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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1556. 2 December 1998

No. 1556. 2 Desember 1998

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

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

No. 127 of 1998: Labour Relations Amendment Act, 1998.

No. 127 van 1998: Wysigingswet op Arbeidsverhoudinge, 1998.

GENERAL EXPLANATORY NOTE:

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

(English text signed by the President.)
(Assented to 20 November 1998.)

ACT

To amend the Labour Relations Act, 1995, so as to make the establishment, after the coming into operation of this Act, of a pension, provident or medical aid scheme or fund by a bargaining council or statutory council subject to compliance with the laws relating to pension, provident or medical aid schemes or funds, and to make those laws applicable to such funds that may be so established after that point in time; to adjust the requirements for extending any collective agreement concluded in a bargaining council, to non-parties; to provide for the continuation, in certain circumstances, of a pension, provident or medical aid scheme or fund upon the winding-up of the bargaining council or statutory council which had established the scheme or fund; to empower the Minister of Labour to designate the chairperson of the essential services committee from the number of the committee members; to empower the Commission for Conciliation, Mediation and Arbitration ("the Commission") to make rules pertaining to certain proceedings and to the practice and procedure applicable in certain matters; to authorise the director of the Commission to delegate certain of the functions of that office to a commissioner; to authorise a commissioner to consolidate various conciliation proceedings between the same parties involved in two or more separate disputes before the commissioner; to impose a time limit on the referral of a matter to arbitration, or to the Labour Court; to adjust the provisions regarding objections to the commissioner appointed to conduct an arbitration, as well as those regarding the representation of parties in arbitration proceedings and in proceedings in the Labour Court; in Schedule 5 to exclude the application of the provisions of the Pension Funds Act, 1956, and the Medical Schemes Act, 1967, to the pension funds and medical schemes of bargaining councils and statutory councils only where such a fund or scheme had been established or continued in terms of a collective agreement concluded in such a council before the coming into operation of this Act, or when such a scheme or fund is so continued or further continued thereafter; in Schedule 7 to empower the Minister of Labour to transfer the functions of the industrial court to the Commission subject to certain provisions and limitations; to effect certain amendments necessary to ensure consistency with the Constitution of the Republic of South Africa, 1996, and certain other technical amendments; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ALGEMENE VERDUIDELIKENDE NOTA:

- []] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____] Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 20 November 1998.)*

WET

Tot wysiging van die Wet op Arbeidsverhoudinge, 1995, ten einde die stigting, ná die inwerkingtreding van hierdie Wet, van 'n pensioen-, voorsorg- of mediese hulpskema of -fonds deur 'n bedingingsraad of statutêre raad onderhewig te stel aan die nakoming van die wette met betrekking tot pensioen-, voorsorg- of mediese hulpskemas of -fondse, en daardie wette van toepassing te maak op sulke fondse wat na daardie tydstop aldus gestig mag word; die vereistes om 'n kollektiewe ooreenkoms wat in 'n bedingingsraad of statutêre raad gesluit is, na nie-partye uit te brei, aan te pas; voorsiening te maak vir die voortsetting van 'n pensioen-, voorsorg- of mediese hulpskema of -fonds onder sekere omstandighede by die likwidasië van die bedingingsraad of statutêre raad wat die skema of fonds gestig het; die Minister van Arbeid te bemagtig om die voorsitter van die komitee vir noodsaaklike dienste uit die geledere van die komiteelede aan te wys; die Kommissie vir Versoening, Bemiddeling en Arbitrasie ("die Kommissie") die bevoegdheid te verleen om reëls wat betrekking het op sekere verrigtinge en op die praktyk en prosedure van toepassing by sekere aangeleenthede, uit te vaardig; die direkteur van die Kommissie te magtig om sekere van die werksaamhede verbonde aan dié amp, aan 'n kommissaris te delegeer; 'n kommissaris te magtig om verskillende versoeningsverrigtinge tussen dieselfde partye wat by twee of meer afsonderlike geskille voor die kommissaris betrokke is, te konsolideer; 'n tydsbeperking vir die verwysing van 'n aangeleentheid na arbitrasie of na die Arbeidshof, op te lê; die bepalings wat betrekking het op besware teen die kommissaris wat aangestel word om 'n arbitrasie te doen, asook dié wat betrekking het op die verteenwoordiging van partye by arbitrasieverrigtinge en in verrigtinge in die Arbeidshof, aan te pas; in Bylae 5 die toepassing van die bepalings van die Wet op Pensioenfondse, 1956, en die Wet op Mediese Skemas, 1967, op die pensioenfondse en mediese skemas van bedingingsrade en statutêre rade, uit te sluit slegs wanneer so 'n fonds of skema gestig of ingestel is, of voortgesit is, ingevolge 'n kollektiewe ooreenkoms wat voor die inwerkingtreding van hierdie Wet in so 'n raad gesluit is, of wanneer so 'n skema of fonds daarná aldus voortgesit of verder voortgesit word; in Bylae 7 die Minister van Arbeid te magtig om die werksaamhede van die nywerheidshof aan die Kommissie oor te dra; behoudens sekere bepalings en beperkinge; sekere wysigings wat nodig is om bestaanbaarheid met die Grondwet van die Republiek van Suid-Afrika, 1996, te verseker, en sekere ander tegniese wysigings, aan te bring; en om voorsiening te maak vir bykomstige aangeleenthede.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Amendment of section 28 of Act 66 of 1995

1. Section 28 of the Labour Relations Act 1995 (hereafter called the principal Act), is hereby amended by the addition after the existing provisions (which become subsection (1)) of the following subsections:

- “(2) From the date on which the Labour Relations Amendment Act, 1998, comes into operation, the provisions of the laws relating to pension, provident or medical aid schemes or funds must be complied with in establishing any pension, provident or medical aid scheme or fund in terms of subsection (1)(g). 5
- (3) The laws relating to pension, provident or medical aid schemes or funds will apply in respect of any pension, provident or medical aid scheme or fund established in terms of subsection (1)(g) after the coming into operation of the Labour Relations Amendment Act, 1998.” 10

Amendment of section 32 of Act 66 of 1995, as amended by section 7 of Act 42 of 1996

2. Section 32 of the principal Act is hereby amended— 15
- (a) in subsection (3), by the substitution for paragraphs (e) and (f) of the following paragraphs:
- “(e) provision is made in the *collective agreement* [establishes or appoints] for an independent body to [grant exemptions to non-parties and to determine the terms of those exemptions] hear and decide, as soon as possible, any appeal brought against— 20
- (i) the *bargaining council's* refusal of a non-party's application for exemption from the provisions of the *collective agreement* [as soon as possible];
- (ii) the withdrawal of such an exemption by the *bargaining council*; 25
- (f) the *collective agreement* contains criteria that must be applied by the independent body when it considers [applications for exemption] an appeal, and that those criteria are fair and promote the primary objects of *this Act*; and” 30
- (b) by the deletion of subsection (4). 30

Amendment of section 43 of Act 66 of 1995, as amended by section 10 of Act 42 of 1996

3. Section 43 of the principal Act is hereby amended by the addition after subsection (3) of the following subsection: 35
- “(4) (a) From the date on which the Labour Relations Amendment Act, 1998, comes into operation, the provisions of the laws relating to pension, provident or medical aid schemes or funds must be complied with in establishing any pension, provident or medical aid scheme or fund in terms of subsection (1)(c). 40
- (b) The provisions of the laws relating to pension, provident or medical aid schemes or funds will apply in relation to any pension, provident or medical aid scheme or fund established in terms of subsection (1)(c) after the coming into operation of the Labour Relations Amendment Act, 1998.” 45

Amendment of section 59 of Act 66 of 1995

4. Section 59 of the principal Act is hereby amended by the addition after subsection (5) of the following subsections: 50
- “(6) For the purposes of this section, the assets and liabilities of any pension, provident or medical aid scheme or fund established by a *council* will be regarded and treated as part of the assets and liabilities of the *council* unless—
- (a) the parties to the *council* have agreed to continue with the operation of the pension, provident or medical aid scheme or fund as a separate scheme or fund despite the winding-up of the *council*; and

Wysiging van artikel 28 van Wet 66 van 1995

1. Artikel 28 van die Wet op Arbeidsverhoudinge, 1995 (hieronder die Hoofwet genoem), word hierby gewysig deur na die bestaande bepalinge (wat subartikel (1) word) die volgende subartikels by te voeg:

- 5 “(2) Vanaf die datum waarop die Wysigingswet op Arbeidsverhoudinge, 1998, in werking tree, moet daar by die stigting van enige pensioen-, voorsorg- of mediese hulpskema of -fonds ingevolge subartikel (1)(g), aan die wetsbepalinge wat betrekking het op pensioen-, voorsorg- of mediese hulpskemas of -fondse, voldoen word.
- 10 (3) Die wetsbepalinge wat op pensioen-, voorsorg of mediese hulpskemas of -fondse betrekking het, is van toepassing ten opsigte van enige pensioen-, voorsorg- of mediese hulpskema of -fonds wat ná die inwerkingtrede van die Wysigingswet op Arbeidsverhoudinge, 1998, ingevolge subartikel (1)(g) gestig word.”.

15 Wysiging van artikel 32 van Wet 66 van 1995, soos gewysig deur artikel 7 van Wet 42 van 1996

2. Artikel 32 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (3) paragrawe (e) en (f) deur die volgende paragrawe te vervang:

- 20 “(e) in die kollektiewe ooreenkoms voorsiening gemaak word vir ’n onafhanklike liggaam [instel of aanstel om aan nie-partye] wat so spoedig moontlik enige appèl aanhoor en beslis wat aangeteken word teen—
- 25 (i) die bedingingsraad se weiering van ’n nie-party se aansoek om vrystelling van die bepalinge van die kollektiewe ooreenkoms [so spoedig moontlik te verleen en om die voorwaardes verbonde aan daardie vrystellings te bepaal];
- 30 (ii) die intrekking van so ’n vrystelling deur die bedingingsraad;
- (f) die kollektiewe ooreenkoms maatstawwe bevat wat deur die onafhanklike liggaam toegepas moet word wanneer hy [aansoeke om vrystelling] ’n appèl oorweeg, en dat daardie maatstawwe billik is en die hoofogmerke van hierdie Wet bevorder; en”; en
- (b) deur subartikel (4) te skrap.

35 Wysiging van artikel 43 van Wet 66 van 1995, soos gewysig deur artikel 10 van Wet 42 van 1996

3. Artikel 43 van die Hoofwet word hierby gewysig deur ná subartikel (3) die volgende subartikel by te voeg:

- 40 “(4) (a) Vanaf die datum waarop die Wysigingswet op Arbeidsverhoudinge, 1998, in werking tree, moet daar by die stigting van enige pensioen-, voorsorg- of mediese hulpskema of -fonds ingevolge subartikel (1)(c), aan die wetsbepalinge wat betrekking het op pensioen-, voorsorg- of mediese hulpskemas of -fondse, voldoen word.
- 45 (b) Die wetsbepalinge wat op pensioen-, voorsorg- of mediese hulpskemas of -fondse betrekking het, is van toepassing ten opsigte van enige pensioen-, voorsorg- of mediese hulpskema of -fonds wat ná die inwerkingtrede van die Wysigingswet op Arbeidsverhoudinge, 1998, ingevolge subartikel (1)(c) gestig word.”.

Wysiging van artikel 59 van Wet 66 van 1995

4. Artikel 59 van die Hoofwet word hierby gewysig deur na subartikel (5) die volgende subartikels by te voeg:

- 50 “(6) By die toepassing van hierdie artikel word die bates en laste van ’n pensioen-, voorsorg- of mediese hulpskema of -fonds wat deur ’n raad gestig is, beskou en behandel as deel van die bates en laste van die raad tensy—
- 55 (a) die partye by die raad ooreengekom het om, ten spyte van die likwidasië van die raad, die bedryf van die pensioen-, voorsorg- of mediese hulpskema of -fonds as ’n afsonderlike skema of fonds voort te sit; en

- (b) the *Minister* has approved the continuation of the scheme or fund; and
- (c) application has been made in accordance with the provisions of the laws applicable to pension, provident or medical aid schemes or funds, for the registration of that scheme or fund in terms of those provisions.
- (7) A pension, provident or medical aid scheme or fund registered under the provisions of those laws after its application in terms of subsection (6)(c), will continue to be a separate scheme or fund despite the winding-up of the *council* by which it was established. 5
- (8) The *Minister* by notice in the Government Gazette may declare the rules of a pension, provident or medical aid scheme or fund mentioned in subsection (7), to be binding on any *employees* and employer or employers that fell within the *registered scope* of the relevant *council* immediately before it was wound up.”. 10

Amendment of section 70 of Act 66 of 1995

5. Section 70 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 15

- “(1) The *Minister*, after consulting *NEDLAC*, and in consultation with the Minister for the Public Service and Administration, must establish an essential services committee under the auspices of the Commission and—
- (a) appoint to that committee, on any terms that the Minister considers fit, persons who have knowledge and experience of labour law and labour relations; and 20
- (b) designate one of the members of the committee as its chairperson.”.

Amendment of section 115 of Act 66 of 1995, as amended by section 31 of Act 42 of 1996 25

6. Section 115 of the principal Act is hereby amended—

- (a) in subsection (2), by the insertion after paragraph (c) of the following paragraph:

“(cA) make rules—

- (i) to regulate, subject to Schedule 3, the proceedings at its meetings and at the meetings of any committee of the Commission; 30
- (ii) regulating the practice and procedure of the essential services committee;
- (iii) regulating the practice and procedure— 35
- (aa) for any process to resolve a *dispute* through conciliation;
- (bb) at arbitration proceedings; and
- (iv) determining the amount of any fee that the Commission may charge under section 147, and regulating the payment of such a fee in detail;” and 40

- (b) by the addition after subsection (5) of the following subsection:

“(6) (a) A rule made under subsection (2)(cA) must be published in the Government Gazette. The Commission will be responsible to ensure that the publication occurs.

- (b) A rule so made will not have any legal force or effect unless it has been so published.”. 45

Amendment of section 118 of Act 66 of 1995

7. Section 118 of the principal Act is hereby amended by the addition after subsection (5) of the following subsection:

- “(6) The *director*, in consultation with the governing body, may delegate any of the functions of that office, except the functions mentioned in sections 120 and 138(8), to a commissioner.”. 50

- (b) die *Minister* die voortsetting van die skema of fonds goedgekeur het; en
 (c) daar ooreenkomstig die wetsbepalings wat op pensioen-, voorsorg- of mediese hulpskemas of -fondse van toepassing is, aansoek gedoen is om die registrasie van daardie skema of fonds ingevolge dié bepalinge.
- 5 (7) 'n Pensioen-, voorsorg- of mediese hulpskema of -fonds wat na sy aansoek ingevolge subartikel (6)(c) kragtens daardie wetsbepalings geregistreer is, bly 'n afsonderlike skema of fonds ten spyte van die likwidasie van die *raad* waardeur dit gestig is.
- 10 (8) Die *Minister* kan, by kennisgewing in die Staatskoerant, die statute of reëls van 'n pensioen-, voorsorg- of mediese hulpskema of -fonds genoem in subartikel (7), bindend verklaar op enige *werknemers* en werkgewer of werkgewers wat onmiddellik voordat die betrokke *raad* gelikwedeer is, binne sy geregistreerde bestek geval het.”.

Wysiging van artikel 70 van Wet 66 van 1995

- 15 5. Artikel 70 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die *Minister*, na oorlegpleging met *NEOAR* en in oorleg met die Minister vir die Staatsdiens en Administrasie, moet 'n komitee vir noodsaaklike dienste onder beskerming van die Kommissie instel en [moet]—

- 20 (a) ooreenkomstig enige voorwaardes wat die *Minister* goedvind, persone in daardie komitee aanstel wat oor kennis en ervaring [in] van arbeidsreg en arbeidsverhoudinge beskik; en
 (b) een van die lede van die komitee as voorsitter daarvan aanwys.”.

25 Wysiging van artikel 115 van Wet 66 van 1995, soos gewysig deur artikel 31 van Wet 42 van 1996

6. Artikel 115 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (2) die volgende paragraaf ná paragraaf (c) in te voeg:

“(cA) reëls uitvaardig—

- 30 (i) om, behoudens Bylae 3, die verrigtinge by sy vergaderings en by die vergaderings van enige komitee van die Kommissie te reël;
 (ii) waarby die praktyk en prosedure van die komitee vir noodsaaklike dienste gereël word;
 (iii) wat die praktyk en prosedure reël—
 35 (aa) by enige proses vir die beslegting van 'n *geskil* deur versoening;
 (bb) by arbitrasieverrigtinge; en
 (iv) wat die bedrag van enige geld wat die Kommissie kragtens
 40 artikel 147 mag hef, bepaal en die betaling van so 'n geld in besonderheid reël;”;

(b) deur ná subartikel (5) die volgende subartikel in te voeg:

“(6) (a) 'n Reël kragtens subartikel (2)(cA) uitgevaardig, moet in die Staatskoerant gepubliseer word. Die Kommissie is daarvoor verantwoordelik om te verseker dat publikasie plaasvind.

- 45 (b) 'n Reël wat aldus uitgevaardig is, het nie enige regsrag of -gevolg tensy dit aldus gepubliseer is nie.”.

Wysiging van artikel 118 van Wet 66 van 1995

7. Artikel 118 van die Hoofwet word hierby gewysig deur ná subartikel (5) die volgende subartikel by te voeg:

- 50 “(6) Die *direkteur* kan in oorleg met die beheerliggaam enige van die werksaamhede verbonde aan daardie amp, behalwe die werksaamhede in artikels 120 en 138(8) genoem, aan 'n kommissaris delegeer.”.

Amendment of section 135 of Act 66 of 1995, as amended by section 36 of Act 42 of 1996

8. Section 135 of the principal Act is hereby amended—

(a) by the insertion after subsection (3) of the following subsection:

“(3A) If a single commissioner has been appointed, in terms of subsection (1), in respect of more than one *dispute* involving the same parties, that commissioner may consolidate the conciliation proceedings so that all the *disputes* concerned may be dealt with in the same proceedings.”; and

(b) by the substitution for subsection (4) of the following subsection:

“(4) In the conciliation proceedings a party to the *dispute* may appear in person or be represented only by [a co-employee or by a]—

(a) a director or employee of that party; or

(b) any member, [an] office bearer or official of that party’s registered trade union or registered employers’ organisation [and if the party is a juristic person, by a director or an employee].”.

Amendment of section 136 of Act 66 of 1995

9. Section 136 of the principal Act is hereby amended—

(a) in subsection (1), by the substitution for paragraph (b) of the following paragraph:

“(b) within 90 days after the date on which that certificate was issued, any party to the *dispute* has requested that the *dispute* be resolved through arbitration. However, the Commission, on good cause shown, may condone a party’s non-observance of that timeframe and allow a request for arbitration filed by the party after the expiry of the 90-day period.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) Any party to the *dispute* who [objects] wants to object to the arbitration also being conducted by the [same] commissioner who [conciliated] had attempted to resolve the *dispute* through conciliation, may [file] do so by filing an objection in that regard with the Commission within seven days after the date on which the commissioner’s certificate was issued, and must satisfy the Commission that a copy of the objection has been served on all the other parties to the *dispute*.”.

Amendment of section 138 of Act 66 of 1995

10. Section 138 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) In any arbitration proceedings, a party to the *dispute* may appear in person or be represented only by—

(a) a legal practitioner [a co-employee or by a];

(b) a director or employee of the party; or

(c) any member, office-bearer or official of that party’s registered trade union or registered employers’ organisation [and, if the party is a juristic person, by a director or an employee].”.

Amendment of section 151 of Act 66 of 1995

11. Section 151(1) of the principal Act is hereby amended by the addition of the words “and equity”.

Amendment of section 153 of Act 66 of 1995, as amended by section 42 of Act 42 of 1996

12. Section 153 of the principal Act is hereby amended—

(a) in subsection (1)—

(i) by the substitution for paragraph (a) of the following paragraph:

Wysiging van artikel 135 van Wet 66 van 1995, soos gewysig deur artikel 36 van Wet 42 van 1996

8. Artikel 135 van die Hoofwet word hierby gewysig—

(a) deur na subartikel (3) die volgende subartikel in te voeg:

5 “(3A) Indien ’n enkele kommissaris ingevolge subartikel (1) aangestel is ten opsigte van meer as een *geskil* waarby dieselfde partye betrokke is, kan daardie kommissaris die versoeningsverrigtinge konsolideer sodat daar met al die betrokke *geskille* tydens dieselfde verrigtinge gehandel kan word.”; en

10 (b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) [In die] By enige versoeningsverrigtinge kan ’n party by die *geskil* persoonlik verskyn of verteenwoordig word slegs deur [’n medewerknemer of deur ’n]

15 (a) ’n *direkteur* of *werknemer* van dié party; of

(b) enige lid, *ampsdraer* of *beampte* van [daardie] dié party se *geregistreeerde vakbond* of *geregistreeerde werkgewersorganisasie* [en indien die party ’n regs persoon is, deur ’n *direkteur* of ’n *werknemer*].”.

Wysiging van artikel 136 van Wet 66 van 1995

20 9. Artikel 136 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

25 “(b) enige party by die *geskil* binne 90 dae ná die datum waarop daardie sertifikaat uitgereik is, versoek het dat die *geskil* deur arbitrasie besleg word. Die Kommissie kan egter ’n party se nie-nakoming van dié tydsvereiste kondoneer ná aanvoering van gegronde redes, en ’n versoek om arbitrasie wat deur die party ná verstryking van die 90-daetydperk ingedien is, toelaat.”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

30 “(3) ’n Party by die *geskil* wat [daarteen] beswaar wil maak daarteen dat die arbitrasie ook gedoen word deur [dieselfde] die kommissaris wat probeer het om die *geskil* deur versoening te besleg, kan dit doen deur ’n beswaar in dié verband by die Kommissie [indien] in te dien binne sewe dae ná die datum waarop die kommissaris se sertifikaat uitgereik is, en moet die Kommissie oortuig dat ’n afskrif van die beswaar *beteken is* aan al die ander partye by die *geskil* [beteken is].”.

Wysiging van artikel 138 van Wet 66 van 1995

10. Artikel 138 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

40 “(4) By enige arbitrasieverrigtinge kan ’n party by die *geskil* persoonlik verskyn of verteenwoordig word slegs deur—

(a) ’n regspraktisyn [of medewerknemer of deur ’n];

(b) ’n *direkteur* of *werknemer* van die party; of

45 (c) enige lid, *ampsdraer* of *beampte* van daardie party se *geregistreeerde vakbond* of *geregistreeerde werkgewersorganisasie* [en, indien die party ’n regs persoon is, deur ’n *direkteur* of *werknemer*].”.

Wysiging van artikel 151 van Wet 66 van 1995

11. Artikel 151(1) van die Hoofwet word hierby gewysig deur die woorde “en ’n hof van ekwiteit” by te voeg.

50 **Wysiging van artikel 153 van Wet 66 van 1995, soos gewysig deur artikel 42 van Wet 42 van 1996**

12. Artikel 153 van die Hoofwet word hierby gewysig—

(a) in subartikel (1)—

(i) deur paragraaf (a) deur die volgende paragraaf te vervang:

- “(a) The President, acting on the advice of *NEDLAC* and the Judicial Service Commission [as defined in section 105 of the Constitution] provided for in the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), (in this Part and Part E called the Judicial Service Commission), and after consultation with the Minister of Justice, must appoint a Judge President of the Labour Court.”; and 5
- (ii) by the deletion of the words “as defined in section 105 of the Constitution” where they occur in paragraph (b);
- (b) in subsection (4), by the deletion of the words “as defined in section 105 of the Constitution”; and 10
- (c) in subsection (6)(a)(i), by the substitution for the words “Supreme Court” of the words “High Court”.

Amendment of section 154 of Act 66 of 1995, as amended by section 43 of Act 42 of 1996 15

13. Section 154 of the principal Act is hereby amended by the substitution for the words “Supreme Court” wherever they occur in subsections (3), (4), (5), (6) and (7), of the words “High Court”.

Amendment of section 157 of Act 66 of 1995

14. Section 157 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 20

- “(2) The Labour Court has concurrent jurisdiction with the [Supreme Court] High Court [(a)] in respect of any alleged [violation] or threatened violation [by the State in its capacity as employer] of any fundamental right entrenched in Chapter [3] 2 of the Constitution of the Republic of South Africa, 1996, and arising from— 25
- (a) employment and from labour relations;
- (b) [in respect of] any dispute over the constitutionality of any executive or administrative act or conduct, or any threatened executive or administrative act or conduct, by the State in its capacity as an employer; and 30
- (c) the application of any law for the administration of which the Minister is responsible.”.

Amendment of section 159 of Act 66 of 1995, as amended by section 45 of Act 42 of 1996

15. Section 159 of the principal Act is hereby amended by the substitution for the words “Supreme Court” wherever they occur in subsections (7) and (8), of the words “High Court”. 35

Substitution of section 161 of Act 66 of 1995

16. The following section is hereby substituted for section 161 of the principal Act:

“161. Representation before Labour Court 40

In any proceedings before the Labour Court, a party to the proceedings may appear in person or be represented only by—

- (a) a legal practitioner [a co-employee, or by a];
- (b) a director or employee of the party;
- (c) any member, [an] office-bearer or official of that party’s registered trade union or registered employers’ organisation [and, if the party is a juristic person, by a director or an employee]; 45
- (d) a designated agent of a council; or
- (e) an official of the Department of Labour.”.

- 5 “(a) Die President, handelende op advies van *NEOAR* en die Regterlike Dienskommissie [soos omskryf in artikel 105 van die Grondwet] waarvoor in die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), voorsiening gemaak word (in hierdie Deel en Deel E die Regterlike Dienskommissie genoem), en na [oorleg] oorlegpleging met die Minister van Justisie, moet die Regter-president van die Arbeidshof aanstel.”;
- 10 en
- (ii) deur die woorde “soos omskryf in artikel 105 van die Grondwet” waar dit in paragraaf (b) voorkom, te skrap;
- (b) deur in subartikel (4) die woorde “soos omskryf in artikel 105 van die Grondwet” te skrap; en
- (c) deur in subartikel (6)(a)(i) die woord “Hooggereghof” deur die woorde “Hoë Hof” te vervang.

15 **Wysiging van artikel 154 van Wet 66 van 1995, soos gewysig deur artikel 43 van Wet 42 van 1996**

13. Artikel 154 van die Hoofwet word hierby gewysig deur die woord “Hooggereghof” waar dit ook al in subartikels (3), (4), (5), (6) en (7) voorkom, deur die woorde “Hoë Hof” te vervang.

20 **Wysiging van artikel 157 van Wet 66 van 1995**

14. Artikel 157 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 25 “(2) Die Arbeidshof het konkurrente jurisdiksie met die [Hooggereghof] Hoë Hof [(a)] ten opsigte van ’n beweerde [skending] of dreigende skending van enige fundamentele reg [verskans] in Hoofstuk [3] 2 van die Grondwet van die Republiek van Suid-Afrika, 1996, verskans [deur die Staat in sy hoedanigheid as werkgever; en] wat voortspruit uit—
- 30 (a) indienshouding of indiensneming, en uit arbeidsverhoudinge;
- (b) [ten opsigte van] ’n *geskil* oor die grondwetlikheid van enige uitvoerende of administratiewe handeling of optrede, of enige dreigende uitvoerende of administratiewe handeling of optrede, deur die Staat in sy hoedanigheid as ’n werkgever; en
- (c) die toepassing van enige wet vir die uitvoering waarvan die *Minister verantwoordelik is*.”.

35 **Wysiging van artikel 159 van Wet 66 van 1995, soos gewysig deur artikel 45 van Wet 42 van 1996**

15. Artikel 159 van die Hoofwet word hierby gewysig deur die woord “Hooggereghof” waar dit ook al in subartikels (7) en (8) voorkom, deur die woorde “Hoë Hof” te vervang.

40 **Vervanging van artikel 161 van Wet 66 van 1995**

16. Artikel 161 van die Hoofwet word hierby deur die volgende artikel vervang:

“161. Verteenwoordiging voor Arbeidshof

- By enige verrigtinge voor die Arbeidshof kan ’n party by die verrigtinge persoonlik verskyn of verteenwoordig word slegs deur—
- 45 (a) ’n *regspraktisyn* [of ’n medewerknemer of deur ’n];
- (b) ’n *direkteur* of *werknemer* van die party;
- (c) enige lid, *ampsdraer* of *beampte* van daardie party se *geregistreerde vakbond* of *geregistreerde werkgewersorganisasie* [en indien die party ’n *regspersoon is*, deur ’n *direkteur* of ’n *werknemer*];
- 50 (d) ’n aangewese agent van ’n *raad*; of
- (e) ’n *beampte* van die Departement van Arbeid.”.

Amendment of section 163 of Act 66 of 1995

17. Section 163 of the principal Act is hereby amended by the substitution for the words "Supreme Court" of the words "High Court".

Amendment of section 167 of Act 66 of 1995

18. Section 167(3) of the principal Act is hereby amended by the substitution for the words "Appellate Division of the Supreme Court" of the words "Supreme Court of Appeal". 5

Amendment of section 168 of Act 66 of 1995, as amended by section 46 of Act 42 of 1996

19. Section 168(1) of the principal Act is hereby amended by the substitution for the words "Supreme Court" where they occur in paragraph (c), of the words "High Court". 10

Amendment of section 169 of Act 66 of 1995, as substituted by section 47 of Act 42 of 1996

20. Section 169 of the principal Act is hereby amended—
- (a) in subsection (1), by the deletion of the expression "as defined in section 105 of the Constitution"; and 15
 - (b) in subsection (2), by the substitution for the words "Supreme Court" of the words "High Court".

Amendment of section 170 of Act 66 of 1995, as amended by section 48 of Act 42 of 1996 20

21. Section 170 of the principal Act is hereby amended by the substitution for the words "Supreme Court" wherever they occur in subsections (3), (4) and (5), of the words "High Court".

Amendment of section 173 of Act 66 of 1995

22. Section 173 of the principal Act is hereby amended— 25
- (a) by the deletion of subsection (2); and
 - (b) in subsection (3), by the substitution for the words "Appellate Division of the Supreme Court" of the words "Supreme Court of Appeal".

Amendment of section 177 of Act 66 of 1995

23. Section 177(2) of the principal Act is hereby amended by the substitution for the words "court of a provincial division of the Supreme Court" of the words "High Court". 30

Amendment of section 180 of Act 66 of 1995

24. Section 180 of the principal Act is hereby amended by the substitution for the words "Supreme Court" of the words "High Court". 35

Amendment of section 191 of Act 66 of 1995

25. Section 191 of the principal Act is hereby amended by the addition after subsection (10) of the following subsection:

- "(11) (a) The referral, in terms of subsection (5)(b), of a *dispute* to the Labour Court for adjudication, must be made within 90 days after the *council* or (as the case may be) the commissioner has certified that the *dispute* remains unresolved. 40
- (b) However, the Labour Court may condone non-observance of that timeframe on good cause shown."

Wysiging van artikel 163 van Wet 66 van 1995

17. Artikel 163 van die Hoofwet word hierby gewysig deur die woord "Hooggeregshof" deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 167 van Wet 66 van 1995

- 5 18. Artikel 167(3) van die Hoofwet word hierby gewysig deur die woorde "Appèlafdeling van die Hooggeregshof" deur die woorde "Hoogste Hof van Appèl" te vervang.

Wysiging van artikel 168 van Wet 66 van 1995, soos gewysig deur artikel 46 van Wet 42 van 1996

- 10 19. Artikel 168(1) van die Hoofwet word hierby gewysig deur die woord "Hooggeregshof" waar dit in paragraaf (c) voorkom, deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 169 van Wet 66 van 1995, soos vervang deur artikel 47 van Wet 42 van 1996

20. Artikel 169 van die Hoofwet word hierby gewysig—
 15 (a) deur in subartikel (1) die uitdrukking "soos omskryf in artikel 105 van die Grondwet" te skrap; en
 (b) deur in subartikel (2) die woord "Hooggeregshof" deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 170 van Wet 66 van 1995, soos gewysig deur artikel 48 van Wet 42 van 1996

21. Artikel 170 van die Hoofwet word hierby gewysig deur die woord "Hooggeregshof" waar dit ook al in subartikels (3), (4) en (5) voorkom, deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 173 van Wet 66 van 1995

- 25 22. Artikel 173 van die Hoofwet word hierby gewysig—
 (a) deur subartikel (2) te skrap; en
 (b) deur in subartikel (3) die woorde "Appèlafdeling van die Hooggeregshof" deur die woorde "Hoogste Hof van Appèl" te vervang.

Wysiging van artikel 177 van Wet 66 van 1995

- 30 23. Artikel 177(2) van die Hoofwet word hierby gewysig deur die woorde "hof van 'n provinsiale afdeling van die Hooggeregshof" deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 180 van Wet 66 van 1995

- 35 24. Artikel 180 van die Hoofwet word hierby gewysig deur die woord "Hooggeregshof" deur die woorde "Hoë Hof" te vervang.

Wysiging van artikel 191 van Wet 66 van 1995

25. Artikel 191 van die Hoofwet word hierby gewysig deur ná subartikel (10) die volgende subartikel by te voeg:

- 40 "(11) (a) Die verwysing van 'n *geskil* ingevolge subartikel (5)(b) na die Arbeidshof vir beregting, moet gedoen word binne 90 dae nadat die raad of (na gelang van die geval) die kommissaris gesertifiseer het dat die *geskil* steeds onbesleg is.
 (b) Die Arbeidshof kan egter, na aanvoering van gegronde redes, enige nie-nakoming van daardie tydperk kondoneer."

Amendment of section 207 of Act 66 of 1995, as amended by section 50 of Act 42 of 1996

26. Section 207 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The *Minister*, after consulting *NEDLAC*, by notice in the Government Gazette may [add to] change [or], replace [any Schedule] or add to Schedules 2 and 4 to *this Act* [including a Schedule which at any time may have been added to *this Act*, but excluding Schedules 1, 5 and 6] and the Schedule envisaged in subsection (3).”; and

(b) by the deletion of subsections (2) and (6).

Amendment of Schedule 5 to Act 66 of 1995, as amended by section 55 of Act 42 of 1996

27. Schedule 5 to the principal Act is hereby amended—

(a) by the substitution for items 3 and 4 of the following items:

“3. Amendment of section 2 of Pension Funds Act, 1956

Section 2 of the Pension Funds Act, 1956 (Act No. 24 of 1956), is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The provisions of this Act shall not apply in relation to any pension fund which has been established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), before the Labour Relations Amendment Act, 1998, has come into operation, nor in relation to a pension fund so established or continued and which, in terms of a collective agreement concluded in that council after the coming into operation of the Labour Relations Amendment Act, 1998, is continued or further continued (as the case may be). [except that] However, such a pension fund shall from time to time furnish the registrar with such statistical information as may be requested by the Minister.”

4. Amendment of section 2 of Medical Schemes Act, 1967

Section 2(1) of the Medical Schemes Act, 1967 (Act No. 72 of 1967), is hereby amended by the substitution for paragraph (g) of the following paragraph:

“(g) shall, subject to the provisions of subsection (2A), apply with reference to—

(i) a particular medical scheme established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), before the Labour Relations Amendment Act, 1998, has come into operation;

(ii) a particular medical scheme which was established or continued in the circumstances mentioned in subparagraph (i) and which, in terms of a collective agreement so concluded in that council after the coming into operation of the Labour Relations Amendment Act, 1998, is continued or further continued (as the case may be), only if the Minister, at the request of the Minister of Labour and by notice in the *Gazette*, has declared the said provisions to be applicable with reference to [that] such a particular medical scheme;” and

(b) by the addition after item 4 of the following items:

Wysiging van artikel 207 van Wet 66 van 1995, soos gewysig deur artikel 50 van Wet 42 van 1996

26. Artikel 207 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

5 “(1) Die *Minister*, na oorlegpleging met *NEOAR*, kan by kennisgewing in die Staatskoerant [**enige Bylae**] Bylaes 2 en 4 by hierdie Wet en die bylae in subartikel (3) in die vooruitsig gestel, verander, vervang of daarby byvoeg [**met inbegrip van ’n bylae wat te eniger tyd by hierdie Wet bygevoeg is, maar uitgesonderd** Bylaes 1, 5 en 6].”; en

10 (b) deur subartikels (2) en (6) te skrap.

Wysiging van Bylae 5 by Wet 66 van 1995, soos gewysig deur artikel 55 van Wet 42 van 1996

27. Bylae 5 by die Hoofwet word hierby gewysig—

15 (a) deur items 3 en 4 deur die volgende items te vervang:

“3. Wysiging van artikel 2 van Wet op Pensioenfondse, 1956

Artikel 2 van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

20 ‘(1) Die bepalings van hierdie Wet is nie van toepassing [**nie**] met betrekking tot ’n pensioenfonds wat gestig of ingestel is, of voortgesit is, ingevolge ’n kollektiewe ooreenkoms deur ’n raad [**gesluit**] ingevolge die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), gesluit vóór die Wysigingswet op Arbeidsverhoudinge, 1998, in werking tree, nie, en ook nie met betrekking tot ’n pensioenfonds aldus gestig of ingestel, of voortgesit, en wat, ingevolge ’n kollektiewe ooreenkoms in daardie raad gesluit ná die inwerkingtreding van die Wysigingswet op Arbeidsverhoudinge, 1998, voortgesit of verder voortgesit word (na gelang van die geval) nie [**behalwe dat so**]. So ’n [**fonds**] pensioenfonds moet egter die registrateur van tyd tot tyd [**die registrateur moet**] voorsien van die statistiese inligting wat deur die Minister versoek mag word.’.

4. Wysiging van artikel 2 van Wet op Mediese Skemas, 1967

35 Artikel 2(1) van die Wet op Mediese Skemas, 1967 (Wet No. 72 van 1967), word hierby gewysig deur paragraaf (g) deur die volgende paragraaf te vervang:

‘(g) is, behoudens die bepalings van subartikel (2A), van toepassing met betrekking tot—

40 (i) ’n bepaalde mediese skema gestig of ingestel, [**kragtens**] of voortgesit, ingevolge ’n kollektiewe ooreenkoms in ’n raad ingevolge die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), gesluit vóór die Wysigingswet op Arbeidsverhoudinge, 1998, in werking tree;

45 (ii) ’n bepaalde mediese skema wat in die omstandighede genoem in subparagraaf (i) gestig of ingestel is, of voortgesit is, en wat ingevolge ’n kollektiewe ooreenkoms aldus in daardie raad gesluit ná die inwerkingtreding van die Wysigingswet op Arbeidsverhoudinge, 1998, voortgesit of verder voortgesit word (na gelang van die geval),

50 slegs indien die Minister op die versoek van die Minister van Arbeid en by kennisgewing in die *Staatskoerant* verklaar het dat bedoelde bepalings met betrekking tot [**daardie**] so ’n bepaalde mediese skema van toepassing is;’.”; en

55 (b) deur na item 4 die volgende items in te voeg:

“5. Amendment of section 1 of Insurance Act, 1943

Section 1(1) of the Insurance Act, 1943 (Act No. 27 of 1943), is hereby amended by the substitution for paragraph (d) of the definition of ‘insurance business’ of the following paragraph: 5

‘(d) any transaction under the Labour Relations Act, [1956 (Act No. 28 of 1956)] 1995 (Act No. 66 of 1995);’.

6. Amendment of section 2 of Friendly Societies Act, 1956

Section 2(1) of the Friendly Societies Act, 1956 (Act No. 25 of 1956), is hereby amended by the substitution for paragraph (g) of the following paragraph: 10

‘(g) the relief or maintenance of members, or any group of members, when unemployed or in distressed circumstances, otherwise than in consequence of the existence of a strike or lockout as defined in section [1] 213 of the Labour Relations Act, [1956 (Act No. 28 of 1956)] 1995 (Act No. 66 of 1995);’. 15

7. Amendment of section 3 of Friendly Societies Act, 1956

Section 3(1) of the Friendly Societies Act, 1956, is hereby amended by the substitution for paragraph (a) of the following paragraph: 20

‘(a) which has been established or continued in terms of [an agreement published or deemed to have been published under section 48] a collective agreement concluded in a council in terms of the Labour Relations Act, [1956 (Act No. 28 of 1956),] 1995. [except that] However, such a friendly society shall from time to time furnish the registrar with such statistical information as may be requested by the Minister;’. 25

Amendment of Schedule 7 to Act 66 of 1995, as amended by section 56 of Act 42 of 1996 30

28. (1) Schedule 7 to the principal Act is deemed to have been amended—

- (a) with effect from 11 November 1996, as set out in Schedule 1 to this Act;
- (b) with effect from 6 December 1996, as set out in Schedule 2 to this Act; and
- (c) with effect from 9 May 1997, as set out in Schedule 3 to this Act.

(2) Schedule 7 to the principal Act is hereby amended by the insertion after item 22 of the following item: 35

“22A. Minister may authorise Commission to perform industrial court’s functions

- (1) The *Minister*, after consulting the Commission, may authorise the Commission, by notice in the Government Gazette, to perform the industrial court’s functions in terms of item 22(1)—
 - (a) in respect of the Republic as a whole or any province specified in the notice; and
 - (b) with effect from a date so specified. 45
- (2) The authorisation of the Commission in terms of subitem (1)—
 - (a) does not affect the competence of the industrial court in terms of item 22(1) to decide and finalise all pending matters that are partly heard by it as at the date when the authorisation takes effect, nor does it relieve that court of 50

“5. Wysiging van artikel 1 van Versekeringswet, 1943

Artikel 1(1) van die Versekeringswet, 1943 (Wet No. 27 van 1943), word hierby gewysig deur paragraaf (d) van die omskrywing van ‘versekeringsbesigheid’ deur die volgende paragraaf te vervang:

5 ‘(d) ’n regshandeling kragtens die Wet op Arbeidsverhoudinge, [1956 (Wet No. 28 van 1956)] 1995 (Wet No. 66 van 1995);’.

6. Wysiging van artikel 2 van Wet op Onderlinge Hulpverenigings, 1956

10 Artikel 2(1) van die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), word hierby gewysig deur paragraaf (g) deur die volgende paragraaf te vervang:

15 ‘(g) die ondersteuning of onderhoud van lede, of enige groep lede, wanneer hulle werkloos is of in behoeftige omstandighede verkeer andersins dan as gevolg van die bestaan van ’n staking of uitsluiting soos in artikel [1] 213 van die Wet op Arbeidsverhoudinge, [1956 (Wet No. 28 van 1956)] 1995 (Wet No. 66 van 1995), omskryf;’.

7. Wysiging van artikel 3 van Wet op Onderlinge Hulpverenigings, 1956

20 Artikel 3(1) van die Wet op Onderlinge Hulpverenigings, 1956, word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

25 ‘(a) wat ingestel of voortgesit is [ooreenkomstig] ingevolge ’n kollektiewe ooreenkoms [gepubliseer of geag gepubliseer te wees kragtens artikel 48 van] in ’n raad ingevolge die Wet op Arbeidsverhoudinge, [1956 (Wet No. 28 van 1956)] 1995, gesluit of voortgesit. [behalwe dat so ’n vereniging] So ’n onderlinge hulpvereniging moet egter van tyd tot tyd die registrateur van [sodanige] die statistiese inligting voorsien [as] wat deur die Minister versoek mag word [moet voorsien];’.

30

Wysiging van Bylae 7 by Wet 66 van 1995, soos gewysig deur artikel 56 van Wet 42 van 1996

28. (1) Bylae 7 by die Hoofwet word geag gewysig te wees—

- 35 (a) met ingang vanaf 11 November 1996, soos in Bylae 1 by hierdie Wet uiteengesit;
- (b) met ingang vanaf 6 Desember 1996, soos in Bylae 2 by hierdie Wet uiteengesit; en
- (c) met ingang vanaf 9 Mei 1997, soos in Bylae 3 by hierdie Wet uiteengesit.
- 40 (2) Bylae 7 by die Hoofwet word hierby gewysig deur ná item 22 die volgende item by te voeg:

“22A. Minister kan Kommissie magtig om nywerheidshof se werksaamhede te verrig

- 45 (1) Die *Minister* kan, na oorlegpleging met die Kommissie, by wyse van kennisgewing in die Staatskoerant die Kommissie magtig om die nywerheidshof se werksaamhede ingevolge item 22(1) te verrig—
- (a) ten opsigte van die Republiek in die geheel of enige provinsie wat in die kennisgewing vermeld word; en
- 50 (b) met ingang vanaf ’n datum aldus vermeld.
- (2) Die magtiging van die Kommissie ingevolge subitem (1)—
- (a) raak nie die bevoegdheid van die nywerheidshof ingevolge item 22(1) om alle hangende aangeleenthede wat hy gedeeltelik verhoor het, te beslis en af te handel nie, en onthef ook nie daardie hof van sy werksaamhede,
- 55

- its functions, duties and responsibility with regard to those matters;
- (b) does not empower the Commission to perform any of the industrial court's functions with regard to the matters mentioned in paragraph (a); and 5
- (c) has the effect of substituting the Commission for the industrial court in so far as all other pending matters are concerned.
- (3) In the application of this item—
- (a) the provisions of item 22(1) will apply to the Commission 10
in all respects as if it were the industrial court; and
- (b) the rules governing the proceedings at the industrial court in terms of item 22(2A) and (2B) will apply to the proceedings at all pending matters to be decided by the Commission by virtue of its authorisation in terms of this 15
item.”.

(3) The provisions of subsection (1)(a), (1)(b) and (1)(c) will be deemed to have come into operation on 11 November 1996, 6 December 1996 and 9 May 1997, respectively.

Adjustment of table of contents of Act 66 of 1995

29. The table of contents of the principal Act under the general heading 20
“**CONTENTS OF ACT**”, is hereby adjusted—
- (a) in the portion under the heading “**CHAPTER VII**”, by the substitution for the entry relating to section 169, of the following entry: 20
“169. Appointment of other judges of Labour Appeal Court”;
- (b) in the portion under the heading “**CHAPTER IX**”, by the insertion after the 25
entry relating to section 208, of the following entry:
“208A. Delegations”;
- (c) in the portion under the heading “**SCHEDULE 5**”, by the addition after the entry relating to item 2, of the following entries: 30
“3. Amendment of section 2 of Pension Funds Act, 1956
4. Amendment of section 2 of Medical Schemes Act, 1967
5. Amendment of section 1 of Insurance Act, 1943
6. Amendment of section 2 of Friendly Societies Act, 1956
7. Amendment of section 3 of Friendly Societies Act, 1956”;
- (d) in the portion under the heading “**SCHEDULE 7**”— 35
(i) by the insertion after the entry relating to item 8, of the following entry:
“8A. Pending enquiries by industrial registrar”;
- (ii) by the insertion after the entry relating to item 12, of the following entry:
“12A. Designated agents”;
- (iii) by the substitution for the entry relating to item 19, of the following 40
entry:
“19. Collective agreements in South African Police Service”;
- (iv) by the insertion after the entry relating to item 21, of the following entry:
“21A. Dispute resolution by councils before their accreditation”; and
- (v) by the addition after the entry relating to item 23, of the following: 45
“**PART G — ESSENTIAL SERVICES**
24. Essential services in the public service
25. Essential services provided for in Labour Relations Act”; and
- (e) in the portion under the heading “**SCHEDULE 8**”, by the substitution for the entry relating to item 3 of the following entry: 50
“3. Disciplinary measures short of dismissal”.

- pligte en verantwoordelikheid met betrekking tot daardie aangeleenthede nie;
- (b) verleen nie aan die Kommissie die bevoegdheid om enige van die nywerheidshof se werksaamhede met betrekking tot die aangeleenthede genoem in paragraaf (a), te verrig nie; en
- (c) het tot gevolg dat die Kommissie vir die nywerheidshof gesubstitueer word vir sover dit alle ander hangende aangeleenthede betref.
- (3) By die toepassing van hierdie item—
- (a) is die bepalings van item 22(1) op die Kommissie van toepassing in alle opsigte asof hy die nywerheidshof was; en
- (b) is die reëls wat ingevolge item 22(2A) en (2B) die verrigtinge by die nywerheidshof reël, van toepassing op die verrigtinge by alle hangende aangeleenthede wat deur die Kommissie beslis moet word uit hoofde van sy magtiging ingevolge hierdie item.”
- (3) Die bepalings van subartikel (1)(a), (1)(b) en (1)(c) word geag op 11 November 1996, 6 Desember 1996 en 9 Mei 1997, onderskeidelik, in werking te getree het.

Aanpassing van inhoudsopgawe van Wet 66 van 1995

29. Die inhoudsopgawe van die Hoofwet onder die algemene opskrif “**INHOUD VAN WET**” word hierby aangepas—

- (a) deur in die gedeelte onder die opskrif “**HOOFSTUK VII**” die inskrywing wat op artikel 169 betrekking het, deur die volgende inskrywing te vervang: “169. Aanstelling van ander regters van Arbeidsappèlhof”;
- (b) in die gedeelte onder die opskrif “**HOOFSTUK IX**”, deur na die inskrywing wat op artikel 208 betrekking het, die volgende inskrywing in te voeg: “208A. Delegasies”;
- (c) in die gedeelte onder die opskrif “**BYLAE 5**”, deur na die inskrywing wat op item 2 betrekking het, die volgende inskrywings by te voeg:
3. Wysiging van artikel 2 van Wet op Pensioenfondse, 1956
 4. Wysiging van artikel 2 van Wet op Mediese Skemas, 1967
 5. Wysiging van artikel 1 van Versekeringswet, 1943
 6. Wysiging van artikel 2 van Wet op Onderlinge Hulpverenigings, 1956
 7. Wysiging van artikel 3 van Wet op Onderlinge Hulpverenigings, 1956”;
- (d) in die gedeelte onder die opskrif “**BYLAE 7**”—
- (i) deur na die inskrywing wat op item 8 betrekking het, die volgende inskrywing in te voeg: “8A. Hangende ondersoek deur nywerheidsregistrator”;
 - (ii) deur na die inskrywing wat op item 12 betrekking het, die volgende inskrywing in te voeg: “12A. Aangewese agente”;
 - (iii) deur in die Engelse teks die inskrywing wat op item 19 betrekking het, deur die volgende inskrywing te vervang: “19. Collective agreements in South African Police Service”;
 - (iv) deur na die inskrywing wat op item 21 betrekking het, die volgende inskrywing in te voeg: “21A. Geskilbeslegting deur rade voor hul akkreditering”; en
 - (v) deur na die inskrywing wat op item 23 betrekking het, die volgende by te voeg:

“DEEL G — NOODSAAKLIKE DIENSTE

 24. Noodsaaklike dienste in die Staatsdiens
 25. Noodsaaklike dienste waarvoor in Wet op Arbeidsverhouding voorsiening gemaak word”; en
- (e) deur in die gedeelte onder die opskrif “**BYLAE 8**” die inskrywing wat op item 3 betrekking het, deur die volgende inskrywing te vervang: “3. Dissiplinêre maatreëls minder as ontslag”.

Short title and commencement

30. This Act is called the Labour Relations Amendment Act, 1998, and will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

Kort titel en inwerkingtreding

30. Hierdie Wet word die Wysigingswet op Arbeidsverhoudinge, 1998, genoem en tree in werking op 'n datum wat deur die President by proklamasie in die *Staatskoerant* bepaal sal word.

SCHEDULE 1

(Section 28(1)(a))

AMENDMENT OF SCHEDULE 7 TO THE LABOUR RELATIONS ACT, 1995

1. Item 5 of Schedule 7 to the principal Act is hereby amended by the substitution for subitem (1) of the following subitem:

“(1) A *trade union* or *employers' organisation* registered or deemed to be registered in terms of the labour relations laws immediately before the commencement of *this Act*, will be deemed to be a registered *trade union* or registered *employers' organisation* under *this Act* and continues to be a body corporate.”

2. Item 7 of that Schedule (hereafter called Schedule 7), is hereby amended by the substitution for subitem (1) of the following subitem:

“(1) An industrial council registered or deemed to be registered in terms of the Labour Relations Act immediately before the commencement of *this Act*, will be deemed to be a *bargaining council* under *this Act* and continues to be a body corporate.”

3. The following item is hereby inserted in Schedule 7 after item 8:

“8A. Pending enquiries by industrial registrar

Any pending enquiry conducted by the industrial registrar under section 12(3) of the Labour Relations Act, must, after the commencement of *this Act*, be continued and dealt with further by the same person in terms of the Labour Relations Act as if it had not been repealed.”

4. Item 12 of Schedule 7 is hereby amended—

(a) by the substitution for subitem (1) of the following subitem:

“(1)(a) Any agreement promulgated in terms of section 48, any award binding in terms of sections 49 and 50, and any order made in terms of section 51A, of the Labour Relations Act and in force immediately before the commencement of *this Act*, remains in force and enforceable, subject to paragraphs (b) and (c) of this subitem, and to subitem (5B), for a period of 18 months after the commencement of *this Act* or until the expiry of that agreement, award or order, whichever is the shorter period, in all respects, as if the Labour Relations Act had not been repealed.

(b) On the request of any council deemed by item 7(1) to be a *bargaining council*, an agreement referred to in paragraph (a) that had been concluded in that council—

(i) if it expires before the end of the 18-month period referred to in paragraph (a), may be extended in accordance with the provisions of subsection (4)(a)(i) of section 48 of the Labour Relations Act for a period ending before or on the expiry of that 18-month period, which provisions, as well as any other provisions of the Labour Relations Act relating to industrial council agreements extended in terms of that subsection, will apply in all respects, read with the changes required by the context, in relation to any agreement extended on the authority of this subparagraph as if those various provisions had not been repealed;

BYLAE 1

(Artikel 28(1)(a))

WYSIGING VAN BYLAE 7 BY DIE WET OP ARBEIDSVERHOUDINGE, 1995

1. Item 5 van Bylae 7 by die Hoofwet word hierby gewysig deur subitem (1) deur die volgende subitem te vervang:

“(1) ’n *Vakbond* of *werkgewersorganisasie* wat, onmiddellik voor die inwerkingtreding van *hierdie Wet*, geregistreer was of geag was geregistreer te gewees het ingevolge die arbeidsverhoudingswette, word geag ’n geregistreerde *vakbond* of geregistreerde *werkgewersorganisasie* ingevolge *hierdie Wet* te wees en gaan voort om ’n regspersoon te wees.”

2. Item 7 van daardie Bylae (hieronder Bylae 7 genoem), word hierby gewysig deur subitem (1) deur die volgende subitem te vervang:

“(1) ’n Nywerheidsraad wat onmiddellik voor die inwerkingtreding van *hierdie Wet* geregistreer was of geag was geregistreer te gewees het ingevolge die Wet op Arbeidsverhoudinge, word geag ’n *bedingsraad* ingevolge *hierdie Wet* te wees en gaan voort om ’n regspersoon te wees.”

3. Die volgende item word hierby in Bylae 7 ingevoeg ná item 8:

“8A. Hangende ondersoeke deur nywerheidsregistrator

Enige hangende ondersoek deur die nywerheidsregistrator kragtens artikel 12(3) van die Wet op Arbeidsverhoudinge ingestel, word na die inwerkingtreding van *hierdie Wet* deur dieselfde persoon ingevolge die Wet op Arbeidsverhoudinge voortgesit en hanteer asof dit nie herroep was nie.”

4. Item 12 van Bylae 7 word hierby gewysig—

(a) deur subitem (1) deur die volgende subitem te vervang:

“(1) (a) Enige ooreenkoms afgekondig ingevolge artikel 48, enige toekenning bindend ingevolge artikels 49 en 50, en enige order gemaak ingevolge artikel 51A, van die Wet op Arbeidsverhoudinge en van krag onmiddellik voor die inwerkingtreding van *hierdie Wet*, bly, behoudens paragrawe (b) en (c) van *hierdie* subitem, en subitem (5B), van krag vir ’n tydperk van 18 maande ná die inwerkingtreding van *hierdie Wet* of totdat daardie ooreenkoms, toekenning of order verstryk, watter tydperk ook al die kortste is, in alle opsigte asof die Wet op Arbeidsverhoudinge nie herroep was nie.

(b) Op versoek van enige raad wat by item 7(1) geag word ’n *bedingsraad* te wees, kan ’n ooreenkoms bedoel in paragraaf (a) wat in daardie raad aangegaan is—

(i) indien dit verstryk voor die einde van die 18-maandetydperk bedoel in paragraaf (a), ooreenkomsstig die bepalinge van subartikel (4)(a)(i) van artikel 48 van die Wet op Arbeidsverhoudinge verleng word vir ’n tydperk wat voor of by die verstryking van daardie 18-maandetydperk ten einde loop, welke bepalinge, asook enige ander bepalinge van die Wet op Arbeidsverhoudinge wat betrekking het op nywerheidsraadooreenkomste ingevolge daardie subartikel verleng, van toepassing is, saamgelees met die veranderinge wat in die konteks nodig is, met betrekking tot enige ooreenkoms wat op gesag van *hierdie* subparagraaf verleng word, in alle opsigte asof daardie verskeie bepalinge nie herroep was nie;

- (ii) may be cancelled, in whole or in part, in accordance with the provisions of subsection (5) of section 48 of the Labour Relations Act, which provisions, as well as any other provisions of the Labour Relations Act relating to industrial council agreements wholly or partly cancelled in terms of that subsection, will apply in all respects, read with the changes required by the context, in relation to any agreement wholly or partly cancelled on the authority of this subparagraph as if those various provisions had not been repealed.
- (c) An agreement referred to in paragraph (a) that had been concluded by parties to a conciliation board—
- (i) if it expires before the end of the 18-month period referred to in paragraph (a), may, at the request of the parties that were represented on that conciliation board at the time of the conclusion of that agreement, be extended in accordance with, and in the manner provided for in, paragraph (b)(i) which will apply, read with the changes required by the context, in relation to the extension of agreements of that nature;
- (ii) may, at the request of those parties, be cancelled, in whole or in part, in accordance with paragraph (b)(ii) which will apply, read with the changes required by the context, in relation to the cancellation of agreements of that nature.”;
- (b) by the insertion after subitem (1) of the following subitem:
- “(1A) (a) An agreement referred to in subitem (1) that had been concluded in a council deemed by item 7(1) to be a *bargaining council*, may be amended or amplified by a further agreement concluded in that *bargaining council* and promulgated in accordance with the provisions of subsections (1) and (2) of section 48 of the Labour Relations Act, which provisions will apply in all respects, read with the changes required by the context, for the purposes of this paragraph as if they had not been repealed.
- (b) Subitems (1)(b), (3) and (8)(a) will apply to any further agreement concluded and promulgated on the authority of paragraph (a) of this subitem, in all respects as if it were an agreement referred to in subitem (1)(a).”;
- (c) by the insertion after subitem (5) of the following subitems:
- “(5A) Any exemption from an agreement or award, or from an order, contemplated in subitem (1), that was in force immediately before the commencement of *this Act*, will remain in force for a period of 18 months after the commencement of *this Act* or until the period for which the exemption had been granted, has expired, whichever is the shorter period, as if the Labour Relations Act had not been repealed.
- (5B) Any one or more of or all the provisions of an order referred to in subitem (1)(a), may be cancelled, suspended or amended by the *Minister* in accordance with the provisions of section 51A(4)(a) of the Labour Relations Act, which provisions will apply for the purposes of this subitem as if they had not been repealed.”;
- (d) by the substitution for subitem (6) of the following subitem:
- “(6) Any pending application for an exemption from all or any of the provisions of any agreement or award remaining in force in terms of subitem (1), or for an exemption from any

- (ii) in die geheel of gedeeltelik ooreenkomstig die bepalings van subartikel (5) van artikel 48 van die Wet op Arbeidsverhoudinge ingetrek word, welke bepalings, asook enige ander bepalings van die Wet op Arbeidsverhoudinge wat betrekking het op nywerheidsraad-ooreenkomste in die geheel of gedeeltelik ingevolge daardie subartikel ingetrek, van toepassing is, saamgelees met die veranderinge wat in die konteks nodig is, met betrekking tot enige ooreenkoms wat op gesag van hierdie subparagraaf in die geheel of gedeeltelik ingetrek word, in alle opsigte asof daardie verskeie bepalings nie herroep was nie.
- (c) 'n Ooreenkoms bedoel in paragraaf (a) wat aangegaan is deur partye by 'n versoeningsraad—
- (i) indien dit voor die einde van die 18-maandetydperk bedoel in paragraaf (a), verstryk, kan, op versoek van die partye wat in daardie versoeningsraad verteenwoordig was op die tydstip toe daardie ooreenkoms aangegaan is, verleng word ooreenkomstig en op die wyse waarvoor voorsiening gemaak word in paragraaf (b)(i), wat, saamgelees met die veranderinge wat in die konteks nodig is, van toepassing is met betrekking tot ooreenkomste van dié aard;
- (ii) kan op versoek van daardie partye in die geheel of gedeeltelik ingetrek word ooreenkomstig paragraaf (b)(ii), wat, saamgelees met die veranderinge wat in die konteks nodig is, van toepassing is met betrekking tot ooreenkomste van dié aard.”;
- (b) deur ná subitem (1) die volgende subitem in te voeg:
- “(1A) (a) 'n Ooreenkoms bedoel in subitem (1) wat aangegaan is in 'n raad wat by item 7(1) geag word 'n *bedingsraad* te wees, kan gewysig of uitgebrei word deur 'n verdere ooreenkoms wat in daardie *bedingsraad* aangegaan en ooreenkomstig die bepalings van subartikels (1) en (2) van artikel 48 van die Wet op Arbeidsverhoudinge afgekondig is, welke bepalings vir die doeleindes van hierdie paragraaf van toepassing is, saamgelees met die veranderinge wat in die konteks nodig is, in alle opsigte asof dit nie herroep was nie.
- (b) Subitems (1)(b), (3) en (8)(a) is van toepassing op enige verdere ooreenkoms wat op gesag van paragraaf (a) van hierdie subitem aangegaan en afgekondig word, in alle opsigte asof dit 'n ooreenkoms bedoel in subitem (1)(a) was.”;
- (c) deur ná subitem (5) die volgende subitems in te voeg:
- “(5A) Enige vrystelling van 'n ooreenkoms of toekenning, of van 'n order, beoog in subitem (1), wat onmiddellik voor die inwerkingtreding van *hierdie Wet* van krag was, bly van krag vir 'n tydperk van 18 maande na die inwerkingtreding van *hierdie Wet* of totdat die tydperk waarvoor die vrystelling verleen was, verstryk, watter tydperk ook al die kortste is, asof die Wet op Arbeidsverhoudinge nie herroep was nie.
- (5B) Een of meer van of al die bepalings van 'n order bedoel in subitem (1)(a) kan deur die *Minister* ooreenkomstig die bepalings van artikel 51A(4)(a) van die Wet op Arbeidsverhoudinge ingetrek, opgeskort of gewysig word, welke bepalings vir die doeleindes van hierdie subitem van toepassing is asof dit nie herroep was nie.”;
- (d) deur subitem (6) deur die volgende subitem te vervang:
- “(6) Enige hangende aansoek om 'n vrystelling van ál of enige van die bepalings van enige ooreenkoms of toekenning wat ingevolge subitem (1) van krag bly, of om 'n vrystelling

provision of an order remaining in force in terms of that subitem, must—

- (a) in the case of that agreement or award, be dealt with in terms of the provisions of section 51 and, whenever applicable, any other relevant provisions, of the Labour Relations Act, in all respects, read with the changes required by the context, as if the provisions in question had not been repealed;
 - (b) in the case of that order, be dealt with in terms of the provisions of section 51A and, whenever applicable, any other relevant provisions, of the Labour Relations Act as if the provisions in question had not been repealed.”; and
- (e) by the addition after subitem (7) of the following subitem:
- “(8) After the commencement of *this Act* and despite the repeal of the Labour Relations Act—
- (a) any person or class of persons bound by an agreement or award remaining in force in terms of subitem (1), may apply in accordance with the provisions of section 51 of the Labour Relations Act for an exemption from all or any of the provisions of that agreement or award (as the case may be). Any application so made, must be dealt with in terms of the provisions of section 51 and, whenever applicable, any other relevant provisions, of the Labour Relations Act, in all respects as if the provisions in question had not been repealed;
 - (b) any person bound by an order remaining in force in terms of subitem (1), may apply in accordance with the provisions of section 51A of the Labour Relations Act for exemption from any provision of that order. Any application so made, must be dealt with in terms of the provisions of section 51A and, whenever applicable, any other relevant provisions, of the Labour Relations Act, in all respects as if the provisions in question had not been repealed.”.

5. The following item is hereby inserted in Schedule 7 after item 12:

“12A. Designated agents

- (1) Any person appointed under section 62 of the Labour Relations Act as a designated agent of an industrial council deemed by item 7(1) to be a *bargaining council*, who holds that office immediately before the commencement of *this Act*, will be deemed to be a designated agent appointed for that *bargaining council* under section 33 of *this Act*.
- (2) The certificate of appointment that had been issued in terms of section 62(2) of the Labour Relations Act to that designated agent, will be deemed to have been issued in terms of section 33(2) of *this Act*.”.

6. The following item is hereby inserted in Schedule 7 after item 21:

“21A. Dispute resolution by councils before their accreditation

- (1) Despite the provisions of section 52, a *council* may attempt to resolve through conciliation—
 - (a) any *dispute* that may be referred to it in terms of *this Act* before 1 December 1996; and

van enige bepaling van enige order wat ingevolge dié subitem van krag bly, word—

- (a) in die geval van dié ooreenkoms of toekenning, hanteer ingevolge die bepalings van artikel 51 en, waar van toepassing, enige ander tersaaklike bepalings, van die Wet op Arbeidsverhoudinge, saamgelees met die veranderinge wat in die konteks nodig is, in alle opsigte asof die betrokke bepalings nie herroep was nie;
 - (b) in die geval van dié order, hanteer ingevolge die bepalings van artikel 51A en, waar van toepassing, enige ander tersaaklike bepalings, van die Wet op Arbeidsverhoudinge asof die betrokke bepalings nie herroep was nie.”; en
- (e) deur ná subitem (7) die volgende subitem by te voeg:
- “(8) Na die inwerkingtreding van *hierdie Wet* en ten spyte van die herroeping van die Wet op Arbeidsverhoudinge—
- (a) kan enige persoon of klas persone gebonde aan ’n ooreenkoms of toekenning wat ingevolge subitem (1) van krag bly, ooreenkomstig die bepalings van artikel 51 van die Wet op Arbeidsverhoudinge aansoek doen om ’n vrystelling van ál of enige van die bepalings van dié ooreenkoms of toekenning (na gelang van die geval). Enige aansoek aldus gedoen, word hanteer ingevolge die bepalings van artikel 51 en, waar van toepassing, enige ander tersaaklike bepalings, van die Wet op Arbeidsverhoudinge, in alle opsigte asof die betrokke bepalings nie herroep was nie;
 - (b) kan enige persoon gebonde aan ’n order wat ingevolge subitem (1) van krag bly, ooreenkomstig die bepalings van artikel 51A van die Wet op Arbeidsverhoudinge aansoek doen om vrystelling van enige bepaling van dié order. Enige aansoek aldus gedoen, word hanteer ingevolge die bepalings van artikel 51A en, waar van toepassing, enige ander tersaaklike bepalings, van die Wet op Arbeidsverhoudinge, in alle opsigte asof die betrokke bepalings nie herroep was nie.”.

5. Die volgende item word hierby in Bylae 7 ingevoeg ná item 12:

“12A. Aangewese agente

- (1) Enige persoon kragtens artikel 62 van die Wet op Arbeidsverhoudinge aangestel as ’n aangewese agent van ’n nywerheidsraad wat by item 7(1) geag word ’n *bedingsraad* te wees, en wat onmiddellik voor die inwerkingtreding van *hierdie Wet* dié amp beklee, word geag ’n aangewese agent te wees wat kragtens artikel 33 van *hierdie Wet* vir daardie *bedingsraad* aangestel is.
- (2) Die aanstellingsertifikaat wat ingevolge artikel 62(2) van die Wet op Arbeidsverhoudinge aan daardie aangewese agent uitgereik is, word geag ingevolge artikel 33(2) van *hierdie Wet* uitgereik te gewees het.”.

6. Die volgende item word hierby in Bylae 7 ingevoeg ná item 21:

“21A. Geskilbeslegting deur rade voor hul akkreditering

- (1) Ten spyte van die bepalings van artikel 52 mag ’n *raad*—
 - (a) poog om ’n *geskil* wat voor 1 Desember 1996 ingevolge *hierdie Wet* na hom verwys word, deur versoening te besleg; en

- (b) if the *council* has applied for accreditation in terms of section 127 of *this Act* before 1 December 1996, also any *dispute* so referred to it after 1 December 1996 but before the governing body of the Commission has made a decision on that application in terms of section 127(5) of *this Act*.
- (2) For the purposes of subitem (1), any person appointed by a *council* to perform on its behalf the dispute resolution function referred to in that subitem, will be competent to exercise any of the powers conferred on a commissioner by section 142 of *this Act*, except the powers contemplated in subsection (1) (c) and (d) of that section. In applying that section for the purposes of this subitem, that section must be read with the changes required by the context, and any reference in that section to the *director* must be read as a reference to the secretary of the *council*.
- (3) A *council* must refer to the Commission, for arbitration, any *dispute* that—
- (a) was referred to the *council* in terms of *this Act* on the authority of subitem (1); and
 - (b) remains unresolved after the *council* has attempted to resolve it through conciliation; and
 - (c) is by *this Act* required to be resolved through arbitration.”
7. Item 22 of Schedule 7 is hereby amended—
- (a) by the insertion after subitem (2) of the following subitems:
- “(2A) In relation to any proceedings which, in terms of this Schedule, are brought or continued before the industrial court, the rules which, immediately before the commencement of *this Act*, were in force under the provisions of paragraph (c) or (d) of section 17(22) of the Labour Relations Act, will apply as if those provisions had not been repealed, subject to subitem (2B).
 - (2B) The *Minister*, after consultation with the president of the industrial court, may make rules in accordance with the provisions of paragraph (c) of section 17 (22) of the Labour Relations Act, and, in accordance with the provisions of paragraph (d) of that section, may repeal or alter any rule so made as well as any of the rules contemplated in subitem (2A), as if those provisions had not been repealed and the *Minister* were the Board contemplated in those provisions.”; and
- (b) by the addition after subitem (5) of the following subitem:
- “(6) Despite the provisions of any other law but subject to the Constitution, no appeal will lie against any judgment or order given or made by the Labour Appeal Court established by *this Act* in determining any appeal brought in terms of subitem (5).”.

8. Schedule 7 is hereby amended by the addition of the following Part:

“PART G—ESSENTIAL SERVICES

24. Essential services in the public service

An essential service contemplated in section 20(1) of the Public Service Labour Relations Act, will be deemed to have been designated an essential service in terms of *this Act* for a period of six months as from the commencement of *this Act*.

- (b) indien die raad voor 1 Desember 1996 aansoek gedoen het om akkreditering ingevolge artikel 127 van *hierdie Wet*, ook poog om enige geskil deur versoening te besleg wat aldus na hom verwys is ná 1 Desember 1996 maar voordat die beheerliggaam van die Kommissie ingevolge artikel 127(5) van *hierdie Wet* 'n besluit oor dié aansoek geneem het.
- (2) Vir die doeleindes van subitem (1) is enige persoon wat deur 'n raad aangestel word om namens hom die geskilbeslegtingswerk-saamheid bedoel in daardie subitem te verrig, geregtig om enige van die bevoegdhede wat by artikel 142 van *hierdie Wet* aan 'n kommissaris verleen word, uit te oefen, behalwe die bevoegdhede beoog in subartikel (1)(c) en (d) van daardie artikel. By die toepassing van daardie artikel vir die doeleindes van hierdie subitem, moet daardie artikel saamgelees word met die veranderinge wat in die konteks nodig is, en word enige verwysing in dié artikel na die *direkteur* geles as 'n verwysing na die sekretaris van die *raad*.
- (3) 'n Raad verwys vir arbitrasie na die Kommissie enige *geskil* wat—
- (a) op gesag van subitem (1) na die *raad* ingevolge *hierdie Wet* verwys is; en
- (b) steeds onbesleg is nadat die *raad* gepoog het om dit deur versoening te besleg; en
- (c) volgens voorskrif van *hierdie Wet* deur arbitrasie besleg moet word.”.
7. Item 22 van Bylae 7 word hierby gewysig—
- (a) deur ná subitem (2) die volgende subitems in te voeg:
- “(2A) Die reëls wat onmiddellik voor die inwerkingtreding van *hierdie Wet* van krag was kragtens die bepalings van paragraaf (c) of (d) van artikel 17(22) van die Wet op Arbeidsverhoudinge, is behoudens subitem (2B) van toepassing met betrekking tot enige verrigtinge wat ingevolge hierdie Bylae in die nywerheidshof aanhangig gemaak of voortgesit word, asof daardie bepalings nie herroep was nie.
- (2B) Die *Minister*, na oorleg met die president van die nywerheidshof, kan reëls ooreenkomstig die bepalings van paragraaf (c) van artikel 17(22) van die Wet op Arbeidsverhoudinge uitvaardig, en kan, ooreenkomstig die bepalings van paragraaf (d) van daardie artikel, enige reël herroep of verander wat aldus uitgevaardig is, asook enige van die reëls beoog in subitem (2A), asof daardie bepalings nie herroep was nie en die *Minister* die Raad beoog in daardie bepalings was.”; en
- (b) deur ná subitem (5) die volgende subitem by te voeg:
- “(6) Ondanks enige ander wetsbepaling maar behoudens die Grondwet, word geen appèl toegelaat teen 'n vonnis of bevel wat deur die Arbeidsappèlhof, ingestel by *hierdie Wet*, gegee of gemaak is by die beslissing van 'n appèl wat ingevolge subitem (5) aanhangig gemaak is nie.”.
8. Bylae 7 word hierby gewysig deur die volgende Deel by te voeg:

“DEEL G—NOODSAAKLIKE DIENSTE

24. Noodsaaklike dienste in die Staatsdiens

'n Noodsaaklike diens beoog in artikel 20(1) van die Wet op Arbeidsverhoudinge vir die Staatsdiens, word geag ingevolge *hierdie Wet* as 'n noodsaaklike diens aangewys te gewees het vir 'n tydperk van ses maande vanaf die inwerkingtreding van *hierdie Wet*.

25. Essential services provided for in the Labour Relations Act

The services in which employers referred to in paragraphs (a) and (b) of section 46 (1) of the Labour Relations Act, and *employees* referred to in paragraphs (e) and (f) of that section, are engaged, as well as any service contemplated in paragraph (a) or (b) of section 46 (7) of that Act in which the employers and *employees* to whom a notice in terms of the latter section applied immediately before the commencement of *this Act*, are engaged, will be deemed to have been designated essential services in terms of *this Act* for a period of six months as from the commencement of *this Act*.”.

25. Noodsaaklike dienste waarvoor in Wet op Arbeidsverhoudinge voorsiening gemaak word

Die dienste waarmee werkgewers bedoel in paragrawe (a) en (b) van artikel 46(1) van die Wet op Arbeidsverhoudinge, en *werknemers* bedoel in paragrawe (e) en (f) van daardie artikel gemoeid is, asook enige diens beoog in paragraaf (a) of (b) van artikel 46(7) van daardie Wet waarmee die werkgewers en *werknemers* op wie 'n kennisgewing ingevolge laasgenoemde artikel onmiddellik voor die inwerkingtreding van *hierdie Wet* van toepassing was, gemoeid is, word geag ingevolge *hierdie Wet* as noodsaaklike dienste aangewys te gewees het vir 'n tydperk van ses maande vanaf die inwerkingtreding van *hierdie Wet*."

SCHEDULE 2**(Section 28(1)(b))****AMENDMENT OF SCHEDULE 7 TO THE LABOUR RELATIONS ACT, 1995**

Item 12(1)(b) of Schedule 7 to the principal Act is hereby amended by the substitution for subparagraph (i) of the following subparagraph:

- “(i) if it expires before the end of the 18-month period referred to in paragraph (a), may be extended or declared effective in accordance with the provisions of subsection (4)(a) of section 48 of the Labour Relations Act, for a period ending before or on the expiry of that 18-month period, which provisions, as well as any other provisions of the Labour Relations Act relating to industrial council agreements extended or declared effective in terms of that subsection, will apply in all respects, read with the changes required by the context, in relation to any agreement extended or declared effective on the authority of this subparagraph as if those various provisions had not been repealed. However, the *Minister* may not on the authority of this subparagraph declare an agreement to be effective if it expires after 31 March 1997;”.

BYLAE 2**(Artikel 28(1)(b))****WYSIGING VAN BYLAE 7 BY DIE WET OP ARBEIDSVERHOUDINGE, 1995**

Item 12(1)(b) van Bylae 7 by die Hoofwet word hierby gewysig deur subparagraaf (i) deur die volgende subparagraaf te vervang:

- “(i) indien dit voor die einde van die 18-maandetydperk bedoel in paragraaf (a) verstryk, ooreenkomstig die bepalings van subartikel (4)(a) van artikel 48 van die Wet op Arbeidsverhoudinge verleng word of van krag verklaar word vir 'n tydperk wat voor of by die verstryking van daardie 18-maandetydperk ten einde loop, welke bepalings, asook enige ander bepalings van die Wet op Arbeidsverhoudinge wat betrekking het op nywerheidsraadooreenkomste ingevolge daardie subartikel verleng of van krag verklaar, van toepassing is, saamgelees met die veranderinge wat in die konteks nodig is, met betrekking tot enige ooreenkoms wat op gesag van hierdie subparagraaf verleng of van krag verklaar word, in alle opsigte asof daardie verskeie bepalings nie herroep was nie. Die *Minister* mag egter nie 'n ooreenkoms op gesag van hierdie subparagraaf van krag verklaar indien dit ná 31 Maart 1997 verstryk nie;”.

SCHEDULE 3**(Section 28(1)(c))****AMENDMENT OF SCHEDULE 7 TO THE LABOUR RELATIONS ACT, 1995**

Schedule 7 to the principal Act is hereby amended by the substitution for items 24 and 25 of the following items:

“24. Essential services in the public service

- (1) An essential service contemplated in section 20(1) of the Public Service Labour Relations Act, will be deemed to have been designated an essential service in terms of *this Act* for a period ending on a date 10 months after the commencement of *this Act* or on the date of the publication of the notice of designation mentioned in subitem (2), in the Government Gazette, whichever date occurs first.
- (2) The essential services committee must, in the case of the services contemplated in section 20(1) of the Public Service Labour Relations Act, as soon as possible after the commencement of *this Act* make a new designation, under section 71 of *this Act*, of services that are essential services. Such a designation will be effective from the date of the publication of the notice of designation in the Government Gazette in terms of section 71(8) of *this Act*.

25. Essential services provided for in the Labour Relations Act

- (1) The services in which employers referred to in paragraphs (a) and (b) of section 46(1) of the Labour Relations Act, and *employees* referred to in paragraphs (e) and (f) of that section, are engaged, as well as any service contemplated in paragraph (a) or (b) of section 46(7) of that Act in which the employers and *employees* to whom a notice in terms of the latter section applied immediately before the commencement of *this Act*, are engaged, will be deemed to have been designated essential services in terms of *this Act* for a period ending on a date 10 months after the commencement of *this Act* or on the date of the publication of the notice of designation mentioned in subitem (2), in the Government Gazette, whichever date occurs first.
- (2) The essential services committee must, in the case of the services contemplated in subitem (1), as soon as possible after the commencement of *this Act* make a new designation, under section 71 of *this Act*, of services that are essential services. Such a designation will be effective from the date of the publication of the notice of the designation in the Government Gazette in terms of section 71(8) of *this Act*.”.

BYLAE 3

(Artikel 28(1)(c))

WYSIGING VAN BYLAE 7 BY DIE WET OP ARBEIDSVERHOUDINGE, 1995

Bylae 7 by die Hoofwet word hierby gewysig deur items 24 en 25 deur die volgende items te vervang:

“24. Noodsaaklike dienste in die Staatsdiens

- (1) 'n Noodsaaklike diens beoog in artikel 20(1) van die Wet op Arbeidsverhoudinge vir die Staatsdiens, word geag ingevolge *hierdie Wet* as 'n noodsaaklike diens aangewys te gewees het vir 'n tydperk wat eindig op 'n datum 10 maande na die inwerkingtreding van *hierdie Wet* of op die datum waarop die kennisgewing van aanwysing in subitem (2) genoem, in die Staatskoerant gepubliseer word, watter datum ook al eerste is.
- (2) Die komitee vir noodsaaklike dienste moet, in die geval van die dienste beoog in artikel 20(1) van die Wet op Arbeidsverhoudinge vir die Staatsdiens, so spoedig moontlik na die inwerkingtreding van *hierdie Wet* 'n nuwe aanwysing kragtens artikel 71 van *hierdie Wet* doen van dienste wat noodsaaklike dienste is. So 'n aanwysing is van krag vanaf die datum waarop die kennisgewing ingevolge artikel 71(8) van *hierdie Wet* in die Staatskoerant gepubliseer word.

25. Noodsaaklike dienste waarvoor in Wet op Arbeidsverhoudinge voorsiening gemaak word

- (1) Die dienste waarmee werkgewers bedoel in paragrawe (a) en (b) van artikel 46(1) van die Wet op Arbeidsverhoudinge, en *werknemers* bedoel in paragrawe (e) en (f) van daardie artikel gemoeid is, asook enige diens beoog in paragraaf (a) of (b) van artikel 46(7) van daardie Wet waarmee die werkgewers en *werknemers* op wie 'n kennisgewing ingevolge laasgenoemde artikel onmiddellik voor die inwerkingtreding van *hierdie Wet* van toepassing was, gemoeid is, word geag ingevolge *hierdie Wet* as noodsaaklike dienste aangewys te gewees het vir 'n tydperk wat eindig op 'n datum 10 maande na die inwerkingtreding van *hierdie Wet* of op die datum waarop die kennisgewing van aanwysing in subitem (2) genoem, in die Staatskoerant gepubliseer word.
- (2) Die komitee vir noodsaaklike dienste moet, in die geval van die dienste beoog in subitem (1), so spoedig moontlik na die inwerkingtreding van *hierdie Wet* 'n nuwe aanwysing kragtens artikel 71 van *hierdie Wet* doen van dienste wat noodsaaklike dienste is. So 'n aanwysing is van krag vanaf die datum waarop die kennisgewing van die aanwysing ingevolge artikel 71(8) van *hierdie Wet* in die Staatskoerant gepubliseer word.”

