Meetings of a conciliation board shall be held at such times and places as the board or the chairman may from time to time determine.

(6) Subject to the provisions of sub-section (7), a majority of the total number of members shall form a quorum at any meeting.

(7) If the number of members present at the time and place fixed for a meeting is insufficient to form a quorum, a meeting of the board shall, upon such notification to members as may be prescribed by regulation, be held on a date not less than seven days thereafter, and at that meeting four or any greater number of members present shall form a quorum: Provided that if all the representatives of the employers or all the representatives of the employees on the board are absent from such adjourned meeting, the representatives who are present shall be deemed to form a quorum and may take evidence and report thereon and for this purpose may exercise the powers conferred on a conciliation board by section thirty-eight.

(8) If any representative of the employers or of the employees is absent from any meeting, any alternate of the employers or of the employees, respectively, may act in his stead at that meeting; and at that meeting he shall in all respects be regarded as a representative of the employers or of the employees, as the case may be.

(9) For every representative of the employers who is absent from any meeting, and in whose stead an alternate of the employers does not, in terms of sub-section (8), act, one representative of the employees shall not be allowed to vote at that meeting; and the representatives of the employees present at that meeting shall determine by a majority vote which of their number shall be so excluded from voting.

(10) If any representative of the employees is absent from any meeting, and an alternate of the employees does not, in terms of sub-section (8), act in his stead, the provisions of sub-section (9) shall, *mutatis mutandis*, apply.

(11) A decision in favour of which not less than two-thirds of the representatives present at the meeting at which the decision is taken, and who are entitled to vote in terms of this section have voted, shall be the decision of the board.

(12) One inspector, but not more than one (or an officer authorised thereto in writing by an inspector), shall be entitled to attend any meeting of a board, and may take part in the proceedings whenever the interests of persons engaged or employed in the trade concerned who are not employees or employers represented on the board are under discussion. An inspector (or an officer so authorized) may take part in other proceedings of the board at the request of or with the permission of the chairman. An inspector (or an officer so authorized) shall not be entitled to vote.

(13) Behoudens die bepalings van sub-artikel (12) hiervan, en van sub-artikel (6) van artikel *negen-en-twintig*, soos toegepas ingevolge artikel *agt-en-dertig*, vind elke raadsvergadering agter geslote deure plaas, tensy die raad anders besluit.

(14) Al die verrigtinge by elke vergadering van 'n versoeningsraad moet genotuleer word, en die raadsekretaris moet so gou doenlik na afloop van 'n vergadering, maar uiterlik een-en-twintig dae daarna, 'n afskrif (of soveel afskrifte soos die regulasies moontlik voorskryf) van die notule van daardie vergadering besorg aan die inspekteur wat deur die regulasies omskryf word.

(15) Die sekretaris moet die notule van 'n gehoue raadsvergadering aan die eersvolgende raadsvergadering voorleë; en nadat die raad die syns insiens nodige veranderinge daaraan aangebring het, moet hy sodanige notules by besluit bekragtig, en die voorsittende moet dan die aldus bekragtigde notule onderteken.

(16) Die sekretaris stuur so gou doenlik na afloop van 'n vergadering waarby die notule van 'n voorafgaande vergadering ingevolge sub-artikel (15) bekragtig is, maar hoogstens een-en-twintig dae na sodanige bekragtiging, 'n afskrif (of soveel afskrifte soos die regulasies moontlik voorskryf) van die aldus bekragtigde notule, wat hy waarmerk, aan die inspekteur wat die regulasies omskryf.

(17) Elke notule wat blykbaar ingevolge sub-artikel (15) geteken is, is getuicnis van die verrigtinge wat daarin opgeteken staan.

38. (1) By die uitvoering van sy werksaamhede besit 'n versoeningsraad al die bevoegdheede wat die Sekretaris ingevolge artikel *negen-en-twintig* besit, buiten dié wat sub-artikel (1), (7) en (9) noem, en die bepalings van artikel *negen-en-twintig* geld met die nodige veranderinge die uitoefening van sodanige bevoegdheede deur 'n versoeningsraad, behoudens die bepalings van hierdie artikel.

(2) Die voorsitter, vice-voorsitter of sekretaris van die raad moet elke dagvaarding teken wat die raad by die uitoefening van sy bevoegdheede uitreik.

(3) By die beëdiging van 'n getuie word die eed aan hom opgelê deur die persoon wat by die raadsvergadering voorsit.

(4) Die voorsittende by 'n raadsvergadering waarvoor 'n getuie verskyn, en enige aanwesige lid, mag enige vraag aan die getuie stel: Met dien verstande dat die voorsittende na goeदनुके enige vraag wat syns insiens afwyk van die saak voor die raad, ontoelaatbaar kan verklaar.

(5) Enige uitbetaling ingevolge sub-artikel (8) van artikel *negen-en-twintig* wat in hierdie verband aan getuies uitbetaal word, geskied uit staatsgeld.

39. Toelaes wat ooreenkomstig die regulasies aan 'n versoeningsraad se lede betaal word, en sodanige ander onkoste betreffende raadsverrigtinge soos die Sekretaris voor of na die uitgawe goedkeur, moet uit staatsgelde besty word.

40. Binne een maand nadat die Administrateur die instelling van 'n versoeningsraad goedgekeur het, of binne sodanige verlenging soos die Administrateur van tyd tot tyd toestaan, moet sodanige versoeningsraad verslag doen oor sy besprekinge, met verwysing onder andere na die volgende sake:—

(a) of die raad die geskil geskik het, en indien wel, die bedinge van die skikking;

(b) of die raad verlang dat 'n ooreenkoms tussen die kontraktante ingevolge artikel *ses-en-veertig* bindend verklaar moet word, en indien wel, op watter werknemers, werkgewers, vakverenigings, en werkgewers-organisasies, en betreffende watter deel van die streek waaroor die raad ingestel is, die ooreenkoms bindend verklaar moet word;

(13) Subject to the provisions of sub-section (12) of this section and of sub-section (6) of section *twenty-nine*, as applied by section *thirty-eight*, every meeting of a board shall be conducted in private, unless the board otherwise decides.

(14) Every conciliation board shall cause minutes of all proceedings of every meeting of the board to be kept, and the secretary of the board shall, as soon as practicable after the close of any meeting but not later than twenty-one days thereafter, transmit a copy (or such number of copies as may be prescribed by regulation), of the minutes of that meeting to the inspector defined by regulation.

(15) The secretary shall submit the minutes of any meeting of the board to the next succeeding meeting of the board; and the board shall, after causing to be made therein such corrections as it thinks necessary, confirm the minutes by resolution; and the person presiding at the meeting shall sign the minutes so confirmed.

(16) The secretary shall, as soon as practicable after the close of any meeting at which any minutes of a preceding meeting have been confirmed in terms of sub-section (15) but not later than twenty-one days after such confirmation, transmit to the inspector defined by regulation a copy (or such number of copies as may be prescribed by regulation) of the minutes so confirmed, certified by him as correct.

(17) Any minute purporting to be signed in terms of sub-section (15) shall be evidence of the proceedings recorded therein.

38. (1) In the performance of its functions a conciliation board shall have all the powers conferred upon the Secretary in terms of section *twenty-nine*, except the powers referred to in sub-sections (1), (7) and (9), and the provisions of that section shall, subject to the provisions of this section, apply, *mutatis mutandis*, to the exercise of those powers by a conciliation board.

(2) A summons issued in the exercise of the said powers shall be signed by the chairman or vice-chairman or secretary of the board.

(3) The oath administered to any witness shall be administered by the person presiding over the meeting of the board.

(4) The person presiding over the meeting of the board at which any witness appears, and any member present at that meeting, may put any question to the witness: Provided that the person presiding at the meeting may in his discretion disallow any question which in his opinion is not relevant to the inquiry which is being made by the board.

(5) Any amounts paid under sub-section (8) of section *twenty-nine*, as applied, to witnesses appearing before the board shall be paid out of public moneys.

39. The allowances paid to members of a conciliation board in accordance with regulations, and such other expenses incurred in connection with the proceedings of the board as are approved by the Secretary before or after their incurrence, shall be defrayed out of public moneys.

40. A conciliation board shall submit to the Administrator, within a period of one month from the date the Administrator approved of the establishment thereof or such further period as the Administrator may from time to time fix, a report of its deliberations, setting forth *inter alia*—

(a) whether it has settled the dispute, and if so, the terms of the settlement;

(b) whether it desires any agreement arrived at to be declared binding under section *forty-six*, and, if so, indicating upon which employees, employers, trade unions and employers' organizations and in respect of which areas within the area for which it has been established it desires it so to be declared binding;

- (c) of die raad se pogings tot versoening misluk het, en indien wel, of 'n voortsetting van versoeningspogings sins insiens nuttelos sou wees;
- (d) of die raad ingevolge artikel drie-en-veertig besluit het dat die geskil aan 'n arbiter of aan arbiters en 'n eindbeslisser voorgelê moet word.

- (c) whether it has failed to settle the dispute, and if so, whether it is satisfied that further deliberations will not result in a settlement;
- (d) whether it has decided, in terms of section forty-three, that the dispute shall be referred to an arbitrator or to arbitrators and an umpire.

41. 'n Versoeningsraad word gehou vir onthef van sy pligte eers nadat die Administrateur die raad ontslaan het by skriftelike kennisgewing wat die Sekretaris aan die voorsitter van die versoeningsraad besorg.

41. A conciliation board shall not be deemed to be released from its duties until the Administrator has discharged it by written notice conveyed to the chairman thereof by the Secretary.

42. (1) Waar 'n versoeningsraad by die Administrateur aansoek doen om die aanstelling van 'n bemiddelaar betreffende 'n geskil onder oorweging deur sodanige versoeningsraad, of waar die Administrateur meen dat die aanstelling van 'n bemiddelaar die skikking van 'n geskil deur enige versoeningsraad sal bevorder, kan hy 'n bemiddelaar in daardie geskil aanstel.

42. (1) If any conciliation board applies to the Administrator for the appointment of a mediator in respect of any dispute which is being considered by that board, or if the Administrator is of opinion that the appointment of a mediator will aid in the settlement of a dispute by any conciliation board, he may appoint a person to be mediator in respect of that dispute.

(2) 'n Aldus aangestelde bemiddelaar het die reg om die versoeningsraadvergadering by te woon wanneer die geskil oorweeg word, en om daarby voor te sit, maar mag daar nie stem nie.

(2) A mediator so appointed shall be entitled to attend and preside at the meetings of the board at which the dispute is being considered, but shall not be entitled to vote thereat.

(3) 'n Aldus aangestelde bemiddelaar moet met die versoeningsraad oorleg pleg, na goedgekeurde navrae doen, ondersoek instel, skikkingsoogings aanwend, en by die Administrateur verslag doen oor die uitkoms van sy bemiddeling. Te dien einde het so 'n bemiddelaar al die bevoegdhede van 'n voorsitter van 'n versoeningsraad.

(3) A mediator so appointed shall confer with the board, conduct such enquiries and investigations as he may deem necessary, endeavour to bring about a settlement of the dispute and make a report to the Administrator as to the results of his mediation and for these purposes shall have all the powers of a chairman of a conciliation board.

(4) Die onkoste van bemiddeling (insluitende bemiddelaarsgelde) wat die Sekretaris voor of na die uitgawe goedkeur, word uit staatsgelde bestry.

(4) Such expenses in connection with mediation, including the payment of a fee to the mediator, as are approved by the Secretary before or after their incurrence, shall be defrayed out of public moneys.

43. (1) Uitgesonderd dienste waaroor artikel vier-en-veertig gaan, kan 'n versoeningsraad besluit om enige geskil tussen werknemers en werkgewers met verteenwoordiging in die raad, wat die raad oorweeg het, aan 'n enkele arbiter of aan 'n ewe getal arbiters voor te lê.

43. (1) A conciliation board may decide, except in the case of the services referred to in section forty-four, that any dispute between the employees and employers represented on the board, which has been under the consideration of that board, shall be referred to a single arbitrator or to an even number of arbitrators for decision.

(2) Wanneer ook al 'n versoeningsraad besluit het om 'n geskil aan meer as een arbiter voor te lê, moet daar ook 'n eindbeslisser aangestel word.

(2) Whenever a conciliation board has decided to refer a dispute to more arbitrators than one, an umpire shall also be appointed.

(3) Waar 'n versoeningsraad besluit het om 'n geskil ter skikking aan 'n enkele arbiter voor te lê, moet so-icmand met 'n meerderheidstem van al die werknemersverteenwoordigers en 'n meerderheidstem van al die werkgewersverteenwoordigers aangestel word.

(3) If a conciliation board has decided to refer a dispute to a single arbitrator for decision, that person shall be appointed arbitrator in favour of whose appointment a majority of all the representatives of the employees and a majority of all the representatives of the employers have voted.

(4) Waar 'n versoeningsraad besluit om 'n geskil aan meer as een arbiter voor te lê, moet die helfte van die arbiters deur werknemersverteenwoordigers aangestel word, en die ander helfte deur werkgewersverteenwoordigers.

(4) If a conciliation board has decided to refer a dispute to more arbitrators than one, half the number of the arbitrators shall be appointed by the representatives of the employees and half by the representatives of the employers.

(5) Wanneer dit ingevolge sub-artikel (2) nodig word om 'n eindbeslisser aan te stel, moet daardie eindbeslisser aangestel word vir wie 'n meerderheid van al die werknemersverteenwoordigers sowel as 'n meerderheid van al die werkgewersverteenwoordigers gestem het.

(5) Whenever in terms of sub-section (2) it is necessary to appoint an umpire, that person shall be appointed umpire in favour of whose appointment a majority of all the representatives of the employees and a majority of all the representatives of the employers have voted.

(6) Wanneer 'n arbiter of eindbeslisser ingevolge hierdie artikel deur die versoeningsraad of die verteenwoordigers aangestel is, moet die raad onmiddellik die naam van die aangestelde arbiter of eindbeslisser aan die Administrateur mededel.

(6) Whenever an arbitrator or umpire has been appointed in terms of this section by the board or by representatives, the board shall forthwith notify the Administrator of the name of the person so appointed.

(7) As daar binne tien dae (of binne 'n sodanige langer tydperk soos die raad met Administrateursgoedgekeuring vasstel) na die besluit om die geskil aan arbitrasie voor te lê, nog geen arbiter aangestel is nie, of, na gelang, nóg arbiters nóg 'n eindbeslisser aangestel is nie, kan die Administrateur na eie keuse so 'n persoon of persone aanstel.

(7) If within a period of ten days (or within such longer period as the board, with the approval of the Administrator, may fix) after the decision has been made to refer the dispute to arbitration the appointment has not been made of the arbitrator or, as the case may be, of one or more of the arbitrators or the umpire, the Administrator shall appoint such person or persons as he may himself select.

(8) Waar meer as een arbiter aangestel word, is die besluit van die meerderheid die arbitersbesluit, en as die meerderheid van die arbiters oor 'n bepaalde punt verskil, besluit die eindbeslisser daaroor.

(8) If more arbitrators than one have been appointed, the decision of the majority of the arbitrators shall be the decision of the arbitrators; and if a majority of the arbitrators are not agreed on any point, the umpire shall give the decision on that point.

(9) Die arbiter of arbiters of die eindbesliser, na gelang, moet 'n afskrif van die toekening en van enige desbetreffende verslag aan die Administrateur en aan die geskilveroendes besorg; en die Administrateur kan die toekening of verslag geheel of deels, of uittreksels daarvan, bekend maak, en die geskilveroendes kan die toekening of die verslag (dermate die Administrateur dit goedkeur) geheel, deels of middels uittreksel bekend maak.

(10) Ter ampsvervulling het die arbiter of die arbiters en die eindbesliser, na gelang, al die bevoegdhede wat artikel *agt-en-dertig* aan 'n versoeningsraad verleen, en waar die bepalinge van artikel *negen-en-twintig* ingevolgt artikel *agt-en-dertig* geld, geld hulle *met die nodige veranderinge* ook die ampsvervulling van 'n arbiter of van die arbiters en die eindbesliser, na gelang.

(11) Elke geskilveroende het die reg —

- (a) as individu, om sy saak by die arbitrasieverrigtinge in die persoon voor te dra, of om verteenwoordig te word deur 'n ander geskilveroende, of deur een of meer lede, ampsdraers of amptenare van 'n deelnemende vakvereniging of werkgewersorganisasie, of, waar 'n vakvereniging of werkgewersorganisasie self 'n geskilveroende is, om verteenwoordig te word deur een of meer van sy lede, ampsdraers of amptenare, of deur een of meer lede, ampsdraers of amptenare van enige ander deelnemende vakvereniging of werkgewersorganisasie; of
- (b) as al die ander geskilveroendes toestem, om by daardie verrigtinge verteenwoordig te word deur een of meer regspraktisyns of deur een of meer lede, ampsdraers of amptenare van 'n vakvereniging of werkgewersorganisasie wat nie aan die geskil deelneem nie;

en enige geskilveroende wat ooreenkomstig paragraaf (b) verteenwoordig word, of wat toegestem het tot sodanige verteenwoordiging vir 'n ander geskilveroende, word gehou vir toestemmend tot sodanige verteenwoordiging vir elke ander geskilveroende.

(12) Die bepalinge van hierdie artikel geld elke saak wat aan arbitrasie voorgelê word nadat die raad die geskil daarvoor nie kon skik nie.

44. (1) Wanneer die instelling goedgekeur is van 'n versoeningsraad ter oorweging en skikking van 'n geskil tussen 'n plaaslike bestuur en sy werknemers wie se werk in verband staan met die lewering van lig-, krag-, water-, sanitasie-, passasiersvervoer- of brandwerdienste, en die raad binne dertig dae na die goedkeuring van sy instelling, of binne sodanige tydverlenging soos die Administrateur een of meer male toegestaan het, nog nie die geskil geskik het nie, of wanneer die raad binne die dertig dae of die toegestane verlenging(s) besluit dat verdere bespreking nie op 'n skikking sal uitloop nie, dan —

- (a) moet die geskil ter skikking aan arbitrasie voorgelê word;
- (b) moet die raad die Administrateur onverwyld meedeel dat die versoeningspoging misluk het, of dat verdere bespreking nutteloos sal wees, en moet die raad onverwyld besluit of die geskil aan 'n enkele arbiter of aan 'n ewe getal arbiters ter skikking voorgelê moet word.

(2) Wanneer daar ingevolgt paragraaf (b) van sub-artikel (1) besluit word om meer as een arbiter aan te stel, moet daar ook 'n eindbesliser aangestel word.

(3) As 'n raad binne veertien dae na die tydperk en moontlike verlengings in sub-artikel (1) genoem, (of waarby binne so 'n tydperk of moontlike verlengings die geskil sal meebring nie, dan tien dae na so 'n gevolgarbiter, dan of dit aan 'n ewe getal arbiters voorgelê moet word nie, of nog nie besluit het hoeveel arbiters aangestel moet word nie, dan besluit die Administrateur of daar 'n enkele arbiter of meer arbiters (en so ju, hoe-

(9) The arbitrator, arbitrators or umpire, as the case may be, shall forward a copy of the award and of any report in connection therewith to the Administrator and to the parties concerned; and the Administrator may publish the whole of the award or report, or any portions thereof or extracts therefrom, and any of the parties concerned may publish the whole of the award or report, or such portions thereof or extracts therefrom as the Administrator may approve.

(10) The arbitrator or the arbitrators and the umpire, as the case may be, shall in the performance of his or their functions have all the powers conferred upon a conciliation board by section *thirty-eight*, and the provisions of section *twenty-nine* as applied by the first-mentioned section, shall, *mutatis mutandis*, apply to the exercise of those powers by the arbitrator or the arbitrators and umpire, as the case may be.

(11) Any party to the dispute shall be entitled—

- (a) if he is an individual, to present his case at the arbitration proceedings in person or to be represented at those proceedings by any other individual who is a party to the dispute or by one or more members, office-bearers or officials of a trade union or employers' organization which is a party to the dispute, or if it is a trade union or employers' organization to be represented by one or more of its members, office-bearers or officials or by one or more members, office-bearers or officials of any other trade union or employers' organization which is a party to the dispute; or
- (b) if all the other parties to the dispute consent, to be represented at those proceedings by one or more legal practitioners or by one or more members, office-bearers or officials of any trade union or employers' organization which is not a party to the dispute;

and any party which is represented in any manner referred to in paragraph (b) or which has consented to any other party being represented in any such manner, shall be deemed to have consented to every other party being represented in any such manner.

(12) The provisions of this section shall apply to the reference to arbitration of any matter which has been the subject of a dispute which the board has not succeeded in settling.

44. (1) Whenever the establishment of a conciliation board to consider and determine a dispute between a local authority and its employees engaged in the performance of work connected with the supply of light, power, water, sanitation, passenger transportation or the extinguishing of fires has been approved, and the board has failed to settle a dispute within a period of thirty days reckoned from the date of approval of the establishment of the board, or such further period or periods as the Administrator may fix, or before the expiration of that period or further period or periods, has satisfied itself that further deliberation will not result in the settlement of the dispute, then—

- (a) the dispute shall be submitted to arbitration for decision;
- (b) the board shall forthwith report its failure or the fact that it has so satisfied itself to the Administrator, and shall forthwith decide whether the dispute shall be referred to a single arbitrator or an even number of arbitrators for decision.

(2) Whenever it is decided in terms of paragraph (b) of sub-section (1) to appoint more arbitrators than one, an umpire shall also be appointed.

(3) If within a period of fourteen days after the expiration of the period or periods referred to in sub-section (1), or, if before the last-mentioned period or periods have expired, the board has satisfied itself that further deliberation will not result in a settlement of the dispute, then within a period of ten days after it has so satisfied itself, the board has not determined whether a single arbitrator or an even number of arbitrators shall be appointed or has not determined how many arbitrators shall be appointed, the Administrator shall

veel arbiters) aangestel moet word, en as 'n dienooreenkomstige aanstelling tien dae nadat die Administrateursbesluit meegedeel is nog nie geskied het nie, of, waar die raad self op die getal arbiters besluit het, daar nog geen arbiter(-s), of, na gelang, geen arbiter(-s) of eindbeslissers aangestel is nie, dan stel die Administrateur sy eie keuse(-s) in die aangewese amp aan.

(4) Die bepalinge van sub-artikel (3), (4), (5), (6), (8), (9), (10), (11) en (12) van artikel drie-en-veertig geld met die nodige veranderinge arbitrasie en aanstellings uit hoofde van hierdie artikel.

(5) Waar dienste betreffende sanitasie, passasiersvervoer, brandweer, krag, lig of water binne 'n plaaslike bestuursgebied nie deur die plaaslike bestuur self nie, maar deur 'n ander gelewer word, geld die bepalinge van hierdie artikel sodanige ander leweraar as sy werknemers ten opsigte van die sanitasie-, passasiersvervoer-, brandweer-, krag-, lig- of waterdienste, na gelang, asof die leweraar 'n plaaslike bestuur is.

45. (1) Arbitrasiekoste weens verrigtinge uit hoofde van artikel drie-en-veertig of vier-en-veertig word soos volg bstry:—

- (a) Word daar 'n enkele arbiter aangestel, dan moet die vakverenigings en die werknemers wat aan die geskil deelneem (in hierdie artikel heet hulle die werknemers) die een helfte van sy besoldiging betaal, en die werkgevers en die werkgeversorganisasies wat aan die geskil deelneem (in hierdie artikel heet hulle die werkgevers) die ander helfte.
- (b) Word daar meer as een arbiter aangestel, dan moet die werknemers en die werkgevers onderskeidelik die arbiter(-s) betaal wat hulle aangestel het of wat die Administrateur namens hulle aangestel het.
- (c) As daar 'n eindbeslissers aangestel is, moet die werknemers die helfte van sy besoldiging betaal, en die werkgevers die ander helfte.
- (d) Al die ander arbitrasiekoste, insluitende moontlike getuiegelde, moet om die helfte deur die werknemers en die werkgevers gedeel word: Met dien verstande dat moontlike sekretariële of klerklike hulp wat die Administrateur beskikbaar stel uit staatsgelde bestry word: Met dien verstande voorts dat die werknemers of die werkgevers, na gelang, self hul eie regstreekse uitgawes bestry, tensy hul anders ooreengekom het.

(2) Daardie deel van die arbitrasiekoste wat die werknemers en die werkgevers ingevolge hierdie artikel moet betaal, moet hulle onderskeidelik aansuiwer in die verhouding waartoe hulle ooreenkom, of, by onenigheid, in die verhouding wat die arbiter of die arbiters of die eindbeslissers, na gelang, vasstel.

46. (1) Wanneer 'n versoeningsraad 'n afskrif van 'n ooreenkoms soos dié waarvoor sub-artikel (2) van artikel vier-en-dertig gaan, aan die Administrateur besorg met 'n versoek dat hy dit bindend moet verklaar op die kontraktante en op die werknemer- en werkgeverlede van die deelnemende vakverenigings of werkgeversorganisasies, kan die Administrateur na goedgeunkte by kennisgewing in die *Offisiële Koerant* verklaar dat al die bepalinge van die ooreenkoms wat in die kennisgewing staan, vanaf 'n datum en oor 'n tydperk wat hy vasstel, die kontraktante en die moontlik deelnemende vakverenigings en werkgeversorganisasies bind.

(2) Waar 'n versoeningsraad so 'n versoek soos sub-artikel (1) noem, aan die Administrateur rig, met 'n bykomende versoek dat hy die ooreenkoms, of enige bepalinge daarvan, ook op die ander werkgevers of werknemers in die betrokke bedryf in die streek of streekdeel waar-

determine whether a single arbitrator or more than one arbitrator (and if so, how many arbitrators) shall be appointed, and if within a period of ten days from the date the Administrator notifies it of such determination or where the board has itself determined the number of arbitrators then within ten days of the date of such determination no appointment or appointments have been made of the arbitrator, or as the case may be, of one or more of the arbitrators or the umpire, the Administrator shall appoint such person or persons as he may himself select.

(4) The provisions of sub-sections (3), (4), (5), (6), (8), (9), (10), (11) and (12) of section forty-three shall *mutatis mutandis*, apply to arbitration and the making of appointments under this section.

(5) Whenever within the area of a local authority sanitation, passenger transportation, a fire extinguishing service, or the performance of work connected with power, light or water is provided by some person other than the local authority, the provisions of this section shall apply to that other person and his employees engaged to perform work connected with such sanitation, passenger transportation, fire extinguishing services, power, light or water, as the case may be, in like manner as if that person were a local authority.

45. (1) The costs of any arbitration proceedings under section forty-three or forty-four shall be paid as follows:—

- (a) If only one arbitrator has been appointed, one-half of his remuneration shall be paid by the employees and trade unions which are parties to the dispute (in this section called the employees) and one-half by the employers and employers' organizations which are parties to the dispute (in this section called the employers).
- (b) If more arbitrators than one have been appointed, the employees and the employers shall, respectively, pay the remuneration of the arbitrator or arbitrators appointed by them, or by the Administrator in their stead.
- (c) If an umpire has been appointed, one-half of his remuneration shall be paid by the employees and one-half by the employers.
- (d) One-half of all other costs of the arbitration, including the payment (if any) made to witnesses, shall be paid by the employees and one-half by the employers: Provided that the cost of any secretarial or clerical assistance provided by the Administrator shall be paid from public moneys: Provided further, that any costs incurred directly by the employees or employers shall, unless the employees and employers have otherwise agreed, be paid by the employees or employers, as the case may be.

(2) That portion of the costs of arbitration which in terms of this section is payable by the employees and that portion which is payable by the employers shall, respectively, be paid by the several employees or by the several employers in the proportions agreed upon by them, or, failing agreement, in the proportions determined by the arbitrator, arbitrators or umpire, as the case may be.

46. (1) Whenever a conciliation board transmits to the Administrator a copy of any agreement such as is referred to in sub-section (2) of section thirty-four, and requests the Administrator to declare the agreement to be binding upon the parties which entered into the agreement and upon the employers and employees who are members of any organizations or unions which are parties, the Administrator may, if he deems it expedient, by notice in the *Gazette*, declare that from a date and for a period fixed by him in that notice all the provisions of the agreement, which shall be set forth in that notice, shall be binding upon those parties and any employers' organizations and trade unions which are parties.

(2) Whenever a conciliation board makes any such request as is referred to in sub-section (1), and also requests the Administrator to declare the agreement, or any of the provisions thereof, to be binding upon the other employers and employees engaged or employed in

voor die versoeningsraad ingestel is, bindend moet verklaar, kan die Administrateur, as hy dit doenlik ag en oortuig is dat die kontraktante die werkgewers en werknemers in die betrokke bedryf in die betrokke streek of streekdeel voldoende verteenwoordig, by kennisgewing in die *Offisiële Koerant* —

(a) 'n verklaring doen soos dié wat sub-artikel (1) noem; en

(b) 'n bykomende verklaring doen dat al die bepaling van die ooreenkoms, of die bepaling daarvan wat hy moontlik aanwys, sodanige ander werkgewers en werknemers verbind soos hierdie artikel aandui.

(3) As 'n versoeningsraad die Administrateur meedeel dat die doel van 'n ooreenkoms waaromtrent 'n aansoek uit hoofde van sub-artikel (1) of (2) gedoen is of word, syms insiens verfydel word, of waarskynlik verfydel sal word binne die streek of streekdeel wat die aansoek noem, deurdat persone wat die woordbepaling van „werknemer” in artikel *agt-en-veertig* nie omvat nie, in die betrokke bedryf werk teen besoldiging en onder diensvoorwaardes wat nie in die ooreenkoms staan nie, en die versoeningsraad by die Administrateur aanbeveel dat enige bepaling(-s) van die ooreenkoms sodanige werknemers moet geld, kan die Administrateur na goeivinde by kennisgewing ingevolge sub-artikel (1) of (2) of by 'n verdere kennisgewing in die *Offisiële Koerant* verklaar dat al die bepaling van die ooreenkoms, of sodanige bepaling daarvan soos hy nodig ag ter voorkoming van die moontlike verfydeling, en soos hy in die kennisgewing noem, vanaf 'n vermelde datum en oor 'n vermelde tydperk *met die nodige veranderinge* die vermelde werknemers in die vermelde streek geld, en daarop is sodanige werknemers en hulle werkgewers aan al die bepaling, of aan al die vermelde bepaling, van die ooreenkoms gebonde.

(4) Wanneer die Administrateur 'n kennisgewing ingevolge sub-artikel (1), (2), (3) of (5) laat verskyn het, en binne die geldingstyd daarvan deur of namens die gebonde werkgewers of werknemers versoek word om die geldingstyd van enige bepaling te verleng ten opsigte van enigeand wat volgens die kennisgewing deur sodanige bepaling gebonde is, kan die Administrateur, as hy dit wenslik ag, by 'n opvolgende kennisgewing in die *Offisiële Koerant* daardie geldingstyd tot op 'n daarin vermelde datum verleng: Met dien verstande dat die Administrateur die geldingstyd van 'n kennisgewing ingevolge sub-artikel (1) of (2) verleng slegs wanneer hy oortuig is dat diegene wat die verlengingsversoek(-e) aan hom gerig het, die gebonde werkgewers of -nemers toereikend verteenwoordig.

(5) In 'n kennisgewing wat die Administrateur ingevolge hierdie artikel laat verskyn, betreffende 'n ooreenkoms wat bepaling bevat oor enige saak wat paragraaf (o) van sub-artikel (1) van artikel *nege* noem, kan die Administrateur verklaar dat sodanige bepaling sodanige prinsipale, kontraktante of andere soos daardie paragraaf noem, vanaf 'n datum en oor 'n tydperk wat hy in die kennisgewing noem, verbind.

(6) In sub-artikel (5) van hierdie artikel en in artikel *nege-en-veertig* tot en met *vyf-en-vyf-tig, sewen-en-vyf-tig, nege-en-vyf-tig, sestig, twee-en-sestig, drie-en-sestig, ses-en-selig en agt-en-sestig* word enige verwysing, hetsy uitdruklik of stilswyend, na 'n werknemer gehou vir 'n verwysing na elkeen op wie enige bepaling van 'n ooreenkoms ingevolge sub-artikel (3) van hierdie artikel toegepas is, en elke verwysing na 'n ooreenkoms word gehou vir 'n verwysing na enige aldus toegepaste bepaling.

(7) Waar die vraag ontstaan of die kontraktante by 'n ooreenkoms werkgewers of -nemers toereikend verteenwoordig, kan die Administrateur die raadslede as toereikende verteenwoordigers van die betrokke bedryf beskou, al is die verkuerenigings met verteenwoordiging in die raad nie geregistreer ten opsigte van die belange van elke klas werknemer in die betrokke bedryf nie, of al het hulle, hoewel hulle geregistreer is, geen lede wat aan sekere klasse werknemers behoort nie, mits die verteenwoordigde werkgewers

the trade to which the agreement relates, in the area or in any portion of the area, in respect of which the board was established, the Administrator may, if he deems it expedient, and if he is satisfied that the parties to the agreement are sufficiently representative of the employers and employees engaged or employed in that trade in that area or in that portion of that area, by notice in the *Gazette*—

(a) make a declaration such as is referred to in sub-section (1); and

(b) make a further declaration that all the provisions of the agreement, or such provisions as are specified by him, shall be binding upon such other employers and employees as are referred to in this sub-section.

(3) If a conciliation board reports to the Administrator that, in its opinion, any object of an agreement which has been or is the subject of an application for a declaration under sub-section (1) or (2) is being or will probably be defeated within the area or portion thereof referred to in the said application by the employment in the trade concerned at rates of remuneration and under conditions of employment other than those specified in the agreement of persons not included in the definition of the expression „employee” contained in section *forty-eight*, and recommends to the Administrator that the provisions of the agreement or any of the provisions thereof be made applicable to such persons, the Administrator may, in his discretion, in any notice published by him under sub-section (1) or (2), or, by a further notice published in the *Gazette*, declare that in an area and from a date and for a period specified by him in the notice all the provisions of the agreement or such provisions thereof as he may consider necessary to prevent any such consequence and as he may specially indicate in the notice shall, *mutatis mutandis*, apply in respect of such persons and thereupon all the provisions, or the provisions specially indicated in the notice, shall be binding upon every employer of any such person and upon all such persons.

(4) Whenever the Administrator has published a notice under sub-sections (1), (2), (3) or (5) and receives during the currency thereof a request or requests from or on behalf of employers and employees bound thereby to extend the period for which any of the provisions thereof shall remain binding upon the persons upon whom by that notice they were declared to be binding, the Administrator may, if he deems it expedient, extend that period by further notice in the *Gazette* to a date which he may therein specify: Provided that he shall not so extend the period in respect of any notice under sub-sections (1) or (2) unless he is satisfied that the persons who made the said request or requests are sufficiently representative of the persons bound thereby.

(5) In any notice published by the Administrator under this section relating to any agreement which contains provisions on any of the matters referred to in paragraph (o) of sub-section (1) of section *nine*, he may declare that from a date and for the period fixed by him in that notice those provisions shall be binding upon any such principals, contractors or other persons as are referred to in that paragraph.

(6) In sub-section (5) of this section and in sections *forty-nine to fifty-five* inclusive, *fifty-seven, fifty-nine, sixty, sixty-two, sixty-three, sixty-six and sixty-eight*, any reference, express or implied, to an employee shall be construed so as to include any person in respect of whom any provisions of an agreement have been applied under sub-section (3) of this section, and any reference to an agreement shall be construed so as to include any provisions so applied.

(7) On the question whether the parties to an agreement are sufficiently representative of employers and employees, the Administrator may, notwithstanding the fact that the trade unions which are parties to a board are not registered in respect of the interests of all classes of persons employed in the trade concerned or, if so registered, have no members belonging to certain classes of such persons, regard the parties to the board as sufficiently representative of the trade concerned, provided

werknemers uit sodanige klasse in hul diens het, en dan geld die bepaling hiervan met die nodige veranderinge die deelnemers aan 'n versoek wat uit hoofde van sub-artikel (4) geskied.

47. (1) Elke toekenning deur 'n arbiter, of arbiters en 'n eindbesliser aangestel kragtens artikel drie-en-veertig of vier-en-veertig is afdoende, en verbind die betrokke werkgewers, die werknemers, die werkgewersorganisasies en die vakverenigings sowel as die lede van daardie werkgewersorganisasies en vakverenigings, oor 'n tydperk wat die arbiter, of die arbiters, of die eindbesliser, vasstel, en wat minstens een jaar en hoogstens twee jaar mag wees.

(2) Die arbiter, arbiters of eindbesliser moet die datum vasstel waarop die toekenning of enige deel daarvan in werking tree, en dit kan die datum wees waarop die toekenning geskied, of vroeër of later, al na sy billikvnde: Met dien verstande dat so 'n inwerkingtredingsdatum nie vroeër gestel mag word as die datum waarop, na die arbiter, arbiters of eindbesliser meen, die geskil ontstaan het nie.

(3) Die bepaling van artikel ses-en-veertig, uitgesonderd sub-artikel (1), paragraaf (a) van sub-artikel (2) en sub-artikel (4) daarvan, geld met die nodige veranderinge elke sodanige toekenning.

48. By die toepassing van hierdie hoofstuk beteken —
 „werknemer” elkeen wat by 'n werkgewer in diens is of werk, en wat besoldig word, of daarop geregtig is, en enigiemand anders hoegenaamd wat enigiens 'n werkgewer se saak help dretwe of bestuur, maar sluit dit 'n Inboorling uit; en het „in diens” en „diens” ooreenkomstige betekenisse; en beteken „Inboorling” 'n lid van enige Inboorlingstam of -ras van Afrika.

HOOFSTUK III.

ADMINISTRATIEF EN ALGEMEEN.

49. (1) Wanneer 'n inspekteur betreffende 'n ooreenkoms wat 'n versoeningsraad aan die Administrateur voorgelê het, en wat kragtens artikel ses-en-veertig tot bindende ooreenkoms verklaar is, of 'n toekenning wat ingevolge artikel sewe-en-veertig tot bindende toekenning verklaar is of word, of betreffende 'n bindende vaststelling, verslag doen dat syns insiens —

- (a) die bestaande diensvoorwaardes van diegene wat deur so 'n ooreenkoms, toekenning of vaststelling geraak word, weselik minstens so gunstig vir hulle is as die diensvoorwaardes wat daardie ooreenkoms, toekenning of vaststelling voorskryf; of dat
- (b) enigene aan 'n liggaamsgebrek soos gevorderde jare, kroniese siekte of swakheid ly, en dus slegs deel van 'n gesonde se werk kan doen; of dat
- (c) daar besondere omstandighede heers wat om die beswil van 'n bepaalde persoon sy vrystelling van die werking van hierdie artikel regverdig,

kan die Administrateur, as hy dit wenslik ag, sodaniges vrystel van die werking van enige of al die toepasselike bedinge van so 'n ooreenkoms, toekenning, of vaststelling middels 'n sertifikaat waarop die vrystellingsvoorwaardes en -duur vermeld staan, en wat 'n beaampte onderteken.

(2) Die Administrateur kan van tyd tot tyd en na goedvnde by geskryf onder sy hand die bevoegdheede wat sub-artikel (1) hom verleen, aan enige beaampte oordra, en kan so 'n bevoegdheidsordrag intrek.

(3) Elke voorwaarde op 'n sertifikaat wat ingevolge hierdie artikel uitgereik word, verbind die persoon aan wie dit uitgereik word, en as so-iemand 'n werknemer is, dan ook elkeen wat hom in diens het.

(4) Die Administrateur kan te eniger tyd na goedvnde 'n vrystelling intrek, en 'n beaampte aan wie bevoegde ingevolge sub-artikel (2) oorgedra is, kan te eniger tyd 'n vrystelling wat hy verleen het, intrek, of enige ander beaampte aan wie sodanige bevoegdheede verleen is, kan dit intrek.

the employers represented thereon have in their employ persons belonging to such classes, and the provisions hereof shall *mutatis mutandis* apply to parties to any request in terms of sub-section (4).

47. (1) Any award made by an arbitrator, arbitrators or umpire appointed under section forty-three or forty-four shall be final and binding upon the employees and employers who, and the trade unions and employers' organizations which, are parties to the dispute and upon the employees and employers who are members of those unions or organizations, for a period which shall be fixed by the arbitrator, arbitrators or umpire, and which shall not be less than one year nor more than two years.

(2) The arbitrator, arbitrators or umpire shall fix the date from which the award or any portion of the award shall operate, which date may be the date on which the award is given or an earlier or later date, as to him may seem equitable: Provided that an award shall not operate from an earlier date than the date upon which, in the opinion of the arbitrator, arbitrators or umpire, the dispute came into existence.

(3) The provisions of section forty-six (other than sub-section (1), paragraph (a) of sub-section (2) and sub-section (4) thereof shall, *mutatis mutandis*, apply to any such award.

48. For the purposes of this Chapter—

“employee” means any person employed by, or working for any employer, and receiving, or being entitled to receive, any remuneration, and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer but does not include a native; and

“employed” and “employment” have corresponding meanings; and

“native” means a member of any aboriginal race or tribe of Africa.

CAPTER III.

ADMINISTRATIVE AND GENERAL.

49. (1) Whenever an inspector reports in relation to an agreement which has been transmitted to the Administrator by a conciliation board and has been made binding in terms of section forty-six, or an award which in terms of section forty-seven is or has been made binding, or to a determination which is binding, that in his opinion—

- (a) the existing conditions of employment of any persons to whom such agreement, award or determination applies are substantially not less favourable to them than the conditions of employment prescribed by that agreement, award or determination; or
- (b) any person suffers from physical disability such as old age, or chronic sickness or infirmity, and is capable of doing only part of the work required of an able-bodied person; or
- (c) special circumstances exist which justify, in the interests of any person, an exemption of that person under this section,

the Administrator may, if he deems it expedient to do so, authorize under licence signed by an officer, subject to such conditions and for such period as may be specified therein, the exemption of those persons or that person from all or certain of the provisions of any such agreement, award or determination applicable to them or to him.

(2) The Administrator may, in his discretion, from time to time by writing under his hand delegate the powers conferred upon him by sub-section (1), to any officer, and withdraw any such delegation.

(3) Any condition specified in any licence issued under this section shall be binding upon the person to whom it has been issued and, if that person is an employee, upon every person who employs him.

(4) Any such exemption may at any time be withdrawn at the discretion of the Administrator; and any exemption granted by an officer to whom powers have been delegated under sub-section (2) may at any time be withdrawn by that officer or by any other officer to whom powers have been so delegated.

50. (1) Elkeen wat enige bepaling van enige vasstelling, ooreenkoms, kennisgewing, toekennening of vrystelling-sertifikaat wat hom ingevolge hierdie Ordonnansie verbind, deur 'n daad of versuim verontagsaam, is skuldig aan 'n oortreding.

(2) Was die veroordeelde 'n werkgewer, en het hy oortree deur enige bepaling van enige sodanige vasstelling, ooreenkoms, kennisgewing, toekennening of vrystelling-sertifikaat te verontagsaam deur 'n daad of versuim aangaande—

(a) 'n aangeleentheid genoem in paragraaf (a), (c) of (g) van sub-artikel (1) van artikel *nege*, of aangaande betaling vir oortydse werk of eies, of betaling vir, of ter vervanging van, afwesigheidsverlof of ter vervanging van 'n kennisgewing van diensbeëindiging, of die betaling op die betaaldag van 'n werknemer se volle besoldiging, of die besoldiging wat 'n werknemer luidens 'n vrystelling-sertifikaat toekom; of

(b) enige aangeleentheid genoem in paragraaf (k) van sub-artikel (1) van artikel *nege*;

dan moet die vonnisvallende hof ingaan op, en die verskil vasstel tussen, die bedrag wat hy betaal het en die bedrag wat hy sou betaal het as die daad of versuim waaraan hy skuldig bevind is, nie gepleeg was nie; en, by 'n verontagsaming deur 'n daad of versuim waarop paragraaf (a) dui, moet die hof nagaan of die betrokke werknemer ingestem het, al dan nie, om minder besoldiging te aanvaar as wat hom toekom luidens die bepalings van die betrokke vasstelling, ooreenkoms, kennisgewing, toekennening, of vrystelling-sertifikaat, en of, as hy wel daartoe ingestem het, hy geweet het van sy regte luidens die betrokke bepalings, en, as hy wel geweet het, die omstandighede van sy toestemming: Met dien verstande dat waar die hof uit al die getuënis, gelewer voor of na die skuldigbevinding, die verskil nie noukeurig kan uitmaak nie, hy dit na beste vermoë moet skat. As daar geen betaling geskied het nie, word die bedrag wat betaal sou gewees het as daar geen oortreding deur 'n daad of versuim gepleeg was nie, wut hierdie artikel betref, gehou vir die verskil. Die verskil wat aldus vasgestel of geskat word, heet hierin, en in artikel *een-en-vyf*ig en *drie-en-vyf*ig, die tekort.

(3) Wanneer die hof kragtens sub-artikel (2) oortree, moet hy die werkgewer geleentheid gee om getuënis te lewer oor die tekort en die omstandighede daarvan, en as die oortreding bestaan uit 'n verontagsaming deur 'n daad of versuim waarop paragraaf (a) van daardie sub-artikel dui, dan moet die hof die betrokke werknemer 'n soortgelyke geleentheid bied.

(4) Hofverrigtinge kragtens sub-artikel (2) en (3) moet voor die vonnis geskied, en word gehou vir deel van die verhoor.

(5) Waar die oortreding 'n verontagsaming deur 'n daad of versuim is waarop sub-artikel (2) dui, en die tekort groter is as die maksimale boete ingevolge artikel *vyf-en-sewentig*, dan moet die maksimale boete waaraan die veroordeelde ingevolge daardie artikel onderhewig is, verhoog word tot op 'n bedrag gelyk aan die tekort.

(6) Teen 'n aanklag weens 'n oortreding deur 'n daad of versuim waarop sub-artikel (2) dui, is bewys dat die beskuldigde se daad of versuim aan geldgebrek te wyte is, geen verweer nie.

51. (1) Waar enigiemand ingevolge sub-artikel (1) van artikel *vyf*ig aan 'n oortreding skuldig bevind is, en die oortreding bestaan het uit 'n verontagsaming deur 'n daad of versuim waarop sub-artikel (2) van daardie artikel dui, moet die vonnisvallende hof, nadat hy ingevolge daardie artikel die tekort vasgestel het, die veroordeelde beveel om 'n bedrag gelyk aan die tekort aan 'n beampte wat die hof aanwys (hierna heet hy die aangewese beampte), panieusgewys of andersins, soos die hof bepaal, binne 'n tydperk deur die hof vasgestel, af te betaal.

(2) Wanneer die veroordeelde daarom aansoek doen, en gegronde redes daartoe aanvoer, kan die hof te eniger tyd die afbetalingstydperk verleng of die panieusbedrag wysig betreffende so 'n bedrag wat aan die aangewese beampte betaal moet word.

50. (1) Any person who contravenes or fails to comply with any provision of any determination, agreement, notice, award or licence of exemption binding upon him under this Ordinance, shall be guilty of an offence.

(2) If the person convicted was an employer, and the offence consisted of the contravention of or failure to comply with any provision of any such determination, agreement, notice, award or licence of exemption relating—

(a) to any matter referred to in paragraph (a), (c) or (g) of sub-section (1) of section *nine*, or to payment in respect of overtime or meals or in respect of or in lieu of leave of absence or in lieu of notice of termination of employment, or to payment on due date of the full remuneration owing to an employee, or, in the case of a licence of exemption, to any remuneration due to an employee in terms thereof; or

(b) to any matter referred to in paragraph (k) of sub-section (1) of section *nine*,

the court convicting him shall enquire into and determine the difference between the amount which he paid and the amount which he would have paid if the contravention or failure of which he has been convicted had not occurred, and, in the case of a contravention or failure such as is referred to in paragraph (a), whether the employee concerned did or did not agree to accept less than the remuneration which under the provisions of the relative determination, agreement, notice, award or licence he was entitled to receive, and whether if he did so agree, he and if he did know of those rights, the circumstances under which he so agreed: Provided that if the court is unable on all the evidence, whether given before or after conviction, to determine that difference exactly, it shall, to the best of its ability estimate that difference. If no amount has been paid, the amount which would have been paid if the contravention or failure had not occurred, shall, for the purposes of this sub-section, be deemed to be the difference. The difference so determined, or the amount at which it is so estimated is in this section and in sections *fifty-one* and *fifty-three* referred to as the amount underpaid.

(3) The court shall, when acting under sub-section (2) give to the employer an opportunity of submitting evidence regarding the amount underpaid and the circumstances under which the underpayment took place, and, if the offence consisted of a contravention or a failure such as is referred to in paragraph (a) of that sub-section, give to the employee concerned a similar opportunity.

(4) The proceedings of the court under the provisions of sub-sections (2) and (3) shall be taken before sentence is passed, and shall be deemed to form part of the trial.

(5) If the offence consisted of a contravention or failure such as is referred to in sub-section (2), and the amount underpaid is greater than the maximum amount of the fine prescribed by section *seventy-five*, the maximum amount of the fine to which the person convicted shall be liable in terms of that section shall be increased to an amount equal to the amount underpaid.

(6) It shall not be a defence to any charge on a contravention or failure such as is referred to in sub-section (2) to prove that the act or omission with which the accused is charged was due to lack of means.

51. (1) Whenever any person has been convicted of an offence under sub-section (1) of section *fifty*, and the offence consisted of a contravention or failure such as is referred to in sub-section (2) of that section, the court convicting him shall, after it has, in terms of that section, determined the amount underpaid, order him to pay an amount equal to the amount underpaid to an officer specified by the court (hereinafter referred to as the specified officer) within a period fixed by the court, in instalments or otherwise, as fixed by the court.

(2) The court may at any time, upon the application of the person convicted, for good cause shown, extend the period within which any such amount must be paid to the specified officer or vary the amounts of the instalments.

(3) 'n Hofbevel wat kragtens hierdie artikel geskied, het allesins die uitwerking van 'n burgerregtelike hofuitpraak ten gunste van die Administrasie, en kan desgelyks ten uitvoer gelê word.

(3) An order made under the provisions of this section shall have all the effects of, and may be executed as if it were, a civil judgment in favour of the Administration.

52. (1) Waar 'n hofbevel ingevolge artikel een-en-vyfzig teen 'n werkgewer geskied betreffende 'n oortreding waarop paragraaf (a) van sub-artikel (2) van artikel vyftig dui, moet die betrokke hof bevel dat so 'n deel van die bedrag betaalbaar aan die aangewese beampte soos die hof onder die omstandighede van die oortreding billik ag, betaal moet word aan die werknemer teenoor wie daardie oortreding gepleeg is: Met dien verstande dat —

52. (1) Whenever an order is made under section fifty-one against an employer in respect of a contravention or failure such as is referred to in paragraph (a) of sub-section (2) of section fifty the court making the order shall direct that so much of the amount which in terms of the order is paid to the specified officer as the court, having regard to the circumstances under which the contravention or failure occurred, deems equitable, shall be paid to the employee in respect of whom the contravention or failure occurred: Provided that—

(a) as die hof bevind dat die betrokke werknemer nie ingestem het om minder te ontvang as die minimale besoldiging waarop hy luidens die bepalinge van die onderhawige vasstelling, ooreenkoms, kennisgewing, toekennings of vrystelling-sertifikaat reg het nie, of, waar hy dit wel aanvaar het, dat hy dit aanvaar het onbewus van sy regte ingevolge daardie bepalinge, die hof moet bevel dat die hele bedrag wat aan die aangewese beampte betaal moet word, aan daardie werknemer oorgedra moet word;

(a) if the court finds that the employee concerned did not agree to accept less than the minimum remuneration which under the provisions of the relative determination, agreement, notice, award or licence he was entitled to receive, or that if he did so agree, he so agreed not knowing of his rights under those provisions, the court shall direct that the whole of the amount so paid to the specified officer shall be paid to that employee;

(b) as die hof, gesien die omstandighede van die oortreding, dit billik ag, hy kan bevel dat geen deel van die bedrag wat aan die aangewese beampte betaal moet word, aan die betrokke werknemer oorgedra moet word nie, uitgesonderd egter die omstandighede waarop paragraaf (a) dui;

(b) if the court, having regard to the circumstances under which the contravention or failure occurred, deems it equitable to do so, it may, except in the circumstances referred to in paragraph (a), direct that no portion of the amount so paid to the specified officer shall be paid to the employee concerned;

(c) as die hof bevel dat 'n deel van die bedrag wat aldus aan die aangewese beampte betaal moet word aan die betrokke werknemer oorgedra moet word, daardie deel minstens eenkwart moet bedra.

(c) if the court directs that any portion of the amount so paid to the specified officer shall be paid to the employee concerned, that portion shall not be less than one-fourth thereof.

(2) Daardie deel van die bedrag wat aan die aangewese beampte betaal word, en wat nie ingevolge sub-artikel (1) aan die betrokke werknemer oorgedra word nie, moet in die Gebied se Inkomstefonds gestort word.

(2) So much of the amount so paid to the specified officer as is not, in terms of sub-section (1), paid to the employee concerned shall be paid into the Territory Revenue Fund.

(3) Die hele bedrag wat aan 'n aangewese beampte betaal word luidens 'n hofbevel teen 'n werkgewer ingevolge artikel een-en-vyfzig weens 'n oortreding waarop paragraaf (b) van sub-artikel (2) van artikel vyftig dui, moet in die Gebied se Inkomstefonds gestort word: Met dien verstande dat waar die werkgewer betreffende dieselfde feite ook skuldig bevind is aan 'n oortreding waarop paragraaf (a) van daardie sub-artikel dui, die bepalinge van hierdie sub-artikel slegs van toepassing is op daardie deel van die bedrag wat aan die aangewese beampte betaal is wat nie luidens 'n hofbevel ingevolge sub-artikel (1) van hierdie artikel aan die betrokke werknemer oorgedra word nie.

(3) The whole of any amount paid to the specified officer pursuant to any order made under section fifty-one against an employer in respect of a contravention or failure such as is referred to in paragraph (b) of sub-section (2) of section fifty shall be paid into the Territory Revenue Fund: Provided that if the employer has also been convicted in respect of the same facts of a contravention or failure such as is referred to in paragraph (a) of that sub-section, the provisions of this sub-section shall apply only in respect of so much of the amount paid to the specified officer as the court does not in terms of sub-section (1) of this section direct shall be paid to the employee concerned.

53. (1) As iemand ingevolge sub-artikel (1) van artikel vyftig aan 'n oortreding skuldig bevind is, en die oortreding 'n daad of versuim was waarop paragraaf (a) van sub-artikel (2) van daardie artikel dui, het die werknemer teenoor wie die oortreding gepleeg is, geen reg om enige deel van 'n tekort met 'n siviele geding van sy werkgewer te verhaal nie, maar is hy, aangaande so 'n tekort, slegs geregtig op die bedrag wat luidens die hofbevel ingevolge sub-artikel (1) van artikel twee-en-vyfzig aan hom oorgedra moet word uit die geld wat luidens 'n hofbevel ingevolge artikel een-en-vyfzig aan die aangewese beampte betaal is.

53. (1) If any person has been convicted of an offence under sub-section (1) of section fifty and the offence consisted of a contravention or failure such as is referred to in paragraph (a) of sub-section (2) of that section, the employee in respect of whom the contravention or failure occurred shall not be entitled by civil proceedings to recover from his employer any portion of the amount underpaid, but shall be entitled to receive in respect of the amount underpaid only the moneys which the court in terms of sub-section (1) of section fifty-two directs shall be paid to him out of the moneys paid to the specified officer under an order made under section fifty-one.

(2) Behoudens die bepalinge van sub-artikel (3) tens niks in artikel vyftig, een-en-vyfzig of twee-en-vyfzig of in sub-artikel (1) van hierdie artikel 'n werknemer se moontlike reg aan om, met 'n siviele geding teen sy werkgewer —

(2) Subject to the provisions of sub-section (3), nothing contained in section fifty, fifty-one or fifty-two or in sub-section (1) of this section shall affect any right which any employee may have to recover by civil proceedings from his employer—

(a) enige bedrag wat sy werkgewer hom weens 'n onderlinge ooreenkoms bo en behalwe die tekort skuld, te verhaal nie, waar sy werkgewer, of die bestuurder, agent of werknemer van sy werkgewer skuldig bevind is aan 'n oortreding waarop paragraaf (a) van sub-artikel (2) van artikel vyftig dui, wat teenoor daardie werknemer gepleeg is;

(a) where his employer, or the manager, agent or employee of his employer, has been convicted of an offence consisting of a contravention or failure such as is referred to in paragraph (a) of sub-section (2) of section fifty, which occurred in respect of that employee, any amount owing to him under any agreement between himself and his employer in excess of the amount underpaid;

- (b) enige bedrag wat sy werkgever hom moet betaal weens die bepalings van 'n vasstelling, ooreenkoms, kennisgewing, toekennening of vrystellingsertifikaat, of weens 'n onderlinge ooreenkoms, te verhoel nie, waar nóg sy werkgever, nóg die bestuurder, agent of werknemer van sy werkgever aldus skuldig bevind is nie.
- (3) 'n Werknemer aan wie sy werkgever nie die volle besoldiging betaal het nie, waartoe die werkgever weens 'n vasstelling, ooreenkoms, kennisgewing, toekennening of vrystellingsertifikaat ingevolge hierdie Ordonnansie verbode is of was, het geen reg om met 'n siviele geding die tekort of 'n deel daarvan van sy werkgever te verhoel nie, tensy—
- (a) die werknemer 'n sertifikaat by die hof inlewer wat die Prokureur-generaal onderteken het, en waarin die Prokureur-generaal verklaar dat hy geen vervolging betreffende die oortreding of verontagsaming waarop die werknemer sy eisvoorsake wil grond, gaan instel nie; of
- (b) die werkgever of sy bestuurder, agent of werknemer vrygespreek is van 'n aanklag wat uit daardie oortreding voortvloei.

54. (1) Geen afspraak, hetsy uitdruklik of stilswyend, hetsy aangegaan vóór of ná die inwerkingtreding van 'n vasstelling, ooreenkoms, kennisgewing, toekennening of uitreiking van 'n vrystellingsertifikaat, mag die uitwerking hê dat 'n werknemer laer besoldig word as wat daardie vasstelling, ooreenkoms, kennisgewing, toekennening, of vrystellingsertifikaat bepaal nie, of dat hy swakker behandeling of minder bevoordeel word as wat daar aldus voorgeskryf is nie; nóg mag 'n werknemer met 'n afspraak die tersydestelling beoog van 'n bepaling van daardie vasstelling, ooreenkoms, kennisgewing, toekennening of vrystellingsertifikaat wat hom geld nie. Elke wat 'n afspraak aangaan wat voorgee om sodanige laer besoldiging, swakker behandeling of minder bevoordeeling, of sodanige tersydestelling toe te laat of te reël, is skuldig aan 'n oortreding, en elke sodanige afspraak is nietig.

(2) 'n Werkgever wat 'n werknemer gelas of toelaat om besoldiging wat aan die werknemer betaal is, of moet word, weens 'n vasstelling, ooreenkoms, kennisgewing, toekennening, vrystellingsertifikaat, of weens 'n lasgewing ingevolge sub-artikel (1) van artikel twee-en-veertig, aan hom (die werkgever) uit of terug te betaal, of wat 'n daadverrig of toelaat waardeur daardie werknemer regstreeks of onregstreeks in mindere of meerdere mate die voordeel van sodanige besoldiging ontbeet, is skuldig aan 'n oortreding.

(3) 'n Werkgever wat vereis of toelaat dat 'n werknemer 'n kwitantie gee of andersins die skyn wek dat hy meer besoldiging ontvang het as wat hy wêl ontvang het, is skuldig aan 'n oortreding.

(4) Die bepalings van hierdie artikel geld met die nodige veranderinge ten opsigte van elke bepaling van elke vasstelling, ooreenkoms, kennisgewing of toekennening betreffende ewigeen van die sake waarop paragraaf (o) van sub-artikel (1) van artikel nege dui, en ten opsigte van elke prinsipaal of kontraktant of enigemand anders wat daardie bepaling ingevolge hierdie Ordonnansie verbind, of verbind het.

55. (1) Elke werkgever wat, afgesien daarvan of 'n vasstelling, ooreenkoms, kennisgewing, of toekennening hom ingevolge hierdie Ordonnansie verbind of nie, enigeen van sy werknemers outstaan, of sy besoldiging verminder, of sy diensvoorwaardes verswak, of hom in sy stand teenoor sy mede-werknemers benadeel, omdat hy (die werkgever) vermoed of meen dat —

- (a) daardie werknemer inligting verstrek het waartoe hy ingevolge hierdie Ordonnansie verplig was, of wat gaan oor sy eie diensvoorwaardes of oor dié van sy mede-werknemers, en dit wel aan die raad of 'n lid of bykomende lid van die raad, of aan 'n versoeningsraad, of aan 'n bemiddelaar, arbiter of eindsbesliser wat ingevolge hierdie Ordonnansie aangestel is, of aan 'n beampte, of wat die regmatige opdrag van 'n inspekteur uitgevoer het, of wat in 'n gereghof getuicnis afgelê het; of dat

(b) where neither his employer nor the manager, agent or employee of his employer has been so convicted, or any amount which his employer is bound to pay to him under the provisions of any determination, agreement, notice, award or licence of exemption or in terms of any agreement between himself and his employer.

(3) An employee to whom his employer has not paid the full remuneration which he ought to have paid in terms of any determination, agreement, notice, award or licence of exemption which is or was binding upon him under this Ordinance, shall not be entitled to recover from his employer by civil proceedings the amount he has been underpaid or any portion of that amount, unless—

- (a) the employee produces to the court a certificate signed by the Attorney-General stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base the cause of action; or
- (b) the employer or the manager, agent or employee of the employer has been acquitted on a charge of that contravention or failure.

54. (1) No agreement, express or implied whether entered into before or after the coming into operation of any determination, agreement, notice, award or licence of exemption, shall operate to permit of the payment to any employee of remuneration less than that prescribed by that determination, agreement, notice, award or licence, or of the application to any employee of any treatment, or the grant to him of any benefits, less favourable to him than the treatment or benefits so prescribed, nor shall it affect any waiver by any employee of the application to him of any provision of that determination, agreement, notice, award or licence. Any person who enters into any agreement purporting to permit of any such payment, application or grant or to effect any such waiver shall be guilty of an offence, and any such agreement shall be void.

(2) An employer who requires or permits any employee to pay or re-pay to him any remuneration payable or paid to that employee under any determination, agreement, notice, award or any licence of exemption or pursuant to any direction given in terms of sub-section (1) of section fifty-two, or does any act or permits any act to be done as a direct or indirect result of which that employee is deprived of the benefit or of any portion of the benefit of any remuneration so paid, shall be guilty of an offence.

(3) An employer who requires or permits any employee to give a receipt for, or otherwise to represent that he has received, more than he actually received by way of remuneration shall be guilty of an offence.

(4) The provisions of this section shall *mutatis mutandis*, apply in respect of any provision of any determination, agreement, notice or award relating to any of the matters referred to in paragraph (o) of sub-section (1) of section nine, and in respect of any principal or contractor or other person upon whom that provision is or was binding under this Ordinance.

55. (1) Any employer who, whether or not any determination, agreement, notice or award is binding upon him under this Ordinance, dismisses any employee employed by him or reduces the rate of his remuneration or alters the conditions of his employment to conditions less favourable to him, or alters his position relatively to other employees employed by him to his disadvantage, by reason of the fact that he suspects or believes that—

- (a) that employee has given information which by or under this Ordinance he is required to give, or which relates to the conditions of his employment, or those of other employees of his employer, to the board or to any member or additional member of the board or to a conciliation board, or to a mediator or to an arbitrator or umpire appointed under this Ordinance or to an officer, or who has complied with any lawful requirement of an inspector or has given evidence before a court of law; or

(b) daardie werknemer 'n taak waarop sub-artikel (2) en (3) van artikel vier-en-vyftig dui, geweer of versuim het; of dat

(c) daardie werknemer lid is of was van 'n vak- of onder werknemersvereniging wat werknemersbelange teenoor werkgevers wil of wou bestendig of bevorder; of dat daardie werknemer buite sy gewone werkyd (of, met die werkgever se toestemming, daarbinne) deelneem of deelgeneem het aan die stigting of die regmatige bedrywighede van so 'n vak- of ander vereniging, al sou die vermoede of oortuiging juist of gegrond wees, is skuldig aan 'n oortreding, en is by skuldigbevinding onderhevig aan 'n boete van hoogstens driehonderd pond of aan gevangenisstraf van hoogstens twee jaar, of aan sodanige gevangenisstraf sonder die keuse van 'n boete, of aan beide sodanige boete en sodanige gevangenisstraf.

(2) Die hof wat iemand kragtens sub-artikel (1) van 'n oortreding skuldig bevind, kan ook, behalwe die vonnis wat hy moontlik oplei, die veroordeelde beveel om, volgens die voorwaardes en die tydperk wat die hof aangee, die werknemer wie se ontslag, besoldigingsvermindering, of standsbenadeling die aanklag en skuldigbevinding veroorsaak het, in ere te herstel; of die hof kan die veroordeelde beveel om die betrokke werknemer tot op hoogstens tweehonderd pond te vergoed vir gelede skade, of kan beide sodanige herstelling en skadevergoeding beveel; en sodanige bevel ter herstelling en/of vergoeding het die uitwerking van 'n siviele hofuitspraak ten gunste van daardie werknemer.

56. (1) Met inagneming van die Staatsdienswette kan die Administrateur enige iemand as inspekteur ingevolge hierdie Ordonnansie aanstel.

(2) Elke inspekteur moet voorsien word van 'n sertifikaat (onderteken deur 'n beaampte wat die Administrateur daartoe aanwys) waaruit blyk dat hy ingevolge hierdie Ordonnansie as inspekteur aangestel is.

57. (1) Enige inspekteur kan te eniger tyd sonder voorafgaande kennisgewing enige perseel hoegenaamd betree, en kan, onderwyl hy daarin of daarop is, of te eniger ander tyd, enige iemand wat daarin of daarop is of was, of in die teenwoordigheid van andere of enkant, ondervra, en kan so-iemand gelas om op staande voet of op 'n tyd en plek wat die inspekteur vasstel, alle boeke en dokumente oor te lewer wat op of in die perseel in die besit of onder die beheer of bewaring was of is van enige werkgever wat die perseel beset of beuut, of van enige werknemer van daardie werkgever. So 'n inspekteur kan op enige tyd en plek elkeen wat enige dokument of boek besit, bewaar of beheer betreffende die werk van enige perseel, of 'n werkgever is of was, gelas om sodanige boek of dokument op staande voet of op 'n plek en tyd wat die inspekteur vasstel, in te lewer, en die inspekteur kan sodanige boeke en dokumente ondersoek en uittreksels daarin en afskrifte daarvan maak, en kan 'n verduideliking eis van enige inskrywings in sodanige boeke of dokumente en kan enige sodanige boeke of dokumente in beslag neem wat syus insiens getuies is van 'n oortreding ingevolge hierdie Ordonnansie. 'n Inspekteur kan saam met hom 'n tolk of ander hulp, of 'n lid van 'n Polisie mag in of op enige perseel meeneem.

(2) Elke werkgever in verband met wie se saak perseel beset of beuut word, en elkeen in sy diens, moet te alle tye sodanige geriewe verleen soos die inspekteur nodig het betreffende toegang tot die perseel of ter insaas of ondersoek van die boeke en dokumente in of op die perseel of in verband met enige ondervraging dienaangaande.

(3) 'n Inspekteur kan enige werknemer gelas om enige omslag wat geld bevat of bevat het wat hom by wyse van besoldiging toekom, aan die inspekteur te lewer, en bowendien enige staat wat die betrokke werkgever betreffende sodanige besoldiging aan die werknemer verskaf of gaan verskaf, en die inspekteur kan die inhoud van die omslag ondersoek en kan die omslag en die staat behou.

(b) that employee has refused or omitted to do any such act by an employee as is referred to in sub-section (2) or (3) of section fifty-four; or

(c) that employee belongs or has belonged to any trade union or any other organization of employees the object of which is or was to protest or further the interest of employees in relation to their employers, or takes or has taken part outside ordinary working hours, or, with the consent of the employer, within working hours, in the formation of or in the lawful activities of any such union or organization,

shall, whether or not the suspicion or belief is justified or correct, be guilty of an offence and liable on conviction to a fine not exceeding three hundred pounds or imprisonment for a period not exceeding two years or such imprisonment without the option of a fine or both such fine and such imprisonment.

(2) The court which convicts any person of an offence under sub-section (1), may also, in addition to any sentence which it may impose, order him to reinstate, for such period and subject to such conditions as it may determine, the employee whose dismissal, or the reduction of the rate of whose remuneration, or the alteration of whose position, was the subject of the charge of which he was convicted, or may order him to pay to that employee compensation, not exceeding two hundred pounds for loss suffered by that employee, or may order both such reinstatement and the payment of such compensation; and any such order for reinstatement or compensation shall have the effect of a civil judgment in favour of that employee.

56. (1) The Administrator may, subject to the laws governing the public service, appoint any person as an inspector under this Ordinance.

(2) Every inspector shall be furnished with a certificate signed by an officer thereto designated by the Administrator and stating that he has been appointed as an inspector under this Ordinance.

57. (1) Any inspector may, without previous notice, at any time enter any premises whatsoever and may, while he is upon or in the premises or at any other time, question any person who is or has been upon or in the premises, in the presence of or apart from others, and may require from any such person the production then and there, or at a time and place fixed by the inspector, of all books and documents which are or have been upon or in the premises or in the possession or custody or under the control of any employer by whom the premises are occupied or used, or of any employee of that employer, or may at any time and at any place require from any person who has the possession or custody or control of any book or document relating to the business of any person who is or was an employer the production then and there, or at a time and place fixed by the inspector, of that book or document, and may examine and make extracts from and copies of all such books and documents, and may require an explanation of any entries in any such books or documents, and may seize any such books or documents as in his opinion may afford evidence of any offence under this Ordinance. An inspector may take with him into or on to any premises any interpreter or other assistant or any member of a police force.

(2) Any employer in connection with whose business any premises are occupied or used, and every person employed by him, shall at all times furnish such facilities as are required by the inspector for entering the premises or for inspecting or examining the books and documents upon or in the premises or for making any enquiry in relation thereto.

(3) Any inspector may require any employee to produce to him any container in which any money paid or to be paid to him by way of remuneration was or is contained, and any statement furnished or to be furnished to him by his employer concerning the payment, and may examine the contents of the container and retain the container and statement.

(4) 'n Inspekteur kan enige werknemer gelas om voor hom te verskyn op 'n tyd en plek wat die inspekteur vasstel en die inspekteur kan daardie werknemer op staande voet ondervra.

(5) 'n Inspekteur kan enige werkgever gelas om elke betaling wat sy werkgevers toekom in die teenwoordigheid van 'n inspekteur te doen.

(6) Wanneer ook al 'n prinsipaal of kontrakteur enige kontrakwerk aan iemand uitgegee het, kan enige inspekteur betreffende daardie prinsipaal of kontrakteur al die bevoegdhede uitoefen wat 'n inspekteur ingevolge hierdie artikel teenoor 'n werkgever het.

(7) Elke inspekteur wat 'n bevoegdheid of plig uitoefen wat hierdie Ordonnansie aan hom verleen of ople, moet op aanvraag die sertifikaat toon wat hom ingevolge sub-artikel (2) van artikel ses-en-veftig van hierdie Ordonnansie verleen word.

(8) Elkeen wat hom onregmatig as inspekteur voordoen, is skuldig aan 'n oortreding.

(9) Elkeen wat —

- (a) enige verklaring aan 'n inspekteur doen met die wete dat dit in 'n belangrike opsig onwaar is; of
- (b) weier of versuim om na beste vermoë enige vraag te beantwoord wat 'n inspekteur ter ampsvervulling aan hom stel; of
- (c) weier of versuim om na beste vermoë enige versoek of vereiste na te kom wat 'n inspekteur ter ampsvervulling aan hom stel; of
- (d) 'n inspekteur by sy ampsvervulling belemmer, is skuldig aan 'n oortreding.

(10) By die toepassing van hierdie artikel word 'n tolk beskou as 'n inspekteur solank hy die regmatige opdragte van sy vergesellende inspekteur uitvoer, en enige vraag wat middels hom gestel word, enige antwoord aan hom, enige vereiste wat hy stel, en enige belemmering van 'n tolk solank hy aldus optree, word beskou as 'n vraag of vereiste gestel deur, of 'n antwoord aan, of 'n belemmering van, 'n inspekteur.

58. (1) Geen werknemer, nóg iemand anders, mag deelneem aan 'n staking, of aan 'n voortsetting daarvan, en geen werkgever nóg iemand anders mag deelneem aan 'n uitsluiting of die voortsetting van 'n uitsluiting nie —

- (a) tydens die geldingsduur van enige ooreenkoms, kennisgewing of toekennning wat ingevolge artikel ses-en-veertig of sewen-en-veertig die werknemer of die werkgever of die ander betrokkeene verbind, en waarvan enige bepaling handel oor die saak wat tot die staking of die uitsluiting aanleiding gegee het; of
- (b) as die betrokke werknemers die soort dienste verrig waarop artikel vier-en-veertig dui; of
- (c) waar nóg paragraaf (a) nóg (b) van toepassing is nie —
- (i) tensy aansoek gedoen is uit hoofde van artikel drie-en-dertig en vier-en-estig om die instelling van 'n versoeningsraad ter oorweging van die genoemde saak, en totdat —
 - (aa) 'n raad wat moontlik ingestel word, skriftelik aan die Administrateur daarvoor verslag het; of totdat
 - (bb) die tydperk van dertig dae, bereken vanaf die datum waarop die Administrateur die instelling van so 'n raad goedgekeur het, of sodanige verlenging soos die raad vasgestel het, verstryk het; of totdat
 - (cc) die Administrateur geweier het om die instelling van 'n raad goed te keur; of
 - (dd) waar die Administrateur binne een-en-twintig dae, gereken vanaf die dag waarop die aansoek ingedien is, nóg nie die instelling van 'n raad goedgekeur of geweier het nie, dan totdat daardie tydperk verstryk het, wat ook al die eerste gebeur; of

(4) Any inspector may require any employee to appear before him at any time and place fixed by the inspector and may then and there question that employee.

(5) Any inspector may require any employer to make all payments due to any of his employees in the presence of an inspector.

(6) Whenever any work has been given out on contract to any person by a principal or contractor, any inspector may exercise in relation to that principal or contractor all the powers conferred upon an inspector by this section in relation to an employer.

(7) Any inspector exercising any power or performing any duty conferred or imposed upon him by this Ordinance shall, on demand, produce the certificate furnished to him in terms of sub-section (2) of section fifty-six of this Ordinance.

(8) Any person who falsely holds himself out to be an inspector shall be guilty of an offence.

(9) Any person who—

- (a) makes any statement to an inspector, which is false in any material particular, knowing the same to be false; or
- (b) refuses or fails to answer to the best of his power any question which an inspector in the exercise of his functions has put to him; or
- (c) refuses or fails to comply to the best of his power with any requirement made by an inspector in the exercise of his functions; or
- (d) hinders an inspector in the exercise of his functions,

shall be guilty of an offence.

(10) For the purpose of this section an interpreter shall, while acting under the lawful directions of the inspector he accompanies, be deemed to be an inspector and any questions put through, reply made to, requirement made by or hindering of an interpreter while so acting, shall be deemed to be a question put by, reply made to, requirement made by or hindering of an inspector.

58. (1) No employee or other person shall take part in a strike or in the continuation of a strike, and no employer or other person shall take part in a lock-out or the continuation of a lock-out—

- (a) during the period of the currency of any agreement, notice or award which in terms of section forty-six or section forty-seven is binding on the employee, employer or other person concerned, and any provision of which deals with the matter giving occasion for the strike or lock-out; or
- (b) if the employees concerned are engaged upon the services referred to in section forty-four; or
- (c) when neither paragraph (a) nor paragraph (b) applies—
- (i) unless application has been made under section thirty-three or section sixty-four for the establishment of a conciliation board for the consideration of the said matter, and until—
 - (aa) any board that may be established has reported thereon to the Administrator in writing; or
 - (bb) the period of thirty days reckoned from the date on which the Administrator has approved of the establishment of a board or such longer period as the board may fix has expired; or
 - (cc) the Administrator has refused to approve of the establishment of a board; or
 - (dd) if the Administrator has not within a period of twenty-one days reckoned from the date on which the application was lodged approved or refused to approve of the establishment of a board, the expiration of that period,

whichever event occurs first; or

(ii) as daar besluit is om ingevolge artikel drie-veertig die aangelentheid aan arbitrasie voor te lê, dan hangende 'n toekennings.

(ii) if it has been decided in terms of section forty-three to refer the matter to arbitration, pending the making of an award.

(2) Elkeen wat enige bepaling van sub-artikel (1) oortree, is skuldig aan 'n oortreding.

(2) Any person who contravenes any of the provisions of sub-section (1), shall be guilty of an offence.

(3) By die toepassing van hierdie artikel sluit die woord „werknemer” 'n Inboorling, soos bepaal by artikel agt-en-veertig van hierdie Ordonnansie, uit.

(3) For the purposes of this section the term “employee” shall not include any native as defined by section forty-eight of this Ordinance.

59. (1) Elke werkgever wat deur 'n vaststelling, ooreenkoms, kennisgewing of toekennings verbind word, moet op 'n treffende plek op sy perseel wat hy kies en op sodanige ander plekke op sy perseel soos 'n inspekteur van tyd tot tyd kan aanwys, kennisgewings opplak in die vorm wat by regulasie voorgeskryf word, in leesbare letters en in albei amptelike tale van die Gebied —

59. (1) Every employer upon whom any determination, agreement, notice or award is binding shall affix and keep affixed in some conspicuous place upon his premises to be determined by him, and in such other place upon his premises as an inspector may from time to time direct, notices in the form prescribed by regulation, in legible characters, in both the official languages of the Territory—

(a) bevattende sodanige uittreksels of aanhalinge uit die bepalings van hierdie Ordonnansie soos daar by regulasie voorgeskryf word;

(a) containing such summaries of or extracts from the provisions of this Ordinance as may be prescribed by regulation;

(b) bevattende die amptelike adres van die inspekteur wat by regulasie bepaal word;

(b) containing the official address of the inspector defined by regulation;

(c) bevattende 'n afskrif van die genoemde vaststelling, ooreenkoms, kennisgewing of toekennings, of sodanige uittreksels of aanhalinge uit die bepalings daarvan soos daar by sodanige vaststelling, ooreenkoms, kennisgewing of toekennings voorgeskryf word; en

(c) containing a copy of the said determination, agreement, notice or award or such summaries or extracts from the provisions thereof as may be prescribed in such determination, agreement, notice or award; and

(d) met opgaaf van die weksdag en datum waarop, en die tyd en plek waar, besoldiging gewoonlik per week of per maand, na gelang, plaasvind, as sodanige besoldiging weens 'n vaststelling geskied, en waar 'n ooreenkoms, kennisgewing of toekennings na besoldiging verwys, dan ook in die geval van sodanige ooreenkoms, kennisgewing of toekennings.

(d) specifying the day of the week or date on and the time and place at which remuneration will ordinarily be paid each week or month, as the case may be, in the case of a determination, and if the agreement, notice or award contains any reference to remuneration also in the case of such agreement, notice or award.

(2) Elke werkgever wat in gebreke bly met enige bepaling van hierdie artikel, is skuldig aan 'n oortreding.

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

60. (1) Wanneer ook al 'n inspekteur van iemand wat in 'n sake- of ander onderneming in 'n bedryf werk waarop 'n vaststelling, ooreenkoms, kennisgewing of toekennings bindend is of was, vermoed dat so-iemand wel by daardie onderneming in diens is, hoewel so-iemand beweer, of hoewel daar van hom beweer word, dat sy verhouding tecoer daardie onderneming nie dié van 'n werknemer is nie, maar beheers word deur 'n vennootskaps-ooreenkoms of deur 'n ander dergelyke ooreenkoms, kan die inspekteur enigeen wyl beweer dat so 'n ooreenkoms bestaan, gelas om daardie ooreenkoms aan hom te lewer, en kan die inspekteur 'n afskrif daarvan, of uittreksels daaruit, maak, of, waar die ooreenkoms nie op skrif is nie, of slegs deels op skrif is, kan die inspekteur elkeen wat beweer dat dit bestaan, gelas om 'n beëdigde verklaring te doen oor al die bedinge daarvan of oor die ongeskrewe bedinge daarvan, en kan die inspekteur voorts to-iemand gelas om 'n beëdigde verklaring te doen oor die werklik ontvang, of die ontvangbare, bedrae uit hoofde daarvan, en oor die feitelike werke van iedereen wat beweer, of van wie daar beweer word, dat sy verhouding by die ooreenkoms so vasgestel is, en kan die inspekteur bepaal oor watter tydperk sodanige gegewens moet strek. Elkeen wat in gebreke bly om op aanvraag enige sodanige ooreenkoms aan die inspekteur te lewer of om enige sodanige beëdigde verklaring te doen, is skuldig aan 'n oortreding.

60. (1) Whenever in any trade in respect of which a determination, agreement, notice or award is or was binding, there is working in any business or other concern any person whom an inspector suspects is employed but who claims or in respect of whom it is claimed that his position in relation to that business or other concern is not that of an employee but is fixed by an agreement of partnership or by some other agreement for the carrying on thereof, the inspector may require from any person so claiming the existence of such an agreement the production of that agreement, and may make a copy thereof or make extracts therefrom, or if the agreement is not in writing, or is not wholly in writing, may require any person so claiming to make a statement on oath of all the terms of the agreement or of such terms thereof as are not in writing, and may further require any such person to make a statement on oath as to the actual amounts received or receivable under that agreement and the actual hours worked by every person who claims or in respect of whom it is claimed that his position is so fixed by the agreement in respect of any period to be specified by the inspector. Any such person failing, when required to do so, to produce to the inspector any such agreement or to make any such statement on oath shall be guilty of an offence.

(2) Wanneer ook al daar by 'n ooreenkoms soos dié waarop sub-artikel (1) dui, die besoldiging van enige kontraktant geheel of deels bestaan uit 'n aandeel in die opbrengs of die profyt en daar by enige verrigtings uit hoofde van hierdie Ordonnansie waarby 'n vraag ontstaan of enige vaststelling, ooreenkoms, kennisgewing of toekennings enigeen geld wat sodanige aandeel ontvang, bewys word dat —

(2) Whenever under any such agreement as is referred to in sub-section (1) the remuneration of any party thereto consists wholly or partly of a share in the takings or profits, and, in any proceedings under this Ordinance in which any question is raised as to the application of any determination, agreement, notice or award to any party receiving such a share, it is proved—

(a) die ooreenkoms deur enige kontraktant opgesê kan word met kennisgewing van minder as drie maande; of

(a) that the agreement is terminable by any party thereto by giving less than three months' notice; or

(b) dat die bedrag wat enige kontraktant volgens die bedinge daarvan oor enige tydperk (wat in die aanklag vermeld word) minder was as die besoldiging waarop hy vir sy dienste geregtig sou gewees het oor dieselfde tydperk volgens enige vaststelling as hy 'n werknemer was,

(b) that the amount which any party thereto received under the terms thereof over any period specified in the charge was less than the remuneration which he would have been entitled to receive for his services for the same period under any determination if he had been an employee,

word hy beskou as 'n werknemer, en elke ander kontraktant word beskou as 'n werkgewer tensy daar bewys word dat die ooreenkoms geensins aangegaan is met die doel om enige bepaling van enige vaststelling, ooreenkoms, kennisgewing of toekennening wat ingevolge hierdie Ordonnansie bindend is of was, te ontduik nie.

61. (1) Waar 'n bestuurder, agent of werknemer van 'n werkgewer 'n daad of versuim pleeg wat ingevolge hierdie Ordonnansie 'n oortreding sou wees as die werkgewer dit gepleeg het, dan, tensy daar bewys word dat —

- (a) die bestuurder, agent of werknemer by die daad of versuim sonder die oogluikende of uitdruklike verlof van die werkgewer opgetree het; en
- (b) dat die werkgewer elke redelike poging aangewend het om 'n daad of versuim van die betrokke aard te verhoed; en
- (c) dat dit volstrek en allesins hoegenaamd buite die bestuurder, agent of werknemer se maggebied of plegsbestek was om die daad of versuim, hetsy regmatig of onregmatig, van die betrokke aard te pleeg, word daar aangeneem dat die werkgewer self die daad of die versuim gepleeg het, en is hy onderhevig aan skuldigebevinding en vonnis ten opsigte daarvan. Dat die werkgewer opdragte gegee het ter verhinderings van enige daad of versuim van die betrokke aard, is nie sonder meer voldoende bewys dat by elke redelike stap gedoen het om die betrokke daad of versuim te voorkom nie.

(2) Waar 'n bestuurder, agent of werknemer van 'n werkgewer iets doen of versuim wat ingevolge hierdie Ordonnansie 'n oortreding van werkgewerskant sou wees, is hy onderhevig aan skuldigebevinding en vonnis daarvoor asof hy daardie werkgewer was.

(3) Of die werkgewer of die bestuurder, agent of werknemer, of albei kan aldus skuldige bevind en gevonniss word.

(4) Wanneer die bestuurder, agent of werknemer van 'n werkgewer skuldige bevind is aan 'n oortreding waarop sub-artikel (2) van artikel vyftig dui, moet die hof ingevolge artikel een-en-vyftig 'n bevel teen die werkgewer uitvaardig, en die bepalings van hierdie Ordonnansie betreffende sodanige bevels is dan, met die nodige veranderinge van toepassing, en geen sodanige bevel mag teen enige sodanige bestuurder, agent of werknemer uitgevaardig word nie.

62. (1) 'n Bewys dat 'n kennisgewing ingevolge artikel sesien, sewentien, negentien, ses-en-veertig of seiven-en-veertig in die *Offisiële Koerant* verskyn het, of dat 'n arbiter, arbiters of 'n eindbeslisser aangestel ingevolge artikel drie-en-veertig of vier-en-veertig 'n toekennening gedoen het, is onweerslegbare bewys dat al die bepalings van hierdie Ordonnansie in verband met voorafgaande en verbandhoudende vereistes by 'n vasstelling of 'n ooreenkoms of 'n toekennening of by die bekendmaking van so 'n kennisgewing, na gelang, nagekom is.

(2) By gebrek aan voldoende bewys van ouderdom word die ouderdom van enigeen betrokke by verrigtinge ingevolge hierdie Ordonnansie beskou as dié wat die inspekteur as syus insiens die waarskynlike ouderdom van so iemand aangee; maar enige belanghebbende wat daarmee geen goedem neem nie, kan op die koste vereis dat die persoon oor wie se ouderdom die vraag ontstaan het, ter ondersoek voor 'n distriksgeneesheer moet verskyn, en 'n verklaring of 'n sertifikaat van die ondersoekende geneesheer oor die syus insiens waarskynlike ouderdom van daardie persoon is dan onweerslegbare bewys van so iemand se ouderdom, maar slegs wat betref daardie verrigtinge.

(3) Waar daar by verrigtinge ingevolge hierdie Ordonnansie bewys word dat enigeen teenwoordig was op 'n perseel waar 'n bedryf uitgeoefen word ten opsigte waarvan enige vaststelling, ooreenkoms, kennisgewing of toekennening ingevolge hierdie Ordonnansie bindend is, of dat enigeen 'n voertuig beheer het wat in sodanige bedryf gebruik word, al het hy die voertuig toentertyd bestuur of nie, word so iemand beskou as 'n werknemer, tensy die teendeel bewys word.

he shall be presumed to be an employee and any other party to the agreement shall be presumed to be an employer, unless it is proved that the agreement was made with the object of evading any provision of any determination, agreement, notice or award which is or was binding under this Ordinance.

61. (1) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence under this Ordinance for the employer to do or omit to do, then, unless it is proved that—

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

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

(2) Whenever any manager, agent or employee of any employer does or omits to do any act which it would be an offence under this Ordinance for the employer to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer.

(3) Either the employer or the manager, agent or employee or both of them, may be so convicted and sentenced.

(4) Whenever the manager, agent or employee of an employer is convicted of an offence such as is referred to in sub-section (2) of section fifty, the court shall make an order against the employer under section fifty-one, and the provisions of this Ordinance relating to such orders shall, *mutatis mutandis*, be applicable, and no such order shall be made against any such manager, agent or employee.

62. (1) Proof of publication in the *Gazette* of any notice under section sixteen, seventeen, nineteen, forty-six or forty-seven or of the making of any award by an arbitrator, arbitrators or umpire appointed under section forty-three or forty-four, shall be conclusive proof that all the provisions of this Ordinance in respect of matters precedent and incidental to the making of a determination, the entering into of an agreement, or the making of an award or the publication of such a notice, as the case may be, have been complied with.

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

(3) Whenever in any proceedings under this Ordinance it is proved that any person was present in any premises in which any trade in respect of which any determination, agreement, notice or award is binding under this Ordinance was being carried on, or was in charge of any vehicle used in any such trade, whether or not it was being driven at the time, that person shall, unless the contrary is proved, be presumed to be an employee.

(4) 'n Werknemer word beskou as in diens van 'n werkgewer, ho en behalwe die tydperk waarbinne hy inderdaad werk, wanneer hy —

- (a) op las van sy werkgewer teenwoordig is op of in 'n perseel waar die bedryf uitgeoefen word waarin hy werk;
- (b) binne enige ander tydperk wat hy op of in sodanige perseel deurbring; en
- (c) wanneer hy in beheer is van enige voertuig wat gebruik word in die bedryf waarin hy werk, al word die voertuig toentertyd bestuur of nie: Met dien verstande dat, as daar bewys word gedurende watter deel van sodanige tydperk soos paragraaf (b) of (c) noem, enige sodanige werknemer inderdaad in sy bedryf gewerk het, die vermoede wat hierdie sub-artikel skep daardie werknemer in verband met daardie tydperk nie geld nie.

(5) By verrigtinge ingevolge hierdie Ordonnansie is elke staat of inskrywing in enige boek of dokument wat 'n werkgewer, prinsipaal of kontrakteur of sy bestuurder, agent of werknemer hou, of wat in of op enige perseel aangevat word wat daardie werkgewer, prinsipaal of kontrakteur toelaat, of in 'n voertuig wat hy in die bedryf gebruik, toelaatbaar as getuenis teen hom as erkenning van die feite wat uit daardie staat of inskrywing blyk, tensy daar bewys word dat daardie staat of inskrywing nie deur daardie werkgewer, prinsipaal of kontrakteur of deur enige bestuurder, agent of werknemer van daardie werkgewer, prinsipaal of kontrakteur tydens sy bestuur, agentskap of diens gedoen is nie.

(6) As 'n werkgewer ten opsigte van enige tydperk waaroor hy ingevolge artikel *ses-en-sestig* boek moet hou, dit versuim het, of sodanige boeke nie bewaar het oor die tydperk aangedui in sub-artikel (4) van daardie artikel nie, of sodanige boeke vervals het of die vervalsing daarvan veroorsaak het, dan word daar by verrigtinge ingevolge hierdie Ordonnansie aangeneem dat 'n werknemer in sy diens gedurende die tydperk ten opsigte waarvan die versuim of vervalsing geskied het, elke week minstens soveel ure gewerk het soos 'n ooreenkoms of toekennings voorskryf wat daardie werknemer ingevolge hierdie Ordonnansie geld: Met dien verstande dat waar daar bewys word hoeveel ure sodanige werknemer in 'n bepaalde week wel diens gedoen het, die vermoede wat hierdie sub-artikel skep daardie werknemer in verband met daardie week nie geld nie.

(7) Waar daar by verrigtinge ingevolge hierdie Ordonnansie bewys word dat enige onware verklaring of inskrywing in enigeen se boeke verskyn, skep dit die vermoede dat so iemand sodanige verklaring of inskrywing opsetlik vervals het, tensy die teendeel bewys word.

(8) Waar iemand ingevolge artikel *vyftig* daarvan beskuldig word dat hy enigeen van sy werknemers oor enige tydperk nie teen die besoldigingsstafiel betaal het nie wat hy moes betaal het luidens 'n vasstelling, ooreenkoms, kennisgewing, toekennings of vrystelling-sertifikaat waartoe hierdie Ordonnansie hom verbind, en daar word bewys dat die beskuldigde werkgewer die betrokke werknemer gedurende enige tydperk waaroor die beskuldiging gaan, by hom in diens gehad het en dat die beskuldigde luidens daardie vasstelling, ooreenkoms, kennisgewing, toekennings of vrystellingsertifikaat 'n bepaalde bedrag as minimale besoldigingsstafiel ten opsigte van daardie tydperk moes betaal het, skep dit die vermoede dat die beskuldigde nie die aangewese bedrag aan die betrokke werknemer betaal het nie, tensy die teendeel bewys word.

(9) Wanneer iemand ingevolge artikel *vyftig* daarvan beskuldig word dat hy enigeen anders die bedrag wat hy luidens die bepalings van enige vasstelling, ooreenkoms, kennisgewing of toekennings betreffende enigeen van die sake waaroor paragraaf (o) van sub-artikel (1) van artikel *nege* gaan, moes betaal het vir kontrakwerk wat hy aan so iemand uitgegee het, nie betaal het nie, en daar bewys word dat die beskuldigde die kontrakwerk aan daardie persoon uitgegee het en dat die beskuldigde

(4) An employee shall be deemed to be working in the employment of an employer, in addition to any period during which he is actually so working—

- (a) during any period during which in accordance with the requirements of his employer he is present upon or in any premises in which the trade in which he is employed is being carried on;
- (b) during any other period during which he is present upon or in any such premises; and
- (c) during any period during which he is in charge of any vehicle used in the trade in which he is employed, whether or not it is being driven:

Provided that if it is proved during what portion of any such period as is referred to in paragraph (b) or (c) any such employee actually worked in his employment, the presumption established by this sub-section shall not apply in respect of that employee in relation to that period.

(5) In any proceedings under this Ordinance, any statement or entry contained in any book or document kept by any employer, principal or contractor or by his manager, agent or employee or found upon or in any premises occupied by, or any vehicle used in the business of, that employer, principal or contractor shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was made by that employer, principal or contractor or by any manager, agent or employee of that employer, principal or contractor in the course of his work as manager or in the course of his agency or employment.

(6) If an employer has, in respect of any period, failed to keep the records which, in terms of section *sixty-six*, he is required to keep, or to retain such records for the period specified in sub-section (4) of that section, or has falsified such records or caused them to be falsified, then in any proceedings under this Ordinance, an employee employed by him during the period in respect of which the failure or the falsification has occurred shall be presumed to have worked in his employment each week, throughout the period of his employment falling within the period in respect of which the failure or the falsification occurred, not less than the ordinary hours of work specified in any agreement or award applicable to that employee under this Ordinance: Provided that if it is proved what hours any such employee actually worked in his employment during any particular week, the presumption established by this sub-section shall not apply in respect of that employee in relation to that week.

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

(8) Whenever any person is charged under section *fifty* with having failed to pay to any person employed by him during any period the rate of remuneration which in respect of that period he was required to pay to that person under the provisions of any determination, agreement, notice, award or licence of exemption binding upon him under this Ordinance and it is proved that that person was employed by the accused during any period covered by the charge and that under that determination, agreement, notice, award or licence the accused was required to pay to that person as minimum rate of remuneration a certain amount in respect of that period, the accused shall be presumed, until the contrary is proved, not to have paid that amount to that person.

(9) Whenever any person is charged under section *fifty* with having failed to pay to any person the amount which, under the provisions of any determination, agreement, notice or award relating to any of the matters referred to in paragraph (o) of sub-section (1) of section *nine*, he was required to pay to that person for any work given out on contract by him to that person, and it is proved that the work referred to in the charge was given out on contract by the accused to that person, and

luidens daardie vasstelling, ooreenkoms, kennisgewing of toekening daardie persoon vir daardie werk 'n bepaalde bedrag moes betaal het, skep dit die vermoede dat die beskuldigde daardie bedrag nie aan daardie persoon betaal het nie, tensy die teendeel bewys word.

(10) Waar 'n werknemer of enigiemand anders ingevolge artikel *agt-en-vyftig* van deelname aan 'n staking of aan die voortsetting van 'n staking beskuldig word in 'n akte van beskuldiging of aanklag wat beweer dat die werknemer of ander beskuldigde 'n weiering, versuim, vertraging, belenuering, verbreking of werkbeëindiging gepleeg het waarop die woordbepaling van die uitdrukking „staking” in artikel *negen-en-sewentig* dui, na aanleiding van 'n geskil en ter volvoering van 'n samespanning, ooreenkoms of verstandhouding, en niet 'n oogmerk waarop daardie woordbepaling dui, en sodanige weiering, versuim, vertraging, belenuering, verbreking of beëindiging van die werknemer of die ander beskuldigde se kant word bewys, dan skep dit die vermoede dat die weiering, versuim, vertraging, belenuering, verbreking of beëindiging veroorsaak is deur die geskil, of voortvloei uit sodanige samespanning, ooreenkoms of verstandhouding met die oogmerk wat die aanklag beweer, totdat die teendeel bewys word.

(11) Waar 'n werkgever of enigiemand anders ingevolge artikel *agt-en-vyftig* van deelname aan 'n uitsluiting of aan 'n voortsetting van 'n uitsluiting beskuldig word, en waar die akte van beskuldiging of aanklag beweer dat sodanige werkgever of ander aangeklaagde die uitsluiting, opskorting, verbreking, beëindiging, weiering of versuim waarop die woordbepaling van die uitdrukking „uitsluiting” in artikel *negen-en-sewentig* dui, gepleeg het weens 'n geskil en met die oogmerk waarop daardie woordbepaling dui, en die uitsluiting, opskorting, verbreking, beëindiging, weiering of versuim deur die werkgever of ander aangeklaagde blyk bewese, skep dit die vermoede dat daardie uitsluiting, opskorting, verbreking, beëindiging, weiering of versuim deur die geskil veroorsaak is, en gepleeg is met die oogmerk wat die aanklag noem, totdat die teendeel bewys word.

(12) Waar enigiemand ingevolge sub-artikel (1) van artikel *vyf-en-vyftig* daarvan beskuldig word dat hy een van sy werknemers ontslaan het, sy besoldiging verminder het, of sy diensvoorwaardes verswak het, of dat hy hom in sy verhouding tot sy mede-werknemers benadeel het weens 'n vermoede of mening ten opsigte van 'n feit waarop paragraaf (a), (b) of (c) van daardie sub-artikel dui en wat in die aanklag vermeld staan, en sodanige ontslag, of vermindering van besoldiging, of verswakking van diensvoorwaardes, of standsbenadeling teenoor sy mede-werknemers blyk bewese, skep dit die vermoede dat die beskuldigde dit wel gepleeg het, en wel weens die vermoede of mening wat die aanklag noem, totdat die teendeel bewys word.

(13) 'n Sertifikaat onderteken deur die Sekretaris wat —

- (a) getuig dat 'n vakvereniging of werkgewersorganisasie geregistreer is; of
 - (b) die streek of die belange of die bedryf aantoon ten opsigte waarvan 'n vakvereniging of werkgewersorganisasie geregistreer is; of
 - (c) getuig dat die registrasie van 'n vakvereniging of werkgewersorganisasie ingetrek is,
- is by blote voorlegging deur enigiemand, by gebrek aan bewys dat die sertifikaat teruggetrek, ingetrek of vervang is deur 'n latere sertifikaat van die Sekretaris, onweerlegbare bewys —

- (i) van die hogenoemde sake waaroor dit gaan; en
- (ii) dat al die bepalings van hierdie Ordonnansie betreffende voorafgaande en verbandhoudende veristes vir sodanige registrasie van die vakvereniging of werkgewersorganisasie of vir die intrekking van sodanige registrasie, na gelang, nagekom is.

that under that determination, agreement, notice or award the accused was required to pay to that person a certain amount for that work, the accused shall be presumed, unless the contrary is proved, not to have paid that amount to that person.

(10) Whenever any employee or other person is charged under section *fifty-eight* with having taken part in a strike or in the continuation of a strike, on an indictment or charge which avers that the employee or other person charged was guilty of a refusal, failure, retardation, obstruction, breach or termination referred to in the definition of the expression “strike” contained in section *seventy-nine* in consequence of a dispute and in pursuance of a combination, agreement or understanding and for a purpose referred to in that definition, and the refusal, failure, retardation, obstruction, breach or termination by the employee or other person charged is proved, it shall be presumed until the contrary is proved, that that refusal, failure, retardation, obstruction, breach or termination was in consequence of the dispute, and in pursuance of the combination, agreement or understanding and for the purpose stated in the charge.

(11) Whenever any employer or other person is charged under section *fifty-eight* with having taken part in a lock-out or in the continuation of a lock-out, on an indictment or charge which avers that the employer or other person charged was guilty of an exclusion, discontinuance, breach, termination, refusal or failure referred to in the definition of the expression “lock-out” contained in section *seventy-nine* in consequence of the dispute, and for a purpose referred to in that definition, and the exclusion, discontinuance, breach, termination, refusal or failure by the employer or other person charged is proved, it shall be presumed, until the contrary is proved that that exclusion, discontinuance, breach, termination, refusal or failure was in consequence of the dispute, and for the purpose stated in the charge.

(12) Whenever any person is charged under sub-section (1) of section *fifty-five* with having dismissed any person employed by him, or reduced the rate of his remuneration, or altered the conditions of his employment to conditions less favourable to him, or altered his position relatively to other employees to his disadvantage, by reason of his suspicion or belief in the existence of any fact referred to in paragraph (a), (b) or (c) of that sub-section and stated in the charge, and it is proved that the accused dismissed that person, or reduced the rate of his remuneration or altered the conditions of his employment to conditions less favourable to him, or altered his position relatively to other employees to his disadvantage, the accused shall be presumed, until the contrary is proved to have done so and by reason of the suspicion or belief stated in the charge.

(13) A certificate signed by the secretary—

- (a) stating that a trade union or employers' organization has been registered; or
 - (b) setting forth the area or interests or trade in respect of which a trade union, or employers' organization has been registered; or
 - (c) stating that the registration of a trade union or employers' organization has been cancelled,
- shall, on its mere production by any person and in the absence of proof that it has been withdrawn, cancelled or superseded by a later certificate issued by the secretary, be conclusive proof—

- (i) of the matters above referred to stated therein; and
- (ii) that all the provisions of this Ordinance in respect of matters precedent and incidental to the registration of a trade union or employers' organization or the cancellation of such registration, as the case may be, have been complied with.

63. Andersluidende bepalings in hierdie Ordonnansie of in enige ander wet ten spyt, tas —

- (a) enige gebrek in, of weglating uit, die grondwet van enige vakvereniging of werkgewersorganisasie; of
 - (b) enige onreëlmatigheid by die verkiesing of die aanstelling van 'n verteenwoordiger in 'n versoeningsraad, of van enige alternatiewe verteenwoordiger, of van enige voorsitter of vise-voorsitter of ander voorsittende by 'n vergadering van sodanige raad of van 'n komitee van sodanige raad, of van enige bemiddelaar, arbiter of eindbeslisser; of
 - (c) die bestaan van 'n vakature onder die lede van 'n versoeningsraad,
- die geldigheid van —
- (i) die grondwet of die registrasie van enige vakvereniging of werkgewersorganisasie; of
 - (ii) enige ooreenkoms, kennisgewing of toekenning wat ingevolge artikel *ses-en-veertig* of *sewen-en-veertig* die betrokkenes sou verbind het as daardie gebrek, weglating, onreëlmatigheid of vakature nie bestaan het nie, of
 - (iii) enige optrede van 'n versoeningsraad of 'n bemiddelaar of 'n arbiter of 'n eindbeslisser —
- nie aan nie.

64. (1) As 'n werkgewer, buiten waar hy uitvoering wil gee aan die bepalings van 'n vasstelling, ooreenkoms, kennisgewing, toekenning of vrystellingsertifikaat wat hom ingevolge hierdie Ordonnansie verbind, die diensvoorwaardes van een, meer of almal van sy werknemers verander, of kennis gee van sy voorneme om sodanige diensvoorwaardes te verander, kan die betrokke werknemers aansoek doen om die instelling van 'n versoeningsraad ter oorweging van die aangeleentheid volgens regulasie.

(2) Ondanks die voorskryfte van artikel *drie-entertig* kan die Administrateur, wanneer daar ingevolge sub-artikel (1) om die instelling van 'n versoeningsraad aangevra word na goedgekeurde die instelling van 'n versoeningsraad goedkeur, en die nodige stappe ter instelling daarvan doen. Die bepalings van hierdie Ordonnansie betreffende die instelling van 'n versoeningsraad ingevolge artikel *drie-entertig* geld ook 'n versoeningsraad wat ingestel word ingevolge hierdie sub-artikel.

(3) As die betrokke werknemers die instelling van 'n versoeningsraad aanvra binne dertig dae vanaf die datum waarop die verandering ingetree het of die kennisgewing geskied het, dan moet die werkgewer —

- (a) as hy die verandering nog nie bewerk het nie, hom daarvan weerhou; of
 - (b) as die verandering reeds geskied het, die genoemde voorwaardes herstel soos hulle te vore was, met in-gang van die datum van verandering, en daarna moet hy hom van verandering weerhou,
- totdat —
- (i) waar aansoek gedoen is om die instelling van 'n versoeningsraad ter oorweging van die saak —
 - (aa) sodanige raad wel ingestel is en skriftelike verslag daaroor aan die Administrateur gedoen het; of
 - (bb) 'n tydperk van dertig dae vanaf die datum waarop die Administrateur die instelling van 'n raad goedgekeur het of sodanige verlenging soos die Administrateur moontlik bepaal betreffende 'n diens waarop artikel *vier-en-veertig* dui, of soos die raad moontlik in ander gevalle vasstel, verstryk het; of
 - (cc) die Administrateur die instelling van 'n raad geweier het; of
 - (dd) die Administrateur binne een-en-twintig dae vanaf die datum waarop die aansoek ingedien is, die instelling van 'n raad nóg geweier nóg goedgekeur het nie, daardie tydperk verstryk het, wat ook al die eerste plaasvind; of

63. Notwithstanding anything contained in this Ordinance or in any other law—

- (a) any defect in or omission from the constitution of any trade union or employers' organization; or
 - (b) any irregularity in the election or appointment of any representative on a conciliation board, or of any alternate of any representative, or of any chairman or vice-chairman or other person presiding over any meeting of such a board or committee of such a board, or of any mediator, arbitrator or umpire; or
 - (c) the existence of any vacancy, in the membership of any conciliation board,
- shall not invalidate—
- (i) the constitution or the registration of any trade union or employers' organization; or
 - (ii) any agreement, notice or award which, but for that defect, omission, irregularity or vacancy, would be binding in terms of section *forty-six* or *forty-seven*; or
 - (iii) any act of any conciliation board or of any mediator, arbitrator or umpire.

64. (1) If an employer, except to give effect to the provisions of a determination, agreement, notice, award or licence of exemption binding upon him under this Ordinance, alters or gives notice of his intention to alter the conditions of employment of all or any of his employees the employees concerned may apply for the establishment of a conciliation board for the consideration of the matter in such form as may be prescribed by regulation.

(2) Notwithstanding anything contained in section *thirty-three* whenever application is made to the Administrator under sub-section (1) for the establishment of a conciliation board, he may if he thinks it expedient to do so, approve of and take the necessary steps for the establishment of a conciliation board. The provisions of this Ordinance relating to a conciliation board established under section *thirty-three* shall apply to a board established under this sub-section.

(3) If the employees concerned apply for the establishment of a conciliation board within a period of thirty days reckoned from the date on which the alteration was made or the notice was given, the employer shall—

- (a) if he has not yet made the alteration, refrain from making it; or
- (b) if he has already made the alteration, restore the said conditions as they were before they were altered, with effect from the date on which they were altered, and thereafter refrain from altering them,

until—

- (i) if application has been made for the establishment of a conciliation board for the consideration of the matter—
 - (aa) any board that may be established has reported thereon to the Administrator in writing; or
 - (bb) a period of thirty days reckoned from the date on which the Administrator has approved of the establishment of a board, or such longer period as the Administrator may fix in the case of a service such as is referred to in section *forty-four* or as the board may fix in other cases, has expired; or
 - (cc) the Administrator has refused to approve of the establishment of a board; or
 - (dd) if the Administrator has not within a period of twenty-one days reckoned from the date on which the application was lodged, approved or refused to approve of the establishment of a board, the expiration of that period;
- whichever event occurs first; or

(ii) waar die saak ingevolge artikel *drie-en-veertig* of *vier-en-veertig* aan arbitrasie voorgelê is, die toekenningsuitspraak geskied.

(4) Die kennisgewing waarop sub-artikel (1) dui, kan deur 'n geregistreerde werkgewersorganisasie namens een of almal van sy lede gegee word —

(a) aan elkeen van die betrokke werknemers; of

(b) aan enige vakvereniging waarvan hulle lede is; en in so 'n geval geld die bepalings van sub-artikel (1), (2) en (3) met die nodige veranderinge.

(5) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

(6) In hierdie artikel sluit die woord „diensvoorwaardes” die diensneming, opskorting, ontslag, bevordering, oorpasing of benadeling van 'n individuele werknemer, en die beraming van kontrakpryse wat aan 'n individu betaal moet word, of enige ander saak wat 'n werknemer as individu betref, uit, tensy daar, na Administrateursmening, 'n beginsel op die spel is; en in hierdie sub-artikel sluit die woord „individu” 'n werknemer uit wat 'n diensverrig waarop sub-artikel (1) van artikel *vier-en-veertig* dui.

65. (1) Geen werkgewer mag dit as 'n diensvoorwaarde stel dat sy werknemer nie 'n lid van 'n vakvereniging mag wees of word nie, en enige sodanige diensvoorwaarde in 'n kontrak wat voor ôf na die inwerking-treding van hierdie Ordonnansie aangegaan is, is niegtig.

(2) Daar is geen wetlike beletsel daarteen dat 'n werknemer by 'n vakvereniging, aansluit nie, nóg kan 'n werknemer weens sy lidmaatskap van 'n vakvereniging gestraf word nie.

(3) Elke werkgewer wat die bepalings van sub-artikel (1) deur 'n daad of versuim verontagsaam, is skuldig aan 'n oortreding.

66. (1) Elke werkgewer wat ingevolge hierdie Ordonnansie verbonde is aan 'n vaststelling, ooreenkoms, kennisgewing of toekening wat gaan oor die besoldiging, die werkyd, of ander besonderhede wat regulasies voorskryf, moet te alle tye betreffende al sy werknemers boekhou van besoldiging wat aan hulle uitbetaal word, en van van die tyd wat hulle gewerk het, en van daardie ander besonderhede.

(2) Die boekhouding waarop sub-artikel (1) dui, moet in die vorm en op die wyse geskied wat regulasies voorskryf: Met dien verstande dat 'n inspekteur op skrif onder sy hand 'n ander vorm van boekhouding kan magtig as die gemagtigde vorm sams insiens die vereiste besonderhede vir hom klaarbykend sal weergee.

(3) Waar 'n vaststelling, ooreenkoms, kennisgewing of toekening wat die besoldigingsstreef, die grondslag en die beginsels voorskryf waarvolgens 'n prinsipaal of kontrakteur teenoor enige van sy kontrakwerkers moet optree, en waar sodanige prinsipaal of kontrakteur daaraan verbonde is, moet elke sodanige prinsipaal of kontrakteur, onverskillig of hy self 'n werkgewer of werknemer in die betrokke bedryf of bedryfdeel is of nie, te alle tye boekhou van betalings wat hy gedoen het aan sodanige kontrakteur, en oor sodanige ander besonderhede soos regulasies moontlik voorskryf; en elkeen aan wie daar aldus kontrakteurwerk uitgegee is, moet te alle tye boekhou van besoldiging wat hy betreffende sodanige werk van 'n prinsipaal of kontrakteur ontvang, sowel as van sodanige ander besonderhede soos regulasies moontlik voorskryf.

(4) Elkeen wat, na gelang, 'n werkgewer, prinsipaal of kontrakteur is of was, moet die boeke wat hy ingevolge sub-artikel (1) of (3) van 'n transaksie hou, drie jaar na die betrokke transaksie bly bewaar, en op las van 'n inspekteur moet hy te eniger tyd gedurende die drie jaar die betrokke inskrywing ter insae toon.

(ii) if the matter has been referred to arbitration in terms of section *forty-three* or *forty-four*, pending the making of an award.

(4) The notice referred to in sub-section (1) may be given by a registered employers' organization acting on behalf of any or all of its members—

(a) to each of the employees concerned; or

(b) to any trade union of which they are members, in which event the provisions of sub-sections (1), (2) and (3) shall, *mutatis mutandis*, apply.

(5) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(6) In this section, the expression “conditions of employment” does not include the engagement, suspension, discharge, promotion, transfer or derating of an individual employee, the assessment of contract prices to be paid to an individual or any other matter which affects an individual employee unless, in the opinion of the Administrator, a matter of principle is involved; and in this sub-section the expression “individual” does not include an employee engaged upon a service such as is referred to in sub-section (1) of section *forty-four*.

65. (1) No employer shall make it a condition of employment of any employee that that employee shall not be or become a member of a trade union, and any such condition in any contract of employment entered into before or after the commencement of this Ordinance shall be void.

(2) Nothing contained in any law shall prohibit any employee from being or becoming a member of any trade union, or subject him to any penalty by reason of his membership of any trade union.

(3) Any employer who contravenes the provisions of sub-section (1) shall be guilty of an offence.

66. (1) Every employer upon whom any determination, agreement, notice or award is binding under this Ordinance which relates to remuneration to be paid, time to be worked, or such other particulars as may be prescribed by regulation, shall at all times keep in respect of all persons employed by him records of the remuneration paid, of the time worked and of those other particulars.

(2) The form and the manner in which the records referred to in sub-section (1) shall be kept shall be prescribed by regulation: Provided that an inspector may in writing signed by him authorize the keeping of such records in some other form, provided the records so kept will in his opinion enable him to ascertain therefrom the required particulars.

(3) Whenever any determination, agreement, notice or award which regulates the rates at which, the basis of, or the principles upon which, payment shall be made by a principal or contractor to any person to whom any work is given out on contract by that principal or contractor, for that work, as binding upon a principal or contractor, every such principal or contractor, whether or not he is an employer in or is engaged in the trade or section of trade concerned, shall at all times keep records of payments made by him to any person to whom he has so given out work on contract and of such other particulars as may be prescribed by regulation, and every such person to whom work has so been given out on contract shall at all times keep records of payments received by him from any such principal or contractor in respect of such work and of such other particulars as may be prescribed by regulation.

(4) Every person who is or has been an employer or principal or contractor, as the case may be, shall retain the record which in terms of sub-section (1) or (3) he has made of any event for a period of three years subsequent to the occurrence of that event, and shall on demand by an inspector made at any time during the said period of three years produce the said record for inspection.

(5) Elkeen wat enigeen van die bepalings van hierdie artikel verontagsaam waar dit hom betref, en elkeen wat opsetlik 'n vals inskrywing in sodanige boeke doen, is skuldig aan 'n oortreding.

(5) Any person who fails to comply with any of the provisions of this section applicable to him or who makes any false entry in any such record knowing the same to be false shall be guilty of an offence.

67. Elke verteenwoordiger in 'n versoeningsraad en elke dieuoreenkomstige alternatiewe verteenwoordiger of elkeen wat voorgesit het by enige vergadering van 'n versoeningsraad, of enige beampte, bemiddelaar, arbiter of eindbesliser wat, buiten ter uitvoering van die doeleindes van hierdie Ordonnansie, enige inligting betreffende die geldsake van enige individu, firma of sake-onderneming wat hy tydens sy ampsvervulling of pligsuitoefening ingevolge hierdie Ordonnansie te wete gekom het, enigens aan enigeen buiten die Administrateur of 'n beampte of 'n versoeningsraad of die Loonraad of 'n gergshof bekend maak, en enige ampsdraer of amptenaar van 'n versoeningsraad wat, behoudens die uitsondering in hierdie artikel, aan enigeen sodanige inligting betreffende enige individu, firma of sake-onderneming wat hy weens sy ampsvervulling opgedoen het, bekend maak, is skuldig aan 'n oortreding.

67. Any representative on a conciliation board, or any alternate of such a representative, or any person who has presided over any meeting of a conciliation board or any officer, or any mediator, arbitrator or umpire who discloses, except to the Administrator or to an officer or conciliation board or to the board or to a court of law, or, save for the purpose of this Ordinance, to any other person any information in relation to the financial affairs of any person, firm or business acquired in the exercise of his powers under this Ordinance or in the performance of his duties in carrying out this Ordinance, and any office-bearer or official of a conciliation board who discloses, otherwise than in accordance with the exception stated in this section, any such information in relation to any person, firm or business acquired in the performance of his duties as such, shall be guilty of an offence.

68. Elke grondwet (of wysiging daarvan), en elke vaststelling, ooreenkoms, kennisgewing, toekennning, of verslag of die skikking van 'n geding wat ingevolge die bepalings van hierdie Ordonnansie aan die Administrateur of die Sekretaris voorgelê word, moet aan die publiek ter insae beskikbaar gestel word teen sodanige tye en gelde soos maontlike regulasies voorskryf, en enige lid van die publiek kan dit ondersoek en afskrifte daarvan maak.

68. Any constitution or amendment thereto, determination, agreement, notice or award or report of the terms of settlement of a dispute submitted to the Administrator or Secretary in accordance with the provisions of this Ordinance may be inspected or copied by any member of the public at such times and on payment of such fees as may be prescribed by regulation.

69. Die Administrateur kan enige verslag deur enige versoeningsraad of bemiddelaar, of enige ooreenkoms of die bedinge van 'n skikking anders as by ooreenkoms bereik deur of middels enige versoeningsraad of bemiddelaar, of (waar 'n versoeningsraad nie 'n geskil kon skik nie) enige verslag deur die verteenwoordigers van die werkgewers van die werknemers in so 'n raad, bekend maak op sodanige wyse soos hy wenslik ag.

69. The Administrator may make such publication of any report by, or of any agreement or of the terms of any settlement otherwise than by agreement arrived at by or through, any conciliation board or mediator or of any report by the representatives of the employers or employees on a conciliation board if the board has failed to settle a dispute as he may deem expedient.

70. (1) Wanneer 'n plaaslike bestuur weens —

(a) enige uitsluiting of 'n staking of gesamentlike optrede deur sy werknemers; of

(b) Enige onregmatige toeëiening van sy bevoegdhede deur 'n ongemagtigde(-s) nie in staat is nie,

of onwillig is om enige diens of funksie wat hy volgens wet moet verrig, uit te voer, kan die Administrateur op onkoste van die plaaslike bestuur, en na kennisgewing aan sodanige plaaslike bestuur, self of middels enigeen wat by daartoe magtig daardie plaaslike bestuur se bevoegdhede aanvaar en die diens en die plig verrig vir solank hy goetvind, en te dien einde kan hy die plaaslike bestuurskantoor betree en al die nodige doen.

70. (1) Whenever any local authority is unable or unwilling by reason of—

(a) any lock-out or any strike or concerted action of any persons in its employ; or

(b) any usurpation by any unauthorized person or persons of any of its powers,

to continue any service or function performed by it under the authority of any law, the Administrator may, at the expense of the local authority, and after serving notice upon it, himself or by any person whom he may authorize thereto, assume, and for such time as he deems fit, carry on the service or function and he may for that purpose enter upon any premises of the local authority and do all other acts necessary.

(2) The Administrator or any person so authorised by him shall have all the powers of the local authority for the adequate rendering of such service and receiving payment therefor, and any person obstructing or hindering the carrying out of the service or any work incidental thereto shall be guilty of an offence.

(3) All expenses incurred in carrying on any service under this section in excess of any revenue received in respect thereof shall be a debt due by the local authority to the Administrator. All rates, fees and other payments which would lawfully have been due by any person to the local authority in respect of any such service shall, in so far as they are not recovered by the Administrator, or person carrying on such service, be recoverable by the local authority from the person liable.

(4) Whenever within the area of a local authority sanitation, passenger transportation, a fire extinguishing service, light, power or water is provided by some person other than the local authority, the provisions of this section shall apply to that other person and his employees engaged to perform work connected with sanitation, passenger transportation or the extinguishing of fires or light or power or water, as the case may be, in like manner as if that person were a local authority.

(2) Die Administrateur of sy aldus gemagtigde het al die bevoegdhede van die plaaslike bestuur ter doelmattige lewering van sodanige diens en die inning van gelde daarvoor, en elkeen wat die uitvoering van sodanige diens of verbandhoudende werk enigens (teengaan of belemmer, is skuldig aan 'n oortreding.

(3) Elke uitgawe in verband met die voortsetting van 'n diens ingevolge hierdie artikel wat enige inkomste in verband daarmee oortref, is 'n skuld wat die Administrateur van die plaaslike bestuur kan opéis. Alle aanslag, tariewe en ander betalings wat die plaaslike bestuur betreffende sodanige diens sou (toegekom het, maar wat nie deur die Administrateur of die dienslewerer verhaal is nie, kan die plaaslike bestuur van die skuldenaar verhaal.

(4) Wanneer iemand anders as die plaaslike bestuur binne 'n plaaslike bestuursgebied sanitasie-, passasiersvervoer-, brandweer-, lig-, krag-, of waterdienste lewer, geld die bepalings van hierdie artikel hom en sy werknemers in die sanitasie-, passasiersvervoer-, brandweer-, lig-, krag-, of waterdienste, na gelang, asof hy 'n plaaslike bestuur is.

71. (1) Behoudens die bepalings van sub-artikel (3) van artikel *een-en-dertig*, kan elkeen wat veronreg voel weens 'n vereiste of beslissing van die Sekretaris ingevolge artikel *twintig*, *drie-en-twintig*, *vyf-en-twintig*, *ses-en-twintig*, of *een-en-dertig* hom te eniger tyd binne sestig dae daarna op die Administrateur beroep.

(2) Daarop bekragtig die Administrateur die Sekretaris se vereiste of beslissing, of stel hy 'n vereiste, of gee hy 'n beslissing wat die Sekretaris syns insiens na behore moes gegee het; en, wat betref hierdie Ordonnansie, is die Administrateur se beslissing die Sekretaris se beslissing.

72. (1) Elkeen wat hom deur 'n Administrateursbeslissing ingevolge sub-artikel (2) van artikel *een-en-sewentig* of sub-artikel (1) van artikel *drie-en-dertig* veronreg voel, kan binne dertig dae nadat hy van so 'n beslissing verneem het, by die Hooggeregshof van Suidwes-Afrika daarteen in hoër beroep gaan, mits so 'n veronregte ten genoë van die Griffier van die Hooggeregshof sekerheid stel vir die Administrateur se moontlike onkoste betreffende die beroep.

(2) Die Hooggeregshof kan die Administrateursbeslissing bekragtig, of sodanige ander beslissing gee soos die Administrateur syns insiens na behore moes gegee het, en, wat betref hierdie Ordonnansie, is die Hooggeregshofbeslissing die Administrateursbeslissing.

73. Elkeen wat in 'n oopgaaf of verklaring, skriftelik of andersins, waartoe hy by, of ingevolge, hierdie Ordonnansie verplig word, opsetlik 'n valse verklaring aflê, of laat aflê, is skuldig aan 'n oortreding.

74. Geen geregtelike stappe hoegenaamd mag gedoen word teen enige vakvereniging of werkgewersorganisasie of teen enige lid, ampsdraer of amptenaar van sodanige vereniging of organisasie, betreffende enige onregmatige daad gepleeg deur daardie vereniging of organisasie, of deur daardie lid, ampsdraer of amptenaar namens daardie vereniging of organisasie, ter bevordering van 'n staking of uitsluiting nie: Met dien verstande dat hierdie artikel geen daad ter bevordering van 'n staking of uitsluiting waarvan, of in die voortsetting waarvan, 'n werknemer, werkgewer of enigemand anders se deelname ingevolge artikel *agt-en-vyfzig* verbied is, geld nie; nóg geld hierdie artikel enige daad wat as sodanig 'n strafregtelike oortreding is nie.

75. Die Administrateur kan regulasies oor die onderstaande aangeleenthede afkondig —

- (a) die prosedure wat 'n raad moet volg, ook in verband met die bekendmaking, of mededeling aan belanghebbendes, van dokumente of getuienis wat aan die voorgelê is;
- (b) die prosedure wat 'n versoeningsraad of 'n bemiddelaar of 'n arbiter, of arbiters, of 'n eindbesliser moet volg;
- (c) die prosedure wat 'n raad, raadslid of die Sekretaris of 'n versoeningsraad, 'n bemiddelaar, 'n arbiter of arbiters, of 'n eindbesliser moet volg by ondersoek te plase;
- (d) toelaes ter bestryding van onderhouds- en vervoerkoste wat uit staatsgelde betaal kan word aan getuies wat voor die raad, of 'n raadslid of 'n beampte op wie sub-artikel (9) van artikel *twaaft* dui, of die Sekretaris of 'n versoeningsraad, of 'n arbiter, of arbiters of 'n eindbesliser verskyn;
- (e) die pligte van inspekteurs en beamptes;
- (f) elke ander saak wat ingevolge hierdie Ordonnansie by regulasie voorgeskryf moet of kan word;
- (g) oor die algemeen, alle aangeleenthede waaroor die Administrateur regulasies nodig of wenslik ag ter bevordering van die doeleindes van hierdie Ordonnansie.

71. (1) Without prejudice to the provisions of sub-section (3) of section *thirty-one*, any person who feels aggrieved by any requirement or decision of the Secretary under section *twenty*, *twenty-three*, *twenty-five*, *twenty-six* or *thirty-one* may appeal at any time within sixty days thereafter to the Administrator.

(2) The Administrator shall confirm the Secretary's decision, or give such other decision as in his opinion the Secretary ought to have given; and the decision of the Administrator shall for the purposes of this Ordinance be deemed to be the decision of the Secretary.

72. (1) Any person who considers himself aggrieved by a decision of the Administrator under sub-section (2) of section *seventy-one* or sub-section (1) of section *thirty-three*, may, within thirty days after the decision became known to him, appeal against that decision to the High Court of South West Africa on giving security to the satisfaction of the registrar of that court for any costs that may be incurred by the Administrator in connection with the appeal.

(2) The High Court shall confirm the Administrator's decision or give such other decision as in its opinion the Administrator ought to have given, and its decision shall for the purposes of this Ordinance be deemed to be the decision of the Administrator.

73. Any person who in any return or statement, written or otherwise, which he is required by or under this Ordinance to furnish or make, knowingly makes or causes to be made any false statement, shall be guilty of an offence.

74. No proceedings shall be brought in any court of law against any trade union or employers' organization, or against any member, office-bearer or official of any such union or organization, in respect of any wrongful act committed by that union or organization, or by that member, office-bearer or official on behalf of that union or organization, in furtherance of a strike or lock-out: Provided that this section shall not apply to any act committed in furtherance of any strike or lock-out in which, or in the continuation of which, any employee, employer or other person is by section *fifty-eight* forbidden to take part, or to any act the commission of which is a criminal offence.

75. The Administrator may make regulations prescribing—

- (a) the procedure to be observed by a board including the publication or communication to interested persons of documents or evidence submitted to it;
- (b) the procedure to be observed by a conciliation board, a mediator or an arbitrator or arbitrators or an umpire;
- (c) the procedure to be observed in inspections *in loco* by a board, or any member of that board, by the Secretary, a conciliation board, a mediator, an arbitrator or arbitrators or an umpire;
- (d) allowances towards subsistence and transport which may be paid out of public moneys to witnesses summoned before a board, or a member of the board, or an officer referred to in sub-section (9) of section *twelve*, or the Secretary, a conciliation board, an arbitrator or arbitrators, or an umpire;
- (e) the duties of inspectors and officers;
- (f) all matters which by this Ordinance are required or permitted to be prescribed by regulation;
- (g) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Ordinance may be achieved.

76. (1) Elkeen wat ingevolge die bepalinge van hierdie Ordonnansie aan 'n oortreding skuldig bevind word, strafbaar met —

- (a) 'n boete van hoogstens vyfhonderd pond, of gevangenis van hoogstens drie jaar, of sodanige gevangenis sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenis, vir 'n oortreding ingevolge artikel *agt-en-vyftig* of sub-artikel (2) van artikel *sewentig*;
- (b) 'n boete van hoogstens driehonderd pond of gevangenis van hoogstens twee jaar, of sodanige gevangenis sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenis, vir 'n oortreding ingevolge sub-artikel (1) van artikel *vyf-en-vyftig* of artikel *drie-en-sewentig*; en
- (c) 'n boete van hoogstens eenhonderd pond of gevangenis van hoogstens een jaar, of sodanige gevangenis sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenis vir enige ander oortreding waarvoor daar geen spesiale straf bepaal word nie.

(2) Elke werkgewer wat 'n tweede of daaropvolgende keer skuldig bevind word aan 'n oortreding waarop sub-artikel (2) van artikel *vyftig* dui, is, benewens 'n moontlike boete ingevolge sub-artikel (1), strafbaar met die intrekking van enige handelslisensie wat hy ingevolge die Konsolidasie-Ordonnansie betreffende Lisensies 1935 (Ordonnansie 13 van 1935) besit, en kan daarom beveel word om sodanige lisensie binne 'n bepaalde tydperk ter intrekking aan die hof in te lewer.

(3) Elkeen teen wie daar ingevolge sub-artikel (2) 'n hofbevel geskied het, en wat ná die daarin bepaalde datum sy bedryf voortsit, of wat 'n nuwe handelsonderneming in dieselfde bedryf stig as dié ten opsigte waarvan 'n vasstelling, ooreenkoms, kennisgewing, of toekenningsverbinde van verbind het, en ten opsigte waarvan hy weens 'n oortreding of ander verontagsaming skuldig bevind is, is, wanneer hy enige in diens het, skuldig aan 'n oortreding, en is by skuldigbevinding strafbaar met gevangenis van hoogstens een jaar sonder die keuse van 'n boete. So 'n straf kan so 'n oortreding opgelê word bo en behalwe enige ander straf weens handeldrywe sonder die aangewese lisensie.

77. Ondanks andersluidende wetsbepalinge kan 'n magistratshof enige straf opleë, en bevel verstreke, waarvoor hierdie Ordonnansie voorsiening maak.

78. Die bepalinge van artikel *driehonderd drie-en-twintig* van die „Kriminele Procedure en Bewyslewering Proklamasieklamasie” (Proklamasie 30 van 1935), soos gewysig, geld geen oortreding wat bestaan uit 'n verontagsaming deur 'n daad of versuim waarop sub-artikel (2) van artikel *vyftig* dui nie.

79. In hierdie Ordonnansie, tensy die sinsverband 'n ander betekenis aandui —

- „omvat „streek” enige aantal streke, aangrensend al dan nie;
- „beteken „raad” die Loonraad ingestel by artikel *drie*; en „versoeningsraad” 'n versoeningsraad ingestel uit hoofde van hierdie Ordonnansie;
- „vasstelling” 'n vasstelling wat uit hoofde van artikel *sestien* geskied, en omvat dit 'n vasstelling wat ingevolge artikel *sewentien* gewysig word;
- „werknemer” (buiten in Hoofstuk II) elkeen wat by enige werkgewer werk of in diens is, en elke ander soldig ontvang of reg daarop het, en elke ander hoegenaamd wat enigins hulp verleen by 'n werkgewer se saak; en het „in diens” 'n „diens” ooreenkomstige betekenis;
- „werkgewer” elkeen hoegenaamd wat enigemand anders in sy diens het of werk gee en besoldig, of uitdruklik of stilswyend onderneem om so iemand te besoldig, of wat enig hoegenaamd toelaat om hom enigins hulp te verleen by sy saak; en het „in diens” en „diens” ooreenkomstige betekenis;

76. (1) Any person who is convicted of an offence under the provisions of this Ordinance shall be liable—

- (a) in the case of an offence under section *fifty-eight* or sub-section (2) of section *seventy*, to a fine not exceeding five hundred pounds or imprisonment for a period not exceeding three years or such imprisonment without the option of a fine or both such fine and such imprisonment;
- (b) in the case of an offence under sub-section (1) of section *fifty-five* or section *seventy-three* to a fine not exceeding three hundred pounds or imprisonment for a period not exceeding two years or such imprisonment without the option of a fine or both such fine and such imprisonment; and
- (c) in the case of any other offence for which no special penalty is prescribed, to a fine not exceeding one hundred pounds or imprisonment for a period not exceeding one year or such imprisonment without the option of a fine or both such fine and such imprisonment.

(2) Any employer on being convicted a second or subsequent time in respect of a contravention or failure such as is referred to in sub-section (2) of section *fifty* shall be liable, in addition to any penalty that may be imposed under sub-section (1), to be ordered to surrender to the court by a specified date any trading licence held by him under the Licences Consolidation Ordinance, 1935 (Ordinance No. 13 of 1935), for the purposes of cancellation.

(3) Any person against whom an order has been made under sub-section (2) who, after the specified date, continues to carry on business or starts a new business in the same trade as that in respect of which the determination, agreement, notice or award for the contravention of which, or failure to comply with which, he was so convicted, is or was binding, shall if he employs any persons be guilty of an offence and liable on conviction to imprisonment for a period not exceeding one year without the option of a fine. This penalty shall be in addition to any other penalty to which such person may be liable for trading without the appropriate licence for such trade.

77. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by, or make any order provided for in, this Ordinance.

78. The provisions of section *three hundred and twenty-three* of the Criminal Procedure and Evidence Proclamation, 1935 (Proclamation No. 30 of 1935), as amended, shall not apply in respect of any offence which consists of a contravention or failure such as is referred to in sub-section (2) of section *fifty*.

79. In this Ordinance, unless inconsistent with the context—

- „area” includes any number of areas whether contiguous or not;
- „board” means the wage board established by section *three*;
- „conciliation board” means a conciliation board established under this Ordinance;
- „determination” means a determination made under section *sixteen*; and includes any determination as amended under section *seventeen*;
- „employee”, except in Chapter II, means any person employed by, or working for any employer, and receiving or being entitled to receive, any remuneration, and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer; and „employed” and „employment” have corresponding meanings;
- „employer” means any person whatsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person whatsoever in any

„werkgeversorganisasie” enige aantal werkgevers in enige bepaalde bedryf wat hulle verenig het hoofsaaklik ten einde —

- (a) die verhouding tussen hulle of party van hulle en hul werknemers of party van hul werknemers te reël; of
- (b) die belange van die werkgevers of van party van die werkgevers in die betrokke bedryf te beskerm of te bevorder;

„inspekteur” ’n inspekteur wat kragtens artikel ses-en-veftig aangestel is;

„vrystellingsertifikaat” ’n sertifikaat uit hoofde van artikel negen-en-veertig;

„plaaslike bestuur” ook ’n munisipale raad of ’n dorpsbestuur;

„uitsluiting” een of meer van die ondergenoemde dade of versuime deur iemand wat ’n werkgever is of was —

- (a) sy weiering om ’n persone-tal of -liggaam wat in sy diens is of was, toegang te verleen tot ’n perseel waarop werk wat hy verskaf het, aan die gang is of was; of
- (b) die algehele of gedeeltelike opskorting deur hom van sy sake-onderneming of werkverskaffing; of
- (c) die verbreking of beëindiging deur hom van die dienskontrakte van ’n persone-tal of -liggaam in sy diens; of
- (d) die weiering of versuim deur hom om ’n persone-tal of -liggaam wat in sy diens was, weer in diens te neem —

as die genoemde toegangsweiering, opskorting, verbreking, beëindiging, weiering of versuim voortvloei uit ’n geskil betreffende diensvoorwaardes of ander aangeleenthede, en as dit die genoemde toegangsweiering, opskorting, verbreking, beëindiging, weiering of versuim se doel is om persone wat in sy diens of ’n ander se diens is of was, te beweeg of te dwing om toe te stem tot of te voldoen aan, enige eise betreffende voorwaardes van indiensneming of herindiensneming of ander aangeleenthede wat gestel is deur of namens hom of deur of namens ’n ander huidige of gewese werknemer;

„beampte” of „amptenaar” enigeen met ’n vaste betrekking in die Staatsdiens, of ’n inspekteur;

„passasiersvervoer” die vervoer van persone middels enige rytuig teen vergoeding volgens ’n vasgestelde rooster of tydtafel;

„perseel” ook enige grond, bouwerk, vaar- of voertuig;

„regulasie” ’n regulasie uit hoofde van hierdie Ordonansie;

„besoldiging” enige gedane of toekomstige betaling (lietsy met geld, goedere of albei) wat hoegenaamd aan iemand weens sy indiensneming geskied; en het „besoldig” ’n ooreenstemmende betekenis;

„Sekretaris” die Sekretaris van Suidwes-Afrika of ’n beampte wat wettig namens hom optree;

„staking” een of meer van die ondergenoemde dade of versuime deur enige persone-tal of -liggaam wat in diens is of was, of by dieselfde werkgever, of by verskillende werkgevers —

- (a) die weiering of versuim deur hulle om met hulle werk voort te gaan (of dit al hulle werk of slegs ’n deel daarvan betref) of om hul werk te hervat of om herindiensneming te aanvaar, of die opsetlike vertraging van werksvooruitgang, of opsetlike werksebelemmering; of

manner to assist him in the carrying on or conducting of his business; and “employment” and “employers’ organization” means any number of employers in any particular trade associated together primarily for the purpose of—

“employers’ organization” means any number of employers in any particular trade associated together primarily for the purpose of—

- (a) regulating relations between themselves or some of them and their employees or some of their employees; or
- (b) protecting or furthering the interests of the employers or some of the employers, in that trade;

“inspector” means an inspector appointed under section fifty-six;

“licence of exemption” means a licence issued under section forty-nine;

“local authority” includes a municipal council and a village management board;

“lock-out” means any one or more of the following acts or omissions by any person who is or has been an employer—

- (a) the exclusion by him of any body or number of persons who are or have been in his employ from any premises on which work provided by him is or has been performed; or
- (b) the total or partial discontinuance by him of his business or the provision of work; or
- (c) the breach or termination by him of the contracts of employment of any body or number of persons in his employ;
- (d) the refusal or failure by him to re-employ any body or number of persons who have been in his employ,

if that exclusion, discontinuance, breach, termination, refusal or failure is in consequence of a dispute regarding conditions of employment or other matters, and the purpose of that exclusion, discontinuance, breach, termination, refusal or failure is to induce or compel any persons, who are or have been in his employ or in the employ of other persons, to agree to or comply with any demands concerning conditions of employment or re-employment or other matters made by him or on his behalf or by or on behalf of any other person who is or has been an employer;

“officer” means a person on the fixed establishment of the public service or an inspector;

“passenger transportation” means the conveyance of persons by means of any vehicle for reward according to a specified time-table;

“premises” includes any land, structure, vessel or vehicle;

“regulation” means a regulation made under this Ordinance;

“remuneration” means any payment in money or in kind or both in money and in kind, made or owing to any person, which arises in any manner whatsoever out of employment; and “remunerate” has a corresponding meaning;

“Secretary” means the Secretary for South West Africa or any officer lawfully acting for him;

“strike” means any one or more of the following acts or omissions by any body or number of persons who are or have been employed, either by the same employer or by different employers—

- (a) the refusal or failure by them to continue to work (whether the discontinuance is complete or partial) or to resume work or to accept re-employment, or the wilful retardation by them of the progress of work, or the wilful obstruction by them of work; or

(b) die verbreking of beëindiging deur hulle van hul dienskontrakte;

as —

(i) daardie weiering, versuim, vertraging, belemmering, verbreking of beëindiging plaasvind weens 'n geskil oor diensvoorwaardes of oor ander aangeleenthede en weens enige onderlinge samespanning, ooreenkoms of verstandhouding, uitdruklik of andersins, en

(ii) die doel van daardie weiering, versuim, vertraging, belemmering, verbreking of beëindiging is om enigeen by wie hulle of enige ander persone in diens is of was, te beweeg of te dwing om toe te stem tot, of te voldoen aan, enige eise betreffende diensvoorwaardes of her-indiensneming, of ander aangeleenthede wat gestel is deur of namens hulle, of party van Julle, of enige andere wat in diens is of was;

„hierdie Ordonnansie” ook regulasies uit hoofde van hierdie Ordonnansie;

„bedryf” ook enige werksaamheid, proses, nywerheid, sake- of ander onderneming, werk, ambag, beroep of nering, en 'n deel of vertakking van 'n bedryf;

„vakvereniging” enige aantal werknemers in 'n bepaalde bedryf wat hulle verenig hoofsaklik ten einde —

(a) verhoudings tussen hulle of party van hulle en hulle onderskeie werkgewers te reël; of

(b) die belange van die werknemers of party van die werknemers in daardie bedryf te beskerm en te bevorder.

80. Hierdie Ordonnansie heet die Ordonnansie op Lone en Nywerheidsversoening 1952, en tree in werking op 'n datum wat die Administrateur by kennisgewing in die *Offisiële Koerant* bepaal.

(b) the breach or termination by them of their contracts of employment;

if

(i) that refusal, failure, retardation, obstruction, breach or termination is in consequence of a dispute regarding conditions of employment or other matters, and is in pursuance of any combination, agreement or understandings, whether expressed or not, entered into between them; and

(ii) the purpose of that refusal, failure, retardation, obstruction, breach or termination is to induce or compel any person by whom they or any other persons are or have been employed to agree to or comply with any demands concerning conditions of employment or re-employment or other matters made by or on behalf of them or any of them or any other persons who are or have been employed;

“this Ordinance” includes any regulation made thereunder;

“trade” includes any function, process, industry, business, undertaking, work, occupation, profession or calling, and includes also a section or portion of a trade;

“trade union” means any number of employees in any particular trade, associated together primarily for the purpose of—

(a) regulating relations between themselves or some of them and their respective employers; or

(b) protecting or furthering the interests of the employees or some of the employees,

in that trade.

80. This Ordinance shall be called the Wage and Industrial Conciliation Ordinance, 1952, and shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.