

OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.

BUITENGEWONE

OFFISIËLE KOERANT



UITGAWE OP GESAG.

VAN SUIDWES-AFRIKA.

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No. 39, 1965.]

ACT

To amend the Atomic Energy Act, 1948, and the Nuclear Installations (Licensing and Security) Act, 1963.

(Afrikaans text signed by the State President.)
(Assented to 1st April, 1965.)

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

Amendment of section 3 of Act 35 of 1948, as amended by section 1 of Act 18 of 1952, section 1 of Act 27 of 1958 and section 1 of Act 44 of 1961.

1. Section *three* of the Atomic Energy Act, 1948 (hereinafter referred to as the principal Act), is hereby amended by the substitution for sub-section (2) of the following sub-section:

“(2) Any authority required under sub-section (1) may be granted subject to such conditions as the Minister or the board may determine.”.

Amendment of section 12 of Act 35 of 1948, as amended by section 3 of Act 11 of 1956 and section 2 of Act 27 of 1958.

2. Section *twelve* of the principal Act is hereby amended—

- (a) by the substitution in paragraph (c) of sub-section (1) for the word “External” of the word “Foreign”;
- (b) by the substitution for sub-section (4) of the following sub-sections:

“(3) Any person may serve as an alternate in the stead of any member during his absence from any meeting of the board—

- (a) in the case of a member other than a member referred to in sub-paragraph (i), (iv) or (v) of paragraph (b) or in paragraph (c) of sub-section (1), if such person has been appointed by the Minister as an alternate to such member;
- (b) in the case of a member referred to in the said sub-paragraph (i)—
 - (i) if such person has been appointed by the Minister as an alternate to such member; or
 - (ii) if such person has been appointed by the Minister as an alternate to the other member referred to in that sub-paragraph and any alternate so appointed to the absent member is unable to attend any meeting of the board;
- (c) in the case of a member referred to in the said sub-paragraph (iv) or (v), if such person has, with the approval of the Minister, been nominated by such member as his alternate;
- (d) in the case of a member referred to in paragraph (c) of sub-section (1) if, such person has been nominated by such member as his alternate.

(4) Whenever both the chairman and the deputy chairman are absent from a meeting of the board, the Secretary for Mines shall preside at such meeting.”.

No. 39, 1965.]

WET

Tot wysiging van die Wet op Atoomkrag, 1948, en die Wet op Kerninstallasies (Lisensiering en Sekerheidstelling), 1963.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 April 1965.)

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

1. Artikel drie van die Wet op Atoomkrag, 1948 (hieronder die Hoofwet genoem), word hierby gewysig deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) 'n Ingevolge sub-artikel (1) vereiste magtiging kan op die deur die Minister of die raad bepaalde voorwaardes verleen word.”.

Wysiging van artikel 3 van Wet 35 van 1948, soos gewysig deur artikel 1 van Wet 18 van 1952, artikel 1 van Wet 27 van 1958 en artikel 1 van Wet 44 van 1961.
2. Artikel twaalf van die Hoofwet word hierby gewysig—

(a) deur in die Engelse teks van paragraaf (c) van sub-artikel (1) die woord „External” deur die woord „Foreign” te vervang;

(b) deur sub-artikel (4) deur die volgende sub-artikels te vervang:

„(3) Enige persoon kan as plaasvervanger van 'n lid gedurende sy afwesigheid van 'n vergadering van die raad in sy plek dien—

 - (a) in die geval van 'n ander lid as 'n in sub-paragraaf (i), (iv) of (v) van paragraaf (b) of in paragraaf (c) van sub-artikel (1) vermelde lid, indien bedoelde persoon deur die Minister as plaasvervanger van bedoelde lid aangestel is;
 - (b) in die geval van 'n in bedoelde sub-paragraaf (i) vermelde lid—
 - (i) indien bedoelde persoon deur die Minister as plaasvervanger van bedoelde lid aangestel is; of
 - (ii) indien bedoelde persoon deur die Minister as plaasvervanger van die ander in daardie sub-paragraaf vermelde lid aangestel is en 'n aldus aangestelde plaasvervanger van die afwesige lid 'n vergadering van die raad nie kan bywoon nie;
 - (c) in die geval van 'n in bedoelde sub-paragraaf (iv) of (v) vermelde lid, indien bedoelde persoon met die goedkeuring van die Minister deur bedoelde lid as sy plaasvervanger genomineer is;
 - (d) in die geval van 'n in paragraaf (c) van sub-artikel (1) vermelde lid, indien bedoelde persoon deur bedoelde lid as sy plaasvervanger genomineer is.

(4) Wanneer sowel die voorsitter as die adjunk-voorsitter van 'n vergadering van die raad afwesig is, tree die Sekretaris van Mynwese by die vergadering as voorsitter op.”.

Wysiging van artikel 12 van Wet 35 van 1948, soos gewysig deur artikel 3 van Wet 11 van 1956 en artikel 2 van Wet 27 van 1958.

Amendment of section 13 of Act 35 of 1948, as amended by section 2 of Act 44 of 1961.

3. Section *thirteen* of the principal Act is hereby amended by the substitution for paragraph (e) of the following paragraph:
“(e) to undertake the production of atomic energy and radio-active isotopes;”.

Amendment of section 25 of Act 35 of 1948.

4. Section *twenty-five* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

“(1) Subject to the provisions of section *twenty-five bis*, the rights in all discoveries, inventions and improvements made by officers of the board, or by persons to whom grants in aid have been made by the board, in relation to any matter within the purview of the board in terms of this Act, shall vest in the board on behalf of the State and the board may make such discoveries, inventions and improvements available for use in the public interest subject to such conditions and the payment of such fees or royalties as the board may, in accordance with regulations made in terms of section *thirty-one*, determine.”.

Insertion of section *25bis* in Act 35 of 1948.

5. The following section is hereby inserted after section *twenty-five* of the principal Act:

“Special investigations by arrangement with any person with a view to discoveries, inventions or improvements.

25bis. (1) The board may, by arrangement with any person, and at such place and subject to such conditions and the payment of such charges as may be agreed upon, carry out or cause to be carried out special investigations with the object of making discoveries, inventions or improvements in relation to any matter within the purview of the board in terms of this Act.

(2) The rights in any discovery, invention or improvement so made shall vest in either the board or any other person, according to the provisions of a written agreement entered into by the parties in question prior to the investigation.

(3) If the rights in any discovery, invention or improvement vest in the board in pursuance of an agreement contemplated in sub-section (2), the board may make such discovery, invention or improvement available for use in the public interest, and the board may apply for a patent in respect thereof, as if it were a discovery, invention or improvement referred to in sub-section (1) of section *twenty-five*.

(4) If the rights in any discovery, invention or improvement vest in any person other than the board in pursuance of an agreement contemplated in sub-section (2), the said discovery, invention or improvement shall be used or made available for use in the public interest subject to such conditions as may be provided by the agreement.”.

Amendment of section 28 of Act 35 of 1948.

6. Section *twenty-eight* of the principal Act is hereby amended—

(a) by the substitution for sub-section (1) of the following sub-section:

“(1) (a) No person shall, without the consent in writing of the chairman or the deputy chairman of the board, communicate, transmit or make known to any person, whether in or outside the Union, or use any information in regard to reserves of ores containing any prescribed material or the annual output of such material or ores by any person or the price paid to any person in respect of such material or ores, or any investigation or research or any discovery or invention relating to the processing or use of any prescribed material or the production of atomic energy, or any such investigation or research financed wholly or partly by the board or the State and relating to prospecting or mining for or treatment of ores containing any prescribed material, or anything done by or on behalf of the board in the exercise

3. Artikel *dertien* van die Hoofwet word hierby gewysig deur paragraaf (e) deur die volgende paragraaf te wervang:
- „(e) om die voortbrenging van atoomkrag en radioaktiewe isotope te onderneem;”

Wysiging van artikel 13 van Wet 35 van 1948, soos gewysig deur artikel 2 van Wet 44 van 1961.

4. Artikel *vyf-en-twintig* van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

Wysiging van artikel 25 van Wet 35 van 1948.

„(1) Behoudens die bepalings van artikel *vyf-en-twintig bis*, berus die regte op alle ontdekkings, uitvindings en verbeterings gedoen deur beamptes van die raad, of deur persone aan wie hulptoelae deur die raad toegestaan is, met betrekking tot enige aangeleentheid wat volgens hierdie Wet binne die raad se bestek val, by die raad ten bate van die Staat en kan die raad bedoelde ontdekkings, uitvindings en verbeterings vir gebruik in die openbare belang beskikbaar stel op die voorwaardes en teen betaling van die gelde of tantieme wat die raad ooreenkomstig ingevolge artikel *een-en-dertig* uitgevaardigde regulasies bepaal.”

5. Die volgende artikel word hierby na artikel *vyf-en-twintig* van die Hoofwet ingevoeg:

Invoeging van artikel 25bis in Wet 35 van 1948.

„Spesiale ondersoeke by wyse van ooreenkoms met 'n persoon met die oog op ontdekkings, uitvindings of verbeterings.

25bis. (1) Die raad kan by wyse van ooreenkoms met 'n persoon en op die plek en op die voorwaardes en teen betaling van die koste waarop ooreenkom word, spesiale ondersoeke instel of laat instel met die doel om ontdekkings, uitvindings of verbeterings te doen met betrekking tot enige aangeleentheid wat volgens hierdie Wet binne die raad se bestek val.

(2) Die regte op 'n ontdekking, uitvinding of verbetering aldus gedoen, berus òf by die raad òf by 'n ander persoon, volgens die bepalings van 'n skriftelike ooreenkoms wat vóór die ondersoek deur die betrokke partye aangegaan is.

(3) Indien die regte op enige ontdekking, uitvinding of verbetering uit hoofde van 'n in sub-artikel (2) beoogde ooreenkoms by die raad berus, kan die raad bedoelde ontdekking, uitvinding of verbetering in die openbare belang vir gebruik beskikbaar stel, en kan die raad om 'n patent ten opsigte daarvan aansoek doen asof dit 'n in sub-artikel (1) van artikel *vyf-en-twintig* vermelde ontdekking, uitvinding of verbetering was.

(4) Indien die regte op enige ontdekking, uitvinding of verbetering by 'n ander persoon as die raad uit hoofde van 'n in sub-artikel (2) beoogde ooreenkoms berus, word bedoelde ontdekking, uitvinding of verbetering in die openbare belang gebruik of vir gebruik beskikbaar gestel op die voorwaardes wat by die ooreenkoms bepaal word.”

6. Artikel *agten-twintig* van die Hoofwet word hierby gewysig—

Wysiging van artikel 28 van Wet 35 van 1948.

(a) deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) (a) Niemand mag sonder skriftelike toestemming van die voorsitter of die adjunk-voorsitter van die raad inligting met betrekking tot reserwevoorrade erts wat voorgeskrewe materiaal bevat of die jaarlikse opbrings van sodanige materiaal of erts deur enigiemand of die prys ten opsigte van sodanige materiaal aan iemand betaal, of enige ondersoek of navorsing, of enige ontdekking of uitvinding, wat op die verwerking of gebruik van voorgeskrewe materiaal of die voortbrenging van atoomkrag betrekking het, of enige sodanige ondersoek of navorsing wat gedeeltelik of geheel deur die raad of die Staat gefinansier word, en wat betrekking het op prospektering vir of die ontginning of behandeling van erts wat voorgeskrewe materiaal bevat, of enigiets deur of ten behoeve van die raad by die uitoefening van sy

of its powers, or any property, whether movable or immovable, in control or possession of the board.

- (b) No person shall receive any information, knowing or having reasonable grounds to believe, at the time when he receives it, that the information is communicated, transmitted or made known to him in contravention of the provisions of paragraph (a).
- (c) No person who has in his possession or under his control any information which under paragraph (a) he is prohibited from communicating, transmitting or making known to any person, shall fail to take reasonable steps to safeguard such information or so conduct himself as to endanger the secrecy thereof.”;

(b) by the addition of the following sub-sections:

“(4) No trial or preparatory examination in respect of an offence under this section shall be instituted without the written authority of the attorney-general concerned.

(5) For the purposes of this section ‘information’ includes anything containing or affording information.”.

Amendment of section 29 of Act 35 of 1948, as amended by section 3 of Act 8 of 1950.

7. Section *twenty-nine* of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

- (a) apply any provision of paragraph (a) or (c) or subparagraph (ii) or (iii) of paragraph (d) of sub-section (1) and of sub-section (3) of section *nineteen* to inventions, discoveries, investigations or research relating to prospecting or mining for or treatment of ores containing prescribed materials;”.

Amendment of section 31 of Act 35 of 1948, as amended by section 7 of Act 11 of 1956 and section 7 of Act 44 of 1961.

8. Section *thirty-one* of the principal Act is hereby amended by the substitution for paragraph (c) of sub-section (1) of the following paragraph:

- “(c) the conditions under which discoveries, inventions or improvements may be made available for use and the fees or royalties payable in respect of such use; and”.

Insertion of section 33*bis* in Act 35 of 1948.

9. The following section is hereby inserted in the principal Act after section *thirty-three*:

“Jurisdiction. 33*bis*. Any offence under this Act shall, for the purposes of determining the jurisdiction of a court to try the offence, be deemed to have been committed at the place where it actually was committed and also at any place where the accused happens to be.”.

Substitution of section 34 of Act 35 of 1948.

10. (1) The following section is hereby substituted for section *thirty-four* of the principal Act:

“Applica- 34. This Act and any amendment thereof which may be made from time to time shall apply also in the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory and any reference in this Act to the Union shall be deemed to include a reference to the said territory.”.

(2) Sub-section (1) shall be deemed to have come into operation at the commencement of the principal Act.

Amendment of section 5 of Act 43 of 1963.

11. Section *five* of the Nuclear Installations (Licensing and Security) Act, 1963, is hereby amended—

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

“(2) Subject to the provisions of sub-section (3) no person other than the licensee in question shall be

bevoegdhede gedoen, of enige eiendom, hetsy roerend of onroerend, onder die beheer of in die besit van die raad, aan enigiemand binne of buite die Unie meedeel, versend of bekendmaak of daarvan gebruik maak nie.

(b) Niemand mag inligting ontvang nie, as hy weet of redelike gronde het om te glo wanneer hy dit ontvang, dat die inligting aan hom in stryd met die bepalings van paragraaf (a) meegedeel, versend of bekendgemaak word.

(c) Niemand wat inligting wat hy ingevolge paragraaf (a) verbied word om aan enigiemand mee te deel, te versend of bekend te maak, in sy besit of onder sy beheer het, mag in gebreke bly om redelike stappe te doen om daardie inligting te beveilig of hom so gedra dat geheimhouding daarvan in gevaar gestel word nie.”;

(b) deur die volgende sub-artikels by te voeg:

„(4) Geen verhoor of voorlopige ondersoek ten opsigte van 'n misdryf ingevolge hierdie artikel word sonder die skriftelike magtiging van die betrokke prokureur-generaal ingestel nie.

(5) By die toepassing van hierdie artikel beteken „inligting’ ook enigiets wat inligting bevat of verskaf.”.

7. Artikel *nege-en-twintig* van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

Wysiging van artikel 29 van Wet 35 van 1948, soos gewysig deur artikel 3 van Wet 8 van 1950.

„(a) enige bepaling van paragraaf (a) of (c) of sub-paragraaf (ii) of (iii) van paragraaf (d) van sub-artikel (1) en van sub-artikel (3) van artikel *negentien* toepas op enige uitvinding, ontdekking, navorsing of ondersoek met betrekking tot prospektering vir of die ontginning of behandeling van erts wat voorgeskrewe materiaal bevat;”.

8. Artikel *een-en-dertig* van die Hoofwet word hierby gewysig deur paragraaf (c) van sub-artikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 31 van Wet 35 van 1948, soos gewysig deur artikel 7 van Wet 11 van 1956 en artikel 7 van Wet 44 van 1961.

„(c) die voorwaardes waarop ontdekkings, uitvindings of verbeterings vir gebruik beskikbaar gestel kan word en die gelde of tantieme ten opsigte van sodanige gebruik betaalbaar; en”.

9. Die volgende artikel word hierby na artikel *drie-en-dertig* van die Hoofwet ingevoeg:

Invoeging van artikel 33bis in Wet 35 van 1948.

„Regsbevoegdheid. 33bis. 'n Misdryf ingevolge hierdie Wet word, vir die doeleindes van die bepaling van die regsbevoegdheid van 'n hof om die misdryf te verhoor, geag gepleeg te gewees het by die plek waar dit in werklikheid gepleeg was en ook by enige plek waar die beskuldigde hom bevind.”.

10. (1) Artikel *vier-en-dertig* van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 34 van Wet 35 van 1948.

„Toepassing van Wet op Suidwes-Afrika. 34. Hierdie Wet en enige wysiging daarvan wat van tyd tot tyd aangebring mag word, is ook van toepassing in die gebied Suidwes-Afrika (met inbegrip van die Oostelike Caprivi Zipfel vermeld in artikel *drie* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet No. 55 van 1951)), en met betrekking tot alle persone in daardie gedeelte van bedoelde gebied bekend as die ‚Rehoboth Gebiet’ en omskrywe in die Eerste Bylae by Proklamasie No. 28 van 1923 van bedoelde gebied en enige verwysing in hierdie Wet na die Unie word geag ook ’n verwysing na bedoelde gebied te wees.”.

(2) Sub-artikel (1) word geag by die inwerkingtreding van die Hoofwet in werking te getree het.

11. Artikel *vyf* van die Wet op Kerninstallasies (Lisensiëring en Sekerheidstelling), 1963, word hierby gewysig—

Wysiging van artikel 5 van Wet 43 van 1963.

(a) deur sub-artikel (2) deur die volgende sub-artikel te vervang:

„(2) Behoudens die bepalings van sub-artikel (3) is niemand anders as die betrokke gelisensieerde aan-

liable for any nuclear damage caused as is contemplated in sub-section (1), and notwithstanding anything contained in the Apportionment of Damages Act, 1956 (Act No. 34 of 1956), or any other law, or any other legal rule, no fault of any person shall be a defence to any claim for compensation on account of such damage, or affect the amount of the compensation which the licensee is liable to pay by virtue of the provisions of sub-section (1).”;

(b) by the deletion of sub-section (4).

Application of
Act to South-
West Africa.

12. This Act shall apply also in the territory of South-West Africa.

Short title.

13. This Act shall be called the Atomic Energy and Nuclear Installations (Licensing and Security) Amendment Act, 1965.

spreeklik nie vir enige kernskade wat veroorsaak is soos in sub-artikel (1) beoog, en ondanks die bepalings van die Wet op Verdeling van Skadevergoeding, 1956 (Wet No. 34 van 1956), of enige ander wet, of enige ander regsreël, is geen skuld van iemand 'n verweer teen 'n eis om skadevergoeding op grond van sodanige skade nie en raak sodanige skuld nie die bedrag van die skadevergoeding wat die gelisensieerde uit hoofde van die bepalings van sub-artikel (1) moet betaal nie.”;

(b) deur sub-artikel (4) te skrap.

12. Hierdie Wet is ook in die gebied Suidwes-Afrika van Toepassing van Wet op Suidwes-Afrika. toepassing.

13. Hierdie Wet heet die Wysigingswet op Atoomkrag en Kort titel. Kerninstallasies (Lisensiëring en Sekerheidstelling), 1965.

ACT

To provide for the settlement of disputes by arbitration tribunals in terms of written arbitration agreements and for the enforcement of the awards of such arbitration tribunals.

*(English text signed by the State President.)
(Assented to 5th April, 1965.)*

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

DEFINITIONS.

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) "arbitration agreement" means a written agreement providing for the reference to arbitration of any existing dispute or any future dispute relating to a matter specified in the agreement, whether an arbitrator is named or designated therein or not; (ii)
 - (ii) "arbitration proceedings" means proceedings conducted by an arbitration tribunal for the settlement by arbitration of a dispute which has been referred to arbitration in terms of an arbitration agreement; (iii)
 - (iii) "arbitration tribunal" means the arbitrator, arbitrators or umpire acting as such under an arbitration agreement; (i)
 - (iv) "award" includes an interim award; (vii)
 - (v) "court" means any court of a provincial or local division of the Supreme Court of South Africa having jurisdiction; (v)
 - (vi) "party", in relation to an arbitration agreement or a reference, means a party to the agreement or reference, a successor in title or assign of such a party and a representative recognized by law of such a party, successor in title or assign; (vi)
 - (vii) "territory" means the territory of South-West Africa including that portion of the territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of that territory, and the Eastern Caprivi Zipfel referred to in sub-section (3) of section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951). (iv)

MATTERS NOT SUBJECT TO ARBITRATION.

Matters not subject to arbitration.

2. A reference to arbitration shall not be permissible in respect of—
 - (a) any matrimonial cause or any matter incidental to any such cause; or
 - (b) any matter relating to status.

EFFECT OF ARBITRATION AGREEMENTS.

Binding effect of arbitration agreement and power of court in relation thereto.

3. (1) Unless the agreement otherwise provides, an arbitration agreement shall not be capable of being terminated except by consent of all the parties thereto.
- (2) The court may at any time on the application of any party to an arbitration agreement, on good cause shown—

No. 42, 1965.]

WET

Om voorsiening te maak vir die beslegting van geskille deur arbitrasiehowe ingevolge skriftelike arbitrasie-ooreenkomste en vir die afdwing van die toekennings van bedoelde arbitrasiehowe.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 5 April 1965.)

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

WOORDOMSKRYWINGS.

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—
- (i) „arbitrasiehof” die arbiter, arbiters of skeidsregter wat as sodanig kragtens ’n arbitrasie-ooreenkoms optree; (iii)
 - (ii) „arbitrasie-ooreenkoms” ’n skriftelike ooreenkoms wat voorsiening maak vir die verwysing na arbitrasie van ’n bestaande geskil of ’n toekomstige geskil met betrekking tot ’n aangeleentheid in die ooreenkoms vermeld, hetsy ’n arbiter daarin genoem of aangewys word al dan nie; (i)
 - (iii) „arbitrasieverrigtinge” verrigtinge deur ’n arbitrasiehof gevoer vir die beslegting deur arbitrasie van ’n geskil wat ingevolge ’n arbitrasie-ooreenkoms na arbitrasie verwys is; (ii)
 - (iv) „gebied” die gebied van Suidwes-Afrika met inbegrip van daardie gedeelte van die gebied bekend as die „Rehoboth Gebiet” en omskryf in die Eerste Bylae by Proklamasie No. 28 van 1923 van daardie gebied, en die Oostelike Caprivi Zipfel bedoel in sub-artikel (3) van artikel drie van die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet No. 55 van 1951); (vii)
 - (v) „hof” ’n hof van ’n provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid het; (v)
 - (vi) „party” met betrekking tot ’n arbitrasie-ooreenkoms of ’n verwysing, ’n party by die ooreenkoms of verwysing, ’n regsopvolger of regverkrygende van so ’n party, en ’n deur die reg erkende verteenwoordiger van so ’n party, regsopvolger of regverkrygende; (vi)
 - (vii) „toekenning” ook ’n tussentydse toekenning. (iv)

AANGELEENTHEDE TEN OPSIGTE WAARVAN ARBITRASIE NIE TOELAATBAAR IS NIE.

2. ’n Verwysing na arbitrasie word nie toegelaat nie ten opsigte van—
- (a) ’n huweliksaak of ’n aangeleentheid wat met so ’n saak in verband staan; of
 - (b) ’n aangeleentheid met betrekking tot status.

UITWERKING VAN ARBITRASIE-OOREENKOMSTE.

3. (1) Tensy die ooreenkoms anders bepaal, kan ’n arbitrasie-ooreenkoms nie beëindig word nie behalwe met die toestemming van al die partye daarby.
- (2) Die hof kan te eniger tyd op aansoek van ’n party by ’n arbitrasie-ooreenkoms, om ’n gegronde rede aangevoer—

Woord-
omskrywings.

Aangeleenthede
ten opsigte
waarvan
arbitrasie nie
toelaatbaar is nie.

Bindende krag
van arbitrasie-
ooreenkoms en
bevoegdheid van
hof met betrek-
king daartoe.

- (a) set aside the arbitration agreement; or
- (b) order that any particular dispute referred to in the arbitration agreement shall not be referred to arbitration; or
- (c) order that the arbitration agreement shall cease to have effect with reference to any dispute referred.

Death or removal from office of party to an arbitration agreement.

4. (1) Unless the agreement otherwise provides, an arbitration agreement or any appointment of an arbitrator or umpire thereunder shall not be terminated by the death of any party thereto.

(2) If any party to a reference under an arbitration agreement dies or vacates or is removed from his office after any dispute has been referred to arbitration, all steps and proceedings in connection with the reference shall be stayed, subject to any order that the court may make, until an executor or other proper representative has been appointed in the estate of the party who has died or, as the case may be, until an executor, administrator, curator, trustee, liquidator or judicial manager has, where necessary, been appointed in the place of an executor, administrator, curator, trustee, liquidator or judicial manager who in his capacity as such was a party to the reference and who has died or has vacated or has been removed from his office.

(3) For the purposes of sub-section (2) a dispute shall be deemed to have been referred to arbitration if any party to the dispute has served on the other party or parties thereto a written notice requiring him or them to appoint or to agree to the appointment of an arbitrator or, where the arbitrator is named or designated in the arbitration agreement, requiring the dispute to be referred to the arbitrator so named or designated.

(4) Any period of time fixed by or under this Act which is interrupted by any stay resulting from the operation of sub-section (2), shall be extended by a period equal to the period of such interruption.

(5) Nothing in this section contained shall affect the operation of any law or rule of law by virtue of which any right of action is extinguished by the death of any person.

Insolvency or winding-up of a party to an arbitration agreement.

5. (1) Unless the agreement otherwise provides, an arbitration agreement or any appointment of an arbitrator or umpire thereunder shall not be terminated by the sequestration of the estate of any party thereto or, if such party be a corporate body, by the winding-up of the corporate body or the placing of the corporate body under judicial management.

(2) If the estate of any party to an arbitration agreement is sequestrated or if, in the case of a corporate body which is a party to such an agreement, a petition for the winding-up of the corporate body or for placing the corporate body under judicial management is presented or an order for winding-up the corporate body or for placing the corporate body under judicial management is made, the provisions of any law relating to the sequestration of insolvent estates or, as the case may be, any law relating to the winding-up or judicial management of the corporate body concerned, shall apply in the same manner as if a reference of a dispute to arbitration under the arbitration agreement were an action or proceeding or civil proceedings or legal proceedings or civil legal proceedings within the meaning of any such law.

(3) For the purposes of the application of the laws referred to in sub-section (2)—

- (a) a reference of a dispute to arbitration shall be deemed to be an action or proceeding or civil proceedings or legal proceedings or civil legal proceedings by or against any person or corporate body instituted or pending in any court of law having jurisdiction if any party to the dispute has served on the other party or parties thereto a written notice requiring him or them to appoint or to agree to the appointment of an arbitrator, or, where the arbitrator is named or designated in the arbitration agreement, requiring the dispute to be referred to the arbitrator so named or designated; and
- (b) a reference of a dispute to arbitration shall be deemed to be an action or proceeding which is being or is about to be instituted against a corporate body, if any party to the dispute is taking steps to serve or is about to serve on the corporate body a written notice such as is referred to in paragraph (a).

- (a) die arbitrasie-ooreenkoms tersyde stel; of
- (b) beveel dat 'n bepaalde geskil in die arbitrasie-ooreenkoms bedoel, nie na arbitrasie verwys word nie; of
- (c) beveel dat die arbitrasie-ooreenkoms ophou om van krag te wees met betrekking tot 'n geskil wat verwys is,

4. (1) Tensy die ooreenkoms anders bepaal, word 'n arbitrasie-ooreenkoms of 'n aanstelling van 'n arbiter of skeidsregter daarkragtens nie deur die dood van 'n party daarby beëindig nie. Dood of afsetting uit amp van party by 'n arbitrasie-ooreenkoms.

(2) Indien 'n party by 'n verwysing kragtens 'n arbitrasie-ooreenkoms te sterwe kom of sy amp ontruim of daarvan onthef word nadat 'n geskil na arbitrasie verwys is, word alle stappe en verrigtinge in verband met die verwysing opgeskort, onderworpe aan enige bevel wat die hof gee, totdat 'n eksekuteur of ander bevoegde verteenwoordiger in die boedel van die party wat te te sterwe gekom het, aangestel is of, na gelang van die geval, totdat 'n eksekuteur, administrateur, kurator, likwidateur of geregtelike bestuurder, waar nodig, aangestel is in die plek van 'n eksekuteur, administrateur, kurator, likwidateur of geregtelike bestuurder wat in sy hoedanigheid as sodanig 'n party by die verwysing was en wat te sterwe gekom het of wat sy amp ontruim het of daarvan onthef is.

(3) By die toepassing van sub-artikel (2) word geag dat 'n geskil na arbitrasie verwys is indien 'n party by die geskil aan die ander party of partye daarby 'n skriftelike kennisgewing bestel het waarin hy of hulle aangesê word om 'n arbiter aan te stel of tot die aanstelling van 'n arbiter toe te stem of, waar die arbiter in die arbitrasie-ooreenkoms genoem of aangewys word, waarin geëis word dat die geskil na die arbiter aldus genoem of aangewys, verwys word.

(4) 'n By of ingevolge hierdie Wet bepaalde tydperk wat deur 'n opskorting as gevolg van die toepassing van sub-artikel (2) onderbreek word, word verleng met 'n tydperk gelyk aan die tydperk van sodanige onderbreking.

(5) Die bepalinge van hierdie artikel raak nie die toepassing van enige wetsbepaling of regsvoorskrif ingevolge waarvan 'n vorderingsreg deur die dood van enige persoon vernietig word nie.

5. (1) Tensy die ooreenkoms anders bepaal, word 'n arbitrasie-ooreenkoms of 'n aanstelling van 'n arbiter of skeidsregter daarkragtens nie beëindig nie deur die sekwestrasie van die boedel van 'n party daarby of, indien so 'n party 'n regspersoon is, deur die likwidasie van die regspersoon of deur die plasing van daardie regspersoon onder geregtelike bestuur. Insolvensie of likwidasie van 'n party by 'n arbitrasie-ooreenkoms.

(2) Indien die boedel van 'n party by 'n arbitrasie-ooreenkoms gesekwestreer word of, indien, in die geval van 'n regspersoon wat 'n party by so 'n ooreenkoms is, 'n petisie vir die likwidasie van die regspersoon of vir die plasing onder geregtelike bestuur van die regspersoon ingedien word of 'n bevel vir die likwidasie van die regspersoon of vir die plasing onder geregtelike bestuur van die regspersoon gegee word, is die wetsbepalinge met betrekking tot die sekwestrasie van insolvente boedels of, na gelang van die geval, die wetsbepalinge met betrekking tot die likwidasie of geregtelike bestuur van die betrokke regspersoon op dieselfde manier van toepassing asof 'n verwysing van 'n geskil na arbitrasie ingevolge die arbitrasie-ooreenkoms 'n aksie of 'n geding of 'n siviele geding of 'n regsgeding of 'n siviele regsgeding binne die bedoeling van so 'n wetsbepaling is.

(3) By die toepassing van die in sub-artikel (2) bedoelde wetsbepalinge—

- (a) word 'n verwysing van 'n geskil na arbitrasie geag 'n aksie of geding of siviele geding of regsgeding of siviele regsgeding te wees wat deur of teen 'n persoon of regspersoon in 'n bevoegde gereghof ingestel of aanhangig is indien 'n party by die geskil aan die ander party of partye daarby 'n skriftelike kennisgewing bestel het waarin hy of hulle aangesê word om 'n arbiter aan te stel of tot die aanstelling van 'n arbiter toe te stem of, waar die arbiter in die arbitrasie-ooreenkoms genoem of aangewys word, waarin geëis word dat die geskil na die arbiter aldus genoem of aangewys, verwys word; en
- (b) word 'n verwysing van 'n geskil na arbitrasie geag 'n aksie of geding te wees wat teen 'n regspersoon ingestel word of op hande is, indien 'n party by die geskil stappe doen of op die punt staan om 'n in paragraaf (a) bedoelde skriftelike kennisgewing aan die regspersoon te bestel.

(4) Any period of time fixed by or under this Act which is interrupted by any stay, suspension or restraint resulting from the application of any law referred to in sub-section (2), shall be extended by a period equal to the period of such interruption.

Stay of legal proceedings where there is an arbitration agreement.

6. (1) If any party to an arbitration agreement commences any legal proceedings in any court (including any inferior court) against any other party to the agreement in respect of any matter agreed to be referred to arbitration, any party to such legal proceedings may at any time after entering appearance but before delivering any pleadings or taking any other steps in the proceedings, apply to that court for a stay of such proceedings.

(2) If on any such application the court is satisfied that there is no sufficient reason why the dispute should not be referred to arbitration in accordance with the agreement, the court may make an order staying such proceedings subject to such terms and conditions as it may consider just.

Power of court to order that dispute be determined by interpleader proceedings or that interpleader issues be determined by arbitration.

7. (1) The court may order that the dispute between parties to an arbitration agreement be determined by way of interpleader proceedings for the relief of any person desiring so to interplead.

(2) Where in any interpleader proceedings it is proved that the claims in question are matters to which an arbitration agreement, to which the claimants are parties, relates, the court may order that the issues between the claimants be determined in accordance with the arbitration agreement.

Power of court to extend time fixed in arbitration agreement for commencing arbitration proceedings.

8. Where an arbitration agreement to refer future disputes to arbitration provides that any claim to which the agreement applies shall be barred unless some step to commence arbitration proceedings is taken within a time fixed by the agreement, and a dispute arises to which the agreement applies, the court, if it is of the opinion that in the circumstances of the case undue hardship would otherwise be caused, may extend the time for such period as it considers proper, whether the time so fixed has expired or not, on such terms and conditions as it may consider just but subject to the provisions of any law limiting the time for commencing arbitration proceedings.

ARBITRATORS AND UMPIRES.

Reference to a single arbitrator.

9. Unless a contrary intention is expressed in the arbitration agreement, the reference shall be to a single arbitrator.

Power of parties to appoint arbitrators to fill vacancies.

10. (1) Where an appointed arbitrator refuses to act or is or becomes incapable of acting or dies or is removed from office or his appointment is terminated, or is set aside, and a contrary intention is not expressed in the arbitration agreement, the party or parties who appointed him may appoint another arbitrator in his place.

(2) Where an arbitration agreement provides that the reference shall be to two or more arbitrators, one to be appointed by each party, and any party fails to appoint an arbitrator in terms of the agreement, or by way of substitution in the circumstances described in sub-section (1), then, unless the arbitration agreement expresses a contrary intention, the other party, having appointed an arbitrator, or the other parties each having appointed an arbitrator, may serve the party in default with a written notice requiring him to appoint an arbitrator within seven days after receipt of the notice.

(3) If the party in default does not appoint an arbitrator within the period referred to in the notice served upon him in terms of sub-section (2), the other party who has appointed an arbitrator or the other parties who have each appointed an arbitrator may appoint that arbitrator or those arbitrators, as the case may be, to act as sole arbitrator or arbitrators in the reference, and his or their award shall be binding on all parties as if he or they had been appointed by consent of all parties: Provided that the court may, on the application of the party in default, on good cause shown, set aside such appointment and grant the party in default an extension of time to appoint an arbitrator.

(4) 'n By of ingevolge hierdie Wet bepaalde tydperk wat deur 'n opskorting, skorsing of staking as gevolg van die toepassing van 'n in sub-artikel (2) bedoelde wetsbepaling onderbreek word, word verleng met 'n tydperk gelyk aan die tydperk van sodanige onderbreking.

6. (1) Indien 'n party by 'n arbitrasie-ooreenkoms 'n regs-geding in 'n hof (met inbegrip van 'n laerhof) teen 'n ander party by die ooreenkoms instel ten opsigte van 'n aangeleentheid waarvoor ooreengekom is dat dit na arbitrasie verwys moet word, kan 'n party by daardie regs-geding te eniger tyd nadat hy verskyning aangeteken het, maar voordat hy enige pleitstukke indien of enige ander stappe in die geding doen, by daardie hof aansoek doen om stuiting van die geding.

Stuiting van regs-gedinge wanneer daar 'n arbitrasie-ooreenkoms is.

(2) Indien die hof by so 'n aansoek oortuig is dat daar geen voldoende rede bestaan waarom die geskil nie ooreenkomstig die ooreenkoms na arbitrasie verwys moet word nie, kan die hof 'n bevel gee wat die geding stuit onderworpe aan die bedinge en voorwaardes wat hy billik ag.

7. (1) Die hof kan beveel dat die geskil tussen partye by 'n arbitrasie-ooreenkoms by wyse van 'n tussenpleitgeding besleg word ter verligting van 'n persoon wat aldus 'n tussenpleit wil voer.

Bevoegdheid van hof om te beveel dat geskil deur 'n tussenpleit-geding besleg word of dat tussenpleit-geskille by arbitrasie besleg word.

(2) Wanneer by 'n tussenpleitgeding bewys word dat die betrokke aansprake aangeleentheid is waarop 'n arbitrasie-ooreenkoms waarby die aanspraakmakers partye is, betrekking het, kan die hof beveel dat die geskilpunte tussen die aanspraakmakers ooreenkomstig die arbitrasie-ooreenkoms besleg word.

8. Wanneer 'n arbitrasie-ooreenkoms om toekomstige geskille na arbitrasie te verwys, bepaal dat enige regs-vordering waarop die ooreenkoms van toepassing is, verval tensy die een of ander stap om arbitrasieverrigtinge te begin, binne 'n deur die ooreenkoms vasgestelde tydperk gedoen word, en 'n geskil waarop die ooreenkoms van toepassing is ontstaan, kan die hof, indien hy van oordeel is dat onder die omstandighede van die geval oormatige ontbering anders veroorsaak sou word, bedoelde tydperk verleng met die tydperk wat hy goedvind, hetsy die aldus vasgestelde tydperk verstryk het al dan nie, op die bedinge en voorwaardes wat hy billik ag maar onderworpe aan die bepalings van die een of ander wet wat die tydperk waarbinne arbitrasieverrigtinge begin moet word beperk.

Bevoegdheid van hof om die in 'n arbitrasie-ooreenkoms vasgestelde tydperke om arbitrasieverrigtinge te begin, te verleng.

ARBITERS EN SKEIDSREGTERS.

9. Tensy 'n ander bedoeling in die arbitrasie-ooreenkoms uitdruklik vermeld word, moet die verwysing na 'n enkele arbiter geskied.

Verwysing na 'n enkele arbiter.

10. (1) Wanneer 'n aangestelde arbiter weier of onbekwaam is of word om op te tree of te sterwe kom of van sy amp onthef word of sy aanstelling beëindig word of tersyde gestel word, en 'n ander bedoeling nie in die betrokke arbitrasie-ooreenkoms uitdruklik vermeld word nie, kan die party of partye wat hom aangestel het 'n ander arbiter in sy plek aanstel.

Bevoegdheid van partye om arbiters aan te stel om vakatures te vul.

(2) Wanneer 'n arbitrasie-ooreenkoms bepaal dat die verwysing na twee of meer arbiters moet geskied, een deur elke party aangestel te word, en een party in gebreke bly om ingevolge die ooreenkoms, of by wyse van substitusie onder die omstandighede in sub-artikel (1) beskryf, 'n arbiter aan te stel, dan, tensy 'n ander bedoeling in die arbitrasie-ooreenkoms uitdruklik vermeld word, kan die ander party, nadat hy 'n arbiter aangestel het, of die ander partye nadat elk 'n arbiter aangestel het, 'n skriftelike kennisgewing aan die party wat in gebreke bly, bestel waarin hy aangesê word om binne sewe dae na ontvang van die kennisgewing 'n arbiter aan te stel.

(3) Indien die party wat in gebreke bly, nie binne die tydperk genoem in die kennisgewing wat ingevolge sub-artikel (2) aan hom bestel is, 'n arbiter aanstel nie, kan die ander party wat 'n arbiter aangestel het, of die ander partye wat elk 'n arbiter aangestel het, daardie arbiter of daardie arbiters, na gelang van die geval, aanstel om as die enigste arbiter of arbiters in die verwysing op te tree, en sy of hul toekenning is bindend vir alle partye asof hy of hulle met die toestemming van alle partye aangestel was: Met dien verstande dat die hof, op aansoek van die party wat in gebreke bly, om 'n gegronde rede aangevoer, bedoelde aanstelling tersyde kan stel en aan bedoelde party 'n verlenging van tyd kan verleen om 'n arbiter aan te stel.

Power of parties or arbitrators to appoint umpire and to fill vacancy.

11. (1) If an arbitration agreement provides for a reference—
- (a) to an even number of arbitrators, then, unless a contrary intention is expressed therein, the arbitrators may at any time appoint an umpire; or
 - (b) to three arbitrators, of whom one is to be appointed by the other two, such agreement shall, unless a contrary intention is expressed therein, be construed as providing for the appointment of an umpire by the other two arbitrators immediately after they are themselves appointed.

(2) Where an appointed umpire refuses to act or is or becomes incapable of acting or dies or is removed from office or his appointment is terminated, or is set aside, and a contrary intention is not expressed in the arbitration agreement, the parties or arbitrators who appointed him may appoint another umpire in his place.

Power of court to appoint an arbitrator or umpire.

12. (1) Where—

- (a) in terms of an arbitration agreement or this Act the reference shall be to a single arbitrator and all the parties to the reference do not, after a dispute has arisen, agree in the appointment of an arbitrator; or
- (b) an arbitration agreement provides that the reference shall be to an even number of arbitrators and the parties to the reference or the arbitrators are at liberty to appoint an umpire and do not appoint him in any case where such appointment is necessary for the decision of the matters in dispute or the due conduct of the arbitration, or where the parties or such arbitrators are required to appoint an umpire and do not appoint him; or
- (c) where an arbitration agreement provides that the reference shall be to two or more arbitrators one to be appointed by each party, and any party fails to appoint an arbitrator in terms of the agreement or by way of substitution in the circumstances described in sub-section (1) of section *ten*; or
- (d) an arbitration agreement provides that the reference shall be to three arbitrators one of whom is to be appointed (whether as arbitrator or as umpire) by the parties to the reference or by the other two arbitrators and such arbitrator or umpire has not been appointed; or
- (e) an appointed arbitrator or umpire refuses to act or is or becomes incapable of acting or dies, or is removed from office or his appointment is terminated or is set aside and the party or parties to the reference or arbitrators who made the appointment are at liberty to appoint another arbitrator or umpire to fill the vacancy and do not appoint him in any case where such appointment is necessary for the decision of the matters in dispute or the due conduct of the arbitration, or where the party or parties or arbitrators who made the appointment is or are required to appoint another arbitrator or umpire to fill such vacancy and does or do not appoint him; or
- (f) more than one arbitrator has to be appointed and the parties to the reference do not, after a dispute has arisen, agree in the appointment of arbitrators so far as the arbitration agreement may require such agreement,

any party to the reference may serve the other party or parties or the arbitrators, as the case may be, with a written notice requiring him or them to appoint or if agreement be necessary, to agree in the appointment of an arbitrator or arbitrators or umpire.

(2) If the appointment referred to in the notice served under sub-section (1) is not made or agreed to, as the case may be, within seven days after the service of the notice, the party who gave the notice, may upon notice to the other party or parties or the arbitrators, as the case may be, apply to the court to make the necessary appointment, and thereupon the court may appoint an arbitrator or arbitrators or umpire.

(3) Where an arbitrator (not being a sole arbitrator) or two or more arbitrators (not being all the arbitrators) or an umpire who has or have not entered on the reference is or are removed by the court or his or their appointment or appointments is

11. (1) Indien 'n arbitrasie-ooreenkoms voorsiening maak vir 'n verwysing—

- (a) na 'n gelyke getal arbiters, dan, tensy 'n ander bedoeling daarin uitdruklik vermeld word, kan die arbiters te eniger tyd 'n skeidsregter aanstel; of
- (b) na drie arbiters van wie een aangestel moet word deur die ander twee, word daardie ooreenkoms, tensy 'n ander bedoeling daarin uitdruklik vermeld word, uitgelê asof dit voorsiening maak vir die aanstelling van 'n skeidsregter deur die ander twee arbiters onmiddellik nadat hulle self aangestel word.

Bevoegdheid van partye of arbiters om skeidsregter aan te stel en om vakature te vul.

(2) Wanneer 'n aangestelde skeidsregter weier of onbekwaam is of word om op te tree of te sterwe kom of van sy amp onthef word of sy aanstelling beëindig word of tersyde gestel word, en 'n ander bedoeling nie in die betrokke arbitrasie-ooreenkoms uitdruklik vermeld word nie, kan die partye of arbiters wat hom aangestel het, 'n ander skeidsregter in sy plek aanstel.

12. (1) Wanneer—

- (a) ingevolge 'n arbitrasie-ooreenkoms of hierdie Wet die verwysing na 'n enkele arbiter moet geskied, en al die partye by die verwysing, nadat 'n geskil ontstaan het, nie oor die aanstelling van 'n arbiter ooreenkoms nie; of
- (b) 'n arbitrasie-ooreenkoms bepaal dat die verwysing na 'n gelyke getal arbiters moet geskied en dit die partye by die verwysing of die arbiters vry staan om 'n skeidsregter aan te stel en hulle hom nie aanstel nie in 'n geval waar so 'n aanstelling nodig is vir die beslissing van die aangeleenthede in geskil of vir die behoorlike voer van die arbitrasie, of wanneer die partye of bedoelde arbiters 'n skeidsregter moet aanstel en hulle hom nie aanstel nie; of
- (c) 'n arbitrasie-ooreenkoms bepaal dat die verwysing na twee of meer arbiters moet geskied, een deur elke party aangestel te word, en 'n party in gebreke bly om ingevolge die ooreenkoms of by wyse van substitusie onder die omstandighede in sub-artikel (1) van artikel *tien* beskryf, 'n arbiter aan te stel; of
- (d) 'n arbitrasie-ooreenkoms bepaal dat die verwysing na drie arbiters moet geskied van wie een deur die partye of deur die ander twee arbiters aangestel moet word (hetsy as arbiter of as skeidsregter) en daardie arbiter of skeidsregter nie aangestel is nie; of
- (e) 'n aangestelde arbiter of skeidsregter weier of onbekwaam is of word om op te tree of te sterwe kom of van sy amp onthef word of sy aanstelling beëindig word of tersyde gestel word en dit die party of partye of arbiters wat die aanstelling gemaak het vry staan om 'n ander arbiter of skeidsregter aan te stel om die vakature te vul en hy of hulle hom nie aanstel nie in 'n geval waar so 'n aanstelling nodig is vir die beslissing van die aangeleenthede in geskil of vir die behoorlike voer van die arbitrasie, of wanneer die party of partye of arbiters wat die aanstelling gemaak het 'n ander arbiter of skeidsregter moet aanstel om die vakature te vul en hy of hulle hom nie aanstel nie; of
- (f) meer as een arbiter aangestel moet word en die partye by die verwysing, nadat 'n geskil ontstaan het, nie oor die aanstelling van arbiters ooreenkoms nie vir sover die arbitrasie-ooreenkoms sodanige ooreenkoms vereis,

Bevoegdheid van hof om 'n arbiter of skeidsregter aan te stel.

kan enige party by die verwysing 'n skriftelike kennisgewing aan die ander party of partye of die arbiters, na gelang van die geval, bestel waarin hy of hulle aangesê word om 'n arbiter of arbiters of skeidsregter aan te stel of, indien toestemming nodig is, om tot die aanstelling van 'n arbiter of arbiters of skeidsregter toe te stem.

(2) Indien die aanstelling bedoel in die kennisgewing wat kragtens sub-artikel (1) bestel is, nie binne sewe dae na die bestelling van die kennisgewing gemaak word nie of indien binne daardie tydperk nie daarvoor ooreengekom word nie, na gelang van die geval, kan die party wat die kennisgewing gegee het, na kennisgewing aan die ander party of partye of die arbiters, na gelang van die geval, by die hof aansoek doen om die nodige aanstelling te maak, en daarop kan die hof 'n arbiter of arbiters of skeidsregter aanstel.

(3) Wanneer 'n arbiter (wat nie die enigste arbiter is nie) of twee of meer arbiters (wat nie al die arbiters is nie) of 'n skeidsregter wat nie begin het om op die verwysing in te gaan nie, deur die hof van sy of hul amp onthef word of sy of hul aanstelling of

or are set aside by the court, and the arbitration agreement does not provide otherwise, the court may, on the application of any party to the reference, appoint an arbitrator or arbitrators or umpire to act in the place of the arbitrator, arbitrators or umpire so removed or whose appointment or appointments has or have been so set aside.

(4) Where a sole arbitrator or all the arbitrators or an umpire who has or have entered on the reference is or are removed by the court, or his or their appointment or appointments is or are set aside by the court and the arbitration agreement does not provide otherwise, the court may, on the application of any party to the reference, either—

- (a) appoint an arbitrator or arbitrators or an umpire to act in the place of the arbitrator, arbitrators or umpire so removed or whose appointment or appointments has or have been so set aside; or
- (b) appoint a sole arbitrator to act in the place of the sole arbitrator or all the arbitrators or umpire so removed or whose appointment or appointments has or have been so set aside; or
- (c) order that the arbitration agreement shall cease to have effect with respect to the dispute referred.

(5) An arbitrator or umpire appointed by the court shall have the like power to act in the reference and make an award as if he had been appointed in accordance with the terms of the arbitration agreement.

(6) An arbitrator or umpire appointed in the circumstances described in sub-section (1) of section *ten* or sub-section (2) of section *eleven* or sub-section (2), (3) or (4) of this section or an arbitrator appointed after the court has granted an extension of time to do so in the circumstances described in sub-section (3) of section *ten*, may avail himself of the evidence recorded in the arbitration proceedings before his appointment and may, if he think fit, recall for further examination any person who has given such evidence.

Termination or setting aside of appointment of arbitrator or umpire.

13. (1) Subject to the provisions of sub-section (2), the appointment of an arbitrator or umpire, unless a contrary intention is expressed in the arbitration agreement, shall not be capable of being terminated except by consent of all the parties to the reference.

- (2) (a) The court may at any time on the application of any party to the reference, on good cause shown, set aside the appointment of an arbitrator or umpire or remove him from office.
- (b) For the purposes of this sub-section, the expression "good cause", includes failure on the part of the arbitrator or umpire to use all reasonable dispatch in entering on and proceeding with the reference and making an award or, in a case where two arbitrators are unable to agree, in giving notice of that fact to the parties or to the umpire.

(3) Where the appointment of an arbitrator or umpire is so set aside, or where an arbitrator or umpire is so removed from office, the court may, apart from any order for costs which may be awarded against such arbitrator or umpire personally, order that such arbitrator or umpire shall not be entitled to any remuneration for his services.

PROVISIONS AS TO ARBITRATION PROCEEDINGS.

Powers of arbitration tribunal and manner of arriving at decisions where the arbitration tribunal consists of two or more arbitrators.

14. (1) An arbitration tribunal may—

- (a) on the application of any party to a reference, unless the arbitration agreement otherwise provides—
 - (i) require any party to the reference, subject to any legal objection, to make discovery of documents by way of affidavit or by answering interrogatories on oath and to produce such documents for inspection;
 - (ii) require the parties to the reference to deliver pleadings or statements of claim and defence or require any party to give particulars of his claim or counterclaim, and allow any party to amend his pleadings or statements of claim or defence;
 - (iii) require any party to the reference to allow inspection of any goods or property involved in the reference, which is in his possession or under his control; and

aanstellings deur die hof tersyde gestel word, en die arbitrasie-ooreenkoms nie anders bepaal nie, kan die hof, op aansoek van 'n party by die verwysing, 'n arbiter of arbiters of skeidsregter aanstel om in die plek op te tree van die arbiter, arbiters of skeidsregter wat aldus van sy of hul amp onthef is of wie se aanstelling of aanstellings aldus tersyde gestel is.

(4) Wanneer 'n arbiter wat die enigste arbiter is of al die arbiters of 'n skeidsregter wat begin het om op die verwysing in te gaan, deur die hof van sy of hul amp onthef word of sy of hul aanstelling of aanstellings deur die hof tersyde gestel word, en die arbitrasie-ooreenkoms nie anders bepaal nie, kan die hof, op aansoek van 'n party by die verwysing, òf—

- (a) 'n arbiter of arbiters of 'n skeidsregter aanstel om in die plek op te tree van die arbiter of arbiters of skeidsregter wat aldus van sy of hul amp onthef is of wie se aanstelling of aanstellings aldus tersyde gestel is; òf
- (b) 'n arbiter wat die enigste arbiter is, aanstel om in die plek op te tree van die enigste arbiter of al die arbiters of die skeidsregter wat aldus van sy of hul amp onthef is of wie se aanstelling of aanstellings aldus tersyde gestel is; òf
- (c) beveel dat die arbitrasie-ooreenkoms ophou om van krag te wees met betrekking tot die geskil wat verwys is.

(5) 'n Arbiter of skeidsregter wat deur die hof aangestel word, het dieselfde bevoegdheid om in die verwysing op te tree en om 'n toekenning te maak asof hy ooreenkomstig die bepalinge van die arbitrasie-ooreenkoms aangestel was.

(6) 'n Arbiter of skeidsregter aangestel onder die omstandighede in sub-artikel (1) van artikel *tien* of sub-artikel (2) van artikel *elf* of sub-artikel (2), (3) of (4) van hierdie artikel bedoel of 'n arbiter aangestel nadat die hof 'n verlenging van tyd toegestaan het om dit te doen onder die omstandighede in sub-artikel (3) van artikel *tien* bedoel, kan gebruik maak van die getuienis wat voor sy aanstelling in die arbitrasieverrigtinge genotuleer is en kan, indien hy dit goedvind, enigiemand wat sodanige getuienis afgelê het, vir verdere ondervraging terugroep.

13. (1) Behoudens die bepalinge van sub-artikel (2), kan die aanstelling van 'n arbiter of skeidsregter, tensy 'n ander bedoeling in die arbitrasie-ooreenkoms uitdruklik vermeld word, nie beëindig word nie behalwe met die toestemming van al die partye by die verwysing.

Beëindiging en tersydestelling van aanstelling van arbiter of skeidsregter.

- (2) (a) Die hof kan te eniger tyd, op aansoek van 'n party by die verwysing, om 'n gegronde rede aangevoer, die aanstelling van 'n arbiter of skeidsregter tersyde stel of hom van sy amp onthef.
- (b) By die toepassing van hierdie sub-artikel, beteken die uitdrukking „gegronde rede” ook versuim aan die kant van die arbiter of skeidsregter om met alle redelike spoed op die verwysing in te gaan en dit voort te sit en 'n toekenning te maak of, in die geval van twee arbiters wat nie kan saamstem nie, om kennis van daardie feit aan die partye of aan die skeidsregter te gee.

(3) Wanneer die aanstelling van 'n arbiter of skeidsregter aldus tersyde gestel word of wanneer 'n arbiter of skeidsregter aldus van sy amp onthef word, kan die hof, afgesien van enige bevel vir koste wat teen daardie arbiter of skeidsregter persoonlik toegeken mag word, beveel dat daardie arbiter of skeidsregter nie op enige besoldiging vir sy dienste geregtig is nie.

BEPALINGS BETREFFENDE ARBITRASIEVERRIGTINGE.

14. (1) 'n Arbitrasiehof kan—

- (a) op aansoek van 'n party by 'n verwysing, tensy die arbitrasie-ooreenkoms anders bepaal—
 - (i) 'n party by die verwysing beveel om, behoudens enige wettige beswaar, stukke bloot te lê by wyse van beëdigde verklaring of deur vraagpunte onder eed te beantwoord en om daardie stukke vir insae oor te lê;
 - (ii) die partye by die verwysing beveel om pleitstukke of uiteensettings van eis en verweer in te dien of 'n party beveel om besonderhede van sy eis of teeneis te verstrek, en 'n party toelaat om sy pleitstukke of uiteensetting van eis of verweer te wysig;
 - (iii) 'n party by die verwysing beveel om die inspeksie toe te laat van goedere of eiendom wat by die verwysing betrokke is en wat in sy besit of onder sy beheer is; en

Bevoegdhede van arbitrasiehof en wyse waarop tot beslissinge geraak word wanneer arbitrasiehof uit twee of meer arbiters bestaan.

- (iv) appoint a commissioner to take the evidence of any person in the Republic or in the territory or abroad and to forward such evidence to the tribunal in the same way as if he were a commissioner appointed by the court;
- (b) unless the arbitration agreement otherwise provides—
 - (i) from time to time determine the time when and the place where the arbitration proceedings shall be held or be proceeded with;
 - (ii) administer oaths to, or take the affirmations of, the parties and witnesses appearing to give evidence;
 - (iii) subject to any legal objection, examine the parties appearing to give evidence in relation to the matters in dispute and require them to produce before the tribunal all books, documents or things within their possession or power which may be required or called for and the production of which could be compelled on the trial of an action;
 - (iv) subject to any legal objection, examine any person who has been summoned to give evidence and require the production of any book, document or thing which such person has been summoned to produce;
 - (v) with the consent of the parties or on an order of court, receive evidence given by affidavit; and
 - (vi) inspect any goods or property involved in the reference.

(2) Where an arbitration tribunal consists of two or more arbitrators, any oath or affirmation may be administered by any member of the tribunal designated by it for the purpose.

(3) Where an arbitration tribunal consists of two arbitrators, their unanimous decision, and where it consists of more than two arbitrators, the decision of the majority of the arbitrators, shall be the decision of the arbitration tribunal.

(4) Where the arbitrators, or a majority of them, do not agree in their award, their decision shall not be taken to be either the least amount or least right of relief awarded by them, or the average of what has been awarded by them, but the matter shall thereupon become referable to the umpire, unless the arbitration agreement otherwise provides.

Notice of proceedings to parties.

15. (1) An arbitration tribunal shall give to every party to the reference, written notice of the time when and place where the arbitration proceedings will be held, and every such party shall be entitled to be present personally or by representative and to be heard at such proceedings.

(2) If any party to the reference at any time fails, after having received reasonable notice of the time when and place where the arbitration proceedings will be held, to attend such proceedings without having shown previously to the arbitration tribunal good and sufficient cause for such failure, the arbitration tribunal may proceed in the absence of such party.

Summoning of witnesses.

16. (1) The issue of a summons to compel any person to attend before an arbitration tribunal to give evidence and to produce books, documents or things to an arbitration tribunal, may be procured by any party to a reference in the same manner and subject to the same conditions as if the reference were a civil action pending in the court having jurisdiction in the area in which the arbitration proceedings are being or are about to be held: Provided that—

- (a) no person shall be compelled by such a summons to produce any book, document or thing the production of which would not be compellable on trial of an action; and
- (b) the clerk of the magistrate's court having jurisdiction in the said area, may issue such summons upon payment of the same fees as are chargeable for the issue of a subpoena in a civil case pending in the magistrate's court.

(2) Any summons issued out of any court in terms of subsection (1) shall be served in the same manner as a subpoena issued out of that court in a civil action pending in that court.

- (iv) 'n kommissaris aanstel om die getuienis van iemand in die Republiek of in die gebied of in die buiteland af te neem en om daardie getuienis aan die arbitrasiehof te besorg op dieselfde wyse asof hy 'n kommissaris was wat deur die hof aangestel is;
- (b) tensy die arbitrasie-ooreenkoms anders bepaal—
- (i) van tyd tot tyd die tyd wanneer en die plek waar die arbitrasieverrigtinge gehou of voortgesit moet word, bepaal;
- (ii) ede oplê aan, of plegtige verklarings afneem van, die partye en getuies wat verskyn om getuienis af te lê;
- (iii) die partye wat verskyn om getuienis af te lê, behoudens enige wettige beswaar, ondervra met betrekking tot die aangeleentheid in geskil en hulle aansê om aan die arbitrasiehof voor te lê alle boeke, dokumente of sake wat in hulle besit of onder hulle beheer is en wat benodig mag word of waarom gevra mag word en waarvan die voorlegging by die verhoor van 'n saak afgedwing kan word;
- (iv) enige persoon wat gedagvaar is om getuienis af te lê, behoudens enige wettige beswaar, ondervra en die voorlegging eis van enige boek, dokument of saak wat hy gedagvaar is om voor te lê;
- (v) met die toestemming van die partye of kragtens 'n bevel van die hof, getuienis ontvang wat by beëdigde verklaring afgelê is; en
- (vi) enige goedere of eiendom wat by die verwysing betrokke is, ondersoek.
- (2) Waar 'n arbitrasiehof uit twee of meer arbiters bestaan, kan 'n eed opgelê word of 'n bevestiging afgeneem word deur enige lid van die arbitrasiehof wat hy daartoe aanwys.
- (3) Wanneer 'n arbitrasiehof uit twee arbiters bestaan, is hulle eenparige beslissing, en as hy uit meer as twee arbiters bestaan, is die beslissing van die meerderheid van die arbiters, die beslissing van die arbitrasiehof.
- (4) Wanneer die arbiters, of 'n meerderheid van hulle, nie ten opsigte van hul toekenning ooreenstem nie, word nóg die kleinste bedrag of kleinste reg op verligting deur hul toegeken nóg die gemiddelde van wat deur hulle toegeken is, as hulle beslissing beskou, maar die aangeleentheid word daarop verwysbaar na die skeidsregter, tensy die arbitrasie-ooreenkoms anders bepaal.

15. (1) 'n Arbitrasiehof moet aan elke party by die verwysing skriftelik kennis gee van die tyd wanneer en die plek waar die arbitrasieverrigtinge gehou sal word, en elke sodanige party is geregtig om persoonlik of deur 'n verteenwoordiger by die verrigtinge teenwoordig te wees en om daarby aangehoor te word.

Kennisgewing van verrigtinge aan partye.

(2) Indien 'n party by die verwysing te eniger tyd nadat hy redelike kennis ontvang het van die tyd wanneer en die plek waar die arbitrasieverrigtinge gehou sal word, versuim om daardie verrigtinge by te woon sonder dat hy vooraf aan die arbitrasiehof 'n gegronde en genoegsame rede vir daardie versuim aangevoer het, kan die arbitrasiehof in die afwesigheid van daardie party voortgaan.

16. (1) Die uitreiking van 'n dagvaarding om iemand te verplig om voor 'n arbitrasiehof te verskyn om getuienis af te lê en om boeke, dokumente of sake aan 'n arbitrasiehof voor te lê, kan deur enige party by 'n verwysing verkry word op dieselfde wyse en onderworpe aan dieselfde voorwaardes asof die verwysing 'n siviele saak was wat aanhangig is in die hof wat regsbevoeg is in die gebied waarin die betrokke arbitrasieverrigtinge gehou word of gehou staan te word: Met dien verstande dat—

Dagvaarding van getuies.

- (a) niemand deur so 'n dagvaarding verplig kan word om 'n boek, dokument of saak voor te lê wat hy nie by die verhoor van 'n saak verplig kan word om voor te lê nie; en
- (b) die klerk van die landdroshof wat in bedoelde gebied regsbevoeg is, bedoelde dagvaarding kan uitreik teen betaling van dieselfde gelde wat voorgeskryf word vir die uitreiking van 'n getuiedagvaarding in 'n siviele geding wat in die landdroshof aanhangig is.

(2) 'n Dagvaarding wat uit 'n hof ingevolge sub-artikel (1) uitgereik word, word op dieselfde wyse bestel as 'n getuiedagvaarding wat uitgereik word in 'n siviele geding wat in daardie hof aanhangig is.

(3) The provisions of sub-sections (3) and (4) of section *eighty-seven* of the Prisons Act, 1959 (Act No. 8 of 1959), relating to the service of a subpoena upon any prisoner to give evidence in civil proceedings in any court, shall *mutatis mutandis* apply with reference to the service of a summons upon any prisoner required to give evidence before an arbitration tribunal as if the proceedings before such tribunal were civil proceedings pending in a court.

(4) On the application of any party to a reference, the court may order the process of the court to issue to compel the attendance of a witness before the arbitration tribunal or may order any prisoner to be brought before such arbitration tribunal for examination.

Recording of evidence.

17. If not recorded by the arbitration tribunal itself, the oral evidence of witnesses shall be recorded in such manner and to such extent as the parties to the reference may agree or, failing such agreement, as the arbitration tribunal may from time to time direct after consultation with the parties.

Reference of particular points to umpire.

18. Where the arbitrators or a majority of them are unable to agree as to any matter of procedure, or any interlocutory question, they may refer that matter or question forthwith to the umpire for decision.

Powers of umpire.

19. Unless the arbitration agreement otherwise provides—

- (a) the umpire may sit together with the arbitrators and hear the evidence given from time to time and may then and there decide any matter of procedure or any interlocutory question upon which the arbitrators disagree and which is referred by them to him for decision;
- (b) an umpire shall not be entitled to any remuneration from the parties in respect of his attendance at any arbitration proceedings conducted by the arbitrators unless the parties have requested him so to attend or unless he is called upon to decide any matter of procedure or any interlocutory question at the request of the arbitrators or is required to enter on the reference and to give an award;
- (c) if the arbitrators have by notice in writing advised the parties to the reference, or the umpire, that they are unable to agree, or if the arbitrators have allowed the time or extended time for making their award to expire without making an award, and the parties have not advised the umpire that they intend to grant an extension or further extension of the said period or to apply to the court therefor, the umpire shall forthwith enter on the reference in lieu of the arbitrators;
- (d) an umpire who enters on a reference as provided in paragraph (c), shall have the same powers as if he had been appointed as sole arbitrator, and may for that purpose unless he is required by the parties to hear the evidence of the parties and their witnesses, or, whenever he is called upon by the arbitrators to decide any matter of procedure or any interlocutory question, act upon the evidence recorded in the proceedings before the arbitrators, and may, if he thinks fit, recall for further examination any person who has given such evidence.

Statement of case for opinion of court or counsel during arbitration proceedings.

20. (1) An arbitration tribunal may, on the application of any party to the reference and shall, if the court, on the application of any such party, so directs, or if the parties to the reference so agree, at any stage before making a final award state any question of law arising in the course of the reference in the form of a special case for the opinion of the court or for the opinion of counsel.

(2) An opinion referred to in sub-section (1) shall be final and not subject to appeal and shall be binding on the arbitration tribunal and on the parties to the reference.

General powers of the court.

21. (1) For the purposes of and in relation to a reference under an arbitration agreement, the court shall have the same power of making orders in respect of—

- (a) security for costs;
- (b) discovery of documents and interrogatories;
- (c) the examination of any witness before a commissioner in the Republic or in the territory or abroad and the issue of a commission or a request for such examination;

(3) Die bepalings van sub-artikels (3) en (4) van artikel *sewe-en-tagtig* van die Wet op Gevangenis, 1959 (Wet No. 8 van 1959), met betrekking tot die bestelling van 'n getuiedagvaarding aan 'n gevangene om in 'n siviele geding voór 'n hof getuienis af te lê, is *mutatis mutandis* van toepassing met betrekking tot die bestelling van 'n dagvaarding aan 'n gevangene van wie verlang word dat hy voor 'n arbitrasiehof getuienis moet aflê, asof die verrigtinge voor so 'n arbitrasiehof 'n siviele geding was wat in 'n hof aanhangig is.

(4) Op aansoek van 'n party by 'n verwysing, kan die hof beveel dat die geregtelike proses van die hof uitgereik word om 'n getuie te verplig om voor die arbitrasiehof te verskyn of dat 'n gevangene voor so 'n arbitrasiehof gebring moet word vir ondervraging.

17. Indien dit nie deur die arbitrasiehof self genotuleer word nie, moet die mondelinge getuienis van getuies genotuleer word op die wyse en in die mate waaroor die partye by die verwysing ooreenkom of, by ontstentenis van so 'n ooreenkoms, wat die arbitrasiehof van tyd tot tyd na oorlegpleging met die partye gelas.

Notulering van getuienis.

18. Wanneer die arbiters of 'n meerderheid van hulle nie oor 'n kwessie van prosedure, of 'n interlokutore vraag, kan ooreenkom nie, kan hulle daardie kwessie of vraag onmiddellik vir beslissing aan die skeidsregter voorlê.

Verwysing van bepaalde punte na skeidsregter.

19. Tensy die arbitrasie-ooreenkoms anders bepaal—

Bevoegdhede van skeidsregter.

- (a) kan die skeidsregter saam met die arbiters sit en die getuienis aanhoor wat van tyd tot tyd afgelê word en kan daar en dan enige kwessie van prosedure of enige interlokutore vraag beslis waaroor die arbiters verskil en wat deur hulle aan hom vir beslissing voorgelê word;
- (b) is 'n skeidsregter nie op besoldiging deur die partye ten opsigte van sy bywoning van arbitrasieverrigtinge wat deur die arbiters gevoer word, geregtig nie, tensy die partye hom versoek het om dit aldus by te woon of tensy hy opgeroep word om op versoek van die arbiters oor 'n kwessie van prosedure of 'n interlokutore vraag te beslis of verplig word om op die verwysing in te gaan en om 'n toekenning te maak;
- (c) indien die arbiters die partye by die verwysing, of die skeidsregter, by skriftelike kennisgewing verwittig het dat hulle nie kan ooreenkom nie of indien die arbiters toegelaat het dat die tydperk of verlengde tydperk vir die maak van hul toekenning verstryk sonder om 'n toekenning te maak, en die partye die skeidsregter nie verwittig het dat hulle van plan is om 'n verlenging of verdere verlenging van daardie tydperk toe te staan of by die hof daarom aansoek te doen nie, moet die skeidsregter onverwyld in die plek van die arbiters op die verwysing ingaan;
- (d) het 'n skeidsregter wat op 'n verwysing ingaan soos in paragraaf (c) bepaal, dieselfde bevoegdhede asof hy as enigste arbiter aangestel was, en kan hy vir dié doel, tensy die partye hom versoek om die getuienis van die partye en hul getuies aan te hoor, of kan hy, wanneer hy deur die arbiters opgeroep word om oor 'n kwessie van prosedure of 'n interlokutore vraag te beslis, gebruik maak van die getuienis wat in die verrigtinge voor die arbiters genotuleer is, en kan hy, indien hy dit goedvind, enigiemand wat sodanige getuienis afgelê het, vir verdere ondervraging terugroep.

20. (1) Op enige stadium voordat hy 'n finale toekenning maak, kan 'n arbitrasiehof, op aansoek van 'n party by die verwysing, en moet hy as die hof, op aansoek van so 'n party, aldus gelas, of as die partye by die verwysing aldus ooreenkom, enige regspraak wat in die loop van die verwysing ontstaan in die vorm van 'n spesiale saak stel vir die opinie van die hof of vir die opinie van 'n advokaat.

Stel van saak vir opinie van hof of 'n advokaat gedurende arbitrasieverrigtinge.

(2) 'n In sub-artikel (1) bedoelde opinie is afdoende en nie aan appèl onderhewig nie en is bindend op die arbitrasiehof en die partye by die verwysing.

21. (1) Vir die doeleindes van en met betrekking tot 'n verwysing kragtens 'n arbitrasie-ooreenkoms, het die hof dieselfde bevoegdheid om bevele te gee ten opsigte van—

Algemene bevoegdhede van die hof.

- (a) sekerheidstelling vir koste;
- (b) blootlegging van stukke en vraagpunte;
- (c) die ondervraging van 'n getuie voor 'n kommissaris in die Republiek of in die gebied of in die buiteland en die uitreiking van 'n kommissie of 'n versoek vir sodanige ondervraging;

- (d) the giving of evidence by affidavit;
- (e) the inspection or the interim custody or the preservation or the sale of goods or property;
- (f) an interim interdict or similar relief;
- (g) securing the amount in dispute in the reference;
- (h) substituted service of notices required by this Act or of summonses; and
- (i) the appointment of a receiver,

as it has for the purposes of and in relation to any action or matter in that court.

(2) The provisions of sub-section (1) shall not be construed so as to derogate from any power which may be vested in an arbitration tribunal of making orders with reference to any of the matters referred to in the said sub-section.

(3) Notwithstanding anything to the contrary in the arbitration agreement, the court may at any time, on the application of any party to the reference, order that the umpire shall enter upon the reference in lieu of the arbitrators in all respects as if he were a sole arbitrator.

Offences.

22. (1) Any person who—

- (a) without good cause, fails to appear in answer to a summons to give evidence before an arbitration tribunal; or
- (b) having so appeared, fails to remain in attendance until excused from further attendance by the arbitration tribunal; or
- (c) upon being required by an arbitration tribunal to be sworn or to affirm as a witness, refuses to do so; or
- (d) refuses to answer fully and to the best of his knowledge and belief any question lawfully put to him during any arbitration proceedings; or
- (e) without good cause, fails to produce before an arbitration tribunal any book, document or thing specified in a summons requiring him so to produce it; or
- (f) while arbitration proceedings are in progress, wilfully insults any arbitrator or umpire conducting such proceedings, or wilfully interrupts such proceedings or otherwise misbehaves himself in the place where such proceedings are being conducted,

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing the law relating to privilege as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law shall apply.

(2) Any person who, having been sworn or having made an affirmation, knowingly gives false evidence before an arbitration tribunal, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

PROVISIONS AS TO AWARDS.

Time for making award.

23. The arbitration tribunal shall, unless the arbitration agreement otherwise provides, make its award—

- (a) in the case of an award by an arbitrator or arbitrators, within four months after the date on which such arbitrator or arbitrators entered on the reference or the date on which such arbitrator was or such arbitrators were called on to act by notice in writing from any party to the reference, whichever date be the earlier date; and
- (b) in the case of an award by an umpire, within three months after the date on which such umpire entered on the reference or the date on which such umpire was called on to act by notice in writing from any party to the reference, whichever date be the earlier date,

or in either case on or before any later date to which the parties by any writing signed by them may from time to time extend the time for making the award: Provided that the court may, on good cause shown, from time to time extend the time for making any award, whether that time has expired or not.

- (d) die aflê van getuienis by wyse van 'n beëdigde verklaring;
 - (e) die ondersoek of die tussentydse bewaring of die behoud of die verkoop van goedere of eiendom;
 - (f) 'n tussentydse interdik of soortgelyke verligting;
 - (g) versekering van die bedrag in geskil by die verwysing;
 - (h) vervangende bestelling van kennisgewings deur hierdie Wet voorgeskryf of van dagvaardings; en
 - (i) die aanstelling van 'n ontvanger,
- as wat hy het vir die doeleindes van en met betrekking tot 'n geding of saak in daardie hof.

(2) Die bepalings van sub-artikel (1) word nie so uitgelê nie dat dit afdoen aan enige bevoegdheid wat by 'n arbitrasiehof berus om bevele te gee met betrekking tot enige van die aangeleenthede in daardie sub-artikel genoem.

(3) Ondanks andersluidende bepalings in die arbitrasie-ooreenkoms, kan die hof te eniger tyd, op aansoek van 'n party by die verwysing, beveel dat die skeidsregter op die verwysing moet ingaan in die plek van die arbiters in alle opsigte asof hy die enigste arbiter is.

22. (1) Iemand wat—

Misdrywe.

- (a) sonder gegronde rede versuim om te verskyn ter voldoening aan 'n dagvaarding om voor 'n arbitrasiehof getuienis af te lê; of
- (b) nadat hy aldus verskyn het, versuim om aldaar aanwesig te bly totdat hy deur die arbitrasiehof van verdere bywoning onthef word; of
- (c) weier om as 'n getuie beëdig te word of 'n bevestiging te doen wanneer 'n arbitrasiehof dit van hom verlang; of
- (d) weier om ten volle en na sy beste wete en oortuiging te antwoord op 'n vraag wat gedurende arbitrasieverrigtinge wettiglik aan hom gestel word; of
- (e) sonder gegronde rede versuim om aan 'n arbitrasiehof 'n boek, dokument of saak voor te lê wat vermeld word in 'n dagvaarding wat hom aansê om dit aldus voor te lê; of
- (f) terwyl arbitrasieverrigtinge aan die gang is, 'n arbiter of skeidsregter wat die verrigtinge voer, opsetlik beledig of die verrigtinge opsetlik onderbreek of hom andersins wangedra in die plek waar die verrigtinge gevoer word,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens honderd rand of met gevangenisstraf vir 'n tydperk van hoogstens drie maande: Met dien verstande dat in verband met die ondervraging van so iemand of die voorlegging van so 'n boek, dokument of saak, die regsvoorskrifte met betrekking tot privilegie wat geld vir 'n getuie wat gedagvaar word om voor 'n geregshof getuienis af te lê of om 'n boek, dokument of saak voor te lê, van toepassing is.

(2) Iemand wat, nadat hy beëdig is of 'n bevestiging gedoen het, wetens voor 'n arbitrasiehof valse getuienis aflê, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat by wet vir meened voorgeskryf word.

BEPALINGS BETREFFENDE TOEKENNINGS.

23. Die arbitrasiehof moet, tensy die arbitrasie-ooreenkoms anders bepaal, sy toekenning maak—

Tydperk waarin toekenning gemaak moet word.

- (a) in die geval van 'n toekenning deur 'n arbiter of arbiters, binne vier maande na die datum waarop die arbiter of arbiters op die verwysing begin ingaan het of die datum waarop die arbiter of arbiters by skriftelike kennisgewing deur 'n party by die verwysing aangesê is om op te tree, na gelang van watter datum die vroegste is; en
 - (b) in die geval van 'n toekenning deur 'n skeidsregter, binne drie maande na die datum waarop die skeidsregter op die verwysing begin ingaan het of die datum waarop die skeidsregter by skriftelike kennisgewing deur 'n party by die verwysing aangesê is om op te tree, na gelang van watter datum die vroegste is,
- of in albei gevalle op of voor 'n later datum waartoe die partye by 'n deur hulle ondertekende geskrif die tydperk vir die maak van die toekenning van tyd tot tyd verleng: Met dien verstande dat die hof om 'n gegronde rede aangevoer, die tydperk vir die maak van enige toekenning van tyd tot tyd kan verleng, hetsy daardie tydperk verstryk het al dan nie.

- Award to be in writing.** 24. (1) The award shall be in writing and shall be signed by all the members of the arbitration tribunal.
(2) If a minority of the members of the arbitration tribunal refuse to sign the award, such refusal shall be mentioned in the award but shall not invalidate it.
- Publication of award.** 25. (1) The award shall be delivered by the arbitration tribunal, the parties or their representatives being present or having been summoned to appear.
(2) The award shall be deemed to have been published to the parties on the date on which it was so delivered.
- Interim award.** 26. Unless the arbitration agreement provides otherwise, an arbitration tribunal may make an interim award at any time within the period allowed for making an award.
- Specific performance.** 27. Unless the arbitration agreement provides otherwise, an arbitration tribunal may order specific performance of any contract in any circumstances in which the court would have power to do so.
- Award to be binding.** 28. Unless the arbitration agreement provides otherwise, an award shall, subject to the provisions of this Act, be final and not subject to appeal and each party to the reference shall abide by and comply with the award in accordance with its terms.
- Interest on amount awarded.** 29. Where an award orders the payment of a sum of money, such sum shall, unless the award provides otherwise, carry interest as from the date of the award and at the same rate as a judgment debt.
- Power of arbitration tribunal to correct errors in award.** 30. An arbitration tribunal may correct in any award any clerical mistake or any patent error arising from any accidental slip or omission.
- Award may be made an order of court.** 31. (1) An award may, on the application to a court of competent jurisdiction by any party to the reference after due notice to the other party or parties, be made an order of court.
(2) The court to which application is so made, may, before making the award an order of court, correct in the award any clerical mistake or any patent error arising from any accidental slip or omission.
(3) An award which has been made an order of court may be enforced in the same manner as any judgment or order to the same effect.
- Remittal of award.** 32. (1) The parties to a reference may within six weeks after the publication of the award to them, by any writing signed by them remit any matter which was referred to arbitration, to the arbitration tribunal for reconsideration and for the making of a further award or a fresh award or for such other purpose as the parties may specify in the said writing.
(2) The court may, on the application of any party to the reference after due notice to the other party or parties made within six weeks after the publication of the award to the parties, on good cause shown, remit any matter which was referred to arbitration, to the arbitration tribunal for reconsideration and for the making of a further award or a fresh award or for such other purpose as the court may direct.
(3) When a matter is remitted under sub-section (1) or (2) the arbitration tribunal shall, unless the writing signed by the parties or the order of remittal otherwise directs, dispose of such matter within three months after the date of the said writing or order.
(4) Where in any case referred to in sub-section (1) or (2) the arbitrator has died after making his award, the award may be remitted to a new arbitrator appointed, in the case of a remittal under sub-section (1), by the parties or, in the case of a remittal under sub-section (2), by the court.
- Setting aside of award.** 33. (1) Where—
(a) any member of an arbitration tribunal has misconducted himself in relation to his duties as arbitrator or umpire; or
(b) an arbitration tribunal has committed any gross irregularity in the conduct of the arbitration proceedings or has exceeded its powers; or

24. (1) Die toekenning moet skriftelik wees en moet deur al die lede van die arbitrasiehof onderteken word. Toekenning moet skriftelik wees.
 (2) Indien 'n minderheid van die lede van die arbitrasiehof weier om die toekenning te onderteken, moet daardie weiering in die toekenning vermeld word, maar dit maak die toekenning nie ongeldig nie.
25. (1) Die toekenning moet deur die arbitrasiehof gelewer word terwyl die partye of hul verteenwoordigers teenwoordig is of nadat hulle ontbied is om te verskyn. Bekendmaking van toekenning.
 (2) Die toekenning word geag aan die partye bekend gemaak te gewees het op die dag waarop dit aldus gelewer is.
26. Tensy die arbitrasie-ooreenkoms anders bepaal, kan 'n arbitrasiehof te eniger tyd binne die tydperk waarin 'n toekenning gemaak kan word, 'n tussentydse toekenning maak. Tussentydse toekenning.
27. Tensy die arbitrasie-ooreenkoms anders bepaal, kan 'n arbitrasiehof spesifieke nakoming van 'n kontrak beveel onder omstandighede waaronder die hof bevoeg sou wees om dit te doen. Spesifieke nakoming.
28. Tensy die arbitrasie-ooreenkoms anders bepaal, is 'n toekenning, behoudens die bepalings van hierdie Wet, afdoende en nie aan appèl onderhewig nie en is elke party by die verwysing verplig om hom in die toekenning te berus en om dit ooreenkomstig die bepalings daarvan na te kom. Toekenning is bindend.
29. Wanneer 'n toekenning die betaling van 'n som geld beveel, dra daardie som, tensy die toekenning anders bepaal, rente vanaf die datum van die toekenning en teen dieselfde koers as 'n vonnisskuld. Rente op bedrag toegeken.
30. 'n Arbitrasiehof kan 'n skryffout of 'n klaarblyklike fout wat per ongeluk uit 'n vergissing of weglating ontstaan, in 'n toekenning verbeter. Bevoegdheid van arbitrasiehof om foute in toekenning te verbeter.
31. (1) 'n Toekenning kan, op aansoek by 'n bevoegde hof deur 'n party by die verwysing na behoorlike kennisgewing aan die ander party of partye, 'n hofbevel gemaak word. Toekenning kan 'n hofbevel gemaak word.
 (2) Die hof by wie aldus aansoek gedoen word, kan 'n skryffout of 'n klaarblyklike fout wat per ongeluk uit 'n vergissing of weglating ontstaan, in die toekenning verbeter alvorens hy die toekenning 'n hofbevel maak.
 (3) 'n Toekenning wat 'n hofbevel gemaak is, kan op dieselfde wyse ten uitvoer gelê word as 'n vonnis of bevel met dieselfde strekking.
32. (1) Die partye by 'n verwysing kan binne ses weke na die bekendmaking van die toekenning aan hulle, by 'n deur hulle ondertekende geskrif enige aangeleentheid wat na arbitrasie verwys was, na die arbitrasiehof terugverwys vir heroorweging en om 'n verdere toekenning of 'n nuwe toekenning te maak of vir die ander doel wat die partye in daardie geskrif vermeld.
 (2) Die hof kan, op aansoek deur 'n party by die verwysing na behoorlike kennisgewing aan die ander party of partye gedoen binne ses weke na die bekendmaking van die toekenning aan die partye, om 'n gegronde rede aangevoer, enige aangeleentheid wat na arbitrasie verwys was, na die arbitrasiehof terugverwys vir heroorweging en om 'n verdere toekenning of 'n nuwe toekenning te maak of vir die ander doel wat die hof gelas.
 (3) Wanneer 'n aangeleentheid kragtens sub-artikel (1) of (2) terugverwys word, moet die arbitrasiehof, tensy die deur die partye ondertekende geskrif of die terugverwysingsbevel anders gelas, daardie aangeleentheid afhandel binne drie maande na die datum van daardie geskrif of bevel.
 (4) Wanneer in 'n geval in sub-artikel (1) of (2) bedoel die arbiter gesterf het nadat hy sy toekenning gemaak het, kan die toekenning terugverwys word na 'n nuwe arbiter aangestel, in die geval van 'n terugverwysing kragtens sub-artikel (1), deur die partye of, in die geval van 'n terugverwysing kragtens sub-artikel (2), deur die hof.
33. (1) Wanneer—
 (a) 'n lid van 'n arbitrasiehof hom aan wangedrag skuldig gemaak het met betrekking tot sy pligte as arbiter of skeidsregter; of
 (b) 'n arbitrasiehof hom aan 'n growwe onreëlmatigheid skuldig gemaak het by die voer van die arbitrasieverrigtinge of sy bevoegdhede oorskry het; of Tersydestelling van toekenning.

(c) an award has been improperly obtained, the court may, on the application of any party to the reference after due notice to the other party or parties, make an order setting the award aside.

(2) An application pursuant to this section shall be made within six weeks after the publication of the award to the parties: Provided that when the setting aside of the award is requested on the ground of corruption, such application shall be made within six weeks after the discovery of the corruption and in any case not later than three years after the date on which the award was so published.

(3) The court may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

(4) If the award is set aside the dispute shall, at the request of either party, be submitted to a new arbitration tribunal constituted in the manner directed by the court.

REMUNERATION OF ARBITRATORS AND UMPIRE AND COSTS.

Remuneration of arbitrators and umpire.

34. (1) Where the fees of the arbitrator or arbitrators or umpire have not been fixed by an agreement between him or them and the parties to the reference, any party to the reference may, notwithstanding that such fees may already have been paid by the parties, or any of them, require such fees to be taxed, and thereupon such fees shall be taxed by the taxing master of the court.

(2) Any taxation of fees under this section may be reviewed by the court in the same manner as a taxation of costs.

(3) The arbitrator or arbitrators or umpire shall be entitled to appear and be heard at any taxation or review of taxation under this section.

(4) The arbitrator or arbitrators or an umpire may withhold his or their award pending payment of his or their fees and of any expenses incurred by him or them in connection with the arbitration with the consent of the parties, or pending the giving of security for the payment thereof.

Costs of arbitration proceedings.

35. (1) Unless the arbitration agreement otherwise provides, the award of costs in connection with the reference and award shall be in the discretion of the arbitration tribunal, which shall, if it awards costs, give directions as to the scale on which such costs are to be taxed and may direct to and by whom and in what manner such costs or any part thereof shall be paid and may tax or settle the amount of such costs or any part thereof, and may award costs as between attorney and client.

(2) If no provision is made in an award with regard to costs, or if no directions have been given therein as to the scale on which such costs shall be taxed, any party to the reference may within fourteen days of the publication of the award, make application to the arbitration tribunal for an order directing by and to whom such costs shall be paid or giving directions as to the scale on which such costs shall be taxed, and thereupon the arbitration tribunal shall, after hearing any party who may desire to be heard, amend the award by adding thereto such directions as it may think proper with regard to the payment of costs or the scale on which such costs shall be taxed.

(3) If the arbitration tribunal has no discretion as to costs or if the arbitration tribunal has such a discretion and has directed any party to pay costs but does not forthwith tax or settle such costs, or if the arbitrators or a majority of them cannot agree in their taxation, then, unless the agreement otherwise provides, the taxing master of the court may tax them.

(4) If an arbitration tribunal has directed any party to pay costs but has not taxed or settled such costs, then, unless the arbitration agreement provides otherwise, the court may, on making the award an order of court, order the costs to be taxed by the taxing master of the court and, if the arbitration tribunal has given no directions as to the scale on which such costs shall be taxed, fix the scale of such taxation.

(5) Any taxation of costs by the taxing master of the court may be reviewed by the court.

(6) Any provision contained in an arbitration agreement to refer future disputes to arbitration to the effect that any party or the parties thereto shall in any event pay his or their own costs or any part thereof, shall be void.

(c) 'n toekenning op 'n onbehoorlike wyse verkry is, kan die hof, op aansoek van 'n party by die verwysing na behoorlike kennisgewing aan die ander party of partye, 'n bevel gee waarby die betrokke toekenning tersyde gestel word.

(2) 'n Aansoek ingevolge hierdie artikel moet gedoen word binne ses weke na die bekendmaking van die toekenning aan die partye: Met dien verstande dat wanneer die tersydestelling van die toekenning op grond van korrupsie aangevra word, bedoelde aansoek gedoen moet word binne ses weke na die ontdekking van die korrupsie en in elk geval nie later nie as drie jaar nadat die toekenning bekend gemaak is.

(3) Die hof kan, as hy van oordeel is dat die omstandighede dit vereis, die uitvoering van die toekenning opskort in afwagting van sy beslissing.

(4) Indien die toekenning tersyde gestel word, moet die geskil, op versoek van die een of die ander party, voorgelê word aan 'n nuwe arbitrasiehof saamgestel op die wyse deur die hof gelas.

BESOLDIGING VAN ARBITERS EN SKEIDSREGTER EN KOSTE.

34. (1) Wanneer die gelde van die arbiter of arbiters of skeidsregter nie by ooreenkoms tussen hom of hulle en die partye by die verwysing vasgestel is nie, kan 'n party by die verwysing, ondanks die feit dat daardie gelde reeds deur die partye, of die een of die ander van hulle, betaal mag wees, eis dat daardie gelde getakseer word, en daarop moet daardie gelde deur die takseermeester van die hof getakseer word.

Besoldiging van arbiters en skeidsregter.

(2) 'n Taksasie van gelde kragtens hierdie artikel kan deur die hof hersien word op dieselfde wyse as 'n taksasie van koste.

(3) Die arbiter of arbiters of skeidsregter is geregtig om by 'n taksasie of hersiening van taksasie kragtens hierdie artikel te verskyn en aangehoor te word.

(4) Die arbiter of arbiters of 'n skeidsregter kan sy of hul toekenning weerhou totdat sy of hulle gelde en enige onkoste deur hom of hulle in verband met die arbitrasie met die toestemming van die partye aangegaan, betaal is, of totdat sekerheid vir die betaling daarvan gestel is.

35. (1) Tensy die arbitrasie-ooreenkoms anders bepaal, is die toekenning van koste in verband met die verwysing en toekenning in die diskresie van die arbitrasiehof, wat, indien hy koste toeken, voorskrifte moet gee wat betref die skaal waarteen daardie koste getakseer moet word en kan gelas aan en deur wie en op watter wyse daardie koste of enige deel daarvan betaal moet word en die bedrag van sodanige koste of enige deel daarvan kan takseer of vasstel en koste tussen prokureur en kliënt kan toeken.

Koste van arbitrasieverrigtinge.

(2) Indien geen voorsiening in die toekenning met betrekking tot koste gemaak word nie, of indien geen voorskrifte aangaande die skaal waarteen daardie koste getakseer moet word, daarin gegee is nie, kan enige party by die verwysing binne veertien dae na die bekendmaking van die toekenning, aansoek doen by die arbitrasiehof om 'n bevel wat gelas aan of deur wie daardie koste betaal moet word of wat voorskrifte gee aangaande die skaal waarteen daardie koste getakseer moet word, en daarop moet die arbitrasiehof, nadat hy enige party wat verlang om aangehoor te word, aangehoor het, die toekenning wysig deur daaraan toe te voeg die voorskrifte wat hy goedvind met betrekking tot die betaling van koste of die skaal waarteen daardie koste getakseer moet word.

(3) Indien die arbitrasiehof geen diskresie aangaande koste het nie of indien die arbitrasiehof wel so 'n diskresie het en 'n party gelas het om koste te betaal maar nie onverwyld daardie koste takseer of vasstel nie, of indien die arbiters of 'n meerderheid van hulle, nie ten opsigte van hul taksasie kan saamstem nie, dan, tensy die ooreenkoms anders bepaal, kan die takseermeester van die hof dit takseer.

(4) Indien 'n arbitrasiehof 'n party gelas het om koste te betaal maar nie daardie koste getakseer of vasgestel het nie, dan, tensy die arbitrasie-ooreenkoms anders bepaal, kan die hof, wanneer hy die toekenning 'n hofbevel maak, beveel dat die koste deur die takseermeester van die hof getakseer word en, indien die arbitrasiehof geen voorskrifte aangaande die skaal waarteen daardie koste getakseer moet word, gegee het nie, die skaal van daardie taksasie vasstel.

(5) 'n Taksasie van koste deur die takseermeester van die hof kan deur die hof hersien word.

(6) 'n Bepaling vervat in 'n arbitrasie-ooreenkoms om toekomstige geskille na arbitrasie te verwys ten effekte dat 'n party of die partye daarby in elk geval sy of hul eie koste of 'n deel daarvan moet betaal, is nietig.

Costs of legal proceedings.

36. An order made or opinion given by the court under this Act may be made or given on such terms as to costs, including costs against an arbitrator or umpire, as the court considers just.

MISCELLANEOUS PROVISIONS.

Service of notices.

37. Unless the arbitration agreement provides otherwise, any notice required by any provision of this Act to be served on any person, may be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the usual or last known place of residence of that person in the Republic or the territory; or
- (c) by sending it by post to that person at his usual or last known place of residence in the Republic or the territory; or
- (d) in any other manner authorized by the court.

Extension of periods fixed by or under this Act.

38. The court may, on good cause shown, extend any period of time fixed by or under this Act, whether such period has expired or not.

This Act binds the State.

39. This Act shall apply to any arbitration in terms of an arbitration agreement to which the State is a party, other than an arbitration in terms of an arbitration agreement between the State and the Government of a foreign country or any undertaking which is wholly owned and controlled by such a Government.

Application of this Act to arbitrations under special laws.

40. This Act shall apply to every arbitration under any law passed before or after the commencement of this Act, as if the arbitration were pursuant to an arbitration agreement and as if that other law were an arbitration agreement: Provided that if that other law is an Act of Parliament, this Act shall not apply to any such arbitration in so far as this Act is excluded by or is inconsistent with that other law or is inconsistent with the regulations or procedure authorized or recognized by that other law.

Application to South-West Africa.

41. This Act and any amendment thereof shall apply also in the territory.

Repeal of laws.

42. (1) The Arbitrations Act, 1898 (Act No. 29 of 1898), of the Cape of Good Hope, the Arbitration Act, 1898 (Act No. 24 of 1898), of Natal, the Arbitration Ordinance, 1904 (Ordinance No. 24 of 1904), of the Transvaal, and the Arbitration Proclamation (Proclamation No. 3 of 1926), of South-West Africa, are hereby repealed.

(2) Any arbitration, enquiry or trial commenced prior to the commencement of this Act in terms of any law repealed by sub-section (1) shall be proceeded with in all respects as if such repeal had not been effected.

(3) Any arbitration commenced after the commencement of this Act under any arbitration agreement entered into before such commencement, shall be dealt with under this Act in all respects as if such agreement had been entered into after such commencement.

Short title.

43. This Act shall be called the Arbitration Act, 1965.

36. 'n Bevel of opinie ingevolge hierdie Wet deur die hof gegee, kan gegee word op die voorwaardes wat betref koste, met inbegrip van koste teen 'n arbiter of skeidsregter, wat die hof billik ag. Koste van regsgedinge.

DIVERSE BEPALINGS.

37. Tensy die arbitrasie-ooreenkoms anders bepaal, kan 'n kennisgewing wat ingevolge die een of die ander bepaling van hierdie Wet aan iemand bestel moet word, bestel word of— Bestelling van kennisgewings.

- (a) deur dit af te lewer aan die persoon aan wie dit bestel moet word; of
- (b) deur dit te laat by die gewone of laasbekende woonplek van daardie persoon in die Republiek of die gebied; of
- (c) deur dit per pos te stuur aan daardie persoon by sy gewone of laasbekende woonplek in die Republiek of die gebied; of
- (d) op enige ander wyse deur die hof gemagtig.

38. Die hof kan, om 'n gegronde rede aangevoer, enige by of kragtens hierdie Wet vasgestelde tydperk verleng, hetsy sodanige tydperk verstryk het al dan nie. Verlenging van tydperke by of kragtens hierdie Wet vasgestel.

39. Hierdie Wet is van toepassing op enige arbitrasie ingevolge 'n arbitrasie-ooreenkoms waarby die Staat 'n party is, behalwe 'n arbitrasie ingevolge 'n arbitrasie-ooreenkoms tussen die Staat en die Regering van 'n vreemde land of 'n onderneeming wat geheel en al deur so 'n Regering besit en beheer word. Hierdie Wet bind die Staat.

40. Hierdie Wet is van toepassing op elke arbitrasie kragtens 'n wet voor of na die inwerkingtreding van hierdie Wet aange- neem, asof die arbitrasie ooreenkomstig 'n arbitrasie-ooreenkoms is en asof daardie ander wet 'n arbitrasie-ooreenkoms is: Met dien verstande dat indien daardie ander wet 'n Wet van die Parlement is, hierdie Wet nie op so 'n arbitrasie van toepassing is nie vir sover hierdie Wet deur daardie ander wet uitgesluit word of daarmee strydig is of strydig is met die regulasies of prosedure deur daardie ander wet gemagtig of erken. Toepassing van hierdie Wet op arbitrasies kragtens spesiale wette.

41. Hierdie Wet en enige wysiging daarvan is ook van toepassing in die gebied. Toepassing op Suidwes-Afrika.

42. (1) Die „Arbitrations Act, 1898” (Wet No. 29 van 1898), van die Kaap die Goeie Hoop, die „Arbitration Act, 1898” (Wet No. 24 van 1898), van Natal, die „Arbitration Ordinance, 1904” (Ordonnansie No. 24 van 1904), van Transvaal, en die „Arbitratie-proklamasie, 1926” (Proklamasie No. 3 van 1926), van Suidwes-Afrika, word hierby herroep. Herroeping van wette.

(2) 'n Arbitrasie, ondersoek of verhoor wat voor die inwerkingtreding van hierdie Wet ooreenkomstig 'n by sub-artikel (1) herroep wetsbepaling begin is, word in alle opsigte voortgesit asof die herroeping nie plaasgevind het nie.

(3) 'n Arbitrasie wat na die inwerkingtreding van hierdie Wet begin word kragtens 'n arbitrasie-ooreenkoms wat voor sodanige inwerkingtreding aangegaan is, word kragtens hierdie Wet behandel in alle opsigte asof bedoelde ooreenkoms na daardie inwerkingtreding aangegaan was.

43. Hierdie Wet heet die Wet op Arbitrasie, 1965.

Kort titel

No. 47, 1965.]

ACT

To amend the Public Service Act, 1957.

(Afrikaans text signed by the State President.)
(Assented to 29th April, 1965.)

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

Amendment of section 1 of Act 54 of 1957, as amended by section 1 of Act 71 of 1963.

1. Section *one* of the Public Service Act, 1957 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Commission" in sub-section (1) of the following definition:

"'Commission' means the Public Service Commission and in relation to any power conferred upon or function entrusted to the Commission by this Act or any other law, includes any member or members of the Commission or any officer employed in the office of the Commission to whom the exercise of such power or the performance of such function has been lawfully delegated by the Commission in terms of sub-section (2) of section *five* and in relation to any such power or function the exercise or performance of which has been so delegated to the staff board or a member or members of the staff board established by section *four bis*, includes that staff board or member or members of that staff board;". (xi)

Amendment of section 4*bis* of Act 54 of 1957, as inserted by section 2 of Act 71 of 1963.

2. Section *four bis* of the principal Act is hereby amended—

(a) by the substitution for sub-section (1) of the following sub-section:

"(1) There is hereby established a staff board for the Department of Posts and Telegraphs and that branch of the Administration of the territory charged with the administration, management and working of the postal, telegraph and telephone services (hereinafter referred to as the staff board).";

(b) by the insertion after sub-section (3) of the following sub-section:

"(3)*bis*. Whenever the chairman of the staff board is absent for any reason whatsoever, the Commission may, after consultation with the Minister of the Interior, designate another member of the Commission to act in the place of the chairman during his absence and whenever another member of the staff board is so absent, the Minister of Posts and Telegraphs may, in consultation with the Commission, designate another officer to act in the place of that member during his absence."; and

(c) by the substitution for sub-section (4) of the following sub-section:

"(4) Failing general agreement among the members of the staff board on any matter which in terms of a delegation under sub-paragraph (i) of paragraph (c) of sub-section (2) of section *five* falls within its powers or functions, the Postmaster-General shall submit such matter to the Commission which shall deal with it as if the power or function concerned had not been delegated to the staff board."

No. 47, 1965.]

WET**Tot wysiging van die Staatsdienswet, 1957.**

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 April 1965.)

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

1. Artikel *een* van die Staatsdienswet, 1957 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van „Kommissie” in sub-artikel (1) deur die volgende omskrywing te vervang:
- „„Kommissie”, die Staatsdienskommissie en in verband met ’n bevoegdheid of werksaamheid wat aan die Kommissie by hierdie Wet of enige ander wetsbepaling verleen of opgedra word, ook enige lid of lede van die Kommissie of ’n beampte in diens in die kantoor van die Kommissie aan wie die uitoefening van daardie bevoegdheid of die verrigting van daardie werksaamheid wettiglik deur die Kommissie ingevolge sub-artikel (2) van artikel *vyf* gedelegeer is en in verband met so ’n bevoegdheid of werksaamheid waarvan die uitvoering of verrigting aldus aan die by artikel *vier bis* ingestelde personeelraad of ’n lid of lede van daardie personeelraad gedelegeer is, ook daardie personeelraad of lid of lede van daardie personeelraad.”. (iii)
- Wysiging van artikel 1 van Wet 54 van 1957, soos gewysig deur artikel 1 van Wet 71 van 1963.
2. Artikel *vier bis* van die Hoofwet word hierby gewysig—
- (a) deur sub-artikel (1) deur die volgende sub-artikel te vervang:
- „(1) Daar word hierby ’n personeelraad vir die Departement van Pos- en Telegraafwese en dié afdeling van die Administrasie van die gebied wat belas is met die administrasie, bestuur en lewering van pos-, telegraaf- en telefoondienste (hieronder die personeelraad genoem), ingestel.”;
- (b) deur na sub-artikel (3) die volgende sub-artikel in te voeg:
- „(3)*bis*. Wanneer die voorsitter van die personeelraad, om watter rede ook al, afwesig is, kan die Kommissie, na oorlegpleging met die Minister van Binnelandse Sake, ’n ander lid van die Kommissie aanwys om gedurende die afwesigheid van die voorsitter in sy plek op te tree en wanneer ’n ander lid van die personeelraad aldus afwesig is, kan die Minister van Pos- en Telegraafwese, in oorleg met die Kommissie, ’n ander beampte aanwys om in die plek van daardie lid gedurende sy afwesigheid op te tree.”; en
- (c) deur sub-artikel (4) deur die volgende sub-artikel te vervang:
- „(4) By gebrek aan eenstemmigheid onder die lede van die personeelraad oor enige aangeleentheid wat ingevolge ’n delegasie kragtens sub-paragraaf (i) van paragraaf (c) van sub-artikel (2) van artikel *vyf* by sy bevoegdhede of werksaamhede inbegrepe is, moet die Posmeester-generaal bedoelde aangeleentheid aan die Kommissie voorlê, wat daarmee handel asof die betrokke bevoegdheid of werksaamheid nie aan die personeelraad gedelegeer was nie.”.
- Wysiging van artikel 4*bis* van Wet 54 van 1957, soos ingevoeg deur artikel 2 van Wet 71 van 1963.

Amendment of section 5 of Act 54 of 1957, as amended by section 3 of Act 71 of 1963.

3. Section *five* of the principal Act is hereby amended by the substitution for paragraph (c) of sub-section (2) of the following paragraph:

“(c) in respect of the Department of Posts and Telegraphs and that branch of the Administration of the territory charged with the administration, management and working of the postal, telegraph and telephone services—

- (i) by the staff board under a general or special delegation from the Commission; and
- (ii) by a member or members of the staff board under a general or special delegation from the Commission.”.

Short title.

4. This Act shall be called the Public Service Amendment Act, 1965.

3. Artikel vyf van die Hoofwet word hierby gewysig deur wysiging van paragraaf (c) van sub-artikel (2) deur die volgende paragraaf te artikel 5 van Wet 54 van 1957, soos gewysig deur artikel 3 van Wet 71 van 1963.

vervang:

- „(c) ten opsigte van die Departement van Pos- en Telegraafwese en dié afdeling van die Administrasie van die gebied wat belas is met die administrasie, bestuur en lewering van pos-, telegraaf- en telefoondienste—
- (i) deur die personeelraad ingevolge 'n algemene of spesiale delegasie van die Kommissie; en
 - (ii) deur 'n lid of lede van die personeelraad ingevolge 'n algemene of spesiale delegasie van die Kommissie.”.

Kort titel.

4. Hierdie Wet heet die Staatsdiens-wysigingswet, 1965.

No. 51, 1965.]

ACT**To prohibit lotteries, sports pools and games of chance and to provide for other incidental matters.***(Afrikaans text signed by the State President.)
(Assented to 5th May, 1965.)***BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—**Definitions.****1. In this Act, unless the context otherwise indicates—**

- (i) "game of chance" includes any game which the Minister may from time to time by notice in the *Gazette* declare to be a game of chance; (ii)
- (ii) "lottery" means any lottery in the generally accepted meaning of the word, and more particularly every scheme, arrangement, system, plan or device by which any prize is or may be gained, won, drawn, thrown or competed for by lot, dice or any other method of chance, either with or without reference to the happening of any uncertain event other than the result of the application or use of such lot, dice or other method of chance and also includes any scheme, arrangement, system, plan or device, which the Minister may from time to time by notice in the *Gazette* declare to be a lottery; (iv)
- (iii) "Minister" means the Minister of Justice; (v)
- (iv) "place" means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle and any part of a place; (vi)
- (v) "prize" means any movable or immovable property; (vii)
- (vi) "Republic" includes the territory of South-West Africa; (viii)
- (vii) "sporting event" means any football, cricket, hockey, tennis or base-ball match, any boxing, wrestling, shooting or swimming contest, any foot, cycle, motor, boat, dog or horse race, and any other sporting or athletic contest, competition, tournament or game usually attended by the public; (ix)
- (viii) "sports pool" means any scheme under which—
 - (a) any person is invited or undertakes to forecast the result of any sporting event or series or combination of sporting events (whether or not in conjunction with any event other than a sporting event or series or combination of events other than sporting events) in competition with other participants; and
 - (b) a prize is to be awarded to the competitor who forecast the said result correctly or whose forecast is more nearly correct than the forecasts of other competitors, or a number of prizes are to be awarded on the basis aforesaid, and for the purposes of this definition the forecast of a result includes not only the forecast of the person or team that is to be victorious or otherwise, but also any forecast relating to the system of scoring employed in the sporting event concerned, or to any person responsible for the score; (x)

No. 51, 1965.]

WET

Om loterye, sportpoele en geluksele te verbied en om voorsiening te maak vir ander aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 5 Mei 1965.)

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

1. In hierdie Wet, tensy uit die samehang anders blyk, Word-omskrywing.
beteken—

- (i) „bydrae” die betaling of lewering van enige geld, artikel, saak of voorwerp (met inbegrip van enige kaartjie, koepon of inskrywingsvorm wat gratis aan die lesers van ’n nuusblad of ander tydskrif verskaf heet te wees) vir en by wyse van teenprestasie vir die reg om mee te ding; (ix)
- (ii) „geluksele” ook enige spel wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* ’n geluksele verklaar; (i)
- (iii) „kaartjie” ’n kenteken, teken, bewys, koepon, volmag of lys of enige ander middel of uitvindsel van watter aard ook al wat heet of bestem is om aan ’n persoon die reg te verleen of sy reg te erken om om ’n prys mee te ding of dit te ontvang; (x)
- (iv) „lotery” ’n lotery in die algemeen aanvaarde betekenis van die woord en meer bepaald elke skema, reëling, stelsel, plan of uitvindsel waarby ’n prys verwerf, gewen, getrek of om ’n prys gedobbel of meegeding word of kan word deur middel van loting, dobbelstene of enige ander metode waarby geluk betrokke is, hetsy met of sonder inagneming van die plaasvind van ’n ander onsekere gebeurtenis as die uitslag van die toepassing of gebruik van bedoelde loting, dobbelstene of ander metode waarby geluk betrokke is, en beteken ook enige skema, reëling, stelsel, plan of uitvindsel wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* ’n lotery verklaar; (ii)
- (v) „Minister” die Minister van Justisie; (iii)
- (vi) „plek” ’n plek, hetsy dit ’n openbare plek is al dan nie, en ook enige perseel, gebou, woning, woonstel, kamer, kantoor, winkel, bouwerk, vaartuig, vliegtuig of voertuig, en ook enige gedeelte van ’n plek; (iv)
- (vii) „prys” enige roerende of onroerende goed; (v)
- (viii) „Republiek” ook die gebied Suidwes-Afrika; (vi)
- (ix) „sportgebeure” ’n voetbal-, krieket-, hokkie-, tennis-, bofbal-, boks-, stoei-, skiet- of swemwedstryd, ’n voet-, fiets-, motor-, boot-, honde- of perdewedren, en enige ander sport- of atletiekwedstryd, -mededinging, -toernooi of -spel wat gewoonlik deur die publiek bygewoon word; (vii)
- (x) „sportpoel” ’n skema waarby—
 - (a) ’n persoon gevra word of onderneem om die uitslag van sportgebeure of ’n reeks of kombinasie van sportgebeure (hetsy tesame met ander gebeure as sportgebeure of ’n reeks of kombinasie van ander gebeure as sportgebeure al dan nie) in mededinging met ander deelnemers, te voorspel; en
 - (b) ’n prys toegeken staan te word aan die mededinger wat die uitslag juis voorspel of wie se voorspelling

- (ix) "subscription" means the payment or delivery of any money, article, matter or thing (including any ticket, coupon or entrance form purporting to be supplied free of charge to the readers of any newspaper or other periodical publication) for and in consideration of the right to compete; (i)
- (x) "ticket" means any symbol, sign, token, coupon, warrant or list or any other means or device of whatsoever nature purporting or intended to confer upon or to recognize in any person the right to compete for or receive a prize. (iii)

Prohibition of participation in a lottery or sports pool and presumptions relating thereto.

2. (1) No person shall—

- (a) establish or commence a lottery or sports pool, or be a partner or shareholder or have any financial interest in any organization conducting a lottery or sports pool;
- (b) manage, conduct or in any way assist in managing or conducting a lottery or sports pool;
- (c) allow any place under his control or in his charge to be used in any way for the management or conduct of any lottery or sports pool or for any business purpose connected therewith;
- (d) sell or dispose of or have in his possession or purchase or have any interest in any ticket in a lottery or sports pool;
- (e) perform any act with the object of acquiring or assisting any other person to acquire from any source in the Republic or elsewhere any ticket in a lottery or sports pool or any interest in any such ticket.

(2) Any ticket which by any word, code, figure or any sign whatsoever indicates that such ticket is a ticket in a lottery or sports pool shall, until the contrary is proved, be presumed to be a ticket in a lottery or sports pool.

(3) Whenever in any prosecution for a contravention of paragraph (b) of sub-section (1) any person is proved to have been the occupier of any place in which a lottery or sports pool was managed or conducted at the time when such person occupied such place, it shall, until the contrary is proved, be presumed that such person assisted in managing or conducting such lottery or sports pool.

Prohibition of advertisements of lotteries or sports pools.

3. No publisher or proprietor of any newspaper or other periodical publication, and no other person having the control or management of any newspaper or other periodical publication, or of any printing press, shall print or publish, either in such newspaper or periodical publication, or in any printed document, any notice or advertisement of any lottery or sports pool to be conducted in the Republic or elsewhere.

Prohibition of distribution or delivery of notices of lotteries or sports pools.

4. No person shall distribute or cause to be distributed or deliver or cause to be delivered to any person any hand-bill or entrance form or other document conveying in print, writing or in any other way, notice of or information with regard to any lottery or sports pool.

Prohibition of activities in the Republic in relation to a lottery or sports pool conducted outside the Republic.

5. No person shall be exempt from liability under any provision of this Act in respect of any act or thing done or authorized or permitted by him to be done in the Republic in connection with any lottery or sports pool, merely by reason that the management, conduct or business of or concerning such lottery or sports pool is in whole or in part carried on at some place outside the Republic.

Prohibition in respect of the playing of games of chance and presumptions relating thereto.

6. (1) Subject to the provisions of sub-section (2), no person shall permit the playing of any game of chance for stakes at any place under his control or in his charge and no person shall play any such game at any place or visit any place with the object of playing any such game.

(2) In any prosecution for a contravention of sub-section (1), it shall be a defence that the place to which the charge relates—

- (a) is not available for the use of persons other than subscribers or members or a group of members of a club or association of persons or for use by the public in general; or

(b) is not used except by personal friends of the person in control or in charge of such place and such person, if it is proved that such place is not habitually used for playing any game of chance for stakes.

nader aan juis is as die voorspellings van ander mededingers, of 'n aantal pryse op voormelde grondslag toegeken staan te word, en by die toepassing van hierdie omskrywing beteken die voorspelling van 'n uitslag ook nie slegs die voorspelling van die persoon of span wat gaan seëvier of nie, maar ook 'n voorspelling met betrekking tot die stelsel waarvolgens punte by die betrokke sportgebeure aangeteken word, of met betrekking tot die persoon wat vir die punte verantwoordelik is. (viii)

2. (1) Geen persoon mag—

- (a) 'n lotery of sportpoel instel of aan die gang sit nie, of 'n vennoot of aandeelhouer wees of 'n geldelike belang hê in 'n organisasie wat 'n lotery of 'n sportpoel hou nie;
- (b) 'n lotery of sportpoel bestuur, hou of op enige wyse hulp verleen by die bestuur of hou daarvan nie;
- (c) toelaat dat 'n plek onder sy beheer of toesig op enige wyse vir die bestuur of hou van 'n lotery of sportpoel of vir enige besigheidsdoel daaraan verbonde gebruik word nie;
- (d) 'n kaartjie in 'n lotery of sportpoel verkoop of van die hand sit of besit of koop of 'n belang daarby hê nie;
- (e) 'n handeling verrig met die oogmerk om 'n kaartjie in 'n lotery of sportpoel of 'n belang by so 'n kaartjie vanuit 'n bron in die Republiek of elders te verkry of om aan 'n ander persoon hulp te verleen om so 'n kaartjie of belang aldus te verkry nie.

Verbod op deelname aan 'n lotery of sportpoel en vermoedens in verband daarmee.

(2) 'n Kaartjie wat deur 'n woord, kode, syfer of enige teken wat ook al aandui dat daardie kaartjie 'n kaartjie in 'n lotery of sportpoel is, word totdat die teendeel bewys word, vermoed 'n kaartjie in 'n lotery of sportpoel te wees.

(3) Wanneer by 'n vervolging weens oortreding van paragraaf (b) van sub-artikel (1), daar bewys word dat 'n persoon die okkupeerder was van 'n plek waarin 'n lotery of sportpoel bestuur of gehou was op die tydstip toe bedoelde persoon bedoelde plek geokkupeer het, word daar vermoed, totdat die teendeel bewys word, dat bedoelde persoon by die bestuur of hou van bedoelde lotery of sportpoel hulp verleen het.

3. Geen uitgewer of eienaar van 'n nuusblad of ander tydskrif, en geen ander persoon wat 'n nuusblad of ander tydskrif of 'n drukpers beheer of bestuur, mag òf in bedoelde nuusblad of tydskrif, òf in 'n gedrukte dokument, 'n kennisgewing of advertensie omtrent 'n lotery of sportpoel wat in die Republiek of elders gehou staan te word, druk of publiseer nie.

Verbod op advertensies van loterye of sportpoele.

4. Geen persoon mag 'n biljet of inskrywingsvorm of ander dokument wat in druk, geskryf of op enige ander wyse 'n kennisgewing of inligting met betrekking tot 'n lotery of sportpoel bevat, versprei of laat versprei of aan 'n ander persoon aflewer of laat aflewer nie.

Verbod op verspreiding of aflewering van kennisgewings omtrent loterye of sportpoele.

5. Geen persoon word van aanspreeklikheid ingevolge 'n bepaling van hierdie Wet ten opsigte van 'n handeling of daad deur hom in die Republiek in verband met 'n lotery of sportpoel verrig of gemagtig of toegelaat, onthef nie bloot omdat die bestuur, hou of besigheid van of met betrekking tot bedoelde lotery of sportpoel geheel en al of gedeeltelik op die een of ander plek buite die Republiek plaasvind.

Verbod op bedrywighede in die Republiek met betrekking tot 'n lotery of sportpoel wat buite die Republiek gehou word.

6. (1) Behoudens die bepalings van sub-artikel (2), mag geen persoon die speel van 'n gelukspel waarop iets verwed word, toelaat by enige plek onder sy beheer of toesig nie, en mag geen persoon so 'n spel by enige plek speel of enige plek besoek met die oogmerk om so 'n spel te speel nie.

Verbod ten opsigte van die speel van geluksele en vermoedens in verband daarmee.

(2) By 'n vervolging weens oortreding van sub-artikel (1), kan die verweer opgewerp word dat die plek waarop die klagstaat betrekking het—

- (a) nie beskikbaar is vir gebruik deur ander persone as intekenaars of lede of 'n groep lede van 'n klub of vereniging van persone of vir gebruik deur die groot publiek nie; of

(b) nie gebruik word behalwe deur persoonlike vriende van die persoon onder wie se beheer of toesig bedoelde plek staan en bedoelde persoon nie, indien daar bewys word dat bedoelde plek nie gereeld vir die speel van geluksele waarop iets verwed word, gebruik word nie.

(3) When any cards, dice, balls, counters, tables or other instruments or requisites used or capable of being used for playing any game of chance are found at any place or on the person of any one found at any place, it shall be *prima facie* evidence in any prosecution for a contravention of sub-section (1) that the person in control or in charge of such place permitted the playing of such game for stakes at such place and that any person found at such place was playing such game for stakes at such place and was visiting such place with the object of playing such game for stakes.

(4) If any policeman authorized to enter any place is wilfully prevented from or obstructed or delayed in entering such place, the person in control or in charge of such place shall on being charged with permitting the playing of any game of chance for stakes, be presumed, until the contrary is proved, to have permitted the playing of such game of chance for stakes at such place.

(5) Upon proof at the trial of any person charged with contravention of sub-section (1), that any game of chance was played or intended to be played, it shall be presumed, until the contrary is proved, that such game was played or intended to be played for stakes.

(6) Any person supervising or directing or assisting at or acting as banker, dealer, croupier or in any like capacity at the playing of any game of chance at any place and any person acting as porter, doorkeeper or servant or holding any other office at any place where any game of chance is played, shall be deemed to be in control or in charge of such place.

(7) Any person found at any place where any game of chance is played, shall be deemed, until the contrary is proved, to be playing such game for stakes at such place and to be visiting such place with the object of playing such game for stakes.

Minister may prohibit keeping or use of pin-tables, etc.

7. (1) The Minister may by notice in the *Gazette* prohibit the keeping or use at any place or class or kind of place specified in the notice, or at any place or class or kind of place other than a place or class or kind of place so specified, of all pin-tables, whether or not intended for the playing of games of chance, or of all pin-tables other than pin-tables described in such notice, or of all pin-tables, machines, contrivances or instruments of any class or kind described in such notice which in his opinion are intended for the playing of games of chance, and of any pin-table, machine, contrivance or instrument resembling or having anything in common with any pin-table, machine, contrivance or instrument contemplated in such notice.

(2) For the purposes of section *six*—

- (a) the person in control or in charge of any place specified in any notice under sub-section (1) at which any pin-table, machine, contrivance or instrument contemplated in such notice is found, shall be presumed to have permitted the playing of games of chance for stakes at such place and any person found at any such place shall be presumed, until the contrary is proved, to have played a game of chance for stakes at such place and to have visited such place with the object of playing a game of chance for stakes;
- (b) any game played at any place specified in any notice aforesaid by means of any pin-table, machine, contrivance or instrument contemplated in such notice shall be presumed to be a game of chance.

Offences.

8. Any person who—

- (a) contravenes any provision of paragraph (a), (b) or (c) of sub-section (1) of section *two*;
- (b) contravenes any provision of paragraph (d) or (e) of sub-section (1) of section *two*;
- (c) contravenes any provision of section *three* or *four*;
- (d) permits the playing of any game of chance in contravention of sub-section (1) of section *six*;
- (e) plays any game of chance or visits any place with the object of playing any such game in contravention of sub-section (1) of section *six*,

shall be guilty of an offence and liable on conviction—

(3) Wanneer kaarte, dobbelstene, balle, speelmunt, tafels of ander instrumente of benodighede wat by die speel van 'n gelukspel gebruik word of kan word, by 'n plek of aan 'n persoon wat by 'n plek aangetref word, gevind word, is dit by 'n vervolging weens oortreding van sub-artikel (1), *prima facie* bewys dat die persoon onder wie se beheer of toesig bedoelde plek gestaan het, die speel van bedoelde spel waarop iets verwed was, by bedoelde plek toegelaat het en dat 'n persoon wat by bedoelde plek aangetref was, bedoelde spel waarop iets verwed was by bedoelde plek gespeel het en bedoelde plek besoek het met die oogmerk om bedoelde spel waarop iets verwed word, te speel.

(4) Indien 'n polisiebeampte wat daartoe gemagtig is om 'n plek te betree, opsetlik verhinder word om dit te betree of by sy betreding daarvan opsetlik gedwarsboom of vertraag word, word daar by 'n aanklag dat die speel van 'n gelukspel waarop iets verwed was, toegelaat was, vermoed, totdat die teendeel bewys word, dat die persoon onder wie se beheer of toesig bedoelde plek gestaan het, die speel van bedoelde gelukspel waarop iets verwed was, by bedoelde plek toegelaat het.

(5) By bewys by die verhoor van 'n weens oortreding van sub-artikel (1) aangeklaagde persoon dat 'n gelukspel gespeel was of sou word, word daar vermoed, totdat die teendeel bewys word, dat bedoelde spel gespeel was of sou word met iets daarop verwed.

(6) Daar word vermoed dat 'n persoon wat toesig hou oor die speel van 'n gelukspel by 'n plek of die spel daar lei, of hulp verleen of as bankier, deler, croupier of in 'n dergelyke hoedanigheid by die speel van 'n gelukspel by 'n plek optree en 'n persoon wat by 'n plek waar 'n gelukspel gespeel word, as portier, deurwagter of diensbode optree of 'n ander amp beklee, 'n persoon is onder wie se beheer of toesig bedoelde plek staan.

(7) Daar word vermoed, totdat die teendeel bewys word, dat 'n persoon wat by 'n plek waar 'n gelukspel gespeel word, aangetref word, bedoelde spel waarop iets verwed word by bedoelde plek speel en bedoelde plek besoek met die oogmerk om bedoelde spel waarop iets verwed word, te speel.

7. (1) Die Minister kan by kennisgewing in die *Staatskoerant* die aanhou of gebruik verbied by enige in die kennisgewing bepaalde plek of klas of soort plek, of by enige ander plek of klas of soort plek as 'n aldus bepaalde plek of klas of soort plek, van alle spykertafels, hetsy vir die speel van geluksele bestem al dan nie, of van alle ander spykertafels as die in bedoelde kennisgewing omskrewe spykertafels, of van alle spykertafels, masjiene, toestelle of instrumente van 'n in bedoelde kennisgewing omskrewe klas of soort wat na sy oordeel vir die speel van geluksele bestem is, en van enige spykertafel, masjien, toestel of instrument wat 'n ooreenkoms toon of iets gemeen het met 'n in bedoelde kennisgewing beoogde spykertafel, masjien, toestel of instrument.

Minister kan die aanhou of gebruik van spykertafels ens., verbied.

(2) By die toepassing van artikel *ses*—

(a) word daar vermoed dat die persoon onder wie se beheer of toesig 'n in 'n kennisgewing kragtens sub-artikel (1) bepaalde plek staan, waar 'n in bedoelde kennisgewing beoogde spykertafel, masjien, toestel of instrument aangetref word, die speel van geluksele waarop iets verwed was, by bedoelde plek toegelaat het en word daar vermoed, totdat die teendeel bewys word, dat 'n persoon wat by so 'n plek aangetref word, 'n geluksele waarop iets verwed was by bedoelde plek gespeel het en bedoelde plek besoek het met die oogmerk om 'n geluksele waarop iets verwed word, te speel;

(b) word daar vermoed dat 'n spel by 'n in 'n voormelde kennisgewing bepaalde plek deur middel van 'n in bedoelde kennisgewing beoogde spykertafel, masjien, toestel of instrument gespeel, 'n geluksele is.

8. 'n Persoon wat—

(a) 'n bepaling van paragraaf (a), (b) of (c) van sub-artikel (1) van artikel *twee* oortree;

(b) 'n bepaling van paragraaf (d) of (e) van sub-artikel (1) van artikel *twee* oortree;

(c) 'n bepaling van artikel *drie* of *vier* oortree;

(d) in stryd met sub-artikel (1) van artikel *ses* die speel van 'n geluksele toelaat;

(e) in stryd met sub-artikel (1) van artikel *ses* 'n geluksele speel of 'n plek besoek met die oogmerk om bedoelde spel te speel,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar—

Misdrywe.

- year or to both such fine and such imprisonment;
- (ii) in the case of an offence referred to in paragraph (b) or (e), to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Jurisdiction as to punishments.

9. Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Savings.

10. Nothing in this Act contained—

- (a) shall be construed as restricting the powers conferred under paragraph 7 of the First Schedule or paragraph 12 of the Second Schedule to the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945);
- (b) shall apply in relation to any lottery or sports pool in respect of which no subscription is to be made.

Repeal of laws.

11. The laws specified in the Schedule are hereby repealed to the extent set out in the third column thereof.

Application of Act to South-West Africa.

12. This Act (with the exception of section *thirteen*) shall apply also in the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)), and in relation to all persons in that portion of the said territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory.

Amendment of section 35 of Act 44 of 1958.

13. The following section is hereby substituted for section *thirty-five* of the Post Office Act, 1958:

"Articles addressed to persons conducting a lottery or sports pool or dealing in indecent or obscene matter.

35. When the Postmaster-General is satisfied on enquiry or by any advertisement, letter, circular or other documentary evidence that any person is conducting or assisting as agent or otherwise in conducting a lottery or sports pool, or is dealing in indecent or obscene matter, and is using the services of the department for the purpose, the Postmaster-General may detain or delay all postal articles addressed to such person (whether under his own or under a fictitious or assumed name) or his agent or representative, or to any address of any such person, agent or representative without the name of any person appearing thereon, and all such postal articles may be opened and returned to the senders thereof or otherwise disposed of as the Postmaster-General may deem fit."

Short title and date of commencement.

14. This Act shall be called the Gambling Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

- (i) in the case of an offence referred to in paragraph (a), (c) or (d), to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (ii) in the case of an offence referred to in paragraph (b) or (e), to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Jurisdiction as to punishments.

9. Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Savings.

10. Nothing in this Act contained—

- (a) shall be construed as restricting the powers conferred under paragraph 7 of the First Schedule or paragraph 12 of the Second Schedule to the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945);
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Short title and date of commencement.

14. This Act shall be called the Gambling Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

- (i) in die geval van 'n in paragraaf (a), (c) of (d) bedoelde misdryf, met 'n boete van hoogstens duisend rand of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel daardie boete as daardie gevangenisstraf;
- (ii) in die geval van 'n in paragraaf (b) of (e) bedoelde misdryf, met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel daardie boete as daardie gevangenisstraf.
9. Ondanks andersluidende wetsbepalings, is 'n landdroshof bevoeg om enige by hierdie Wet voorgeskrewe straf op te lê. Regsbevoegdheid met betrekking tot strawwe.
10. Die bepalinge van hierdie Wet— Voorbehoude.
- (a) word nie as 'n beperking op die kragtens paragraaf 7 van die Eerste Bylae of paragraaf 12 van die Tweede Bylae by die Wysigingswet op Finansiële Verhoudings, 1945 (Wet No. 38 van 1945), verleende bevoegdhede uitgelê nie;
- (b) is nie met betrekking tot 'n lotery of sportpoel ten opsigte waarvan geen bydrae gedoen staan te word nie, van toepassing nie.
11. Die in die Bylae vermelde wette word hierby herroep in die mate in die derde kolom daarvan uiteengesit. Herroeping van Wette.
12. Hierdie Wet (behalwe artikel *dertien*) is ook van toepassing in die gebied Suidwes-Afrika (met inbegrip van die Oostelike Caprivi Zipfel vermeld in artikel *drie* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet No. 55 van 1951)), en met betrekking tot alle persone in daardie gedeelte van bedoelde gebied bekend as die „Rehoboth Gebiet” en omskrywe in die Eerste Bylae by Proklamasie No. 28 van 1923 van bedoelde gebied. Toepassing van Wet op Suidwes-Afrika.
13. Artikel *vyf-en-dertig* van die Poswet, 1958, word hierby deur die volgende artikel vervang: Wysiging van artikel 35 van Wet no. 44 van 1958.
- „Artikels 35. Wanneer die Posmeester-generaal na ondergeadresseer aan persone wat 'n lotery of 'n sportpoel bestuur of in onbetaamlike of aanstootlike stof handel. soek of deur 'n advertensie, brief, omsendbrief of ander dokumentêre getuienis oortuig is dat iemand 'n lotery of sportpoel bestuur of as agent of andersins by die bestuur daarvan hulp verleen of in onbetaamlike of aanstootlike stof handel, en die dienste van die departement vir die doel gebruik, kan die Posmeester-generaal alle posstukke gerig aan so 'n persoon (hetsy onder sy eie of 'n denkbeeldige of aangenome naam) of sy agent of verteenwoordiger of aan 'n adres van so 'n persoon, agent of verteenwoordiger sonder dat die naam van 'n persoon daarop verskyn, terughou of verdraag, en al sulke posstukke kan oopgemaak en aan die afsenders daarvan teruggestuur word of na goeddunke van die Posmeester-generaal op ander wyse oor beskik word.”.
14. Hierdie Wet heet die Wet op Dobbelary, 1965, en tree in werking op 'n deur die Staatspresident by proklamasie in die *Staatskoerant* bepaalde datum. Kort titel en datum van inwerkingtreding.

Schedule.

No. and year.	Title or Subject Matter.	Extent of Repeal.
	CAPE.	
Act No. 28 of 1860.	Act for Legalizing Art Unions.	The whole.
Act No. 9 of 1889.	Lotteries Prohibition Act, 1889.	The whole.
Act No. 36 of 1902.	Betting Houses, Gaming Houses and Brothels Suppression Act, 1902.	Sections <i>one to four</i> , inclusive, and <i>six, nine, eleven</i> and <i>thirteen</i> and the Schedule.
	NATAL.	
Law No. 25 of 1878.	Law to provide for the Discouragement of Gambling.	The whole except sections <i>one, two</i> and <i>three</i> in so far as they relate to betting stands or betting booths.
Act No. 3 of 1902.	Act to amend the Law against Gambling.	The whole.
Act No. 31 of 1909.	Act to amend the Law relating to Gambling.	So much as is unrepealed.
	ORANGE FREE STATE.	
Chapter CXLIII of the Law Book.	"Wet Over Loterijen en Sweepstakes".	The whole.
Chapter CXLIV of the Law Book.	"Wet Over Dobbelarij".	The whole.
Ordinance No. 21 of 1902.	Police Offences Ordinance, 1902.	Sections <i>twelve to fourteen</i> , inclusive, and <i>seventeen</i> and <i>eighteen</i> .
	TRANSVAAL.	
Law No. 6 of 1889.	"Wet Tegen Hazardspelen".	The whole except section <i>seven</i> (a).
Law No. 7 of 1890.	"Wet Tegen Het Houden van Loterijen".	So much as is unrepealed.
Law No. 1 of 1892.	Amendment of Law No. 6 of 1889.	The whole.
Act No. 38 of 1909.	Criminal Law Amendment Act, 1909.	Sub-section (3) of section <i>five</i> .
	SOUTH-WEST AFRICA.	
Ordinance No. 13 of 1937.	Lotteries Ordinance, 1937.	The whole.
Ordinance No. 19 of 1952.	Lotteries Amendment Ordinance, 1952.	The whole.
	REPUBLIC.	
Act No. 1 of 1927.	Natal Gambling Law Amendment Act, 1927.	The whole.
Act No. 26 of 1933.	Gambling Amendment Act, 1933.	The whole.
Act No. 5 of 1939.	Gambling Amendment Act, 1939.	The whole.
Act No. 38 of 1949.	Prohibition of Sports Pools Act, 1949.	The whole.
Act No. 62 of 1955.	General Law Amendment Act, 1955.	Section <i>thirty-eight</i> .
Act No. 74 of 1961.	Prohibition of Sports Pools Amendment Act, 1961.	The whole.

Bylae.

No. en jaar.	Titel of Onderwerp.	In hoeverre herroep.
	KAAP.	
Wet No. 28 van 1860.	„Act for Legalizing Art Unions”.	Die geheel.
Wet No. 9 van 1889.	„Lotteries Prohibition Act. 1889”.	Die geheel.
Wet No. 36 van 1902.	„Betting Houses, Gaming Houses and Brothels Suppression Act, 1902”.	Artikels <i>een</i> tot en met <i>vier</i> , en <i>ses</i> , <i>nege</i> , <i>elf</i> en <i>dertien</i> en die Bylae.
	NATAL.	
Wet No. 25 van 1878.	„Law to provide for the Discouragement of Gambling”.	Die geheel behalwe artikels <i>een</i> , <i>twee</i> en <i>drie</i> vir sover hulle op „betting stands” of „betting booths” betrekking het.
Wet No. 3 van 1902.	„Act to amend the Law against Gambling”.	Die geheel.
Wet No. 31 van 1909.	„Act to amend the Law relating to Gambling”.	Soveel as wat nie herroep is nie.
	ORANJE VRYSTAAT.	
Hoofstuk CXLIII van die Wetboek.	„Wet Over Loterijen en Sweepstakes”.	Die geheel.
Hoofstuk CXLIV van die Wetboek.	„Wet Over Dobbelaarij”.	Die geheel.
Ordonnansie No. 21 van 1902.	„Police Offences Ordinance, 1902”.	Artikels <i>twaalf</i> tot en met <i>veertien</i> en <i>sewentien</i> en <i>agtien</i> .
	TRANSVAAL.	
Wet No. 6 van 1889.	„Wet Tegen Hazardspelen”.	Die geheel behalwe artikel <i>sewe (a)</i> .
Wet No. 7 van 1890.	„Wet Tegen Het Houden van Loterijen”.	Soveel as wat nie herroep is nie.
Wet No. 1 van 1892.	Wysiging van Wet No. 6 van 1889.	Die geheel.
Wet No. 38 van 1909.	„Criminal Law Amendment Act, 1909”.	Sub-artikel (3) van artikel <i>vyf</i> .
	SUIDWES-AFRIKA.	
Ordonnansie No. 13 van 1937.	Loterye-Ordonnansie, 1937.	Die geheel.
Ordonnansie No. 19 van 1952.	Wysigingsordonnansie op Loterye, 1952.	Die geheel.
	REPUBLIEK.	
Wet No. 1 van 1927.	Wet tot Wysiging van die Natalse Dobbelarywet, 1927.	Die geheel.
Wet No. 26 van 1933.	Dobbelary-wysigingswet, 1933.	Die geheel.
Wet No. 5 van 1939.	Wysigingswet op Dobbelary, 1939.	Die geheel.
Wet No. 38 van 1949.	Wet op Verbod van Sportpoele, 1949.	Die geheel.
Wet No. 62 van 1955.	Algemene Regswysigingswet, 1955.	Artikel <i>agt-en-dertig</i> .
Wet No. 74 van 1961.	Wysigingswet op Verbod van Sportpoele, 1961.	Die geheel.