

HOOFSTUK I.

WOORDBEPALING EN ADMINISTRASIE.

2. In hierdie Ordonnansie, tensy uit die samehang anders blyk, beteken —

- „bedrywigheid“ ook enige proses, handwerk of bedryf;
- „streek“ ook meer as een streek, hetsy aangrensend al dan nie;
- „artikel“ ook enige vaste stof, vloeistof of gas, of 'n samestelling daarvan;
- „boumeester“ iemand wat 'n ander persoon vir bouwerk in diens het, en het „werknemer“ 'n ooreenkomstige betekenis wanneer dit in verband met bouwerk gebruik word;
- „bouwerk“ werk in verband met die oprigting, verandering, opknapping, herstel of sloping van bouwerk;
- „handelsreisiger“ 'n werknemer wat uitsluitend in diens is om van plek tot plek te reis met die doel om goedere te verkoop, of bestellings daarvoor te kry, en ook 'n assistent wat met so 'n werknemer saam reis;
- „werknemer“ elkeen —
- (a) wat in diens is by, of werk verrig vir, 'n werkgever in of in verband met 'n fabriek, buiten iemand wat uitsluitend in diens is as handelsreisiger, opsiger, oppasser, of by die aflewering van goedere of boodskappe; of
- (b) wat op enige ander wyse hoegenaamd die werkgever in of by 'n fabriek help met die dryf van so 'n fabriek; en het „in diens het“ en „diens“ die ooreenkomstige betekenis;
- „werkgever“ iemand wat in, of in verband met, 'n fabriek iemand anders in diens het of aan iemand werk verskaf, of wat iemand anders toelaat om hom enigins hoegenaamd te help om sy saak in, of in verband met, 'n fabriek te dryf; en het „in diens neem“ en „diens“ die ooreenkomstige betekenis;
- „uitgravingswerk“ ook die losmaak, uithaal en verwydering van klip, grond en ander materiaal by die maak, herstel, heropening of toemaak van 'n sloot, tunnel of dergelyke uitgraving;
- „uitgraver“ iemand wat iemand anders in diens het vir uitgravingswerk, en het „werknemer“ 'n ooreenkomstige betekenis waar dit in verband met uitgravingswerk gebruik word;
- „inspekteur“ 'n inspekteur aangestel ingevolge artikel vier;
- „inrigting“ ook 'n liefdadigheidsinrigting, 'n opvoedingsinrigting of dergelyke inrigting, hetsy dit deur die Administrasie of deur 'n ander liggaam of persoon gedryf word;
- „plaaaslike bestuur“ ook 'n munisipale raad, dorpsbestuur en soortgelyke inrigting;
- „masjinerie“ —
- (a) 'n lokomotief of 'n stilstandende of vervoerbare masjien, stoomketel of ander stoomapparaat; en
- (b) 'n toestel of samestelling van toestelle bestem vir die opwekking, ontvangs, bewaring, oorsending of omsending van krag;
- maar sluit uit —
- (i) masjinerie soos omskryf in die Proklamasie van 1929 betreffende die Toesig oor Masjinerie (Proklamasie 36 van 1929);
- (ii) huishoudelike toestelle wat in private huise as sodanig gebruik word; of
- (iii) voertuie, uitgesonderd stoomkragvoertuie: Met dien verstande dat alle elektriese huishoudelike toestelle by die toepassing van artikel een-en-dertig, twee-en-dertig en drie-en-dertig vir masjinerie gehou word;
- „houer“ ten opsigte van 'n perseel, die persoon by wie die bestuur of beheer berus van 'n bedryf wat op sodanige perseel plaasvind, of die hoof superintendent of ander persoon wat toesig hou oor 'n inrigting wat enige bedrywigheid voer, en as daar twee of meer sodanige persone is, sluit die uitdrukking „houer“ almal in; en het „hou“ 'n ooreenkomstige betekenis;
- „amptenaar“ iemand op die vaste diensstaat van die staatsdiens, of 'n inspekteur;
- „oortyd“ daardie deel van 'n tydperk waarin 'n werknemer gedurende 'n enkele week of 'n enkele dag, na gelang, langer vir sy werkgever werk as die ure voorgeskryf by paragraf (a) en (b) onderskeidelik, van sub-artikel (1) van artikel negentien;
- „perseel“ ook grond, bouwerk, voertuig of vaartuig;
- „voorgeskryf“ of „voorgeskrewe“ by hierdie Ordonnansie of 'n regulasie daaringevolge, voorgeskryf;
- „regulasie“ 'n regulasie ingevolge hierdie Ordonnansie;

CHAPTER I.

DEFINITIONS AND ADMINISTRATION.

2. In this Ordinance, unless inconsistent with the context —
- „activity“ includes any process, handicraft or occupation;
- „area“ includes any number of areas whether or not contiguous;
- „article“ includes any solid, liquid or gas, or combination thereof;
- „builder“ means a person who employs anyone on building work, and when used in relation to building work, „employee“ shall have a corresponding meaning;
- „building work“ means any work in connection with the erection, alteration, renovation, repair or demolition of a structure;
- „commercial traveller“ means an employee employed exclusively to travel from place to place for the purpose of selling, or obtaining orders for goods, and includes an assistant travelling with such employee;
- „employee“ means any person —
- (a) who is employed by or works for an employer in or in connection with a factory, but excluding a person employed solely as a commercial traveller, caretaker or watchman or in the delivery of goods or messages; or
- (b) who in any other manner whatsoever assists an employer in or about a factory in carrying on the business of such factory;
- and „employed“ and „employment“ have corresponding meanings;
- „employer“ means a person who in connection with a factory employs or provides work for or permits anyone in any manner whatsoever to assist him in the carrying on of his business in or about a factory; and „employ“ and „employment“ have corresponding meanings;
- „excavation work“ includes loosening, taking out and removing stone, soil and other material in connection with the making, repairing, re-opening, or closing of any trench, tunnel or similar excavation;
- „excavator“ means a person who employs anyone on excavation work, and when used in relation to excavation work „employee“ shall have a corresponding meaning;
- „inspector“ means an inspector appointed under section four;
- „institution“ includes any charitable, educational or like institution, whether conducted by the Administration or by any other body or person;
- „local authority“ includes a municipal council, village management board, and any like institution;
- „machinery“ means —
- (a) any locomotive or any stationary or portable engine, boiler or other steam apparatus; and
- (b) any appliance or combination of appliances intended for developing, receiving, storing, transmitting or converting power; but shall not include
- (i) machinery as defined in the Supervision of Machinery Proclamation, 1929 (Proclamation No. 36 of 1929);
- (ii) domestic appliances in use as such in private houses; or
- (iii) vehicles other than steam driven vehicles: Provided that all electrical domestic appliances shall be deemed to be machinery for the purposes of sections thirty-one, thirty-two and thirty-three;
- „occupier“, in relation to any premises, means the person having the management or control of any business conducted on such premises, or the principal, superintendent or other person in charge of an institution conducting any activity, and if there are two or more such persons, includes all such persons; and „occupy“ has a corresponding meaning;
- „officer“ means a person on the fixed establishment of the public service, or an inspector;
- „overtime“ means that portion of any period during which an employee works for his employer during any one week or on any one day, as the case may be, which is in excess of the hours prescribed in paragraphs (a) and (b), respectively, of sub-section (1) of section nineteeen;
- „premises“ includes any land, structure, vehicle or vessel;
- „prescribed“ means prescribed by this Ordinance or by regulation;
- „regulation“ means a regulation made under this Ordinance;

„besoldiging“ en „loon“ enige betaling met kontant of goedere of beide met kontant en goedere, wat aan eengeen gemak word of verskuldig is, wat enigins hoegenaamd uit diens ontstaan; en het „besoldig“ in ooreenkomstige betekenis: Met dien verstande dat die kontantwaarde van enige besoldiging met goedere —

- (a) soos by of ingevolge enige wet vasgestel is; of
- (b) by gebrek aan so 'n vasstelling, soos by ooreenkoms of tussen die werkgever en die werknemer bepaal is; of
- (c) by gebrek aan so 'n vasstelling of ooreenkomstig, soos deur die inspekteur bepaal is:

Met dien verstande voorts dat 'n inspekteur te eniger tyd —

- (i) die waarde bepaal by ooreenkoms soos in paragraaf (b) genoem, kan hersien op grond daarvan dat dit of ontoereikend of oormatig is, en dit kan vervang met 'n waarde wat hy self vasstel; en
- (ii) enige beslissing van 'n inspekteur waarby die waarde van sodanige besoldiging of loon bepaal is, kan intrek of wysig;

„sekretaris“ die Sekretaris van Suidwes-Afrika of 'n amptenaar wat wettig namens hom optree;

„hierdie Ordonnansie“ ook die regulasies daaringevolge;

„gebruiker“ die eienaar van, of die persoon wat die voordeel trek uit, die gebruik van masjinerie, en ook iemand wat belas is met die toesig oor die masjinerie;

„week“ met betrekking tot 'n werknemer, die tydperk van sewe dae, wat die werkweek van daardie werknemer gewoonlik insluit;

„jaar“ 'n tydperk van twaalf maande, wat op die eerste dag van Januarie begin.

3. (1) Behoudens die bepaling van hierdie artikel, beteken „fabriek“ —

(a) elke perseel waarop iemand werk doen in verband met 'n bedryf, onderneming of inrigting, hetsy as werkgever of werknemer, leerling of inwoner in 'n inrigting, of andersins, in een of meer van die onderstaande bedrywigehede —

- (i) die vervaardiging van 'n artikel of deel van 'n artikel;
- (ii) die verander, herstel, opknop, versier, verf, sproei-verf, poleer, afwerk, skoonmaak, kleur, was of uitmekaar haal van 'n artikel;
- (iii) die verwerking, ter verkoop of gebruik, van 'n artikel;
- (iv) die sortering, versameling of inpakking van artikels (met insluiting van die was of vul van bottels of ander houers);
- (v) die bou, herbou, versamel, herstel, of uitmekaar haal van voertuie of voertuigonderdele (maar met uitsluiting van persele wat gebruik word vir die huisvesting van voertuie waar slegs kleinere verstellings gedoen word);
- (vi) drukwerk deur kopiepers, litografie, fotografure, of ander soortgelyke proses, en ook elke werksaamheid aan die drukkerbedryf verbonde;
- (vii) die vervaardiging en bewaring van gas in 'n houër met bergruimte vir meer as vyfduisend kubieke voet;
- (viii) die bevriesing, verkoeling of koelbewaring van enigiets;
- (ix) die slag van vee;
- (x) die opwulking en lewering van elektrisiteit;
- (xi) fotografiese werk;
- (xii) elke ander bedrywigheid wat ingevolge sub-artikel (4) bygevoeg word; en

(b) elke perseel waarop boekhou, tikskrif of ander klerklike werk in verband met 'n bedrywigheid, genoem in paragraaf (a), gedoen word, of waarop enige geriewe bestaan of bedrywigheid gevoer word in verband met die dryf van 'n fabriek, as sodanige perseel —

- (i) deel is van, of grens aan, die perseel waarop genoemde bedrywigheid plaasvind; of
- (ii) geleë is op die fabrieksterrein.

(2) Ondanks die bepaling van sub-artikel (1) sluit „fabriek“ die onderstaande uit:—

- (a) 'n perseel waarop minder as vyf persone werk aan 'n bedrywigheid genoem in sub-artikel (1), tensy —
 - (i) sodanige perseel as 'n fabriek geregistreer is ingevolge artikel dertien; of

„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: Provided that the value in money of any remuneration paid in kind shall be —

- (a) as determined by or under any law; or
- (b) in the absence of any such determination, as fixed by agreement between the employer and the employee concerned; or
- (c) in the absence of any such determination or agreement, as fixed by an inspector:

Provided further that an inspector may at any time —

- (i) review the value fixed by an agreement referred to in paragraph (b), on the grounds that it is either inadequate or excessive, and substitute therefor a value fixed by him; and
- (ii) withdraw or amend any decision by an inspector fixing the value of any such remuneration;

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

„this Ordinance“ includes any regulations made thereunder;

„user“ means the owner of or the person benefiting from the use of any machinery, and includes the person charged with the supervision of the machinery;

„week“ means, in relation to any employee, the period of seven days within which the working week of that employee ordinarily falls;

„year“ means a period of twelve months commencing on the first day of January.

3. (1) Subject to the provisions of this section, „factory“ means —

(a) any premises on which any person performs work in connection with any business, undertaking or institution, whether as an employer or employee, pupil or inmate of an institution, or otherwise, in any one or more of the following activities —

- (i) the making of any article or part of any article;
- (ii) the altering, repairing, renovating, ornamenting, painting, spraying, polishing, finishing, cleaning, dyeing, washing or breaking up of any article;
- (iii) the adaption for sale or use of any article;
- (iv) the sorting, assembling or packing (including washing or filling bottles or other containers) of any articles;
- (v) the construction, reconstruction, assembling, repairing, or breaking up of vehicles or parts thereof (but excluding premises used for the purpose of housing vehicles where only minor adjustments are carried out);
- (vi) printing by letterpress, lithography, photogravure or other similar process, including any activity associated with the printing industry;
- (vii) the production and storage of gas in a holder of more than five thousand cubic feet storage capacity;
- (viii) the freezing, chilling or storage in cold storage of any article;
- (ix) the slaughtering of livestock;
- (x) the generation and distributing of electricity;
- (xi) photographic work;
- (xii) any other activity added in terms of sub-section (4); and

(b) any premises on which bookkeeping, typewriting or any clerical work incidental to any activity referred to in paragraph (a) is performed or in which any amenity or activity incidental to the operation of a factory exists or is carried on, if such premises —

- (i) form part of or are connected with the premises in which the said activity is carried on; or
- (ii) are situated on the site of such factory.

(2) Notwithstanding the provisions of sub-section (1), „factory“ shall not include —

- (a) any premises on which fewer than five persons perform work in any activity referred to in sub-section (1), unless —
 - (i) such premises have been registered as a factory under section thirteen; or

- (ii) die werk wat op sodanige perseel gedoen word, na die mening van die Sekretaris, die aanwending van gevaarlike prosesse of giftige stowwe meebbring, of waarop voedingsmiddels (buiten geneesmiddels of water, maar met insluiting van ys) wat vir mensverbruik bestem of gewoonlik gebruik word, of wat bygevoeg word tot, of gebruik word by die samestelling of bereiding van artikels ter menserverbruik, vervaardig, verwerk of berei word.
- (b) 'n perseel waarop 'n bedryfsgewig genoem in sub-paragraaf (iv) of (viii) van paragraaf (a) van sub-artikel (1) slegs bykomend is by die dryf van 'n saak wat hoofsaaklik die verkoop van goedere by die kleinmaat behels;
- (c) 'n myn of werke soos omskryf in die Proklamasie van 1929 betreffende die Toesig oor Masjinerie (Proklamasie 36 van 1929);
- (d) private huise, hotelle, losieshuise, restaurants, verversings- of teekamers of eetlokale ten opsigte van 'n bedryfsgewig genoem in sub-artikel (1), wat gewoonlik en noodsaaklik verbonde is aan die dryf van sodanige inrigtings;
- (e) elke gebou, brug, pad, besproeiingswerk of soortgelyke werk, ondervul dit gebou, verander, opgeknop, herstel of gesloop word, vir sover dit die bedryfsgewig verbonde aan sodanige aanbou, verandering, opknapping, herstel of sloping betref;
- (f) 'n perseel (op 'n plaas) waarop 'n boer, met inbegrip van 'n vennootskap of groep persone, buiten 'n maatskappy 'n bedryfsgewig uitvoer, genoem in paragraaf (a) van sub-artikel (1) uitsluitend in verband met die produkte wat hy op 'n plaas deur hom beset, geproduseer het, of uitsluitend in verband met sy boerdery; of
- (g) 'n werkkamer verbonde aan 'n voorgeskrewe klas inrigting.
- (3) By die toepassing van hierdie artikel sluit „krag“ die gebruik van hand- of voetkrag by die werking van 'n meganiese toestel uit.
- (4) (a) Die Administrateur kan by proklamasie enige bedryfsgewig voeg by, of skrap uit, dié genoem in paragraaf (a) van sub-artikel (1) en hy kan so 'n proklamasie herroep of wysig.
- (b) Voor die uitvaardiging van 'n proklamasie ingevolge paragraaf (a), moet die Administrateur —
- (i) 'n kennisgewing in die *Offisiële Koerant* laat verskyn, waarin die strekking van die beoogde proklamasie uiteengesit word, en waarin hy 'n beroep doen op alle belanghebbendes wat besware het, om sodanige besware op skrif binne dertig dae na die verskyningsdatum van die kennisgewing by 'n genoemde adres in te lewer; en
- (ii) binne sewe dae na die verskyning van die kennisgewing 'n verklaring in een of meer nuusblaaie laat publiseer waarin die aandag van alle belanghebbendes op daardie kennisgewing gevestig word.
- (5) By die toepassing van enige bepaling van hierdie Ordonnansie kan die Administrateur na goedgeunde beveel dat 'n deel van 'n fabriek beskou moet word as 'n afsonderlike fabriek, of dat twee of meer fabriekke wat deur dieselfde fabriekhouer gehou word, beskou moet word as een fabriek.
- (6) Wanneer ook al die Administrateur meen dat die bedryfsgewig in 'n saak in die reël 'n fabriek sou uitmaak as hulle saam op 'n enkele perseel uitgevoer word, en sodanige bedryfsgewig onderverdeel is in gedeeltes waarvan almal of party uitgevoer word op 'n perseel wat nie 'n fabriek uitmaak nie, kan hy na goedgeunde beveel dat 'n sodanige perseel, geheel of gedeeltelik, as fabriek beskou moet word.
4. (1) Behoudens die wette wat die Staatsdiens reël, kan die Administrateur enigemand aanstel as Inspekteur ingevolge hierdie Ordonnansie, wat sy betrekking beklee solank dit die Administrateur behaag.
- (2) Elke inspekteur ontvang 'n sertifikaat wat onderteken is deur 'n amptenaar wat die Administrateur daartoe aanwys, en wat getuig dat hy ingevolge hierdie Ordonnansie tot inspekteur aangestel is.
- (3) Na raadpleging van 'n plaaslike bestuur kan die Administrateur enigemand in die diens van sodanige planlike bestuur magtig om sodanige pligte van 'n inspekteur soos hy aandui, uit te voer, onderhewig aan enige beperking betreffende streek of tydperk of op enige ander voorwaardes wat hy doenlik ag. Aan so 'n gemagtigde persoon word 'n sertifikaat uitgereik, wat onderteken is deur 'n amptenaar wat die Administrateur daartoe aangewys het, en wat die omvang van sodanige magtiging uiteensit. Elke verwysing in hierdie Ordonnansie na 'n inspekteur sluit ook so 'n gemagtigde in binne die perke van sy magtiging.
- (ii) the work performed on such premises in the opinion of the Secretary involves the use of dangerous processes or poisonous substances or on which any food (including ice) which is intended or ordinarily used for human consumption, or which enters into, or is used in the composition or preparation of, articles for human consumption, is manufactured, adapted or prepared.
- (b) premises on which any activity referred to in sub-paragraph (iv) or (viii) of paragraph (a) of sub-section (1) is only incidental to the conduct of a business engaged mainly in the sale of goods by retail;
- (c) any mine or works as defined in the Supervision of Machinery Proclamation, 1929 (Proclamation No. 36 of 1929);
- (d) private houses, hotels, boarding houses, restaurants, refreshment or tea rooms or eating houses in respect of any activity referred to in sub-section (1) which is ordinarily and necessarily incidental to the conduct of such establishment;
- (e) any building, bridge, road, irrigation work or similar work in the course of construction, alteration, renovation, repair or demolition, in so far as the activities connected with such construction, alteration, renovation, repair or demolition are concerned;
- (f) premises (on a farm) on which a farmer, including a partnership or group of persons, other than a company performs work in any activity referred to in paragraph (a) of sub-section (1) solely in connection with products which he has produced on a farm occupied by him, or solely in connection with his farming operations; or
- (g) a workroom in connection with a prescribed class of institution.
- (3) For the purposes of this section "power" does not include hand or foot power used to operate any mechanical appliance.
- (4) (a) The Administrator may, by proclamation, add or delete any activity to or from those specified in paragraph (a) of sub-section (1) and may cancel or amend any such proclamation.
- (b) Before the publication of a proclamation under paragraph (a), the Administrator shall —
- (i) cause to be published in the *Gazette* a notice setting forth the purport of the proposed proclamation and calling upon all interested persons who have any objections, to lodge them in writing at a specified address within thirty days of the date of publication thereof; and
- (ii) cause to be published in one or more newspapers, within seven days after the publication of such notice, a statement directing the attention of all interested persons to that notice.
- (5) For the purposes of any provision of this Ordinance the Administrator may in his discretion order that a part of a factory shall be deemed to be a separate factory or that two or more factories which are occupied by the same occupier shall be deemed to be a single factory.
- (6) Whenever in the opinion of the Administrator the activities of a business would ordinarily constitute a factory if conducted on single premises, and such activities have been sub-divided into sections all or some of which are conducted on premises not constituting a factory, he may in his discretion order that all or any portion of the said premises shall be deemed to be a factory.
4. (1) Subject to the laws governing the public service, the Administrator may appoint any person as an inspector under this Ordinance, who shall hold office during the Administrator's pleasure.
- (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.
- (3) After consultation with any local authority, the Administrator may authorise any person employed by such local authority to perform such of the duties of an inspector as he may indicate, subject to any restriction as to area or period, or any other conditions he may deem it expedient to impose. A certificate shall be issued to any person so authorised, signed by an officer designated thereto by the Administrator, indicating the extent of such authorization. Any reference in this Ordinance to an inspector shall be deemed to include a person so authorized to the extent of the authorization.

(2) As 'n inspekteur 'n daad of versuim soos voormeld aantref, kan hy 'n mediese beampte of gesondheids- of sanitasie-inspekteur of ander amptenaar van die plaaslike bestuur saam met hom in die fabriek in neem.

(3) As daar binne een maand nadat 'n inspekteur 'n plaaslike bestuur ingevolge hierdie artikel kennis gegee het van 'n daad of versuim soos voormeld, nog geen stappe gedoen is om die daad of versuim te straf of te herstel nie, kan die inspekteur self sodanige stappe ter bestraffing of herstel doen soos die plaaslike bestuur sou gedoen het, en kan hy alle onkoste wat hy daarby, of in verband daarmee opgedoen het, en wat nie van iemand anders verhaal is of by, of in verband met, ongeslaagde geregtelike verrigtinge opgedoen is nie, van die plaaslike bestuur as 'n burgerlike skuld invorder.

7. 'n Inspekteur of ander gemagtigte ingevolge sub-artikel (3) van artikel vier wat 'n bevoegdheid uitoefen of 'n plig uitvoer wat hom ingevolge hierdie Ordonnansie verleen of opgelê is, moet op aanvraag die sertifikaat toon, wat aan hom ingevolge sub-artikel (2) of sub-artikel (3) van artikel vier, na gelang van die geval, uitgereik is.

8. 'n Inspekteur wat, buiten aan die Administrateur, of aan 'n amptenaar, of wanneer hy daartoe verplig word as getuie in 'n gereghof, of by die toepassing van hierdie Ordonnansie, inligting bekend maak ten opsigte van enige persoon, firma of saak, wat hy by die uitvoering van sy pligte, of die uitoefening van sy bevoegdhede ingevolge hierdie Ordonnansie, ingewin het, is skuldig aan 'n oortreding.

9. (1) Elke werknemer moet deurentyd betreffende elkeen van sy werkmere aantekeninge hou van die onderstaande besonderhede, en dit wel op die voorgeskrewe vorm en wyse:—

- (a) naam en geslag;
- (b) die soort werk wat hy verrig;
- (c) die tydstop waarop hy elke dag begin en ophou werk;
- (d) die tye en die duur van sy ruspouses (wat nie ingevolge sub-artikel (4) van artikel negentien as werkers beskou word nie) in die loop van elke dag se werk;
- (e) die algehele getal weke werke en die oortyd wat elke dag en elke week gewerk word;
- (f) die gereelde loonskaal en die werklike besoldiging wat van tyd tot tyd uitbetaal is, as ook die datum van elke uitbetaling;
- (g) sodanige ander besonderhede soos voorgeskryf is.

(2) 'n Inspekteur kan skriftelike verlof verleen tot die hou van aantekeninge in 'n ander vorm, mits die aantekeninge wat aldus gehou word, na sy mening, hom in staat sal stel om die nodige besonderhede vas te stel. 'n Inspekteur kan by skriftelike kennisgewing die verlof ingevolge hierdie sub-artikel verleen, intrek of wysig.

(3) Elke werkgever moet die aantekeninge wat hy ingevolge hierdie artikel gemaak het, drie jaar lank na die datum van sodanige aantekeninge hou, en moet op versoek van 'n inspekteur te eniger tyd binne daardie drie jaar sodanige aantekeninge ter besigtiging toon.

(4) 'n Werkgever wat die bepaling van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

HOOFSTUK II.

REGISTRASIE VAN LISENSIEVERLEENING AAN, EN BEHEER OOR FABRIEKE.

10. (1) Na verloop van ses maande vanaf die inwerking-tredingsdatum van hierdie Ordonnansie, of van sodanige langer tydperk soos die Administrateur na goedgeunkte toelaat, mag niemand 'n fabriek hou of gebruik nie, tensy die houër 'n 'n registrasiesertifikaat of van 'n voorwaardelike fabriekpermit, uitgereik ingevolge die bepaling van hierdie Ordonnansie:

Met dien verstande dat 'n perseel wat op die inwerking-tredingsdatum van hierdie Ordonnansie as fabriek geregistreer is en gebruik word ingevolge die bepaling van die Ordonnansie op Robbevangs en Visserye 1949 (Ordonnansie 12 van 1949) beskou word as geregistreer ingevolge die bepaling van hierdie Ordonnansie, en die Sekretaris moet 'n registrasiesertifikaat in die voorgeskrewe vorm ten opsigte van sodanige perseel uitreik.

(2) Die houër van 'n geregisteerde fabriek mag geen bedrywigheid genoem in paragraaf (a) van sub-artikel (1) van artikel drie daarin voer nie, buiten die bedrywigheid wat in sy registrasiesertifikaat genoem word.

(2) When an inspector finds any such act or default as aforesaid he may take with him into the factory a medical officer of health or sanitary inspector or other officer of the local authority.

(3) If within one month after notice of an act or default is given by an inspector under this section to a local authority, proceedings are not taken for punishing or remedying the act or default, the inspector may take the like proceedings for the punishment or remedying thereof as the local authority might have taken, and shall be entitled to recover from the local authority as a civil debt all such expenses incurred by him in and about the proceedings as are not recovered from any other person and have not been incurred in or about any unsuccessfull legal proceedings.

7. Any inspector or person authorized under sub-section (3) of section four 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) or sub-section (3) of section four, as the case may be.

8. An inspector who discloses, except to the Administrator, or to an officer, or when required to do so as a witness in a court of law, or for the purposes of this Ordinance, any information in relation to any person, firm or business acquired in the performance of his duties in carrying out or the exercise of his powers under this Ordinance, shall be guilty of an offence.

9. (1) Every employer shall at all times keep a record, in the form and manner prescribed, showing in respect of each employee—

- (a) name and sex;
- (b) the nature of the work performed;
- (c) the times at which he commences and ceases work on each day;
- (d) the times and duration of intervals (not deemed under sub-section (4) of section nineteen to be working hours) in his work on each day;
- (e) the total number of ordinary hours and overtime worked each day and each week;
- (f) the normal rate of remuneration and the actual remuneration paid from time to time and the date of every such payment;
- (g) such other particulars as may be prescribed.

(2) An inspector may in writing 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. An inspector may by notice in writing cancel or amend an authority given in terms of this subsection.

(3) Every employer shall retain any record made in terms of this section for a period of three years subsequent to the date of the record and shall on demand by an inspector made at any time during the said period of three years produce any such record for inspection.

(4) Any employer who contravenes the provisions of this section shall be guilty of an offence.

CHAPTER II.

REGISTRATION, LICENSING AND CONTROL OF FACTORIES.

10. (1) After the expiration of six months from the date of the coming into operation of this Ordinance, or of such longer period as the Administrator may in his discretion allow, no person shall occupy or use a factory unless he is the holder of a registration certificate or current provisional: factory permit issued under the provisions of this Ordinance: Provided that any premises which at the date of the commencement of this Ordinance are registered and used as a factory under the provisions of the Sealing and Fisheries Ordinance, 1949 (Ordinance No. 12 of 1949), shall be deemed to be registered under the provisions of this Ordinance and the Secretary shall issue a registration certificate in the prescribed form in respect of such premises.

(2) The occupier of a registered factory shall not carry on therein any activity referred to in paragraph (a) of subsection (1) of section three other than that specified in the registration certificate.

(3) Die houer van 'n geregistreerde fabriek moet die registrasiesertifikaat op so 'n plek in die fabriek soos die inspekteur voorskryf, laat aanplak en dit te alle tye daar aangeplak hou.

(4) Elkeen wat 'n fabriek strydig met die bepalings van sub-artikel (1) hou of gebruik, en elke houer van 'n geregistreerde fabriek wat die bepalings van sub-artikel (2) en (3) treedre fabriek wat is skuldig aan 'n oortreding.

11. Die houer van 'n geregistreerde fabriek moet sodanige fabriek ooreenkomstig die bepalings van hierdie Ordonnansie laat lisensieer. Versuim by die nakoming van hierdie artikel is 'n oortreding.

12. (1) Wanneer ook al iemand voornemens is om 'n gebou op te rig, of te laat oprig, vir gebruik as 'n fabriek, gebou op te rig, of te laat oprig, vir gebruik as 'n fabriek, ingevolge hierdie of 'n bestaende gebou wat nie as 'n fabriek ingevolge hierdie of 'n bestaende gebou is nie, te verbou of te vergroot met Ordonnansie geregistreer is nie, te verbou of te vergroot met Ordonnansie geregistreer is, in die voorgeskrewe vorm, moet hy aan die Sekretaris daarvan, in die voorgeskrewe vorm, van die bouterrein en van die beoogde gebou, veranderinge van die byvoegings, asook die voorgeskrewe besonderhede, in tweevoud voorle. Die Sekretaris moet die persoon wat die planne voorle, in kennis stel van die beoogde gebou of byvoeging, of die gebou nadat dit op die voorgenoemde wyse verbou is, by die toepassing van hierdie Ordonnansie, vir gebruik as 'n fabriek van die beoogde soort as geskik beskou: Met dien verstande dat wanneer ook al sodanige planne ingevolge enige wet, regulasie of stadsverordening die toestemming van 'n plaaslike bestuur of 'n amptenaar van 'n plaaslike bestuur vereis, die Sekretaris sodanige plaaslike bestuur of amptenaar moet raadpleeg voordat hy 'n mening uitspreek.

(2) Wanneer ook al planne vir die oprigting, herbou of verandering van 'n gebou wat as fabriek gebruik word of bestem is, ingevolge enige wet, regulasie of stadsverordening aan 'n plaaslike bestuur of 'n amptenaar van 'n plaaslike bestuur vir sy goedkeuring voorgelê word, moet sodanige plaaslike bestuur of amptenaar, voordat hy sodanige planne goedkeur, hulle aan 'n inspekteur ter ondersoek voorle, en mag hy sodanige planne nie goedkeur nie, totdat die inspekteur die plaaslike bestuur skriftelik meedeel het dat die betrokke perseel na sy mening geskik sou wees as 'n fabriek van die beoogde aard.

(3) Elkeen wat die bepalings van sub-artikel (1) en (2) verontagsaam, is skuldig aan 'n oortreding.

13. (1) Aansoek om registrasie van 'n perseel as 'n fabriek ingevolge hierdie Ordonnansie moet aan die Sekretaris op die voorgeskrewe vorm, deur, of ten behoeve van, die persoon wat sodanige perseel as fabriek hou, of voornemens is om dit as fabriek te hou, gedoen word. Die applikant moet die voorgeskrewe besonderhede en planne, sowel as bykomende inligting of tekening wat die Sekretaris vereis, inlewer.

(2) Sodra doenlik na ontvangs van 'n aansoek en van bykomende inligting of tekening vereis ingevolge sub-artikel (1), moet die Sekretaris:—

- (a) die perseel ten opsigte waarvan die aansoek gedoen is, registreer deur 'n registrasiesertifikaat in die voorgeskrewe vorm uit te reik, en die sertifikaat moet die bedryfgeheid waarvoor die fabriek geregistreer is, die naam van die houer en die voorwaardes wat die houer of 'n werkgewer wat te eniger tyd iemand in die fabriek in diens het, moet nakom, sowel as enige ander voorgeskrewe besonderhede, vermeld; of
- (b) weier om die perseel te registreer op grond van ongeskiktheid; of
- (c) 'n gedeelte van die perseel soos omskryf in paragraaf (a) registreer, en weier om die oorblywende gedeelte te registreer op grond van ongeskiktheid.

(3) Wanneer ook al die Sekretaris geweier het om 'n hele of 'n deel van 'n perseel ten opsigte waarvan aansoek gedoen is, te registreer, kan hy 'n voorwaardelike fabriek-permit in die voorgeskrewe vorm ten opsigte van die hele of 'n gedeelte van die perseel, die registrasie waarvan hy geweier het, uitreik, en sodanige permit geld vir die tydperk daarin genoem, en is onderhewig aan sodanige voorwaardes soos die Sekretaris stel.

(4) Die Sekretaris kan na goedgeindke te eniger tyd by skriftelike kennisgewing aan die fabriekhouer enige tydperk, besonderhede of voorwaardes wat in 'n registrasiesertifikaat of voorwaardelike fabriekpermit genoem word, wysig.

(5) Na die registrasie van 'n perseel as 'n fabriek ingevolge hierdie Ordonnansie, mag niemand enige bou- of ander veranderinge aan sodanige perseel aanbring of laat aanbring sonder die voorafverkreë goedkeuring van die Sekretaris. Wanneer die Sekretaris 'n beoogde verandering ingevolge hierdie sub-artikel oorweeg, kan hy vereis dat die fabriekhouer inligting of tekening betreffende sodanige verandering voorle, wat die Sekretaris nodig ag om hom in staat te stel

(3) The occupier of a registered factory shall cause to be affixed, and at all times to be kept affixed, in such position in the factory as may be prescribed by the inspector, the registration certificate.

(4) Any person who occupies or uses a factory otherwise than in accordance with the provisions of sub-section (1), and any occupier of a registered factory who contravenes the provisions of sub-sections (2) and (3) shall be guilty of an offence.

11. The occupier of a registered factory shall licence such factory in accordance with the provisions of this Ordinance. Failure to comply with the provisions of this section shall constitute an offence.

12. (1) Whenever any person intends to erect, or to cause to be erected, any building for use as a factory, or to alter or add to any existing building not registered as a factory under this Ordinance, with the intention of using such building or a portion thereof as a factory, he shall submit to the Secretary, in duplicate, plans in the prescribed form of the site and of the proposed building, alterations or additions, together with the prescribed particulars. The Secretary shall advise the person submitting the plans whether he considers that the proposed building or addition, or the building altered in the manner proposed, would, for the purposes of this Ordinance, be suitable for use as a factory of the nature proposed: Provided that whenever in terms of any law, regulation or by-law, such plans require the approval of a local authority or an officer of a local authority, the Secretary shall consult such local authority or officer before expressing an opinion.

(2) Whenever any plans for the erection, rebuilding or alteration of any building used or intended for use as a factory are in terms of any law, regulation or by-law submitted to a local authority or to any officer of a local authority for approval by such local authority or officer, such local authority or officer shall, before approving such plans, submit them to an inspector for scrutiny, and shall not approve such plans until the inspector has notified the local authority in writing that in his opinion the premises concerned would be suitable for use as a factory of the nature proposed.

(3) Any person who contravenes the provisions of sub-sections (1) and (2) shall be guilty of an offence.

13. (1) Application for the registration of any premises as a factory under this Ordinance shall be made to the Secretary, in the prescribed form, by or on behalf of the person occupying or intending to occupy such premises as a factory. The applicant shall furnish the prescribed particulars and plans, together with any additional information or drawings which may be required by the Secretary.

(2) As soon as practicable after receipt of an application and of any additional information or drawings required in terms of sub-section (1), the Secretary shall—

- (a) register the premises in respect of which the application is made by issuing a registration certificate in the prescribed form, specifying the activity in respect of which the factory is registered, the name of the occupier and any conditions to be observed by the occupier or by an employer who at any time employs any person in the factory, and any other prescribed particulars; or
- (b) refuse to register the premises on the ground of unsuitability; or
- (c) register a portion of the premises in the manner described in paragraph (a), and on the ground of unsuitability, refuse to register the remaining portion.

(3) Whenever the Secretary has refused to register the whole or any portion of the premises in respect of which application has been made, he may issue, in the prescribed form a provisional factory permit, in respect of the whole or any specified portion of the premises which he has refused to register, to be valid for a period to be stated in the permit, and subject to such conditions as the Secretary may specify.

(4) The Secretary may in his discretion at any time by notice in writing to the occupier of a factory vary any period, particulars or conditions specified in a registration certificate or provisional factory permit.

(5) After the registration of any premises as a factory under this Ordinance no person shall effect or cause to be effected any structural or other alterations to such premises without the prior approval of the Secretary. In considering any proposed alteration under this sub-section, the Secretary may require the occupier of the factory to submit any information or drawings relating to such alteration that the Secre-

om tot 'n besluit te kom. Die voorbehoudsbepaling van sub-artikel (1) van artikel *twaaft* is met die nodige veranderinge van toepassing op enige sodanige tekeninge. Word enige sodanige veranderinge sonder sodanige goedkeuring aangevang, kan die Sekretaris, by skriftelike kennisgewing aan die houer, die registrasiesertifikaat intrek, waarop sodanige perseel nie meer as 'n fabriek ingevolge hierdie Ordonnansie geregistreer is nie.

(6) Elkeen wat —

- (i) versium om die voorgeskrewe besonderhede en planne of enige bykomende inligting of tekeninge wat die Sekretaris ingevolge sub-artikel (1) vereis, in te lewer; of
- (ii) wat versium om 'n voorwaarde wat die Sekretaris ingevolge sub-artikel (2) of (3) stel, of enige voorwaarde soos ingevolge sub-artikel (4) gewysig, na te kom; of
- (iii) die bepaling van sub-artikel (5) verontsaam as skuldig aan 'n oortreding.

14. (1) As die Sekretaris meen dat 'n fabriekhouer versium het om te voldoen aan die bepaling van 'n regulasie wat op hom van toepassing is, of dat die geheel of 'n gedeelte van die perseel wat 'n geregistreerde fabriek uitmaak, nie meer vir gebruik as 'n fabriek geskik is nie, kan hy —

- (a) by skriftelike kennisgewing waarin hy uiteensit in watter opsig die houer na sy mening versium het om te voldoen aan die bepaling van sodanige regulasie, of in watter opsig die perseel na sy mening nie meer vir gebruik as 'n fabriek geskik is nie, die houer aansê om die maatreëls te tref en die bouveranderinge aan te bring, wat in sodanige kennisgewing genoem word; of
- (b) by soortgelyke kennisgewing sodanige houer aansê om 'n verklaring aan hom voor te lê, waarin die houer uiteensit watter maatreëls hy voornemens is om te tref, en as bouveranderinge beoog is, ook die voorgeskrewe planne waarop die bouveranderinge wat sodanige houer voornemens is om aan te bring ten einde te voldoen aan die bepaling van sodanige regulasie, of ten einde die perseel geskik te maak vir gebruik as 'n fabriek, getoon word; en
- (c) by verdere skriftelike kennisgewing sodanige houer aansê om die beoogde maatreëls te tref en die beoogde bouveranderinge aan te bring, of sonder wysiging of met wysigings wat die Sekretaris bepaal;

en wel binne 'n tydperk wat in sodanige kennisgewing genoem word, en wat minstens veertien dae moet wees.

(2) Die Sekretaris kan die tydperk waarbinne die vereistes van 'n kennisgewing ingevolge sub-artikel (1) van hierdie artikel nagekom moet word, op versoek van die betrokke houer, van tyd tot tyd verleng.

(3) As die houer aan wie die Sekretaris ingevolge hierdie artikel 'n kennisgewing bestel het, versium om binne die tydperk daarin vermeld, aan die vereistes van sodanige kennisgewing te voldoen, kan die Sekretaris by verdere skriftelike kennisgewing aan sodanige houer die registrasiesertifikaat ten opsigte van sodanige fabriek intrek, en daarop is die perseel nie meer ingevolge hierdie Ordonnansie as 'n fabriek geregistreer nie.

(4) As die Sekretaris meen dat die geheel of 'n deel van 'n perseel wat 'n geregistreerde fabriek uitmaak, nie meer vir gebruik as fabriek geskik is nie, en ook nie daartoe geskik gemaak kan word nie, kan hy by skriftelike kennisgewing aan die houer die registrasiesertifikaat ten opsigte van daardie fabriek intrek met ingang van 'n datum minstens ses maande na die datum van sodanige kennisgewing, en daarop is die perseel nie meer as 'n fabriek ingevolge hierdie Ordonnansie geregistreer nie. Die Sekretaris kan 'n sodanige kennisgewing wysig of terugtrek.

15. By oortreding of 'n perseel ingevolge artikel *twaaft*, *dertien* of *veertien* vir gebruik as 'n fabriek geskik is, kan die Sekretaris enige regulasie ingevolge hierdie Ordonnansie, en enige ander faktor wat hy ter sake beskou, met insluiting van alle aangeleenthede in verband met die fabrieksterrein, die aangrensende of omliggende persele, die wyse waarop die fabriek toegerus is, of toegerus kan word, of die wyse waarop die bedryf gevoer word of gevoer kan word, sowel as die gesondheid en veiligheid van die werknemers, in aanmerking neem.

16. As daar op 'n perseel naby 'n fabriek oorlas of sarlantasie-gebreke voorkom, wat na die inspekteur meen, die fabriek moontlik ongesond kan maak, of die gesondheid van die werkers in die fabriek kan benadeel, kan hy, onderheilig aan opdrag van die Administrateur, die pleger van die oorlas of die cienaar of houer van sodanige perseel aansê om binne 'n genoemde tydperk die oorlas te verwyder of die gebrek behoortlik te herstel. As so iemand binne die vasgestelde tydperk versium om in elke opsig aan sodanige vereiste te voldoen, is hy skuldig aan 'n oortreding.

tary may consider necessary for the purpose of enabling him to reach a decision. The proviso to sub-section (1) of section *twelve* shall *mutatis mutandis* apply to any such drawings. Should any such alteration be commenced without such approval, the Secretary may, by notice in writing to the occupier, cancel the registration certificate, whereupon the premises shall cease to be registered as a factory under this Ordinance.

(6) Any person who —

- (i) fails to furnish the prescribed particulars and plans or any additional information or drawings which may be required by the Secretary in terms of sub-section (1); or
- (ii) fails to comply with any condition specified by the Secretary under sub-section (2) or (3), or with any condition varied under sub-section (4); or
- (iii) contravenes the provisions of sub-section (5), shall be guilty of an offence.

14. (1) If, in the opinion of the Secretary an occupier of a factory has failed to comply with the provisions of any regulation applicable to him, or the whole, or a part of the premises constituting a registered factory is no longer suitable for use as a factory, he may —

- (a) by notice in writing setting forth in what respect the occupier has, in his opinion, failed to comply with the provisions of such regulation or in what respect the premises are, in his opinion, no longer suitable for use as a factory, require such occupier to take the steps and make the structural alterations mentioned in such notice; or
- (b) by similar notice require such occupier to submit to him a statement setting forth the steps which such occupier proposes to take and, if structural alterations are proposed, also the prescribed plans showing the structural alterations which such occupier proposes to make in order to comply with the provisions of such regulation or to render the premises suitable for use as a factory; and
- (c) by further notice in writing require such occupier to take the steps and make the structural alterations so proposed without modification or with such modification as the Secretary may determine;

within a period specified in such notice not being less than fourteen days.

(2) The period within which the requirements of any notice under sub-section (1) of this section are to be complied with may, at request of the occupier concerned, from time to time, be extended by the Secretary.

(3) If the occupier upon whom the Secretary has, in terms of this section, served notice, fails within the time specified to comply with the requirements contained in such notice, the Secretary may by further notice in writing to such occupier cancel the registration certificate in respect of such factory whereupon the premises shall cease to be registered as a factory under this Ordinance.

(4) If, in the opinion of the Secretary, the whole or part of any premises constituting a registered factory are no longer suitable for use as a factory, and cannot be rendered suitable, he may by notice in writing to the occupier cancel the registration certificate in respect of that factory, as from a date at least six months after the date of such notice, and the premises shall thereafter cease to be registered as a factory under this Ordinance. The Secretary may vary or withdraw any such notice.

15. In considering the suitability of any premises for use as a factory under section *twelve*, *thirteen* or *fourteen*, the Secretary may have regard to any regulation under this Ordinance, and to any other factor which is in his opinion relevant, including all matters relating to the site of the factory, the adjacent or surrounding premises, the manner in which the factory is or is likely to be equipped, or in which the business is or is likely to be conducted and the health and safety of the workers.

16. If upon any premises near a factory there exists any nuisance or sanitary defect which in the opinion of an inspector is likely to render the factory insanitary or to affect injuriously the health of persons employed therein, he may, subject to the instructions of the Administrator, in writing require the author of the nuisance or the owner or person in occupation of such premises effectually and within a specified period to abate the nuisance or remedy the defect. If within the period so specified the person so required fail to comply with the requirement in all respects he shall be guilty of an offence.

- (ii) aan sodanige werknemer 'n toereikende maaltyd verskaf het, voordat sy met oortydse werk moet begin; of
- (iii) aan sodanige werknemer 'n voorgeskrewe toelae betaal het, en wel betyds om haar in staat te stel om 'n maaltyd te verkry voordat die oortydse werk moet begin.

(3) (a) By die toepassing van sub-artikel (1) en (2) omvat „werknemer” elke inwoner of leerling van 'n inrigting wat 'n fabriek uitmaak, ten opsigte van die tydperk waarin sodanige inwoner of leerling besig is met werk verbonde aan 'n bedrywigheid genoem in paragraaf (a) van sub-artikel (1) van artikel drie, wat die inrigting of enigiemand verbonde aan die inrigting betaling hoegenaamd vir, of ten opsigte van, sodanige werk, of die produk van sodanige werk, vra of ontvang, en die houer van so 'n fabriek word beskou as die werkgewer van so 'n inwoner of leerling.

(b) Geen fabriekhouer, genoem in paragraaf (a), mag sonder die voorafverkreë skriftelike toestemming van die Sekretaris, vereis of toelaat dat 'n inwoner of leerling op 'n Sondag of 'n openbare vakansiedag, genoem in sub-artikel (3) van artikel twintig, werk nie, nóg dat hy oortyd werk aan 'n bedrywigheid genoem in paragraaf (a) van sub-artikel (1) van artikel drie nie.

(4) Afgesien van die tydperk waarin 'n werknemer inderdaad werk, word hy geag ook te werk —

(a) dwarsdeur 'n ruspouse in sy werktyd as —

(i) hy nie vry is om die perseel van sy werkgewer gedurende die hele ruspouse te verlaat nie; of

(ii) die duur van so 'n ruspouse nie getoon word in die aantekeninge wat ingevolge artikel nege gehou moet word nie; en

(b) gedurende enige ander tydperk waarin hy op sy werkgewer se perseel vertoef:

Met dien verstande dat, as daar bewys word dat so 'n werknemer gedurende enige deel van 'n tydperk genoem in paragraaf (b) nie gewerk het nie, en dit hom vry gestaan het om die perseel in daardie tyd te verlaat, die vermoede wat in hierdie sub-artikel geskied word, nie van toepassing is op so 'n werknemer ten opsigte van daardie gedeelte van sodanige tydperk nie.

(5) By die toepassing van paragraaf (a) van sub-artikel (1) word daar aangeneem dat 'n werknemer wat op 'n vakansiedag genoem in sub-artikel (3) van artikel twintig nie werk nie, of wat op so 'n vakansiedag korter werk as sy gewone werktuure vir die dag van die week waarop sodanige vakansiedag val, sy gewone werktuure vir daardie dag gewerk het.

(6) Elkeen wat 'n bepaling van hierdie artikel deur daad of versuim verontsaam, is skuldig aan 'n oortreding.

20. (1) 'n Werkgewer moet 'n werknemer wat by hom in diens is, vir alle oortydse werk wat sodanige werknemer verrig, besoldig teen 'n skaal minstens een en 'n derde maal sy gewone loonskaal.

(2) Wanneer ook al 'n werknemer op 'n Sondag werk, moet sy werkgewer hom óf —

(a) minstens dubbel die loon betaal, wat hy moet ontvang vir so 'n tydperk van werk op 'n gewone weekdag; óf

(b) besoldig teen 'n skaal minstens een en 'n derde maal sy gewone loonskaal vir die hele tydperk wat hy op daardie bepaalde Sondag werk en hom binne sewe dae na so 'n Sondag een dag vakansie toestaan met betaling teen minstens sy gewone loonskaal asof hy op daardie vakansiedag die gewone werktuure vir daardie dag van die week uitgedien het.

(3) (a) As 'n werknemer nie op Goede-Vrydag, Dingsaansdag, Kersdag of Nuwejaarsdag werk nie, moet sy werkgewer hom vir so 'n dag besoldig teen minstens sy gewone loonskaal asof hy op daardie dag die gewone werktuure vir daardie dag van die week uitgedien het.

(b) Wanneer ook al 'n werknemer op Goede-Vrydag, Dingsaansdag, Kersdag of Nuwejaarsdag werk, moet sy werkgewer hom daarvoor besoldig teen minstens sy gewone loonskaal ten opsigte van die algehele tydperk wat hy op daardie dag gewerk het, tesame met die besoldiging waarop hy geregtig sou wees as hy nie op daardie dag gewerk het nie.

(4) Besoldiging betaalbaar ingevolge 'n bepaling van hierdie artikel moet uitelik op die eerste betaaldag na die tydperk ten opsigte waarvan sodanige besoldiging moet geskied, aan die betrokke werknemer uitbetaal word.

(ii) provided such employee with an adequate meal before she has to commence overtime; or

(iii) paid such employee a prescribed allowance in sufficient time to enable the employee to obtain a meal before the overtime is due to commence.

(3) (a) For the purposes of sub-sections (1) and (2), „employee” includes any inmate or pupil of an institution which is a factory, in respect of any period during which such inmate or pupil is engaged on work connected with which such inmate or pupil is referred to in paragraph (a) of sub-section (1) of section three, where the institution or any person connected with the institution solicits or receives any payment whatsoever, for or in respect of such work, or the product of such work, and the occupier of such a factory shall be deemed to be the employer of any such inmate or pupil.

(b) No occupier of a factory such as is referred to in paragraph (a) shall require or permit an inmate or pupil to work on a Sunday or public holiday referred to in sub-section (3) of section twenty, or to work overtime on work connected with any activity referred to in paragraph (a) of sub-section (1) of section three without the prior written consent of the Secretary.

(4) An employee shall be deemed to be working in addition to any period during which he is actually working—

(a) during the whole of any interval in his work if—

(i) he is not free to leave the premises of his employer for the whole of such interval; or

(ii) the duration of such interval is not shown in the records required to be kept in terms of section nine; and

(b) during any other period during which he is on the premises of his employer:

Provided that if it is proved that any such employee was not working and was free to leave the premises during any portion of any period referred to in paragraph (b), the presumption provided for in this sub-section shall not apply in respect of such employee with reference to that portion of such period.

(5) For the purposes of paragraph (a) of sub-section (1) an employee who does not work on any holiday referred to in sub-section (3) of section twenty, or who on such holiday works less than his ordinary working hours for the day of the week on which such holiday falls, shall be deemed to have worked his ordinary working hours on that day.

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

20. (1) An employer shall pay to an employee employed by him remuneration at a rate not less than one and one-third times his ordinary rate of remuneration in respect of all overtime worked by such employee.

(2) Whenever an employee works on a Sunday, his employer shall either—

a) pay the employee not less than double the remuneration payable in respect of the period ordinarily worked by him on a week-day; or

b) pay the employee remuneration at a rate not less than one and one-third times his ordinary rate of remuneration in respect of the total period worked on such Sunday and grant him within seven days of such Sunday one day's holiday and pay him in respect thereof remuneration at a rate not less than his ordinary rate of remuneration as if he had on such holiday worked his ordinary working hours for that day of the week.

(3) (a) If an employee does not work on Good Friday, Dingaan's Day, Christmas Day or New Year's Day, his employer shall pay him in respect of such day remuneration at a rate not less than his ordinary rate of remuneration as if he had on such day worked his ordinary working hours for that day of the week.

(b) Whenever an employee works on Good Friday, Dingaan's Day, Christmas Day or New Year's Day, his employer shall pay his remuneration at a rate not less than his ordinary rate of remuneration in respect of the total period worked on such day, in addition to the remuneration to which he would have been entitled had he not so worked.

(4) Remuneration payable in terms of any provision of this section shall be paid to the employee concerned not later than the pay day next succeeding the period in respect of which such remuneration became payable.

(5) As 'n werknemer nie besoldig word op 'n grondslag ooreenkomstig die tyd wat hy inderdaad gewerk het nie, moet sy gewone loonskaal by die toepassing van hierdie artikel, bereken word asof hy per uur betaal word, en moet sodanige loonskaal vir 'n bepaalde datum vasgestel word deur sy algehele besoldiging oor die drie maande onmiddellik voor die datum, of oor die periode van sy diens by die werkgewer, watter tydperk ook al die kortste is, betrekke deur die getal ure wat hy in daardie tydperk te verdeel deur die getal ure van sodanige loon betaal is, gewerk het en ten opsigte waarvan sodanige loon betaal is.

(6) Elkeen wat 'n bepaling van hierdie artikel deur daad of verzuim verontsaam, is skuldig aan 'n oortreding.

21. (1) Elke werkgewer moet aan elke werknemer wat hy in diens het, verlof met volle betaling vir minstens twee tydsterenvolgende weke toestaan ten opsigte van elke tydsterenvolgende twee maande diens by hom, en sodanige verlof moet binne twaalf maande na afloop van sodanige tydperk toegestaan word: Met die verstande dat —

(a) sodanige verloftydperk nie mag saamval met 'n tydperk waarin die werknemer onder kennis van diensbeëindiging staan nie, of waarin hy vreedstydse oefening ingevolge die „Zuid Afrika Verdedigings Wet 1912“, (Wet 13 van 1912) soos gewysig en van tyd tot tyd gewysig kan word, en soos op die Gebied toegepas, ondergaan nie; en

(b) 'n openbare vakansiedag in sub-artikel (3) van artikel *twintig* genoem, binne sodanige verloftydperk val, sodanige vakansiedag tot genoemde verloftydperk gevoeg moet word as 'n verdere verloftydperk met volle betaling.

(2) Die werkgewer moet aan 'n werknemer aan wie verlof ingevolge sub-artikel (1) toegestaan is, sy loon ten opsigte van sodanige verloftydperk uiteliker op sy laaste werkdag voor die aanvang van die verloftydperk, betaal.

(3) By diensbeëindiging moet die werkgewer die werknemer sy volle loon uitbetaal —

(a) ten opsigte van 'n verloftydperk wat hy verwerf het, maar wat hom nie voor die datum van sy diensbeëindiging toegestaan is nie; en

(b) vir een dag ten opsigte van elke voltooidde maand van diens by daardie werkgewer na die datum waarop hy laas ingevolge sub-artikel (1) op verlof geregtig geword het, of as 'n werknemer minder as twaalf maande diens het, na die datum van sy indiensneming.

(4) Elke tydperk waarin 'n werknemer —

(a) ingevolge sub-artikel (1) verlof neem; of

(b) ingevolge die „Zuid Afrika Verdedigings Wet 1912“ soos gewysig of van tyd tot tyd gewysig kan word, en soos op die Gebied toegepas, vreedstydse oefening ondergaan; of

(c) van sy werk afwesig is in opdrag, of op versoek van sy werkgewer; of

(d) weens siekte of die verbod vervat in sub-artikel (1) van artikel *drie-en-twintig*, van sy werk afwesig is, word beskou as dienstyd by die toepassing van sub-artikel (1) en (3): Met dien verstande dat —

(i) die bepaling van paragraaf (d) nie geld by afwesigheid weens siekte of meer as drie agtereenvolgende dae nie, as die werknemer (buiten werknemers genoem in sub-paragraaf (ii)) versuim om op versoek deur sy werkgewer 'n sertifikaat van 'n geneesheer aan hom in te lewer, dat hy weens siekte nie sy werk kon doen nie, en geld ook nie daardie gedeelte van 'n algehele afwesigheidstydperk oor enige twaalf maande diens, wat dertig dae oorskry nie;

(ii) 'n werknemer wie se werkgewer ingevolge Proklamasie 3 van 1917 soos gewysig en van tyd tot tyd gewysig kan word, voorsiening moet maak vir die sorg en behandeling van sodanige werknemer wanneer hy siek of beseer is, nie 'n sertifikaat van 'n geneesheer ten opsigte van 'n afwesigheidstydperk genoem in sub-paragraaf (i) hoef in te lewer nie.

(5) 'n Bedrag wat aan 'n werknemer ingevolge sub-artikel (2) of sub-artikel (3) betaal word, moet bereken word op die loonskaal waarteen 'n werknemer betaal word onmiddellik voor die datum waarop die verlof verskuldig word of sy diens beëindig word, na gelang; en die bepaling van sub-artikel (5) van artikel *twintig* is met die nodige veranderinge van toepassing.

(5) Whenever an employee is remunerated on a basis other than in accordance with the time actually worked by him, his ordinary rate of remuneration shall, for the purpose of this section, be calculated as though he were paid by the hour and shall be ascertained at any date by dividing his total remuneration during the three months immediately preceding that date, or during the total period of his employment by the employer concerned, whichever is the shorter, by the number of hours worked during the period in respect of which such remuneration was paid.

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

21. (1) Every employer shall grant to every employee employed by him in respect of each period of twelve months' employment with him, and not later than two months after the termination of the said period, leave of absence on full pay of not less than two consecutive weeks: Provided that —

(a) the period of such leave shall not be concurrent with any period during which the employee is under notice of termination of employment, or is undergoing peace training under the South African Defence Act, 1912 (Act No. 13 of 1912), as amended and as it may be amended from time to time and as applied to the Territory; and

(b) if any public holiday referred to in sub-section (3) of section *twenty*, falls within the period of such leave, such holiday shall be added to the said period as a further period of leave of absence on full pay.

(2) The employer shall pay to an employee to whom leave is granted under sub-section (1), his pay in respect of the period of leave, not later than the last working day before the commencement of the said period.

(3) Upon termination of employment, the employer shall pay to an employee his full pay —

(a) in respect of any period of leave which has accrued to him but was not granted before the date of termination of the employment; and

(b) for one day in respect of each completed month of employment with the employer after the date on which he last became entitled to leave in terms of sub-section (1), or in the case of an employee who has been employed for less than twelve months, after the date of commencement of his employment.

(4) Any period during which an employee —

(a) is on leave in terms of sub-section (1); or

(b) undergoes peace training under the South Africa Defence Act, 1912, as amended and as it may be amended from time to time and as applied to the Territory; or

(c) is absent from work on the instructions or at the request of the employer; or

(d) is absent from work owing to illness or by reason of the prohibition contained in sub-section (1) of section *twenty-three*,

shall be deemed to be employment for the purposes of sub-sections (1) and (3): Provided that

(i) the provisions of paragraph (d) shall not apply in respect of any period of absence owing to illness of more than three consecutive days, if the employee not being an employee referred to in sub-paragraph (ii) fails, after a request for such certificate by the employer, to submit to the employer a certificate by a medical practitioner that he was prevented by illness from doing his work, or in respect of that portion of any total period of absence during any twelve months of employment, which is in excess of thirty days;

(ii) an employee whose employer is required in terms of any regulation under Proclamation No. 3 of 1917, as amended, and as it may be amended from time to time, to provide for the care and treatment of such employee when sick or injured, shall not be required to submit a certificate by a medical practitioner in respect of any period of absence referred to in sub-paragraph (i).

(5) Any amount paid to an employee in terms of sub-section (2) or sub-section (3) shall be calculated at the rate of remuneration which the employee was receiving immediately prior to the date upon which the leave became due or his employment terminated, as the case may be; and the provisions of sub-section (5) of section *twenty* shall *mutatis mutandis* apply.

(6) In hierdie artikel omvat die uitdrukking „werk-gewer” —

- (a) by oorlyde van 'n werkgewer, die eksekuteur van sy boedel, of sy erfgenaam of legataris; en
- (b) by insolventskap van 'n werkgewer of die likwidering van sy boedel, of die oordrag of verkoop van sy saak, die trustee of likwidateur of die nuwe eienaar van die saak, as sodanige eksekuteur, erfgenaam, legataris, trustee, likwidateur of nuwe eienaar daardie werknemer in sy diens behou.

(7) By die toepassing van hierdie artikel word aange-nem dat diens begin vanaf —

- (a) die datum waarop die werknemer in die werkgewer sy diens tree; of
 - (b) die datum waarop hierdie Ordonnansie in werking tree; of
 - (c) die datum waarop 'n werknemer aan wie daar ingevolge enige wet en na inwerkingtreding van hierdie Ordonnansie verlof met volle betaling toegestaan is, geregtig gevord het op sodanige verlof uit hoofde van sodanige wet, watter van hierdie datums ook al die jongste is.
- (8) Elkeen wat versium om te voldoen aan die bepalings van hierdie artikel is skuldig aan 'n oortreding.

22. (1) Die bepalings van artikel *negentien* en *twintig* geld nie vir 'n werknemer wie se werker gereë word deur 'n vasstelling, ooreenkoms, kennisgewing of teekening wat gemaak is of verskyn het ingevolge die Ordonnansie op Lone en Nywerheidsversoening 1952 (Ordonnansie van 1952), soos moontlik van tyd tot tyd gewysig kan word, of deur die voorwaardes kan vakleerlingskap vervat in 'n vakleerlingskapkontrak ingevolge die Vakleerlinge-Ordonnansie (Ordonnansie 12 van 1938) soos gewysig en van tyd tot tyd gewysig kan word nie, as die Administrateur by kennisgewing in die *Offisiële Koerant* verklaar het dat die bepalings daarvan oor die algemeen minstens so gunstig vir die betrokke werknemers is as die betrokke bepalings van hierdie Ordonnansie.

(2) Die bepalings van artikel *een-en-twintig* geld nie vir 'n werknemer wat ingevolge 'n vasstelling, ooreenkoms, kennisgewing, teekening of voorwaardes genoem in sub-artikel (1) geregtig is op jaarverlof met volle betaling nie.

23. (1) Geen vrou mag, en geen werkgewer of fabriekhouer mag vereis of toelaat dat 'n vrou in sy fabriek werk gedurende die tydperk wat vier weke voor die verwagte bevallingsdatum begin en agt weke na die bevallingsdatum eindig nie: Met dien verstande dat as die kind doodgebore word of voor afloop van agt weke na geboorte sterf, die bepalings van hierdie sub-artikel opgehef word vanaf 'n datum wat die inspekteur vasstel.

(2) Elkeen wat 'n bepaling van hierdie artikel deur daad of versium verontagsaam, is skuldig aan 'n oortreding.

24. (1) Geen werkgewer mag vereis of toelaat dat 'n werknemer onder vyftien jaar in 'n fabriek werk nie.

(2) (a) As 'n inspekteur met rede vermoed dat 'n werknemer aan 'n liggaamsgebrek of siekte wat sy eie gesondheid of veiligheid of dié van sy mede-werknemers, in gevaar kan stel as hy aanhou om in 'n fabriek te werk, kan hy op skrif vereis dat daardie werknemer hom by 'n genoemde geneesheer en op 'n tyd en plek wat die inspekteur vasstel, aanmeld vir ondersoek.

(b) As die genoemde geneesheer getuig dat sodanige werknemer wel lyk aan 'n liggaamsgebrek of siekte van die aard genoem in paragraaf (a), kan die inspekteur by skriftelike kennisgewing aan die betrokke werknemer en sy werkgewer —

- (i) verbied dat sodanige werknemer na 'n genoemde datum, minstens sewe dae na die kennisgewingsdatum, en vir óf 'n onbepaalde óf 'n bepaalde tydperk, in 'n bepaalde fabriek of bedrywigheid, of klas fabriek of bedrywigheid, in diens gehou mag word; of
- (ii) sodanige diens verbied buiten op bepaalde voorwaardes:

Met dien verstande dat as die werknemer voor die datum wat in sodanige kennisgewing vasgestel is, van 'n ander geneesheer 'n sertifikaat verkry en dit by die inspekteur in-lewer, en sodanige sertifikaat na die mening van die inspekteur wesenlik verskil van dié verstrek deur genoemde geneesheer, die inspekteur by soortgelyke kennisgewing die werking van eersgenoemde kennisgewing moet opskort vir 'n tydperk wat hom in staat sal stel om die saak aan die Administrateur voor te lê, en die Admintsarateur kan, na oorleg met die Mediese Beampte, die eersgenoemde kennisgewing bekragtig, terugtrek of wysig. Elke kennisgewing wat aldus bekragtig of gewysig is, word beskou as uitgereik deur 'n inspekteur op die datum waarop die Administrateur se beslissing aan die betrokke werkgewer en werknemer meegedeel word.

(6) In this section the expression "employer" includes—

- (a) in the case of the death of an employer, the executor of his estate, or his heir or legatee; and
- (b) in the case of the insolvency of an employer the liquidation of his estate, or the transfer or sale of his business, the trustee or liquidator or the new owner of the business,

if such executor, heir, legatee, trustee, liquidator or new owner continues to employ that employee.

(7) For the purposes of this section employment shall be deemed to commence from —

- (a) the date on which the employee entered the employer's service; or
- (b) the date of commencement of this Ordinance; or
- (c) that date on which an employee who had, in terms of any law and after the date of commencement of this Ordinance, been granted leave absence on full pay, became entitled to such leave in terms of such law whichever may be the later date.

(8) Any person who fails to comply with any provision of this section shall be guilty of an offence.

22. (1) The provisions of sections *nineteen* and *twenty* shall not apply in respect of any employee whose hours of work are regulated by any determination, agreement, notice or award made or published under the Wage and Industrial Conciliation Ordinance, 1952 (Ordinance No. of 1952), together with any amendments thereto which may be made from time to time, or by any conditions of apprenticeship contained in any contract of apprenticeship under the apprenticeship Ordinance, 1938 (Ordinance No. 12 of 1938), as amended, and as it may be amended from time to time, if the Administrator has, by notice in the *Gazette* declared the provisions thereof to be generally not less favourable to the employees concerned than the relative provisions of this Ordinance.

(2) The provisions of section *twenty-one* shall not apply in respect of any employee who is, in terms of any determination, agreement, notice, award or conditions referred to in sub-section (1) entitled to annual leave of absence on full pay.

23. (1) No female shall work in a factory and no employer or occupier shall require or permit any female to work in his factory during the period commencing four weeks prior to the expected date of her confinement and ending eight weeks after the date of her confinement: Provided that if the child be stillborn or dies before the expiration of eight weeks after birth, the provisions of this sub-section shall cease to apply as from a date fixed by an inspector.

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

24. (1) No employer shall require or permit any employee under the age of fifteen years to work in a factory.

(2) (a) If an inspector has reason to suspect that an employee is suffering from a physical defect or illness which may endanger his own health or safety or that of other employes by continuing to work in a factory, he may in writing require that employee to present himself to a specified medical practitioner for examination at a time and place fixed by the inspector.

(b) If the specified medical practitioner certifies that the said employee suffers from physical defect or illness of the nature referred to in paragraph (a), the Inspector may by notice in writing to the employee and the employer concerned —

- (i) prohibit the employment of such employee in a specified factory or activity or class of factory or activity after a specified date, not being less than seven days after the date of the notice, either indefinitely or for a specified period, or
- (ii) prohibit such employment otherwise than under specified conditions:

Provided that if the employee, prior to the date fixed in such notice, obtains from another medical practitioner and submits to an inspector a certificate which, in the opinion of the inspector, differs materially from that issued by the specified medical practitioner, the inspector shall, by like notice, suspend the operation of the first-mentioned notice for such period as will enable him to submit the case to the Administrator, who may after consultation with the Medical Officer, confirm, withdraw or amend the said first-mentioned notice. Any notice so confirmed or amended shall be deemed to have been issued by an Inspector on the date on which the Administrator's decision is conveyed to the employer and employee concerned.

lik sal wees om sy volle loon te verdien in die werk wat hy ten tyde van die ongeval verrig het nie, moet die betrokke werkgewer, of die fabriekhouer of die masjineriegebruiker, of die boumeester of die uitgraver, na gelang, sodra moontlik daarna op die voorgeskrewe wyse en vorm 'n inspekteur skriftelik in kennis stel van die ongeval en van die voorgeskrewe besonderhede: Met dien verstande dat sodanige kennisgewing niemand vrystel van enige kennis wat hy uit hoofde van enige ander wet moet gee nie.

(2) Die bepalings van sub-artikel (1) geld nie 'n ongeval sodra 'n private huis plaasvind nie, as die luishouder sodanige ongeval sodra moontlik aannemlik by 'n lid van die Suid-Afrikaanse Polisiemaatskappij of by die plaaslike bestuur binne wie so reggebied die ongeval plaasgevind het. Elke lid van die Suid-Afrikaanse Polisiemaatskappij en elke amptenaar van sodanige plaaslike bestuur by wie 'n ongeval aangemeld word, moet 'n inspekteur sodra moontlik daarvan verwittig.

(3) Elkeen wat die bepalings van sub-artikel (1) versuim is skuldig aan 'n oortreding.

32. (1) Wanneer ook al daar in of by 'n fabriek, of in verband met die bedryfswere van 'n fabriek, of in verband met masjinerie of bou- of uitgrawingswerk —

(a) iemand ten gevolge van 'n ongeval gedood of beseer is; of

(b) enige ander voorval plaasvind wat na die inspekteur meen, kon gelei het tot die dood of beseering van iemand, kan 'n inspekteur, as hy dit raadsaam ag, ondersoek instel in sodanige ongeval of voorval.

(2) Alle getuienis wat by so 'n ondersoek gelever word, moet op skrif gestel word en deur die inspekteur aan die Administrateur tesame met sy verslag deurgestuur word, en by ongevalle wat lewensverlies of ernstige liggaamsbeseering veroorsaak, moet die inspekteur 'n afskrif van die getuienis en van sy verslag aan die Prokureur-generaal stuur.

(3) Die bepalings van hierdie artikel maak geen inbreuk op die bepalings van enige ander wet betreffende lyskousings of geregtelike ondersoeke na doodsoorsaak by sterfgevallige weers-nie-natuurlike oorsake nie.

33. (1) Vir die doel van 'n ondersoek genoem in artikel twee-en-dertig kan 'n inspekteur enigeen wat syns insiens wesenlike inligting oor die onderwerp van die ondersoek kan gee, of wat na sy vermoede of oortuiging enige boek, dokument of ding besit, bewaard of beheer, wat betrekking het op, of wat hy nodig ag vir die behoorlike uitvoering van, die ondersoek, dagvaar om op 'n tyd en plek wat in die dagvaarding genoem word, voor hom te verskyn te ondervraging of ter voorlegging van sodanige boek, dokument of ding.

(2) Die inspekteur kan enigeen wat by die ondersoek teenwoordig is, en wat ingevolge sub-artikel (1) gedagvaar is of gedagvaar kon gewees het, oproep en aan hom 'n eed oplê, en hy kan hom ondervra en eis dat hy enige boek, dokument of ding in sy besit, bewaring of beheer, voorlê.

(3) Wanneer ook al daar by 'n ondersoek getuienis gelever is, waaruit redelik afgelei kan word dat iemand 'n oortreding begaan het in verband met enige voorval binne die bestek van die ondersoek, of enigens vir sodanige voorval verantwoordelik is, kan so iemand enigeen wat by die ondersoek getuienis aflê onder kruisverhoor neem, en kan hy vereis dat die inspekteur enige getuie namens hom dagvaar of om getuienis te lewer of om enige boek, dokument of ding in sy besit, bewaring of beheer wat betrekking het op die ondersoek, voor te lê. Elke sodanige persoon kan enigeemand anders aansiel om hom by so 'n ondersoek te verteenwoordig.

(4) By ontvangs van 'n versoek ingevolge sub-artikel (3) om iemand as getuie te dagvaar, moet die inspekteur, as hy meen dat die getuienis van so 'n persoon noodsaaklik of wenslik is, 'n dagvaarding dienoreenkomstig uitreik, maar as hy die getuienis nie as noodsaaklik of wenslik beskou nie, reik hy geen dagvaarding uit nie, tensy die aanvraer daarvan 'n bedrag by die inspekteur stort wat voldoende is om die nodige onkoste van die getuie tesame met die koste van die bestelling van die dagvaarding, te bestry.

(5) (a) As enigeen wat behoorlik ingevolge sub-artikel (1) of (4) gedagvaar is, sonder voldoende rede versuim om teenwoordig te wees op die tyd en plek wat in die dagvaarding genoem word, is hy skuldig aan 'n oortreding.

(b) As iemand genoem in paragraaf (a) of iemand wat die inspekteur ingevolge sub-artikel (2) oproep het, versuim om aanwesig te bly tot dat die inspekteur hom verdere bywoning verskoon het, of weter om hom as getuie te laat beding, of versuim om alle wettige vrae aan hom gestel, vol-

for fourteen days or more to earn full wages at the work for which he was at the time of such accident employed, the employer concerned, or the occupier of the factory or the user of the machinery, or the builder or the excavator, or the user may be, shall as soon as possible thereafter, in the manner and in the form prescribed, notify an inspector in writing of the accident and of the prescribed particulars: Provided that the giving of such notice shall not exempt any person from giving notice under any other law.

(2) The provisions of sub-section (1) shall not apply in respect of an accident occurring in a private house if the householder reports such accident as soon as possible to a member of the South African Police or to the local authority in whose area of jurisdiction the accident occurred. Any member of the South African Police, and any official of such local authority to whom an accident is reported, shall as soon as possible advise an inspector thereof.

(3) Any person who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

32. (1) Whenever in or about a factory, or in connection with the activities of a factory, or in connection with machinery or building or excavation work —

(a) any person is killed or injured as a result of an accident; or

(b) any other occurrence takes place which in the opinion of the inspector might have led to any person being killed or injured, an inspector may if he deems it expedient hold an enquiry into such accident or occurrence.

(2) Any evidence given at such enquiry shall be taken down in writing and be transmitted by the inspector with his report to the Administrator and, in the case of an accident causing loss of life or serious bodily injury, the inspector shall send a copy of such evidence and report to the Attorney-General.

(3) The provisions of this section shall not affect the provisions of any other law relating to inquests or enquiries into the cause of death from other than natural causes.

33. (1) For the purpose of an enquiry such as is referred to in section thirty-two an inspector 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, or which he deems requisite for the proper conduct 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.

(2) The inspector 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 (1) and may interrogate him and require him to produce any book, document or thing in his possession or custody or under his control.

(3) Whenever at any enquiry evidence has been given from which it may reasonably be inferred that any person has committed any offence in connection with any occurrence falling within the scope of the enquiry or is responsible in any manner for such occurrence, such person may cross-examine any witness giving evidence at such enquiry and may require the inspector to summon any witness on his behalf either to give evidence or to produce any book, document or thing in his possession or custody or under his control and which has any bearing on the enquiry. Every such person may appoint any other person to represent him at the enquiry.

(4) Upon receiving any request under sub-section (3) for the summoning of any person, the inspector shall, if he considers that the evidence of such person is necessary or desirable, issue a summons accordingly; but if he does not consider the evidence necessary or desirable, he shall not issue a summons unless the party making the request deposits with the inspector a sum sufficient to cover the necessary expenses to be incurred by the witness, together with the costs of service of the summons.

(5) (a) If any person, having been duly summoned under sub-section (1) or (4), fails without sufficient cause to attend at the time and place specified in the summons he shall be guilty of an offence.

(b) If any person such as is referred to in paragraph (a) or any person called by an inspector in terms of sub-section (2) fails to remain in attendance until excused by the inspector from further attendance or refuses to be sworn as a witness or fails to answer fully and satisfactorily to the

ledig en bevredigend na beste vermoë en kennis te beantwoord, of versuim om enige boek, dokument of ding in sy besit, bewaring of beheer voor te lê wanneer hy daartoe versoek word, is hy skuldig aan 'n oortreding: Met dien verstande dat die regsreëls betreffende privilegie soos toepaslik op lemand wat gedagvaar is om getuies te lewer of 'n boek, dokument of ander ding voor te lê, geld by die ondervervraging van 'n sodanige getuie of die voorlegging van 'n sodanige boek, dokument of ding.

(6) Elke getuie wat na beëdiging opsetlik 'n valse antwoord gee op 'n vraag wat die inspekteur aan hom gestel het, of wat opsetlik 'n valse verklaring doen oor 'n saak, word beskou as skuldig aan meined.

(7) Die ondervervraging van 'n getuie deur 'n inspekteur moet in die openbaar geskied tensy die inspekteur andersins besluit: Met dien verstande dat so 'n ondersoek of versoek van die betrokke getuie in die privaot moet geskied: Met dien verstande voorts dat die getuie na goeiedunke en met toestemming van die getuie die teenwoordigheid van enige bepaalde persoon by sodanige getuie se ondervervraging kan magtig.

(8) Aan elkeen wat gedagvaar word om voor 'n inspekteur te verskyn, kan, as die inspekteur oortuig is dat hy weens sy verskyning ingevolge die dagvaardig, geldelike verlies gely het of uitgaan opgedoen het, uit staatsgeld 'n voorgegeve toelae, of die bedrag van sodanige verlies of uitgaan, watter ook al die minste is, uitbetaal word.

(9) Elkeen wat 'n inspekteur by die uitoefening van enige van die bevoegdhede wat hom ingevolge hierdie artikel verleen is, opsetlik hinder of beledig, is skuldig aan 'n oortreding; en as hy 'n getuie is kan die inspekteur gelas dat daar geen betaling nie, of slegs 'n verminderde betaling ingevolge sub-artikel (8) aan hom gedoen word.

HOOFSTUK V.

VOORSORG TEEN ONGEVALLE AAN BOUWERKERS.

34. In hierdie Hoofstuk en in artikel een-en-vyftig tensy dit strydig is met die samehang, beteken —

„bekwame en verantwoordelike persoon” en „bekwame werkmán” met behoud van die bepalings van paragraaf (c) van artikel sewe-en-derdig 'n persoon of werkmán na gelang, met die voorgeskrewe kwalifikasies;

„kraan” 'n masjien, ligter, hystoestel, hyspaalapparaat, of toestel van soortgelyke aard wat met die hand of ander krag gedryf word, en wat by bouwerk gebruik word om materiaal of goedere te hys, te laat sak, te dra of van plek tot plek te vervoer, en omvat dit enige masjinerie waarmee 'n kraan gedryf word;

„stellasie-toerusting” ook 'n leer, plank, steierpaal, tou, sluiting, ligter, hysblok, katrol, hangstang, draagband, versterking, klamp, ketting, tydelike stut, skoorpaal of stut gebruik, of bestem vir gebruik by steierwerk, die bittimmering van uitgrawings, of enige toestel wat gebruik word of bestem is vir gebruik in plaas van steierwerk;

„steierwerk” enige bou- of raamwerk gebruik om werknemers wat bouwerk verrig, te ondersteun of te beskerm, en ook 'n swaaisteier.

35. (1) Geen boumeester mag vereis of toelaat dat 'n werknemer wat bouwerk verrig, werk doen wat nie veilig vanaf die grond of 'n leer gedoen kan word nie, tensy geskikke steierwerk verskaf word.

(2) Geen boumeester mag vereis of toelaat dat steierwerk opgerig, afgehaal of weselik verander word nie, buiten —

- (a) onder die toesig van 'n bewkame en verantwoordelike persoon; en
- (b) sover moontlik deur bewkame werkmánne met toereikende ondervinding in die oprigting of verwydering van steierwerk.

(3) Geen boumeester mag vereis of toelaat dat 'n kraan op steierwerk ingerig word nie, voordat hy 'n bewkame en verantwoordelike persoon toelae laat uitvoer het om te verseker dat sodanige steierwerk sterk en stewig is.

(4) Elke boumeester moet alle steierwerk in verband met bouwerk wat hy onderneem, deur 'n bewkame en verantwoordelike persoon laat ondersoek wanneer ook al daar byvoegings of veranderings aan sodanige steierwerk gemaak is.

36. (1) Geen boumeester mag vereis of toelaat dat 'n werknemer wat bouwerk verrig enige stellasie-toerusting in verband daarmee gebruik nie, tensy die sterk genoeg is, sonder sigbare defek is en in goeie werkende orde is.

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 when required to do so 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 inspector, 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.

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

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

(8) Any person summoned to appear before an inspector may, if the inspector 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 prescribed allowances, or the amount of such loss and such expense, whichever is the less.

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

CHAPTER V.

PRECAUTIONS AGAINST ACCIDENTS TO BUILDING WORKERS.

34. In this Chapter and in section fifty-one unless inconsistent with the context:—

„competent and responsible person” and „competent workman”, subject to the provisions of paragraph (c) of section thirty-seven, mean a person or workman as the case may be possessing the prescribed qualifications;

„crane” means any engine, hoist, lift, derrick apparatus or contrivance of a like kind operated by hand or other power used in connection with building work for hoisting, lowering, carrying or removing from place to place materials or goods, and includes any machinery by which the crane is operated;

„gear” includes any ladder, plank, pullog, rope, fastening, hoist, block, pulley, hanger, sling, brace, bracket, chain, shore, strut or prop used or intended to be used in connection with scaffolding, the timbering of excavations, or any appliance used or intended to be used instead of scaffolding;

„scaffolding” means any structure or framework used for the support or protection of employees engaged on any building work and includes a swinging stage.

35. (1) No builder shall require or permit an employee employed on building work to perform any work which cannot be performed safely from the ground or from a ladder unless suitable scaffolding is provided.

(2) No builder shall require or permit any scaffolding to be constructed, taken down or substantially altered except —

- (a) under the supervision of a competent and responsible person; and
- (b) as far as possible by competent workmen possessing adequate experience in the construction or removal of scaffolding.

(3) No builder shall require or permit a crane to be installed on scaffolding until he has caused tests to be made by a competent and responsible person to ensure the strength and stability of the said scaffolding.

(4) Every builder shall cause all scaffolding in connection with building work undertaken by him to be inspected by a competent and responsible person whenever any additions or alterations to such scaffolding have been made.

36. (1) No builder shall require or permit an employee employed on building work to use in connection therewith any gear which is not of adequate strength, free from patent defect and in good working order.

(2) Elke boumeester moet alle hystoestelle en -werkluke voor gebruik laat ondersoek en voldoende laat toets, en sorg dat elke ketting, ring, haak, koppel, draaiskyf, takelblok, swaelsterkloed, knyper en klemhaak wat daarby gebruik word, gereeld deur 'n bekwame en verantwoordelike persoon ondersoek word.

37. (1) 'n Inspekteur kan by skriftelike kennisgewing aan die betrokke boumeester gelas —

- (a) dat geen steierwerk, kraan of stellisie-toerusting gebruik mag word nie, voordat die inspekteur oortuig is dat dit geskik is, dat dit getoets is, en dat dit voldoen aan die regulasies;
- (b) dat geen uitgrawingswerk mag voortgaan nie, totdat die inspekteur oortuig is dat die betimmering bevre digend is en dat daar aan die regulasies voldoen is;
- (c) dat 'n genoemde persoon by die toepassing van artikel vyf-en-dertig en ses-en-dertig nie beskou mag word as 'n bekwame en verantwoordelike persoon of 'n bekwame werkmán nie.

(2) 'n Inspekteur kan enige kennisgewing ingevolge sub-artikel (1) intrek of wysig.

38. Elkeen wat enige bepaling van hierdie Hoofstuk of 'n lasgewing deur 'n Inspekteur ingevolge artikel sewen-dertig deur daad of versuim verontagsaam, is skuldig aan 'n oortreding.

39. Die bepalings van hierdie Hoofstuk geld slegs streke wat die Administrateur by kennisgewing in die *Offisiële Koerant* vasstel.

HOOFSTUK VI.

PROCEDURE EN DIVERSE BEPALINGS.

40. (1) Wanneer ook al 'n bestuurder, agent of werknemer van 'n fabriekhouer, werkgewer, boumeester, uitgraver, of gebruiker van masjinerie 'n daad of versuim pleeg wat ingevolge hierdie Ordonnansie 'n oortreding sou wees as die houer, werkgewer, boumeester, uitgraver of gebruiker self sodanige daad of versuim pleeg, dan, tensy daar bewys word dat —

- (a) sodanige daad of versuim gepleeg is sonder die oogluikende toelating of toestemming van die houer, werkgewer, boumeester, uitgraver of gebruiker; en
- (b) die houer, werkgewer, boumeester, uitgraver of gebruiker alle redelike stappe gedoen het om so 'n daad of versuim te verhinder; en
- (c) 'n daad of versuim, hetsy wettig of onwettig van die soort wat ten laste gelê word onder geen omstandighede binne die bestek, bevoegdheid of diensloop van die bestuurder, agent of werknemer geressorteer het nie.

word daar aangeneem dat die houer, werkgewer, boumeester, uitgraver of gebruiker sodanige daad of versuim gepleeg het, en kan hy ten opsigte daarvan skuldige bevind en gestraf word; en die feit dat hy opdrag gegee het wat enige daad of versuim van die betrokke aarde verbied, is nie op sigself afdoende bewys dat hy alle redelike stappe gedoen het om die daad of versuim te verhinder nie.

(2) Wanneer ook al 'n bestuurder, agent of werknemer van 'n houer, werkgewer, boumeester, uitgraver of gebruiker 'n daad of versuim pleeg wat 'n oortreding sou wees as die houer, werkgewer, boumeester, uitgraver of gebruiker die daad of versuim gepleeg het, kan hy ten opsigte daarvan skuldige bevind en gestraf word asof hy die houer, werkgewer, boumeester, uitgraver of gebruiker is.

(3) Elke sodanige bestuurder, agent of werknemer kan aldus skuldige bevind en gestraf word sowel as die houer, werkgewer, boumeester, uitgraver of gebruiker.

(4) Wanneer ook al die bestuurder, agent of werknemer van 'n werkgewer skuldige bevind word aan 'n oortreding genoem in sub-artikel (1) van artikel vyftig, reik die hof 'n bevel uit teen die werkgewer ingevolge sodanige artikel, en is die bepalings van daardie artikel ten opsigte van sodanige hofbevel met die nodige veranderinge van toepassing, en word geen sodanige hofbevel teen 'n sodanige bestuurder, agent of werknemer uitgereik nie.

41. (1) Bewys van bekendmaking in die *Offisiële Koerant* van 'n proklamasie ingevolge paragraaf (a) van sub-artikel (4) van artikel drie is afdoende bewys dat al die bepalings van hierdie Ordonnansie ten opsigte van sake wat sodanige bekendmaking voorafgaan en daarby betrokke is, nagekom is.

(2) Wanneer ook al by verrigtinge ingevolge hierdie Ordonnansie daar bewys word dat enigeen teenwoordig was op 'n perseel wat as fabriek gebruik word, word daar vermoed dat sodanige persoon, tensy die teendele bewys word, 'n werknemer is.

(2) Every builder shall cause all hoisting machines and tackle to be examined and adequately tested before being put into use, and every chain, ring, hook, shackle, swivel, pulley block, lewis, claw and dog used in connection therewith to be periodically examined by a competent and responsible person.

37. (1) An inspector may by notice in writing to the builder concerned order —

- (a) that no scaffolding, crane or gear may be used until the inspector has satisfied himself that it is suitable and that it has been tested and complies with the regulations;
- (b) that no excavation work be proceeded with until the inspector is satisfied that the timbering is satisfactory and that the regulations have been complied with;
- (c) that any named person shall not be regarded as a competent and responsible person or a competent workman for the purposes of sections thirty-five and thirty-six.

(2) An inspector may cancel or amend any notice under sub-section (1).

38. Any person who contravenes or fails to comply with any of the provisions of this Chapter or an order by an inspector under section thirty-seven shall be guilty of an offence.

39. The provisions of this Chapter shall only apply to areas determined by the Administrator, by notice in the Gazette.

CHAPTER VI.

PROCEDURE AND MISCELLANEOUS.

40. (1) Whenever any manager, agent or employee of any occupier of a factory, employer, builder, excavator or user of machinery does or omits to do any act which it would be an offence under this Ordinance for the occupier, employer, builder, excavator or user to do or omit to do, then unless it is provided that —

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

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

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

(3) Any such manager, agent or employee may be so convicted and sentenced in addition to the occupier, employer, builder, excavator or user.

(4) Whenever the manager, agent or employee of an employer is convicted of an offence referred to in sub-section (1) of section fifty, the court shall make an order against the employer under the said section, and the provisions of that section in regard to such orders shall *mutatis mutandis* be applicable and no such order shall be made against any such manager, agent or employee.

41. (1) Proof of publication in the *Gazette*, of a proclamation under paragraph (a) of sub-section (4) of section three, shall be conclusive proof that all the provisions of this Ordinance, in respect of matters precedent and incidental to the publication thereof, have been complied with.

(2) Whenever in any proceedings under this Ordinance it is proved that any person was present on any premises used as a factory that person shall, until the contrary is proved, be presumed to be an employee.

(10) Wanneer ook al enigeen ingevolge artikel vier-en-veertig daarvan beskuldig word dat hy iemand uit sy diens ontslaan het, of sy loonskaal verminder het, of sy diensvoorwaardes verander het na diensvoorwaardes wat vir hom minder gunstig is, of sy posisie so verander het dat dit tot sy nadeel strek vergeleke by sy mede-werknemers, op grond van sy vermoede of oortuiging van die bestaan van 'n feit in daardie artikel genoem en in die aanklag vermeld, en daar bewys word dat die beskuldigde sodanige werknemer ontslaan het of sy loonskaal verminder het, of sy diensvoorwaardes verander het na diensvoorwaardes wat vir hom minder gunstig is, of sy posisie so verander het dat dit tot sy nadeel strek vergeleke by sy mede-werknemers, word daar vermoed, tensy die toendeel bewys word, dat die beskuldigde dit gedoen het op grond van die vermoede of oortuiging wat in die aanklag genoem is.

42. (1) Elkeen wat hom veronreg deur enige vereiste of beslissing van —

(i) die Sekretaris ingevolge sub-artikel (1) van artikel twaalf, sub-artikel (2), (3), (4) of (5) van artikel dertien, artikel veertien, sub-artikel (1) of (2) van artikel sewentien, paragraaf (d) van sub-artikel (1), of paragraaf (b) van sub-artikel (2), of paragraaf (b) van sub-artikel (3) van artikel negentien, of enige regulasie; of

(ii) 'n inspekteur ingevolge sub-artikel (4) van artikel vier-en-twintig, artikel sewen-en-derig of enige regulasie, kan binne een-en-twintig dae na sodanige vereiste of beslissing, op die voorgeskrewe vorm en wyse, in hoër beroep gaan by die Administrateur.

(2) Die Administrateur bekragtig die besluit van die Sekretaris of inspekteur, of gee sodanige ander beslissing soos die Sekretaris of inspekteur na sy mening moes gegee het, en by die toepassing van hierdie Ordonnansie, word sodanige beslissing van die Administrateur beskou as die beslissing van die Sekretaris of die inspekteur, gegee op die datum waarop die Administrateur sodanige beslissing gee.

(3) 'n Beslissing van die Administrateur ingevolge sub-artikel (2) is afdoende.

43. 'n Kennisgewing aan iemand ingevolge hierdie Ordonnansie kan aan hom persoonlik afgelewer word of per aangeleende pos aan hom persoonlik of aan sy gewone sakenaar by sy sake-adres of woonhuis gerig word.

44. (1) Geen werkgewer mag enigeen uit sy diens ontslaan, of sy loonskaal verminder, of sy diensvoorwaardes verander na diensvoorwaardes wat vir hom minder gunstig is, of sy posisie verander sodat dit hom tot nadeel strek vergeleke met sy mede-werknemers, op grond van sy vermoede of oortuiging (hetsy die vermoede of oortuiging geregtverdig of juis is al dan nie) dat daardie werknemer inligting verstrekket het wat ingevolge hierdie Ordonnansie moontlik deur die Sekretaris of 'n inspekteur of ander gemagtigde ingevolge sub-artikel (3) van artikel vier van hom vereis kan word, of dat hy voldoen het aan enige wettige vereiste van die Sekretaris of 'n inspekteur of sodanige ander gemagtigde, of dat hy getuienis gelewer het by verrigtinge ingevolge hierdie Ordonnansie.

(2) 'n Werkgewer wat die bepaling van sub-artikel (1) verontagsaam, is skuldig aan 'n oortreding, en die hof wat hom skuldigbevind, kan, bo en behalwe die straf wat hy hom ople —

(a) die werkgewer gelas om, waar die onderwerp van die aanklag die vermindering van die loonskaal of die verandering van die posisie van 'n werknemer was, sodanige werknemer se posisie te herstel soos dit voor die vermindering of verandering was, met ingang van die datum waarop die vermindering ingetree het of die verandering aangebring is; en

(b) die werkgewer gelas om, waar die ontslag van 'n werknemer die onderwerp van die aanklag was, aan sodanige werknemer 'n bedrag te betaal wat na die hof se berekening gelykstaan aan drie maande se besoldiging teen die skaal waarvolgens hy ten tyde van sy ontslag besoldig is.

(3) Elke sodanige hofbevel het die uitwerking van, en kan ten uitvoer gelê word asof dit, 'n siviële vonnis is ten gunste van die Administrasie, en alle gelde wat verhaal word, moet aan die betrokke werknemer betaal word.

(4) By die toepassing van hierdie artikel word die woord-bepaling van „werkgewer” en „werknemer” nie beperk tot persone wat aan 'n fabriek verbonde is nie.

(10) Whenever any person is charged under section forty-four 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 to his disadvantage relatively to other persons employed by him, by reason of his suspicion or belief in the existence of any fact referred to in that 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 his conditions less favourable to him or altered his position to his disadvantage relatively to other persons employed by him, the accused shall be presumed, until the contrary is proved, to have done so by reason of the suspicion or belief stated in the charge.

42. (1) Any person who considers himself aggrieved by any requirement or other decision of —

(i) the Secretary under sub-section (1) of section twelve, sub-section (2), (3), (4) or (5) of section thirteen, section fourteen, sub-section (1) or (2) of section seventeen, paragraph (d) of sub-section (1), or paragraph (b) of sub-section (2) or paragraph (b) of sub-section (3) of section nineteen, or any regulation; or

(ii) an inspector under sub-section (4) of section twenty-four, section thirty-seven or any regulation, may within twenty-one days of such requirement or decision, lodge an appeal within the prescribed form and manner to the Administrator.

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

(3) A decision by the Administrator in terms of sub-section (2) shall be final.

43. A notice under this Ordinance to any person may be served on him personally or by posting a registered letter addressed to him personally or under his usual business name or style at his place of business or his residence.

44. (1) No employer shall dismiss any person employed by him or reduce the rate of his remuneration or alter the conditions of his employment to conditions less favourable to him or alter his position to his disadvantage relatively to other persons employed by such employer by reason of the fact that he suspects or believes (whether or not the suspicion or belief is justified or correct) that that person has given any information, which under this Ordinance he could be required to give to the Secretary or to an inspector or to a person authorised under sub-section (3) of section four, or has complied with any lawful requirement of the Secretary or an inspector or such authorised person, or has given evidence in any proceedings under this Ordinance.

(2) An employer who contravenes the provisions of sub-section (1) shall be guilty of an offence and the court which convicts him may in addition to any sentence which it may impose —

(a) in the case of an employee the reduction of the rate of whose remuneration or the alteration of whose position was the subject of the charge, order the employer to restore the position of such employee to that existing prior to the reduction or alteration, with effect from the date on which the reduction was made or his position was so altered; and

(b) in the case of an employee whose dismissal was the subject of the charge, order the employer to pay to the said employee a sum estimated by the Court to be equal to three month's remuneration at the rate according to which he was being remunerated at the time of his dismissal.

(3) Any such order shall have the effect of and may be executed as if it were a civil judgment in favour of the Administration and any moneys recovered shall be paid to the employee concerned.

(4) For the purposes of this section the definitions of „employer” and „employee” shall not be confined to persons connected with a factory.

45. (1) Geen ooreenkoms, uitdruklik of stilswygend, buiten 'n ooreenkoms genoem in artikel *twoo-en-twintig*, welsy voor of na die inwerkingtrede van hierdie Ordonnansie aangegaan, mag by uitvoering veroorloof dat 'n werknemer beëindiging ontvang of daar voordele aan hom toekennings word, wat minder gunstig is as die behandeling en werknemers wat hierdie Ordonnansie voorskrif nie, nog bewerkstellig dit die afstand deur 'n werknemer van die toepassing van enige bepaling van hierdie Ordonnansie nie. 'n loon van enige bepaling wat voorgee om so 'n Elkeen wat 'n ooreenkoms aangaan wat veroorloof of 'n afstand te toepassing, of toekennings te veroorloof of so 'n afstand te bewerkstellig, is skuldig aan 'n oortreding, en elke sodanige ooreenkoms is nietig.

(2) Elke werkgewer wat vereis of toelaat dat 'n werknemer enige besoldiging of toelae wat aan sodanige werknemer ten opsigte van oortydse werk verskuldig of betaal is, nimmer ten opsigte van so 'n werknemer ten opsigte van of of enige bedrag wat aan so 'n werknemer ingevolge sub-artikel in plaas van verlof of volgens 'n opdrag ingevolge sub-artikel (7) van artikel *vyftig* verskuldig of betaal is, aan hom betaal of terugbetaal, of wat enige daad verrig of laat verrig wat of terugbetaal of onregstreeks veroorsaak dat daardie werknemer regstreeks of gedeeltes van die voordeel van enige besoldiging die voordeel of ander bedrag so verskuldig of betaal oortreë word, toelae of ander bedrag is skuldig aan 'n oortreding.

46. (1) Elke werkgewer, boumeester, uitgraver, fabriekhouer of gebruiker van masjinerie wat ingevolge hierdie Ordonnansie iets moet doen of verskaf, en wat ten opsigte van sodanige vereiste 'n bedrag van 'n werknemer se loon aftrek of so 'n werknemer verplig om 'n bedrag aan iemand anders te betaal, is skuldig aan 'n oortreding.

(2) Elke werkgewer wat 'n werknemer se besoldiging verminder, of iets daarvan aftrek om rede sodanige werknemer se werkeure verminder of sy diensvoorraads verbeter is ingevolge 'n bepaling van hierdie Ordonnansie, is skuldig aan 'n oortreding.

(3) By die toepassing van hierdie artikel, word die woord "bepaling van „werknemer“ nie beperk tot persone wat aan 'n fabriek verbonde is nie.

47. (1) Niemand mag hom opsetlik bemoei met, of misbruik maak van enige middel, toestel, gerief of ander ding wat ingevolge hierdie Ordonnansie verskaf word ter versekering van die gesondheid, veiligheid of welsyn van werknemers in 'n fabriek of plek waar masjinerie gebruik word of bouwerk verrig word nie.

(2) Waar 'n middel, toestel of ander ding ter versekering van gesondheid of veiligheid ingevolge die bepalings van hierdie Ordonnansie verskaf word ter gebruik deur 'n werknemer wat met enige proses besig is, moet by sodanige middel, toestel of ander ding gebruik terwyl hy aldus besig is.

(3) Geen werknemer mag opsetlik en sonder redelike oorsaak enigiets doen wat sy eie of andere se gesondheid, veiligheid of welsyn moontlik in gevaar kan stel nie.

(4) Elkeen wat enige bepaling van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

(5) By die toepassing van hierdie artikel word die woord "bepaling van „werknemer“ nie beperk tot persone wat aan 'n fabriek verbonde is nie.

48. In 'n akte van beskuldiging ingevolge hierdie Ordonnansie teen 'n fabriekhouer of 'n werkgewer, 'n boumeester, uitgraver of gebruiker van masjinerie, is dit onnodig om —

(a) die name van die persone ten opsigte van wie die oortreding na bewering gepleeg is, aan te gee, mits alle ander wesenslike besonderhede behoorlik uiteengesit is; of

(b) die volle name van die beskuldigde(s) aan te gee, mits die naam van die oënskynlike houer, werkgewer, boumeester, uitgraver of gebruiker, na gelang, of sy gewone firmanaan genoem word.

49. (1) Elkeen wat skuldige bevind word aan 'n oortreding ingevolge artikel *vier-en-veertig* is strafbaar met 'n boete van hoogstens driehonderd pond of met gevangenis van hoogstens twee jaar of met beide sodanige boete en gevangenis.

(2) Elkeen wat skuldige bevind word aan 'n oortreding ingevolge die bepalings van hierdie Ordonnansie, waarvoor daar geen bepaalde straf voorgeskrif is nie, is strafbaar met 'n boete van hoogstens eenhonderd pond of met gevangenis vir hoogstens een jaar of met beide sodanige boete en gevangenis.

45. (1) No agreement express or implied, other than an agreement referred to in section *twenty-two*, whether entered into before or after the coming into operation of this Ordinance, shall operate to permit 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 benefit in this Ordinance prescribed nor shall it effect any waiver by any employee of the application to him of any provision of this Ordinance. Any person who enters into any agreement purporting to permit of any such application or grant or to effect any such waiver shall be guilty of an offence and any such agreement shall be void.

(2) Any employer who requires or permits any employee to pay or repay to him any remuneration or allowance payable or paid to such employee in respect of overtime worked or any amount payable or paid to the employee in respect of or in lieu of leave of absence or pursuant to any direction given in terms of sub-section (7) of section *fifty*, or does or permits any act to be done as a direct or indirect result of which that employee is deprived of the benefit or any portion of the benefit of any remuneration allowance or amount so payable or paid, shall be guilty of an offence.

46. (1) Any employer, builder, excavator, occupier of a factory or user of machinery who in respect of anything required to be done or provided by him in pursuance of this Ordinance makes any deduction from the remuneration of any employee, or requires any employee to make a payment in respect of such requirement to any other person, shall be guilty of an offence.

(2) Any employer who reduces the remuneration of any employee or makes any deduction therefrom by reason of the fact that, as a result of any provision of this Ordinance, the hours of work of such employee have been reduced or his conditions of employment have been improved, shall be guilty of an offence.

(3) For the purposes of this section, the definition of "employee" shall not be confined to persons connected with a factory.

47. (1) No person shall wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Ordinance for securing the health, safety or welfare of employees in any factory or place where machinery is used or building work is being performed.

(2) Where any means, appliance or other thing for securing health or safety is provided under the requirements of this Ordinance for the use of an employee engaged in any process he shall use such means, appliance or other thing while so engaged.

(3) No employee shall wilfully and without reasonable cause do anything likely to endanger the health, safety or welfare of himself or others.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

(5) For the purposes of this section the definition of "employee" shall not be confined to persons connected with a factory.

48. In any charge of an offence under this Ordinance against the occupier of a factory or an employer, builder, excavator or user of machinery it shall not be necessary —

(a) to set out the names of the persons in respect of whom the offence is alleged to have been committed, provided all other material particulars are properly set out; or

(b) to state the full names of the accused, provided the name of the ostensible occupier, employer, builder, excavator or user as the case may be or his usual business name or style is stated.

49. (1) Any person who is convicted of an offence under section *forty-four* shall be liable to a fine not exceeding three hundred pounds or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(2) Any person who is convicted of an offence under the provisions of this Ordinance for which no special penalty is prescribed shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

50. (1) Wanneer ook al 'n werkgewer daarvan skuldig bevind word dat hy die bepalings van sub-artikel (1), (2) of (3) van artikel *twenty*, of sub-artikel (1), (2) of (3) van artikel *twenty-one* deur daad of versuim verontsaam het, moet die hof wat die vonnis uitspreek navraag doen na, en vasstel wat, die verskil is tussen die bedrag wat hy betaal het, en die bedrag wat hy sou betaal het as die daad of versuim waarvan hy skuldig bevind is, nie gepleeg was nie: Met dien verstande dat as die hof uit al die getuienis, hetsy voor of na skuldigbevinding gelever, nie in staat is om daardie verskil presies vas te stel nie, hy dit na beste vermoë moet beraam. As daar geen bedrag betaal is nie, moet die bedrag wat die werkgewer sou betaal het as hy die daad of versuim nie gepleeg het nie, by die toepassing van hierdie artikel, as die verskil beskou word. Die verskil aldus vasgestel, of die bedrag aldus beraam, word in hierdie artikel die onderbetaalde bedrag genoem.

(2) Die verrigtinge van die hof ingevolge die bepalings van sub-artikel (1) moet voor strafoplegging uitgevoer word, en word beskou as deel van die verhoor.

(3) By 'n aanklag van 'n daad of versuim genoem in sub-artikel (1), is dit geen verweer om te bewys dat die daad of versuim waarvan die beskuldigde aangekla word, aan middelebrek te wyte was nie.

(4) Nadat die hof die onderbetaalde bedrag ingevolge sub-artikel (1) vasgestel of beraam het, moet hy die veroordeelde beveel om aan 'n amptenaar deur die hof genoem (hierna heet hy die genoemde amptenaar) 'n bedrag gelyk aan die onderbetaalde bedrag binne 'n tydperk wat die hof vasstel, paaiementgewys of andersins, na die hof besluit, te betaal.

(5) Die hof kan te eniger tyd, op aansoek deur die veroordeelde, en by aanvoering van voldoende gronde, die tydperk waarbinne sodanige bedrag aan die genoemde amptenaar betaal moet word, verleng, of die paaiemente daarvan verander.

(6) 'n Bevel ingevolge die bepalings van hierdie artikel het die uitwerking van 'n siviele vonnis ten gunste van die Administrasie en kan desgeelyks ten uitvoer gelê word.

(7) As die hof 'n bevel ingevolge hierdie artikel doen, moet hy gelas dat 'n bedrag wat die hof, met inagneming van die omstandighede waarin die daad of versuim plaasgevind het, as regverdig beskou, maar wat minstens 'n kwart moet wees van die bedrag wat ingevolge die hofbevel aan die genoemde amptenaar betaal is, aan die werknemer ten opsigte van wie die daad of versuim gepleeg is, uitbetaal moet word.

(8) Sodanige deel van die bedrag aldus aan die genoemde amptenaar betaal, wat nie ingevolge sub-artikel (7) aan die betrokke werknemer uitbetaal word nie, word gestort in die Gebied se Inkomstefonds.

51. (1) Die Administrateur kan regulasies afkondig oor —

- die maatreëls wat getref moet word om die sielikhed, veiligheid en gesondheidsbewaring, met inbegrip van sanitasie, belugting en verligting, in of by fabriek en op of by persele waar masjinerie gebruik word, of bouwerk of uitgrawingswerk gedoen word, te versker; en die pligte van fabriekhouders, gebruikers van masjinerie, boumeesters, uitgrawers, werkgewers en werknemers in verband daarmee;
- die huisvesting en geriewe wat fabriekhouders in fabriek moet verskaf vir werknemers solank hulle daar werk, rus of eet;
- die kleding, veiligheidsstoele en beskermingsapparaat wat werkgewers, boumeesters, uitgrawers, fabriekhouders, en gebruikers van masjinerie moet verskaf aan werknemers wat bepaalde artikels in die loop van hul werk hanteer, of wat in bepaalde bedrywigheede en op bepaalde voorwaardes werk;
- die noodhulp-toerusting wat fabriekhouders, masjineriegebruikers, boumeesters of uitgrawers moet verskaf; en die indiensneming van persone wat bepaalde kwalifikasies vir noodhulp besit;
- die maatreëls wat die eienaars van geboue wat gebruik word as, of bestem is vir gebruik as fabriek of plekke waar masjinerie gebruik word, of fabriekhouders of masjineriegebruikers in verband met die struktuur van sodanige geboue of andersins, moet tref om brande te verhoed of te blus, en om die veiligheid van persone in sodanige geboue, in die geval van brand, te versker;
- die mediese ondersoek van persone, waar so 'n ondersoek ingevolge die bepalings van hierdie Ordonnansie vereis word;
- die verbod op die indiensneming van enigeen onder 'n bepaalde ouderdom (maar nie onder vyftien jaar nie) by 'n bepaalde bedrywigheid of klas van bedrywigheid, hetsy dit in 'n fabriek of elders gevoer word;

50. (1) Whenever an employer is convicted of contravening or failing to comply with the provisions of sub-section (1), (2) or (3) of section *twenty*, or sub-section (1), (2) or (3) of section *twenty-one*, 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: 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 referred to as the amount underpaid.

(2) The proceedings of the court under the provisions of sub-section (1), shall be taken before sentence is passed, and shall be deemed to form part of the trial.

(3) It shall not be a defence to any charge on a contravention or failure such as is referred to in sub-section (1), to prove that the act or omission with which the accused is charged was due to lack of means.

(4) After the court has determined or estimated the amount underpaid, in terms of sub-section (1), it shall order the convicted person 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.

(5) 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.

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

(7) When making an order under this section, the court shall direct that so much not being less than a quarter of the amount which in terms of the order is paid to the specified officer as the court having regard to the circumstances in which the contravention or failure occurred deems equitable shall be paid to the employee in respect of whom the contravention or failure occurred.

(8) So much of the amount so paid to the specified officer as is not, in terms of sub-section (7), paid to the employee concerned shall be paid into the Territory Revenue Fund.

51. (1) The Administrator may make regulations as to —

- the measures to be taken to secure cleanliness, safety and preservation of health, including sanitation, ventilation and lighting, in or about factories and on or about premises where machinery is used, or building work or excavation work is performed; and the duties of occupiers of factories, users of machinery, builders, excavators, employers and employees in connection therewith;
- the accommodation facilities and conveniences to be provided in factories by occupiers for employees while they are working, resting or eating therein;
- the clothing, safety devices and protective articles to be provided by employers, builders, excavators, occupiers of factories and users of machinery for employees who handle specified articles in the course of their work or who are employed in specified activities and under specified conditions;
- the first-aid equipment to be provided by occupiers of factories, users of machinery, builders and excavators; and the employment of persons who hold specified qualifications in first-aid;
- the steps to be taken by the owners of buildings used or intended for use as factories or places where machinery is used, or by occupiers of factories or by users of machinery in connection with the structure of such buildings or otherwise in order to prevent or extinguish fires, and to ensure the safety, in the event of fire, of persons in such buildings;
- the medical examination of persons, where such examination is required under the provisions of this Ordinance;
- the prohibition of the employment of any person under a specified age (not being lower than fifteen years) in any specified activity or class of activity, whether carried on in a factory or otherwise;

- (h) werktostande van werknemers in enige fabriek waar spesiale voorsiening na die mening van die Administrateur nodig is ter beskerming van die liggaamlike, sedetour nodig is ter beskerming van sodanige werknemers; like of maatskaplike welsyn van sodanige werknemers;
- (i) die state, statistiek, inligting en verslae wat ingevolge die bepaling van hierdie Ordonnansie versaf moet word betreffende fabriek, masjinerie, bouwerk, uitgrawingswerk en werknemers, en die tye waarop en gravinge van die persone deur wie dit versaf die wyse waarin en die aantekeninge wat gehou moet word; moet word, en die aantekeninge wat ingevolge artikel dertig
- (j) die wyse waarop inspektors masjinerie moet hou; toesig oor die gebruik van masjinerie moet hou;
- (k) die voorwaardes waarop masjinerie opgerig, ingerig, gebruik en gebruik moet word, en die pligte, verantwoordelikhede en kwalifikasies van die gebruiker of beoogde oprigter of inrigter van sodanige masjinerie;
- (l) appèlle teen die vereistes, besluite of opdragte van die Sekretaris of 'n inspekteur;
- (m) die aanmelding van ongevalle ingevolge artikel een-en-dertig, die wyse waarop ondersoek in verband daarmee gehou moet word en die prosedure wat daar gevolg moet word;
- (n) die gelde betaalbaar vir 'n registrasiesertifikaat of lisensie of vir die inspeksie of ondersoek van besonderhede en planne van geboue en bou-veranderinge ingevolge hierdie Ordonnansie, en die voorwaardes verbonde aan die toekenning van lisensies;
- (o) die kwalifikasies wat diegene wat voorgeskrewe klasse werk in verband met masjinerie verrig, moet hou;
- (p) die voorwaardes wat die bou, oprigting, verbouing of sloop of verwydering van steierwerk of krane beheer;
- (q) die voorwaardes wat die gebruik van steierwerk, stelsie-apparaat, krane, hysapparaat en -werktuie, en die toets daarvan beheer;
- (r) die voorwaardes wat bou- en uitgrawingswerk beheer, met inbegrip van die maatreëls wat getref moet word by betimmering, en die stut en onderskraging daarvan;
- (s) ten opsigte van bouwerk —
 - (i) die voorsorgmaatreëls wat boumeesters of werknemers moet tref om te verhinder dat persone beseer word deur vallende artikels;
 - (ii) die verligting van bouwerk en die veiligheidsmaatreëls wat getref moet word in verband met elektriese toerusting;
 - (iii) die opstapeling van materiaal op of naby die bou-terrein;
 - (iv) die nodige kwalifikasies van 'n kraanbestuurder of die drywer van hysapparaat;
 - (v) wie beskou kan word as 'n bekwame en verantwoordelike persoon of 'n bekwame werkmán by die toepassing van artikel vyf-en-dertig en ses-en-dertig;
- (t) die voorsiening van die nodige toerusting en die voorsorgmaatreëls wat getref moet word waar bou- of uitgrawingswerkers die gevaar loop om te verdink;
- (u) alle sake wat by hierdie Ordonnansie voorgeskryf moet of mag word; en
- (v) in die algemeen, alle sake wat hy nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Ordonnansie te bereik.

(2) Enige regulasies wat ingevolge sub-artikel (1) afgekondig word, kan strawwe bepaal vir 'n verontagsaming deur daad of versum daarvan, maar hoogstens die strawwe wat by sub-artikel (2) van artikel nege-en-veertig voorgeskryf is.

(3) Ingevolge sub-artikel (1) kan daar afsonderlike regulasies afgekondig word ten opsigte van verskillende streke, verskillende klasse persone of persele, of verskillende klasse fabriek, masjinerie, bouwerk of uitgrawingswerk, of verskillende klasse fabriekhouers, gebruikers van masjinerie, werkgewers, boumeesters, uitgrawers of werknemers, en by die afkondiging van sodanige regulasies kan die Administrateur op enige grondslag wat hy raadsaam ag diskrimineer of onderskei: Met dien verstande dat die Administrateur by die afkondiging van sodanige regulasies nie onderskei op grond van ras of kleur nie, buiten ten opsigte van regulasies opgestel ingevolge paragraaf (b) en (h) van sub-artikel (1).

(4) Die Administrateur kan in enige kennisgewing waarby regulasies ingevolge sub-artikel (1) afgekondig word, die regulasies noem ten opsigte waarvan artikel veertien van toepassing is.

(5) Die Administrateur kan van tyd tot tyd die streke vasstel waarbinne die bepaling van enige regulasie ingevolge sub-artikel (1) van toepassing is. Na sodanige vasstelling laat die Administrateur 'n kennisgewing in die *Offisiële Koerant* plaas waarin die streke aldus vasgestel, genoem word sowel as die datum waarop die bepaling van enige sodanige regulasie in werking tree.

- (h) conditions of work of employees in any factory where in the opinion of the Administrator special provision is necessary to safeguard the physical, moral or social welfare of such employees;
- (i) the returns, statistics, information and reports which under the provisions of this Ordinance shall be furnished in relation to factories, machinery, building work, excavation work, and employees, and the times at which, the manner in which, and the persons by whom the same shall be furnished, and the records which shall be kept;
- (j) the manner in which the supervision by inspectors of the use of machinery in terms of section thirty shall be exercised;
- (k) the conditions governing the erection, installation, working and use of any machinery and the duties, responsibilities and qualifications of the user or person in charge of or erecting such machinery;
- (l) appeals from requirements, decisions and instructions of the Secretary or an inspector;
- (m) the reporting of accidents under section thirty-one, the manner of holding inquiries in connection therewith and the procedure to be followed at such inquiries;
- (n) the fees which shall be payable for any registration certificate or licence or for any inspection or for the examination of particulars and plans of buildings and alterations under this Ordinance and the conditions governing the granting of licences;
- (o) the qualifications to be held by persons performing prescribed classes of work in connection with machinery;
- (p) the conditions governing the construction, erection, alteration or taking down of scaffolding or cranes;
- (q) the conditions governing the use of scaffolding, gear, cranes, hoisting machines and tackle and the testing thereof;
- (r) the conditions governing building work and excavation work, including the steps to be taken in connection with timbering, underpinning and shoring up;
- (s) in respect of building work —
 - (i) the precautions to be taken by builders or employees to prevent persons being injured by falling articles;
 - (ii) the lighting of building work and the safeguards to be used in connection with electrical equipment;
 - (iii) the stacking of materials on or near the site;
 - (iv) the necessary qualifications of a crane driver or hoisting appliance operator;
 - (v) who may be regarded as a competent or responsible person or a competent workman for the purposes of sections thirty-five and thirty-six;
- (t) the provision of equipment and the precautions necessary where persons employed on building or excavation work are in risk of drowning;
- (u) all matters which by this Ordinance are required or permitted to be prescribed; and
- (v) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Ordinance may be achieved.

(2) Any regulations made under sub-section (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding the penalties prescribed in sub-section (2) of section forty-nine.

(3) Different regulations may be made under sub-section (1) in respect of different areas, or different classes of persons or premises, or different classes of factories, machinery, building work or excavation work, or different classes of occupiers of factories, users of machinery, employers, builders, excavators or employees, and in making such regulations the Administrator may apply such basis of discrimination or differentiation as he may deem advisable: Provided that in making such regulations the Administrator shall not differentiate on the basis of race or colour except in respect of regulations framed under paragraphs (b) and (h) of section (1).

(4) The Administrator may, in any notice by which any regulations under sub-section (1) are published specify the regulations in respect of which the provisions of section fourteen shall apply.

(5) The Administrator may from time to time determine the areas in which the provisions of any regulation made under sub-section (1) shall apply. After making such determination the Administrator shall cause to be published in the *Gazette* a notice specifying the areas so determined and the date from which the provisions of any such regulation shall apply.

(6) Elkeen op wie 'n regulasie genoem in sub-artikel (4) bindend is, en wat die bepaling van sodanige regulasie deur daad of versuim verontagsaam, is, hetsy die Sekretaris aan so-iemand ingevolge artikel veertien 'n vereiste gestel het al dan nie, skuldig aan 'n oortreding.

52. Ondanks andersluidende regsbepalings het 'n magistraatshof regsbevoegdheid om enige straf wat hierdie Ordonnansie voorskryf, op te lê, of enige hoftel waarvoor hierdie Ordonnansie voorsiening maak, uit te vaardig.

53. (1) Ondanks andersluidende bepalingen in hierdie Ordonnansie kan die Administrateur, as daar na sy oordeel spesiale omstandighede bestaan wat vrystelling regverdig, by kennisgewing in die *Offisiële Koerant* enige klas werkgewer of ander persoon, of algemeen of met sodanige beperkings soos hy goedvind, en onderhewig aan sodanige voorwaardes wat hy in die kennisgewing noem, vrystel van elke of enige bepaling van artikel nege, tien, elf, twaalf, dertien, veertien of sewentien, paragraaf (c), (d) en (e) van sub-artikel (1) en sub-artikel (2), (3) en (4) van artikel negentien, artikel twintig, een-en-twintig, vier-en-twintig, vyf-en-twintig, dertig, een-en-dertig, vyf-en-dertig, ses-en-dertig of sewen-en-dertig, of van enige regulasie. By die toepassing van hierdie artikel omvat „klas werkgewer of ander persoon” sodanige groep, afdeling of tipe werkgewer of persoon soos die Administrateur in die kennisgewing vermeld, en die Administrateur kan by sodanige vermelding enige stelsel van onderskeiding of diskriminasie wat hy raadsaam ag, toepas.

(2) Die Administrateur kan by verdere kennisgewing in die *Offisiële Koerant* 'n kennisgewing afgekondig ingevolge sub-artikel (1), intrek of wysig.

(3) Die Administrateur kan, as daar na sy oordeel spesiale omstandighede bestaan wat vrystelling regverdig, engeen by verlobbrief onderteken deur 'n voorgeskrewe amptenaar, of in die algemeen, of met sodanige beperkings soos hy oplei vir 'n tydperk wat hy noem, vrystel van elke of enige bepaling van hierdie Ordonnansie, genoem in sub-artikel (1), of van enige voorwaarde wat in 'n kennisgewing afgekondig ingevolge die genoemde sub-artikel voorgeskryf word.

(4) Geen vrystelling van die bepalingen van paragraaf (e) van sub-artikel (1) van artikel negentien word ingevolge hierdie artikel aan, of ten opsigte van, 'n vroulike werknemer wat handewerk doen, verleen nie, buiten vir die doel van werksamhede —

(a) wat weens noodtoestand noodsaaklik is; of

(b) wat noodsaaklik is om verlies van grondstowwe in die loop van bewerking te verhinder, as hulle aan vinnige bederf onderhewig is.

(5) Die Administrateur kan van tyd tot tyd op skrif onder sy hand en onderhewig aan die voorwaardes wat hy goedvind, elke of enige bevoegdheid wat hierdie artikel hom verleen, aan 'n amptenaar oordra, en kan hy sodanige oordrag terugtrek.

(6) Enige vrystelling wat ingevolge sub-artikel (3) verleen is, kan te eniger tyd na die goeddunke van die Administrateur of die amptenaar aan wie bevoegdheid ingevolge sub-artikel (5) oorgedra is, teruggetrek word.

(7) Elkeen wat 'n voorwaarde wat ingevolge sub-artikel (1) of (3) opgelê is, deur daad of versuim verontagsaam, is skuldig aan 'n oortreding.

54. Hierdie Ordonnansie verbind die staat buiten ten opsigte van die bedrywighede van die Spoorweg-administrasie.

55. Hierdie Ordonnansie heet die Ordonnansie op Fabriek, Masjinerie en Bouwerk 1952, en tree in werking op 'n datum wat die Administrateur by kennisgewing in die *Offisiële Koerant* bepaal.

(6) Any person upon whom any regulation referred to in sub-section (4) is binding who contravenes or fails to comply with the provisions of such regulation shall, whether or not the Secretary has in terms of section fourteen served a requirement on such person, be guilty of the offence.

52. 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 of court provided for in, this Ordinance.

53. (1) Notwithstanding anything in this Ordinance contained the Administrator may if in his opinion special circumstances exist which justify exemption, by notice in the *Gazette* exempt any class of employers or other persons, either generally or with such limitations as he may deem fit and subject to any conditions he may impose in such notice, from all or any of the provisions of section nine, ten, eleven, twelve, thirteen, fourteen or seventeen, paragraphs (c), (d) and (e) of sub-section (1) and sub-section (2), (3) and (4) of section nineteen, section twenty, twenty-one, twenty-four, twenty-five, thirty, thirty-one, thirty-five, thirty-six or thirty-seven, or of any regulations. For the purposes of this section, "class of employers or persons" includes such group or section or type of employers or persons as may be specified by the Administrator in the notice, and the Administrator may, in so specifying, apply any method of differentiation or discrimination he may deem advisable.

(2) The Administrator may be further notice in the *Gazette* cancel or amend any notice published in terms of sub-section (1).

(3) The Administrator may, if in his opinion special circumstances exist which justify exemption, under licence signed by a prescribed officer, exempt any person, either generally or with such limitations as he may deem fit and subject to any conditions he may impose and for such period as he may specify, from all or any of the provisions of this Ordinance, referred to in sub-section (1), or from any condition prescribed in a notice published in terms of the said sub-section.

(4) No exemption from the provisions of paragraph (e) of sub-section (1) of section nineteen shall be granted under this section to or in respect of any female employee engaged in manual work, except for the purpose of performing work—

(a) which is necessitated by an emergency; or

(b) which is necessary to prevent the loss of raw materials in the course of treatment which are subject to rapid deterioration.

(5) The Administrator may from time to time by writing under his hand and subject to such conditions as he may deem fit delegate all or any of the powers conferred upon him by this section to any officer, and withdraw such delegation.

(6) Any exemption granted in terms of sub-section (3) may at any time be withdrawn at the discretion of the Administrator or of an officer to whom powers have been delegated under sub-section (5).

(7) Any person who contravenes or fails to comply with any condition imposed under sub-section (1) or (3) shall be guilty of an offence.

54. This Ordinance shall bind the Crown except in respect of the activities of the Railway Administration.

55. This Ordinance shall be called the Factories, Machinery and Building Work Ordinance, 1952, and shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.