



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1437.

4 Julie 1979.

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

No. 96 van 1979: Wet op die Handhawing en Bevordering van Mededinging, 1979.

No. 1437.

4 July 1979.

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

No. 96 of 1979: Maintenance and Promotion of Competition Act, 1979.

# ACT

To provide for the maintenance and promotion of competition in the economy, for the prevention or control of restrictive practices and the acquisition of controlling interests in businesses and undertakings, and for matters connected therewith.

*(English text signed by the State President.)  
(Assented to 21 June 1979.)*

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

## Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) "acquisition" means the acquisition by the holder of a controlling interest in any business or undertaking involved in the production, manufacture, supply or distribution of any commodity, of such an interest in any other business or undertaking so involved, provided such acquisition restricts, or is calculated to restrict, competition, and "acquire" has a corresponding meaning; (x) 5
- (ii) "board" means the Competition Board established by section 3; (ix)
- (iii) "committee" means a committee mentioned in section 4; (vi) 15
- (iv) "commodity" includes any make or brand of any commodity, any book, periodical, newspaper or other publication, any building or structure and any service, whether personal, professional or otherwise, including any storage, transportation, insurance or banking service; (v) 20
- (v) "controlling interest", in relation to any business or undertaking, means any interest of whatever nature enabling the holder thereof to exercise, directly or indirectly, any control whatsoever over the activities or assets of the business or undertaking; (i) 25
- (vi) "co-operative society" means a co-operative agricultural society or a co-operative agricultural company or a farmers' special co-operative company or a central co-operative agricultural company or a federal co-operative agricultural company registered or deemed to be registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939); (vii) 30
- (vii) "distribution" includes the rendering of a service, irrespective of whether or not the rendering of such service is attended by the supply of a commodity, and storage, transportation, purchase and sale; (iii) 35
- (viii) "financial institution" means—
  - (a) an insurer registered under the Insurance Act, 1943 (Act No. 27 of 1943); 40

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

**WET**

**Om voorsiening te maak vir die handhawing en bevordering van ekonomiese mededinging, vir die voorkoming van of beheer oor beperkende praktyke en die verkryging van beherende belange in besighede of ondernemings, en vir aangeleenthede wat daarmee in verband staan.**

*(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 21 Junie 1979.)*

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

1. Tensy uit die samehang anders blyk, beteken in hierdie Woordomskrywing.  
5 Wet—

- (i) „beherende belang”, met betrekking tot ’n besigheid of onderneming, enige belang van watter aard ook al wat die houer daarvan in staat stel om regstreeks of onregstreeks enige beheer van watter aard ook al oor die bedrywighede of bates van die besigheid of onderneming uit te oefen; (v)
- 10 (ii) „beperkende praktyk”—
  - 15 (a) enige ooreenkoms, reëling of verstandhouding, hetsy regtens afdwingbaar of nie, tussen twee of meer persone; of
  - (b) enige besigheidspraktyk of handelsmetode, met inbegrip van enige metode om pryse vas te stel, hetsy deur die verskaffer van enige handelsartikel of andersins; of
  - 20 (c) enige handeling of versuim deur enigiemand, hetsy hy onafhanklik of tesame met iemand anders optree; of
  - (d) enige toestand wat uit die bedrywighede van enige persoon of klas of groep persone ontstaan,
  - 25 wat, deurdat dit mededinging regstreeks of onregstreeks beperk, die uitwerking het of bereken is om—
    - (i) die produksie of distribusie van enige handelsartikel te beperk; of
    - (ii) die fasiliteite beskikbaar vir die produksie of distribusie van enige handelsartikel in te kort; of
    - 30 (iii) die prys van enige handelsartikel te verhoog of te handhaaf; of
    - (iv) die produksie of distribusie van enige handelsartikel op die mees doeltreffende en ekonomiese manier te verhoed; of
    - 35 (v) die ontwikkeling of invoering van tegniese verbeterings of die uitbreiding van bestaande of die skepping van nuwe markte te verhoed of te vertraag; of
    - 40 (vi) die toetrede van nuwe produsente of distribueerders tot enige tak van die handel of nywerheid te verhoed of te beperk; of

## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

- (b) a stock exchange licensed under the Stock Exchanges Control Act, 1947 (Act No. 7 of 1947);
- (c) a management company registered under the Unit Trusts Control Act, 1947 (Act No. 18 of 1947);
- (d) a pension fund registered or provisionally registered under the Pension Funds Act, 1956 (Act No. 24 of 1956); 5
- (e) a friendly society registered or provisionally registered under the Friendly Societies Act, 1956 (Act No. 25 of 1956); 10
- (f) a manager in relation to a scheme as defined in the Participation Bonds Act, 1964 (Act No. 48 of 1964);
- (g) a banking institution registered or provisionally registered under the Banks Act, 1965 (Act No. 23 of 1965); or 15
- (h) a building society registered or provisionally registered under the Building Societies Act, 1965 (Act No. 24 of 1965); (iv)
- (ix) "Minister" means the Minister of Economic Affairs; 20  
(viii)
- (x) "restrictive practice" means—
  - (a) any agreement, arrangement or understanding, whether legally enforceable or not, between two or more persons; or 25
  - (b) any business practice or method of trading, including any method of fixing prices, whether by the supplier of any commodity or otherwise; or
  - (c) any act or omission on the part of any person, whether acting independently or in concert with any other person; or 30
  - (d) any situation arising out of the activities of any person or class or group of persons,
 which, by directly or indirectly restricting competition, has or is calculated to have the effect of— 35
  - (i) restricting the production or distribution of any commodity; or
  - (ii) limiting the facilities available for the production or distribution of any commodity; or
  - (iii) enhancing or maintaining the price of any commodity; or 40
  - (iv) preventing the production or distribution of any commodity by the most efficient and economical means; or
  - (v) preventing or retarding the development or introduction of technical improvements or the expansion of existing markets or the opening up of new markets; or 45
  - (vi) preventing or restricting the entry of new producers or distributors into any branch of trade or industry; 50
  - (vii) preventing or retarding the adjustment of any profession or branch of trade or industry to changing circumstances. (ii)

## Application of Act.

2. (1) The provisions of this Act shall not be construed so as to— 55

- (a) limit, subject to the provisions of subsection (2), any right acquired under—
  - (i) the Trade Marks Act, 1963 (Act No. 62 of 1963);
  - (ii) the Designs Act, 1967 (Act No. 57 of 1967); 60
  - (iii) the Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976);
  - (iv) the Patents Act, 1978 (Act No. 57 of 1978); or
  - (v) the Copyright Act, 1978 (Act No. 98 of 1978);

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

- (vii) die aanpassing van enige beroep of tak van die handel of nywerheid by veranderde toestande te verhoed of te vertraag; (x)
- 5 (iii) „distribusie” ook die lewering van ’n diens, ongeag of die lewering van die diens gepaard gaan met die verskaffing van ’n handelsartikel of nie, en opberging, vervoer, aankoop en verkoop; (vii)
- (iv) „finansiële instelling”—
- 10 (a) ’n versekeraar wat kragtens die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer is;
- (b) ’n effektebeurs wat kragtens die Wet op Beheer van Effektebeurse, 1947 (Wet No. 7 van 1947), gelisensieer is;
- 15 (c) ’n bestuursmaatskappy wat kragtens die Wet op Beheer van Effekte-trustskemas, 1947 (Wet No. 18 van 1947), geregistreer is;
- (d) ’n pensioenfonds wat kragtens die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), geregistreer of voorlopig geregistreer is;
- 20 (e) ’n onderlinge hulpvereniging wat kragtens die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956), geregistreer of voorlopig geregistreer is;
- (f) ’n bestuurder met betrekking tot ’n skema soos in die Wet op Deelnemingsverbande, 1964 (Wet No. 48 van 1964), omskryf;
- 25 (g) ’n bankinstelling wat kragtens die Bankwet, 1965 (Wet No. 23 van 1965), geregistreer of voorlopig geregistreer is; of
- (h) ’n bouvereniging wat kragtens die Bouverenigingswet, 1965 (Wet No. 24 van 1965), geregistreer of voorlopig geregistreer is; (viii)
- 30 (v) „handelsartikel” ook enige fabriek of merk van enige handelsartikel, enige boek, tydskrif, koerant of ander publikasie, enige gebou of bouwerk en enige diens, hetsy persoonlik, professioneel of andersins, met inbegrip van enige opbergings-, vervoer-, versekerings- of bankdiens; (iv)
- 35 (vi) „komitee” ’n komitee in artikel 4 vermeld; (iii)
- (vii) „koöperatiewe vereniging” ’n koöperatiewe landbouvereniging of ’n koöperatiewe landboumaatskappy of ’n spesiale koöperatiewe boeremaatskappy of ’n sentrale koöperatiewe landboumaatskappy of ’n federale koöperatiewe landboumaatskappy wat ingevolge die Wet op Koöperatiewe Verenigings, 1939 (Wet No. 29 van 1939), geregistreer is of geag word geregistreer te wees; (vi)
- 40 (viii) „Minister” die Minister van Ekonomiese Sake; (ix)
- (ix) „raad” die Raad op Mededinging by artikel 3 ingestel; (ii)
- 50 (x) „verkryging” die verkryging deur die houer van ’n beherende belang in ’n besigheid of onderneming betrokke by die produksie, vervaardiging, verskaffing of distribusie van enige handelsartikel, van sodanige belang in ’n ander besigheid of onderneming aldus betrokke, mits sodanige verkryging mededinging beperk of
- 55 bereken is om mededinging te beperk, en het „verkry” ’n ooreenstemmende betekenis. (i)

2. (1) Die bepalings van hierdie Wet word nie so uitgelê nie Toepassing van Wet.  
dat dit—

- 60 (a) behoudens die bepalings van subartikel (2), enige reg verkry kragtens—
- (i) die Wet op Handelsmerke, 1963 (Wet No. 62 van 1963);
- (ii) die Wet op Modelle, 1967 (Wet No. 57 van 1967);
- 65 (iii) die Wet op Planttelersregte, 1976 (Wet No. 15 van 1976);
- (iv) die Wet op Patente, 1978 (Wet No. 57 van 1978); of
- (v) die Wet op Outeursreg, 1978 (Wet No. 98 van 1978), inkort;



## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

- (b) prevent organizations of employees from protecting the interests of their members by entering into agreements or arrangements with employers or associations of employers in regard to any matter which may form the subject of an agreement under the Industrial Conciliation Act, 1956 (Act No. 28 of 1956); or
  - (c) prevent—
    - (i) any co-operative society or any other body of producers of agricultural products from regulating the production or distribution of agricultural products which have not undergone a process of manufacture; or
    - (ii) any control board administering a scheme in terms of the Marketing Act, 1968 (Act No. 59 of 1968), from regulating in accordance with the powers granted to it under that Act, the production or distribution of agricultural products which have not undergone a process of manufacture and to which the scheme relates.
- (2) The provisions of paragraph (a) of subsection (1) of this section shall not be so construed that any person shall thereunder retain or be granted any right of enhancing or maintaining prices in any manner contemplated in the definition of "restrictive practice" in section 1.
- (3) Except in so far as criminal liability is concerned, the provisions of this Act shall bind the State in so far as the State is concerned in the manufacture and distribution of commodities.

Establishment of  
Competition Board.

3. (1) There is hereby established a board to be known as the Competition Board.

(2) The board shall consist of the chairman of the Board of Trade and Industries established in terms of section 2 of the Board of Trade and Industries Act, 1944 (Act No. 19 of 1944), and the Registrar of Financial Institutions mentioned in section 1 of the Limitation and Disclosure of Finance Charges Act, 1968 (Act No. 73 of 1968), *ex officio*, and not fewer than two and not more than five other members appointed by the State President on the ground of having special knowledge of and experience in economics, industry, commerce, law or the conduct of public affairs, and of whom one shall be designated as chairman by the Minister.

(3) The chairman of the board shall be a full-time member, and the Minister shall determine whether the other members appointed by the State President shall be full-time or part-time members.

(4) The Minister may designate a member of the board as acting chairman to exercise and perform the powers and duties of the chairman whenever the chairman is unable to do so or while the office of chairman is vacant.

(5) A member of the board appointed by the State President shall hold office for such period, but not exceeding five years, and on such conditions as the State President may determine at the time of his appointment, but shall vacate his office if he resigns as a member or if the State President at any time terminates his period of office as a member if in the opinion of the State President there are good reasons for doing so.

(6) A member of the board shall on the expiry of his term of office by effluxion of time be eligible for reappointment.

(7) The Minister may, if he sees fit, appoint, on such conditions and for such period as he may determine, a person as an additional member of the board for a particular purpose.

(8) (a) The meetings of the board shall be held at such times and places as the chairman may determine.

(b) The person presiding at a meeting of the board shall determine the procedure at such meeting.

(c) The decision of a majority of the members of the board present at any meeting thereof shall constitute the decision of the board.

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

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

- (b) organisasies van werknemers belet om deur die aangaan van ooreenkomste of reëlins met werkgewers of verenigings van werkgewers met betrekking tot enige aangeleentheid wat die onderwerp van 'n ooreenkoms kragtens die Wet op Nywerheidsversoening, 1956 (Wet No. 28 van 1956), kan uitmaak, die belange van hul lede te beskerm; of
- (c) belet dat—
- (i) 'n koöperatiewe vereniging of ander liggaam van produsente van landbouprodukte die produksie of distribusie van landbouprodukte wat nie 'n vervaardigingsproses ondergaan het nie, reël; of
- (ii) 'n beheerraad wat 'n skema ingevolge die Bemakingswet, 1968 (Wet No. 59 van 1968), uitvoer, die produksie of distribusie van landbouprodukte wat nie 'n vervaardigingsproses ondergaan het nie en waarop die skema betrekking het, ooreenkomstig die bevoegdhede kragtens daardie Wet aan hom verleen, reël.
- (2) Die bepalings van paragraaf (a) van subartikel (1) van hierdie artikel word nie so uitgelê nie dat enigiemand daarkragtens 'n reg behou of verleen word om op 'n wyse in die omskrywing van „beperkende praktyk” in artikel 1 bedoel, pryse te verhoog of te handhaaf.
- (3) Behalwe vir sover dit strafregtelike aanspreeklikheid betref, bind die bepalings van hierdie Wet die Staat vir sover die Staat by die vervaardiging en distribusie van handelsartikels betrokke is.
3. (1) Daar word hierby 'n raad ingestel wat die Raad op Mededinging heet. Instelling van Raad op Mededinging.
- (2) Die raad bestaan uit die voorsitter van die Raad van Handel en Nywerheid ingestel ingevolge artikel 2 van die Wet op die Raad van Handel en Nywerheid, 1944 (Wet No. 19 van 1944), en die Registrateur van Finansiële Instellings vermeld in artikel 1 van die Wet op Beperking en Bekendmaking van Finansieringskoste, 1968 (Wet No. 73 van 1968), ampshalwe, en minstens twee en hoogstens vyf ander lede deur die Staatspresident aangestel op grond van hul besondere kennis van of ondervinding in die ekonomie, die nywerheid, die handel, die regte of die bestuur van openbare sake, en van wie een as voorsitter deur die Minister aangewys word.
- (3) Die voorsitter van die raad is 'n heeltidse lid, en die Minister bepaal of die ander lede wat deur die Staatspresident aangestel is, heeltidse of deeltidse lede moet wees.
- (4) Die Minister kan 'n lid van die raad as waarnemende voorsitter aanwys om die bevoegdhede en pligte van die voorsitter uit te oefen en te verrig wanneer die voorsitter nie in staat is om dit te doen nie of terwyl die amp van voorsitter vakant is.
- (5) 'n Lid van die raad deur die Staatspresident aangestel, beklee sy amp vir die tydperk, maar hoogstens vyf jaar, en op die voorwaardes wat die Staatspresident ten tyde van sy aanstelling bepaal, maar ontruim sy amp indien hy as lid bedank of indien die Staatspresident te eniger tyd sy ampstermyn as lid beëindig indien daar na die oordeel van die Staatspresident gegronde redes daarvoor bestaan.
- (6) 'n Lid van die raad kan by die verstryking van sy ampstermyn deur tydsverloop, weer aangestel word.
- (7) Die Minister kan, indien hy dit dienstig ag, iemand vir 'n bepaalde doel as bykomende lid van die raad aanstel op die voorwaardes en vir die tydperk wat hy bepaal.
- (8) (a) Die vergaderings van die raad word gehou op die tye en plekke wat die voorsitter bepaal.
- (b) Die persoon wat op 'n vergadering van die raad voorsit, bepaal die prosedure op so 'n vergadering.
- (c) Die beslissing van 'n meerderheid van die lede van die raad wat op 'n vergadering van die raad aanwesig is, maak die besluit van die raad uit.
- (d) Die verrigtinge van die raad is nie ongeldig bloot op grond daarvan dat 'n vakature in die raad bestaan het of dat 'n lid nie gedurende die verrigtinge of 'n deel daarvan aanwesig was nie.

## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

(9) Such officers and employees as are required for the proper performance of the board's functions shall be appointed in terms of the Public Service Act, 1957 (Act No. 54 of 1957).

## Committees of the board.

4. (1) The board may with the consent of the Minister establish committees to assist it in the performance of its functions. 5

(2) Any such committee shall consist of at least two members of the board, designated by the board, and such other persons as the Minister may appoint on the recommendation of the board.

(3) The board shall designate any member of the board, who is a member of any such committee, as chairman of the committee. 10

(4) The board may, subject to such conditions as it may deem fit, either generally or in relation to any particular matter, assign to any such committee any power conferred or duty imposed upon it in terms of this Act.

(5) No member of any such committee who is not a member of 15 the board shall have access to the records of the board except with the approval of the chairman of the board.

## Remuneration of members of board and committees.

5. (1) A member of the board who is not in the full-time service of the State shall be appointed at such remuneration as the Minister may determine. 20

(2) A member of the board appointed under section 3 (7) and a member of any committee of the board shall, if he is not in the full-time service of the State, be paid such allowances as the Minister may determine.

(3) No full-time member of the board mentioned in section 3 25 (3) shall, without the consent of the Minister, perform work for anybody else for remuneration.

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

## Functions of board.

6. (1) The board shall— 30

(a) subject to the directions of the Minister, make such investigations as it may consider necessary into, and advise the Minister in regard to—

(i) all aspects of economic competition policy, including the entrepreneurial activities in respect of 35 institutions directly or indirectly controlled by the State;

(ii) the co-ordination of the official competition policy in a manner consistent with the official economic objectives; 40

(iii) the implementation and administration of such competition policy;

(iv) new developments and trends in regard to the matters mentioned in subparagraphs (i), (ii) and (iii); 45

(b) undertake a continuous study of trends towards increased economic concentration, with a view to the investigation of acquisitions where there appear to be circumstances which do not justify such acquisitions in the public interest; 50

(c) issue information on current policy in regard to acquisitions, to serve as general guidelines for the benefit of persons concerned in proposed acquisitions;

(d) consult at his request with any interested party to a proposed acquisition, with a view to advising him on the 55 likelihood of the existence of circumstances which do not justify such acquisition in the public interest;

(e) receive and dispose of representations relating to any matter with which it may deal in terms of this Act; and

(f) perform any other function assigned to it by this Act. 60



WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

(9) Die beamptes en werknemers wat nodig is vir die behoorlike uitvoering van die raad se werksaamhede word aangestel ingevolge die bepalings van die Staatsdienswet, 1957 (Wet No. 54 van 1957).

5 4. (1) Die raad kan met die toestemming van die Minister komitees instel om hom by die verrigting van sy werksaamhede by te staan. Komitees van die raad.

(2) So 'n komitee bestaan uit minstens twee lede van die raad deur die raad aangewys, en die ander persone wat die Minister op 10 aanbeveling van die raad aanstel.

(3) Die raad wys 'n lid van die raad wat 'n lid van so 'n komitee is, aan as voorsitter van die komitee.

(4) Die raad kan, behoudens die voorwaardes wat hy goedvind, 'n bevoegdheid of plig ingevolge hierdie Wet aan hom verleen of 15 hom opgelê, aan so 'n komitee in die algemeen of met betrekking tot 'n bepaalde aangeleentheid oordra.

(5) Geen lid van so 'n komitee wat nie 'n lid van die raad is nie, het toegang tot die stukke van die raad nie, behalwe met die toestemming van die voorsitter van die raad.

20 5. (1) 'n Lid van die raad wat nie in die heeltidse diens van die Staat is nie, word aangestel teen die besoldiging wat die Minister bepaal. Besoldiging van lede van raad en komitees.

(2) 'n Lid van die raad kragtens artikel 3 (7) aangestel en 'n lid van 'n komitee van die raad word, indien hy nie in die heeltidse 25 diens van die Staat is nie, die toelaes betaal wat die Minister bepaal.

(3) Geen heeltidse lid van die raad vermeld in artikel 3 (3) mag sonder die toestemming van die Minister diens vir enigiemand anders teen vergoeding verrig nie.

30 (4) Iemand wat die bepalings van subartikel (3) oortree, is aan 'n misdryf skuldig.

6. (1) Die raad moet—

(a) behoudens die opdrag van die Minister, die ondersoek instel wat die raad nodig ag na, en die Minister adviseer met betrekking tot— Werksaamhede van raad.

35 (i) alle aspekte van ekonomiese mededingingsbeleid, met inbegrip van die entrepreneursbedrywighede ten opsigte van inrigtings wat regstreeks of onregstreeks deur die Staat beheer word;

40 (ii) die koördinasie van die amptelike mededingingsbeleid op 'n wyse wat met die amptelike ekonomiese doelstellings ooreenstem;

(iii) die uitvoering en toepassing van bedoelde mededingingsbeleid;

45 (iv) nuwe ontwikkelings en neigings in verband met die aangeleenthede in subparagrafe (i), (ii) en (iii) vermeld;

(b) deurgaans neigings tot verhoogde ekonomiese konsentrasie bestudeer met die oog op die ondersoek van 50 verkrygings waar daar blykbaar omstandighede is wat die verkrygings in die openbare belang nie regverdig nie;

(c) inligting omtrent gangbare beleid met betrekking tot 55 verkrygings versprei, om te dien as algemene leidrade ten bate van persone betrokke by voorgenome verkrygings;

(d) met enige belanghebbende party by 'n voorgenome verkryging op sy versoek oorleg pleeg, met die doel om 60 hom te adviseer aangaande die waarskynlike aanwesigheid van omstandighede wat sodanige verkryging in die openbare belang nie regverdig nie;

(e) verhoë met betrekking tot enige aangeleentheid waarmee die raad ingevolge hierdie Wet kan handel, ontvang en 65 afhandel; en

(f) enige ander werksaamheid wat hom by hierdie Wet opgedra is, verrig.

Act No. 96, 1979

MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

- (2) (a) On the written application of any person who proposes to enter into any transaction which will or is calculated to result in an acquisition, the board may, with the consent of the Minister, issue, subject to such conditions as the board may deem fit, a ruling to the effect that, on the facts and information included in such application or furnished by the applicant at the request of the board, in the opinion of the board no circumstances exist which do not justify such acquisition in the public interest. 5
- (b) Subject to the said conditions, if any, any such ruling shall preclude the Minister from issuing any notice under section 14 (1) (c) in respect of such acquisition on the basis of the said facts and information. 10
- (3) Nothing in this section contained shall be construed as requiring any party to a proposed acquisition to notify the board of, or to consult the board in connection with, the acquisition. 15
- (4) The board shall as soon as possible after 31 December in each year furnish the Minister with a report in respect of its work during the year ending on that date.

Procedure at investigations.

7. (1) For the purposes of any investigation under this Act, the board or a committee may— 20

- (a) summon any person who is believed to be able to furnish any information on the subject of the investigation or to have in his possession or under his control any book, document or other object which has any bearing upon that subject, to appear before the board or committee at a time and place specified in the summons, to be interrogated or to produce such book, document or other object; and 25
- (b) interrogate any such person under oath or affirmation administered by the chairman, and examine or retain for examination any such book, document or other object: Provided that any person from whom any book, document or other object has been taken and retained in terms of this subsection shall, so long as such book, document or object is in the possession of the board or a committee, at his request be allowed, at his own expense and under the supervision of the investigating officer, to make copies thereof or to take extracts therefrom at any reasonable time. 30 40

(2) A summons for the attendance of any person before the board or a committee or for the production to the board or a committee of any book, document or other object shall be in the form prescribed by regulation under section 20 shall be signed by the chairman of the board or committee and shall be served in the manner so prescribed. 45

(3) Any person who has been summoned to attend before, or to produce any book, document or other object to, the board or a committee and who, without sufficient cause (the onus of proof of which shall rest upon him), fails to attend at the time and place specified in the summons or to remain in attendance until he is excused by the chairman from further attendance or, having attended, refuses to be sworn or to make an affirmation after he has been asked by the chairman to do so, or having been sworn or having made affirmation, fails to answer fully and satisfactorily any question lawfully put to him, or fails to produce any book, document or other object in his possession or under his control which he has been summoned to produce, shall be guilty of an offence. 55

(4) Any person who, after having been sworn or having made affirmation, gives false evidence before the board or a committee on any matter, knowing such evidence to be false or not knowing or not believing it to be true, shall be guilty of an offence. 60

(5) The law relating to privilege as applicable to a witness giving evidence before, or summoned to produce a book, 65

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

- (2) (a) Op die skriftelike versoek van iemand wat voornemens is om 'n transaksie aan te gaan wat sal uitloop of bereken is om uit te loop op 'n verkryging, kan die raad met die toestemming van die Minister en behoudens die voorwaardes wat die raad goedvind, 'n beslissing verstrek ten effekte dat, op die feite en inligting in bedoelde aansoek vervat of op versoek van die raad deur die aansoeker verstrek, volgens die oordeel van die raad daar geen omstandighede aanwesig is nie wat sodanige verkryging in die openbare belang nie regverdig nie.
- (b) Behoudens genoemde voorwaardes, as daar is, belet so 'n beslissing dat die Minister 'n kennisgewing kragtens artikel 14 (1) (c) uitreik ten opsigte van sodanige verkryging op die grondslag van genoemde feite en inligting.
- (3) Die bepalinge van hierdie artikel word nie uitgelê as sou dit van 'n party by 'n voorgenome verkryging vereis dat hy die raad in kennis stel van die verkryging of met die raad in verband daarmee oorleg pleeg nie.
- (4) Die raad moet so gou doenlik na 31 Desember in elke jaar aan die Minister 'n verslag verstrek ten opsigte van sy werk gedurende die jaar wat op daardie datum eindig.

7. (1) Die raad of 'n komitee kan, vir die doeleindes van 'n Procedure by ondersoek kragtens hierdie Wet— ondersoek.

- (a) enigiemand wat vermoed word in staat te wees om inligting aangaande die onderwerp van daardie ondersoek te verstrek of 'n boek, stuk of ander voorwerp wat op daardie onderwerp betrekking het, in sy besit of onder sy beheer te hê, dagvaar om op 'n tyd en plek in die dagvaarding aangegee, voor die raad of komitee te verskyn om ondervra te word of om daardie boek, stuk of ander voorwerp oor te lê; en
- (b) so iemand ondervra onder eed of bevestiging opgelê deur die voorsitter, en so 'n boek, stuk of ander voorwerp insien of vir insae hou: Met dien verstande dat iemand van wie 'n boek, stuk of ander voorwerp ingevolge hierdie subartikel weggeneem en gehou is, so lank as dié boek, stuk of voorwerp in die besit van die raad of 'n komitee is op sy versoek toegelaat word om op sy eie koste en onder die toesig van die ondersoek-beampte te enige redelike tyd afskrifte daarvan of uit-treksels daaruit te maak.

(2) 'n Dagvaarding aan iemand om voor die raad of 'n komitee te verskyn of om aan die raad of 'n komitee 'n boek, stuk of ander voorwerp oor te lê, moet in die vorm wees wat by regulasie kragtens artikel 20 voorgeskryf is, moet deur die voorsitter van die raad of komitee onderteken wees en moet op die wyse aldus voorgeskryf, beteken word.

(3) Iemand wat gedagvaar is om te verskyn voor, of om 'n boek, stuk of ander voorwerp oor te lê aan, die raad of 'n komitee en wat sonder voldoende rede (waarvan die bewyslas op hom rus) versuim om op die tyd en plek in die dagvaarding aangegee, te verskyn, of om aanwesig te bly totdat die voorsitter hom verlof gee het om weg te bly of wat na verskyning weier om die eed af te lê of 'n bevestiging te doen nadat die voorsitter hom gevra het om dit te doen of wat, na eedaflegging of bevestiging, versuim om 'n wettiglik aan hom gestelde vraag ten volle en op bevredigende wyse te beantwoord, of wat versuim om 'n boek, stuk of ander voorwerp oor te lê wat in sy besit of onder sy beheer is en wat hy volgens voorskrif van sy dagvaarding moet oorlê, is aan 'n misdryf skuldig.

(4) Iemand wat, nadat hy die eed afgelê of 'n bevestiging gedoen het, omtrent enige aangeleentheid valse getuienis voor die raad of 'n komitee aflê in die wete dat daardie getuienis vals is, of terwyl hy nie weet of nie dink dat dit juis is nie, is aan 'n misdryf skuldig.

(5) Die reg aangaande privilegie, soos toepaslik op 'n getuie wat voor 'n provinsiale afdeling van die Hooggeregshof van

## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

document or other object to, a provincial division of the Supreme Court of South Africa shall apply in relation to any person summoned under this section.

(6) Nothing contained in this Act shall be deemed to compel the production by an attorney of a letter, report or other document containing a privileged communication made by or to him as an attorney, or to authorize the seizure or retention thereof.

(7) In this section "chairman", in relation to the board, includes the member of the board designated under section 3 (4).

Board may require returns.

8. (1) To enable the board properly to perform its functions, it may by notice in writing require any person engaged in business or in any industry to furnish the board, within a time specified in the notice, or from time to time at such times or within such periods as may be so specified, with a written return showing in detail such information with respect to the business or undertaking or activities of such person as may be specified in the notice, including information as to any business agreement which such person may at any time have entered into with any other person or in which he may at any time have been concerned, or as to any arrangement or understanding to which such person or any business or undertaking in which he is or was concerned, may be or may at any time have been a party.

(2) No person shall in any notice under subsection (1) be required to furnish the board with any return specified in that notice within a period of less than 14 days after the date of such notice.

(3) Any person who fails to comply with any notice under subsection (1), or who in response to any such notice knowingly furnishes information which is false in any material particular, shall be guilty of an offence.

Investigating officers.

9. (1) For the purposes of the application of this Act, the board may designate a member of the board, or an officer in its service whom it considers suitable, as an investigating officer.

(2) In order to ascertain whether any provision of this Act or any notice issued thereunder is being observed by any person to whom it applies, or to obtain any information required by the board in relation to any investigation by it as to restrictive practices or acquisitions, any such investigating officer may at all reasonable times enter any premises on or in which any commodity, book, statement or other document connected with that observation or information is or is suspected to be, and may—

- (a) inspect or search such premises;
- (b) demand any information regarding the said commodity from the owner or person in charge of such premises;
- (c) examine or make copies of, or take extracts from, any book, statement or other document found in or upon such premises and which refers or is suspected to refer to any agreement, arrangement, understanding, business practice or method of trading which may be relevant at the said investigation by the board;
- (d) demand from the owner or any person in charge of such premises or from any person in whose possession or charge such book, statement or other document is, an explanation of any entry therein.

(3) Any person designated under subsection (1) shall be provided with a letter of authority signed by or on behalf of the chairman of the board and certifying that such person has been designated as an investigating officer in terms of this Act in relation to a specific alleged restrictive practice or an acquisition.

(4) If an investigating officer referred to in subsection (1) intends to perform any function under this section, he shall first exhibit to any person to be affected thereby the written authority issued to him in terms of subsection (3).



WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

Suid-Afrika getuienis aflê of gedagvaar is om 'n boek, stuk of ander voorwerp daaraan oor te lê, is van toepassing met betrekking tot iemand wat kragtens hierdie artikel gedagvaar word.

- 5 (6) Die bepalings van hierdie Wet word nie uitgelê as sou dit 'n prokureur verplig om 'n brief, verslag of ander stuk oor te lê wat 'n bevoorregte mededeling bevat wat deur hom of aan hom as prokureur gedoen is nie, of die inbeslagneming of hou daarvan magtig nie.
- 10 (7) In hierdie artikel beteken „voorsitter”, met betrekking tot die raad, ook die lid van die raad wat kragtens artikel 3 (4) aangewys is.

8. (1) Ten einde die raad in staat te stel om sy werksaamhede behoorlik te verrig, kan hy enigiemand wat sake doen of enige  
15 bedryf uitoefen, by skriftelike kennisgewing aansê om binne die tydperk in die kennisgewing vermeld, of van tyd tot tyd op die tye of binne die tydperke aldus vermeld, aan die raad 'n skriftelike opgawe te verstrek waarin in besonderhede die inligting met betrekking tot die besigheid of onderneming of bedrywighede van  
20 so iemand aangegee word wat in die kennisgewing vermeld staan, met inbegrip van inligting aangaande enige besigheidsooreenkoms wat so iemand te eniger tyd met enigiemand anders aangegaan het of waarby hy te eniger tyd betrokke was, of aangaande enige reëling of verstandhouding waarby so iemand of enige besigheid  
25 of onderneming waarby hy betrokke is of was, 'n party is of te eniger tyd was.

Raad kan opgawes eis.

- (2) Niemand mag in 'n kennisgewing kragtens subartikel (1) aangesê word om 'n opgawe in daardie kennisgewing vermeld, binne 'n tydperk van minder as 14 dae na die datum van die  
30 kennisgewing aan die raad te verstrek nie.

- (3) Iemand wat versuim om aan 'n kennisgewing kragtens subartikel (1) te voldoen, of wat in antwoord op so 'n kennisgewing wetens inligting verstrek wat in 'n wesenlike opsig vals is, is aan 'n misdryf skuldig.

- 35 9. (1) Die raad kan, vir die doeleindes van die toepassing van hierdie Wet, 'n lid van die raad, of 'n beampte in sy diens wat hy geskik ag, as 'n ondersoekbeampte aanwys. Ondersoekbeamptes.

- (2) Ten einde vas te stel of enige bepaling van hierdie Wet of 'n kennisgewing daarkragtens uitgereik, nagekom word deur iemand  
40 op wie dit van toepassing is, of ter verkryging van enige inligting deur die raad verlang met betrekking tot 'n ondersoek deur hom aangaande beperkende praktyke of verkrygings, kan so 'n ondersoekbeampte te alle redelike tye 'n perseel betree waarop of waarin daar wel of vermoedelik enige handelsartikel, boek, staat  
45 of ander stuk is wat in verband staan met bedoelde nakoming of inligting, en kan hy—

- (a) sodanige perseel inspekteer of deursoek;  
(b) inligting aangaande genoemde handelsartikel vereis van die eienaar of persoon in beheer van daardie perseel;  
50 (c) 'n boek, staat of ander stuk wat in of op daardie perseel gevind word en wat wel of vermoedelik betrekking het op enige ooreenkoms, reëling, verstandhouding, besigheidspraktyk of handelsmetode wat by genoemde ondersoek deur die raad ter sake mag wees, ondersoek of afskrifte daarvan of uittreksels daaruit maak;  
55 (d) van die eienaar of iemand in beheer van bedoelde perseel of van iemand in wie se besit of beheer daardie boek, staat of ander stuk is, 'n verklaring van 'n inskrywing daarin vereis.

- 60 (3) Iemand wat kragtens subartikel (1) aangewys is, moet voorsien word van 'n magtigingsbrief wat deur of namens die voorsitter van die raad onderteken is en waarin verklaar word dat so iemand as 'n ondersoekbeampte ingevolge hierdie Wet aangewys is met betrekking tot 'n besondere beweerde beperkende  
65 praktyk of 'n verkryging.

- (4) Indien 'n ondersoekbeampte in subartikel (1) bedoel 'n werksaamheid kragtens hierdie artikel wil verrig, moet hy aan iemand wat daardeur geraak sal word, eers die skriftelike magtiging wat ingevolge subartikel (3) aan hom uitgereik is, toon.



## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

## (5) Any person who—

- (a) obstructs or hinders any such investigating officer in the performance of his functions under this section;
- (b) when any such investigating officer demands of him an explanation or information relating to a matter within his knowledge, refuses or fails to give such explanation or information or gives an explanation or information which is false or misleading, knowing it to be false or misleading; or
- (c) falsely represents himself to be any such investigating officer,

shall be guilty of an offence.

Investigation by board in respect of restrictive practices and acquisitions.

10. (1) Subject to the provisions of subsection (2), the board may on its own initiative and shall, on the directions of the Minister, make such investigations as it may consider necessary— 15

- (a) into any restrictive practice which the board or the Minister, as the case may be, has reason to believe exists or may come into existence;
- (b) in order to ascertain—
  - (i) whether any acquisition has been, is being or is 20 proposed to be made;
  - (ii) the nature and extent of the controlling interest held and acquired, being acquired or proposed to be acquired;
- (c) into any particular type of business agreement, arrange- 25 ment, understanding, business practice or method of trading in general or in relation to any particular commodity or any class or kind of commodity or any particular business or undertaking or any class or type of business or undertaking or any particular area which in 30 the opinion of the board or the Minister, as the case may be, is commonly adopted for the purpose of or in connection with the creation or maintenance of restrictive practices.

(2) An investigation referred to in subsection (1) (a), (b) or (c) 35 shall not be made or proceeded with by the board on its own initiative, if in the opinion of the Minister such investigation is not in the public interest.

(3) Where an investigation is made in terms of subsection (1) (b) of this section, the board shall within three months from the 40 date of the notice mentioned in subsection (4) of this section report to the Minister in terms of section 12 (1) as to the result of the investigation, or as to any arrangement which may have been made under section 11.

(4) The board shall by notice in the *Gazette* make known, and 45 furnish particulars of, any investigation which it proposes to make in terms of subsection (1), and further make known that any person may within 30 days from the date of the notice make such representations regarding such investigation to the board as such person may consider necessary. 50

(5) After any such notice relating to any investigation in terms of subsection (1) (b) has been published and before the relevant report is submitted to him, the Minister may, on the recommendation of the board, prescribe by notice in the *Gazette*, for such period as may be specified in the notice, but not exceeding the 55 period of three months referred to in subsection (3), such action as in the opinion of the Minister shall be taken to stay or prevent any acquisition being made or proposed.

(6) Any notice under subsection (5) may upon the recommendation of the board be amended or withdrawn by the Minister at any 60 time, and shall not be subject to review by or appeal to any court of law.

(7) Any person who contravenes or fails to comply with a notice under subsection (5) shall be guilty of an offence.

Negotiations by board.

11. (1) Whenever the board has issued any notice in terms of 65 section 10 (4), it may at any time thereafter negotiate with any person or any body, corporate or unincorporate, with a view to making an arrangement which in the opinion of the board—

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

(5) Iemand wat—

- (a) so 'n ondersoekbeampte by die verrigting van sy werksaamhede kragtens hierdie artikel, belemmer of hinder;
- 5 (b) wanneer so 'n ondersoekbeampte van hom 'n verklaring of inligting vereis met betrekking tot 'n aangeleentheid waarvan hy kennis dra, weier of versuim om daardie verklaring of inligting te verstrek of 'n verklaring of inligting verstrek wat vals of misleidend is, terwyl hy
- 10 (c) hom valslik as so 'n ondersoekbeampte voordoen, is aan 'n misdryf skuldig.

10. (1) Behoudens die bepalings van subartikel (2), kan die raad op eie inisiatief, en moet die raad in opdrag van die Minister, die

15 ondersoek instel wat die raad nodig ag—

Ondersoek deur raad ten opsigte van beperkende praktyke en verkrygings..

- (a) na enige beperkende praktyk wat die raad of die Minister, na gelang van die geval, rede het om te vermoed bestaan of mag ontstaan;
- (b) ten einde te bepaal—
- 20 (i) of 'n verkryging plaasgevind het, aan die plaasvind is of voorgestel word;
- (ii) wat die aard en omvang is van die beheerende belang wat gehou en verkry is, verkry word of waarvan die verkryging voorgestel word;
- 25 (c) na enige besondere tipe besigheidsooreenkomste, reëling, verstandhouding, besigheidspraktyk of handelsmetode, in die algemeen of met betrekking tot 'n bepaalde handelsartikel of 'n klas of soort handelsartikel of 'n bepaalde besigheid of onderneming of 'n klas of tipe
- 30 besigheid of onderneming of 'n bepaalde gebied wat volgens die oordeel van die raad of die Minister, na gelang van die geval, gewoonlik vir die doeleindes van of in verband met die skepping of handhawing van beperkende praktyke aangewend word.

35 (2) 'n Onderzoek in subartikel (1) (a), (b) of (c) bedoel, word nie deur die raad op eie inisiatief ingestel of voortgesit nie, indien sodanige ondersoek volgens die oordeel van die Minister nie in die openbare belang is nie.

(3) Waar 'n ondersoek ingevolge subartikel (1) (b) van hierdie

40 artikel ingestel word, moet die raad binne drie maande vanaf die datum van die kennisgewing in subartikel (4) van hierdie artikel vermeld aan die Minister ingevolge artikel 12 (1) verslag doen aangaande die uitslag van die ondersoek, of aangaande enige reëling wat kragtens artikel 11 getref is.

45 (4) Die raad moet by kennisgewing in die *Staatskoerant* kennis gee en besonderhede verstrek van enige ondersoek wat hy voornemens is om ingevolge subartikel (1) in te stel, en voorts kennis gee dat enigiemand binne 30 dae vanaf die datum van die kennisgewing die skriftelike vertoë aangaande sodanige onder-

50 soek wat so iemand nodig ag tot die raad kan rig.

(5) Nadat so 'n kennisgewing wat betrekking het op 'n ondersoek ingevolge subartikel (1) (b) gepubliseer is en voordat die tersaaklike verslag aan hom voorgelê word, kan die Minister, op aanbeveling van die raad, by kennisgewing in die *Staatskoerant*

55 vir 'n tydperk in die kennisgewing vermeld maar hoogstens die tydperk van drie maande in subartikel (3) bedoel, die stappe voorskryf wat volgens die oordeel van die Minister gedoen moet word om enige verkryging wat plaasvind of voorgestel word, op te skort of te voorkom.

60 (6) 'n Kennisgewing kragtens subartikel (5) kan op aanbeveling van die raad te eniger tyd deur die Minister gewysig of ingetrek word, en is nie aan hersiening deur of appél na 'n geregshof onderworpe nie.

(7) Iemand wat 'n kennisgewing kragtens subartikel (5) oortree

65 of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

11. (1) Wanneer die raad 'n kennisgewing ingevolge artikel 10

(4) uitgereik het, kan hy te eniger tyd daarna met enige persoon of

liggaam, met of sonder regspersoonlikheid, onderhandel ten einde 'n reëling te tref wat volgens die oordeel van die raad—

Onderhandelinge deur raad.

## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

- (a) will ensure the discontinuance of any restrictive practice which exists or may come into existence and which is the subject of an investigation in terms of section 10 (1) (a);
  - (b) will do away with, terminate, prevent or alter any acquisition which has been or is being made or is proposed, as the case may be, and which is the subject of an investigation in terms of section 10 (1) (b), either wholly or to such extent as, in the opinion of the board, it is not justified in the public interest.
- (2) If the board has made any arrangement referred to in subsection (1), it shall make a report to the Minister thereon.

## Report by board.

12. (1) The board shall report to the Minister as to the result of any investigation made by it in terms of section 10 (1).

(2) If after investigation in terms of section 10 (1) (a) or (b) the board—

- (a) is of the opinion that a restrictive practice exists or was in existence or may come into existence at any time after the date of the notice in terms of section 10 (4), or that an acquisition has been or is being made or is proposed;
- (b) is not satisfied that there are circumstances which justify such restrictive practice in the public interest or is satisfied that circumstances exist which do not justify such acquisition in the public interest; and
- (c) has not made an arrangement with the parties concerned which has been confirmed by the Minister in terms of section 13 (2) (a),

the board shall recommend to the Minister that such action be taken under section 14 (1) as it may consider necessary in the circumstances.

(3) The board shall not in any report made by it as to any investigation in terms of section 10 (1), mention the name or particulars of the business of any person whose business has been investigated, except where in its opinion such person is concerned in the existence of a restrictive practice which exists or may come into existence or is a party to any acquisition which has been or is being made or is proposed.

(4) Every such report which in the opinion of the Minister may be made known without detriment to the public interest, shall as soon as practicable be laid upon the Table of the Senate and of the House of Assembly.

## Procedure after investigation.

13. (1) The Minister may after consideration of any recommendation in terms of section 12 (2)—

- (a) direct the board to undertake such negotiations as are mentioned in section 11 (1) and, if it has made any relevant arrangement, to report to the Minister thereon; and
- (b) if the board advises him that it has found it impracticable to negotiate with any relevant person or body or has not within a period determined by him, and which he may from time to time in his discretion extend, succeeded in making an arrangement with any such person or body, take such steps under section 14 (1) (c) as the board may recommend.

(2) The Minister may after consideration of a report by the board on any arrangement mentioned in section 11 (2) or subsection (1) (a) of this section, if he considers it to be in the public interest—

- (a) confirm any such arrangement, either without modification or with such modifications, if any, as may be agreed to by the person concerned, and either unconditionally or subject to such conditions as may be agreed to by such person and as the Minister may on the recommendation of the board deem fit; or
- (b) set aside any such arrangement and give such directions or prescribe such requirements under section 14 (1) (c) as he may on the recommendation of the board consider necessary under the circumstances,

and any such arrangement or modified arrangement, together with the conditions, if any, subject to which it has been confirmed,

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

- (a) die beëindiging van 'n beperkende praktyk wat bestaan of mag ontstaan en wat die onderwerp van 'n ondersoek ingevolge artikel 10 (1) (a) is, sal verseker;
- 5 (b) 'n verkryging wat plaasgevind het, aan die plaasvind is of voorgestel word en wat die onderwerp van 'n ondersoek ingevolge artikel 10 (1) (b) is, sal ophef, beëindig, voorkom of wysig, na gelang van die geval, hetsy geheel en al of vir sover dit volgens die oordeel van die raad nie in die openbare belang geregverdig is nie.
- 10 (2) Indien die raad 'n reëling in subartikel (1) bedoel, getref het, doen hy aan die Minister verslag daaroor.

12. (1) Die raad moet aan die Minister verslag doen aangaande die uitslag van enige ondersoek ingevolge artikel 10 (1) deur hom ingestel. Verslag deur raad.

- 15 (2) Indien die raad na ondersoek ingevolge artikel 10 (1) (a) of (b)—
- (a) van mening is dat 'n beperkende praktyk bestaan of te eniger tyd na die datum van die kennisgewing ingevolge artikel 10 (4) bestaan het of mag ontstaan, of dat 'n
- 20 verkryging plaasgevind het, aan die plaasvind is of voorgestel word;
- (b) nie oortuig is dat daar omstandighede is wat bedoelde beperkende praktyk in die openbare belang geregverdig nie of oortuig is dat daar omstandighede bestaan wat
- 25 bedoelde verkryging nie in die openbare belang geregverdig nie; en
- (c) nie met die betrokke partye 'n reëling getref het wat ingevolge artikel 13 (2) (a) deur die Minister bekragtig is nie,

30 moet die raad by die Minister aanbeveel dat kragtens artikel 14 (1) opgetree word soos die raad onder die omstandighede nodig ag.

(3) Die raad mag nie in 'n verslag deur hom gedoen aangaande 'n ondersoek ingevolge artikel 10 (1), die naam of besonderhede van die besigheid van iemand wie se besigheid ondersoek is, vermeld nie, behalwe waar so iemand volgens die raad se oordeel betrokke is by die bestaan van 'n beperkende praktyk wat bestaan of mag ontstaan of 'n party is by 'n verkryging wat plaasgevind het, aan die plaasvind is of voorgestel word.

(4) Elke sodanige verslag wat volgens die oordeel van die Minister sonder benadeling van die openbare belang bekend gemaak kan word, moet so gou doenlik in die Senaat en in die Volksraad ter Tafel gelê word.

13. (1) Die Minister kan na oorweging van 'n aanbeveling ingevolge artikel 12 (2)— Prosedure na ondersoek.

- 45 (a) die raad gelas om onderhandelinge soos dié in artikel 11 (1) genoem, te onderneem, en indien hy 'n tersaaklike reëling getref het, aan die Minister daarvoor verslag te doen; en
- (b) indien die raad hom in kennis stel dat hy dit onuitvoerbaar gevind het om met 'n tersaaklike persoon of
- 50 liggaam te onderhandel of nie binne 'n tydperk deur die Minister bepaal, en wat hy na goeë dunnke van tyd tot tyd kan verleng, daarin geslaag het om met so 'n persoon of liggaam 'n reëling te tref nie, die stappe kragtens
- 55 artikel 14 (1) (c) doen wat die raad aanbeveel.
- (2) Die Minister kan na oorweging van 'n verslag deur die raad oor 'n reëling in artikel 11 (2) of subartikel (1) (a) van hierdie artikel vermeld, indien hy dit in die openbare belang ag—
- (a) so 'n reëling bekragtig, hetsy sonder wysiging of met die wysigings, as daar is, waarmee die betrokke persoon instem, en of onvoorwaardelik of onderworpe aan die
- 60 voorwaardes waarmee bedoelde persoon instem en wat die Minister op aanbeveling van die raad goedvind; of
- (b) so 'n reëling tersyde stel en kragtens artikel 14 (1) (c) die opdragte gee of vereistes voorskryf wat hy op
- 65 aanbeveling van die raad onder die omstandighede nodig ag,

en so 'n reëling of gewysigde reëling, tesame met die voorwaardes, as daar is, waarop dit bekragtig is, moet deur die



## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

shall be published by the Minister by notice in the *Gazette*, and shall thereupon have the same effect as a notice published under section 14 (1) (c).

(3) Any person who contravenes or fails to comply with any notice under subsection (2) shall be guilty of an offence.

Manner of dealing  
with restrictive  
practices and  
acquisitions.

14. (1) Whenever after consideration of a report by the board in terms of section 12 (1) as to the result of any investigation made by it in terms of section 10 (1) (a) or (b), the Minister is of opinion that a restrictive practice exists or may come into existence and that there are no circumstances justifying such restrictive practice in the public interest, or is of opinion that an acquisition has been or is being made or is proposed and that circumstances exist which do not justify such acquisition in the public interest, and has not confirmed any arrangement which may have been made in terms of section 11 (1) or 13 (1) (a) in respect of such restrictive practice or acquisition—

(a) the Minister of Finance may, at the request of the Minister, in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), by notice in the *Gazette* suspend, as from the date of the publication of such notice, any duty to be paid upon imported goods of like nature to any goods affected by the operation of that restrictive practice or acquisition, to the extent and for such period as he may deem fit;

(b) the Price Controller may at the request of the Minister fix, under the Price Control Act, 1964 (Act No. 25 of 1964), the maximum price at which any commodity, other than any insurance or banking service, affected by the operation of the said restrictive practice or acquisition, may be sold by any person to any other person at which any person may purchase such commodity from any other person;

(c) the Minister may by notice in the *Gazette*—

(i) declare the said restrictive practice or acquisition to be unlawful, and require any person who in the opinion of the Minister is concerned in the said restrictive practice or who in his opinion is or was a party to the said acquisition, to take such action, including steps for the dissolution of any body, corporate or unincorporate, or the severance of any connection or of any form of association between two or more persons, including any such bodies, as the Minister may consider necessary to ensure the discontinuance or prevention of that restrictive practice or the abolition or prevention of that acquisition or to eliminate any undesirable features thereof;

(ii) require any person who is or was a party to any agreement, arrangement, understanding or omission or applies or has applied any business practice or method of trading or commits or has committed any act or brings or has brought about any situation, which may be specified in the notice, to terminate or to cease to be a party to such agreement, arrangement, understanding or omission or to refrain from applying such business practice or method of trading or to cease to commit that act or to bring about that situation or to refrain from at any time becoming a party to any agreement, arrangement, understanding or omission or applying any business practice or method of trading or committing any act or bringing about any situation of a nature specified in the notice which in the opinion of the Minister is calculated to have the same effect.



WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

Minister by kennisgewing in die *Staatskoerant* afgekondig word en het daarop dieselfde uitwerking as 'n kennisgewing kragtens artikel 14 (1) (c) afgekondig.

(3) Iemand wat 'n kennisgewing kragtens subartikel (2) oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

14. (1) Wanneer die Minister na oorweging van 'n verslag deur die raad ingevolge artikel 12 (1) aangaande die uitslag van 'n ondersoek deur die raad ingevolge artikel 10 (1) (a) of (b) ingestel, van mening is dat 'n beperkende praktyk bestaan of mag ontstaan en dat daar nie omstandighede bestaan wat die beperkende praktyk in die openbare belang regverdig nie, of van mening is dat 'n verkryging plaasgevind het, aan die plaasvind is of voorgestel word en dat daar omstandighede bestaan wat die verkryging nie in die openbare belang regverdig nie, en nie 'n reëling vermeld in artikel 11 (1) of 13 (1) (a) ten opsigte van bedoelde beperkende praktyk of verkryging getref, bekragtig het nie—
- (a) kan die Minister van Finansies op versoek van die Minister, ingevolge die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), by kennisgewing in die *Staatskoerant*, enige reg wat betaal moet word op ingevoerde goedere van soortgelyke aard as enige goedere wat deur die werking van daardie beperkende praktyk of verkryging geraak word, vanaf die datum van publikasie van bedoelde kennisgewing opskort in die mate en vir die tydperk wat hy goedvind;
- (b) kan die Pryskeurder op versoek van die Minister die maksimumprys kragtens die Wet op Prysbeheer, 1964 (Wet No. 25 van 1964), vasstel waarteen enige handelsartikel, uitgesonderd 'n versekerings- of bankdiens, wat deur die werking van genoemde beperkende praktyk of verkryging geraak word, deur 'n persoon aan 'n ander persoon verkoop mag word of waarteen 'n persoon sodanige handelsartikel van 'n ander persoon mag koop;
- (c) kan die Minister by kennisgewing in die *Staatskoerant*—
- (i) genoemde beperkende praktyk of verkryging onwettig verklaar en enigiemand wat volgens die Minister se oordeel by genoemde beperkende praktyk betrokke is of wat volgens sy oordeel 'n party by genoemde verkryging is of was, gelas om die stappe te doen, met inbegrip van stappe vir die ontbinding van enige liggaam, met of sonder regs persoonlikheid bekleed, of die verbreking van enige verband of vorm van assosiasie tussen twee of meer persone, met inbegrip van enige sodanige liggame, wat die Minister nodig ag om die beëindiging of voorkoming van daardie beperkende praktyk of die opheffing of voorkoming van daardie verkryging te verseker of enige ongewenste kenmerke daarvan uit te skakel;
- (ii) iemand wat 'n party by 'n in die kennisgewing vermelde ooreenkoms, reëling, verstandhouding of versuim is of was of 'n aldus vermelde besigheidspraktyk of handelsmetode toepas of toepas het of 'n aldus vermelde handeling verrig of verrig het of 'n aldus vermelde toestand teweegbring of teweeggebring het, gelas om daardie ooreenkoms, reëling, verstandhouding of versuim te beëindig of om op te hou om 'n party daarby te wees of om van daardie besigheidspraktyk of handelsmetode af te sien of om op te hou om daardie handeling te verrig of daardie toestand teweeg te bring of om te gener tyd 'n party by 'n ooreenkoms, reëling, verstandhouding of versuim te word nie of 'n besigheidspraktyk of handelsmetode toe te pas nie of 'n handeling te verrig nie of 'n toestand teweeg te bring nie wat van 'n in die kennisgewing vermelde aard is en wat volgens die oordeel van die Minister bereken is om dieselfde uitwerking te hê.

Wyse waarop in verband met beperkende praktyke en verkrygings gehandel kan word.

Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

(2) After further investigation by the board and at the request of the Minister—

- (a) the Minister of Finance may withdraw any notice under subsection (1) (a) or amend it in such manner as he may deem fit; 5
- (b) the Price Controller may under the Price Control Act, 1964, withdraw or amend any maximum price fixed as contemplated in subsection (1) (b).

(3) Any notice under subsection (1) (c)—

- (a) shall not be published until after the relevant report of 10 the board has been published by the Minister in the *Gazette* and for that purpose any such report may be so published before it has been laid upon the Table of either the Senate or the House of Assembly;
- (b) shall, subject to the provisions of subsection (4), come 15 into operation upon a date fixed by the Minister and specified in such notice, not being less than six weeks after the date of publication thereof;
- (c) may prescribe such requirements as the Minister may consider necessary to achieve the objects of that notice, 20 and specify the persons by whom the terms of such notice or any such requirement shall be complied with, and the periods within which and the conditions subject to which those terms or that requirement shall be complied with by any such person;
- (d) may at any time after further investigation by the board 25 be withdrawn by the Minister or be amended by him in such manner as he may deem fit.

- (4) (a) If an appeal is lodged with the Minister in terms of section 15 (5) in respect of a notice under subsection (1) (c) of this section, that notice shall, subject to the order 30 of the special court hearing that appeal, come into operation on such date as the Minister may determine and make known by notice in the *Gazette*, but not earlier than six weeks after the date of the notice referred to in section 15 (14). 35
- (b) For the application of paragraph (a), the Minister shall as soon as practicable after the lodging of an appeal with him, give notice of that lodging in the *Gazette*.

(5) Whenever after consideration of a report by the board in terms of section 12 (1) as to the result of any investigation 40 undertaken by it in terms of section 10 (1) (c), the Minister is of opinion that it is in the public interest, he may by notice in the *Gazette* declare any particular type of agreement, arrangement, understanding, business practice or method of trading which was the subject of the investigation to be unlawful, either generally or 45 in respect of any particular area, according as to whether the investigation was of a general nature or was undertaken in relation to a particular area, and prohibit any person from entering into or being or continuing to be a party to any such agreement, arrangement or understanding or from applying any such business 50 practice or method of trading either wholly or to such extent or subject to such exceptions as may be specified in the notice, provided the Minister has not less than one month before the date of publication of the notice published the text of the proposed notice in the *Gazette*, together with a statement of his intention to 55 publish such a notice in the *Gazette*.

(6) A notice under subsection (5) may at any time after further investigation by the board be withdrawn by the Minister or amended in such manner as he may deem fit, provided, in the case of such amendment, he has not less than one month before the 60 date of publication of the notice published the text of the proposed notice in the *Gazette*, together with a statement of his intention to publish such a notice in the *Gazette*.

(7) Any person who contravenes or fails to comply with any notice published under this section, shall be guilty of an offence. 65

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

- (2) Na verdere ondersoek deur die raad en op versoek van die Minister kan—
- (a) die Minister van Finansies 'n kennisgewing kragtens subartikel (1) (a) intrek of wysig op die wyse wat hy goedvind;
- (b) die Pryscontroleur 'n maksimumprys soos in subartikel (1) (b) beoog, vasgestel, kragtens die Wet op Prysbeheer, 1964, intrek of wysig.
- (3) 'n Kennisgewing kragtens subartikel (1) (c)—
- (a) word nie gepubliseer nie totdat die tersaaklike verslag van die raad deur die Minister in die *Staatskoerant* gepubliseer is, en vir dié doel kan so 'n verslag aldus gepubliseer word voordat dit in of die Senaat of die Volksraad ter Tafel gelê is;
- (b) tree, behoudens die bepalings van subartikel (4), in werking op 'n datum deur die Minister bepaal en in die kennisgewing vermeld, wat nie minder as ses weke na die datum van publikasie daarvan is nie;
- (c) kan die vereistes voorskryf wat die Minister nodig ag om die oogmerke van daardie kennisgewing te verwezenlik, en die persone vermeld wat aan die bepalings van daardie kennisgewing of so 'n vereiste moet voldoen, asook die tydperke waarin en die voorwaardes waarop enige sodanige persoon aan daardie bepalings of vereiste moet voldoen;
- (d) kan te eniger tyd, na verdere ondersoek deur die raad, deur die Minister ingetrek of op die wyse wat hy goedvind, gewysig word.
- (4) (a) Indien ten opsigte van 'n kennisgewing kragtens subartikel (1) (c) van hierdie artikel 'n appèl ingevolge artikel 15 (5) by die Minister ingedien word, tree daardie kennisgewing, behoudens die bevel van die spesiale hof wat daardie appèl verhoor, in werking op 'n datum wat die Minister bepaal en by kennisgewing in die *Staatskoerant* bekend maak, maar nie vroeër nie as ses weke na die datum van die kennisgewing in artikel 15 (14) bedoel.
- (b) Vir die toepassing van paragraaf (a) moet die Minister so gou doenlik na die indiening van 'n appèl by hom, van daardie indiening in die *Staatskoerant* kennis gee.
- (5) Wanneer die Minister na oorweging van 'n verslag deur die raad ingevolge artikel 12 (1) aangaande die uitslag van 'n ondersoek deur die raad ingevolge artikel 10 (1) (c) onderneem, van mening is dat dit in die openbare belang is, kan die Minister by kennisgewing in die *Staatskoerant* enige besondere tipe ooreenkoms, reëling, verstandhouding, besigheidspraktyk of handelsmetode wat die onderwerp van die ondersoek was, onwettig verklaar, hetsy in die algemeen of ten opsigte van 'n bepaalde gebied, na gelang die ondersoek van algemene aard was of met betrekking tot 'n bepaalde gebied geskied het, en enigiemand verbied om so 'n ooreenkoms, reëling of verstandhouding aan te gaan of 'n party daarby te wees of te bly of om so 'n besigheidspraktyk of handelsmetode toe te pas, hetsy geheel en al of in die mate of onderworpe aan die uitsonderings in die kennisgewing vermeld, mits die Minister minstens een maand voor die datum van publikasie van die kennisgewing die teks van die voorgenome kennisgewing in die *Staatskoerant* gepubliseer het, tesame met 'n verklaring van sy voorneme om so 'n kennisgewing in die *Staatskoerant* te publiseer.
- (6) 'n Kennisgewing kragtens subartikel (5) kan te eniger tyd na verdere ondersoek deur die raad deur die Minister by kennisgewing in die *Staatskoerant* ingetrek of op die wyse wat hy goedvind, gewysig word, mits hy, in die geval van bedoelde wysiging, minstens een maand voor die datum van publikasie van die kennisgewing die teks van die voorgenome kennisgewing in die *Staatskoerant* gepubliseer het, tesame met 'n verklaring van sy voorneme om so 'n kennisgewing in die *Staatskoerant* te publiseer.
- (7) Iemand wat 'n kennisgewing kragtens hierdie artikel gepubliseer, oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

Appeals from  
Minister's decisions.

15. (1) There shall be a right of appeal by any person affected by a notice under section 14 (1) (c), to a special court which shall be constituted as provided in this section.

(2) A special court may be constituted by the State President by proclamation in the *Gazette*, with jurisdiction throughout the Republic or in one or more specified areas, for the hearing of all or any one or more appeals lodged in terms of subsection (5), as the State President may consider necessary. 5

(3) Any such court shall consist of a judge of the Supreme Court of South Africa, who shall be the president of the court, and 10 two other members, of whom—

(a) one shall be the holder of a university degree in economics who in the opinion of the State President has a thorough knowledge of economics; and

(b) one shall be a person who in the opinion of the State President has wide experience of industrial, commercial or financial matters or, where the State President in his discretion upon application by an appellant so directs, is a professional engineer as defined in the Professional Engineers' Act, 1968 (Act No. 81 of 1968). 20

(4) The members of a special court who are not in the full-time service of the State may be paid such remuneration and allowances as may in each case be determined by the Minister after consultation with the Minister of Justice.

(5) An appeal to a special court in terms of this section shall be lodged with the Minister in writing within six weeks after the date of publication of the notice to which the appeal relates, and shall set forth the grounds on which the appeal is based. 25

(6) The date, time and place for the hearing of any such appeal shall be fixed by the president of the special court concerned and shall be communicated in writing to the appellant through the Minister not less than 30 days before the date so fixed. 30

(7) The Minister may be represented at the hearing of any such appeal by any person designated by him, and the appellant may appear at such hearing in person or be represented thereat by his advocate, attorney or agent. 35

(8) Any such hearing may from time to time be adjourned by the president of the special court concerned to such date, time and place as he may deem fit.

(9) The sittings of a special court shall be held in public, but the president of the court may exclude from being present thereat or require to withdraw therefrom any person whose attendance is not necessary. 40

(10) A special court may after consideration of any appeal, confirm or set aside the notice to which the appeal relates or amend it in such manner as it may deem equitable, and may make such orders as to costs as it may consider just. 45

(11) The decision of a majority of the members of a special court shall be the decision of the court: Provided that any matter of law arising for decision by that court and any question as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the president of the court and that no other member shall have any voice in the decision. 50

(12) An order as to costs made by a special court shall have effect and may be enforced as if it had been given in the course of proceedings before a division of the Supreme Court of South Africa having jurisdiction in the place where the sitting at which that order was made took place. 55

(13) The decision of a special court shall not be subject to appeal to or review by any court of law. 60

(14) An order of a special court confirming, setting aside or amending the notice to which the order relates, shall be made known by the Minister by notice in the *Gazette*, and any amendment made to a notice by such an order shall have effect as if it were an amendment made under section 14 (3) (d). 65



WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

15. (1) Daar is 'n reg van appèl deur enigiemand wat deur 'n kennisgewing kragtens artikel 14 (1) (c) geraak word, na 'n spesiale hof wat volgens voorskrif van hierdie artikel ingestel word.
- 5 (2) 'n Spesiale hof kan deur die Staatspresident by proklamasie in die *Staatskoerant* ingestel word met regsbevoegdheid in die hele Republiek of in een of meer vermelde gebiede vir die verhoor van alle of een of meer appèlle ingevolge subartikel (5) ingedien, na gelang die Staatspresident nodig ag.
- 10 (3) So 'n hof bestaan uit 'n regter van die Hooggeregshof van Suid-Afrika, wat die president van die hof is, en twee ander lede, van wie—
- (a) een iemand moet wees wat 'n universiteitsgraad in die ekonomie besit en volgens die oordeel van die Staatspresident deeglike kennis van ekonomie het; en
- 15 (b) een iemand moet wees wat volgens die oordeel van die Staatspresident breë ondervinding van nywerheids-, handels- of finansiële aangeleenthede het of, waar die Staatspresident na goëddunke op aansoek deur 'n
- 20 appellant aldus gelas, 'n professionele ingenieur is soos omskryf in die Wet op Professionele Ingenieurs, 1968 (Wet No. 81 van 1968).
- (4) Daar kan aan die lede van 'n spesiale hof wat nie in die heeltydse diens van die Staat is nie, die besoldiging en toelaes
- 25 betaal word wat in elke geval deur die Minister na oorlegpleging met die Minister van Justisie bepaal word.
- (5) 'n Appèl na 'n spesiale hof ingevolge hierdie artikel moet skriftelik by die Minister ingedien word binne ses weke na die datum van publikasie van die kennisgewing waarop die appèl
- 30 betrekking het, en moet die gronde waarop die appèl berus, uiteensit.
- (6) Die datum, tyd en plek van die verhoor van so 'n appèl moet deur die president van die betrokke spesiale hof bepaal word en moet minstens 30 dae voor die datum aldus bepaal skriftelik
- 35 deur die Minister aan die appellant bekend gemaak word.
- (7) Die Minister kan by die verhoor van so 'n appèl verteenwoordig word deur iemand wat hy aanwys, en die appellant kan by daardie verhoor persoonlik verskyn of deur sy advokaat, prokureur of agent verteenwoordig word.
- 40 (8) So 'n verhoor kan van tyd tot tyd deur die president van die betrokke spesiale hof verdaag word tot 'n datum, tyd en plek wat hy goedvind.
- (9) Die sittings van 'n spesiale hof word in die openbaar gehou, maar die president van die hof kan enigiemand wie se aanwesig-
- 45 heid nie nodig is nie van aanwesigheid aldaar uitsluit of hom gelas om hom daaraan te onttrek.
- (10) 'n Spesiale hof kan na oorweging van 'n appèl die kennisgewing waarop die appèl betrekking het, bekragtig of tersyde stel of wysig op die wyse wat hy billik ag en kan die bevel
- 50 wat hy regverdig ag met betrekking tot koste verleen.
- (11) Die beslissing van 'n meerderheid van die lede van 'n spesiale hof is die beslissing van die hof. Met dien verstande dat enige regspunt wat vir beslissing deur so 'n hof opkom, en enige vraag of 'n punt vir beslissing 'n feitpunt of 'n regspunt is, deur
- 55 die president van die hof beslis word, en dat geen ander lid by die beslissing seggenskap het nie.
- (12) 'n Bevel met betrekking tot koste deur 'n spesiale hof verleen, het die uitwerking en word ten uitvoer gelê asof dit gegee was in die loop van 'n geding voor 'n afdeling van die
- 60 Hooggeregshof van Suid-Afrika wat regsbevoeg is in die plek waar die sitting waarby daardie bevel verleen was, plaasgevind het.
- (13) Die beslissing van 'n spesiale hof is nie aan appèl na of hersiening deur 'n geregshof onderworpe nie.
- 65 (14) 'n Bevel van 'n spesiale hof wat die kennisgewing waarop die bevel betrekking het, bekragtig, tersyde stel of wysig, moet deur die Minister by kennisgewing in die *Staatskoerant* bekend gemaak word, en 'n wysiging wat deur so 'n bevel aan 'n kennisgewing aangebring word, geld asof dit 'n wysiging was wat kragtens artikel 14 (3) (d) aangebring is.



## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

(15) The provisions of sections 84 and 85 of the Income Tax Act, 1962 (Act No. 58 of 1962), shall *mutatis mutandis* apply with reference to a special court constituted under this section.

Requirements for  
certain action in terms  
of this Act.

## 16. Action by—

- (a) the Minister in terms of section 5 (1) or (2) shall not be 5  
taken without the concurrence;
- (b) the board under section 6 (2) (a) shall, if any financial  
institution is a party to the transaction concerned, not be  
taken without the consent also;
- (c) the board under section 8 (1) shall, if it relates to any 10  
financial institution, not be taken without the consent;
- (d) an investigating officer under section 9 (2) shall not be  
taken in relation to any financial institution without the  
consent;
- (e) the board in terms of section 10 (1) shall, if it relates to 15  
a restrictive practice or any particular type of business  
agreement, arrangement, understanding, business prac-  
tice or method of trading involving a financial institu-  
tion, or to an acquisition to which a financial institution  
is a party or in respect of which, according to a notice in 20  
writing to the board by the Registrar of Financial  
Institutions mentioned in section 3 (2), any such  
institution has a material interest, not be taken without  
the consent;
- (f) the board in terms of section 10 (4) shall, if it relates to 25  
any financial institution, not be taken without the  
consent;
- (g) the Minister under section 10 (5) or (6) shall, if it relates  
to any financial institution, not be taken without the  
consent; 30
- (h) the board in terms of section 11 (1), in so far as it  
concerns the making of an arrangement, shall, if it  
relates to a restrictive practice involving a financial  
institution or an acquisition to which a financial  
institution is a party or in respect of which, according to 35  
a notice in writing to the Minister by the Registrar of  
Financial Institutions mentioned in section 3 (2), any  
such institution has a material interest, not be taken  
without the consent;
- (i) the Minister under section 14 (1) (c) shall, if it relates to 40  
a restrictive practice involving any financial institution  
or an acquisition to which a financial institution is a  
party or in respect of which, according to a notice in  
writing to the Minister by the Registrar of Financial  
Institutions mentioned in section 3 (2), any such 45  
institution has a material interest, not be taken without  
the concurrence;
- (j) the Minister under section 14 (3) (d) shall, in so far as it  
concerns a notice under section 14 (1) (c), read with  
paragraph (i) of this section, not be taken without the 50  
concurrence;
- (k) the Minister in terms of section 14 (4), (5) or (6) shall, if  
it relates to any particular type of agreement, arrange-  
ment, understanding, business practice or method of  
trading involving a financial institution, not be taken 55  
without the concurrence;
- (l) the Minister in terms of section 15 (4) shall not be taken  
without the approval,

of the Minister of Finance.

Preservation of  
secrecy.

17. (1) No person shall, except for the purposes of the 60  
performance of his functions in terms of this Act or for the  
purposes of legal proceedings under this Act or when required to  
do so by any court of law or under any law, disclose to any other  
person any information acquired by him in the performance of his  
functions in terms of this Act and relating to the business or 65  
affairs of any other person.

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

(15) Die bepalings van artikels 84 en 85 van die Inkomstebe-  
lastingswet, 1962 (Wet No. 58 van 1962), is *mutatis mutandis* van  
toepassing met betrekking tot 'n spesiale hof kragtens hierdie  
artikel ingestel.

## 5 16. Optrede deur—

Vereistes vir sekere  
optrede ingevolge  
hierdie Wet.

- (a) die Minister ingevolge artikel 5 (1) of (2) vind nie plaas  
nie sonder die instemming;
- (b) die raad kragtens artikel 6 (2) (a) vind nie plaas nie,  
indien 'n finansiële instelling 'n party by die betrokke  
transaksie is, sonder die toestemming ook;
- (c) die raad kragtens artikel 8 (1) vind nie plaas nie, indien  
dit op 'n finansiële instelling betrekking het, sonder die  
toestemming;
- (d) 'n ondersoekbeampte kragtens artikel 9 (2) vind nie  
plaas nie met betrekking tot 'n finansiële instelling  
sonder die toestemming;
- (e) die raad ingevolge artikel 10 (1) vind nie plaas nie,  
indien dit betrekking het op 'n beperkende praktyk of 'n  
besondere tipe besigheidsooreenkoms, reëling, ver-  
standhouding, besigheidspraktyk of handelsmetode  
waarby 'n finansiële instelling betrokke is, of op 'n  
verkryging waarby 'n finansiële instelling 'n party is of  
ten opsigte waarvan volgens 'n skriftelike kennisgewing  
aan die raad deur die Registrateur van Finansiële  
Instellings in artikel 3 (2) vermeld, so 'n instelling 'n  
wesentliche belang het, sonder die toestemming;
- (f) die raad ingevolge artikel 10 (4) vind nie plaas nie,  
indien dit op 'n finansiële instelling betrekking het,  
sonder die toestemming;
- (g) die Minister kragtens artikel 10 (5) of (6) vind nie plaas  
nie, indien dit op 'n finansiële instelling betrekking het,  
sonder die toestemming;
- (h) die raad ingevolge artikel 11 (1), vir sover dit die tref-  
van 'n reëling aangaan, vind nie plaas nie, indien dit  
betrekking het op 'n beperkende praktyk waarby 'n  
finansiële instelling betrokke is of 'n verkryging  
waarby 'n finansiële instelling 'n party is of ten opsigte  
waarvan volgens 'n skriftelike kennisgewing aan die  
raad deur die Registrateur van Finansiële Instellings in  
artikel 3 (2) vermeld, so 'n instelling 'n wesentliche  
belang het, sonder die toestemming;
- (i) die Minister kragtens artikel 14 (1) (c) vind nie plaas  
nie, indien dit betrekking het op 'n beperkende praktyk  
waarby 'n finansiële instelling betrokke is of 'n  
verkryging waarby 'n finansiële instelling 'n party is of  
ten opsigte waarvan volgens 'n skriftelike kennisgewing  
aan die Minister deur die Registrateur van Finansiële  
Instellings in artikel 3 (2) vermeld, so 'n instelling 'n  
wesentliche belang het, sonder die instemming;
- (j) die Minister kragtens artikel 14 (3) (d), vir sover dit 'n  
kennisgewing kragtens artikel 14 (1) (c), gelees met  
paragraaf (i) van hierdie artikel, aangaan, vind nie plaas  
nie sonder die instemming;
- (k) die Minister ingevolge artikel 14 (4), (5) of (6) vind nie  
plaas nie, indien dit betrekking het op 'n besondere tipe  
ooreenkoms, reëling, verstandhouding, besigheids-  
praktyk of handelsmetode waarby 'n finansiële instel-  
ling betrokke is, sonder die instemming;
- (l) die Minister ingevolge artikel 15 (4) vind nie plaas nie  
sonder die goedkeuring,

van die Minister van Finansies.

17. (1) Niemand mag, behalwe vir die doeleindes van die  
verrigting van sy werksaamhede ingevolge hierdie Wet of vir die  
doeleindes van geregtelike verrigtinge kragtens hierdie Wet of  
wanneer dit deur 'n geregshof of kragtens 'n wet van hom vereis  
word, inligting wat deur hom by die verrigting van sy werksaam-  
hede ingevolge hierdie Wet verkry is en wat op die besigheid of  
sake van iemand anders betrekking het, aan iemand anders  
openbaar nie.

Geheimhouding.

## Act No. 96, 1979

## MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

Prohibition of refusal on certain grounds to supply commodities.

18. Any supplier of any commodity who, by reason of the fact, or because he suspects or believes, whether or not the suspicion or belief is justified or correct, that any person—

(a) has given evidence before the board or a committee at any investigation under this Act; or

(b) has furnished the board or a committee with any information which by or under this Act he is required to furnish; or

(c) has given evidence before a court of law, fails or refuses to supply, under the usual conditions of supply, such person at his request with any such commodity, shall be guilty of an offence.

Penalties.

19. Any person shall be liable on conviction of—

(a) any offence under section 5 (4), 7 (3) or (4), 9 (5) or 17 (2), to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment;

(b) any offence under section 8 (3), 10 (7) or 18, to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;

(c) any offence under section 13 (3) or 14 (7), to a fine not exceeding R100 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Regulations.

20. The Minister may make regulations in regard to any matter which he considers it necessary to prescribe in order to give effect to the objects of this Act, including regulations prescribing the procedure to be observed in the conduct and hearing of appeals under section 15, and regulations as to any matter which in terms of this Act is required or permitted to be prescribed by regulation.

Repeal of Act 24 of 1955, Act 14 of 1958, Act 48 of 1975, Act 23 of 1976 and Act 75 of 1978.

21. (1) Subject to the provisions of subsection (2), the Regulation of Monopolistic Conditions Act, 1955, the Regulation of Monopolistic Conditions Amendment Act, 1958, the Regulation of Monopolistic Conditions Amendment Act, 1975, the Regulation of Monopolistic Conditions Amendment Act, 1976, and the Regulation of Monopolistic Conditions Amendment Act, 1978, are hereby repealed.

(2) The provisions of any law mentioned in subsection (1) shall continue to apply in respect of any matter in connection with which anything has been done under any such law prior to the commencement of this Act or in respect of anything incidental to any such matter or which may be necessary to be done in connection with any such matter, as if such law had not been so repealed.

Short title and commencement.

22. This Act shall be called the Maintenance and Promotion of Competition Act, 1979, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

WET OP DIE HANDHAWING EN BEVORDERING VAN  
MEDEDINGING, 1979.

Wet No. 96, 1979

(2) Iemand wat die bepalings van subartikel (1) oortree, is aan 'n misdryf skuldig.

18. Enige verskaffer van enige handelsartikel wat as gevolg van die feit, of omrede hy vermoed of glo, hetsy die vermoede of 5 geloof geregverdig of juis is of nie, dat enigiemand—

Verbod op weiering op sekere gronde om handelsartikels te verskaf.

- (a) voor die raad of 'n komitee by 'n ondersoek kragtens hierdie Wet getuienis afgelê het; of
- (b) aan die raad of 'n komitee inligting verstrek het wat hy by of kragtens hierdie Wet verplig is om te verstrek; of
- 10 (c) voor 'n geregshof getuienis afgelê het, versuim of weier om op die gebruikelike verskaffingsvoorwaardes aan so iemand op sy versoek so 'n handelsartikel te verskaf, is aan 'n misdryf skuldig.

19. Iemand is by skuldigbevinding weens—

- 15 (a) 'n misdryf kragtens artikel 5 (4), 7 (3) of (4), 9 (5) of 17 (2), strafbaar met 'n boete van hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met so 'n boete sowel as sodanige gevangenisstraf;
- 20 (b) 'n misdryf kragtens artikel 8 (3), 10 (7) of 18, strafbaar met 'n boete van hoogstens R10 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met so 'n boete sowel as sodanige gevangenisstraf;
- (c) 'n misdryf kragtens artikel 13 (3) of 14 (7), strafbaar met 'n boete van hoogstens R100 000 of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met 25 so 'n boete sowel as sodanige gevangenisstraf.

Strawwe.

20. Die Minister kan regulasies uitvaardig met betrekking tot enige aangeleentheid wat hy nodig ag om voor te skryf ten einde aan die oogmerke van hierdie Wet gevolg te gee, met inbegrip van 30 regulasies wat die prosedure voorskryf wat in verband met die behandeling en verhoor van appêlle ingevolge artikel 15 gevolg moet word, en regulasies aangaande enige aangeleentheid wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word.

Regulasies.

21. (1) Behoudens die bepalings van subartikel (2) word die 35 Wet op Reëling van Monopolistiese Toestande, 1955, die Wysigingswet op Reëling van Monopolistiese Toestande, 1958, die Wysigingswet op Reëling van Monopolistiese Toestande, 1975, die Wysigingswet op Reëling van Monopolistiese Toestande, 1976, en die Wysigingswet op Reëling van Monopolistiese Toestande, 1978, hierby herroep.

Herroeping van Wet 24 van 1955, Wet 14 van 1958, Wet 48 van 1975, Wet 23 van 1976 en Wet 75 van 1978.

(2) Die bepalings van 'n wet in subartikel (1) genoem, bly geld ten opsigte van 'n aangeleentheid in verband waarmee enigiets kragtens so 'n wet voor die inwerkingtreding van hierdie Wet 40 gedoen is of ten opsigte van enigiets wat met so 'n aangeleentheid in verband staan of wat nodig is om in verband met so 'n aangeleentheid gedoen te word, asof bedoelde wet nie aldus herroep is nie.

22. Hierdie Wet heet die Wet op die Handhawing en Bevordering van Mededinging, 1979, en tree in werking op 'n 50 datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel en inwerkingtreding.



