

**Act No. 47  
of 1953.**Repeal of Act  
29 of 1945.Short title and  
date of  
commencement.

17. The Native Education Finance Act, 1945 (Act No. 29 of 1945), is hereby repealed.

18. This Act shall be called the Bantu Education Act, 1953, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

**Act No. 48  
of 1953.****ACT**

To provide for the prevention and settlement of native labour disputes and for the regulation of conditions of employment of natives; to amend the Industrial Conciliation Act, 1937, and to provide for other incidental matters.

(*Afrikaans text signed by the Governor-General.*)  
(*Assented to 5th October, 1953.*)

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

**Definitions.**

1. In this Act the expression "the Wage Act" means the Wage Act, 1937 (Act No. 44 of 1937), and, unless the context otherwise indicates, any expression to which in that Act a meaning has been assigned, bears, when used in this Act, the same meaning; further, unless the context otherwise indicates—

- (i) "board" means the central native labour board established under section *three*; (xi)
- (ii) "employee" means an employee who is a native; (xvi)
- (iii) "employer" means an employer of natives; (xv)
- (iv) "European" means a white person as defined in section *one* of the Population Registration Act, 1950 (Act No. 30 of 1950); (iii)
- (v) "labour dispute" means any dispute between an employer or employers on the one hand and any two or more employees of such employer or employers on the other hand in connection with the employment or the conditions of employment of or refusal to re-employ any native, whether he is or was employed by the employer with whom the dispute arises or not, but shall not include—
  - (a) a dispute in regard to the termination of, or any other matter connected with, the employment of an individual employee, unless in the opinion of the Minister a matter of principle is involved;
  - (b) a dispute in connection with the interpretation of any provision of this Act or of any order which is binding under this Act, or with any other question of law; or
  - (c) a dispute arising during the period of operation of any order or any agreement negotiated by

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an industrial council under the Industrial Conciliation Act or any award made in terms of War Measure No. 145 of 1942 (Proclamation No. 318 of 1942), or any determination made under the Wage Act or under section *thirteen* of the Native Building Workers Act, 1951 (Act No. 27 of 1951), if such order, agreement, award or determination is binding upon the employers and employees concerned and contains provisions dealing with the matter in dispute and (in the case of any such agreement) has been the subject of a report under sub-section (4) of section *nine* conveying the concurrence of the board in the conditions of employment specified in that agreement and (in the case of any such determination) has been in operation for a period not exceeding two years; (ii)

- (vi) "Minister" means the Minister of Labour; (vi)
- (vii) "native" means a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa; (vii)
- (viii) "native commissioner" means a native commissioner appointed in terms of section *two* of the Native Administration Act, 1927 (Act No. 38 of 1927), and includes an additional and an assistant native commissioner; (ix)
- (ix) "native labour officer" means a native labour officer appointed in terms of section *eight*; (viii)
- (x) "officer" means an officer on the fixed establishment of the public service; (i)
- (xi) "order" means an order made under sub-section (4) or (5) of section *eleven*; (x)
- (xii) "prescribed" means prescribed by regulation; (xiv)
- (xiii) "regional committee" means a regional native labour committee established under section *four*; (xiii)
- (xiv) "regulation" means any regulation made under this Act; (xii)
- (xv) "this Act" includes any regulation made thereunder; (iv)
- (xvi) "wage regulating measure" means any agreement, notice or award published or made or deemed to have been published or made under the Industrial Conciliation Act, any determination made or deemed to have been made under the Wage Act, or any determination made under the Native Building Workers Act, 1951 (Act No. 27 of 1951). (v)

**Application  
of Act.**

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

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(2) This Act shall not apply to natives in respect of their employment in farming operations, or in domestic service in private households, nor to natives employed by the Government of the Union (including the Railway Administration) or a provincial administration, in respect of their employment as such, nor to the performance of work in a charitable institution for which the persons performing it receive no remuneration, nor to work in or in connection with any university, college, school or other educational institution maintained wholly or partly from public funds as part of the education or training of the persons performing it, nor, subject to the provisions of sub-section (3), to natives employed in the gold or the coal mining industry.

(3) The Governor-General may, by proclamation in the *Gazette*, apply the provisions of this Act to natives in respect of their employment in the gold or the coal mining industry in any area with effect from a date to be specified in such proclamation, and may in like manner amend or withdraw any such proclamation.

**Establishment  
of Central  
Native Labour  
Board.**

3. (1) As from a date to be fixed by the Governor-General by proclamation in the *Gazette*, there shall be established a body to be known as the Central Native Labour Board to perform the duties and functions assigned to it under this Act and to advise the Minister on any matter which the Minister may refer to it or on which, in the opinion of the board, advice should be submitted to the Minister in the interests of natives employed in any trade.

(2) The board shall consist of so many members as the Minister may determine from time to time, of whom—

- (a) one shall be a European appointed by the Minister to be chairman of the board; and
- (b) the remaining members shall be appointed by the Minister after consultation with the regional committees and shall be Europeans who, in the opinion of the Minister, are competent to represent the interests of employees.

(3) The Minister may from time to time appoint an officer in his department to be deputy-chairman of the board to act as chairman at any meeting of the board whenever the chairman is for any reason unable to act thereat, and shall assign to the board an officer in his department to act as secretary to the board.

(4) Members of the board shall be appointed for such periods as may be specified by the Minister upon their appointment and shall, in the case of members who are not in the full-time employment of the State, receive such remuneration or allowances as the Minister may from time to time after consultation with the Minister of Finance determine: Provided that the Minister may at any time cancel the appointment of any member of the board if in his opinion there are good grounds for doing so.

(5) Any vacancy that occurs on the board shall be filled by the appointment of another member in accordance with the provisions of sub-section (2).

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(6) The decision of the majority of the members of the board who are present at a meeting thereof, shall constitute a decision of the board: Provided that in the event of an equality of votes the person presiding at the meeting shall have a casting vote.

**Establishment  
of regional  
native labour  
committees.**

4. (1) The Minister may by notice in the *Gazette* establish a regional native labour committee in respect of any area, and may in like manner withdraw or amend any such notice.

(2) A regional committee shall consist of so many members, not being less than four, as the Minister may from time to time determine, of whom—

- (a) one shall be a native labour officer appointed by the Minister to be chairman of the committee; and
- (b) the remaining members shall be natives appointed by the Minister to represent the interests of employees in the area in respect of which the committee has been established.

(3) The provisions of sub-sections (3) to (6) inclusive of section *three* shall *mutatis mutandis* apply in respect of a regional committee.

(4) A regional committee may for the purpose of dealing with any matter affecting employees in any trade, co-opt as members of such committee one or more natives to represent the interests of employees in such trade at meetings of the committee at which such matter is to be considered, and any member so co-opted shall for the purpose of such meetings be deemed to be a member of the committee.

**Meetings of  
board and  
regional  
committees.**

5. (1) The first meeting of the board or a regional committee shall be held at a time and place to be determined by the chairman thereof, and all subsequent meetings of the board or any such committee shall be held at such times and places as may be determined in accordance with rules made by the board or that committee, as the case may be.

(2) The board and any regional committee may make rules as to—

- (a) the calling and conduct of meetings of the board or such committee, and the quorum for and procedure at such meetings;
- (b) the admittance to meetings of the board or such committee of persons other than those entitled under this Act to be present thereat; and
- (c) such other matters as may be necessary or expedient for the proper functioning of the board or such committee.

(3) Any rules made under sub-section (2) shall be subject to the approval of the Secretary for Labour.

**Duties and  
functions of  
regional  
committees.**

6. (1) A regional committee shall, in the area in respect of which it has been established, endeavour to further the interests of natives in relation to their employment, and for that purpose shall—

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- (a) maintain contact with employees with a view to keeping itself informed as to the conditions of employment of employees in its area generally and in particular trades;
- (b) from time to time submit reports to the inspector defined by regulation in regard to any labour disputes which may exist or are in the opinion of the committee likely to arise;
- (c) in accordance with the provisions of sub-section (2) of section *ten*, assist in the settlement of labour disputes; and
- (d) from time to time submit to the board reports in regard to such matters as may be referred to it by the board.

(2) Any such committee may for the purpose of carrying out its functions receive such representations from employers and employees and make such enquiries in regard to any matter within its purview as it may deem necessary.

(3) Whenever in respect of any area no regional committee is in existence or any such committee established in respect of any area is for any reason unable to carry out its functions, the functions of a regional committee in that area shall be performed by the inspector defined by regulation.

**Election and  
functions of  
works  
committees.**

7. (1) Whenever in any establishment there are employed not less than twenty employees and such employees advise their employer that they are desirous of electing a works committee, the employer shall forthwith notify the inspector defined by regulation accordingly and such inspector shall thereupon direct the native labour officer for the area in which the establishment is situated to convene as soon as practicable a meeting of the employees concerned to be held under the chairmanship of that officer.

(2) At any meeting convened in terms of sub-section (1) the employees concerned may elect from amongst their number a works committee consisting of not less than three and not more than five members.

(3) A works committee so elected may in the presence of the native labour officer concerned appoint one of its members (hereinafter referred to as a "liaison member") to maintain contact with any regional committee established for the area in question or where no such regional committee is in existence, with the inspector defined by regulation.

(4) If a vacancy occurs on a works committee or any liaison member ceases to act as such, the vacancy shall be filled in the manner prescribed in sub-section (2) or (3) whichever may be applicable.

(5) The native labour officer shall notify the regional committee for the area affected of the election of any such works committee and of any liaison member and any change in the membership of such committee and any new appointment of a liaison member.

(6) Whenever a labour dispute occurs in any establishment in respect of which a works committee has been elected, the regional committee, or the inspector defined by regulation, as the case may be, shall consult such works committee in regard to such dispute.

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and duties of  
native labour  
officers.**

(7) Any employer who fails to comply with the requirements of sub-section (1) shall be guilty of an offence.

8. (1) The Minister may appoint any European officer as a native labour officer in respect of any area.

(2) Any such officer shall—

- (a) acquaint himself with the wishes, aspirations and requirements of employees in the area in respect of which he has been appointed;
- (b) maintain close contact with native commissioners and the inspector defined by regulation and keep them advised of any developments in that area in regard to native labour matters;
- (c) in collaboration with native commissioners, act as an intermediary between employees in that area and their employers;
- (d) keep the inspector defined by regulation and the regional committee concerned informed of any labour dispute which exists or may arise in that area and in collaboration with the said inspector endeavour to settle any such dispute;
- (e) act as chairman of a regional committee if so appointed in terms of this Act; and
- (f) perform such other functions as the Minister may from time to time assign to him.

**Participation  
in deliberations  
affecting  
employees.**

9. (1) Whenever any industrial council proposes to determine conditions of employment to be incorporated in any agreement under the Industrial Conciliation Act in respect of an undertaking, industry, trade or occupation in which natives are employed in the area in which such agreement is intended to apply, the secretary of that council shall send to the board and any regional committee established in respect of the area or any portion of the area in which the agreement in question is intended to apply, a notice in the prescribed form of every meeting of the industrial council at which the matter is to be considered.

(2) The board may nominate one or more of its members, and the Secretary for Labour may at the request of the board designate an officer, to attend any meeting of an industrial council of which notice is required to be given in terms of sub-section (1), and the chairman of any regional committee established in respect of the area or any portion of the area in which the agreement in question is intended to apply, or, if there is more than one such committee, the chairmen of such of those committees as may be designated by the board, may likewise attend any such meeting.

(3) Any person who attends a meeting by virtue of the provisions of sub-section (2), may take part in the proceedings at that meeting in so far as those proceedings may affect the interests of employees to whom the provisions of this Act apply, but shall not have the right to vote at any such meeting.

(4) As soon as possible after the industrial council has reached a decision on conditions of employment such as are referred

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to in sub-section (1) which are to be applied to persons engaged in occupations in which natives are employed, the chairman of the board shall submit to the Minister a report stating whether the board is in agreement with the industrial council's decision or whether, in its opinion, a recommendation should be obtained from the Wage Board in connection with any of the matters which formed the subject of the industrial council's decision.

(5) The provisions of sub-sections (1), (2), (3) and (4) shall *mutatis mutandis* apply in respect of the proceedings conducted by any conciliation board under the Industrial Conciliation Act, and for that purpose the reference in sub-section (1) to the secretary of an industrial council shall be deemed to be a reference to the inspector defined by regulation.

(6) Nothing contained in this section or in section *ten* shall affect the powers of the Minister to publish a notice in terms of sub-section (4) of section *forty-eight* of the Industrial Conciliation Act, or in terms of the said sub-section read with sub-section (3) of section *forty-nine* of the said Act, or the operation of any notice so published.

**Settlement of  
disputes.**

**10.** (1) Whenever a native labour officer has reason to believe that in the area in respect of which he has been appointed or any portion of that area a labour dispute exists or may arise in any trade, he shall forthwith report thereon to the regional committee concerned, to the inspector defined by regulation and, where an industrial council has been registered under the Industrial Conciliation Act in respect of that trade and that area or any portion of that area, also to such industrial council.

(2) The native labour officer shall, with the assistance of the regional committee and in collaboration with the inspector referred to in sub-section (1), endeavour to effect a settlement of the matters which form or might form the subject of any such labour dispute, and shall, failing such a settlement, refer the matter to the board which shall thereupon endeavour in collaboration with such officer and such inspector to effect a settlement.

(3) Whenever a settlement cannot be effected under sub-section (2), the board shall report accordingly to the Minister and indicate whether in its opinion the matter should be referred to the Wage Board for a recommendation as to the conditions in accordance with which a settlement should be effected.

**Procedure on  
request for  
reference to  
Wage Board.**

**11.** (1) Upon the receipt of a report from the board in terms of sub-section (4) of section *nine* or sub-section (3) of section *ten*, the Minister shall, if the board so recommends, request the Wage Board to submit to him a recommendation, in the case of a report under sub-section (4) of section *nine*, on such matters as in the opinion of the board should be determined, and, in the case of a report under sub-section (3) of section *ten*, on all matters which form or might form the subject

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matter of the labour dispute referred to in that report: Provided that any request made to the Wage Board in pursuance of a report under sub-section (4) of section *nine* may be withdrawn by the Minister if before the Wage Board has submitted to him a recommendation in connection with any matter forming the subject of that request, he is advised in writing by the chairman of the board that it agrees with any revised decision arrived at by the industrial council concerned in regard to that matter after the date of the decision to which the report relates.

(2) Every request to the Wage Board for a recommendation under this section and every withdrawal of such a request, either wholly or in part, shall be notified in the *Gazette* by the Secretary for Labour.

(3) The Wage Board shall, as soon as possible after the receipt of a request under sub-section (1), and after consultation with such persons or bodies, including employers or employees or representatives of any regional committee or the board, as in its opinion ought to be consulted and, where an industrial council has been registered under the Industrial Conciliation Act in respect of the trade and area or any portion of the trade or area to which such request relates, also with that industrial council, submit to the Minister a recommendation.

(4) The Minister may after consideration of any such recommendation make an order in accordance therewith or refer it back to the Wage Board for reconsideration in such respects as he may indicate.

(5) The Wage Board shall after reconsideration of any recommendation which has been referred back to it under sub-section (4), reaffirm and resubmit that recommendation to the Minister or amend it in such respects as the Wage Board may deem fit and submit it to the Minister as so amended, and the Minister shall thereupon make an order in accordance with the reaffirmed or amended recommendation.

(6) After making an order under sub-section (4) or (5), the Minister shall cause to be published in the *Gazette* a notice setting forth the provisions of that order and specifying the area in which it shall apply, as determined by the Minister, and the period, as so determined, but not exceeding a period of three years, for which those provisions shall be binding upon the persons affected thereby, and the said provisions shall thereupon be binding upon those persons within that area for the period so specified.

**Collection of  
information.**

**12.** (1) Every person engaged in or connected with any trade in respect of which a recommendation is required to be submitted by the Wage Board under section *eleven*, or who possesses or has the custody or control of any book, document or thing relating thereto or to any establishment connected therewith, shall furnish to the best of his ability such information relating to the said trade or to any establishment therein, as the Wage Board may require and at the request of the Wage Board produce any such book, document or thing for examination, and the Wage Board may retain any book, document or thing

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so produced until such time as it is able to complete its examination thereof.

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

(3) The Wage Board may summon or direct to be summoned any person who in its opinion may be able to give material information concerning the subject of any recommendation which the Wage Board is required to submit, or who it suspects or believes has in his possession or custody or under his control any book, document or thing which has any bearing on the subject of any recommendation, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document or thing, and may retain for examination any book, document or thing so produced.

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

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

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

(7) Any witness who, after having been sworn, gives a false answer to any question put to him by the Wage Board, or makes a false statement on any matter, knowing that answer or statement to be false, shall be guilty of an offence and liable upon conviction to the penalties prescribed by law for the crime of perjury.

(8) The interrogation of any witness by the Wage Board shall

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

(9) Any person summoned to appear before the Wage Board may, if the Wage Board is satisfied that he has by reason of his appearance in obedience to the summons suffered any pecuniary loss or been put to any expense, be paid out of public moneys any allowances that may be prescribed by regulation, or the amount of such loss and such expense, whichever is the less.

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

Matters that  
may be dealt  
with in  
recommendations.

13. (1) A recommendation under section *eleven* may—

- (a) include provisions as to all or any of the matters for which a wage regulating measure may lawfully provide;
- (b) provide for the administration of any order made in pursuance of the recommendation by a body constituted in such manner as may be specified in the recommendation, of which all the members shall be Europeans;
- (c) define the powers, duties and functions to be exercised or performed by any such body and empower any such body or any person designated by the Minister to grant exemption from any provision of such order and to determine in each case the conditions subject to which such exemption will be granted;
- (d) provide for the payment of contributions by employers and employees towards the expenses of administration of any such order or the attainment of the objects thereof;
- (e) prescribe the circumstances under which any such body shall be dissolved, and the manner in which its assets shall be disposed of on its dissolution, and provide for the disposal of any amounts contributed in pursuance of provision made under paragraph (d); and
- (f) provide for such other matters as the Minister may deem necessary.

(2) Any body established in pursuance of provision made under paragraph (b) of sub-section (1) may, subject to the approval of the Secretary for Labour, make rules relating to the calling and conduct of meetings of such body, the quorum for and procedure at such meetings, the keeping of minutes of the proceedings at such meetings, the keeping and audit of accounts of income and expenditure and the maintenance of records of the activities of such body and such other matters as may be specified in the relevant order or determined by the

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said Secretary (if authorized thereto by that order), and upon the publication of such rules by the said Secretary by notice in the *Gazette*, such body shall under a name to be determined by the said Secretary and specified in the notice, become a body corporate capable of suing and being sued in its corporate name, of acquiring, holding and alienating movable or immovable property and of performing all such acts as may be necessary for or incidental to the effective performance of its functions.

(3) The inspector defined by regulation or an officer nominated by him shall be entitled to attend any meeting of any body which administers an order, and to take part in the proceedings, but without the power to vote thereat, and such inspector shall be notified in writing by such body or any person authorized by it to do so, of the date, place and time of and the business to be discussed at every meeting of that body not less than four days before the date of the meeting in the case of ordinary meetings and, in the case of special meetings, in sufficient time to enable the inspector or the officer nominated by him to attend.

(4) Where provision is made in any order for the grant of exemption from any provision thereof, any person who is dissatisfied with the decision on an application made by him for such exemption, may at any time appeal from that decision to the Secretary for Labour who may, after considering any reasons which may be advanced in support of or against such decision, confirm that decision or give such other decision as in his opinion ought to have been given.

(5) A recommendation may provide for the award to employees of the cash equivalent of any or all of the benefits to which such employee will become entitled under an order made in pursuance of such recommendation in respect of any period prior to the date of commencement of such order, but commencing not earlier than the date on which the request to the Wage Board for a recommendation was notified in the *Gazette* in terms of sub-section (2) of section *eleven*.

**Extension of  
application  
of orders.**

**14.** (1) If, in the opinion of the Minister, any object of an order is likely to be defeated by the employment in occupations in which natives are employed in the undertaking, industry, trade or occupation to which the order relates at rates of remuneration and under conditions of employment other than those specified in the order of persons not included in the definition of "employee" contained in section *one*, he may in any notice published by him under sub-section (6) of section *eleven* or by a further notice in the *Gazette*, declare that as from a date and for a period specified in the notice, all the provisions of the order or such provisions thereof as he may

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specify, shall *mutatis mutandis* apply in respect of persons who are employees as defined in the Industrial Conciliation Act, and thereupon the provisions of the order or the provisions so specified shall be binding upon every employer (as so defined) of any such person and upon all such persons.

(2) Whenever any of the provisions of a wage regulating measure are inconsistent with any provision of an order, or any provision thereof which has by notice under sub-section (1) been declared to be applicable to persons who are employees as defined in the Industrial Conciliation Act, that wage regulating measure shall, in so far as it is in operation in the area or any portion of the area in which such order applies, and so long as such order or such notice, as the case may be, remains in operation, be applied as if the said provision of the order had been inserted in that wage regulating measure in the stead of such inconsistent provision thereof.

(3) The Minister may, by notice in the *Gazette*, from time to time suspend the application of any order or of any specified provisions thereof to persons bound by a specified wage regulating measure which the Minister considers to be not less favourable to the employees concerned than the said order or the said provisions, as the case may be.

**Failure to  
observe orders  
or provisions  
of exemption.**

15. (1) Any person who—

- (a) contravenes or fails to comply with any provision of any order or exemption granted under such order which is binding upon him under this Act; or
- (b) obstructs or hinders the board or the Wage Board in the exercise of its powers or the performance of its duties under this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

(2) If an employer is convicted under sub-section (1) of an offence which consisted of the contravention of or failure to comply with any provision of any order or exemption relating to the payment of remuneration due to an employee, the court convicting him shall enquire into and determine the difference between the amount which he paid and the amount which he would have paid if the contravention or failure of which he has been convicted had not occurred, which difference is in this section and in sections *sixteen* and *twenty-two* referred to as the amount underpaid, and whether the employee concerned did or did not agree to accept less than the remuneration which under the provisions of the relevant order or exemption he was entitled to receive, and whether, if he did so agree, he did or did not know of his rights under those provisions, and if he did know of those rights, the circumstances under which he so agreed, and if the court is unable on all the evidence, whether given before or after conviction, to determine that difference

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exactly, it shall to the best of its ability estimate that difference, and if no amount has been paid, the amount which would have been paid if the contravention or failure had not occurred, shall, for the purposes of this sub-section, be deemed to be the difference.

(3) The court shall, when acting under sub-section (2), give to the employer and the employee concerned an opportunity of submitting evidence regarding the amount underpaid and the circumstances under which the underpayment took place.

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

(5) Whenever in the case of an offence such as is referred to in sub-section (2), the amount underpaid is greater than the maximum amount of the fine prescribed by section *thirty-two*, the maximum amount of the fine to which the person convicted shall be liable in terms of that section shall be increased to an amount equal to the amount underpaid.

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

Order upon  
employer to  
pay to  
specified officer  
amount under-  
paid.

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

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

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

Disposal of  
amounts paid  
to specified  
officer.

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

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

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

**Prohibition  
of strikes and  
lock-outs.**

**18.** (1) No employee or other person shall instigate or take part in a strike or in the continuation of a strike and no employer or other person shall instigate or take part in a lock-out of employees or in the continuation of any such lock-out.

(2) Any person who contravenes the provisions of sub-section (1) or who commits any of the acts referred to in paragraph (a) or (b) of the definition of "strike" or paragraph (a), (b), (c) or (d) of the definition of "lock-out", with the object of lending support to or expressing sympathy with persons who are instigating or taking part in a strike or lock-out or in the continuation of a strike or lock-out, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or imprisonment for a period not exceeding three years or such imprisonment without the option of a fine or both such fine and such imprisonment.

(3) Whenever any employee or other person is charged under sub-section (1) with having instigated or taken part in a strike or in the continuation of a strike, on an indictment or charge which avers that the employee or other person charged was guilty of a refusal, failure, retardation, obstruction, breach or termination referred to in the definition of the term "strike", in consequence of a dispute and in pursuance of a combination, agreement or understanding and for a purpose referred to in that definition, and the refusal, failure, retardation, obstruction, breach or termination by the employee or other person charged is proved, it shall be presumed until the contrary is proved,

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that that refusal, failure, retardation, obstruction, breach or termination was in consequence of the dispute and in pursuance of the combination, agreement or understanding and for the purpose stated in the charge.

(4) Whenever any employer or other person is charged under sub-section (1) with having instigated or taken part in a lock-out or in the continuation of a lock-out, on an indictment or charge which avers that the employer or other person charged was guilty of an exclusion, discontinuance, breach, termination, refusal or failure referred to in the definition of the term "lock-out", in consequence of the dispute, and for a purpose referred to in that definition, and the exclusion, discontinuance, breach, termination, refusal or failure by the employer or other person charged is proved, it shall be presumed, until the contrary is proved, that that exclusion, discontinuance, breach, termination, refusal or failure was in consequence of the dispute, and for the purpose stated in the charge.

(5) In this section the terms "strike" and "lock-out" bear the meanings assigned thereto in section *one* of the Industrial Conciliation Act, and for that purpose the references therein to disputes, employers and employees respectively shall be construed as references to labour disputes, employers and employees as defined in this Act.

**Appointment  
and powers of  
inspectors.**

**19.** (1) The Minister may, subject to the laws governing the public service, appoint any person as an inspector under this Act.

(2) There shall be issued to every inspector appointed in terms of sub-section (1) a certificate signed by an officer designated by the Minister and stating that he has been appointed as an inspector under this Act.

(3) Every person who has been appointed or is deemed to have been appointed as an inspector under the Wage Act shall be deemed to have been appointed as an inspector under this section.

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

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(5) An inspector may take with him into or on to any premises any interpreter or other assistant or any member of the police force.

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

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

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

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

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

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

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

(13) Any person who—

(a) makes any statement to an inspector, which is false in any material particular, knowing the same to be false; or

(b) refuses or fails to answer to the best of his power any question which an inspector in the exercise of his functions has put to him; or

(c) refuses or fails to comply to the best of his power with any requirement made by an inspector in the exercise of his functions; or

(d) hinders an inspector in the exercise of his functions, shall be guilty of an offence.

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

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Appointment  
and powers of  
designated  
agents.

**20.** (1) The Minister may at the request of any body established for the purpose of administering an order, and in his discretion, appoint any person nominated by such body as its designated agent to assist in carrying out its functions.

(2) Every designated agent appointed in terms of sub-section (1) shall be furnished with a certificate signed by the Secretary for Labour stating that he has been so appointed.

(3) Any such designated agent shall, in respect of the trade and in the area to which the relevant order relates, have all the powers conferred upon an inspector by section *nineteen*, and the provisions of that section shall *mutatis mutandis* apply to the exercise of those powers by the designated agent.

(4) The Minister may at any time, for a cause which in his opinion is sufficient, by notice addressed to the body concerned and signed by the Secretary for Labour, cancel the certificate furnished to its designated agent in terms of sub-section (2), and the person to whom that certificate was furnished shall thereupon cease to be a designated agent and shall forthwith return the said certificate to the Secretary for Labour.

(5) Any person who falsely holds himself out to be a designated agent of any such body shall be guilty of an offence.

Secrecy to be  
observed.

**21.** Any member of a regional committee, the board, the Wage Board or a body such as is referred to in paragraph (b) of sub-section (1) of section *thirteen*, or any officer, who discloses, except to the Minister or to an officer or a regional committee or the board or the Wage Board or such body any information in relation to any person, firm or business acquired in the exercise of his powers or in the performance of his duties under this Act, shall be guilty of an offence.

Effect of Act  
upon right of  
employee to  
recover by civil  
proceedings.

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

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

(a) where his employer, or the manager, agent or employee of his employer, has been convicted of an offence such as is referred to in sub-section (2) of section *fifteen* which occurred in respect of that employee,

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any amount owing to him under any agreement between himself and his employer in excess of the amount underpaid;

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

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

- (a) the employee produces to the court a certificate signed by the Attorney-General of the province in which is situate the area within the jurisdiction of the court, or where that area is situate within the jurisdiction of the Eastern Districts Local Division of the Supreme Court of South Africa, by the Solicitor-General, stating that he declines to prosecute in respect of the contravention or failure upon which the employee proposes to base the cause of action; or
- (b) the employer or the manager, agent or employee of the employer has been acquitted on a charge of that contravention or failure.

Provisions of order or exemption cannot be varied by agreement or waived.

**23.** (1) No agreement, express or implied, including a labour tenant contract or service contract in terms of the Native Service Contract Act, 1932 (Act No. 24 of 1932), whether entered into before or after the coming into operation of any order or the grant of any exemption, shall operate to permit of the payment to any employee of remuneration less than that prescribed by that order or exemption, or of the application to any employee of any treatment, or the grant to him of any benefits, less favourable to him than the treatment or benefits so prescribed, nor shall it effect any waiver by any employee of the application to him of any provision of that order or exemption, and any person who enters into any agreement purporting to permit of any such payment, application or grant or to effect any such waiver shall be guilty of an offence, and any such agreement shall be void.

(2) Any employer who requires or permits any employee to pay or repay to him any remuneration payable or paid to that employee under any order or exemption, or pursuant to any direction given in terms of sub-section (1) of section *seventeen*, or who does any act or permits any act to be done as a direct or indirect result of which that employee is deprived of the benefit or of any portion of the benefit of any remuneration so paid, shall be guilty of an offence.

(3) An employer who requires or permits any employee to give a receipt for, or otherwise represent that he has received,

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more than he actually received by way of remuneration shall be guilty of an offence.

**Victimization  
forbidden.**

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

- (a) such employee has given information which by or under this Act he is required to give, or which relates to the conditions of his employment, or those of other employees of his employer, to an officer or to the Minister or has complied with any lawful requirement of an inspector or has given evidence before a court of law; or
- (b) such employee has refused or omitted to do any such act by an employee as is referred to in sub-section (2) or (3) of section *twenty-three*; or
- (c) such employee has participated in the election or operation of a works committee elected in terms of sub-section (2) of section *seven* or has functioned as a liaison member appointed in terms of sub-section (3) of the said section,

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

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

**Registration  
of employers.**

**25.** (1) Every employer upon whom any order is binding shall—

- (a) within one month of the date on which that order has become binding upon him furnish to the inspector defined by regulation a written statement in the form prescribed by regulation, setting forth his full name, and, if the employer is a partnership, the full names of all the partners, and, if the employer is a company, the names of its secretary and its directors and

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manager, the name under and the address or addresses at which he carries on business and such other information as may be prescribed by regulation: Provided that if any order is superseded by a fresh order, an employer who is the holder of a current certificate of registration issued under this section shall be deemed to have complied with the provisions of this sub-section; and

- (b) in the event of any change in the name under or the address or addresses at which business is carried on, or among the partners, or, if the employer is a company, in the name of its secretary or among its directors or managers, or in the event of the sequestration of the employer's estate, or, if the employer is a company, of the winding-up of the company, or in the event of the transfer or abandonment of the business carried on, or the acquisition or commencement of any other business, furnish to the inspector defined by regulation, within fourteen days of the change, sequestration, winding-up, transfer, abandonment, acquisition or commencement, a written statement in the form prescribed by regulation, setting forth full particulars of the change, sequestration, winding-up, transfer, abandonment, acquisition or commencement, as the case may be.

(2) On the receipt of the statement referred to in paragraph (a) of sub-section (1), the inspector shall issue to the employer a certificate of registration in the form prescribed by regulation: Provided that no such certificate shall be issued to an employer against whom an order has been made under section *sixteen* unless at the date of the receipt of the said statement all amounts which, subject to any extension or variation in terms of sub-section (2) of that section, he is required by that order to pay to the specified officer on or before that date, have been so paid.

(3) If any employer who is the holder of a current certificate of registration issued under this section fails to pay to the specified officer any amount which by any order made under section *sixteen* he is required to pay to that officer, on or before the date on which, subject to any extension or variation in terms of sub-section (2) of that section, he is by that order required to pay it, the inspector shall by written notice addressed to him cancel that certificate and call upon him to return the certificate to him.

(4) A notice under sub-section (3) may be delivered to the employer or to any person who apparently resides or is employed at the address at which, according to the latest information furnished by the employer in terms of sub-section (1), the employer carries on business, or may be posted by registered letter addressed to the employer in the name under and to the address at which, according to the said information, he carries on business, and after the notice has been so delivered or posted,

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the employer shall be deemed not to be the holder of a current certificate of registration.

(5) The person to whom any such notice is addressed shall, within seven days after he receives it or becomes aware that it has been issued, return the certificate of registration issued to him, to the inspector.

(6) If at any time any person whose certificate of registration has been cancelled in terms of sub-section (3) pays to the specified officer the whole amount which by every order made against him under section *sixteen* he is required to pay to that officer, he shall be entitled, upon complying with the provisions of sub-section (1), to have issued to him a fresh certificate of registration.

(7) Upon the application of any person to whom a certificate has not been issued in consequence of the proviso to sub-section (2) or whose certificate of registration has been cancelled in terms of this section, the Minister may, at any time, in his discretion, and upon good cause shown, direct that a certificate be issued to him, subject to such conditions as the Minister may impose.

(8) Any employer upon whom any order is binding who fails to comply with any of the provisions of sub-section (1) or (5), or who, after expiry of the period referred to in paragraph (a) of sub-section (1), carries on business without being the holder of a current certificate of registration issued under this section, shall be guilty of an offence.

(9) If any employer against whom an order has been made under section *sixteen* is charged with an offence under sub-section (8) of this section in that he carried on business without being the holder of a current certificate of registration issued under this section, the fact that he furnished the statement referred to in paragraph (a) of sub-section (1) or that a certificate of registration was not issued to him under this section shall not be a sufficient answer to the charge, if it be proved that a certificate of registration was not issued to him by reason of the proviso to sub-section (2) or that the last certificate of registration issued to him has been cancelled in terms of sub-section (3).

(10) The provisions of this section shall be observed and shall be applicable in respect of each separate order which is binding upon an employer under this Act.

Records to be kept by employers.

**26.** (1) Every employer upon whom any order is binding under this Act which relates to remuneration to be paid or time to be worked, shall at all times keep in respect of all persons employed by him and to whom such order relates, records of the remuneration paid and of the time worked.

(2) The form and the manner in which the records referred to in sub-section (1) shall be kept shall be prescribed by regulation: Provided that an officer designated by the Minister may in writing signed by him, authorize the keeping of such records

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in some other form which in his opinion will enable him to ascertain therefrom the required particulars.

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

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

**Notices to  
be posted by  
employers.**

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

- (a) containing such summaries of or extracts from the provisions of this Act as may be prescribed by regulation;
- (b) containing the official address of the inspector defined by regulation;
- (c) containing a copy of the said order or such summaries or extracts from the provisions thereof as may be prescribed in such order; and
- (d) specifying the day of the week or date on and the time and place at which remuneration will ordinarily be paid each week or month, as the case may be.

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

**Alleged  
partnerships.**

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

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who fails when required to do so, to produce to the inspector any such agreement or to make any such statement on oath, shall be guilty of an offence.

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

- (a) that the agreement is terminable by any party thereto by giving less than three months' notice; or
- (b) that the amount which any party thereto received under the terms thereof over any period specified in the charge was less than the remuneration which he would have been entitled to receive for his services for the same period under any order if he had been an employee,

he shall be presumed to be an employee and any other party to the agreement shall be presumed to be an employer unless it is proved that the agreement was not made with the object of evading any provision of any order which is or was binding under this Act.

**Acts or  
omissions by  
managers, agents  
or employees.**

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

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

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

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

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

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

**Evidence and  
presumptions.**

30. (1) Proof of the publication in the *Gazette* of any notice under sub-section (2) or (6) of section *eleven* shall be conclusive proof that all the provisions of this Act in respect of matters precedent and incidental to the making of the relevant order or the publication of the relevant notice, as the case may be, have been complied with.

(2) Whenever in any proceedings under this Act it is proved that any person was present in any premises in which any trade in respect of which any order is binding under this Act was being carried on, that person shall, unless the contrary is proved, be presumed to be an employee.

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

(a) during any period during which in accordance with the requirements of his employer he is present upon or in any premises in which the trade in which he is employed is being carried on; and

(b) during any other period during which he is present upon or in any such premises:

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

(4) In any proceedings under this Act, any statement or entry contained in any book or document kept by any employer or by his manager, agent or employee, or found upon or in any premises occupied by that employer, shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that employer, or by any manager, agent or employee of that employer in the course of his work as manager or in the course of his agency or employment.

(5) If any employer has, in respect of any period, failed to keep the records which, in terms of section *twenty-six* he is required to keep, or to retain such records for the period specified in sub-section (3) of that section, or has falsified such records or caused them to be falsified, then in any proceedings under this Act, an employee employed by him during the period in respect of which the failure or the falsification has occurred shall be presumed to have worked in his employment each week, throughout the period of his employment falling within the period in respect of which the failure or the falsifica-

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tion occurred, not less than the ordinary hours of work specified in any order applicable to that employee: Provided that if it is proved what hours any such employee actually worked in his employment during any particular week, the presumption established by this sub-section shall not apply in respect of that employee in relation to that week.

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

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

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

Section 358 of Act 31 of 1917 not to apply to certain offences under this Act.

31. The provisions of section *three hundred and fifty-eight* of the Criminal Procedure and Evidence Act, 1917, shall not apply in respect of any offence which consists of a contravention or failure such as is referred to in sub-section (2) of section *fifteen*.

Penalties.

32. Any person who is convicted of an offence under the provisions of this Act for which no special penalty is prescribed, shall be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

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of 1953.**
- Jurisdiction  
of magistrates'  
courts.
- Regulations.
- Saving as to  
hours of work  
and holidays.
- Amendment of  
Act 36 of 1937.
- Short title  
and date of  
commencement.
- 33.** Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by, or make any order of court provided for, in this Act.
- 34.** (1) The Governor-General may make regulations prescribing—
- (a) any matter which by this Act is required or permitted to be prescribed; and
  - (b) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.
- (2) Any regulations made under sub-section (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of fifty pounds or imprisonment for a period of six months.
- 35.** The provisions of sections *nineteen, twenty and twenty-one* of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), shall not apply to any persons whose hours of work are regulated or who are entitled to annual leave of absence on full pay, under an order made in terms of section *eleven*, so long as such order is binding upon those persons.
- 36.** Section *one* of the Industrial Conciliation Act is hereby amended by the substitution for the definition of "employee" of the following definition—
- " 'employee' means any person employed by, or working for any employer and receiving, or being entitled to receive, any remuneration, and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer, but does not include a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa; and 'employed' and 'employment' have corresponding meanings;".
- 37.** (1) This Act shall be called the Native Labour (Settlement of Disputes) Act, 1953.
- (2) The provisions of sections *nine to eighteen, inclusive, twenty, twenty-two to thirty-three, inclusive, and thirty-five* shall not come into operation until a date to be fixed by the Governor-General by proclamation in the *Gazette*.
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