

M. E. K. M. M.

BUITENGEWONE
OFFISIËLE KOERANT
VAN SUIDWES-AFRIKA.



OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.

UITGAWE OP GESAG.

PUBLISHED BY AUTHORITY.

1/- Dinsdag, 29 Julie 1952. WINDHOEK Tuesday, 29th July, 1952. No. 1701.

INHOUD

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Goewermentskennisgewing.

Government Notice.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.
J. NESER,
Sekretaris van Suidwes-Afrika.
Kantoor van die Administrateur,
Windhoek.

The following Government Notice is published for general information.
J NESER,
Secretary for South West Africa.
Administrator's Office,
Windhoek.

No. 220.] [29 Julie 1952.

No. 220.] [29th July, 1952.

ORDONNANSIES, 1952: UITVAARDIGING VAN.

ORDINANCES, 1952: PROMULGATION OF.

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkomstig artikel twee-en-dertig van „De Zuid-west-Afrika Konstitutie Wet 1925” (Wet 42 van 1925), aan die volgende Ordonnansies wat hiermee vir algemene inligting gepubliseer word, ooreenkomstig artikel vier-en-dertig van gemelde Wet:—

The Administrator has been pleased to assent, in terms of section thirty-two of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), to the following Ordinances which are hereby published for general information in terms of section thirty-four of the said Act:—

<i>No.</i>	<i>Titel.</i>	<i>Bladsy.</i>
34.	Ordonnansie op Fabrieke, Masjinerie en Bouwerk 1952.	3138
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No. 34 van 1952.]

ORDONNANSIE

Ter registrasie en beheer van fabriek, reëling van werke en diensvoorwaardes in fabriek, toesig oor die gebruik van masjinerie, voorsorg teen ongevalle aan bou- of uitgrawingswerkers, en verbandhoudende sake.

(Goedgekeur 14 Junie 1952.)

(Engelse teks deur die Administrateur geteken.)

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

1. Hierdie Ordonnansie word soos volg in ses hoofstukke ingedeel:—

- HOOFSTUK I. Woordbepaling en Administrasie: Artikels twee tot neges.
 HOOFSTUK II. Registrasie van, Lisensieverlening aan en Beheer oor Fabriek: Artikels tien tot sewentien.
 HOOFSTUK III. Werkure, Vakansiedae en Diens in Fabriek: Artikels agtien tot agt-en-twintig.
 HOOFSTUK IV. Masjinerie en Ongevalle: Artikels negen-en-twintig tot drie-en-dertig.
 HOOFSTUK V. Voorsorg teen Ongevalle aan Bouwerkers: Artikels vier-en-dertig tot negen-en-dertig.
 HOOFSTUK VI. Prosedure en Diverse Bepalings: Artikels veertig tot vyf-en-veertig.

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 aangrensende 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, opsligter, oppasser, of by die aflewering van goedere of boudstappe; 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“ 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 enigszins hoegenaamd te help om sy saak in, of in verband met, 'n fabriek te dryf; en het „in diens neem“ en „diens“

No. 34 of 1952.]

ORDINANCE

To provide for the registration and control of factories, regulation of hours and conditions of work in factories, supervision of the use of machinery, precautions against accident to persons employed on building or excavation work, and for matters incidental thereto.

(Assented to 14th June, 1952.)

(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General in so far as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section twenty-six of the South West Africa Constitution Act, 1925 (Act 42 of 1925), as amended by section sixteen of the South-West Africa Affairs Amendment Act, 1949 (Act 23 of 1949), of the Parliament of the Union of South Africa:

1. This Ordinance is divided into six Chapters as follows:

- CHAPTER I. Definitions and Administration. (Sections two to nine).
 CHAPTER II. Registration, Licensing and Control of Factories. (Sections ten to seventeen).
 CHAPTER III. Hours of Work, Holidays and Employment in Factories. (Sections eighteen to twenty-eight).
 CHAPTER IV. Machinery and Accidents. (Sections twenty-nine to thirty-three).
 CHAPTER V. Precautions against accidents to building workers. (Sections thirty-four to thirty-nine).
 CHAPTER VI. Procedure and Miscellaneous. (Sections forty to fifty-five).

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 in 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;

die ooreenkomstige betekenis;

„uitgrawingswerk” 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 uitgrawingswerk, en het „werknemer” 'n ooreenkomstige betekenis waar dit in verband met uitgrawingswerk 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 stilstaande of vervoerbare masjien, stoomketel of ander stoomapparaat; en

(b) 'n toestel of samestelling van toestelle bestem vir die opwekking, ontvangs, bewaring, oorsending of omsetting 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 as sodanig in private huise gebruik word; of

(iii) voertuie, uitgesonderd stoomkragvoertuie; Met dien verstande dat alle elektriese huishoudelike toestelle by die toepassing van artikels 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 of 'n inrigting wat enige bedryfswigheid voer, en as daar twee of meer sodanige persone is, sluit die uitdrukking „houer” almal in; en het „hou” 'n ooreenkomstige betekenis;

„amptenaar of beampte” iemand op die vaste dienstaan 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 was as die ure voorgeskryf by paragrawe (a) en (b), onderskeidelik, van sub-artikel (1) van artikel negentien;

„perseel” ook grond, bouwerk, voertuig of vaartuig;

„voorgeskrif” of „voorgeskrewe” by hierdie Ordonnansie of 'n regulasie daargevolgde, voorgeskryf;

„regulasie” 'n regulasie ingevolge hierdie Ordonnansie;

„besoldiging” en „loon” enige betaling met kontant of goedere of belde met kontant en goedere, wat aan enigen gemaak word of verskuldig is, wat enigsin hoegenaamd uit diens ontstaan; en het „besoldig” 'n ooreenkomstige betekenis; Met dien verstande dat die kontantwaarde van enige besoldiging met goedere die is —

(a) soos by of ingevolge enige wet vastgestel is; of

(b) by gebrek aan so 'n vaststelling, soos by ooreentoms of tussen die werkgever en die werknemer bepaal is; of

(c) by gebrek aan so 'n vaststelling of ooreentoms, soos deur die inspekteur bepaal is;

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

(i) die waarde bepaal by ooreentoms soos in paragraaf (b) genoem, kan herseen op grond daarvan dat dit of ontoereikend of oormatig is, en dit kan vervang met 'n waarde wat hy self vastel; 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 gemaak daarin gevolge;

„gebruiker” die eienaar van, of die persoon wat die voordele 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.

„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 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 nineteen;

„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;

„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.

No. 34 van 1952.]

ORDONNANSIE

Ter registrasie en beheer van fabriek, reëling van werke en diensvoorwaardes in fabriek, toesig oor die gebruik van masjinerie, voorsorg teen ongevalle aan bou- of uitgrawingswerkers, en verbandhoudende sake.

(Goedgekeur 14 Junie 1952.)

(Engelse teks deur die Administrateur geteken.)

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

1. Hierdie Ordonnansie word soos volg in ses hoofstukke ingedeel:—

- HOOFSTUK I. Woordbepaling en Administrasie: Artikels twee tot neges.
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HOOFSTUK I.**WOORDBEPALING EN ADMINISTRASIE.**

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

- „bedrywigheid“ ook enige proses, handwerk of bedryf;
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 „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, opsligter, oppasser, of by die aflewering van goedere of boudstappe; 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“ 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 enigszins hoegenaamd te help om sy saak in, of in verband met, 'n fabriek te dryf; en het „in diens neem“ en „diens“

No. 34 of 1952.]

ORDINANCE

To provide for the registration and control of factories, regulation of hours and conditions of work in factories, supervision of the use of machinery, precautions against accident to persons employed on building or excavation work, and for matters incidental thereto.

(Assented to 14th June, 1952.)

(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General in so far as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section twenty-six of the South West Africa Constitution Act, 1925 (Act 42 of 1925), as amended by section sixteen of the South-West Africa Affairs Amendment Act, 1949 (Act 23 of 1949), of the Parliament of the Union of South Africa:

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 CHAPTER V. Precautions against accidents to building workers. (Sections thirty-four to thirty-nine).
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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 in 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;

die ooreenkomstige betekenis;

„uitgrawingswerk” 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 uitgrawingswerk, en het „werknemer” 'n ooreenkomstige betekenis waar dit in verband met uitgrawingswerk gebruik word;

„inspekteur” 'n inspekteur aangestel ingevolge artikel vier;

„inrigting” ook 'n liefdadighedsinrigting, 'n opvoedingsinrigting of dergelyke inrigting, hetsy dit deur die Administrasie of deur 'n ander liggaam of persoon gedryf word;

„maatslike bestuur” ook 'n munisipale raad, dorpsbestuur en soortgelyke inrigting;

„masjinerie” —

(a) 'n lokomotief of 'n stilstaande of vervoerbare masjien, stoomketel of ander stoomapparaat; en

(b) 'n toestel of samestelling van toestelle bestem vir die opwekking, ontvangs, bewaring, oorsending of omsetting 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 as sodanig in private huise gebruik word; of

(iii) voertuie, uitgesonderd stoomkragvoertuie; Met dien verstande dat alle elektriese huishoudelike toestelle by die toepassing van artikels 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 of 'n inrigting wat enige bedryfswigheid voer, en as daar twee of meer sodanige persone is, sluit die uitdrukking „houer” almal in; en het „hou” 'n ooreenkomstige betekenis;

„amptenaar of beampte” iemand op die vaste dienstaan 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 was as die ure voorgeskryf by paragrawe (a) en (b), onderskeidelik, van sub-artikel (1) van artikel negentien;

„perseel” ook grond, bouwerk, voertuig of vaartuig;

„voorgeskrif” of „voorgeskrewe” by hierdie Ordonnansie of 'n regulasie daargevolgde, voorgeskryf;

„regulasie” 'n regulasie ingevolge hierdie Ordonnansie;

„besoldiging” en „loon” enige betaling met kontant of goedere of belde met kontant en goedere, wat aan enigen gemaak word of verskuldig is, wat enigsin hoegenaamd uit diens ontstaan; en het „besoldig” 'n ooreenkomstige betekenis; Met dien verstande dat die kontantwaarde van enige besoldiging met goedere die is —

(a) soos by of ingevolge enige wet vastgestel is; of

(b) by gebrek aan so 'n vaststelling, soos by ooreentoms of tussen die werkgever en die werknemer bepaal is; of

(c) by gebrek aan so 'n vaststelling of ooreentoms, soos deur die inspekteur bepaal is;

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

(i) die waarde bepaal by ooreentoms soos in paragraaf (b) genoem, kan herstel op grond daarvan dat dit of ontoereikend of oormatig is, en dit kan vervang met 'n waarde wat hy self vastel; 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 gemaak daarin gevolgde;

„gebruiker” die eienaar van, of die persoon wat die voordele 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.

„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 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 nineteen;

„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;

„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) Behoudens die bepalings van hierdie artikel, beteken „fabriek” —

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

- (i) die vervaardiging van 'n artikel of deel van 'n artikel;
- (ii) die verander, herstel, opknop, versler, 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 kopieërs, litografie, fotogravure, of ander soortgelyke prosesse, en ook elke werksaamheid aan die drukkerbedryf verbonde;
- (vii) die vervaardiging en bewaring van gas in 'n houër met bergulmte vir meer as vyfduisend kubieke voet;
- (viii) die bevriesing, verkoeling of koelbewaring van enigiets;
- (ix) die slag van vee;
- (x) die opwekking 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 bepalings 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
 - (ii) die werk wat op sodanige perseel gedoen word, na die mening van die Sekretaris, die aanwending van gevaarlike prosesse of giftige stowwe meebring, 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 bedrywigheid 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 bedrywigheid 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 bedrywigheede verbonde aan sodanige aanbou, verandering, opknapping, herstel of slooping betref;
- (f) 'n perseel (op 'n plaas) waarop 'n boer, met inbegrip van 'n vennootskap of groep persone, buiten 'n maatskappy, 'n bedrywigheid 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. (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 adaptation 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 other 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) the work performed on such premises in the opinion of the Secretary involves the use of dangerous or poisonous substances or on which any food or article of food (other than drugs or ordinarily used 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-paragraaf (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 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 establishments;
- (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) 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 bedrywigheid 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 verskyningdatum 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 nuusblaie laat publiseer waarin die aandaag van alle belanghebbendes op daardie kennisgewing gevestig word.

(5) By die toepassing van enige bepaling van hierdie Ordonnansie kan die Administrateur na goedgekeurde bevel 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 bedrywigheid van 'n maak in die reël 'n fabriek sou uitmaak as hulle saam op 'n enkele perseel uitgevoer word, en sodanige bedrywigheid onderverdeel is in gedeeltes waarvan almal of party uitgevoer word op 'n perseel wat nie 'n fabriek uitmaak nie, kan hy na goedgekeurde bevel dat 'n sodanige perseel, geheel of gedeeltelik, as fabriek beskou moet word.

4. (1) Behoudens die wette wat die Staatsdiens reël, kan die Administrateur enigeemand 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 beoemde wat die Administrateur daartoe aanwys, en wat getuig dat hy ingevolge hierdie Ordonnansie tot inspekteur aangestel is.

(3) Na raadpleging van 'n planlike bestuur kan die Administrateur enigeemand 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 voorwaarde wat hy doenlik ag. Aan so 'n genagtigde persoon word 'n sertifikaat uitgereik, wat onderteken is deur 'n beoemde 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 genagtigde in binne die perke van sy magtiging.

(4) Die Administrateur kan te eniger tyd 'n magtiging ingevolge sub-artikel (3) sonder meer intrek, en die betrokke planlike bestuur skriftelik in kennis laat stel van sodanige intrekking en van die datum waarop dit van krag word.

5. (1) (a) 'n Inspekteur kan, ten einde vas te stel of die bepaling van hierdie Ordonnansie nagekom word —

- (i) sonder voorafgaande kennisgewing te eniger tyd enige perseel hoegenaamd betree en sodanige onderrig, dersoek instel of navraag doen, soos hy nodig ag;
- (ii) onderwyl hy op die perseel is, of te eniger ander tyd, van enigeemand vereis dat hy op staande voet, of op 'n tyd en plek deur die inspekteur vasgestel, of op 'n tyd en plek deur die inspekteur voorwaardelike registrasie-sertifikaat of moontlike voorwaardelike fabriekpermit wat ten opsigte van die perseel ingevolge artikel *derien* uitgereik is, of enige boek, kennisgewing, aantekening, lys of ander dokument wat ingevolge hierdie Ordonnansie gehou of getoon moet word, of wat op die perseel of in die besit of bewaring, of onder die beheer is van 'n sodanige persoon of sy werknemer, aan hom moet toon;
- (iii) te eniger tyd en op enige plek van iemand wat so 'n boek, kennisgewing, aantekening, lys of ander dokument besit, bewaar of beheer, vereis dat hy dit op staande voet of op 'n tyd en plek deur die inspekteur vasgestel, toon; en
- (iv) sodanige boeke, aantekeninge, lys of dokumente ondersoek en afskrifte daarvan, en uittreksels daarop, maak, en hy kan enigeemand aansê om die uit, maak, en hy kan enigeemand aansê om die afskriftings daarvan aan hom te verduidelik, en ook ingevolge hierdie Ordonnansie, lys of dokumente sodanige boeke, aantekeninge, lys of dokumente wat na sy mening bewys kan lewer van 'n oortreding ingevolge hierdie Ordonnansie, in beslag neem.

(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.

(4) The Administrator may at any time summarily cancel any authorization under sub-section (3), and shall cause the local authority concerned to be notified in writing of such cancellation, and of the date on which it shall take effect.

5. (1) (a) Any inspector may, for the purpose of ascertaining whether the provisions of this Ordinance are being complied with —

- (i) without previous notice, at any time enter any premises whatsoever and make such examination and inquiry as he deems necessary;
- (ii) while he is on the premises or at any other time require from any person the production then and there, or at a time and place fixed by the inspector, of the registration certificate or provisional factory permit (if any) issued in respect of the premises under section *thirteen*, or of any book, notice, record, list or other document which by this Ordinance is required to be kept or exhibited or which is or has been on the premises or in the possession or custody or under the control of any such person or his employee;
- (iii) at any time and at any place require from any person who has the possession or custody or control of any such book, notice, record, list or other document, the production thereof then and there, or at a time and place fixed by the inspector; and
- (iv) examine and make extracts from and copies of such books, records, lists or documents and may require from any person an explanation of any entries therein and may seize any such books, records, lists or documents as in his opinion may afford evidence of any offence under this Ordinance.

(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 staatsverordening 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 voorlê, en mag hy sodanige planne nie goedkeur nie, totdat die inspekteur die plaaslike bestuur skriftelik meegedeel het dat die betrokke perseel na sy mening geskik sou wees as 'n fabriek van die beoogde aard.

(3) Elkeen wat die bepaling van sub-artikels (1) en (2) oortree, is skuldig aan 'n misdryf.

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 tekeninge wat die Sekretaris vereis, inlewer.

(2) Sodra doentlik na ontvangs van 'n aansoek en van bykomende inligting of tekeninge 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 bedrywigheid 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, op weier om die oorsrywende 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 daarvan 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 goedgeundke te eniger tyd by skriftelike kennisgewing aan die fabriekhouer enige tydperk, besonderhede of voorwaardes wat in 'n registrasiesertifikaat of voorwaardelike fabriek-permit genoem word, wysig.

(5) Na die registrasie van 'n perseel as 'n fabriek ingevolge hierdie Ordonnansie, mag niemand sonder die vooraf-verkeerde goedkeuring van die Sekretaris enige bouw of ander veranderinge aan sodanige perseel aanbring of laat aanbring nie. Wanneer die Sekretaris 'n beoogde verandering ingevolge hierdie sub-artikel gevee, kan hy vereis dat die fabriekhouer inligting of tekeninge betreffende sodanige verandering voorlê, wat die Sekretaris nodig ag om hom in staat te stel om tot 'n besluit te kom. Die voorbehoudsbepaling van sub-artikel (1) van artikel twaalf is *mutatis mutandis* van toepassing op enige sodanige tekeninge. Word enige sodanige veranderinge sonder sodanige goedkeuring aangevrag, kan die Sekretaris, by skriftelike kennisgewing aan die houer, die registrasiesertifikaat intrek, en daarop is sodanige perseel nie meer as 'n fabriek ingevolge hierdie Ordonnansie geregistreer 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) verontagsaam, is skuldig aan 'n misdryf.

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

(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 Secretary may consider necessary for the purpose of enabling him to reach a decision. The proviso to sub-section (1) of section twaalf 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 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 waarvan die bouveranderings beoog is, ook die voorgeskrewe planne waarop die bouveranderings 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 aanvir die die beoogde maatreëls te tref en die beoogde bouveranderings aan te bring, of sonder wysigings 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 ver-eistes van 'n kennisgewing ingevolge sub-artikel (1) van hierdie artikel nagekom moet word, op versoek van die be-trokke houer, van tyd tot tyd verleng.

(3) As die houer op wie die Sekretaris ingevolge hierdie artikel 'n kennisgewing gedien het, versuim om binne die tyd-perk daarin vermeld, aan die vereistes van sodanige kennis-gewing te voldoen, kan die Sekretaris by verdere skriftelike kennisgewing aan 'n 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 geregisterde fabriek uitmaak, nie meer vir gebruik as 'n fabriek geskik is nie, en ook nie daartoe geskik is nie, kan hy vir 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 owerleging of 'n perseel ingevolge artikel *twawf*, *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 suil-tasie-gebreke voorkom, wat na die inspekteur meen, die fabriek maantlik 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 eienaar of houer van sodanige perseel aansê om binne 'n genoemde tydperk die oorlas te verwyder of die gebrek te herstel. As so iemand binne die vasgestelde tyd-behoorlik versuim om in elke opsig aan sodanige vereiste te vol-doen, is hy skuldig aan 'n misdryf.

17. (1) 'n Registrasiesertifikaat wat ingevolge sub-artikel (2) van artikel *dertien* uitgereik is, kan, met die goedkeuring van die Sekretaris, deur die houer van die betrokke fabriek oorgedra word aan iemand anders wat voornemens is om die houer te word.

(2) As die houer van 'n perseel wat as 'n fabriek geregis-treer is, ophou om 'n fabriek op daardie perseel te dryf, hou die perseel self, tensy die registrasiesertifikaat ingevolge sub-artikel (1) aan 'n ander houer oorgedra is, onmiddellik op artikel (1) aan 'n ander houer oorgedra, en moet die houer binne om 'n geregistreerde fabriek te wees, en moet die houer binne sewe dae nadat hy werksaamhede in so 'n fabriek gestank het, die Sekretaris skriftelik daarvan in kennis stel en die registra-siesertifikaat aan hom terugbesoort. Met dien verstande dat as 'n fabriekhouer sterf, sy ekskuteur, erfgenaam of legataris die sodanige fabriek hoogstens drie maande mag aanhou na die afsterwe van sodanige fabriekhouer, en vir 'n bykomende tydperk wat die Sekretaris skriftelik magtig.

(3) Elkeen wat die bepaling van sub-artikel (2) oortree, is skuldig aan 'n misdryf.

(4) By verrigtings in verband met 'n aanklag ingevolge hierdie artikel, word daar vermoed dat die betrokke persoon nie kennis gegee het nie, tensy die teendeel bewys word.

(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 the 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, falls 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.

17. (1) A registration certificate issued under sub-section (2) of section *thirteen* may with the approval of the Secretary be transferred by the occupier of the factory concerned to another person intending to be the occupier.

(2) Should the occupier of any premises registered as a factory cease to conduct a factory therein, the premises shall, unless the registration certificate has in terms of sub-section (1) been transferred to another occupier, forthwith cease to be a registered factory, and the occupier shall, within seven days of his ceasing to conduct such factory, notify the Secretary in writing thereof and return the registration certificate to him: Provided that in the event of the death of any person who is an occupier of a factory, his executor, heir or legatee may continue to occupy such factory for a period not exceeding three months after the death of such person and for any additional period authorized in writing by the Secretary.

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

(4) In any proceedings in connection with a charge under this section the person concerned shall be presumed not to have given notice unless the contrary is proved.

HOOFSTUK III.

WERKURE, VAKANSIEDAE EN DIENS IN FABRIEKE.

18. Geen beperking opgelê by paragraaf (c) of (d) van sub-artikel (1) of sub-artikel (2) van artikel *negentien* of by sub-artikel (4) van artikel *vier-en-twintig* het toepassing op 'n manlike werknemer nie, terwyl hy werk verrig wat genoodsaak is deur 'n defek aan die toerusting of masjinerie, of deur ander onvoorsiene noodtoestand, of in verband met die opknapping of herstel van toerusting of masjinerie, wat nie gedurende die gewone werkure verrig kan word nie.

19. (1) Buiten waar hierdie Ordonnansie andersins bepaal, mag geen werkgewer vereis of toelaat dat 'n werknemer —

- (a) meer as ses-en-veertig uur, maaltye uitgesluit, in een week werk nie;
- (b) meer as agt uur, maaltye uitgesluit, op een dag werk nie; Met dien verstande dat in 'n fabriek waarin
 - (i) 'n werknemer op een dag van die week hoogstens vyf uur werk, daar van hom vereis, of hy toegelaat kan word, om 'n bykomende tydperk van hoogstens 'n halfuur op elk van die oorblywende dae van die week te werk; of
 - (ii) 'n werknemer nie gewoonlik meer as vyf dae per week werk nie, daar van hom vereis kan word, of hy toegelaat kan word, om op elke werkdag 'n bykomende tydperk van hoogstens een en 'n kwart uur te werk; of
- (c) langer as vyf uur aanhoudend werk sonder 'n ononderbroke rustyd van minstens een uur nie; Met dien verstande dat by die toepassing van hierdie paragraaf werktydperke wat deur 'n pouse van minder as een uur onderbreek word, as aanhoudend beskou word; of
- (d) sonder die magtiging van die Sekretaris op 'n Sondag werk nie; of
- (e) wat aan die vroulike geslag behoort —
 - (i) tussen tien uur namiddag en sestuur voormiddag werk nie; of
 - (ii) na eenuur namiddag op meer as vyf dae in 'n week werk nie.

(2) Ondanks die bepalings van paragrawe (a) en (b) van sub-artikel (1), kan 'n werkgewer vereis of toelaat dat 'n werknemer in een week oortyd werk vir altesame hoogstens —

- (a) tien uur; of
- (b) 'n getal uur (wat meer as tien uur kan wees) wat die Sekretaris by skriftelike kennisgewing aan die werkgewer, vasstel, met verwysing na die bepaalde werknemer of klas werknemer waarop die kennisgewing van toepassing is en die voorwaardes waarop so 'n vaststelling geldig bly:

Met dien verstande dat geen werkgewer mag vereis of toelaat dat 'n vroulike werknemer —

- (a) meer as twee uur op 'n enkele dag oortyd werk nie;
- (b) op meer as drie agtereenvolgende dae oortyd werk nie;
- (c) op meer as sestig dae per jaar oortyd werk nie;
- (d) na voltooiing van haar gewone werkure meer as een uur lank op enige dag oortyd werk nie, tensy hy —
 - (i) aan sodanige werknemer voor die middag van daardie dag kennis daarvan gegee het; of
 - (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-artikels (1) en (2) omvat „werknemer” elke inwoner of leerling van 'n inrigting wat „fabriek” uitmaak, ten opsigte van die tydperk waarin sodanige inwoner of leerling besig is met werk verbonde aan 'n bedryfsgedien genoem in paragraaf (a) van sub-artikel (1) van artikel *drie*, waar die inrigting of enigiemand verbonde aan die inrigting betaling heggenaam 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 voorafverrekte 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 bedryfsgedien genoem in paragraaf (a) van sub-artikel (1) van artikel *drie* nie.

CHAPTER III.

HOURS OF WORK, HOLIDAYS AND EMPLOYMENT IN FACTORIES.

18. No restriction imposed by paragraph (c) or (d) of sub-section (1) or sub-section (2) of section *nineteen* or under sub-section (4) of section *twenty-four* shall apply to any male employee while employed on work necessitated by a breakdown of plant or machinery or other unforeseen emergency or in connection with the overhauling or repairing of plant or machinery which cannot be performed during ordinary working hours.

19. (1) Save as is otherwise provided in this Ordinance no employer shall require or permit an employee —

- (a) to work for more than forty-six hours, excluding meal times, in any one week;
- (b) to work for more than eight hours, excluding meal times, on any one day: Provided that in any factory in which —
 - (i) on one day in every week an employee's hours of work are not more than five, he may be required or permitted to work for an additional period not exceeding half-an-hour on each of the remaining days of the week; or
 - (ii) an employee does not ordinarily work on more than five days in the week, he may on any workday be required or permitted to work for an additional period not exceeding one and a quarter hours; or
- (c) to work for a continuous period of more than five hours without an uninterrupted interval of at least one hour: Provided that for the purposes of this paragraph periods of work interrupted by an interval of less than one hour shall be deemed to be continuous; or
- (d) without the authority of the Secretary to work on any Sunday; or
- (e) who is a female to work —
 - (i) between ten o'clock p.m. and six o'clock a.m.; or
 - (ii) after one o'clock p.m. on more than five days in any week.

(2) Notwithstanding the provisions of paragraphs (a) and (b) of sub-section (1), an employer may require or permit an employee to work overtime for a total period not exceeding in any one week —

- (a) ten hours; or
- (b) a number of hours (which may exceed ten) fixed by the Secretary by notice in writing to the employer, specifying the employee, or the class of employees in respect of whom the notice is applicable, and the period for which and the conditions under which it shall be valid:

Provided that no employer shall require or permit a female employee to work overtime —

- (a) for more than two hours on any day;
- (b) on more than three consecutive days;
- (c) on more than sixty days in any year;
- (d) after completion of her ordinary working hours for more than one hour on any day unless he has —
 - (i) given notice thereof to such employee before midday; or
 - (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 any activity 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) Afgesien van die tydperk waarin 'n werknemer inderdaad werk, word hy geag ook te werk —

(a) dwarsdeur 'n rusperiode in sy werksyd as —

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

(ii) die duur van so 'n rusperiode nie getoon word in die aantekeninge wat ingevolge artikel *neg* 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 geskep 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 werkeure vir die dag van die week waarop sodanige vakansiedag val, sy gewone werkeure vir daardie dag gewerk het.

(6) Elkeen wat 'n bepaling van hierdie artikel oortree of versium om daaraan te voldoen, is skuldig aan 'n misdryf.

20. (1) 'n Werkgever 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 òf —

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

(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 werkeure vir daardie dag van die week uitgedien het.

(3) (a) As 'n werknemer nie op Goede-Vrydag, Geloofedag, 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 werkeure vir daardie dag van die week uitgedien het.

(b) Wanneer ook al 'n werknemer op Goede-Vrydag, Geloofedag, 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 uiterlik op die eerste betaandag na die tydperk ten opsigte waarvan sodanige besoldiging moet geskied, aan die betrokke werknemer uitbetaal word.

(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 daardie datum, of oor die algehele duur van sy diens by die betrokke werkgewer, watter tydperk ook al die kortste is, te verdeel deur die getal ure wat hy in daardie tydperk gewerk het en ten opsigte waarvan sodanige loon betaal is.

(6) Elkeen wat 'n bepaling van hierdie artikel oortree of versium om daaraan te voldoen, is skuldig aan 'n misdryf.

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

(a) sodanige verlof tydperk nie mag saamval met 'n tydperk waarin die werknemer onder kennis van diensbeëindigende staan nie, of waarin hy vredeystydse 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

(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, Day of Covenant, 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, Day of Covenant, 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) 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 13 of 1912), as amended and as it may be amended from time to time and as applied to the Territory, and

- (b) as 'n openbare vakansiedag in sub-artikel (3) van artikel *twenty* 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 uitelk 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 voltooide 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, vredeslydse 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 dienstryd by die toepassing van sub-artikel (1) en (3): Met dien verstande dat —
- (i) die bepallings 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)) verslum om op versoek deur sy werkgewer 'n sertifikaat van 'n geneesheer by hom in te lever, 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 versorging 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 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 bepallings van sub-artikel (5) van artikel *twintig* is *mutatis mutandis* van toepassing.
- (6) In hierdie artikel omvat die uitdrukking „werkgewer“ —
- (a) by oorlyde van 'n werkgewer, die eksekuteur van sy boedel, of sy erfgenaam of legataris; en
- (b) by insolvenskap 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-
neem dat diens begin vanaf —
- (a) die datum waarop die werknemer in die werkgewer se 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 geword het op sodanige verlof uit hoofde van sodanige wet, water van hierdie datums ook al die jongste is.
- (8) Elkeen wat verslum om te voldoen aan die bepallings van hierdie artikel is skuldig aan 'n misdryf.
- (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 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 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 of absence on full pay, became entitled to such leave in terms of such law which ever 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) Die bepaling van artikels *negentien* en *twintig* geld nie vir 'n werknemer wie se werkeure gereël word deur 'n vasstelling, ooreenkoms, kennisgewing of toekennings wat gemaak is of verskyn het ingevolge die Ordonnansie op Lene se Nywerheidsversoening 1952 (Ordonnansie 35 van 1952), soos moontlik van tyd tot tyd gewysig kan word, of deur lingskapkontrak ingevolge die Vakleerlinge-Ordonnansie (Ordonnansie 12 van 1938) soos gewysig is en van tyd tot tyd gewysig kan word nie, as die Administrateur by kennisgewing in die *Offisiële Koerant* verklaar het dat die bepaling daarvan oor die algemeen minstens so gunstig vir die betrokke werknemers is as die betrokke bepaling van hierdie Ordonnansie.

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

23. (1) Geen vrou mag in 'n fabriek werk, 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 die geboorte sterf, die bepaling van hierdie sub-artikel opgehef word vanaf 'n datum wat die inspekteur vasstel.

(2) Elkeen wat 'n bepaling van hierdie artikel ootree of versium om daaraan te voldoen, is skuldig aan 'n misdryf.

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

(2) (a) As 'n inspekteur met rede vermoed dat 'n werknemer ly 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 ly aan 'n liggaamsgebrek of siekte van die aard genoem in paragraaf (a), kan die inspekteur by skriftelike kennisgewing aan die betrokke werknemer en sy werkgever —

(i) verbied dat sodanige werknemer na 'n genoemde datum, minstens sewe dae na die kennisgewingsdatum, en vir dié 'n onbepaalde of '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 inlewer, en sodanige sertifikaat na die mening van die inspekteur wesenlik verskil van dié verstrek deur genoemde geneesheer, die inspekteur by soortgelyke kennisgewing die werkgewer van harsenoemde kennisgewing moet opskort vir 'n tydperk wat hom in staat sal stel om die saak aan die Administrateur voor te lê, en die Administrateur kan, na oorleg met die Mediese Beampte, die ersgenoemde 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.

(c) Wanneer ook al die indiensneming van iemand ingevolge paragraaf (b) verbied is, en hy in stryd met sodanige verbod diens aanvaar in 'n ander fabriek as dié waarin hy ten tyde van die verbod gewerk het, kan 'n inspekteur 'n afskrif van die kennisgewing wat sodanige verbod bevat aan die betrokke werkgewer stuur, en daarop word daar aange-nem dat sodanige werkgewer die kennisgewing genoem in paragraaf (b) ontvang het.

(d) 'n Inspekteur kan enige verelste ingevolge paragraaf (a) of enige kennisgewing ingevolge paragraaf (b) intrek of wysig.

(3) Die Administrateur kan by kennisgewing in die *Offisiële Koerant* die indiensneming van 'n werknemer uit 'n klas wat in sodanige kennisgewing genoem is, in enige kamer of fabriek waarin daar 'n bedrywigheid plaasvind wat in die kennisgewing genoem word, verbied, as hy meen dat sodanige indiensneming gevaarlik vir die gesondheid of veiligheid van sodanige klas werknemer kan wees, en hy kan by soortgelyke kennisgewing sodanige kennisgewing intrek of wysig. By die bepaling van 'n klas werknemer ingevolge hierdie sub-artikel kan die Administrateur onderskeel op grond van ouderdom, geslag, ondervinding, opleiding of opvoeding,

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 35 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 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 employees 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 a 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.

(c) Whenever the employment of any person has been prohibited under paragraph (b), and that person, in contravention of such prohibition, accepts employment in a factory other than the one in which he was employed at the time of the prohibition, an inspector may forward a copy of the notice containing such prohibition to the employer concerned, who shall thereupon be deemed to have received the notice referred to in paragraph (b).

(d) An inspector may withdraw or amend any requirement under paragraph (a) or notice under paragraph (b).

(3) The Administrator may by notice in the *Gazette* prohibit the employment of any employee of a class specified in such notice, in any room or factory, in which there is carried on an activity specified in the notice, if in his opinion such employment would be dangerous to the health or safety of such class of employee and may by like notice cancel or amend any such notice. In specifying any class of employee under this sub-section the Administrator may differentiate on the ground of age, sex, experience, training or education,

(4) 'n Inspekteur kan van tyd tot tyd, by skriftelike kennisgewing 'n werkgewer verbied om 'n bepaalde werknemer of 'n bepaalde klas werknemer of enige van sy werknemers te verplig of toe te laat om binne 'n tydperk genoem in sodanige kennisgewing oortyd te werk, en hy kan 'n sodanige kennisgewing intrek of wysig.

(5) Elkeen wat die bepalings van sub-artikel (1) oortree, of wat iemand in diens hou, of verplig of toelaat om te werk of oortyd te werk in stryd met 'n verbod of kennisgewing ingevolge paragraaf (b) van sub-artikel (2), of sub-artikel (3) of (4), of wat versium om te voldoen aan 'n vereiste ingevolge paragraaf (a) van sub-artikel (2), of wat verbod aanvaar of werk op voorwaardes wat strydig is met 'n verbod ingevolge paragraaf (b) van sub-artikel (2), is skuldig aan 'n misdryf.

25. (1) Geen werkgewer mag vereis of toelaat dat 'n werknemer enige bedrywigheid in verband met die dryf van sy fabriek elders as by 'n fabriek uitvoer nie.

(2) Geen fabriekwerker mag enige bedrywigheid in verband met die dryf van die fabriek elders as by 'n fabriek uitvoer nie.

(3) Elkeen wat die bepalings van hierdie artikel oortree, is skuldig aan 'n misdryf.

26. Die bepalings van artikel *vyf-en-twintig* geld nie vir gedane of beoogde werk wat uiteraard nie by 'n fabriek gedoen kan word nie, nóg vir herstelwerk wat spoediger en geriefliker uitgevoer kan word ter plase waar die artikel wat herstel moet word, geleë is nie.

27. Die Administrateur kan by kennisgewing in die *Offisiële Koerant* enige bedrywigheid verklaar tot 'n bedrywigheid waarop die bepalings van artikel *agt-en-twintig* van toepassing is, en kan by soortgelyke kennisgewing so 'n kennisgewing intrek of wysig.

28. Geen werkgewer mag toelaat dat 'n werknemer 'n maaltyd gebruik in 'n kamer of op 'n plek waarin daar 'n bedrywigheid plaasvind waarop die Administrateur ingevolge artikel *sewe-en-twintig* by kennisgewing in die *Offisiële Koerant* die bepalings van hierdie artikel toegepas het nie, en niemand mag in so 'n kamer of plek 'n maaltyd gebruik nie. Elkeen wat die bepalings van hierdie artikel oortree, is skuldig aan 'n misdryf.

HOOFSTUK IV.

MASJINERIE EN ONGEVALLE.

29. In hierdie Hoofstuk, tensy die samehang anders aandui, beteken „inspekteur” 'n inspekteur wat die Administrateur ingevolge artikel *derdix* as sodanig aangewys het.

30. Alle masjinerie staan onder die toesig van inspekteurs wat die Administrateur aanwys om sodanige toesig onder sy leiding uit te oefen.

31. (1) Wanneer ook al —

(a) 'n werknemer in die loop van sy diens by 'n ongeval betrokke is; of

(b) daar 'n ongeval voorkom in 'n fabriek of op 'n perseel waar masjinerie gebruik word, of waar bou- of uitgrawingswerk gedoen word, en sodanige ongeval veroorsaak lewensverlies of beserings aan engeen dermate dat hy viertien dae of langer nie in staat is of moontlik 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 wat in 'n private huis plaasvind nie, as die huishouer sodanige ongeval sodra moontlik aanmeld by 'n lid van die Suid-Afrikaanse Polisie of by die plaaslike bestuur binne wie se reggebied die ongeval plaasgevind het. Elke lid van die Suid-Afrikaanse Polisie of by die plaaslike bestuur van sodanige plaaslike bestuur by wie 'n ongeval aangemeld word, moet 'n inspekteur sodra moontlik daarvan verwittig.

(3) Elkeen wat versium om te voldoen aan die bepalings van sub-artikel (1), is skuldig aan 'n misdryf.

(4) An inspector may, from time to time, by notice in writing, prohibit any employer from requiring or permitting a named employee or specified class of employee or any of his employees to work overtime during any period mentioned in such notice, and may withdraw or amend any such notice.

(5) Any person who contravenes the provisions of sub-section (1) or who employs or requires or permits any person to work or to work overtime in contravention of a prohibition or notice under paragraph (b) of sub-section (2), or sub-section (3) or (4), or who fails to comply with a requirement under paragraph (a) of sub-section (2) or who accepts employment or who works under any conditions in contravention of a prohibition under paragraph (b) of sub-section (2), shall be guilty of an offence.

25. (1) No employer shall require or permit an employee to perform any activity in connection with the business of his factory elsewhere than at a factory.

(2) No person employed in a factory shall perform activity in connection with the business of the factory elsewhere than at a factory.

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

26. The provisions of section *twenty-five* shall not apply whenever the work performed or to be performed could not from its very nature be performed at a factory or whenever the work is in the nature of repairs and can with greater expedition or convenience be performed where the article to be repaired is located.

27. The Administrator may by notice in the *Gazette* declare any activity to be an activity to which the provisions of section *twenty-eight* shall apply, and may by like notice cancel or amend any such notice.

28. No employer shall permit any employee to take a meal in a room or place in which any activity declared by the Administrator by notice in the *Gazette* in terms of section *twenty-seven* is carried on and no person shall take a meal in such room or place. Any person who contravenes the provisions of this section shall be guilty of an offence.

CHAPTER IV.

MACHINERY AND ACCIDENTS.

29. In this Chapter unless inconsistent with the context, "inspector" means an inspector who has been designated by the Administrator in terms of section *thirty*.

30. All machinery shall be subject to the supervision of inspectors designated by the Administrator to exercise such supervision under his direction.

31. (1) Whenever —

(a) any employee is involved in an accident in the course of his employment; or

(b) any accident occurs in a factory or on premises where machinery is used, or where building or excavation work is being performed,

and such accident causes loss of human life or injuries to any person to the extent that he is unable or likely to be unable 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, as the case 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 the 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) Wanneer ook al daar in of by 'n fabriek, of in verband met die bedrywigheid van 'n fabriek, of in verband met masjinerie of bou- of uitgrawingswerk —

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

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

(2) Alle getuïenis wat by so 'n ondersoek gelewer word, moet op skrif gestel word en deur die inspekteur aan die Administrateur tesame met sy verslag deurgelewer word, en by ongevallige wat lewensverlies of ernstige liggaams-beseering veroorsaak, moet die inspekteur 'n afskrif van die getuïenis en van sy verslag aan die Prokureur-generaal stuur.

(3) Die bepaling van hierdie artikel maak geen inbreuk op die bepaling van enige ander wet betreffende lykskoolings of geregtelike ondersoeke na doodsoorsake by sterfgevallen 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, bewaar 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 ter 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 opleë, en hy kan hom ondervra en eis dat hy enige boek, dokument of ding in sy besit, bewaring of beheer, voorleë.

(3) Wanneer ook al daar by 'n ondersoek getuïenis gelewer is, waaruit redelik afgelei kan word dat iemand 'n misdryf begaan het in verband met enige voorval binne die bestek van die ondersoek, of enigszins vir sodanige voorval verantwoordelike is, kan so iemand enigeen wat by die ondersoek getuïenis afleë onder kruisverhoor neem, en kan hy verelis getuïenis 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 enigemand anders aanstel om hom by so 'n ondersoek te verteenwoordig.

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

(5) (a) As enigeen wat behoortlik 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 misdryf.

(b) As lemand genoem in paragraaf (a) of lemand wat die inspekteur ingevolge sub-artikel (2) oproep het, versuim om aanwesig te bly totdat die inspekteur hom van verdere bywoning versoek het, of weler om hom as getuie te laat beduig, of versuim om alle wetlike vrae aan hom gestel, volledig 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 misdryf: Met dien verstande dat die regsreëls betreffende privilegie soos toegepaslik op lemand wat dagvaar is om getuie te lewer of die ondervraging of dokument of ander ding voor te lê, geld by die ondervraging van 'n sodanige getuie of die voorlegging van 'n sodanige boek, dokument of ding.

(6) Elke getuie wat na beduiding 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 ondervraging van 'n getuie deur 'n inspekteur moet in die openbaar geskied tensy die inspekteur andersins besluit: Met dien verstande dat so 'n ondersoek op versoek van die betrokke getuie in die privaat op goedgeundke en met die toestemming van die getuie die teenwoordigheid van enige bepaalde persoon by sodanige getuie se ondervraging kan magtig.

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 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) Aan elkeen wat gedagvaar word om voor 'n inspekteur te verskyn, kan, as die inspekteur oortuig is dat hy weens sy verskyning ingevolge die dagvaarding, geldelike verlies gely het of uitgaaf opgedoen het, uit staatsgelede 'n voorgeskrewe toelae, of die bedrag van sodanige verlies of uitgaaf, watter ook al die minste is, ultbetaal 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 misdryf; 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 bepallings van paragraaf (c) van artikel *sewe-en-dertig* 'n persoon of werkmán na gelang, met die voorgeskrewe kwalifikasies;

„kraan” 'n masjien, ligter, hystoestel, hyspaalparaat, 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 betimmering 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 geskikte steierwerk verskaf word.

(2) Geen boumeester mag vereis of toelaat dat steierwerk opgerig, afgehaal of wesenlik 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.

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

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

(a) dat geen steierwerk, kraan of stellasie-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 bevredigend is en dat daar aan die regulasies voldoen is;

(c) dat 'n genoemde persoon by die toepassing van artikels *vyf-en-dertig* en *sese-en-dertig* nie beskou mag word as 'n bewkame en verantwoordelike persoon of 'n bewkame werkmán nie.

(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 this 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, putlog, 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) 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) '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 *sewe-entertig* oortree of versuim om daaraan te voldoen, is skuldig aan 'n misdryf.

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 misdryf 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 ooglukkende 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, netsy wettig of onwettig van die soort wat te laste gelê word onder geen omstandighede binne die bestek, bevoegdheid of diensloop van die bestuurder, agent of werknemer geresorteer 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 skuldig bevind en getraaf word; en die feit dat hy opdrag gegee het wat enige daad of versuim van die betrokke aard verbied, is nie op sigself voldoende 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 misdryf sou wees as die houer, werkgewer, boumeester, uitgraver of gebruiker die daad of versuim gepleeg het, kan hy ten opsigte daarvan skuldig bevind en getraaf word asof hy die houer, werkgewer, boumeester, uitgraver of gebruiker is.

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

(4) Wanneer ook al die bestuurder, agent of werknemer van 'n werkgewer skuldig bevind word aan 'n misdryf 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 *mutatis mutandis* 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 (n) van sub-artikel (4) van artikel *drie* is voldoende 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 teendeel bewys word, 'n werknemer is.

(3) Wanneer daar by verrigtinge ingevolge hierdie Ordonnansie onvoldoende bewys gelever word om die ouderdom van iemand, word daar vermoed dat sy ouderdom dié is wat die inspekteur na sy oordeel vir die waarsynlike ouderdom aanneem, maar elke belanghebbende persoon wat nie met die inspekteur se meningsverklaring genoeë neem nie, kan die inspekteur se meningsverklaring laat verskyn en deur hom laat ondersoek, distriksgeneesheer laat verskyn en deur hom laat ondersoek, distriksgeneesheer se meningsverklaring en 'n sodanige distriksgeneesheer se meningsverklaring omdoen, saartekant om daardie persoon se waarsynlike ouderdom is, maar slegs vir die doel van daardie verrigtinge, afdoende bewys van daardie persoon se ouderdom.

(4) By verrigtinge ingevolge hierdie Ordonnansie is 'n verklaring of inskrywing in enige boek of dokument wat 'n fabriekhouer, werkgewer, boumeester, uitgraver of gebruiker van masjinerie, of sy bestuurder, agent of werknemer aanhou, of wat op die betrokke perseel bevind word, by getuigenis of levering teen hom toelaatbaar as 'n erkenning van die feite

(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 proved 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 (n) 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.

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

(4) In any proceedings under this Ordinance, any statement or entry contained in any book or document kept by the occupier of a factory, an employer, a builder, an excavator or a user of machinery or by his manager, agent or employee or found upon the premises concerned shall be admissible in evidence against him as an admission of the facts set

in daardie verklaring of inskrywing vervat, tensy daar bewys word dat die verklaring of inskrywing nie deur daardie houër, werkgewer, boumeester, uitgraver of gebruiker, of deur enige bestuurder, agent of werknemer van daardie houër, werkgewer, boumeester, uitgraver of gebruiker, in sy diensloop as bestuurder, agent of werknemer gemaak is nie.

(5) Wanneer ook al daar by verrigtinge ingevolge hierdie Ordonnansie bewys word dat daar 'n onware verklaring of inskrywing voorkom in enige aantekening wat deur enigiemand gehou word, word daar vermoed dat hy sodanige aantekening opsetlik vervals het, tensy die teendeel bewys word.

(6) Wanneer ook al enigen ingevolge artikel *twintig* of *con-en-twintig* daarvan beskuldig word dat hy nagelaat het om aan 'n werknemer 'n bedrag wat ingevolge daardie artikel verskuld is, uit te betaal, en daar bewys word dat die werknemer gedurende enige tydperk waarom die aanklag gaan, in die beskuldigde se diens was, en dat die beskuldigde ingevolge die bepaling van genoemde artikel aangesê is om aan die werknemer 'n bepaalde bedrag te betaal, word daar vermoed, totdat die teendeel bewys word, dat die beskuldigde daardie bedrag nie aan die werknemer betaal het nie.

(7) Wanneer ook al iemand ingevolge artikel *tien* daarvan beskuldig word dat hy 'n perseel as fabriek gehou of gebruik het sonder dat hy 'n registrasiesertifikaat of voorwaardelike fabriekpermit ten opsigte van die perseel het, en daar bewys word dat sodanige beskuldigde wel sodanige perseel as 'n fabriek gehou of gebruik het, word daar, tensy die teendeel bewys word, vermoed dat die beskuldigde nie 'n sodanige registrasiesertifikaat of voorwaardelike fabriekpermit gehou het nie.

(8) (a) By verrigtinge ingevolge hierdie Ordonnansie is 'n beëdigde verklaring wat na bewering deur 'n inspekteur gedoen is, en waarin daar verklaar word —

- (i) dat iemand die houër van 'n registrasiesertifikaat of voorwaardelike fabriekpermit uitgereik ten opsigte van 'n perseel ingevolge sub-artikel (2) of (3) van artikel *dertien* is, of nie is nie; of
- (ii) dat iemand 'n fabriekhouër of 'n gebruiker van masjinerie is of was; of
- (iii) dat 'n vrystelling of magtiging om af te wyk, van 'n bepaling van hierdie Ordonnansie aan enigen ingevolge die bepaling van hierdie Ordonnansie verleen is, of nie verleen is nie, of dat so 'n vrystelling of magtiging ingetrek is; of
- (iv) dat 'n inspekteur ingevolge sub-artikel (2) of (4) van artikel *vier-en-twintig* by skriftelike kennisgewing die indiensneming van enigiemand verbied het, of 'n werkgewer gelas het om nie te verëis of toe te laat dat 'n werknemer of 'n klas werknemer soos in die kennisgewing genoem, oortyd werk nie; of
- (v) dat 'n inspekteur 'n lasgewing ingevolge artikel *sewe-en-dertig* uitgereik het,

by blote voorlegging deur iemand in die loop van daardie verrigtinge, maar behoudens die bepaling van paragraf (b) bewys *prima facie* van die feite daarin vervat.

(b) Die amptenaar wat voorsit by verrigtinge waarby so 'n beëdigde verklaring as bewysstuk voorgelê word, kan die inspekteur laat dagaar om mondelike getuënis by sodanige verrigtinge te kom lewer, of kan skriftelike vrae aan hom laat voorlê ter beantwoording, en sodanige vrae en moontlike beëdigde antwoorde daarop, wat voorgee van die inspekteur te wees, is desgevolg toelaatbaar as bewysstukke by sodanige verrigtinge.

(9) 'n Sertifikaat wat deur die Administrateur onderteken is en waarin die voorwaardes van sy beslissing in hoër beroep ingevolge artikel *twee-en-veertig* uiteengesit word, is by blote voorlegging deur iemand afdoende bewys van sodanige beslissing.

(10) Wanneer ook al enigen 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 mede-werknemers, op grond van sy vermoede of oortuiging van die bestaan van 'n felt 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 sy nadelig strek vergeleke met sy mede-werknemers, word daar vermoed, tensy die teendeel bewys word, dat die beskuldigde dit gedoen het op grond van die vermoede of oortuiging van in die aanklag genoem is.

forth in that statement or entry, unless it is proved that the statement or entry was not made by that occupier, employer, builder, excavator or user or by any manager, agent or employee of that occupier, employer, builder, excavator or user in the course of his work as manager or in the course of his agency or employment.

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

(6) Whenever any person is charged under section *twenty* or *twenty-one* with having failed to pay an employee any amount due under the said section and it is proved that the employee was employed by the accused during any period covered by the charge and that under the provisions of the said section the accused was required to pay to that employee a certain amount, the accused shall be presumed, until the contrary is proved, not to have paid that amount to that person.

(7) Whenever any person is charged under section *ten* with having occupied or used premises as a factory without being the holder of a registration certificate or provisional factory permit in respect of such premises and it is proved that the accused did occupy or use such premises as a factory, then unless the contrary is proved, it shall be presumed that the accused did not hold such a registration certificate or provisional factory permit.

(8) (a) In any proceedings under this Ordinance, an affidavit purporting to be made by an inspector in which it is stated —

- (i) that any person is or is not the holder of a registration certificate or provisional factory permit issued in respect of any premises under sub-section (2) or (3) of section *thirteen*; or
- (ii) that any person is or was the occupier of a factory or the user of machinery; or
- (iii) that any exemption or authorization to depart from any provision of this Ordinance has or has not been granted to any person in accordance with the provisions of this Ordinance, or has been withdrawn; or
- (iv) that an inspector has, in terms of sub-section (2) or (4) of section *twenty-four* by notice in writing prohibited the employment of any person or directed any employer not to require or permit any employee or any class of employee specified in such notice to work overtime; or
- (v) that an inspector has made an order under section *thirty-seven*,

shall, on its mere production in those proceedings by any person, but subject to the provisions of paragraph (b), be *prima facie* proof of the facts stated therein.

(b) The officer presiding over the proceedings at which any such affidavit is adduced in evidence may cause the inspector to be summoned to give oral evidence in the proceedings in question or may cause written interrogatories to be submitted to him for reply and such interrogatories and any reply on oath thereto purporting to be a reply from the inspector, shall in like manner be admissible as evidence in such proceedings.

(9) A certificate signed by the Administrator setting out the terms of any decision giving by him on appeal in terms of section *forty-two* shall on its mere production by any person be conclusive proof of such decision.

(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 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) Elkeen wat hom veronreg voel deur enige ver-
eise of beslissing van —

(i) die Sekretaris ingevolge sub-artikel (1) van artikel
tuualf, sub-artikel (2), (3), (4) of (5) van artikel
dertien, artikel *veertien*, sub-artikel (1) of (2) van
artikel *seventien*, paragraaf (a) van sub-artikel (1),
of van paragraaf (b) van sub-artikel (2), of paragraaf (b)
of van sub-artikel (3) van artikel *negenien*, of enige
regulansië; of

(ii) 'n Inspekteur ingevolge sub-artikel (4) van artikel
vier-en-twintig, artikel *seuen-dertig* of enige regulasie,
kan binne een-en-twintig dae na sodanige vereiste of besliss-
ing, 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 Ordonnansië, 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 afdoen.

43. 'n Kennisgewing aan iemand ingevolge hierdie Or-
donnansië kan aan hom persoonlik afgelower word of per
aangetekende pos aan hom persoonlik of aan sy gewone
sakenaar by sy sake-adres of woonhuis gerig word.

44. (1) Geen werkgewer mag enige uit sy diens ont-
staan, 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 ver-
geleke met sy mede-werknemers, op grond van sy vermoede
of oortuiging (hetsy die vermoede of oortuiging geregtig
of juis is al dan nie) dat daardie werknemer inligting verstre-
k het wat ingevolge hierdie Ordonnansië 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 getuënis gelewer het by verrigtinge ingevolge
hierdie Ordonnansië.

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

(a) die wergewer 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 veranderende aangebring is; en

(b) die wergewer 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 be-
sodigende ten die skaal waarvolgens by ten tyde van sy
ontslag besoldig is.

(3) Elke sodanige hofbevel het die uitwerking van, en
kan ten uitvoer gemaak word asof dit, 'n siviele 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 „wergewer“ en „werknemer“ nie beperk tot
persone wat aan 'n fabriek verbonde is nie.

45. (1) Geen ooreenkoms, uitdruklik of stilswygend,
buiten 'n ooreenkoms genoem in artikel *twee-en-twintig*,
hetsy voor of na die inwerkingtrede van hierdie Ordon-
nansië aangegaan, mag by uitvoering veroorloof dat 'n werk-
nemer behandeling ontvang of daar voerde aan hom toe-
geken word, wat minder gunstig is as die behandelings en
voordele wat hierdie Ordonnansië voorskryf nie, nog bewerk-
stellig dit die afstand deur 'n werknemer van die toepassing
op hom van enige bepaling van hierdie Ordonnansië nie.
'n Elkeen wat 'n ooreenkoms aangaan wat voorgee om so 'n
toepassing, of toekenning te veroorloof of so 'n afstand te
bewerkstellig, is skuldig aan 'n misdryf, en elke sodanige
ooreenkoms is nielig.

(2) Elke wergewer wat vereis of toelaat dat 'n werk-
nemer enige besoldiging of toelae wat aan sodanige werk-
nemer ten opsigte van oortydse werk verskuldig of betaal is,
of enige bedrag wat aan so 'n werknemer ten opsigte van of
van artikel *vyftig* verskuldig of betaal is, aan hom betaal
(7) van artikel *vyftig* verskuldig of betaal is, aan hom betaal
of terugbetaal, of wat enige daad verrig of laat verrig wat
reëls of onregstreeks veroorsaak dat daardie werknemer
die voordeel of gedeelte van die voordeel van enige besoldiging,
toelae of ander bedrag so verskuldig of betaal onttrem word,
is skuldig aan 'n misdryf.

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 para-
graph (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 Adminis-
trator's decision shall be deemed to be the decision of the Secre-
tary or the Inspector, given on the date on which the Admin-
istrator 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 evi-
dence 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 posi-
tion 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 ac-
cording 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 Ad-
ministration 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 pers-
ons connected with a factory.

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 of-
fence 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 pay-
able 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) Elke werkgewer, boumeester, uitgraver, fabriekhouer of gebruiker van masjinerie wat ingevoelge 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 misdryf.

(2) Elke werkgewer wat 'n werknemer se besoldiging verminder, of iets daarvan aftrek om rede sodanige werknemer se werke verminder of sy diensvoorwaardes verbeter is ingevoelge 'n bepaling van hierdie Ordonnansie, is skuldig aan 'n misdryf.

(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 ingevoelge 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 ingevoelge die bepalings van hierdie Ordonnansie verskaf word ter gebruik deur 'n werknemer wat met enige proses besig is, moet hy 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 sie 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 misdryf.

(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 ingevoelge 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 misdryf na bewering gepleeg is, aan te gee, mits alle ander wesenlike 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 firma- of sakenaam genoem word.

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

(2) Elkeen wat skuldig bevind word aan 'n misdryf ingevoelge die bepalings van hierdie Ordonnansie, waarvoor daar geen bepaalde straf voorgeskryf is nie, is strafbaar met 'n boete van hoogstens eenhonderd pond of met gevangenisstraf vir hoogstens een jaar of met beide sodanige boete en gevangenisstraf.

50. (1) Wanneer ook al 'n werkgewer daarvan skuldig bevind word dat hy die bepalings van sub-artikel (1), (2), of (3) van artikel twintig, of sub-artikel (1), (2) of (3) van artikel een-en-twintig oortree het of dat hy versuim het om daaraan te voldoen, 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 getuens, hetsy voor of na skuldigebevinding gelewer, nie in staat is om daardie verskil presies vas te stel nie, hy dit na die beste vermoë moet beraam. As daar geen bedrag betaal is nie, moet die bedrag wat die werkgewer sou betaal het as hy nie oortree of versuim het nie, by die toepassing van hierdie artikel, as die verskil beskou word. Die verskil aldus vasgestel, of die bedrag aldus beraam, heet in hierdie artikel die tekort.

(2) Die verrigtinge van die hof ingevoelge 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 oortreding of versuim genoem in sub-artikel (1), is dit geen verweer om te bewys dat die oortreding of versuim waarvan die beskuldigde aangekla word, aan middegebrek te wyte was nie.

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

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) 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) Die hof kan te eniger tyd, op aansoek deur die verperk waarbinne sodanige bedrag aan die genoemde beampte betaal moet word, verleng, of die paalente 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 desgevolg 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 oortreding of versium plaasgevind het, as regverdig beskou, maar wat minstens 'n kwart moet wees van die bedrag wat ingevolge die hofbevel aan die genoemde beampte betaal is, aan die werknemer ten opsigte van wie die oortreding of versium gepleeg is, uitbetaal moet word.

(8) Sodanige deel van die bedrag aldus aan die genoemde beampte 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 —

- (a) die maatreëls wat getref moet word om die sindelikhed, veiligheid en gesondheidsbehouding, met inbegrip van sanitasie, belugting en verligting, in of by fabriekke en op of by persele waar masjinerie gebruik word, of bouwerk of uitgrawingswerk gedoen word, te verseker; en die pligte van fabriekhouders, gebruikers van masjinerie, boomeesters, uitgrawers, werkgewers en werknemers in verband daarmee;
- (b) die huisvesting en geriewe wat fabriekhouders in fabriekke moet verskaf vir werknemers solank hulle daar werk, rus of eet;
- (c) die kleding, veiligheidsstelle en beskermingsapparaat wat werkgewers, boomeesters, uitgrawers, fabriekhouders, en gebruikers van masjinerie moet verskaf aan werknemers wat bepaalde artikels in die loop van hul werk hanteer, of wat in bepaalde bedryfghede en op bepaalde voorwaardes werk;
- (d) die noodhulp-toerusting wat fabriekhouders, masjineriegebruikers, boomeesters en uitgrawers moet verskaf; en die indiensneming van persone wat bepaalde kwalifikasies vir noodhulp besit;
- (e) die maatreëls wat die elenaars van geboue wat gebou word as, of bestem is vir gebruik as fabriekke 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 verseker;
- (f) die mediese ondersoek van persone, waar so 'n ondersoek ingevolge die bepalings van hierdie Ordonnansie vereis word;
- (g) die verbod op die indiensneming van enigen jonger as 'n bepaalde ouderdom (maar nie jonger as vyftien jaar nie) by 'n bepaalde bedryfghede of klas van bedryfghede, hetsy dit in 'n fabriek of elders geveer word;
- (h) werktoestande van werknemers in enige fabriek waar spesiale voorsiening na die mening van die Administrateur nodig is ter beskerming van die liggaamlike, sedelike of maatskaplike welsyn van sodanige werknemers;
- (i) die state, statistiek, inligting en verslae wat ingevolge die bepalings van hierdie Ordonnansie verskaf moet word betreffende fabriekke, masjinerie, bouwerk, uitgrawingswerk en werknemers, en die tye waarop en die wyse waarin en die persone deur wie dit verskaf moet word, en die aantekeninge wat gehou moet word;
- (j) die wyse waarop inspektors ingevolge artikel *derd*ig toesig oor die gebruik van masjinerie moet hou;
- (k) die voorwaardes waarop masjinerie opererig, ingerig, gedryf en gebruik moet word, en die pligte, verantwoordelikhede en kwalifikasies van die gebruiker of beheerder of oprigter of inrigter van sodanige masjinerie;
- (l) apêlle teen die vereistes, besluite of opdragte van die Sekretariss van 'n inspekteur;
- (m) die anmelding van ongevalle ingevolge artikel *een-**derd*ig, 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 inspekteur of ondersoek van besonder- ingede en planne van geboue en bou-veranderinge ingevolge hierdie Ordonnansie, en die voorwaardes verbonde aan die toekenning van lisensies;
- (o) die kwalifikasies wat degene wat voorgeskrewe klasse werk in verband met masjinerie verrig, moet hou;

(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 —

- (a) 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;
- (b) the accommodation facilities and conveniences to be provided in factories by occupiers for employees while they are working, resting or eating therein;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) the medical examination of persons, where such examination is required under the provisions of this Ordinance;
- (g) 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) 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) die voorwaardes wat die bou, oprigting, verbouing of sloop of verwydering van stelerwerk of krane beheer;
- (q) die voorwaardes wat die gebruik van stelerwerk, stelasië-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 stuur en onderskraging daarvan;
- (s) ten opsigte van bouwerk —

- (i) die voorsorgmaatreëls wat boumeesters of werknemers moet tref om te verhoed dat persone besoer 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 werksman by die toepassing van artikels *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 by nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Ordonnansie te bereik.

(2) Enige regulasies wat ingevoel sub-artikel (1) afgekondig word, kan strawwe bepaal vir enige oortreding daarvan of versuim om daaraan te voldoen, maar hoogstens die strawwe wat by sub-artikel (2) van artikel *nege-en-veertig* voorgeskryf is.

(3) Ingevoel 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, werkers, 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 ingevoel paragrawe (b) en (h) van sub-artikel (1).

(4) Die Administrateur kan in enige kennisgewing waarby regulasies ingevoel 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 ingevoel 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.

(6) Elkeen op wie 'n regulasie genoem in sub-artikel (4) bindend is, is wat die bepaling van sodanige regulasie oortree of versuim om daaraan te voldoen, is, hetsy die Sekretaris al so iemand ingevoel artikel *veertien* 'n vereiste gestel het al dan nie, skuldig aan 'n misdryf.

52. Ondanks andersluidende wetsbepalings het 'n magistratshof regsbevoegdheid en enige straf wat hierdie Ordonnansie voorskryf, op te lê, of enige hofbevel waarvoor hierdie Ordonnansie voorsiening maak, uit te vaardig.

53. (1) Ondanks andersluidende bepalinge 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 beperkinge soos hy goed vind, 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* en sub-artikels (2), (3) en (4) van artikel *negentien*, artikel *twintig*, *een-en-twintig*, *vier-en-twintig*, *vyf-en-twintig*, *dertig*, *cen-en-dertig*, *vyf-en-dertig*, *ses-en-dertig* of *sese-en-dertig*, of van enige regulasies. 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 by raadsaam ag, toepas.

- (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 sub-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) 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 from 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-sections (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) 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 verlofbrief onderteken deur 'n voorgeskrewe amptenaar, of in die algemeen, of met sodanige beperkings soos hy op 'n tydsperk 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 bepalings van paragraaf (c) van sub-artikel (1) van artikel *negenentien* word ingevolge hierdie artikel aan, of ten opsigte van, 'n vroulike werknemer wat handewerk doen, verleen nie, buiten vir die doel van werksaamhede —

(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 onderhevig is.

(5) Die Administrateur kan van tyd tot tyd op skrif onder sy hand en onderhewig aan die voorwaardes wat hy goed vind, 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 goedgekeurde 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, oortree of versuim om daaraan te voldoen, is skuldig aan 'n misdryf.

54. Hierdie Ordonnansie verbind die Stant buiten ten opsigte van die bedrywigheede 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.

(2) The Administrator may by 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*.

No. 35 van 1952.]

ORDONNANSIE

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

(Goedgekeur 8 Julie 1952.)

(Engelse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Goewerneur-generaal dermate sodanige toestemming nodig is, vooral verkreeë deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepalings van artikel *ses-en-twintig* van die „Zuidwest Afrika Konvulsie Wet 1925“ (Wet 42 van 1925); soos gewysig by artikel *sestig* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika 1949 (Wet 23 van 1949) van die Parlement van die Unie van Suid-Afrika, VERORDEN:—

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

Hoofstuk I: Loonvaststelling (artikels *drie* tot *negenentien*).

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

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

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

No. 35 of 1952.]

ORDINANCE

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

(Assented to 8th July, 1952.)

(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General in so far as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section *twenty-six* of the South West Africa Constitution Act, 1925 (Act 42 of 1925), as amended by section *sixteen* of the South-West Africa Affairs Amendment Act, 1949 (Act 23 of 1949), of the Parliament of the Union of South Africa:—

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

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

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

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

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

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

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

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

(5) 'n Loonvaststelling ingevolge Hoofstuk I geld nicmand —

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

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

HOOFSTUK I. LOONVASTSTELLINGS.

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

(2) Met die oog op enige bepaalde ondersoek kan die Administrateur, by oortuiging dat die werkgewers of die werknemers in die betrokke bedryf wel in werkgewers-organisasies en vakverenigings georganiseer is wat die betrokke belange voldoende verteenwoordig, en — as beide sodanige werkgewers-organisasies en sodanige vakverenigings aldis georganiseer is — na beraad met beide sodanige werkgewers-organisasies en sodanige vakverenigings, of — as slegs sodanige werkgewers-organisasies of slegs sodanige vakverenigings aldis georganiseer is — na beraad met die werkgewers-organisasies of die vakverenigings van aldis georganiseer is, twee bykomende raadslede, wat onderskeidelik die werkgewers en die werknemers se belange verteenwoordig, aansel teen sodanige besoldiging en op sodanige ander voorwaardes soos hy goed vind.

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

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

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

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

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

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

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

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

(b) to any apprentices to whom the Apprenticeship Ordinance, 1938 (Ordinance 12 of 1938), as amended, applies.

CHAPTER I. WAGE DETERMINATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) die minimale tarief van —
 - (i) die besoldiging, en enige vermindering of vermeerdering daarvan onder gegewe faktore of omstandighede, en ooreenkomstig maontlik voorgeskrewe stelsels of reëls; en
 - (ii) enige bykomende besoldiging (hetsy konstant of wisselend as waarde-persentasie van die basiese besoldiging, of andersins wisselend en bepaalbaar onder gegewe omstandighede en faktore, en ooreenkomstig maontlik voorgeskrewe stelsels of reëls; of deels konstant en deels sodanig wisselend) weens 'n werklike of waarskynlike lewensduurte-styging;
- wat 'n werkgever aan sy werknemers, of 'n klas werknemers, moet betaal of toeken;
- (b) boekhouding deur 'n lid van 'n bepaalde klas werknemers van sodanige besonderhede soos die aanbeveling voorskryf;
- (c) die minimale skaal waarteen 'n werkgever 'n werknemer of 'n lid van 'n bepaalde klas werknemers om die heurt na afloop van bepaalde tydperke of met bepaalde tussenposes, moet besoldig, of waarteen 'n werkgever 'n werknemer of enige klas werknemers volgens sy of hulle ondervinding of 'n ander maatstaf moet besoldig;
- (d) kortings van 'n werkgever van sy werknemerslone mag aftrek, bo en behalwe sodanige maontlike kortings soos 'n bevoegde hof beveel of soos die wet vereis of veroorloof;
- (e) die stelsel waarvolgens minimale loonskale bereken word;
- (f) die weksdag of dag van die maand, die datum, tyd, plek en die prosedure van betaling of vergoeding, die betaalstate wat die werkgever betreffende betaling aan die werknemer moet besorg, die soort omslag wat die besoldiging moet inhou, die inligting wat buite op die omslag of op 'n staat wat die besoldiging vergesel, geskryf moet staan, en oor die algemeen, enige ander bepaling betreffende die besoldigings-prosedure;
- (g) die besoldiging deur die werkgever van 'n werknemer wat korter of langer stukwerk verrig het, onverskillig hoeveel, vir die tydperk daarvan: Met dien verstande dat sodanige besoldiging niks minder mag bedra as wat die betrokke werknemer sou verdien het as hy vir daardie tydperk 'n tydwerker was nie;
- (h) die instandhouding deur 'n werkgever van stukwerk-registers, en die vorm van sodanige registers;
- (i) die verbod van reëling van die opdrag van stukwerk of dagwerk aan 'n werknemer en sy verrigting daarvan;
- (j) die verbod op die verrigting van werk op persele en plekke van 'n aangewese aard of soort, of wat met 'n aangewese doel gebruik word, of van werk wat elders as op sodanige persele of sodanige plekke geskied;
- (k) die maksimale getal werknemers van enige klas wat 'n werkgever in diens kan neem in verhouding tot die getal werknemers van enige ander klas, of met die totaal aan werknemers in sy diens;
- (l) die verbod op regstreekse of onregstreekse betaling aan, of die aanname van enige betaling deur, 'n werkgever weens die indiensneming of opleiding van 'n werknemer;
- (m) kennisgewings wat deur werkgevers vertoon moet word;
- (n) die verbod op werkgewing aan enigiemand jonger as 'n aangewese ouderdom;
- (o) die skaal, die grondslag of die beginsels waarvolgens betaling moet geskied vir kontrakwerk wat 'n prinsipaal of kontrakteur uigee, of daardie prinsipaal of kontrakteur self 'n werkgever in die betrokke bedryf of bedryfdeel is of daaraan deelneem al dan nie;

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

- (a) the minimum rate of—
 - (i) the remuneration, and any increase or reduction thereof effected by reference to any specified factors or circumstances, and in accordance with any prescribed methods or rules; and
 - (ii) any additional remuneration (whether fixed, or variable as a percentage of the value of the main remuneration or otherwise variable and determinable by reference to any specified factors or circumstances and in accordance with any prescribed methods or rules, or partly fixed and partly variable as aforesaid) in respect of any increase or probable increase in the cost of living,
- which any employer shall pay or grant to each of his employees or to each member of any class of his employees;
- (b) the keeping by a member of a specified class of employees, of a record containing such particulars as may be prescribed in the recommendation;
- (c) the minimum rate at which remuneration shall be paid by any employer to each employee or to each member of any class of employees successively on the expiration of specified periods or intervals, or which shall be paid to any employee or any member of any class of employees according to experience or any other standard;
- (d) deductions which may be made by an employer from any remuneration payable to any of his employees in addition to deductions which by any law or any order of any competent court he is required or permitted to make;
- (e) the method of calculating minimum rates of remuneration;
- (f) the day of the week or month, date, time, place and manner of payment or remuneration, the statements to be furnished by the employer to the employee concerning the payment, the container in which the money to be paid shall be contained, and the information to be written upon the container, or in a statement accompanying the payment, and, generally, any other provisions as to the manner of payment;
- (g) the payment by an employer to an employee, who has performed during any period piece-work (irrespective of the amount thereof) of a remuneration for the piece-work performed by that employee during that period, which shall be not less than the remuneration which would have been payable to the said employee had he been employed as a time-worker during that period;
- (h) the maintenance by an employer of records of work performed by a piece-worker, and the form of such records;
- (i) the prohibition or the regulation of the giving out to, or the performance by, an employee of piece-work or taskwork;
- (j) the prohibition of the performance of work on premises or at places of a specified description or type or used for a specified purpose, or elsewhere than on such premises or at such places;
- (k) the maximum number of employees of any class who may be employed by an employer in proportion to the number of employees of any other class, or to the total number of employees employed by him;
- (l) the prohibition of any payment to or the acceptance of any payment by an employer, either directly or indirectly, in respect of the employment or training of any employee;
- (m) notices to be exhibited by employers;
- (n) the prohibition of the employment of any person under a specified age;
- (o) where any work is given out on contract to any person by a principal or contractor, whether or not that principal or contractor is himself an employer in or is engaged in the trade or section of trade concerned, the rates at which, the basis of or the principles upon which, payment shall be made to that person for the work;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) 'n Getuie wat na beëdiging opsetlik 'n valse antwoord gee op 'n vraag wat 'n raadslid aan hom stel, of wat opsetlik 'n valse verklaring af lê, word gehou vir skuldig aan meeneed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Die Raad kan na goeदनुके tussentydse verslac uitbring.

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

14. (1) Elke raadslid of -beampte of bykomende lid wat enige inligting betreffende enige persoon, firma of sakeonderneming, tydens die uitoefening van sy magte of pligte ingevolge hierdie Ordonnansie verkree, aan 'n ander buite die Administrateur of die Raad, of 'n raadslid of beampte, of 'n bykomende lid, of 'n gereghof bekend maak, is skuldig aan 'n misdryf, tensy die uitvoering van die bepalings van hierdie Ordonnansie hom tot so 'n bekendmaking verplig.

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

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

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

(b) binne sewe dae na die verskyning van die kennisgewing waaroor paragraaf (a) gaan, 'n verwysing in gewing van meer nuusblante laat drak waarby die aandag van alle belanghebbendes op die kennisgewing gevestig word.

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

(3) Die Raad moet elke beswaar oorweeg wat ingevolge sub-artikel (2) aan hom gerig is, en moet daartoor verslag doen by die Administrateur. In so 'n verslag kan die Raad hom by sy oorspronklike aanbeveling hou, kan hy wysigings daarin aanbring waartoe 'n beswaar of kan hy wysigings daarin aanbring waartoe 'n beswaar of ander oorweging hom sins insiens noop.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Waar die Raad ingevolge sub-artikel (5) 'n wysiging van 'n vastelling by die Administrateur aanbeveel het, kan die Administrateur, as hy dit doenlik ag, ooreenkomstig die bepalings van artikel vyftien en van sub-artikel (1) van artikel *sestien*, optree as sou die bepalings oor vastellings, oor wysigings van vastellings koerant, en kan hy daarna by kennisgewing in die *Offisiële Koerant* die betrokke vastelling wysig ooreenkomstig die Raad se aanbeveling.

(8) 'n Wysiging van 'n vastelling uit hoofde van sub-artikel (1) of (7) tree in werking op 'n datum wat die Administrateur in die wysigingskennisgewing in die *Offisiële Koerant* bepaal.

18. Waar die Administrateur dit wenslik ag, kan hy na oorleg met die Raad by kennisgewing in die *Offisiële Koerant*, oor 'n tydperk of vanaf 'n datum en betreffende 'n streek wat in die kennisgewing staan, van tyd tot tyd een of meer of al die bepalings van 'n vastelling opskort of intrek: Met dien verstande dat die bepalings van 'n vastelling nie opgeskort of ingetrek word sodat die bepalings van 'n ooreenkoms, kennisgewing of toekening (soos dié wat paragraaf (a) van sub-artikel (5) van artikel *twee* noem) in die plek daarvan bindend word nie, tensy die Administrateur oortuig is dat die bepalings van die ooreenkoms, kennisgewing of toekening as geheel genome vir die gros van die betrokke werknemers minstens so voordelig sal wees as die bepalings van die vastelling: Met dien verstande voorts dat, uitgesonderd die doel genoem in die eerste voorbeeld van hierdie artikel, die Administrateur aan die werkgewers en -nemers wat deur die vastelling verbind word, die geleentheid moet gee om hul sieniswyses oor die opskorting of intrekking aan hom voor te lê, voordat hy die vastelling by kennisgewing afkondig.

19. (1) Die Administrateur kan te eniger tyd wanneer die omstandighede dit syns insiens regverdig, die toepassingsgebied van 'n vastelling, of van een of meer of al sy bepalings, uitbrei tot 'n streek waar die bepaling (-s) nog nie geld nie, middels 'n kennisgewing wat verwys na die kennisgewing (ingevolge sub-artikel (2) van artikel *sestien*) waarin die oorspronklike vastelling bekendgemaak is, wat verklaar dat hy al of party van die genoemde bepalings in daardie streek wil toepas, en wat aandui watter bepalings daarvan na voorneme in die betrokke streek in werking gestel gaan word, tesame met 'n uitnodiging aan belanghebbendes om binne dertig dae vanaf die bekendmaking skriftelike vertoë aan die Administrateur by 'n beampte in te lewer by 'n adres wat die kennisgewing aangee.

(2) Binne sewe dae na die bekendmaking van die kennisgewing waarvoor sub-artikel (1) gaan, vestig die Administrateur in een of meer koerante die amdig van alle belanghebbendes op hierdie kennisgewing.

(3) Nadat die Administrateur die vertoë in antwoord op die uitnodiging ingevolge sub-artikel (1) ooreweeg het en met die Raad oorleg gepleeg het, kan hy by kennisgewing in die *Offisiële Koerant* afkondig dat die bepalings van 'n vastelling geheel of deels, soos hy aandui, in die betrokke streek in werking tree vanaf 'n datum wat hy in die kennisgewing aangee, en vanaf daardie datum is al die bepalings, of die aangeduide bepalings, na gelang in daardie streek bindend.

(7) If the board has under sub-section (5) recommended to the Administrator an amendment of a determination the Administrator may, if he deems it expedient to do so, act in accordance with the provisions of section *fifteen* and of sub-section (1) of section *sixteen* as if the reference in those provisions to a determination were a reference to an amendment of a determination, and he may thereafter by notice in the *Gazette* amend the determination in question in accordance with the board's recommendation.

(8) Any amendment of a determination made under sub-section (1) or (7) shall take effect on a date fixed by the Administrator in the notice in the *Gazette* whereby the amendment is made.

18. The Administrator may, if he deems it expedient, and after consultation with the board, by notice in the *Gazette*, and as from a date or for a period and in respect of any area specified in that notice, cancel or suspend from time to time one, or more, or all of the provisions of a determination: Provided that the provisions of any determination shall not be cancelled or suspended with a view to the provisions of an agreement, notice or award (such as is referred to in paragraph (a) of sub-section (5) of section *two*), being made binding in place thereof unless the Administrator is satisfied that the provisions of the agreement, notice or award taking them as a whole, are not less favourable to the general body of the employees to whom it is proposed to apply such provisions, than are the provisions of the determination; and provided, further, that except for the purpose referred to in the first proviso to this section the Administrator shall, before publishing any such notice, give to the employers and employees bound by the determination an opportunity of setting forth their views, in regard to any such proposed cancellation or suspension.

19. (1) The Administrator may, if at any time circumstances exist which in his opinion make it advisable that all or one or more of the provisions of a determination should be operative in any area in which they are not already operative, cause to be published in the *Gazette*, a notice referring to the notice under which, in terms of sub-section (2) of section *sixteen*, the said provisions were published, and stating that he proposes to put all or certain of the said provisions into operation in that area, and indicating which of the said provisions he proposes so to put into operation, and defining that area, and inviting interested persons to submit in writing to an officer at an address stated in the notice any representations they may wish to make to the Administrator, within thirty days of the date of the publication of the notice.

(2) The Administrator shall cause to be published in one or more newspapers, within seven days after the publication of a notice in terms of sub-section (1), a statement directing the attention of all concerned to that notice.

(3) After consideration of representations (if any) made to the Administrator in response to the invitation published in terms of sub-section (1), and after consultation with the board the Administrator may cause to be published in the *Gazette* a notice declaring that as from a date to be specified in that notice all of the provisions of the determination or such provisions thereof as he may indicate in the notice shall be binding in that area; and all the provisions or the indicated provisions, as the case may be, shall as from that date be binding in that area.

CHAPTER II.

SETTLEMENT OF INDUSTRIAL DISPUTES.

20. (1) Every trade union or employers' organization which is established after the commencement of this Ordinance shall, within three months from the date on which it is established, apply to the Secretary, in the form prescribed by regulation, for registration, and transmit to him three copies of its constitution, duly authenticated by signature of the chairman and secretary, and shall also furnish him with any further information which he may require.

HOOFSTUK II. DIE SKIKKING VAN NYWERHEIDSGESKILLE.

20. (1) Elke vakvereniging of werkgewersorganisasie wat na die inwerkingtreding van hierdie Ordonnansie gestig is, moet binne drie maande vanaf sy stigtingsdatum by word, moet binne drie maande vanaf die kennisgewing van die *Offisiële Koerant* afkondig dat die bepalings van 'n vastelling geheel of deels, soos hy aandui, in die betrokke streek in werking tree vanaf 'n datum wat hy in die kennisgewing aangee, en vanaf daardie datum is al die bepalings, of die aangeduide bepalings, na gelang in daardie streek bindend.

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

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

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

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

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

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

21. Elke vakvereniging of werkgewersorganisasie wat ingevolge hierdie Ordonnansie geregistreer word, is 'n regspersoon wat regtens kan eis en verweer, en wat (behoudens die wetsverbodende en -beperkings op die verkryging of besit van grond) verke soos en soerende eienendoms kan koop of andersins verkry, besit en verweer.

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

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

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

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

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

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

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

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

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

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

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

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

(4) Die bepaling van sub-artikels (3) en (4) van artikel *twintig* geld *mutatis mutandis* elke voorgestelde wysiging uit hoofde van hierdie artikel wat die streek of die belange van die vakvereniging of werkgewersorganisasie sou uitbrei.

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

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

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

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

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

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

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

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

(a) the qualifications of membership, and the manner in which the amounts of the subscriptions (if any) to be paid by members shall be determined;

(b) the appointment, removal and powers of office-bearers and officials;

(c) the calling and conduct of meetings of members or of representatives of members of the union or organization;

(d) the election of representatives on any conciliation board;

(e) the acquisition and control of property;

(f) the keeping of books of account and the periodical auditing of books and accounts at least once every calendar year, and the making available to members of true copies of the audited accounts and of the auditor's reports thereon;

(g) the maintenance of a register of members and a record of the subscriptions (if any) paid by each member, and the periods to which these payments relate;

(h) the circumstances under which a member shall cease to be entitled to any of the benefits of membership;

(i) the alteration of the constitution;

(j) the winding-up of the union or organization; and

(k) such other matters as are prescribed by regulation;

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

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

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

(a) die kwalifikasies van lidmaatskap en die wyse waarop die bedrae van maontlike ledelgede vastgestel word;

(b) die aanstelling, afdanking en bevoegdhe van ampsdraers en amptenare;

(c) die belegging en leiding van vergaderings van die vakvereniging of werkgewersorganisasie se lede of lede-verteenwoordigers;

(d) die verkiesing van verteenwoordigers in 'n versoenningsraad;

(e) eiendomsverkryging en -beheer;

(f) die boekhouding en die periodieke ouditering van rekenings minstens een keer per kalenderjaar; en die beskikbaarstelling van gewaarmerkte afskrifte van goeuditeerde rekenings en ouditeursverslae daaroor aan lede;

(g) die byhouding van lederegisters en 'n opgaaf van elke lid se (maontlike) ledelgedebetaling, en die tydperke waarvoor sodanige betalings gaan;

(h) die omstandighede waaronder 'n lid die voordele van sy lidmaatskap verbeur;

(i) die wysiging van die grondwet;

(j) die likwidering van die vakvereniging of werkgewersorganisasie; en

(k) sodanige ander aangeleenthede soos daar by regulasie voorgeskryf word;

en kan bepaal aan watter doeleindes sy geldmiddelle bestee moet word, en die voordele waarop sy lede geregtig kan word, en die boetes, aanslae en verbuuringe waarvoor hulle aanspreeklik is, en kan voorsiening maak vir die instelling van 'n nitvoerende komitee, en ander komitees, en vir geheime stemming en, in so 'n geval, watter stemprosedure gevolg en watter beheer daaroor nitoewoen moet word, en kan bowendien met sy grondwet elke ander saak reël waarvoor, na die Sekretaris moen, 'n vakvereniging of

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

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

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

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

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

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

(4) Die voorbehoud van artikel vyf-en-twintig geld *mutatis mutandis* elke wysiging wat ingevolge sub-artikel (2) voorgelê word.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29. (1) As die Sekretaris te eniger tyd rede het om te vermoed dat 'n vakvereniging of werkgewersorganisasie of eenigen van sy ampsdraers of amptenare die bepalings van die grondwet verontagsaam, of andersins onwettig optree, en as hy die vakvereniging of werkgewersorganisasie op die onregmatigheid gewys het, maar binne 'n deure hoër aangegeve tydperk geen bevredigende antwoord ontvang het nie, kan die Sekretaris ondersoek instel na die wyse waarop daardie vakvereniging of werkgewersorganisasie of sy ampsdraers of amptenare sy of hul pligte en bevoegdhede ingevolge hierdie Ordonnansie of die betrokke grondwet uitoefen, of kan die Sekretaris 'n beempte (in hierdie artikel heet hy die genagtigde) aanstel om sodanige ondersoek waar te neem.

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

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

(4) As enigeemand 'n behoortlike dagvaarding ingevolge sub-artikel (2) verontagsaam, deurdat by sonder vlekdoende rede teen die bepaalde tyd van die bepaalde plekdoende reëls van die ondersoek nie bywoon totdat die Sekretaris weghy of die ondersoek nie bywoon totdat die Sekretaris of sy genagtigde hom verskoon het nie, of as enigeemand of sy genagtigde hom verskoon het nie, of as enigeemand of sy genagtigde sub-artikel (3) gedagvaar is, weier om as wat ingevolge sub-artikel (3) gedagvaar is, verstuim getuie ingesweer te word, of sonder voldoende rede verstuim om regmatig gestelde vrae volledig en bevredigend en met 'n hele kennis en oortuiging te beantwoord, of om 'n boek, geskrif of ding wat hy besit, bewaar of beheer, in te lewer, is hy skuldig aan 'n misdryf: Met dien verstande dat die regsreëls op priviledge betreffende getuieswering dat die inlewering van 'n boek, geskrif of ding by 'n geregsdof, van toepassing is op die ondervraging van so iemand deur, of die inlewering van so 'n boek, geskrif of ding aan, die Sekretaris of sy genagtigde.

(5) Elke getuie wat na beëdiging opsetlik 'n vals antwoord gee op 'n vraag wat die Sekretaris of sy genagtigde aan hom stel, of wat opsetlik 'n vals verklaring ingetree het, word gehou vir skuldig aan misdryf.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30. Dermate die grondwetlike bepalings van 'n geregistreerde vakvereniging of werkgewersorganisasie betreffende die ontbinding van sodanige vakvereniging of werkgewersorganisasie, ontoereikend is, kan die Sekretaris na goeëvnde stappe doen ter nakoming van die laste en ter likwidering van die bates.

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

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

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

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

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

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

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

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

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

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

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

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

organisasie toenmalig nie gelikweder was nie, of dat dit wel as vakvereniging of werkgewersorganisasie opgetree het, of dat die skraping andersins onregverdig sou wees; en die Hooggeregshof kan die syns insiens regverdig bevels en beskikkings doen, sodat die vakvereniging of werkgewersorganisasie en elke ander betrokke so na moontlik herstel word asof die skraping nooit plaasgevind het nie.

(4) Word die registrasie van 'n vakvereniging of werkgewersorganisasie ingevolge hierdie artikel geskrap, dan verloor sodanige vakvereniging of werkgewersorganisasie sy regspersoonlikheid: Met dien verstande dat die moontlike verpligtinge van elkeen wat met die likwidering van so 'n vakvereniging of werkgewersorganisasie belas is, en van elke ampsdraers, amptenaar en lid daarvan, voortbestaan, en dat hulle ewe aanspreeklik by asof die registrasie van die vakvereniging of werkgewersorganisasie nie geskrap is nie.

(5) 'n Brief of kennisgewing uit hoofde van hierdie artikel moet aan 'n vakvereniging of werkgewersorganisasie by sy jongste bekende hoofkantoor gerig word.

(6) Die huidige of laasgewese sekretaris van 'n vakvereniging of werkgewersorganisasie waarvan die registrasie ingevolge hierdie artikel geskrap is, moet binne veertien dae na die Sekretaris se versoek daartoe sy vakvereniging of werkgewersorganisasie se registrasiesertifikaat aan die Sekretaris inlewer.

32. Elke vakvereniging of werkgewersorganisasie, of elke sekretaris van 'n vakvereniging of werkgewersorganisasie of elkeen op wie sub-artikel (6) van artikel een-en-dertig dui, wat die bepalings van sub-artikel (1) van artikel twintig, sub-artikel (2) van artikel ses-en-twintig, artikel sewen-en-twintig, artikel agt-en-twintig of sub-artikel (6) van artikel een-en-dertig sonder redelike verskoning oortree, of by voldoening daarvan versuim, of 'n daaruitvloeiende versoek weier, is aan 'n misdryf skuldig.

33. (1) Wanneer daar in enige bedryf in enige streek 'n geskil ontstaan tussen eenersyds —

- (a) een of meer geregistreerde vakverenigings; of
- (b) een of meer werknemers; of
- (c) een of meer geregistreerde vakverenigings plus een of meer werknemers (hierna heet hulle werknemers met verteenwoordiging in die versoeningsraad) en andersyds —
- (d) een of meer geregistreerde werkgewersorganisasies; of
- (e) een of meer werkgewers; of
- (f) een of meer geregistreerde werkgewersorganisasies plus een of meer werkgewers (hierna heet hulle werkgewers met verteenwoordiging in die versoeningsraad) —

kan die een of ander geskilvoerende kant, op so 'n wyse soos moontlik by regulasie voorgeskryf word by die Administrateur aansoek doen om die instelling van 'n versoeningsraad in die streek wat die aansoek meld ter oorsoeningsraad in die geskil tussen die werknemers en werkgewers met verteenwoordiging in die versoeningsraad. Is die Administrateur dan ooruig dat daar wel 'n geskil bestaan en dat die aansoeker die betrokke werknemers of werkgewers, 'n gelang, voldoende verteenwoordig, kan hy die instelling van 'n versoeningsraad vir die betrokke streek goedkeur, en die nodige stappe daartoe doen: Met dien verstande dat daar geen versoeningsraad ingestel word nie waar —

- (i) die geskil oor die beëindiging van 'n enkele werknemer se diens gaan, of waar dit andersins 'n enkele werknemer betref (buiten 'n werknemer wat die artikel soort taak verrig waaroor sub-artikel (1) van artikel vier-en-veertig gaan), tensy daar, na die Administrateur meen, 'n beginsel op die spel is; of
- (ii) die geskil die uitleg of vertolking van enige bepaling van hierdie Ordonnansie, of van enige vasstelling, ooreenkoms, kennisgewing of toekenningsstelling, tref wat ingevolge hierdie Ordonnansie bindend is, of wat enige ander regspunt raak.

registrasie of die union or organization be set aside, set aside that cancellation; and the court may give such directions and make such provisions as seem just for placing the union or organization and all other persons in the same position, as nearly as may be, as if the registration of the union or organization had not been cancelled.

(4) Upon the cancellation of the registration of any trade union or employers' organization under this section, that union or organization shall cease to be a body corporate: Provided that the liability (if any) of every person charged with the winding-up of a union or organization and every office-bearer, official and member of the union or organization shall continue and may be enforced as if the registration of the union or organization had not been cancelled.

(5) A letter or notice under this section shall be addressed to the union or organization at its last known head office.

(6) The person who holds or last held the office of secretary of a union or organization, the registration of which has been cancelled under this section, shall within fourteen days of demand by the Secretary transmit to him the certificate of registration issued to the union or organization.

32. Any trade union or employers' organization which, or any secretary of a trade union or employers' organization or person referred to in sub-section (6) of section thirty-one who, contravenes without reasonable excuse, or fails to comply with any of the provisions of, or any request made under sub-section (1) of section twenty, sub-section (2) of section twenty-six, section twenty-seven, section twenty-eight or sub-section (6) of section thirty-one, shall be guilty of an offence.

33. (1) Whenever a dispute exists in any trade in any area between—

- (a) one or more registered trade unions; or
- (b) one or more employees; or
- (c) one or more registered trade unions and one or more employees, on the one hand (hereinafter referred to as the employers represented on the conciliation board), and
- (d) one or more registered employers' organization; or
- (e) one or more employers; or
- (f) one or more registered employers' organizations and one or more employers,

on the other hand (hereinafter referred to as the employers represented on the conciliation board), application in such form as may be prescribed by regulation may be made (by any party or parties involved in the dispute within the area stated in the application to the Administrator) for the establishment of a conciliation board for the consideration and determination of that dispute between the employees and the employers represented on the conciliation board, and the Administrator shall, if he is satisfied that the dispute does exist and if he deems the applicant to be sufficiently representative of the said employees or employers (as the case may be), involved in the dispute, approve of the establishment of such a board for such area and take the necessary steps thereto: Provided that no conciliation board shall be established—

- (i) if the dispute is in regard to the termination of the employment of, or is otherwise connected with, an individual employee (other than an employee engaged upon a service such as is referred to in sub-section (1) of section forty-four) unless, in the opinion of the Administrator, a matter of principle is involved; or
- (ii) if the dispute is in connection with the interpretation of any provision of this Ordinance or of any determination, agreement, notice or award which is binding under this Ordinance, or with any other question of law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Vir elke werkgewersverteenwoordiger wat nie by 'n vergadering is nie, en namens wie daar geen alternatiewe verteenwoordiger ingevolge sub-artikel (8) optree nie, moet een werknemersverteenwoordiger by sodanige vergadering buite stemming bly; en die aanwesige werknemersverteenwoordigers besluit deur 'n meerderheidstem wie van hulle aldus buite stemming moet bly en by staking van stemme moet die saak deur loting beslis word.

(10) Is 'n werknemersverteenwoordiger nie by 'n vergadering nie, en tree geen alternatiewe verteenwoordiger ingevolge sub-artikel (8) namens hom op nie, dan geld die bepalings van sub-artikel (9) *mutatis mutandis*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38. (1) By die uitvoering van sy werksaamhede besit 'n versoeningsraad al die bevoegdhede wat die Sekretaris ingevolge artikel *neg-en-twintig* besit, buiten dié wat sub-artikels (1), (7) en (9) noem, en die bepaling van artikel *neg-en-twintig* geld *mutatis mutandis* die uitoefening van sodanige bevoegdhede deur 'n versoeningsraad, behoudens die bepaling van hierdie artikel.

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

(3) By die bedigting van 'n getuie word die eed aan hom opgelê deur die voorsittende by die raadsvergadering.

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

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

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

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

- of die raad die geskil geskik het, en indien wel, die beclinge van die skikking;
- of die raad verlang dat 'n ooreenkoms tussen die kontraktante ingevolge artikel *ses-en-voertig* bindend verklaar moet word, en indien wel, op watter werknemers, werkgewers, vakverenigings, en werkgewers-organisasies, en betreffende watter deel van die streek waaroor die raad ingestel is, die ooreenkoms bindend verklaar moet word;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Die onkoste van bemiddeling (insluitende bemiddelaarsgedeltes) wat die Sekretaris voor of na die uitgawe goedgekeur, word uit staatsgedeltes bestry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Ter ampsvervulling het die arbiter of die arbiters en die eindbesliser, na gelang, al die bevoegdheid wat artikel *agt-en-dertig* aan 'n versoeningsraad verleen, en waar die bepaling van artikel *negen-en-twintig* ingevolge artikel *agt-en-dertig* geld, geld hulle *mutatis mutandis* ook die ampsvervulling van 'n arbiter of van die arbiters en die eindbesliser, na gelang.

(11) Elke geskillovoerende het die reg —

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

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

(12) Die bepaling van hierdie artikel geld elke saak wat aan arbitrasie voorgelê word nadat die raad die geskil daarvoor nie kon skik nie, of, na die raad besluit, die hele geskil waarvoor die raad ingestel is.

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

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

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

(3) As 'n raad binne veertien dae na die tydperk en moontlike verlengings in sub-artikel (1) genoem, (of waar hy binne so 'n tydperk of moontlike verlengings die gevolg trek dat verdere bespreking geen skikking van die geskil sal meebring nie, dan tien dae na so 'n gevolg-trekking) nog nie besluit het of die geskil aan 'n enkele arbiter, dan of dit aan 'n ewe getal arbiters voorgelê moet word nie, of nog nie besluit het hoeveel arbiters aangestel moet word nie, dan besluit die Administrateur of daar 'n enkele arbiter of meer arbiters (en so ja, hoe-

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

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

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

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

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

(12) The provisions of this section shall apply to the reference to arbitration of any matter which has been the subject of a dispute which the board has not succeeded in settling, or the whole of the dispute for which the board was established if the board so decides.

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

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

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

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

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

(4) Die bepalinge van sub-artikels (3), (4), (5), (6), (8), (9), (10), (11) en (12) van artikel *drie-en-veertig* geld *mutatis mutandis* arbitrasie en aanstellings uit hoofde van hierdie artikel.

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

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

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

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

46. (1) Wanneer 'n versoeningsraad 'n afskrif van 'n ooreenkoms soos die waaroor sub-artikel (2) van artikel *vier-en-derdig* gaan, aan die Administrateur besorg met 'n versoek dat hy dit bindend moet verklaar op die kontraktante en op die werknemer- en werkgeversdele van die deelneemende vakverenigings of werkgeversorganisasies, kan die nennende vakverenigings of werkgeversorganisasies, kan die Administrateur na goedgeinde by kennisgewing in die *Offisiele Koeraant* verklaar dat al die bepalinge van die ooreenkoms wat in die kennisgewing staan, vanaf 'n datum en eieniks wat in die kennisgewing staan, die kontraktante en die oor 'n tydperk wat hy vasstel, die kontraktante en die maontlik deelneemende vakverenigings en werkgeversorganisasies bind.

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

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

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

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

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

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

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

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

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

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

- (a) 'n verklaring doen soos dié wat sub-artikel (1) noem; en
- (b) 'n bykomende verklaring doen dat al die bepalinge van die ooreenkoms, of die bepalinge daarvan wat hy moontlik aanwys, sodanige ander werkgewers en werknemers verbind soos hierdie artikel aandui.

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

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

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

(6) In sub-artikel (5) van hierdie artikel en in artikels *nege-en-veertig* tot en met *vyl-en-vyftig*, *sewen-en-vyftig*, *nege-en-vyftig*, *sestig*, *twéé-en-sestig*, *drie-en-sestig*, *ses-en-sestig* en *agt-en-sestig* word enige verwysing, heitsy uitdruklik of stilswyend, na 'n werknemer gelou vir 'n verwysing na elkeen op wie enige bepalinge van 'n ooreenkoms ingevolge sub-artikel (3) van hierdie artikel toegepas is, en elke verwysing na 'n ooreenkoms word gelou vir 'n verwysing na enige aldus toegepaste bepalinge.

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

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

- (a) make a declaration such as is referred to in sub-section (1); and
- (b) make a further declaration that all the provisions of the agreement, or such provisions as are specified by him, shall be binding upon such other employers and employees as are referred to in this sub-section.

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

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

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

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

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

werknemers uit sodanige klasse in hul diens het, en dan geld die bepalingis hiervan *mutatis mutandis* die declinemers aan 'n versoek wat uit hoofde van sub-artikel (4) geskied.

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

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

(3) Die bepalingis van artikel *ses-en-veertig*, uitgesonderd sub-artikel (1), paragraaf (a) van sub-artikel (2) en sub-artikel (4) daarvan, geld *mutatis mutandis* elke sodanige toekening.

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

HOOFSTUK III. ADMINISTRATIEF EN ALGEMEEN.

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

(a) die bestaande diensvoorwaardes van die persone of klas persone wat deur so 'n ooreenkoms, toekening of vaststelling geraak word, gesamentlik wenslik minstens so gunstig vir hulle is as die diensvoorwaardes wat daardie ooreenkoms, toekening of vaststelling voorskryf; of dat

(b) enigen aan 'n liggaamsgebrek soos gevorderde jare, kroniese siekte of swakheid ly, en dus slegs deel van 'n gesonde se werk kan doen; of dat

(c) daar besondere omstandighede heers wat om die bewil van 'n bepaalde persoon sy vrystelling van die werking van hierdie artikel regverdig, sodanige kan die Administrateur, as hy dit wenslik ag, sodanige persoen of persone of sodanige klasse persone vrystel van die werking van enige of al die toepasselike bedinge van so 'n ooreenkoms, toekening, of vaststelling middels 'n sertifikaat waarop die vrystellingsvoorwaardes — duur vermeld staan, en wat 'n beempte onderteken.

(2) Die Administrateur kan van tyd tot tyd en na goeivinde by geskrif onder sy hand met of sonder aanwysings oor die toepassing daarvan die bevoegdhede van sub-artikel (1) hom verleen, aan enige beempte oordra, en kan so 'n bevoegdhedsoordrag intrek.

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

(4) Die Administrateur kan te eniger tyd na goeivinde 'n vrystelling intrek, en 'n beempte aan wie bevoegdhede ingevolge sub-artikel (2) oorgedra is, kan te eniger tyd 'n vrystelling wat by verleen het, intrek, of enige ander beempte aan wie sodanige bevoegdhede verleen is, kan dit intrek.

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

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

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

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

48. For the purposes of this Chapter— "employee" means any person employed by, or working for any employer, and receiving, or being entitled to receive, any remuneration, and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer but does not include a native; and "employed" and "employment" have corresponding meanings; and "native" means a member of any aboriginal race or tribe of Africa.

CHAPTER III.

ADMINISTRATIVE AND GENERAL.

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

(a) the existing conditions of employment of any persons or class of persons to whom such agreement, award or determination applies are taken collectively substantially not less favourable to them than the conditions of employment prescribed by that agreement, award or determination; or

(b) any person suffers from physical disability such as old age, or chronic sickness or infirmity, and is capable of doing only part of the work required of an able-bodied person; or

(c) special circumstances exist which justify, in the interests of any person, an exemption of that person under this section,

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

(2) The Administrator may, in his discretion, from time to time by writing under his hand and with or without direction as to its exercise delegate the powers conferred upon him by sub-section (1), to any officer, and withdraw any such delegation.

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

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

50. (1) Elkeen wat enige bepaling van enige vasstelling, ooreenkoms, kennisgewing, toekennings- of vrystellings-sertifikaat wat hom ingevolge hierdie Ordonnansie verbind, oortrede of versuim om daaraan te voldoen, is skuldig aan 'n misdryf.

(2) Was die veroordeelde 'n werkgewer, en het die misdryf bestaan uit 'n oortreding van, of versuim om te voldoen aan enige bepaling van enige sodanige vasstelling, ooreenkoms, kennisgewing, toekennings- of vrystellings-sertifikaat aangaande —

- (a) 'n aangelentheid genoem in paragraaf (a), (c) of (g) van sub-artikel (1) van artikel *nege*, of aangelegte betaling vir oortydse werk of etes, of betaling vir, of ter vervanging van, afwesighedsverlof of ter vervanging van 'n kennisgewing van diens-beëindiging, of die betaling op die betaaldag van 'n werknemer se volle besoldiging, of die besoldiging wat 'n werknemer luidens 'n vrystellings-sertifikaat toekom; of

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

dan moet die vonnisvellende hof ingaan op, en die verskil vasstel tussen, die bedrag wat hy betaal het en die bedrag wat hy sou betaal het as die oortreding of versuim waaraan hy skuldig bevind is, nie gepleeg was nie; en, by 'n oortreding of versuim waarop paragraaf (a) dui, moet die hof nagaan of die betrokke werknemer ingestem het, al dan nie, om minder besoldiging te aanvaar as wat hom toekom luidens die bepalings van die betrokke vasstelling, ooreenkoms, kennisgewing, toekennings- of vrystellings-sertifikaat, en of, as hy wel daartoe ingestem het, hy gewet het van sy regte luidens die betrokke bepalings, en, as hy wel gewet het, die omstandighede van sy toestemming: Met dien verstande dat waar die hof uit al die getuïens, gelewer voor of na die skuldige bevinding, die verskil nie noukeurig kan uitmaak nie, hy dit na beste vermoë moet sê. As daar geen betaling geskied het nie, word die bedrag wat betaal sou gewes het as daar geen oortreding of versuim gepleeg was nie, wat hierdie artikel betref, gehou vir die verskil. Die verskil wat aldus vasgestel of geskat word, heet hierin, en in artikels *een-en-veertig* en *drie-en-veertig*, die *torkort*.

(3) Wanneer die hof kragtens sub-artikel (2) optree, moet hy die werkgewer geleentheid gee om getuïens te lewer oor die torkort en die omstandighede daarvan, en as die misdryf bestaan uit 'n oortreding of versuim waarop paragraaf (a) van daardie sub-artikel dui, dan moet die hof die betrokke werknemer 'n soortgelyke geleentheid gee.

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

(5) Waar die misdryf uit 'n oortreding of versuim bestaan het waarop sub-artikel (2) dui, en die torkort groter is as die maksimale boete ingevolge artikel *veertien-en-sewentig*, dan moet die maksimale boete waaraan die veroordeelde ingevolge daardie artikel onderhevig is, verhoog word tot op 'n bedrag gelyk aan die torkort.

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

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

(2) Wanneer die veroordeelde daaraan aansoek doen, en gebronde redes daartoe aanvoer, kan die hof te eniger tyd die afbetalings-tydperk verleng of die paaiementsbedrag wysig betreffende so 'n bedrag wat aan die aangewese beampte betaal moet word.

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

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

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

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

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

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

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

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

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

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

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

(3) 'n Hofbevel wat kragsens hierdie artikel geskied, het altesins die uitwerking van 'n burgerregtelike hofuitspraak ten gunste van die Administrasie, en kan desgeliks ten uitvoer gelê word.

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

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

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

- (a) as die hof bevind dat die betrokke werknemer nie ingestem het om minder te ontvang as die minimale besoldiging waarop hy luidens die bepaling van die onderhawige vasstelling, ooreenkoms, kennisgewing, toekennings of vrystelling-sertifikaat reg het nie, of, waar hy dit wel aanvaar het, dat hy dit aanvaar het onderwys van sy regte ingevolge daardie bepaling, die hof moet beveel dat die hele bedrag wat aan die aangewese beampte betaal moet word, aan daardie werknemer oorgedra moet word;
- (b) as die hof, gesien die omstandighede van die oortreding of versuim, dit billik ag, by kan beveel dat geen deel van die bedrag wat aan die aangewese beampte betaal moet word, aan die betrokke werknemer oorgedra moet word nie, uitgesonderd egter die omstandighede waarop paragraaf (a) dui;
- (c) as die hof beveel dat 'n deel van die bedrag wat aldus aan die aangewese beampte betaal moet word, aan die betrokke werknemer oorgedra moet word, daardie deel minstens een kwart moet bedra.

- (a) if the court finds that the employee concerned did not agree to accept less than the minimum remuneration which under the provisions of the relative determination, agreement, notice, award or licence he was entitled to receive, or that if he did so agree, he so agreed not knowing of his rights under those provisions, the court shall direct that the whole of the amount so paid to the specified officer shall be paid to that employee;
- (b) if the court, having regard to the circumstances under which the contravention or failure occurred, deems it equitable to do so, it may, except in the circumstances referred to in paragraph (a), direct that no portion of the amount so paid to the specified officer shall be paid to the employee concerned;
- (c) if the court directs that any portion of the amount so paid to the specified officer shall be paid to the employee concerned, that portion shall not be less than one-fourth thereof.

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

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

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

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

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

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

(2) Behoudens die bepaling van sub-artikel (3) tans niks in artikel vyftig, een-en-veftig of twee-en-veftig of in sub-artikel (1) van hierdie artikel 'n werknemer so moontlik reg aan om, met 'n siviele geding teen sy werkgewer —

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

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

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

(b) enige bedrag wat sy werkgever hom moet betaal weens die bepaling van 'n vasstelling, ooreenkoms, kennisgewing, toekenning of vrystellingsertifikaat, of weens 'n onderlinge ooreenkoms, te verlaai nie, waar nóg sy werkgever, nóg die bestuurder, agent of werknemer van sy werkgever aldus skuldig bevind is nie.

(3) 'n Werknemer aan wie sy werkgever nie die volle besoldiging betaal het nie, waartoe die werkgever weens 'n vasstelling, ooreenkoms, kennisgewing, toekenning of vrystellingsertifikaat ingevolge hierdie Ordonnansie verbonde is of was, het geen reg om met 'n siviele geding die tekort of 'n deel daarvan van sy werkgever te verlaai nie, tensy—

(a) die werknemer 'n sertifikaat by die hof inlewer wat die Prokureur-generaal onderteken het, en waarin die Prokureur-generaal verklaar dat hy geen vervolging betreffende die oortreding of versuim waarop die werknemer sy disoorsak wil grond, gaan instel nie; of

(b) die werkgever of sy bestuurder, agent of werknemer vrygespreek is van 'n aanklag wat uit daardie oortreding of versuim voortvloei.

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

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

(3) 'n Werkgever wat vereis of toelaat dat 'n werknemer met 'n kwitansie, of andersins die skyn verk dat hy meer besoldiging ontvang het as wat hy wêl ontvang het, is skuldig aan 'n misdryf.

(4) Die bepaling van hierdie artikel geld *mutatis mutandis* ten opsigte van elke bepaling van elke vasstelling, ooreenkoms, kennisgewing of toekenning betreffende enige van die sake waarop paragraaf (a) van sub-artikel (1) van artikel nege dui, en ten opsigte van elke prinsipaal of kontraktant of enigemand anders wat daardie bepaling ingevolge hierdie Ordonnansie verbind, of verbind het.

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

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

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

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

(a) the employee produces to the court a certificate signed by the Attorney-General stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base the cause of action; or

(b) the employer or the manager, agent or employee of the employer has been acquitted on a charge of that contravention or failure.

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

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

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

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

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

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

- (b) daardie werknemer 'n taak waarop sub-artikels (2) en (3) van artikel vier-en-veertig dui, geweier of versuim het; of dat
- (c) daardie werknemer lid is of was van 'n vak- of ander werknemersvereniging wat werknemersbelange teenoor werkgewers wil of wou bestendig of bevorder; of dat daardie werknemer buite sy gewone werkyd (of, met die werkgewer se toestemming, daarbinne) deelneem of deelgeneem het aan die stigting of die regmatige bedrywighede van so 'n vak- of ander vereniging;

al sou die vermoede of oortuiging juis of gegrond wees, is skuldig aan 'n misdryf, en is by skuldigbevinding onderhewig aan 'n boete van hoogstens driehonderd pond of aan gevangenisstraf van hoogstens twee jaar, of aan sodanige gevangenisstraf sonder die keuse van 'n boete, of aan beide sodanige boete en sodanige gevangenisstraf.

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

56. (1) Met inagneming van die Staatsdienswette kan die Administrateur enigeemand as inspekteur ingevolgt hierdie Ordonnansie aansel.

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

57. (1) Enige inspekteur kan to eniger tyd sonder voorafgaande kennisgewing enige perseel hoegenaamd betree, en kan, onderwyl hy daarin daarop is, of te enige ander tyd, enigeemand wat daarin of daarop is of was, of in die teenwoordigheid van andere of eenkant, ondervra, en kan so iemand gelas om op staande voet of op 'n tyd en plek wat die inspekteur vasstel, alle boeke en dokumente oor te lewer wat op of in die perseel in die besit of onder die beheer of bewaring was of is van enige werkgewer wat die perseel beset of benut, of van enige werknemer van daardie werkgewer. So 'n inspekteur kan op enige tyd en plek elkeen wat enige dokument of boek besit, bewaar of beheer betreffende die werk van enigeu wat 'n werkgewer is of was, gelas om sodanige boek of dokument op staande voet of op 'n plek en tyd wat die inspekteur vasstel, in te lewer, en die inspekteur kan sodanige boeke en dokumente ondersoek en uittrekels daar-sonder uit en afskrifte daarvan maak, en kan 'n verduideliking uit en afskrifte daarvan neem, en kan 'n verduideliking eis van enige inskrywings in sodanige boeke of dokumente en kan enige sodanige boeke of dokumente in beslag neem wat syns insiens getuigenis is van 'n misdryf ingevolgt hierdie Ordonnansie. 'n Inspekteur kan saam met hom 'n tolk of ander hulp, of 'n lid van 'n Polisiesmag in of op enige perseel meeneem.

(2) Elke werkgewer in verband met wie se saak perseel beset of benut word, en elkeen in sy diens, moet te alle tye sodanige geriewe verleen soos die inspekteur to nodig het betreffende toegang tot die perseel of ter insso nodig is van die boeke en dokumente in of op die perseel of in verband met enige ondervraging dienaan-gevaande.

(3) 'n Inspekteur kan enige werknemer gelms om enige omslag wat geld bevat of wat die inspekteur to lewer, wysse van besoldiging toekom, aan die betrokke werkgewer en bowendien enige staat wat die werknemer ver- betrefende sodanige besoldiging aan die inspekteur kan die inhoud skaf of gaan verskaf, en die inspekteur kan die staat van die omslag ondersoek en kan die omslag en die staat van die omslag ondersoek en kan die omslag en die staat

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Elkeen wat —

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

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

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

- (a) tydens die geldingsduur van enige ooreenkoms, kennisgewing of toekennig wat ingevolge artikel ses-en-veertig of sewen-en-veertig die werknemer of die werkgever of die ander betrokkene verbind, en waarvan enige bepaling handel oor die saak wat tot die staking of die uitsluiting aanleiding gegee het; of
- (b) as die betrokke werknemers die soort dienste verrig waarop artikel vier-en-veertig dui; of
- (c) waar nóg paragraaf (a) nóg (b) van toepassing is nie —

(i) tensy aansoek gedoen is uit hoofde van artikel drie-en-dertig of vier-en-sestig om die instelling van 'n versoeningsraad ter oorweging van die genoemde saak, en totdat —

- (aa) 'n raad wat inoontlik ingestel word, skriftelik aan die Administrateur daaroor verslag gedoen het; of totdat
- (bb) die tydperk van dertig dae, bereken vanaf die datum waarop die Administrateur die instelling van so 'n raad goedgekeur het, of sodanige verlenging soos die raad vasgestel het, verstryk het; of totdat
- (cc) die Administrateur geweier het om die instelling van 'n raad goe te keur; of
- (dd) waar die Administrateur binne een-en-twintig dae, gereken vanaf die dag waarop die aansoek ingedien is, nog nie die instelling van 'n raad goedgekeur of geweier het nie, dan totdat daardie tydperk verstryk het;

wat ook al die eerste gebeur; of

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

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

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

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

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

(9) Any person who—

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

shall be guilty of an offence.

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

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

- (a) during the period of the currency of any agreement, notice or award which in terms of section forty-six or section forty-seven is binding on the employee, employer or other person concerned, and any provision of which deals with the matter giving occasion for the strike or lock-out; or
- (b) if the employees concerned are engaged upon the services referred to in section forty-four; or
- (c) when neither paragraph (a) nor paragraph (b) applies—

(i) unless application has been made under section thirty-three or section sixty-four for the establishment of a conciliation board for the consideration of the said matter, and until—

- (aa) any board that may be established has reported thereon to the Administrator in writing; or
- (bb) the period of thirty days reckoned from the date on which the Administrator has approved of the establishment of a board or such longer period as the board may fix has expired; or
- (cc) the Administrator has refused to approve of the establishment of a board; or
- (dd) if the Administrator has not within a period of twenty-one days reckoned from the date on which the application was lodged approved or refused to approve of the establishment of a board, the expiration of that period,

whichever event occurs first; or

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

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

(3) By die toepassing van hierdie artikel sluit die woord "werknemer" 'n Inbooring, soos bepaal by artikel *agti-en-veertig* van hierdie Ordonnansie, uit.

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

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

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

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

(d) met opgaaf van die weerslag en datum waarop, en die tyd en plek waar, besoldiging gewoonlik per week of per maand, na gelang, plaasvind, is sodanige besoldiging reeds 'n vasstelling geskied, en waar 'n ooreenkoms, kennisgewing of toekennig na besoldiging verwys, dan ook in die geval van sodanige ooreenkoms, kennisgewing of toekennig.

(2) Elke werkgever wat versium om aan enige bepaling van hierdie artikel te voldoen, is skuldig aan 'n misdryf.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) die bestuurder, agent of werknemer by die daad of versuim sonder die oogluikende of uitdruklike verlov van die werkgewer opgetree het; en
- (b) dat die werkgewer elke redelike poging aangewend het om 'n daad of versuim van die betrokke aard te verhoed; en
- (c) dat dit volstrek en allesins hoegenaamd buite die bestuurder, agent of werknemer se maggebied of pligsbestek was om die daad of versuim, hetsy regmatig of onregmatig, van die betrokke aard te pleeg.

word daar aangenem dat die werkgewer self die daad of die versuim gepleeg het, en is hy onderbewig aan skuldige bevinding en vonnis ten opsigte daarvan. Dat die werkgewer opdragte gegee het ter verhinderling van enige daad of versuim van die betrokke aard, is nie sonder meer voldoende bewys dat hy elke redelike stap gedoen het om die betrokke daad of versuim te voorkom nie.

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

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

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

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

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

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

he shall be presumed to be an employee and any other party to the agreement shall be presumed to be an employer, unless it is proved that the agreement was not made with the object of evading any provision of any determination, agreement, notice or award which is or was binding under this Ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) In any proceedings under this Ordinance, any statement or entry contained in any book or document kept by any employer, principal or contractor or by his manager, agent or employee or found upon or in any premises occupied by, or any vehicle used in the business of, that employer, principal or contractor shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that employer, principal or contractor or by any manager, agent or employee of that employer, principal or contractor in the course of his work as manager or in the course of his agency or employment.

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

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

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

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

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

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

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

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

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

- (a) getuig dat 'n vakvereniging of werkgewersorganisasie geregistreer is; of
- (b) die streek of die belange of die bedryf aantoon ten opsigte waarvan 'n vakvereniging of werkgewersorganisasie geregistreer is; of
- (c) getuig dat die registrasie van 'n vakvereniging of werkgewersorganisasie ingetrek is,

is by blote voorlegging deur enigiemand, by gebrek aan bewys dat die sertifikaat teruggetrek, ingetrek of vervang is deur 'n latere sertifikaat van die Sekretaris, onwettigbare bewys —

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

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

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

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

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

(13) A certificate signed by the Secretary—

- (a) stating that a trade union or employers' organization has been registered; or
- (b) setting forth the area or interests or trade in respect of which a trade union, or employers' organization has been registered; or
- (c) stating that the registration of a trade union or employers' organization has been cancelled,

shall, on its mere production by any person and in the absence of proof that it has been withdrawn, cancelled or superseded by a later certificate issued by the Secretary, be conclusive proof—

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

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

- (a) enige gebrek in, of weglating uit, die grondwet van enige vakvereniging of werkgewersorganisasie; of
- (b) enige onreëlmatigheid by die verkiesing of die aanstelling van 'n verteenwoordiger in 'n versoeningsraad, of van enige alternatiewe verteenwoordiger, of van enige voorsitter of vice-voorsitter of ander voorsittende by 'n vergadering van sodanige raad of van 'n komitee van sodanige raad, of van enige bemiddelaar, arbiter of eindbeslissers; of
- (c) die bestaan van 'n vakature onder die lede van 'n versoeningsraad,

die geldigheid van —

- (i) die grondwet of die registrasie van enige vakvereniging of werkgewersorganisasie; of
 - (ii) enige ooreenkoms, kennisgewing of toekening wat ingevolge artikel *ses-en-veertig* of *sewen-en-veertig* die betrokkenes sou verbind het as daardie gebrek, weglating, onreëlmatigheid of vakature nie bestaan het nie, of
 - (iii) enige optrede van 'n versoeningsraad of 'n bemiddelaar of 'n arbiter of 'n eindbeslissers —
- nie aan nie.

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

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

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

- (a) as hy die verandering nog nie bewerk het nie, hom daarvan weerhou; of
- (b) as die verandering reeds geskied het, die genoemde voorwaardes herstel soos hulle te vore was, met inagting van die datum van verandering, en daarna moet hy hom van verandering weerhou,

toddat —

- (i) waar aansoek gedoen is om die instelling van 'n versoeningsraad ter oorweging van die saak —
 - (aa) sodanige raad wel ingestel is en skriftelike verslag daartoe aan die Administrateur gedoen het; of
 - (bb) 'n tydperk van dertig dae vanaf die datum waarop die Administrateur die instelling van 'n raad goedgekeur het of sodanige verleging soos die Administrateur moontlik bepaal betreffende 'n diens waarop artikel *vier-en-veertig* dui, of soos die raad moontlik in ander gevalle vasstel, verstryk het; of
- (cc) die Administrateur die instelling van 'n raad geweier het; of
- (dd) die Administrateur binne een-en-twintig dae vanaf die datum waarop die aansoek ingedien is, die instelling van 'n raad nóg geweier nóg goedgekeur het nie, daardie tydperk verstryk het, wat ook al die eerste plaasvind; of

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

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

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

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

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

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

until—

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

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

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

(a) aan elkeen van die betrokke werknemers; of

(b) aan enige vakvereniging waarvan hulle lede is; en in so 'n geval geld die bepalings van sub-artikels (1), (2) en (3) *mutatis mutandis* en elke aansoek om 'n versoeningsraad wat voorgelê word deur 'n vakvereniging wat die betrokke werknemers magtig word beskou as 'n aansoek voorgelê deur die betrokke werknemers vir sover hulle aan sodanige vakvereniging behoort.

(5) Elkeen wat versuim om aan die bepalings van hierdie artikel te voldoen, is skuldig aan 'n misdryf.

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

(7) Vir die doeleindes van hierdie artikel sluit „werknemer” geen Inboorling soos omskryf in artikel *agten-veertig* van hierdie Ordonnansie in.

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

(2) Daar is geen wetlike beletsel daarteen dat 'n werknemer van 'n vakvereniging, lid is of word nie, nog kan 'n werknemer weens sy lidmaatskap van 'n vakvereniging gestaf word nie.

(3) Elke werkgewer wat die bepalings van sub-artikel (1) oortree, is skuldig aan 'n misdryf.

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

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

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

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

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

(a) to each of the employees concerned; or

(b) to any trade union of which they are members, in which event the provisions of sub-sections (1), (2) and (3) shall, *mutatis mutandis*, apply, and any application for a conciliation board submitted by a trade union authorised by the employees concerned shall be deemed to be an application submitted by the employees concerned to the extent to which they are members of that trade union.

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

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

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

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

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

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

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

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

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

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

(5) Elkeen wat versuim om aan enigen van die bepalings van hierdie artikel te voldoen, waar dit hom betref, en elkeen wat opsetlik 'n vals inskrywing in sodanige boeke doen, is skuldig aan 'n misdryf.

67. Elke verteenwoordiger in 'n versoeningsraad en elke dienooreenkomstige alternatiewe verteenwoordiger of elkeen wat voorgesit het by enige vergadering van 'n versoeningsraad, of enige beampte, bemiddelaar, arbiter of eendbesliser wat, buiten ter uitvoering van die doeleindes van hierdie Ordonnansie, enige inligting betreffende die geldsake van enige individu, firma of sake-onderneming wat hy tydens sy ampsoeffening of pligsuioeffening ingevolge hierdie Ordonnansie te wete gekom het, enigiens aan enigen buiten die Administrateur of 'n beampte of 'n versoeningsraad of die Loonraad of 'n geregshof bekend maak, en enige aanspdrager of aanspdrager van 'n versoeningsraad wat, behoudens die uitsonderings in hierdie artikel, aan enigen sodanige inligting betreffende enige individu, firma of sake-onderneming wat hy wens sy ampsoeffening opgedoen het, bekend maak, is skuldig aan 'n misdryf.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) die prosedure wat 'n raad moet volg, ook in verband met die bekendmaking, of mededeling aan belanghebbendes, van dokumente of getuies wat aan die raad voorgelê is,
- (b) die prosedure wat 'n versoeningsraad of 'n bemiddelaar of 'n arbiter, of arbiters, of 'n eindbeslissers moet volg;
- (c) die prosedure wat 'n raad, raadslid of die Sekretaris of 'n versoeningsraad, 'n bemiddelaar, 'n arbiter of arbiters, of 'n eindbeslissers moet volg by ondersoekte ter plase;
- (d) toelates ter bestryding van onderhouds- en vervoerkoste wat uit staatsgelde betaal kan word aan getuies wat voor die raad, of 'n raadslid of 'n beampte op wie sub-artikel (9) van artikel *twaalf* dui, of die Sekretaris of 'n versoeningsraad, of 'n arbiter, of arbiters of 'n eindbeslissers, verskyn;
- (e) die pligte van inspekteurs en beamptes;

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

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

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

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

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

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

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

75. The Administrator may make regulations prescribing—

- (a) the procedure to be observed by a board including the publication or communication to interested persons of documents or evidence submitted to it;
- (b) the procedure to be observed by a conciliation board, a mediator or an arbitrator or arbitrators or an umpire;
- (c) the procedure to be observed in inspections *in loco* by a board, or any member of that board, by the Secretary, a conciliation board, a mediator, an arbitrator or arbitrators or an umpire;
- (d) allowances towards subsistence and transport which may be paid out of public moneys to witnesses summoned before a board, or a member of the board, or an officer referred to in sub-section (9) of section *twelve*, or the Secretary, a conciliation board, an arbitrator or arbitrators, or an umpire;
- (e) the duties of inspectors and officers;

- (f) elke ander saak wat ingevolge hierdie Ordonnansie by regulasie voorgeskryf moet of kan word;
- (g) oor die algemeen, alle aangeleenthede waaroor die Administrateur regulasies nodig of wenslik ag ter bevordering van die doeleindes van hierdie Ordonnansie.

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

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

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

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

77. Ondanks andersluidende wetsbepalings kan 'n magistrantshof enige straf opleë, en bevel verstrek, waarvoor hierdie Ordonnansie voorsiening maak.

78. Die bepalings van artikel *driehonderd drie-en-twintig* van die „Kriminele Prosedure en Bewyslêwing Proklamasie” (Proklamasie 30 van 1935), soos gewysig, geld geen misdryf wat bestaan uit 'n oortreding of versuim, waarop sub-artikel (2) van artikel *vyftig* dui nie.

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

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

- (f) all matters which by this Ordinance are required or permitted to be prescribed by regulation;
- (g) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Ordinance may be achieved.

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

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

(2) Any employer on being convicted a second or subsequent time in respect of a contravention or failure such as is referred to in sub-section (2) of section *fifty* shall be liable, in addition to any penalty that may be imposed under sub-section (1), to be ordered to surrender to the court by a specified date any trading licence held by him under the Licences Consolidation Ordinance, 1935 (Ordinance 13 of 1935), for the purposes of cancellation.

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

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

78. The provisions of section *three hundred and twenty-three* of the Criminal Procedure and Evidence Proclamation, 1935 (Proclamation 30 of 1935), as amended, shall not apply in respect of any offence which consists of a contravention or failure such as is referred to in sub-section (2) of section *fifty*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

manner to assist him in the carrying on or conducting of his business; and “employment” and “employ” have corresponding meanings;

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

- (a) regulating relations between themselves or some of them and their employees or some of their employees; or

- (b) protecting or furthering the interests of the employers or some of the employers, in that trade;

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

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

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

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

- (a) the exclusion by him of any body or number of persons who are or have been in his employ from any premises on which work provided by him is or has been performed; or

- (b) the total or partial discontinuance by him of his business or the provision of work; or

- (c) the breach or termination by him of the contracts of employment of any body or number of persons in his employ;

- (d) the refusal or failure by him to re-employ any body or number of persons who have been in his employ,

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

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

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

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

“regulation” means a regulation made under this Ordinance;

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

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

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

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

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

as —

(i) daardie weiering, verzuim, vertraging, belemmering, verbreking of beëindiging plaasvind weens 'n geskik oor diensvoorwaardes of oor ander aangeleenthede en weens enige onderlinge same-spanning, ooreenkoms of verstandhouding, uitdrukklik of andersins, en

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

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

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

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

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

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

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

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

if

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

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

“this Ordinance” includes any regulation made thereunder;

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

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

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

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

in that trade.

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

No. 36 van 1952.]

ORDONNANSIE

Ter reëling van die opskrifte op voedings- en genesmiddels; ter voorkoming van die invoer of verkoop van voedings- en genesmiddels wat ongesond is of wat vervals is, of wat onjuis of vals beskryf word; en ter reëling van die opskrifte op, en die voorkouing van die invoer en verkoop van, ontsmettingsmiddels wat onjuis of vals beskryf word.

(Goedgekeur 8 Julie 1952.)

(Engelse teks deur die Administrateur geteken.)

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

INLEIDENDE BEPALINGS.

1. Hierdie Ordonnansie word ingedeel in hoofstukke wat onderseidelik oor die onderstaande onderwerpe gaan:—

Hoofstuk I: Uitvoering en handhawing (artikels een tot drie).

Hoofstuk II: Vervalsing of valse beskrywing van artikels, met onderverdelings soos volg:—

Deel A: Algemene bepalings (artikels vier tot tien).

Deel B: Ingevoerde artikels (artikels elf en twaalf).

Deel C: Besondere artikels (artikels dertien tot agtien).

Deel D: Ontsmettingsmiddels (artikel negentien).

Hoofstuk III: Die koop of neem en ontleding of ondersoek van monsters (artikels twintig tot drie-en-twintig).

No. 36 of 1952.]

ORDINANCE

To provide for regulating the labelling and preventing the importation or sale of food and drugs which are unwholesome or adulterated or incorrectly or falsely described and for regulating the labelling and preventing the importation or sale of disinfectants which are incorrectly or falsely described.

(Assented to 8th July, 1952.)

(English text signed by the Administrator.)

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

INTRODUCTORY.

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

Chapter I: Administration and enforcement (sections one to three).

Chapter II: Adulteration or false description of articles, sub-divided into parts as follows:—

Part A: General (sections four to ten).

Part B: Imported articles (sections eleven and twelve).

Part C: Special articles (sections thirteen to eighteen).

Part D: Disinfectants (section nineteen).

Chapter III: Purchase or taking and analysis or examination of samples (sections twenty to twenty-three).

Hoofstuk IV: Geregtelike stappe en stralingsbepalings (artikels vier-en-twintig tot ryf-en-dertig).

Hoofstuk V: Algemene en aanvullende bepalinge (artikels ses-en-dertig tot ses-en-veertig).

Chapter IV: Legal proceedings and penalties (sections twenty-four to thirty-five).

Chapter V: General and Supplementary (sections thirty-six to forty-two).

HOOFSTUK I.

UITVOERING EN IANDIHWANG.

2. (1) Die Administrateur is vir die uitvoering van hierdie Ordonnansie verantwoordelik, en behoudens die bepalinge daarvan, word die Sekretaris, onder beheer van die Administrateur, met die algemene uitvoering en handhawing daarvan belas. Die Sekretaris kan óf in die algemeen óf in 'n besondere geval of in 'n reeks gelyksoortige gevalle 'n amptenaar van die Administrasie skriftelik magtig om namens hom enige bevoegdheid of plig ingevolge hierdie Ordonnansie uit te oefen of na te kom.

(2) Elke plaaslike bestuur moet bystand en samewerking verleen aan die Sekretaris by die uitoefening van sy bevoegdhede ingevolge sub-artikel (1), of aan 'n amptenaar wat ingevolge hierdie Ordonnansie met pligte belas is.

(3) Die Administrateur kan, op versoek van 'n plaaslike bestuur, vir kennisgewing in die *Offisiële Koerant* daardie plaaslike bestuur magtig om binne sy regsgebied en deur middel van sy behoorlik gemagtigde amptenare die geheel of 'n deel van hierdie Ordonnansie, soos in sodanige kennisgewing uiteengesit, uit te voer en te handhaaf, behoudens die voorwaardes wat daarin vermeld word. Die Administrateur kan hierdie magtiging beperk tot artikels of soorte artikels wat hy in die kennisgewing vermeld, en kan ook in die kennisgewing noem hoeveel monsters sodanige plaaslike bestuur jaarliks kan instuur vir kostelose ondersoek of ontleding in 'n Staatslaboratorium.

(4) Die Administrateur kan na goeie dinkte en drie maande nadat hy aan die betrokke plaaslike bestuur van sy voorneme kennis gegee het, 'n uitnodiging wat hy kragtens sub-artikel (3) verleen het, by kennisgewing in die *Offisiële Koerant*, intrek of wysig.

3. (1) Die Administrateur benoem sodanige analiste en patoloë wat hy vir die behoorlike handhawing van hierdie Ordonnansie nodig ag. Elke sodanige benoeming word in die *Offisiële Koerant* bekendgemaak.

(2) Niemand kon vir benoeming as analis ooreenkomstig hierdie Ordonnansie in aanmerking nie, tensy hy na tegniese opleiding gekwalifiseer is en voldoende kennis, bekwaamheid en ondervinding het om die pligte van sy amp behoorlik uit te voer, en ook 'n erkende graad of diploma in die skeikunde besit. Met dien verstande dat hussgenoemde vereiste nie van toepassing is nie op 'n analis van voedings- en genesmiddels wat benoem is ingevolge 'n wet wat by hierdie Ordonnansie herroep word, en wat by die inwerkingtrede van hierdie Ordonnansie in voltye diens van die Regering is.

(3) Niemand kon in aanmerking vir benoeming as 'n patoloog ooreenkomstig hierdie Ordonnansie nie, tensy hy na tegniese opleiding gekwalifiseer is en voldoende kennis, bekwaamheid en ondervinding besit om die pligte van sy amp behoorlik uit te voer.

(4) Tot tyd en wyl die Administrateur 'n amptenaar ingevolge sub-artikels (1), (2) en (3) benoem het, word elke analis of patoloog wat ingevolge die bepalinge van die Wet op Voedingsmiddels, Medisyne en Ontsmettingsmiddels 1929 (Wet 13 van 1929) van die Unie-Parlement, aangestel is, gehou vir benoem deur die Administrateur kragtens die bepalinge van die genoemde sub-artikels by die behoorlike handhawing van hierdie Ordonnansie.

(5) Die Administrateur benoem sodanige inspektors soos hy nodig ag vir die behoorlike handhawing van hierdie Ordonnansie.

(6) Die bevoegdhede wat hierdie Ordonnansie aan 'n inspekteur verleen, kan uitgeoefen word—

- in ten opsigte van 'n ingevoerde artikel, deur 'n amptenaar van die Department van Doene en Aksyns, in die algemeen of in die besonder deur die Kommissaris van Doene en Aksyns daartoe genagtig; en
- in ten opsigte van enige artikel, deur 'n lid van die polisie met of bo die rang van sergant en deur enige ander lid van die polisie wat die Sekretaris of sy behoorlik gemagtigde plaasvervanger of 'n polisieoffisier spesiaal daartoe magtig; en

CHAPTER I.

ADMINISTRATION AND ENFORCEMENT.

2. (1) The Administrator shall be responsible for the administration of this Ordinance and, subject to the provisions thereof, the Secretary shall be charged, under the control of the Administrator, with its general execution and enforcement. The Secretary may in writing, either generally or in any particular case or class of case, authorise an officer of the Administration to exercise any power or carry out any duty under this Ordinance on his behalf.

(2) It shall be the duty of every local authority to afford assistance to and co-operate with the Secretary in the exercise of his functions under sub-section (1), or any officer charged with duties under this Ordinance.

(3) The Administrator may, at the request of a local authority, by notice in the *Gazette*, authorize such local authority to carry out and enforce within the area of its jurisdiction and through its duly authorized officers, the whole or such part of this Ordinance as may be specified in such notice, subject to such conditions as may be stated therein. The Administrator may restrict such authority to any articles or class of articles which he may specify in the notice and may also specify in the notice the yearly number of samples submitted by the local authority the examination or analysis of which may be carried out free of charge in a Government laboratory.

(4) The Administrator may at his discretion, after giving three months' notice of his intention so to do to the local authority concerned, withdraw or modify, by notice in the *Gazette*, any authority given by him under sub-section (3).

3. (1) The Administrator may appoint such analysts and pathologists as he may deem necessary for the proper enforcement of this Ordinance. Every such appointment shall be notified in the *Gazette*.

(2) No person shall be eligible for appointment as analyst under this Ordinance unless he is qualified by technical training and has competent knowledge, skill and experience for the proper discharge of the duties of the office, and possesses a recognized degree or diploma in chemistry: Provided that the last-mentioned requirement shall not apply to any analyst of food and drugs appointed under any law repealed by this Ordinance and in the whole-time employment of the Government at the commencement of this Ordinance.

(3) No person shall be eligible for appointment as pathologist under this Ordinance unless he is qualified by technical training and possesses competent knowledge, skill and experience for the proper discharge of the duties of the office.

(4) Until such time as the Administrator has made an appointment in terms of sub-sections (1), (2) and (3) any analyst or pathologist who has been appointed under the provisions of the Foods, Drugs and Disinfectants Act, 1929 (Act No. 13 of 1929), of the Union Parliament, shall be deemed to have been appointed by the Administrator under the provisions of the said sub-sections for the proper enforcement of this Ordinance.

(5) The Administrator shall appoint such inspectors as he may deem necessary for the proper enforcement of this Ordinance.

(6) The powers of an inspector under this Ordinance may be exercised—

- in respect of an imported article, by an officer of the Department of Customs and Excise generally or specially authorized thereto by the commissioner of customs and excise; and
- in respect of any article, by any member of the police of or above the rank of sergeant and any other member of the police specially authorized thereto by the Secretary or his duly authorized deputy or by a commissioned officer of police; and

(e) ten opsigte van bevoegdhele wat ingevolde sub-artikel (3) van artikel twee aan 'n plaaslike bestuur verleen is, deur 'n gesondheidsinspekteur en ander amptenaar wat die plaaslike bestuur behoorlik daartoe magtig.

(7) 'n Inspekteur kan te alle redelike tye 'n perseel betree en besigtig waarop daar 'n voedings- of genesings- of onsmettingsmiddel is, of na sy redelike vermoede is, wat vir verkoop bestem is of aangehou word, en hy kan daar dergelike omstandighede enige voertuig of die inhoud daarvan besigtig.

(8) Elke inspekteur wat ingevolde sub-artikel (5) benoem is, en elke amptenaar wat ingevolde paragraaf (c) van sub-artikel (6) gemagtig is, moet, wanneer hy werksaamhede ingevolde hierdie Ordonnansie verrig, sy beoenningsbrief onderteken deur die Sekretaris of sy behoorlik gemagtigde plaasvervanger, of sy magtigingsbrief onderteken deur die burgemeester of voorsitter of onderburgemeester of ondervoorzitter van die plaaslike bestuur, na gelang van die omstandighede, by hom dra en dit toon op aanvraag van iemand wat gemoel is met die verrigting van sy werksaamhede ingevolde hierdie Ordonnansie.

(e) in respect of any authority conferred on a local authority under sub-section (3) of section two, by a health inspector or other officer duly authorized thereto by the local authority.

(7) An inspector may at all reasonable times enter and inspect any premises on which there is, or on which he has reason to believe that there is, any article of food or any drug or disinfectant intended or kept for sale, and he may, in like circumstances, inspect any vehicle and its contents.

(8) Every inspector appointed under sub-section (5) and every officer authorized under the provisions of paragraph (c) of sub-section (6) when employed on any duty under this Ordinance shall carry, and, on demand by any person affected by the exercise by him of any function under this Ordinance, exhibit his letter of appointment signed by the Secretary or his duly authorized deputy, or his letter of authorization signed by the mayor or chairman or deputy-mayor or deputy-chairman of the local authority (as the case may be).

HOOFSTUK II.

DEEL A—VERVALSING OF VALSE BESKRYWING VAN ARTIKELS.

ALGEMENE BEPALINGS.

4. (1) By die toepassing van hierdie Ordonnansie, en behoudens die bepalinge daarvan, is 'n voedings- of genesingsmiddel vervals of vals beskryf—

- (a) as dit 'n stof bevat wat nie daarin voorkom wanneer dit in sy normale, suiwer en gesonde toestand is, of as dit met so 'n stof gemeng of verdun is; of
- (b) as 'n stof of bestanddeel daarvan onttrek of daaruit verwyder of daarvan weggehaal is, waardeur sy voedingswaarde of sy voedings-, genesings- of ander hoedanighede verminder of verander is vergeleke met so 'n artikel in sy suiwer of normale, gesonde toestand; of
- (c) as 'n standaard voorgeskryf is daarvoor, en dit nie met daardie standaard ooreenkom nie; of
- (d) as dit 'n stof of bestanddeel bevat waarvan die gebruik of toevoeging verbied of onveroorloof is; of
- (e) as dit 'n stof of bestanddeel waarop 'n beperkende bepaling van hierdie Ordonnansie toegepas is, in groter verhouding as wat toegelaat is, bevat; of
- (f) as dit so gekleur, getint, bepoeier, gepoleer, bedek, gestoom of andersins behandel is dat sy beskuldigde toestand of minderwaardige gehalte verberg word, of bedoel is om verberg te word; of
- (g) as 'n verbode proses of wyse van vervaardiging, toebereiding, verduursaming of verpakking daarop, of op 'n bestanddeel daarvan, aangewend is; of
- (h) as dit 'n namaaksel is van 'n ander artikel en onder so 'n artikel se naam verkoop word, of onder 'n naam wat soveel lyk op die naam van 'n ander artikel dat dit misleidend kan wees; of
- (i) as dit voorsien is van 'n beskrywing wat vals of misleidend is met betrekking tot sy aard, inhoud, gehalte of samestelling, of tot sy voedings- of geneeskundige waarde of ander eienskappe, of tot sy oorsprong of ouderdom of die wyse of plek van sy produksie, bereiding, of vervaardiging; of
- (j) as dit ter vervanging van 'n ander artikel verkoop word, en die koper nie voor aflewering van die beoogde vervanging daarvan in kennis gestel is nie.

(2) By 'n vervolgende of ander geregtelike stappe ingevolde hierdie Ordonnansie weens die verkoop van 'n artikel waarop paragraaf (a) van sub-artikel (1) betrekking het, word sodanige artikel nie gehou vir vervals of vals beskryf nie, as die artikel of pakket waarin dit is, voorsien is van 'n voorgeskrewe opskrif wat aantoon dat dit 'n mengsel is en die name van die bestanddele aangee, as ook (waar dit voorgeskryf is) die verhoudings, by benadering, van die bestanddele.

CHAPTER II.

PART A—ADULTERATION OR FALSE DESCRIPTION OF ARTICLES.

GENERAL.

4. (1) For the purposes and subject to the provisions of this Ordinance an article of food or a drug is adulterated or falsely described—

- (a) if it contains, or is mixed or diluted with, any substance not present when such article is in a pure or normal state and in a sound condition; or
- (b) if any substance or ingredient has been extracted or removed or omitted therefrom, thereby diminishing or altering its food value or nutritive or curative or other properties as compared with such article in a pure or normal state and in a sound condition; or
- (c) if a standard has been prescribed for it and it is not in accordance with such standard; or
- (d) if it contains any ingredient or substance the use or addition of which is prohibited or not permitted; or
- (e) if it contains in greater proportion than is permitted any ingredient or substance to which any restrictive provision of this Ordinance applies; or
- (f) if it is coloured, stained, powdered, polished, coated, steamed or treated so that its damaged condition or inferior quality is concealed or attempted to be concealed; or
- (g) if any prohibited process or method of manufacture, preparation, preserving or packing has been applied to it or to any of its ingredients; or
- (h) if it is an imitation of and is sold under the name of another article, or by a name so closely resembling that of another article as to be likely to deceive; or
- (i) if it bears any description which is false or misleading as regards its nature or substance or quality or its composition or its nutritive or curative or other property, or its origin or age or mode of or place of production, preparation or manufacture; or
- (j) if it is sold in substitution for another article and the purchaser is not informed prior to delivery of the proposed substitution.

(2) In a prosecution or other proceeding under this Ordinance for selling an article to which paragraph (a) of sub-section (1) applies, such article shall not be deemed to be adulterated or falsely described if the article or package containing it bears a prescribed label showing that the article is a mixture and stating the names of the ingredients, and, when so prescribed, the approximate proportions of the ingredients.

(3) Behoudens die bepaling van hierdie Ordonnansie word 'n voedings- of genesmiddel nie beskou as vervals of vals beskryf nie, slegs omdat—

- (a) dit 'n stof of bestanddeel bevat wat nie ongesond is nie, en waarvan die aanwesigheid of toevoeging nodig is vir die produksie, bereiding of vervaardiging van die voedings- of genesmiddel as 'n handels-artikel in 'n geskikte toestand om vervoer, verbruik of gebruik te word, en nie bedoel is om die koper te bedrieg deur die gewig, maat of inhoud daarvan te vergroot of deur die gehalte daarvan te verberg nie; of
- (b) dit vreemde materie bevat wat die perke by regulasie voorgeskryf aan hoeveelheid nie oorskry nie, en wat gedurende die versameling, bereiding of vervaardiging onvermydelik met die voedings- of genesmiddel vermeng word; of
- (c) 'n stof of bestanddeel daaruit verwyder is, waar die verwydering nodig is vir die produksie, bereiding of vervaardiging van die voedings- of genesmiddel as 'n handelsartikel in 'n geskikte toestand om vervoer, verbruik of gebruik te word.

5. (1) By 'n voedingsmiddel of mengsel of saamgestelde artikel waarvoor daar 'n standaard ten opsigte van samstelling, sterkte, werkingskrag, suiwelheid of gehalte by hierdie Ordonnansie of 'n daaruitvloeiende regulasie, of by enige ander wet voorgeskryf is, is die standaard soos aldus voorgeskryf, en by 'n genesmiddel is die standaard dié wat bepaal word in die uitgawe van die *British Pharmacopoeia* of 'n amptelike byvoegsel daartoe wat die Administrateur van tyd tot tyd by kennisgewing in die *Offisiële Koerant* ingevolge hierdie Ordonnansie tot geldig verklaar, en by 'n genesmiddel wat in sodanige *Pharmacopoeia* of byvoegsel nie genoem word nie, is die standaard (indien enige) soos by regulasie voorgeskryf.

(2) By gebrek aan bewys van die teendeel word daar aangeneem dat 'n koper van 'n voedings- of genesmiddel of mengsel of saamgestelde artikel waarvoor daar 'n standaard voorgeskryf is, die aldus voorgeskrewe standaard-gehalte verlang het.

(3) By gebrek aan bewys van die teendeel word daar aangeneem dat 'n koper van 'n voedings- of genesmiddel of 'n mengsel of saamgestelde artikel waarvoor daar geen standaard voorgeskryf is nie, die gewone handelstandaard daarvan verlang het.

6. (1) Niemand mag 'n voedings- of genesmiddel verkoop, wat vervals of vals beskryf is, of wat nie van die aard, inhoud, gehalte en standaard is, wat die koper verlang nie.

(2) Niemand mag enigszins hoegenaamd 'n valse of misleidende beskrywing van 'n voedings- of genesmiddel uitgee nie.

7. Niemand mag—

- (a) 'n bestanddeel aan 'n voedingsmiddel onttrek of 'n 'n stof by 'n voedingsmiddel voeg of dit daarin vermeng, kleur of andersins behandel, of 'n voedingsmiddel bleik of andersins verwerk of behandel sodat sy aard, inhoud, gehalte, voedingskrag of ander eienskappe daardeur benadeel word; of
- (b) iets by 'n genesmiddel voeg, of dit vermeng, kleur of andersins met 'n stof behandel of dit hoegenaamd verwerk sodat sy aard, inhoud, gehalte, geneskrag of ander eienskappe daardeur benadeel word;

met die opset dat dit verkoop moet word, sonder dat die koper verwittig word van sodanige onttrekking, byvoeging, vermenging, kleurings, verwerking of behandeling nie, en niemand mag 'n voedings- of genesmiddel wat so verander is, verkoop nie sonder om die koper voor aflevering daarvan volkome van sodanige verandering te verwittig, nóg mag hy 'n voedings- of genesmiddel wat so verander is, ter verkoop aanbied of uitstal nie; tensy dit voorsien is van 'n duidelik sigbare opskrif wat meld dat dit aldus verander is.

(3) Subject to the provisions of this Ordinance an article of food or a drug shall not be deemed to be adulterated or falsely described solely by reason—

- (a) of its containing a substance or ingredient not unwholesome, the presence or addition of which is necessary for the production, preparation or manufacture of the article or drug as an article of commerce, in a fit state for carriage, consumption or use, and is not intended to deceive the purchaser by increasing its weight, measure or volume or concealing its quality; or
- (b) of its containing extraneous matter, in quantity not exceeding that permitted by regulation, unavoidably mixed with the food or drug in the process of collection, preparation, or manufacture; or
- (c) of the removal of a substance or ingredient, if such removal is necessary for the production, preparation or manufacture of the food or drug as an article of commerce in a fit state for carriage, consumption or use.

5. (1) In the case of an article of food or a mixture or compounded article for which a standard of composition, strength, potency, purity or quality has been prescribed by this Ordinance or any regulation thereunder or by any other law, the standard shall be that so prescribed, and in the case of a drug the standard shall be that laid down in the edition of the *British Pharmacopoeia* or any official addendum thereto which the Administrator may from time to time notify in the *Gazette* as being in force under this Ordinance, and in the case of a drug not mentioned in such *Pharmacopoeia* or addendum the standard, if any, shall be that prescribed by regulation.

(2) Any purchaser of an article of food or a drug or a mixture or a compounded article for which a standard has been prescribed shall, in the absence of proof to the contrary, be deemed to have demanded the standard quality thereof so prescribed.

(3) Any purchaser of an article of food or a drug or a mixture or a compounded article for which no standard has been prescribed shall, in the absence of proof to the contrary, be deemed to have demanded the ordinary commercial standard thereof.

6. (1) No person shall sell any food or drug which is adulterated or falsely described or which is not of the nature and substance and quality and up to the standard of that demanded by the purchaser.

(2) No person shall in any manner whatever publish any description of any food or drug which is false or misleading.

7. No person shall—

- (a) abstract from any article of food any part of it, or add to, mix, colour or otherwise treat any article of food with any substance, or apply to any article of food any bleaching or other process or treatment, so as injuriously to affect its nature or substance or quality or nutritive or other properties; or
- (b) add to, mix, colour or otherwise treat any substance or apply any process to any drug so as injuriously to affect its nature or substance or quality or curative or other properties;

with intent that the same shall be sold without disclosing to the purchaser the fact that such abstraction, addition, admixture, colouration, process or treatment has been carried out, and no person shall sell any article of food or drug so altered without making full disclosure of such alteration to the purchaser prior to delivery, or shall offer or expose for sale any article of food or drug so altered unless a conspicuous Label stating that it has been so altered is affixed to it.

8. (1) Buiten waar regulasies dit veroorloof, mag niemand 'n bederfweringmiddel of kleurstof of enige geursel of verdikker by 'n voedingsmiddel voeg nie, of 'n voedingsmiddel wat so 'n stof of middel bevat, invoer, vervaardig of verkoop nie.

(2) Niemand mag 'n voedingsmiddel wat as bederfweringmiddel vir gebruik deur siekkes of sluglinge geadvetueer word, of as sodanig in die opskrif beskryf word, en wat enige bederfweringmiddel buiten suiker of gewone sout bevat, invoer, vervaardig of verkoop nie.

9. (1) Niemand mag—

- (a) ter verkoop 'n stof met 'n voedings- of genesemiddel vermeng met die doel om die koper te bedrieg deur die gewig, maat of inhoud daarvan te vergroot of deur die gehalte daarvan te verberg nie; of
- (b) 'n gemengde of saamgestelde voedings- of genesemiddel verkoop, waarvan die bestanddele onsuiver of bederf of ongesond is nie, of wat nie die aard, inhoud en gehalte het wat die koper verlang nie, of (waar 'n standaard voorgeskryf is) wat nie aan sodanige standaard voldoen nie; of
- (c) 'n gemengde of saamgestelde voedings- of genesemiddel verkoop sonder om voor aflewering daarvan die koper volkome te verwittig dat dit 'n mengsel is en wat die aard daarvan is, of so 'n gemengde of saamgestelde artikel aan 'n koper aflewer, tensy dit in 'n pakket is met 'n duidelik sigbare opskrif wat verklaar dat dit 'n mengsel is, en wat die name van die bestanddele aangee, en (waar voorgeskryf) ook die verhouding van die bestanddele aangee; of
- (d) 'n voedingsmiddel as versnede of 'n versnyding verkoop, merk of beskryf nie, tensy dit uitsluitend uit verskillende soorte, gehaltes of grade van die genoemde voedingsmiddel bestaan. Waar daar enige ander stof buiten die genoemde by die voedingsmiddel ingesluit is, moet dit verkoop, gemerk of beskryf word as menging of as 'n mengsel.

(2) Die bepalinge van paragraaf (c) van sub-artikel (1) geld nie—

- (a) 'n mengsel van genesemiddels wat deur 'n genesheer toebereid is, of verstrek word weens 'n voorskrif van 'n genesheer of 'n tandarts of 'n vercrats wat 'n geldige sertifikaat het, wat ingevolge artikel *negen-en-tig* van die Wet op Geneesheer, Tandarts en Aptekers 1928 (Wet 13 van 1928) soos op die Gebied toegepas by Unie-Proklamasie 3 van 1929, aan hom uitgereik is; nóg
- (b) 'n mengsel van genesemiddels wat deur 'n apteker verkoop of saamgestel word en sy naam en adres dra; nóg
- (c) 'n geneses- of voedingsmiddel wat 'n eiendomsartikel is, of wat in die Unie of in die Gebied deur 'n patent beskerm word, en verkoop word in die toestand wat die patentvoorskrifte bepaal; nóg
- (d) sodanige ander artikels of soorte artikels wat by regulasie vrygestel is.

(3) Waar 'n regulasie dit voorskryf, moet elke voedingsmiddel wat menging, versnede of saamgestel is, verkoop word onder 'n naam waarvan die hele of eerste deel die naam is van die bestanddeel wat na verhouding die hoofbestanddeel van die voedingsmiddel is.

10. (1) Waar 'n voedings- of genesemiddel in 'n versleëde oorspronklike verpakking verkoop word en nie met die bepalinge van hierdie Ordonnansie ooreenkom nie, die bepalinge persoon wat blykens die opskrif daarvan, so word die middel vervaardig of ingevoer of verpak het, gehou word vir die vervaardiger, invoerder of verpakker daarvan, tensy hy die teenoënbewys, en is hy skuldig aan 'n misdryf, of tensy hy bewys dat die beweerde oortreding te wyte is aan bederf of 'n ander verandering in die middel nadat dit afgestaan het, en waaroor hy geen beheer gehad het nie.

(2) Die bepalinge van hierdie artikel onthef niemand wat 'n voedings- of genesemiddel, genoem in sub-artikel (1), verkoop, van enige aanspreeklikheid wat hy ingevolge hierdie Ordonnansie of andersins ten opsigte van sodanige verkoop opdoen nie.

8. (1) Save as may be permitted by regulation, no person shall add to any food any preservative or colouring matter, or any flavouring or thickening substance, or shall import, manufacture or sell any food containing any such matter or substance.

(2) No person shall import, manufacture or sell any food advertised as or described on the label as specially suitable for the use of invalids or infants which contains any preservative other than sugar or common salt.

9. (1) No person shall—

- (a) mix, for purposes of sale, any substance with any food or drug with intent to deceive the purchaser by increasing its weight, measure or volume or concealing its quality; or
- (b) sell any mixed or compounded food or drug the ingredients of which are not pure or which are in a deteriorated or unsound condition, or which is not of the nature and substance and quality demanded by the purchaser, or, if a standard has been prescribed therefor, which is not in accordance with such standard; or
- (c) sell any mixed or compounded food or drug without fully informing the purchaser prior to delivery of the fact and nature of the mixture, or deliver any such mixed or compounded article to the purchaser otherwise than in a package bearing a conspicuous label stating that it is a mixture and the names of the ingredients, and when so prescribed, the proportion of the ingredients; or
- (d) sell, label or describe any food as a blend or as blended unless it consists solely of different kinds, qualities or grades of the food named. If any substance other than that named is included in the food it shall be sold, labelled and described as mixed or as a mixture.

(2) The provisions of paragraph (c) of sub-section (1) shall not apply to—

- (a) a mixture of drugs dispensed by a medical practitioner or supplied on the prescription of a medical practitioner or dentist or a veterinarian holding a current certificate issued to him under section *eighty-nine* of the Medical, Dental and Pharmacy Act, No. 13 of 1928, as extended to the Territory by Union Proclamation No. 3 of 1929;
- (b) a mixture of drugs sold or compounded by a chemist and druggist and bearing his name and address;
- (c) a drug or food which is a proprietary article or is the subject of a patent in force in the Union or the Territory and is sold in the condition required in the specification of the patent; and
- (d) such other articles or classes of articles as may be exempted by regulation.

(3) Where so prescribed by regulation, any article of food which is mixed or blended or compounded shall be sold under a name the whole or first part of which shall be the name of the ingredient which forms the greater proportion of the article in bulk.

10. (1) Where any food or drug is sold in a sealed original package and is not in accordance with the provisions of this Ordinance, the person who appears from the label thereof to have manufactured or imported such article or to have enclosed it in such package shall, unless he proves the contrary, be deemed to have so manufactured or imported or enclosed such article, and shall be guilty of an offence unless he proves that the alleged contravention was due to deterioration or some other change in the article since it left his possession and which was beyond his control.

(2) Nothing in this section contained shall relieve a person selling any article referred to in sub-section (1) of any liability incurred by him under this Ordinance or otherwise in respect of such sale.

DEEL B—INGEVOERDE ARTIKELS.

11. (1) Elke voedings-, genes- of ontsmettingsmiddel wat in die Gebied ingevoer word, of na 'n plek in die Gebied gestuur word, kan in die hawe waar dit uitgeskep word, of onder vervoer na, of te eniger tyd na aankoms by, sy bestemming, geïnspekteer of ondersoek word deur 'n inspekteur wat monsters daarvan vir ondersoek of ontleding mag neem.

(2) So 'n artikel, as ook dergelike artikels in dieselfde besending kan, na goedgekeurde van die Kommissaris van Doecane en Aksyns met instemming van die Sekretaris—

(a) deur die Departement van Doecane en Aksyns teruggehou word totdat die nodige ondersoek of ontleding voltooi is: Met dien verstande dat sodanige ondersoek of ontleding so spoedig doenlik verrig moet word; of

(b) vanaf die hawe waar dit uitgeskep is, verwyder en deurgestuur word, mits die eienaar, invoerder of ontvanger 'n waarborg ten gunste van die Kommissaris van Doecane en Aksyns stel dat hy geen deel van die besending, of 'n reg daarop, sal verkoop, afstaan of vervreem nie, voordat hy amptelik in kennis gestel is dat die artikel aan hierdie Ordonnansie voldoen en daarom goedgekeur is, en as die artikel aan die bepaling van hierdie Ordonnansie te kort kom, dat hy die hele besending so spoedig doenlik terug sal stuur na die invoer- of verskepingshawe na gelang die Administrateur gelas, of andersins volgens Administrateurslaggewing daaroor sal beskik.

(3) Voordat 'n monster ingevoer hierdie artikel geneem word, moet die Departement van Doecane en Aksyns die eienaar, invoerder of ontvanger of sy agent kennis gee van die beoogde tyd en plek waarop, en die doel waarvoor, die monster geneem sal word, en hom die geleentheid gee om daarby teenwoordig te wees. Die bepaling van sub-artikels (2) tot en met (8) van artikel *een-ertwintig* moet uitgevoer word by die neem of deurstuur van, en die beskikking oor, sodanige monsters.

12. As die ondersoek of ontleding ingevolge artikel *el* toon dat die artikel vals of vals beskreef, of 'n verbode artikel, of, by 'n voedings- of genesmiddel, dat dit ongesond is vir mensverbruik of -gebruik, of andersins aan die bepaling van hierdie Ordonnansie te kort kom, kan die Sekretaris per skriftelike bevel deur hom onderteken, gelas dat die artikel en soortgelyke artikels in dieselfde besending—

(a) verbeurd verklaar en vernietig word; of

(b) na die invoer- of verskepingshawe teruggestuur word; of

(c) ingevoer kan word nadat dit ten gunste van die Sekretaris van 'n nuwe opskrif voorsien is; of

(d) andersins volgens Administrateurslaggewing daaroor beskik word.

DEEL C—BESONDERE ARTIKELS.

13. (1) Die uitdrukking „meelblom” of „meel” mag nie sonder omskrywing gebruik word vir enige stof buiten meelblom of meel wat van koring gemaak is nie; waar meelblom of meel van 'n ander graansoort of plantprodukt bedoel word, moet die naam van sodanige graansoort of plantprodukt voor die woord „meelblom” of „meel” na gelang, ingevoeg word. Meelblom of meel wat van 'n mengsel graansoorte of plantprodukte gemaak is, of dit bevat, moet „gemengde meelblom” of „gemengde meel” na gelang, genoem word.

(2) Niemand mag 'n stof as meelblom of meel verkoop, as dit 'n bestanddeel bevat wat nie van koring afkomstig is nie, tensy dit by regulasie toegelaat word.

(3) Die Administrateur kan regulasies afkondig—

(a) waarby 'n stof of 'n mengsel van stowwe by meelblom gevoeg kan word, waardeur dit selfrysend of geskik vir enige ander bepaalde doel word; of

(b) wat die byvoeging van 'n bepaalde stof of 'n mengsel van stowwe verbied of beperk;

PART B—IMPORTED ARTICLES.

11. (1) Any food or drug or disinfectant imported into or consigned to any place within the Territory may, at the port where it was landed or during conveyance to or at any time after arrival at its destination, be inspected and examined by any inspector, who may take samples thereof for examination or analysis.

(2) Any such article, together with any similar articles in the same consignment may, at the discretion of the commissioner of customs and excise acting with the concurrence of the Secretary, be—

(a) detained in the custody of the Department of Customs and Excise until any necessary examination or analysis has been completed: Provided that such examination or analysis shall be carried out with all convenient speed; or

(b) allowed to be removed and forwarded from the port where it was landed subject to the furnishing of a guarantee to the satisfaction of the commissioner of customs and excise, by the owner, importer or consignee to the effect that he will not sell or part with or in any way alienate or grant any right in or over any portion of such consignment until he has been officially notified that the article has been passed as being in accordance with this Ordinance, or, should the article prove not to be in accordance with this Ordinance, that he will with all reasonable despatch return the complete consignment to the port of entry or the port of shipment as the Administrator may direct or otherwise deal with it as the Administrator may direct.

(3) Before any sample is taken under this section the owner, importer or consignee or his agent shall be notified by the Department of Customs and Excise of the intended time and place of taking the sample and the purpose for which it is to be taken and be afforded an opportunity of being present thereat. The provisions of sub-sections (2) to (8) inclusive of section *twenty-one* shall be carried out in respect of the taking, forwarding and disposal of such samples.

12. If the examination or analysis in terms of section *eleven* shows that the article is adulterated or falsely described, or is a prohibited article, or, in the case of a food or drug, is unwholesome for human consumption or use, or is otherwise not in accordance with any provision of this Ordinance, the article and any articles of the same kind included in the same consignment, by written order signed by the Secretary may be—

(a) declared to be forfeited and ordered to be destroyed; or

(b) required to be returned to the port of entry or the port of shipment; or

(c) allowed to be imported after being relabelled to the satisfaction of the Secretary; or

(d) otherwise dealt with as the Administrator may direct.

PART C—SPECIAL ARTICLES.

13. (1) The terms “flour” or “meal” shall not without qualification be applied to any substance other than flour or meal made from wheat; where flour or meal made from any other cereal or other vegetable product is referred to, the name of such cereal or vegetable product shall be used before the word “flour” or “meal” as the case may be. Flour or meal made from or containing a mixture of cereals or vegetable products shall be known and referred to as “mixed flour” or “mixed meal” as the case may be.

(2) No person shall sell as flour or meal any article containing except as may be permitted by regulation, any substance not derived from wheat.

(3) The Administrator may make regulations—

(a) authorizing the addition to flour or meal of any substance or mixture of substances for the purpose of making it self-raising, or suitable for any other special purpose; or

(b) prohibiting or restricting the addition to flour or meal of any specified substance or mixture of substances;

(c) wat die voorwaardes en naam bepaal waaronder meelbom of meel wat so 'n stof of mengsel bevat verkoop mag word.

14. (1) Die uitdrukking „brood” mag nie sonder omskrywing gebruik word vir enige stof buiten brood wat van koring gemaak is nie; waar brood van enige ander graan of plantprodukt bedoel word, moet die naam van sodanige graan of plantprodukt voor die woord „brood” ingevoeg word. Brood wat gemaak is van 'n mengsel graan of plantprodukte, moet „gemengde brood” genoem word.

(2) Niemand mag—

(a) enigiets as brood verkoop, wat 'n stof bevat wat nie van koring afkomstig is nie, tensy dit vir die vervaardiging daarvan noodsaaklik is, of by regulasie veroorloof word;

(b) enigiets wat van 'n graansoort of plantprodukt buiten koring gemaak is, as 'n soort brood of broodsuroogaat verkoop sonder om die koper voor aflewering te verwittig van die graan of plantprodukt waarvan dit gemaak is nie;

(c) enigiets as brood verkoop, wat van 'n mengsel graan of van 'n mengsel van 'n graan of graan met 'n ander plantprodukt gemaak is, sonder om die koper voor aflewering daarvan te verwittig dat dit „gemengde brood” is en hom nie te deel wat die aard en verhouding by benadering is van die bestanddele of die gemengde meelbom waarvan die brood gemaak is, of enigiets wat van 'n mengsel soos voormeld gemaak is, as brood verkoop nie, tensy elke afsonderlike brood, broodjie of deel daarvan volgens moontlike voorskrif bestempel of gemerk is.

15. (1) Niemand mag koffiebone, rou of gebrand, wat gekleur, getint, bepoecier, gepoleer, bedek of gestoom is, of waarby enigiets van water aard hoegenaamd gevoeg is, invoer of verkoop nie.

(2) Niemand mag onder die naam „gemengde koffie” of „koffie mengsel” of onder 'n ander soortgelyke naam 'n mengsel invoer of verkoop, wat minder as driekwart van sy gewig aan koffie bevat nie.

16. Niemand mag 'n stof as heuning of as 'n vorm van, of 'n soort heuning, of as 'n heuningmengsel verkoop, wat nie uitsluitend van die heuningjies kom nie.

17. (1) Niemand mag melk vir mensverbruik verkoop, wat van 'n dier verkry is binne veertien dae vóór en ses dae ná baring of solank na baring soos die melk by die kook daarvan nog dik word nie.

(2) Niemand mag herstelde melk of herstelde room of enige ander vloeistof wat uit gekondenseerde melk, gedroogde melk of uit 'n ander stof berei is, of melk of room wat nie uitsluitend van die koei kom, as melk of room verkoop nie; of melk van enige dier buiten 'n koei verkoop nie, tensy hy voor aflewering die koper verwittig dat dit die melk van sodanige ander dier is.

(3) Niemand mag melk waarby enige stof toegevoeg is, of waaruit deel van enige bestanddeel daarvan verwyder is, of wat minder as drie persent melkvet of minder as die persentasie vetlose melkstowwe, voorgeskryf by regulasie, bevat, as melk verkoop nie, tensy dit vir vervaardigingsdoelindes weens sy melkvet-inhoud of sy algehele melkstofinhoud verkoop word.

(4) Niemand mag room wat minder as twintig persent melkvet bevat, as room verkoop nie, tensy dit vir vervaardigingsdoelindes weens sy melkvet-inhoud verkoop word.

(5) Elkeen wat 'n voertuig of kán of ander houer vir die verkoop, vervoer of aflewering van melk of room in enige straat of openbare plek gebruik, moet sy naam en adres duidelik daarop laat aanbring.

(6) Buiten waar regulasies dit veroorloof, mag niemand water, afgeskeide of afgeroemde melk, of enige ander vloeistof waarmee melk moontlik verduin kan word, in 'n voertuig waarin melk ter verkoop vervoer word, of in 'n kán of ander houer wat by die verkoop van melk gebruik word, vervoer nie.

(c) prescribing the conditions and name under which flour or meal containing any such substance or mixture may be sold.

14. (1) The term “bread” shall not without qualification be applied to any substance other than bread made from wheat; where bread made from any other cereal or other vegetable product is referred to the name of such cereal or vegetable product shall be used before the word “bread”. Bread made from a mixture of cereals or vegetable products shall be known and referred to as “mixed bread”.

(2) No person shall—

(a) sell as bread any article containing, except as may be necessary for the purpose of manufacture or as may be permitted by regulation, any substance not derived from wheat;

(b) sell as a variety of or as a substitute for bread an article made from any cereal or vegetable product other than wheat, without informing the purchaser prior to delivery of the cereal or vegetable product from which it is made;

(c) sell as bread any article made from a mixture of cereals, or a mixture of any cereal or cereals with any other vegetable product, without informing the purchaser prior to delivery that it is “mixed bread”, and the nature and approximate proportions of the ingredients or of the mixed flour from which the bread was made, or sell as bread any article made from any mixture as aforesaid unless every loaf, roll or other portion thereof is marked or branded in such manner as may be prescribed.

15. (1) No person shall import or sell coffee beans, whether raw or roasted, which have been coloured, stained, powdered, polished, coated or steamed, or to which has been added any substance of any kind whatsoever.

(2) No person shall import or sell under the name of “mixed coffee” or “coffee mixture” or any similar name any mixture containing less than three-quarters of its weight of coffee.

16. No person shall sell as honey, or as a form or variety or blend of honey, any substance which is not solely the product of the honey bee.

17. (1) No person shall sell for human consumption milk drawn from any animal within the fourteen days preceding and the six days following parturition, or until such further time after parturition as the milk when boiled does not coagulate.

(2) No person shall sell as milk or cream any reconstituted milk or reconstituted cream or other fluid prepared from condensed milk, dried milk or other material, or milk or cream which is not entirely the product of the cow, nor shall any person sell the milk of any animal other than the cow without informing the purchaser prior to delivery that it is the milk of such animal.

(3) No person shall sell as milk, milk to which any substance has been added or from which any part of any of its constituents has been removed, or which contains less than three parts per centum of milk fat or less than the percentage of milk-solids-not-fat prescribed by regulation, unless it is sold for manufacturing purposes on the basis of its milk-fat content or its total milk-solids content.

(4) No person shall sell as cream, cream containing less than twenty parts per centum of milk-fat, unless it is sold for manufacturing purposes on the basis of its milk-fat content.

(5) Every person who uses a vehicle or can or other receptacle for the sale, conveyance or delivery of milk or cream in any street or public place shall have his name and address conspicuously marked thereon.

(6) Except as may be permitted by regulation no person shall convey water, separated or skimmed milk, or any other fluid capable of being used for diluting milk in any vehicle in which milk is conveyed for sale or in any can or other receptacle used in the sale of milk.

(7) Niemand mag melk ter verkoop in 'n kàn of ander houer met 'n inhoudsvermoë van meer as drie gelling versend of vervoer nie, tensy die kàn of houer versëel, gesluit of andersins so deeglik toegemaak is dat niemand onder die vervoer daarmee kan peuter nie: Met dien verstande dat hierdie bepaling nie geld nie vir melk wat 'n melkboer of sy bediende in 'n eie houer of voertuig vervoer na 'n roomdépôt, fabriek vir die vervaardiging van gekondenseerde melk, botterfabriek of kaas-fabriek geregistreer ingelêwe die Ordonnansie op die Beheer van die Suiwelwyerheid 1926 (Ordonnansie 2 van 1926) of 'n wysiging daarvan.

(8) Niemand mag botter wat minder as tagtig persent melkvet bevat, invoer of verkoop nie.

18. Buiten waar regulasies andersins bepaal, moet elke kàn of ander houer of pakket, en elke grootvoorraadhouer waaruit of waarin afgeroomde of afgeskeide melk, karringmelk, herstelde melk, herstelde room, margarine, kaas van afgeroomde melk gemaak, margarine-kaas, gevulde kaas, of enige ander artikel waarop die Administrateur by kennisgewing in die *Offisiële Koerant* die bepalings van hierdie artikel toepas, verkoop word, 'n opskrif dra wat in blokletters van minstens een duim luidig aangebring is, wat so geplaas is dat die koper dit duidelik by die koop kan sien, wat die aard van die inhoud aangee en die woorde „afgeroomde melk”, „afgeskeide melk”, „karringmelk”, „herstelde melk”, „herstelde room”, „margarine”, „kaas gemaak van afgeroomde melk”, „margarine-kaas” of „ge-vulde kaas” na gelang, dra, of, betreffende 'n artikel waarop die Administrateur die bepalings van hierdie artikel toe-gepas het, die voorgeskrewe woorde.

DEEL D—ONTSMETTINGSMIDDELS.

19. (1) Niemand mag 'n ontsmettingsmiddel invoer of verkoop, wat vals beskryf is of wat nie 'n opskrif met die ouderstaande besonderhede het nie—

- die kàn naam en adres van die vervaardiger en, by verkoop, die naam en adres van die verkoper;
- volledige gebruiksaanwysings, as ook die verhouding, sterkte of verdunning waarin dit doeltreffend is; en
- die name van sy aktiewe bestanddele en die per-sentasie of verhouding van elkeen, of, by 'n kiem-dodende vloeistof, sy kiemdodende krag of sterkte-graad in syfers uitgedruk in vergelyking met 'n standaard en soos vastgestel volgens 'n metode by regulasie voorgeskryf.

(2) Niemand mag hoegenaamd 'n valse of misleidende beskrywing van 'n ontsmettingsmiddel uitgee nie.

(3) By die toepassing van hierdie Ordonnansie word 'n ontsmettingsmiddel vals beskryf—

- as dit 'n beskrywing dra wat vals of misleitend is ten opsigte van sy samestelling of oorsprong of van sy wyse of plek van produksie, voorbereiding of vervaardiging, of van sy ontsmettende of kiem-dodende of antiseptiese of bederfwedende of reuk-verwyderende of ander eienskap; of
- as dit ondoeltreffend is wanneer dit gebruik word op die wyse en in die verhouding, sterkte of ver-dunning volgens die gebruiksaanwysings in die op-skrif; of
- as dit 'n namaaksel is van, en verkoop word onder die naam van, 'n ander ontsmettingsmiddel, of onder 'n naam wat so veel op die naam van 'n ander ontsmettingsmiddel lyk dat dit misleitend kan wees; of
- as dit 'n pakket is en die inhoud van die oorspronk-lyke pakket geheel of gedeeltelik verwyder en met ander stowwe vervang is.

(4) Die Sekretaris kan monsters van enige ontsmet-tingsmiddel deur 'n inspekteur vir ontleding of ondersoek laat koop of neem om die uitslag van so 'n ontleding of ondersoek te vergelyk met 'n beskrywing of advertensie teu opsigte daarvan. By die koop of neem van sodanige monsters is die bepalings van hierdie Ordonnansie met betrekking tot die koop of neem, versending van en be-skikking oor, monsters van voedings- of genesmiddels vir ontleding of ondersoek *mutatis mutandis* van toepassing.

(7) No person shall consign or convey milk for sale in a can or other receptacle of more than three gallons capacity if the can or receptacle is not sealed, locked or otherwise secured so as effectively to prevent the contents being tampered with during transit: Provided that this requirement shall not apply to milk conveyed by a dairy farmer or his servant in a receptacle and on a vehicle owned by him to any cream depot, condensed milk factory, creamery, or cheese factory registered under the Dairy Industry Ordinance, 1926 (Ordinance No. 2 of 1926), or any amendment thereof.

(8) No person shall import or sell butter containing less than eighty parts per centum of milk-fat.

18. Except as may be otherwise provided by regula-tion every can or other receptacle or package, and every bulk stock, from which or in which is sold skimmed or separated milk, butter-milk, re-constituted milk, re-con-stituted cream, margarine, skim-milk cheese, margarine cheese, "filled" cheese, or any other article to which the Administrator may by notice in the *Gazette* extend the provision of this section, shall have a label in block letters not less than one inch high so placed as to be clearly visible to the purchaser at the time of sale, stating the nature of the contents and bearing the words "skimmed milk", "separated milk", "butter-milk", "reconstituted milk", "reconstituted cream", "margarine", "skim-milk cheese", "margarine cheese" or "filled cheese" as the case may be, or, in the case of any article to which the Administrator has extended the provisions of this section, such words as may be prescribed.

PART D—DISINFECTANTS.

19. (1) No person shall import or sell any disinfec-tant which is falsely described or which does not bear a label stating—

- the name and address of the manufacturer and, when sold, the name and address of the seller;
- full directions for use, including the proportion strength or dilution in which it is effective; and
- the names of its active ingredients and the per-centage or proportion of each or, in the case of a liquid germicide, its germicidal power or efficacy expressed in numerical terms as compared with a standard, and as ascertained by a method, prescribed by regulation.

(2) No person shall publish in any manner whatever any false or misleading description of any disinfectant.

(3) For the purposes of this Ordinance a disinfectant is falsely described—

- if it bears any description which is false or mis-leading as regards its composition or origin, or mode of, or place of production, preparation or manufacture, or its disinfecting or germicidal or antiseptic or preservative or deodorant or other property; or
- if it is not effective when used in the manner, and in the proportion, strength or dilution, given in the directions on the label;
- if it is an imitation of and is sold under the name of another disinfectant, or by a name so closely resembling that of another disinfectant as to be likely to deceive; or
- if it is in package form and the contents of the package as originally put up have been removed in whole or in part and replaced by other substances.

(4) The Secretary may cause samples of any dis-infectant to be purchased or taken by an inspector for analysis or examination in order to compare the results of such analysis or examination with any description or advertisement referring to it. In purchasing or taking such samples the provisions of this Ordinance relating to the purchase or taking, forwarding and disposal of samples of food or drugs for analysis or examination shall apply *mutatis mutandis*.

(5) As die ontsmettingsmiddel in 'n oorspronklike verselde pakket verkoop word en aan die bepaling van hierdie Ordonnansie te kort kom, word die persoon wat blykens die opskrif daarop, daardie ontsmettingsmiddel vervaardig of ingevoer of in daardie pakket verpak het, beskou as die vervaardiger, invoerder of verpakkter van daardie ontsmettingsmiddel tensy hy die teendeel bewys, en is hy skuldig aan 'n misdryf tensy hy bewys dat die beweerde oortreding toe te skryf is aan bederf of 'n ander verandering by die ontsmettingsmiddel vandat hy dit afgestaan het, en waaroor hy geen beheer gehad het nie.

(6) Die bepaling van sub-artikel (5) onthef niemand wat 'n daarby bedoelde ontsmettingsmiddel verkoop, van enige aanspreeklikheid wat hy ingevolge hierdie Ordonnansie of andersins ten opsigte van sodanige verkoop, opgedoen het nie.

HOOFSTUK III.

DIE AANKOOP VAN NEEM, EN DIE ONTLEDING OF ONDERSOEK, VAN MONSTERS.

20. (1) 'n Inspekteur kan of persoonlik of deur middel van 'n assistent of plaasvervanger, van enigeen wat 'n voedings- of geneesmiddel verkoop, of ter verkoop vervaardig, monsters van genoegende artikels koop deur 'n geldbedrag van minstens die lopende markwaarde daarvan aan hom of sy bestuurder of agent of bediende of ander persoon onder wie se toesig so 'n artikel is, aan te bied. As daar niemand teenwoordig is of toesig oor die artikel hou, wanneer die inspekteur die monster wil neem nie, kan hy die monster self neem, in welke geval hy sodra redelik moontlik die eienaar of sy bestuurder, agent of bediende, in kennis moet stel dat hy sodanige monster geneem het, en waarom hy dit gedoen het.

(2) Die inspekteur kan vereis dat so-iemand enige pakket waarin daar 'n voedings- of geneesmiddel is, aan hom moet toon en hom moet toelaat om dit te inspekteer, en kan vereis dat so-iemand monsters neem van 'n besondere pakket of grootvoorraad en hulle aan hom oorhandig. Met dien verstande dat as 'n voedings- of geneesmiddel ter verkoop by die kleinmaat in 'n verselde pakket aangehou word, daar van niemand vereis kan word om minder as 'n volledige pakket te verkoop nie.

21. (1) Wanneer 'n inspekteur ooreenkomstig die bepaling van artikel twintig 'n monster van 'n voedings- of geneesmiddel verkry met die doel om dit te laat ontleed of ondersoek, moet hy by aflowering daarvan aan hom, die persoon wat teenwoordig is, hetsy die eienaar of sy bestuurder, agent of bediende of enigeemand anders onder wie se toesig die artikel dan is, van sy voorneme in kennis stel.

(2) Die inspekteur moet op staande voet aanbied om die monster in drie ongeveer gelyke dele te verdeel, en die aanbod aanvaar word, moet hy dit onmiddellik as die aanbod aanvaar word, moet hy dit onmiddellik doen en elke deel van 'n opskrif voorsien of merk en versel of toemaak na gelang die aard van die monster toelaat, en moet dan onmiddellik een van die dele aan die eienaar, sy bestuurder, agent, bediende of voormelde persoon aanbied, en die tweede deel aan 'n analis of patoloog stuur. Die inspekteur behou self die derde deel totdat 'n moontlike vervolging in verband daarmee afgesluit is.

As die aanbod van verdeling nie aanvaar word nie, of as daar op daardie oomblik niemand aanwesig is om die artikel toesig te hou nie, moet die inspekteur die hele onverdeelde monster van 'n opskrif voorsien of merk of versel of toemaak, en dit aan 'n analis of patoloog stuur.

(3) Waar die artikel in die vorm van 'n pakket is en die aanbod van verdeling word aanvaar, maar die inhoud van een pakket nie genoeg is vir ontleding of ondersoek as dit soos voormeld verdeel word nie, moet bykomende pakkette wat die eiendom van dieselfde persoon is, wat dieselfde opskrif het en wat, na voorgeving dieselfde inhoud bevat, verkry word, en dan moet die inspekteur die inhoud van twee of meer sodanige pakkette op staande voet vermeng en die mengsel verdeel en daaroor beskik soos sub-artikel (2) voorskryf.

(5) Where any disinfectant is sold in a sealed original package and is not in accordance with the provisions of this Ordinance, the person who appears from the label thereof to have manufactured or imported such disinfectant or to have enclosed it in such package shall, unless he proves the contrary, be deemed to have so manufactured or imported or enclosed such disinfectant, and shall be guilty of an offence unless he proves that the alleged contravention was due to deterioration or some other change in the disinfectant since it left his possession and which was beyond his control.

(6) Nothing contained in sub-section (5) shall relieve a person selling a disinfectant as therein referred to of any liability incurred by him under this Ordinance or otherwise in respect of such sale.

CHAPTER III.

PURCHASE OR TAKING AND ANALYSIS OR EXAMINATION OF SAMPLES.

20. (1) On tendering to any person selling or manufacturing for sale any food or drug, or to his manager or agent or any servant or other person at the time being in charge of such article, an amount of money not less than the current market price thereof, an inspector may, either personally or by an assistant or deputy, purchase samples of any such article. If there is no person present and in charge of the article when the inspector intends to take the sample, he may himself take the sample, in which case he shall as soon as reasonably possible notify the owner, or the manager, agent or servant of the owner, of his having done so and the purpose thereof.

(2) The inspector may require any such person to show and permit the inspection of any package in which there is any food or drug, and may require the said person to take and supply him with samples from any particular package or bulk stock: Provided that where any food or drug is kept for retail sale in a sealed package no person shall be required to sell less than one complete package.

21. (1) Every inspector procuring any sample of any food or drug, as provided in section twenty, with the intention of submitting it for analysis or examination, shall, on the same being handed over to him, notify such intention to any person then present, being the owner or his manager, agent or servant or other person at the time being in charge of the article.

(2) The inspector shall then and there offer to divide the sample into three approximately equal parts and if the offer is accepted shall forthwith do so, and shall label or mark and seal or fasten up each part in such manner as its nature will permit and shall then and there tender one of such parts to the owner, manager, agent, servant or person aforesaid and shall transmit the second part to an analyst or pathologist. The inspector shall himself retain the third part until any prosecution instituted in connection therewith has been concluded.

If the offer of division is not accepted, or if there is at the time no person present and in charge of the article, the inspector shall label or mark and seal or fasten up the undivided sample and shall transmit it to an analyst or pathologist.

(3) Where the article is in package form and the offer of division is accepted but the contents of one package are not sufficient for analysis or examination if divided as aforesaid, additional packages, the property of the same person, similarly labelled and purporting to contain a similar article, shall be procured, and the contents of two or more such packages shall then and there be mixed together by the inspector and the mixture divided and dealt with as provided in sub-section (2).

(4) Waar 'n artikel in die vorm van 'n pakket bederfbaar is, of waar om die een of ander rede die oopmaak van die pakket die ontleding of ondersoek sou benadeel, tensy sodanige ontleding of ondersoek ten tyde van die oopmaak daarvan of onmiddellik daarna geskied, hoef die aanbod van verdeling nie gedoen te word nie, en kan die analis of patoloog aan wie die pakket gestuur word, dit self oopmaak.

(5) Waar 'n artikel waarvan daar aldus 'n monster geneem is, of 'n pakket wat so 'n artikel bevat, 'n opskrif dra, moet 'n eksemplaar van die opskrif, of 'n juiste afskrif daarvan deur die inspekteur gewaarmerk, ingesluit word in die verskeide pakkie met die artikel wat aan die analis of patoloog gestuur word.

(6) Wanneer 'n inspekteur 'n melk- of room-monster ingevoelge hierdie Ordonnansie verkry, kan hy, om die bederf daarvan te verhinder hangende die ontleding, 'n bederfweringsmiddel van 'n soort en 'n hoeveelheid by regulasie bepaal, by die monster of by die deel daarvan wat bestem is vir versending aan die analis of patoloog byvoeg, en as die aanbod van verdeling van die monster aanvaar word, moet hy aan die eienaar, sy bestuurder, agent, bediende of ander voormelde persoon aanbied om 'n gelyke hoeveelheid van dieselfde bederfweringsmiddel te voeg by die deel wat aan hom terugbesorg word, en as die aanbod aanvaar word, moet die inspekteur dit aldus doen, en moet hy ook 'n gelyke hoeveelheid van dieselfde bederfweringsmiddel voeg by die deel wat hy self behou.

Sodanige bederfweringsmiddel moet geneem word uit 'n verskeide pakket wat 'n sertifikaat van 'n analis dra, wat die samestelling van die bederfweringsmiddel daarin uiteensit, en sodanige pakket moet oopgemaak word in die teenwoordigheid van die eienaar of sy bestuurder, agent, bediende of die persoon wat toesig hou oor die artikel waarvan monsters geneem word. Telkens wanneer 'n analis of patoloog bevind dat 'n sodanige bederfweringsmiddel gevoeg is by 'n monster wat hy ingevoelge hierdie Ordonnansie van 'n inspekteur ontvang het, moet hy in sy sertifikaat verklaar of sodanige bederfweringsmiddel 'n soort is wat 'n inspekteur by die neem van monsters ingevoelge hierdie Ordonnansie kragtens regulasie mag byvoeg, maar hy hoef nie te verklaar hoeveel van sodanige bederfweringsmiddel hy aangetref het nie.

(7) 'n Monster wat, soos hierbo bepaal, 'n opskrif het en verskeide of toegemaak is, kan op enige gerieflike wyse aan 'n analis of patoloog gestuur word, en word gehou vir regstreeks uit die hande van die inspekteur ontvang, as die analis of patoloog dit ontvang met die oorspronklike geplante seël nog ongeskend.

(8) As 'n analis of patoloog by ontleding of ondersoek bevind dat 'n voedselmonster (wat nie by regulasie tot bederfbaar verklaar is nie) of 'n monster van 'n geneses- of ontsmettingsmiddel, vervals of vals beskryf is, of aan 'n bepaling van hierdie Ordonnansie te kort kom, moet hy, as die oorspronklike monster nie deur die inspekteur verdeel is nie, die ongebruikte deel van die monster, as daarvan oorgesiek het, verskeel of toemaak en dit onderleewig aan die bepaling van sub-artikel (1) van artikel *ccv-erdertig* behou totdat 'n moontlike vervolging in verband daarmee afgesluit is.

22. (1) Wanneer die Sekretaris rede het om aan te neem dat enigeen in die besit is van voedings- of geneses- of ontsmettingsmiddels ter verkoop, of ter vervaardiging vir verkoop, of dat daar sodanige voedings-, geneses- of ontsmettingsmiddels op 'n perseel, plek of voertuig vir daardie doel is, en sodanige voedings-, geneses- of ontsmettingsmiddels nie aan die bepaling van hierdie Ordonnansie voldoen nie, of dat enige ander bepaling van hierdie Ordonnansie op 'n perseel of plek of voertuig oortree word, kan hy 'n inspekteur skriftelik magtig en aansoek om sodanige perseel, plek of voertuig te betree, te inspekteer en te ondersoek, en enige houers of pakket wat hy daarop vind, oop te maak en te ondersoek, en om te eis dat goedere-aantekeninge van ander boeke, dokumente of rekeninge wat gaan oor voedings-, geneses- of ontsmettingsmiddels of enige proses wat daarop toegepas word, aan hom getoon moet word, en hulle te inspekteer om na te gaan of enige voedings-, of genesesmiddel vir mensverbruik gebruik ongesond is, of vervals of vals beskryf is, of 'n verbode artikel is, of andersins strydig is

(4) Where an article in package form is of a perishable nature, or where for any reason the opening of the package would interfere with the analysis or examination thereof unless such analysis or examination were effected at the time of opening or immediately thereafter, the offer of division need not be made and the opening of the package may be carried out by the analyst or pathologist to whom it is sent.

(5) Where any article so sampled or any package containing the same bears a label, a specimen of such label, or a true copy thereof certified by the inspector, shall be included in the sealed package containing the article forwarded to the analyst or pathologist.

(6) Where a sample of milk or cream is procured under this Ordinance by an inspector he may, for the purpose of preventing decomposition pending analysis, add to the sample or to the part thereof intended for transmission to the analyst or pathologist, a preservative of such kind and in such quantity as may be prescribed by regulation and, if the offer of division of the sample is accepted, shall offer to the owner, manager, agent, servant or person aforesaid to add an equal quantity of the same preservative to the part intended to be returned to him and, if the offer is accepted, shall proceed accordingly, and shall also add an equal quantity of the same preservative to the part retained by himself.

Such preservative shall be taken from a sealed packet bearing the certificate of an analyst as to the composition of the preservative contained therein, which packet shall be opened in the presence of the owner or his manager, agent or servant or the person in charge of the article sampled. Whenever such preservative is found by an analyst or pathologist to have been added to any sample received from an inspector under this Ordinance, he shall state in his certificate whether such preservative is one authorized by regulation to be added by an inspector taking samples under this Ordinance, but need not state the amount of such preservative found.

(7) Any sample labelled and sealed or fastened up as hereinbefore provided may be transmitted to an analyst or pathologist in any convenient way and shall be deemed to have been received direct from the hand of the inspector if received by the analyst or pathologist with the seal originally placed thereon intact.

(8) An analyst or pathologist who finds on analysis or examination that a sample of food (not being an article declared by regulation to be a perishable article), or a sample of a drug or disinfectant, is adulterated or falsely described or not in accordance with any provision of this Ordinance, and if the original sample was not divided by the inspector, shall seal or fasten up the unused portion, if any, of the sample, and, subject to the provisions of sub-section (1) of section *thirty-one* retain it until any prosecution instituted in connection therewith has been concluded.

22. (1) If the Secretary has reason to believe that any person is in possession of, or that there is on any premises or at any place or upon any vehicle for purposes of sale or for manufacturing for sale, any article of food or any drug or disinfectant which is not in accordance with this Ordinance, or that any other contravention of this Ordinance is taking place on any premises or at any place or upon any vehicle, he may in writing authorize and instruct an inspector to enter upon, inspect and search such premises, place or vehicle and to open and examine any receptacle or package found therein, and to require the production of and to inspect any store records or other books, documents or accounts dealing with any article of food or any drug or disinfectant or any process applied thereto, for the purpose of ascertaining whether any article of food or any drug is unwholesome for human consumption or use, or is adulterated or falsely described,

met die bepaling van hierdie Ordonnansie, of om na te gaan of 'n ontsmettingsmiddel vals beskryf is of andersins strydig is met die bepaling van hierdie Ordonnansie, of om na te gaan of enige proses, strydig met hierdie Ordonnansie, uitgevoer, toegepas of weggeleë word by die voorbereiding van vervaardiging van 'n voedings- of geneesmiddel, en die Sekretaris kan ook die inspekteur magtig om —

- (a) afskrifte van of uittrekels uit enige sodanige aantekeninge, boeke, dokumente of rekeninge te maak;
- (b) vir ontleiding of ondersoek monsters van 'n voedings-, geneses- of ontsmettingsmiddel te neem, en wat betref melk of room, na sy goeddunke by die neem daarvan 'n voorgeskrewe bederfweringmiddel daarby te voeg. Sodanige monsters, as ook 'n eksemplaar of 'n juiste afskrif, deur die inspekteur gewaarmerk, van enige opskrif wat die artikel dra of vergesel, moet van 'n opskrif voorsien word of gemerk word, en verskeel of toegemaak word en sonder onnodige versuim aan 'n analis of patoloog gestuur word;
- (c) 'n voedings- of geneses- of ontsmettingsmiddel of die houër of pakket wat so 'n middel bevat, te weeg, te tel, te meet, of te merk en dit, of enige deur of ingang wat toegang daartoe verleen, te sluit, vas te maak of te verskeel;
- (d) 'n voedings-, geneses- of ontsmettingsmiddel wat blykbaar vals of vals beskryf of verbode is, of andersins strydig met hierdie Ordonnansie is, en die pakket of houër waarin dit is, in beslag te neem of te verryder en dit vir 'n redelike tyd ter ontleiding van ondersoek, as ook langende die voltooiing van geregtelike stappe wat moontlik ingevolge hierdie artikel ingestel word, aan te hou.

(2) As daar ten gevolge van so 'n inspeksie en ontleiding of ondersoek bevind word dat 'n voedingsmiddel of geneesmiddel ongesond is vir mensverbruik of -gebruik, of dat dit vals of vals beskryf of 'n verbode artikel of andersins strydig met hierdie Ordonnansie is, of as daar bevind word dat 'n ontsmettingsmiddel vals beskryf of andersins strydig is met hierdie Ordonnansie, kan die Inspekteur aansoek doen by die magistrat wat 'n bevel kan uitreik, waarin die eienaar van die artikel of die persoon in wie se sorg dit gevind word, gelas word om te verskyn en om redes aan te gee waarom dit nie verbeurd verklaar en vernietig of andersins daaroor beskik moet word na die Administrateur gelas nie.

(3) As so 'n eienaar of ander persoon verskyn, of as hy nalaat om te verskyn nadat hy daartoe gelas is, en die hof na ondersoek oortuig is —

- (a) dat, waar dit oor 'n voedingsmiddel gaan, die middel bestem is vir verkoop as voedsel, en vir mensverbruik ongesond is; of
 - (b) dat waar dit oor 'n geneesmiddel gaan, die middel skadelik of gevaarlik vir mensverbruik of -gebruik is, of dat, waar dit aan 'n koper verkoop word en by dit ooreenkomstig moontlike bygande opskrif of gebruiksaanwysings gebruik, dit 'n skadelike uitwerking op hom kan lê; of
 - (c) dat die artikel 'n verbode artikel is,
- kan die hof bevel dat sodanige artikel, en elke ander artikel van dieselfde soort, sowel as moontlike pakkette of houers wat dit bevat, wat die eiendom is van die respondent, of wat op sy perseel of voertuig of in sy besit is, verbeurd verklaar en vernietig word of andersins daaroor beskik word soos die Administrateur gelas.

(4) As die hof oortuig is dat 'n voedings- of geneesmiddel, hoewel nie ongesond vir mensverbruik of gebruik nie, vals of vals beskryf is en in die toestand wat dit op daardie tydstip verkeer, vir verkoop bestem is of wel verkoop is, of dat 'n ontsmettingsmiddel vals beskryf is of andersins strydig was met hierdie Ordonnansie en in die toestand waarin dit toentertyd verkeer het, vir verkoop bestem was of wel verkoop is, kan die hof sodanige bevel ten opsigte daarvan uitreik soos hy nodig ag ter behoorlike nakoming van die bepaling van hierdie Ordonnansie.

or is a prohibited article, or is otherwise not in accordance with this Ordinance, or whether any disinfectant is falsely described or is otherwise not in accordance with this Ordinance, or whether any process not in accordance with this Ordinance is being carried on or is being applied to or is being omitted in the preparation or manufacture of any article of food or any drug, and he may further empower the inspector to—

- (a) make copies of or extracts from any such records, books, documents or accounts;
- (b) take for analysis or examination samples of any food or drug or disinfectant and, in the case of milk or cream at his discretion add thereto at the time of removal a preservative prescribed. Such samples, together with a specimen or true copy certified by the inspector of any label attached to or accompanying the article, shall be labelled or marked and sealed or fastened up and transmitted without undue delay to an analyst or pathologist;
- (c) weigh, count, measure or mark any article of food or any drug or disinfectant or any receptacle or package containing the same, and fasten, secure or seal up the same or any door or opening affording access thereto;
- (d) seize or remove any article of food or any drug or disinfectant which appears to be adulterated or falsely described, or to be prohibited, or to be otherwise not in accordance with this Ordinance, and any package or receptacle containing the same, and to detain the same for a reasonable time for the purpose of examination or analysis, and pending the completion of any proceedings instituted under this section.

(2) If as a result of such inspection any analysis or examination any article of food or any drug is found to be unwholesome for human consumption or use or to be adulterated or falsely described or to be a prohibited article or otherwise not in accordance with this Ordinance, or if any disinfectant is found to be falsely described or otherwise not in accordance with this Ordinance, the inspector may make an application to the magistrate, who may grant an order calling upon the owner of the article or the person in whose custody it was found to appear and to show cause why it should not be forfeited and destroyed or otherwise dealt with as the Administrator may direct.

(3) Upon the said owner or person so appearing, or if after being ordered he fails to appear, the court if satisfied after enquiry—

- (a) that in the case of an article of food the article was intended for sale as food and is unwholesome for human consumption; or
- (b) that in the case of a drug the article is injurious or dangerous for human consumption or use, or if sold to a purchaser and used by him in accordance with any label or directions accompanying it might injuriously affect him; or
- (c) that the article is a prohibited article, may order that such article, and every article of the same kind, together with any packages or vessels containing the same, belonging to the respondent or on his premises or in his vehicle or in his possession or custody, be forfeited and destroyed or otherwise dealt with as the Administrator may direct.

(4) If the court is satisfied that any article of food, or any drug, though not unwholesome for human consumption or use, is adulterated or falsely described and was intended for sale or sold in its then state, or that any disinfectant was falsely described or was otherwise not in accordance with this Ordinance and was intended for sale or sold in its then state, the court may make such order in respect thereof as it may deem necessary for the due enforcement of the provisions of this Ordinance.

(5) 'n Bevel uit hoofde van hierdie artikel onthief niemand van strafregtelike aanspreeklikheid ingevolge hierdie Ordonnansie ten opsigte van 'n artikel waaroor die hofbevel gaan nie.

23. (1) By verslagdoening oor die bevinding by ontledings of ondersoekte ingevolge hierdie Ordonnansie moet elke analis en patoloog —

- (a) die voorgeskrewe sertifikaatvorm gebruik; en
- (b) voldoen aan die bepalings van hierdie Ordonnansie, en die voorgeskrewe standaard met betrekking tot samestelling, sterkte, werkingskrag, suiverheid of gehalte van die artikel, of (waar daar geen standaard voorgeskryf is nie) die gewone handelstandaard van die artikel, in aanmerking neem;

(2) Waar 'n stelsel voorgeskryf word vir die ontleding of ondersoek van 'n voedingsmiddel of ontsmettingsmiddel, of waar die *British Pharmacopoeia* of enige amptelike byvoegsel daartoe wat dan in die Unie of die Gebied geld, 'n toetsstelsel voorskryf ter vaststelling van die samestelling, sterkte, werkingskrag, suiverheid of gehalte van 'n geneesmiddel, moet elke analis of patoloog by geregtelike stappe wat ingevolge hierdie Ordonnansie geskied — hetsy hy vir die vervolging of vir die verdediging optree — by sy ontleding of ondersoek die aldus voorgeskrewe stelsel volg of toets uitvoer, en moet hy in die sertifikaat verklaar dat hy dit gedoen het.

HOOFSTUK IV.

GEREGTELIKE STAPPE EN STRAFBEPALINGS.

24. (1) 'n Plaaslike bestuur wat deur die Administrateur soos bepaal by sub-artikel (3) van artikel twee beoordeel daartoe gemagtig is, kan deur middel van enigeen van sy amptenare of enigeemand anders wat die burgemeester of voorsitter of die onderburgemeester of ondervoorsitter daarvan skriftelik in die algemeen of in die besonder daartoe gemagtig het, 'n vervolging instel weens enige oortreding of verontagsaming van 'n bepaling van hierdie Ordonnansie of 'n daaruitvloeiende regulasie, as die oortreding of verontagsaming na bewering binne sy gebied gepleeg is.

(2) Waar 'n amptenaar of ander persoon wat deur 'n plaaslike bestuur gemagtig is, enigeemand ingevolge sub-artikel (1) vervolg het en die beskuldigde skuldig bevind is aan die aanklag, moet alle boetes wat van die beskuldigde ingevorder is, aan die plaaslike bestuur betaal word.

(3) Die bepalings van hierdie artikel doen geen afbreuk aan die vervolgingsreg wat by die Prokureur-generaal berus nie.

25. Waar 'n monster van 'n voedings-, genees- of ontsmettingsmiddel ingevolge hierdie Ordonnansie aangekoop of geneem word, mag daar geen vervolging ten opsigte daarvan ingestel word na verloop van nentig dae, of, by artikels wat by regulasie tot bederfbare goedere verklaar word, na verloop van een-en-dertig dae vanaf die datum waarop die monster gekoop of geneem is nie, maar hierdie bepaling geld nie geregtelike stappe teen iemand wat 'n waarborg verstrek het nie.

26. 'n Vormgebrek in 'n kennisgewing, bevel, sertifikaat of verslag wat ingevolge hierdie Ordonnansie uitgereik word, maak die administratiewe optrede waarop die kennisgewing, bevel, sertifikaat of verslag betrekking het, nie ongeldig nie, en is geen grond vir 'n eksepsie teen geregtelike stappe wat in verband met die saak waarop sodanige dokumente betrekking het, gedoen word nie, mits die vereistes of betekenis daarvan wesenlik en verstaanbaar uiteengesit is.

27. (1) By geregtelike stappe ingevolge hierdie Ordonnansie —

- (a) moet daar minstens tien dae verloop tussen die diening van 'n dagvaarding of bevel en die verhoor van die saak waarop dit betrekking het;
- (b) moet daar saam met die dagvaarding 'n afskrif van elke sertifikaat van 'n analis of patoloog wat ter steuning van die vervolging verkry is, gedien word;

(5) No order issued under this section shall be deemed to relieve any person from any criminal liability incurred under this Ordinance in respect of any article which is the subject of the order.

23. (1) In reporting on the results of analyses or examinations under this Ordinance, every analyst and pathologist shall—

- (a) use the prescribed form of certificate; and
- (b) have regard to the provisions of this Ordinance and the prescribed standard of composition, strength, potency, purity or quality of the article, or, if no standard has been prescribed, then to the ordinary commercial standard of the article.

(2) Where any method is prescribed for the analysis or examination of any article of food or any disinfectant, or where any method or test is prescribed by the *British Pharmacopoeia* or any official addendum thereto at the time being in force in the Union or the Territory for determining the composition, strength, potency, purity or quality of any drug, every analyst or pathologist, whether for the prosecution or for the defence in any proceedings under this Ordinance, shall in his analysis or examination follow the method or carry out the test so prescribed, and shall state in his certificate that he has done so.

CHAPTER IV.

LEGAL PROCEEDINGS AND PENALTIES.

24. (1) A local authority duly authorized thereto by the Administrator, as provided in sub-section (3) of section two may, by any of its officers or by any person generally or specially authorized in writing by the mayor or chairman or by the deputy mayor or deputy chairman thereof, prosecute for any contravention of, or default in complying with, any provision of this Ordinance or any regulation thereunder if the contravention or default is alleged to have been committed within its area.

(2) Where an officer or person authorized by a local authority has prosecuted any person under sub-section (1) and the accused has been found guilty of the charge, all fines recovered from the accused shall be paid to the local authority.

(3) Nothing in this section contained shall be deemed to affect the right of prosecution vested in the Attorney-General.

25. Where a sample of any food or drug or disinfectant is purchased or taken under this Ordinance no prosecution in respect thereof shall be instituted after the lapse of ninety days, or, in the case of articles declared by regulation to be perishable articles, after the lapse of thirty-one days, from the date of purchasing or taking the sample, but this provision shall not apply to proceedings against the giver of any warranty.

26. No defect in the form of any notice, order, certificate or report made under this Ordinance shall render unlawful any administrative action or be a ground for exception to any legal proceedings which may be taken in the matter to which such notice, order, certificate or report relates: Provided that the requirements or meaning thereof are substantially and intelligibly set forth.

27. (1) In any proceedings under this Ordinance—

- (a) the period between the service of a summons or order and the hearing of the relative case shall not be less than ten days;
- (b) there shall be served with the summons a copy of any analyst's or pathologist's certificate that may have been obtained on behalf of the prosecution;

(c) word die afskrifte van, of uitreksels uit, nanteekings, boeke, dokumente of rekenings geneem in paragraaf (a) van sub-artikel (1) van artikel twee-en-twintig, wat deur 'n daartoe gemagtigde inspekteur ooreenkomstig die bepalings van daardie artikel, as juis gewaarmerk is, vir ware en juiste afskrifte of uitreksels gelou, tensy die beskuldigde die teendeel bewys, en is hulle toelaatbaar as bewys van die aantekeninge waarop hulle betrekking het;

(d) rus die bewyslas dat 'n voedings- of geneses- of ontsmettingsmiddel nie verkoop is nie, of nie vir verkoop bestem, aangelou, uitgestal, vervoer of aangebied is nie, of, wat betref 'n voedings- of geneses- middel, nie bestem vir mensgebruik of -gebruik, of andersins (wat betref 'n genesemiddel) nie bestem vir die behandeling van diere nie, op die beskuldigde;

(e) word die aankoop en verkoop of die neem van 'n monster van 'n voedings- of genesemiddel ter ontleding of ondersoek ingevolgt hierdie Ordonnansie gehou vir die aankoop en verkoop van sodanige voedings- of genesemiddel vir mensgebruik of -gebruik, of andersins (wat betref 'n genesemiddel) vir die behandeling van diere, tensy die verkoper bewys dat die voorraad waaruit die monster geneem is, nie ter verkoop met sodanige doel aangehou, of daarvoor aangebied of uitgestal of bestem was nie;

(f) word elkeen gegang 'n bepaalde voedingsmiddel of genesemiddel te verkoop, wanneer hy 'n voedings- of genesemiddel verkoop, waarvan daardie bepaalde voedings- of genesemiddel 'n bestanddeel is.

(2) By 'n vervolging uit hoofde van hierdie Ordonnansie is 'n sertifikaat wat na voorgewing, geteken is deur 'n analis of patoloog, op vertoning deur die vervolger maar behoudens die bepalings van sub-artikels (3) en (4) *prima facie* bewys van die feit wat daarin staan.

(3) Wanneer die vervolger by so 'n vervolging die genoemde sertifikaat as bewysstuk aanvoer, kan die beskuldigde eis dat die vervolger die ondertekenaar van die sertifikaat tot getuie roep, en daarop moet die bedoelde persoon aldus geroep word as die vervolger hom kan verplig om as getuie te verskyn: Met dien verstaande dat wanneer die beskuldigde so 'n eis stel, hy aan die vervolger genoeg geld aangebied het om die koste van oproeping en verskyning van so 'n getuie te bestry, en die eis skriftelik gestel het binne drie dae nadat 'n afskrif van die sertifikaat ingevolgt paragraaf (b) van sub-artikel (1) op hom gedien is.

(4) In so 'n saak het die beskuldigde die reg om, in plaas van te eis dat sodanige analis of patoloog as getuie verskyn, nan hom skriftelike vraagpunte, deur die hof goedgekeur, te stel. Die hof moet al die nodige stappe doen om die vraagpunte deur te stuur en met die antwoorde daarby te laat terugstuur, en sodanige antwoorde is as bewysstukke in die saak toelaatbaar.

28. (1) Elkeen wat uit hoofde van hierdie Ordonnansie inwolk word weens die verkoop van 'n voedings-, geneses- of ontsmettingsmiddel wat vervals is, of vals beskryf of andersins strydig is met die bepalings van hierdie Ordonnansie, is, met inagneming van die bepalings van hierdie artikel, geregtig om van die vervolging ontslaan te word, as hy bewys —

(a) dat die persoon van wie hy die artikel gekoop het, of sy agent, nan hom 'n waarborg verstrekt het dat die artikel ooreenkomstig is, juis beskryf is, en alles met die bepalings van hierdie Ordonnansie ooreenkomstig; en

(b) dat hy, toe die monster geneem is, geen rede gehad het om te vermoed dat die artikel vervals, vals beskryf of andersins strydig is met die bepalings van hierdie Ordonnansie nie; en

(c) dat hy die artikel verkoop het in dieselfde toestand waarin hy dit gekoop het.

(2) By die toepassing van hierdie Ordonnansie geld die onderstaande bepalings by waarborge —

(c) copies or extracts from records, books, documents or accounts referred to in paragraph (a) of sub-section (1) of section twenty-two, certified as true and correct by an inspector authorized as in that section provided, shall be deemed to be true and correct copies or extracts unless the accused proves the contrary and shall be admissible in evidence in proof of the entries to which they relate;

(d) the onus of proving that any food or drug or disinfectant has not been sold or was not intended, kept, exposed, transmitted or offered for sale or, in the case of a food or drug was not intended for human consumption or use or alternatively in the case of a drug, that it was not intended for the treatment of animals, shall be on the person charged;

(e) the purchase and sale or the taking of a sample of any food or drug for the purpose of analysis or examination under this Ordinance shall be deemed to have been a purchase and sale of such food or drug for human consumption or use, or alternatively in the case of a drug, for the treatment of animals, unless the seller proves that the bulk from which the sample was taken was not kept or offered or exposed or intended for sale for any such purpose;

(f) every person shall be deemed to sell an article of food or a drug who sells any food or drug which such article or drug is an ingredient.

(2) In any prosecution under this Ordinance a certificate purporting to have been signed by an analyst or pathologist shall upon production by the prosecutor, but subject to the provisions of sub-sections (3) and (4) be *prima facie* evidence of any fact stated therein.

(3) When in such prosecution the prosecutor adduces such certificate in evidence the accused may demand that the prosecutor calls as a witness the person who signed such certificate and such person shall thereupon be so called if the prosecutor is able to compel him to attend as a witness: Provided that the accused, when making such demand, has tendered to the prosecutor a sum of money sufficient to defray the expenses incidental to the calling and attendance of such witness and has made such demand in writing within three days after having been served with a copy of such certificate in terms of paragraph (b) of sub-section (1).

(4) The accused in any such case, in lieu of requiring the attendance of such analyst or pathologist, shall be entitled to put to him interrogatories in writing approved by the court. The court shall take all such steps as may be necessary for the transmission of the interrogatories and the return thereof together with the answers thereto, and such answers shall be admissible in evidence in the proceedings.

28. (1) Any person prosecuted under this Ordinance for the sale of any food or drug or disinfectant which is adulterated or falsely described or is otherwise not in accordance with the provisions of this Ordinance shall, subject to the conditions of this section, be entitled to be discharged from such prosecution if he proves—

(a) that he received a warranty from the person from whom he purchased such article or from his agent to the effect that the article was free from any adulteration, correctly described, and in all respects in accordance with the provisions of this Ordinance; and

(b) that he had no reason to believe at the time of the procuring of the sample that the article was adulterated or falsely described or otherwise not in accordance with the provisions of this Ordinance; and

(c) that he sold the article in the same state as when he purchased it.

(2) For the purposes of this Ordinance the following provisions shall apply to warranties:—

- (a) 'n opschrift, buiten 'n opschrift op 'n artikel of pakket wat 'n algemene waarborg bevat, of 'n makelaarsnota, doeaneverklaring, faktuur, vragskrif, skeepsvragskrif of ander dergelike dokument, waarin die samestelling van die artikel of die inhoud van die pakket vermeld word, word nie as waarborg beskou nie;
- (b) die waarborger moet in die Unie of in die Gebied woonagtig wees, of as dit 'n maatskappy is, moet dit in die Unie of die Gebied 'n geregistreerde kantoor hê;
- (c) die waarborg moet die naam, adres en firma van die waarborger vermeld.
- (3) 'n Waarborg kan algemeen of spesiaal wees —
- (a) 'n algemene waarborg is van toepassing op die daarin vermelde soort of klas artikels, en 'n afskrif daarvan moet verstrekt word aan, en bewaar word deur, die Sekretaris. Die Sekretaris gee elke sodanige waarborg 'n volgnummer; en elke pakket met sodanige artikels moet duidelik soos volg gemerk word:

„Gevaarborg ingevolge die Wet op Voedingsmiddels, Medisyne en Ontsmettingsmiddels 1929 van die Unie van Suid-Afrika, Volgnummer,“
of

„Gevaarborg ingevolge die Ordonnansie op Voedings-, Gemees- of Ontsmettingsmiddels 1952 van die Gebied Suidwes-Afrika, Volgnummer —“,
na gelang van die geval.

So 'n waarborg het slegs betrekking op 'n artikel of pakket as sodanige volgnummer en woorde daarop verskyn;

- (b) 'n spesiale waarborg moet 'n sertifikaat wees wat onderteken is deur die persoon van wie die artikel gekoop is, of deur sy agent; moet betrekking hê op die verkoop van bepaalde artikels en moet besonderhede bevat waaraan die betrokke artikels herken kan word, as ook hul gewig, maat of getal, of moet verwoys na 'n bygaande koopbrief, faktuur, skeepsvragskrif of ander dokument wat sodanige inligting bevat. Die beskuldigde kan so 'n waarborg nie as verdediging aanwend nie, tensy hy binne veertien dae na die diening van die dagvaarding aan die vervolger 'n afskrif van die waarborg, en van moontlike byvoegsels daartoe, afgelewer of per aangezekende pos besorg het met 'n skriftelike kennisgewing dat hy op daardie bewysstukke as verweer gaan staatmaak, en in die kennisgewing ook die naam en sake-adres van die waarborger aangee, en tensy hy ook aan die waarborger 'n dergelike kennisgewing van sy voorneme afgelewer het of per aangezekende pos besorg het.
- (4) Bo en behalwe enige straf opgelê vir die verkoop van 'n voedings-, gemees- of ontsmettingsmiddel wat strydig is met hierdie Ordonnansie, is iemand wat 'n waarborg stel wat onsigens vals of misleidend is, skuldig aan 'n misdryf, maar as hy bewys dat hy, voordat hy die waarborg gestel het, behoorlike sorg en elke redelike middel aangewend het om vas te stel dat die verklaring of beskrywing daarin vervat, juist was, neem die hof dit in ag by die strafoplegging.
- (5) Geregeltike stappe ingevolge sub-artikel (4) teen iemand wat 'n waarborg gegee het, kan geskied of in die bevoegde hof van die plek waar die voedings-, gemees- of ontsmettingsmiddel verkoop is, of 'n monster daarvan geneem is, of in die bevoegde hof van die plek waar die waarborg gegee is.

29. By geregeltike stappe ingevolge hierdie Ordonnansie is dit geen geldige verweer om te bewys —

- (a) dat 'n voedings- of geneesmiddel, hoewel vervals of vals beskryf, nie vir mensverbruik of -gebruik ongesond is nie; of
- (b) dat die koper van die artikel nie benadeel is nie; of
- (c) dat die beskuldigde, ten opsigte van 'n klag in verband met 'n voedings-, gemees- of ontsmettingsmiddel, onwetend en onopsetlik gehandel het nie; maar as hy ook bewys dat hy behoorlike sorg en elke redelike middel aangewend het om vas te stel dat die artikel voldoen aan die bepalings van hierdie Ordonnansie, neem die hof dit by strafoplegging in ag.

- (a) A label other than a label containing a general warranty upon any article or package or a broker's note, customs declaration, invoice, consignment note, bill of lading or any similar document stating the composition or contents of the article or package shall not be deemed to be a warranty;
- (b) the person giving the warranty must be resident in the Union or the Territory, or if a company, must have a registered office in the Union or the Territory;
- (c) the warranty must state the name and address of the person giving it and the name under which he trades.

(3) A warranty may be general or special:—

- (a) A general warranty shall apply to the kind or class of articles named therein, and a copy of the same shall be furnished to and filed by the Secretary. A serial number shall be allotted by the Secretary to each such warranty and each package of such articles shall be clearly labelled: "Guaranteed under the Food, Drugs and Disinfectants Act, 1929, of the Union of South Africa, Serial No.", or "Guaranteed under the Food, Drugs and Disinfectants Ordinance, 1952, of the Territory of South-West Africa, Serial No.", as the case may be. Such warranty shall not apply to any article or package unless such number and words appear thereon.
- (b) A special warranty shall be in the form of a certificate signed by the person from whom the article was purchased or his agent, shall apply to the sale of specific articles and shall include particulars identifying the articles to which it refers and the weight, measure or number of the same, or shall refer to and have annexed thereto a bill of sale, invoice, bill of lading or other document giving such information. No such warranty shall be available as a defence unless the accused has within fourteen days after the service of the summons delivered or transmitted by registered post to the prosecutor a copy of such warranty and of any annexure thereto and with a written notice stating that he intends to rely on the same as a defence and specifying the name and address and the place of business of the person who gave the warranty, and has also delivered or transmitted by registered post a like notice of his intention to such person.

(4) Apart from any penalty for the sale of any food or drug or disinfectant in contravention of this Ordinance, any person who gives any warranty which is false or misleading in any particular shall be guilty of an offence, but if he proves that before he gave the warranty he took due care and all reasonable means to ascertain that the statement or description contained therein was true, the court shall take such fact into account in assessing the penalty.

(5) Proceedings under sub-section (4) against any person giving a warranty may be taken either before a court having jurisdiction in the place where the food or drug or disinfectant was sold or sampled or before a court having jurisdiction in the place where the warranty was given.

29. In any legal proceedings under this Ordinance it shall not be a defence to prove—

- (a) that any article of food or any drug, although adulterated or falsely described, is not unwholesome for human consumption or use; or
- (b) that the purchaser of the article was not prejudiced; or
- (c) that in respect of any charge in connection with any food, drug or disinfectant the accused did not act knowingly or wilfully, but if he also proves that he took due care and all reasonable means to ascertain that the article was in accordance with the provisions of this Ordinance the court shall take such fact into consideration in assessing the penalty.

30. (1) Wanneer die bestuurder, agent of bediende van iemand (hieronder genoem die prinsipaal of meester) 'n daad of versuim begaan, wat 'n misdryf ingevolge hierdie Ordonnansie sou wees as die prinsipaal of meester dit begaan het, dan word daar regtens aangenem dat die prinsipaal of meester self die daad of versuim begaan het, en is hy by skuldigebevestiging strafbaar met die daarop gestelde straffe, tensy hy die hof met bewyse oortuig—

- (a) dat hy daardie daad of versuim van die bestuurder, agent of bediende nie oogluikend toegeliet of dit toegestaan het nie; en
- (b) dat hy elke redelike maatreël getref het om so 'n daad of versuim te voorkom nie;
- (c) dat geen daad of versuim, hetsy wettig of onwettig, van die soort wat ten laste gelê word, onder enige voorwaardes of omstandighede binne die bevoegdheid of die diensloop van die bestuurder, agent of bediende ressorteer nie.

Met die verstande dat die feit dat die prinsipaal of meester 'n daad of versuim van die betrokke aard met opdrag verbied het, op sigself nog nie tot voldoende bewys strek dat hy elke redelike maatreël getref het om die daad of versuim te voorkom nie.

(2) Die aanspreeklikheid wat by sub-artikel (1) aan 'n prinsipaal of meester opgelê word, onthef nie 'n bestuurder, agent of bediende van aanspreeklikheid vir 'n misdryf wat hy begaan het nie; en weens so 'n misdryf kan sowel hy as die prinsipaal of meester skuldig bevind en gestraf word.

(3) Wanneer die beskuldigde by 'n vervolging in verband met die verkoop van 'n artikel die bestuurder, agent of bediende is van iemand wat die artikel met waarborg ooreenkomstig artikel *agt-en-twintig* van hierdie Ordonnansie gekoop het, is hy, nadat die hof oortuig is van die feite van die waarborg, geregtig op die voordeel van genoemde artikel *agt-en-twintig* op dieselfde wyse en in die genoemde mate as sy prinsipaal of meester, as hy bewys dat hy geen rede gehad het om aan te neem dat die artikel strydig was met die bepaling van hierdie Ordonnansie nie, of dat dit in 'n ander toestand verkoop is as dié waarin die prinsipaal of meester dit gekoop het, of dat dit verskil het van die artikel wat die koper verlang het.

31. (1) By 'n vervolging ten opsigte van 'n voedings-, genes- of ontsmettingsmiddel kan die hof, op versoek van dié die vervolger dié die beskuldigde, of uit eie beweging, gelas dat 'n analis of patoloog wat dié hof daartoe benoem (en wat 'n ander analis of patoloog as dié benoem ingevolge artikel *drie* kan wees, as laasgenoemde nie gereedlik beskikbaar is nie) 'n verdere ontleding of ondersoek moet uitvoer op die ongebruikte deel van die monster wat die analis of patoloog moontlik behou het, of, waar die oorspronklike monster verdeel was, op die gedeelte wat die inspekteur behou het.

(2) Geen versoek van die beskuldigde om 'n verdere ontleding of ondersoek word toegestaan nie, tensy dit versagel gaan van 'n deposito van vyf pond.

(3) As die beskuldigde vrygespreek word, word die deposito aan hom terugbetaal, maar as hy skuldig bevind word, kan die hof beneuens 'n moontlike boete of straf wat opgelê word, gelas dat die deposito geheel of gedeeltelik verbeurd verklaar word om die onkosse van sodanige verdere ontleding of ondersoek te bestry.

32. (1) Elkeen is skuldig aan 'n misdryf, wat —

- (a) 'n inspekteur by die uitvoering van sy bevoegdheid of die vervulling van sy pligte ingevolge hierdie Ordonnansie enigins die vrees aanja of hom belennem; of
- (b) weier om aan 'n inspekteur 'n voedings-, genes- of ontsmettingsmiddel of 'n pakket wat dit bevat, of te toon, of hom toe te laat om dit te inspekteur, of die monster wat ingevolge hierdie Ordonnansie gevorder word, te verkoop of te versrek, of dit te laat neem, nadat hy kennis ontvang het van die inspekteur se bevoegdheid en van die doel van die inspeksie, of die neem van die monster; of

30. (1) Whenever the manager, agent or servant of any person (hereinafter referred to as the principal or master) does or omits to do anything which it would be an offence under this Ordinance for such principal or master to do or omit to do, such principal or master shall be deemed himself to have done or omitted to do such thing and be liable on conviction to the penalties therefor unless he proves to the satisfaction of the court that—

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

Provided that the fact that such principal or master issued instructions forbidding any act or omission of the kind in question, shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) The liability imposed upon any principal or master in terms of sub-section (1) shall not be deemed to relieve any manager, agent or servant from any liability which he may have incurred in respect of any offence committed by him and in respect of such offence both he and the principal or master may be convicted and sentenced.

(3) Where a person prosecuted in respect of the sale of any article is the manager, agent or servant of a person who purchased such article under a warranty in accordance with section *twenty-eight* of this Ordinance, he shall be entitled, after the facts of the warranty have been established to the satisfaction of the court, to benefit under the said section in the same manner and to the same extent as his principal or master would have done, on proving that he had no reason to believe that the article was not in accordance with the provisions of this Ordinance or was sold in a state different from that in which it was purchased by his principal or master or was other than that demanded by the purchaser.

31. (1) In any prosecution in respect of any food, drug or disinfectant the court may, on the application of either the prosecutor or the accused or of its own motion, direct that an additional analysis or examination be made by an analyst or pathologist nominated by the court, who, if no person appointed as such under section *three* is reasonably available, may be some other analyst or pathologist, of the unused portion, if any, of the sample retained by the analyst or pathologist or, where the original sample was divided into parts, of the divided part retained by the inspector.

(2) No request by the accused for an additional analysis or examination shall be entertained unless it is accompanied by a deposit of five pounds.

(3) If the accused is acquitted such deposit shall be returned to him, but if he is convicted the court may order that the whole or part of such deposit shall be forfeited in payment for the additional analysis or examination, in addition to any fine or penalty which may be inflicted.

32. (1) A person shall be guilty of an offence if he—

- (a) in any manner intimidates or obstructs an inspector in the exercise of his powers or in the discharge of his duties under this Ordinance; or
- (b) refuses to exhibit to any inspector or to permit the inspection by any inspector of any food, drug or disinfectant or any package containing the same, or refuses to sell or supply or to permit the taking of any sample demanded in accordance with this Ordinance, after being notified of the authority of the inspector and informed of the purpose of the inspection or sampling; or

- (c) 'n artikel wat ingevolge hierdie Ordonnansie verkoop of in beslag geneem is, teruggeem of hom teen die beslaglegging daarop of verwydering daarvan verset; of
- (d) tensy hy daartoe gemagtig is, 'n merk, seël of bevestiging wat die inspekteur geplaas het op 'n voedings-, geneses- of onsmetingsmiddel of pakket, of op 'n deur of ingang wat toegang verleen daartoe, verwyder, uitwis, verander, breek of opmaak; of
- (e) 'n waarborg, faktuur of ander dokument opsetlik of valslik gebruik in verband met, of teopas op, 'n voedings- geneses- of onsmetingsmiddel.
- (2) Iemand wat 'n bepaling van hierdie Ordonnansie oortree of versuim, waar sodanige oortreding of versuim nie elders in hierdie Ordonnansie tot misdryf verklaar is nie, is skuldig aan 'n misdryf.
33. (1) Iemand wat weens 'n oortreding ingevolge hierdie Ordonnansie skuldig bevind word, is strafbaar, by 'n eerste oortreding, met 'n boete van hoogstens vyftig pond, by 'n tweede oortreding met 'n boete van hoogstens eenhonderd pond, en by daaropvolgende oortredings met 'n boete van hoogstens tweehonderd pond.
- (2) Wanneer iemand weens 'n oortreding van hierdie Ordonnansie skuldig bevind word, en daar bewys word dat die oortreding wetend of opsetlik begaan is, is so-iemand benewens in plaas van 'n boete, strafbaar met gevangeenisstraf met of sonder harde arbeid vir 'n tydperk van hoogstens ses maande.
34. (1) Wanneer iemand of enige van sy bestuurders, agente of bediendes skuldig bevind is weens 'n oortreding van hierdie Ordonnansie, en hy of enige van sy bestuurders, agente of bediendes binne drie jaar na sodanige skuldigbevinding, wêre weens 'n oortreding van hierdie Ordonnansie skuldig bevind is, kan die hof gelas dat so 'n daaropvolgende skuldigbevinding, as ook die naam, sake-adres en firma van die veroordeelde, die oortreding waarvan hy beskuldig is, die beslissing van die hof en die straf wat hom opgelê is of die verbeurdeklaring wat beveel is, by kennisgewing in die *Offisiële Koerant* en op koste van die veroordeelde, bekendgemaak word.
- (2) Sodanige kennisgewing word nie in die *Offisiële Koerant* geplaas onderwyl die skuldigbevinding onder appél of hersiening is nie.
- (3) Sodanige kennisgewing kan in enige nuusblad wat in die Unie of die Gebied omloop, oorgeneem word, en geen hofsak teen enigeen hoegenaamd kan ten opsigte daarvan ingestel word nie.
35. (1) 'n Voedings-, geneses- of onsmetingsmiddel ten opsigte waarvan 'n skuldigbevinding ingevolge hierdie Ordonnansie plaasvind, kan deur die hof verbeurdeklaring word ten behoewe van die Kroon. So 'n verbeurdeklaring kan geld vir die hele artikel, elke artikel van dieselfde soort, en vir elke pakket wat artikels van dieselfde soort bevat, wat aan die beskuldigde behoort of wat op die perseel of in die besit van die beskuldigde is.
- (2) Elke artikel wat ingevolge hierdie Ordonnansie verbeurdeklaring word, moet vernietig word of andersins daarvoor beskik word soos die Administrateur gelas.
- (c) retakes any article sold or seized under this Ordinance or resists the seizure or removal of the same; or
- (d) not being a person authorized so to do, removes, erases, alters, breaks or opens any mark, seal or fastening placed by an inspector upon any food, drug, disinfectant or package, or upon any door or opening affording access thereto; or
- (e) knowingly and falsely makes use of in connection with, or applies to, any article of food or any drug or disinfectant any warranty, invoice or other document.
- (2) Any person who contravenes or makes default in complying with any provision of this Ordinance where such contravention or default is not elsewhere in this Ordinance declared an offence, shall be guilty of an offence.
33. (1) Any person convicted of an offence under this Ordinance shall be liable for a first offence to a fine not exceeding fifty pounds, and for a second offence to a fine not exceeding one hundred pounds, and for any subsequent offence to a fine not exceeding two hundred pounds.
- (2) Where a person is convicted of an offence under this Ordinance and it is proved that the offence was knowingly or wilfully committed such person shall be liable, instead of or in addition to a fine, to imprisonment with or without hard labour for a period not exceeding six months.
34. (1) Where any person or any of his managers, agents or servants has been convicted of an offence against this Ordinance, and such person or any of his managers, agents or servants is within the three years following such conviction again convicted of any offence under this Ordinance, the court may order the publication in the *Gazette* at the cost of such person of a notice of such subsequent conviction, including the name of such person, the address of his place of business, the name under which he trades, the offence with which he was charged, the decision of the court, the penalty imposed and any forfeiture incurred.
- (2) No such notice shall be published in the *Gazette* whilst the conviction is under appeal or review.
- (3) Such notice may be republished in any newspaper circulating in the Union or the Territory and no action in respect thereof shall lie against any person whatsoever.
35. (1) In the case of any conviction under this Ordinance any food or drug or disinfectant to which the conviction relates may, by order of the court, become and be forfeited to the Crown. Such order may apply to the whole of the article and to all articles of the same kind and to all packages containing any article of the same kind belonging to the accused or which are on his premises or in his possession.
- (2) All articles forfeited under this Ordinance shall be destroyed or otherwise dealt with as the Administrator shall direct.

HOOFSTUK V.

ALGEMENE EN AANVULLENDE BEPALINGS.

36. Die Administrateur kan van tyd tot tyd by kennisgewing in die *Offisiële Koerant* verklaar dat 'n bepaling van hierdie Ordonnansie, in daardie kennisgewing genoem, vanaf 'n datum in daardie kennisgewing genoem, van toepassing is op enigeen van die onderstaande goedere wat in daardie kennisgewing genoem word, naamlik self, smeermiddel, poeier of dergelike stof vir aanwending aan, of gebruik vir, die menslike vel of hare, of seep, tabak, sigare, sigarette, snuif, kougom en enige ander stof.

37. (1) Enigiemand wat 'n voedings-, geneses- of onsmetingsmiddel met 'n welbekende of erkende naam onder 'n ander naam verkoop, hetsy dit 'n onderskeidings-, fantasie-, handels-, eiendoms- of geregistreerde naam is, doen dieselfde aanspreklikeidheid op, asof hy dit onder sy welbekende of erkende naam verkoop het.

CHAPTER V.

GENERAL AND SUPPLEMENTARY.

36. The Administrator may from time to time by notice in the *Gazette* declare that any provision of this Ordinance specified in such notice shall, as from a date fixed in such notice, apply in respect of any of the following articles specified in such notice, that is to say, any ointment, cream, powder or similar substance for application to or use for the human skin or hair, soap, tobacco, cigars, cigarettes, snuff, chewing gum and any other substance.

37. (1) Any person who under any other name, whether distinctive, fancy, trade, proprietary or registered, sells any food, drug or disinfectant which has a well-known or recognized name, shall be under the same liabilities as if he had sold it under its well-known or recognized name.

(2) Niemand mag op 'n voedings-, genes- of ont-smettingsmiddel 'n onderskeidings-, fantasie-, handels-, eien-doms- of geregistreerde naam toepas, wat 'n valse of mis-leidende beskrywing uitmaak volgens die betekenis van sub-artikel (1) van artikel vier betreffende 'n voedings- of genesmiddel, of van sub-artikel (3) van artikel negentien betreffende 'n ontsmettingsmiddel nie.

38. 'n Voedings-, genes- of ontsmettingsmiddel word beskou as vals beskryf, as die pakket waarin dit verkoop of verskaf word, of 'n opskrif wat daaraan geheg is, 'n valse mededeling bevat oor die plek waar die middel geproduseer of vervaardig is: Met dien verstande dat die gebruik van sulke name nie as 'n valse beskrywing beskou word nie, wanneer 'n kleinvaan deur lang gebruik die betekenis van 'n soortnaam aangeneem het om 'n besondere tipe of verskeidenheid of merk van die middel aan te dui.

39. (1) Uitgesonderd bekendmaking by geregtelike stappe, word verslae of sertifikate van analise of patoël of inspekteurs, wat ingevolge hierdie Ordonnansie gedoen of gelewer word, as vertroulik behandel, en word hulle nie bekendgemaak nie, buiten op skriftelike magtiging van die Sekretaris, of, waar die monster waarop hulle betrekking het, deur 'n plaaslike bestuur ingelewer is, op skriftelike magtiging van die burgemeester of voorsitter of die onderburgemeester of ondervoorsitter van daardie bestuur.

(2) Niemand mag so 'n verslag of sertifikaat vir sake- of handelsdoelendes of ter reklame aanwend nie.

40. (1) Elkeen wie se plig dit is om die bepalings van hierdie Ordonnansie uit te voer, moet alle sake wat hy in verband daarmee te wete kom, geheim hou, en moet geen sodanige sake, buiten by die uitvoering van sy pligte ingevolge hierdie Ordonnansie, of op las van 'n regsbevoegde hof, aan enigemand openbaar nie.

(2) Elkeen wat sonder wettige veronskuldiging sodanige geheimhouding versuim, of wat 'n sodanige saak aan enigemand openbaar, uitgesonderd soos bepaal by sub-artikel (1), is skuldig aan 'n misdryf.

41. Uitgesonderd uitdruklike bepalings in hierdie Ordonnansie, is magistratshowe regsbevoeg om alle oortredings van hierdie Ordonnansie, wat in hul regsgebied begaan word, te bereg, en die strawwe soos by hierdie Ordonnansie bepaal, op te lê.

42. (1) Die Administrateur kan regulasies wut nie strydig is met hierdie Ordonnansie nie, afkondig —

(a) wat die aard en samstelling van voedings- en genesmiddels voorskryf en standaardse neerlê vir —

(i) die samstelling, sterkte, werkingskrag, suiwerheid, gehalte of ander hoedanigheid van 'n voedings- of genesmiddel, van 'n bestanddeel of samstellende gedeelte daarvan;

(ii) die aard of verhouding van vreemde stowwe wat in 'n voedings- of genesmiddel weens onvermydelike of noodsaaklike vermeenging daarmee tydens die versameling, bereiding of vervaardiging, teenwoordig mag wees;

(iii) die samstelling van mengsels of van saange-stelde voedings- of genesmiddels;

(b) wat die gebruik van 'n stof by die vervaardiging of bereiding van 'n voedingsmiddel, die byvoeging daarvan by 'n voedingsmiddel, of die verkoop van voedingsmiddels wat so 'n stof bevat, verbied;

(c) wat die stowwe voorskryf wat by die produksie, vervaardiging of bereiding van voedingsmiddels gebruik mag word, of by voedingsmiddels gevoeg mag word as bederfverminderende of kleinhouwende, of as smaakgewende of verdikende iniddele, die hoogste verhouding waarin hulle gebruik of toegevoeg mag word, en die voedingsmiddels of soorte voedingsmiddels waarvoor hulle gebruik, of waarby hulle gevoeg mag word;

(d) wat die stowwe en hul hoeveelhede voorskryf, wat, as hulle teenwoordig is in, of gevoeg word by, 'n voedings- of genesmiddel, gegeng word sodanige voedings- of genesmiddel vir mens-verbruik of -gebruik ongesond, skadelik of gevaarlik te maak;

(2) No person shall apply to any food, drug or disinfectant any distinctive, fancy, trade, proprietary or registered name which is a false or misleading description within the meaning of sub-section (1) of section four in the case of a food or drug or of sub-section (3) of section nineteen in the case of a disinfectant.

38. Any food, drug or disinfectant shall be deemed to be falsely described if the package in which it is sold or supplied, or any label attached thereto, bears any false statement as to the place where the article was produced or manufactured: Provided that the use of such names shall not be deemed to be a false description where, by reason of long usage, a geographical name has come to be a generic term used to indicate a particular type or variety or brand of the article.

39. (1) Apart from disclosure in connection with legal proceedings, reports or certificates of analysts or pathologists or inspectors made or given under this Ordinance shall be treated as confidential, and shall not be disclosed without the written authority of the Secretary or, where the sample therein referred to has been submitted by a local authority, the written authority of the mayor or chairman or of the deputy mayor or deputy chairman of that authority.

(2) No person shall use any such report or certificate for any business, trade or advertising purpose.

40. (1) Every person employed in carrying out the provisions of this Ordinance shall preserve secrecy regarding all matters that may come to his knowledge in connection therewith, and shall not communicate any such matter to any other person except in the performance of his duties under this Ordinance or by order of a competent court.

(2) Any person shall be guilty of an offence who, without lawful excuse, fails to preserve such secrecy, or who communicates any such matter to any other person otherwise than as provided in sub-section (1).

41. Save as is expressly provided in this Ordinance, a magistrate's court shall have jurisdiction to try all offences under this Ordinance committed within the area of jurisdiction of the court, and to impose the penalties prescribed by this Ordinance.

42. (1) The Administrator may make regulations not inconsistent with this Ordinance—

(a) prescribing the nature and composition of articles of food and drugs and prescribing standards for—

(i) the composition, strength, potency, purity, quality or other property of any food or drug or of any ingredient or component part thereof;

(ii) the nature or proportion of any foreign matter which may be present in any food or drug as a result of unavoidable or necessary admixture therewith during collection, preparation or manufacture;

(iii) the composition of mixtures or compounded articles of food or of drugs;

(b) prohibiting the use of any substance in the manufacture or preparation of food, or the addition of any such substance to food, or the sale of food containing any such substance;

(c) prescribing the substances which may be added to or used in the production, manufacture or preparation of food as preservatives or colouring matters or as flavouring or thickening substances, the maximum proportions which may be so added or used and the articles or classes of articles of food to or in which they may be added or used;

(d) prescribing the substances and the quantities thereof which when added to or present in any food or drug shall be deemed to render such food or drug unwholesome or injurious or dangerous for human consumption or use;

- (c) wat by die vervaardiging, aanhou, bereiding, verpakking of lewering van 'n voedingsmiddel, die gebruik van toestelle wat stowwe bevat wat geag word 'n voedingsmiddel vir menseverbruik ongesond te maak, reël, beperk of verbied, en wat die invoer, vervaardiging, aanhou of verkoop van so 'n toestel beperk of verbied;
- (f) wat die adverteer, invoer, vervaardiging, aanhou, verkoop of gebruik van 'n artikel, toestel of apparaat reël, beperk of verbied, wat, na die oortuiging van die Administrateur, ter vervalsing of strydig met die bepalinge van oegmerke van hierdie Ordonnansie gebruik word, moontlik gebruik kan word, of bestem is;
- (g) wat by die vervaardiging, bereiding, verduursaming of verpakking van 'n voedingsmiddel, die gebruiksmetodes, -prosesse en -toestelle voorskryf en reël, en wat die aanwending van 'n bepaalde metode, proses of toestel wat geag word so 'n middel vir menseverbruik ongesond te maak, verbied;
- (h) wat die stelsel waarvolgens 'n artikel wat ingevolge hierdie Ordonnansie ingelewer word, ontleed of ondersoek moet word, bepaal, as ook die vorm van die sertifikate wat analiese en patoloë moet gebruik en die aard en rangskikking van die besonderhede wat daarin moet voorkom;
- (i) wat die wyse voorskryf waarop voedings- of genesmiddels of pakette wat hulle bevat, of die grootvoorraad waaruit voedings- of genesmiddels vir die kleinhandel geneem word, van opskrifte voorsien moet wees; as ook wat sodanige opskrifte moet bevat en wat hulle nie moet bevat nie;
- (j) wat 'n voedingsmiddel of genesmiddel of 'n klas voedings- of genesmiddel krystel van die bepalinge in sake opskrifte van hierdie Ordonnansie, en wat die voorwaardes van sodanige vrystelling voorskryf;
- (k) oor die voorsiening van opskrifte vir ontsmettingsmiddels en die stelsels wat aangewend moet word om, by die toepassing van hierdie Ordonnansie, die kiemdoedende krag of die doeltreffendheid van kiemdoedende vloeistowwe vas te stel, as ook die vorm waarin die uitslag van so 'n vaststelling in 'n sertifikaat van 'n patoloog aangegee moet word;
- (l) wat die vorm van 'n waarborg of dergelike dokument en van 'n register wat ingevolge hierdie Ordonnansie gebruik word, of moet word, voorskryf, as ook die besonderhede wat daarin vermeld moet word; en oor die registrasie van waarborge ingevolge hierdie Ordonnansie en die gelde wat daarby betaal moet word;
- (m) wat voorskryf watter voedingsmiddels by die toepassing van hierdie Ordonnansie beskou moet word as bederfbaar;
- (n) wat die bederfweringsmiddels voorskryf wat die inspektore moet gebruik om die monsters wat hulle ingevolge hierdie Ordonnansie gekoop of geneem het, teen ontbinding of verandering te bewaar;
- (o) wat die pligte van analiese, patoloë en inspektore binne die bestek van hierdie Ordonnansie bepaal; en algemeen ter behoorlike uitvoering van die oegmerke en doeleindes van hierdie Ordonnansie.

(2) Enige regulasie wat ingevolge hierdie Ordonnansie afgekondig word, kan vrystellings daarvan verleen, en kan in verband daarmee aan fabriekante, invoerders, eienaars, verpakkers of verkopers van, of handelaars in, voedings-, genes-, of ontsmettingsmiddels verpligtigings opleë.

(3) Geen regulasie word ingevolge hierdie Ordonnansie afgekondig nie, voor minstens drie maande na bekendmaking in die *Offisiële Koerant* van 'n kennisgewing bevattende 'n ontwerp van die regulasie en 'n verklaring van die Administrateur se voorneme om so 'n regulasie af te kondig, sowel as 'n uitnodiging tot kritiek op die ontwerp: Met dien verstande egter dat die bepalinge van hierdie artikel nie geld vir artikels in verband waarmee die Administrateur meen dat die vertraging wat so 'n kennisgewing meebring, die openbare belang son benadeel nie.

43. 'n Proklamasie, regulasie, kennisgewing of bevel wat ingevolge hierdie Ordonnansie uitgevaardig of afgekondig word, kan op die hele Gebied of op 'n bepaalde deel daarvan toegepas word.

- (c) regulating, restricting or prohibiting in the making, keeping, preparing, packing or supply of any article of food the use of appliances containing any substance which is deemed liable to render any food unwholesome for human consumption, and restricting or prohibiting the importation, manufacture, keeping or sale of any such appliance;
- (f) regulating, restricting or prohibiting the advertisement, importation, manufacture, keeping, sale or use of any article, device or apparatus which the Administrator is satisfied is used or is intended or is likely to be used for purposes of adulteration or contrary to any provision or object of this Ordinance;
- (g) prescribing and regulating the methods, processes and appliances to be used in the manufacturing, preparing, preserving or packing of any article of food and prohibiting the employment of any specified method, process or appliance which is deemed liable to render such article unwholesome for human consumption;
- (h) prescribing the method of analysing or examining any article submitted under this Ordinance, the forms of certificate to be used by analysts and pathologists and the nature and arrangement of the particulars to be specified therein;
- (i) prescribing the mode of labelling articles of food, or drugs or packages containing the same, or bulk stock from which food or drugs are taken for retail sale, and the matter to be contained or not to be contained in such labels;
- (j) exempting any article or class of article of food or any drug from any provision of this Ordinance relating to labelling, and prescribing the conditions of such exemption;
- (k) as to the labelling of disinfectants, and prescribing the methods which shall be employed in determining the germicidal powers or the efficacy of liquid germicides for the purposes of this Ordinance, and the form in which the results of any such determination shall be stated in any certificate by a pathologist;
- (l) prescribing the form of any warranty or similar document and of any register used or required to be used under this Ordinance, and the particulars to be specified therein, and as to the registration of warranties under this Ordinance and the fees which shall be payable in respect thereof;
- (m) prescribing the articles of food which shall be deemed for the purposes of this Ordinance to be perishable articles;
- (n) prescribing the preservatives to be used by inspectors, for preventing decomposition or other change in samples purchased or taken under this Ordinance;
- (o) prescribing the duties of analysts, pathologists and inspectors under this Ordinance; and generally for the efficient carrying out of the objects and purposes of this Ordinance.

(2) Any regulation made under this Ordinance may provide exemptions therefrom and may impose duties in connection therewith on manufacturers, importers, proprietors, packers or vendors of or dealers in food or drugs or disinfectants.

(3) No regulations shall be made under this Ordinance until at least three months after the publication in the *Gazette* of a notice containing a draft of the regulation and a statement of the Administrator's intention to make it, and inviting criticisms of the draft: Provided however that the provisions of this sub-section shall not apply in respect of any article where the Administrator considers that the delay entailed by such notice would be prejudicial to the public interests.

43. Any Proclamation, regulation, notice or order made or issued under this Ordinance may be expressed to apply throughout the Territory or to any specified part thereof.

44. In hierdie Ordonnansie, tensy die sameking 'n ander betekenis veis, beteken —

„advertensie” of „reklame” 'n verklaring, tekening of ontwerp wat in 'n nuusblad, of in openbare drukwerk gepubliseer word, of 'n strooibljef, omsendbrieff of ander geskrif wat onder die publiek versprei word deur versending per pos of andersins, of wat aan die publiek middels aanplakblyf, reklameplaat, rolprent of andersins bekendgemaak word;

„analisis” 'n analis of ontleder wat kragtens artikel drie as sodanig benoem word;

„toestel” die geheel of gedeelte van 'n werktuig, masjien, instrument, apparaat of voorwerp wat by die vervaardiging, aanhou, bereiding, verpakking of lewering van 'n voedings-, geneses- of ontsmettingsmiddel gebruik word;

„gemagtig” by hierdie Ordonnansie gemagtig, of algemeen of in die besonder skriftelik gemagtig deur die Administrateur of deur die Sekretaris of sy gemagtigde plaasvervanger, of waar dit 'n amptenaar van 'n plaaslike bestuur geld, dan beteken die uitdrukking gemagtig deur die burgemeester of voorsteur, of deur die onderburgemeester of ondervoorsteur van so 'n plaaslike bestuur;

„apteker” iemand wat as sodanig geregistreer is ingevolge die Wet op Geneeshere, Tandarts en Aptekers 1922, soos by Unie-Proklamasie 3 van 1929 op die Gebied toegepas;

„tandarts” iemand wat as sodanig geregistreer is ingevolge die Wet op Geneeshere, Tandarts en Aptekers 1922, soos by Unie-Proklamasie 3 van 1929 op die Gebied toegepas;

„beskrywing” 'n opskrif, teken of merk of advertensie of 'n mondelinge of skriftelike verklaring of 'n voorstelling of 'n beskrywing in druk of prent, wat betrekking het op 'n voedings-, geneses- of ontsmettingsmiddel of op 'n bestanddeel daarvan;

„ontsmettingsmiddel” ook 'n kiemdodende, antiseptiese, bederfverderende, skroefverwyderende middel, of 'n reinigingspoecier, -vloestof of soortgelyke middel;

„genesemiddel” 'n stof of 'n mengsel van stowwe wat vir nense of diere as inwendige of uitwendige genesemiddel gebruik word, en dit omvat verdowingsmiddels;

„voedingsmiddel” 'n stof (buiten genesemiddels of water inaar met insluiting van ys) wat bestem is of gewoonlik aangewend word vir nenseverbruik, of wat gebruik word by die samestelling of bereiding, of wat 'n onderdeel uitmaak, van middels vir nenseverbruik;

„invoerder” ook elkeen, wat, hetsy as eienaar, versender, ontvanger, agent of makelaar, in besit is van, of die reg van besit of beheer het oor, 'n voedings-, geneses- of ontsmettingsmiddel wat in die Unie of die Gebied oorland, per lug of oor die see ingevoer is, of nit die Unie na die Gebied versend of gestuur is; en „invoer” het 'n ooreenkomstige betekenis;

„inspekteur” iemand wat ingevolge artikel drie as sodanig benoem is, en dit omvat elke sodanige persoon genoem in sub-artikel (5) van daardie artikel;

„van 'n opskrif voorsien” 'n artikel van 'n teken of merk voorsien, of dit andersins aandui of beskryf; en „opskrif” beteken 'n teken, merk of 'n beskrywing of druk of prent wat op 'n voedings-, geneses- of ontsmettingsmiddel verskyn of daaraan gelag of daarmee ingepak is en wat daarop betrekking het of op die pakket wat dit bevat;

„plaaslike bestuur” ook 'n stadsraad, dorpsraad, dorpsbestuur en elke ander liggaam wat by wet ingestel is en bekleed is met die bevoegdheid om toezig te hou oor die gesondheid van die inwoners van sy regsgebied;

„genesesheer” iemand wat as sodanig geregistreer is ingevolge die Wet op Geneeshere, Tandarts en Aptekers 1922 soos by Unie-Proklamasie 3 van 1929 op die Gebied toegepas;

„pakket” ook alles waarin of waarmee goedere verpak, bedek, omsluit of gepak is, of wat goedere bevat;

„patoloog” iemand wat ingevolge hierdie Ordonnansie as sodanig benoem is;

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

“advertisement” means any statement, design or device published in any newspaper or public print or any handbill, circular or other matter in writing distributed to members of the public through the post or otherwise, or brought to the notice of the public by poster, showcard, bioscope-film or other means;

“analyst” means an analyst appointed as such under section three;

“appliance” includes the whole or any part of any utensil, machinery, instrument, apparatus or article used in the making, keeping, preparing, packing or supply of any food or drug or disinfectant;

“authorized” means authorized by this Ordinance or authorized either generally or specially in writing by the Administrator or by the Secretary or his authorized deputy, or, when referring to an officer of a local authority, means authorized by the mayor or chairman or by the deputy mayor or deputy chairman of such authority;

“chemist and druggist” means a person registered as such under the Medical, Dental and Pharmacy Act, 1922, as extended to the Territory by Union Proclamation No. 3 of 1929;

“dentist” means a person registered as such under the Medical, Dental and Pharmacy Act, 1922, as extended to the Territory by Union Proclamation No. 3 of 1929;

“description” means any label or brand or mark or an advertisement or any verbal or written statement or any representation or any pictorial or other descriptive matter referring to any food or drug or disinfectant or any ingredient thereof;

“disinfectant” includes any germicide, antiseptic, preservative, deodorant, sanitary powder, sanitary fluid or any similar article;

“drug” means any substance or mixture of substances used as a medicine for man or animals, whether internally or externally, and includes anaesthetics;

“food” or “article of food” means any substance (other than drugs or water but 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;

“importer” includes any person who, whether as owner, consignee or consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any food or drug or disinfectant imported by land, air or sea, into the Union or the Territory, or consigned or sent to the Territory from the Union, and “import” has a corresponding meaning;

“inspector” means a person appointed as such under section three and includes any such person as is referred to in sub-section (5) of that section;

“label”, when used as a verb, means brand, mark or otherwise designate or describe any article, and when used as a noun, means any brand or mark or any printed, pictorial or other descriptive matter appearing on or attached to or packed with and referring to any food or drug or disinfectant or the package containing the same;

“local authority” means any municipal council or village management board, and also any other body constituted under any law and vested with powers for safeguarding the health of the inhabitants of the area of its jurisdiction;

“medical practitioner” means a person registered as such under the Medical, Dental and Pharmacy Act, 1922, as extended to the Territory by Union Proclamation No. 3 of 1929;

“package” includes anything in or by which goods are cased, covered, enclosed, contained or packed;

“pathologist” means a pathologist appointed as such under this Ordinance;

- „veroorloof” by hierdie Ordonnansie of by ’n daaruit vloeiende regulasie veroorloof;
- „voorgeskryf” of „voorgeskrewe” by hierdie Ordonnansie of by ’n daaruitvloeiende regulasie voorgeskryf;
- „verbied” of „verbode” by hierdie Ordonnansie of ’n daaruitvloeiende regulasie verbode;
- „verbode artikel” enige artikel waarvan die adverteer, invoer, vervaardiging, aanhouding, of verkoop of volstrek of voorwaardelik by hierdie Ordonnansie of ’n daaruitvloeiende regulasie verbode is;
- „eiendomsartikel” ’n artikel wat volgens geheime prosedure of formule, die eiendom van, of in bewaring van, die vervaardiger, berei word, of na bewering of verklaring aldus berei word;
- „regulasie” ’n regulasie uit hoofde van hierdie Ordonnansie;
- „kleinhandel” handel met, of verkoop aan, ’n verbruiker;
- „verseëelde pakket” ’n pakket wat nie oopgebreek of oopgemaak is nie, en wat nie oopgemaak kan word sonder om die houer, seël, kapsule, aangeplakte opskrif of omhulsel te beskadig nie, of wat andersins nie oopgemaak en weer ongeskonde toegenaak kan word nie;
- „Sekretaris” die Sekretaris van Suidwes-Afrika of ’n amptenaar van die Administrasie wat skriftelik deur hom of algemeen of ten opsigte van ’n besondere geval of reeks gevalle van gelyke soort gemagtig is om ’n bevoegdheid of ’n plig ingevolge hierdie Ordonnansie namens hom uit te oefen;
- „verkoop” verkoop by die groot- of kleinmaat, en beteken, by die gewone betekenis, ook om ter verkoop aan te bied, te adverteer, aan te hou, uit te stal, te stuur, versend, vervoer of af te lewer, of ’n verkoop te magtig, te gelas, of toe te laut, of ter verkoop te berei of te besit, en dit beteken voorts om te ruil, of om om te ruil, of om te verskaf of oor te beskik teen regstreekse of onregstreekse vergoeding. Die woord „verkoper” het ’n ooreenkomstige betekenis;
- „hierdie Ordonnansie” ook proklamasies en regulasies wat uit hoofde hiervan uitgevaardig of afgekondig word.
46. Hierdie Ordonnansie heet die Ordonnansie op Voedings-, Genees- en Ontsmettingsmiddels 1952, en tree in werking op ’n datum wat die Administrateur by kennisgewing in die *Offisiële Koerant* bepaal.
- “permitted” means permitted by this Ordinance or any regulation thereunder;
- “prescribed” means prescribed by this Ordinance or any regulation thereunder;
- “prohibited” means prohibited by this Ordinance or any regulation thereunder;
- “prohibited article” means any article, the advertisement, importation, manufacture, keeping or sale of which is prohibited either absolutely or conditionally by this Ordinance or any regulation thereunder;
- “proprietary article” means an article prepared, or purporting or professed to be prepared, by a secret process or formula the property or in the custody of the manufacturer;
- “regulation” means a regulation made under this Ordinance;
- “retail trade” or “retail sale” means trading with or selling to the consumer;
- “sealed package” means an unbroken or unopened package which cannot be opened without damaging the container, seal, capsule, adhesive label or wrapping, or which otherwise cannot be opened and closed again so as to be left intact;
- “Secretary” means the Secretary for South West Africa or any officer of the Administration authorized by him in writing, either generally or in any particular case or class of case to exercise any power or carry out any duty under this Ordinance on his behalf;
- “sell” means sell by wholesale or retail, and in addition to its ordinary meaning includes offer, advertise, keep, expose, transmit, consign, convey or deliver for sale, or authorize direct or allow a sale or prepare or possess for purposes of sale; and further means barter or exchange or supply or disposal for any consideration direct or indirect. The words “seller”, “selling”, “sale” and “sold” have a corresponding meaning;
- “this Ordinance” includes proclamations issued and the regulations made thereunder.
46. This Ordinance may be cited as the Food, Drugs and Disinfectants Ordinance, 1952, and shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.