



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

R1,00 Prys • Price
R0,10 Plus 10% BTW • VAT
R1,10 Verkoopprijs • Selling price
Buitelands **R1,40** Other countries
Posvry • Post free

Vol. 325

KAAPSTAD, 15 JULIE 1992

No. 14143

CAPE TOWN, 15 JULY 1992

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1927.

15 Julie 1992

No. 1927.

15 July 1992

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

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

No. 140 van 1992: Wet op Dwelmmiddels en Dwelmsmokkelary, 1992.

No. 140 of 1992: Drugs and Drug Trafficking Act, 1992.

WET

Om voorsiening te maak vir 'n verbod op die gebruik of besit van, of die handeldryf in, dwelmmiddels en op sekere handelinge wat betrekking het op die vervaardiging of verskaffing van sekere stowwe of die verkryging of omskepping van die opbrengs van sekere misdade; vir die verpligting om sekere inligting by die polisie aan te meld; vir die uitoefening van betredings-, visenterings-, beslagleggings- en aanhoudingsbevoegdhede in bepaalde omstandighede; vir die verhaal van die opbrengs van dwelmsmokkelary; en vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Julie 1992.)

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

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Woordomskrywing

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) "aangewese offisier" 'n offisier in artikel 8 bedoel; (vii)

ACT

To provide for the prohibition of the use or possession of, or the dealing in, drugs and of certain acts relating to the manufacture or supply of certain substances or the acquisition or conversion of the proceeds of certain crimes; for the obligation to report certain information to the police; for the exercise of the powers of entry, search, seizure and detention in specified circumstances; for the recovery of the proceeds of drug trafficking; and for matters connected therewith.

*(English text signed by the State President.)
(Assented to 2 July 1992.)*

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

ARRANGEMENT OF SECTIONS

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	CHAPTER I
20	APPLICATION OF ACT

Definitions

1. (1) In this Act, unless the context indicates otherwise—
 - (i) “convert”, in relation to property, includes—

- (ii) "aantekening" ook inligting in 'n rekenaar vervat of deur 'n rekenaar-drukstuk weergegee, na gelang van die geval; (xxiv)
- (iii) "afhanklikheidsvormende stof" 'n stof of 'n plant waaruit 'n stof vervaardig kan word in Deel I van Bylae 2 opgeneem; (vi)
- (iv) "as geneesmiddel", met betrekking tot 'n bepaalde dwelmmiddel, die behandeling of voorkoming van 'n siekte of met 'n ander bepaalde genesende of terapeutiese doel, maar nie ook die bevrediging of verligting van 'n gewoonte of van 'n drang na die bepaalde dwelmmiddel of na 'n ander dwelmmiddel nie; (xiv) 5
- (v) "belang" ook 'n reg; (xii) 10
- (vi) "besit", met betrekking tot 'n dwelmmiddel, ook om die dwelmmiddel te hou of op te berg, of om dit in bewaring of onder beheer of toesig te hê; (xx)
- (vii) "dwelmmiddel" 'n afhanklikheidsvormende stof, 'n gevaarlike afhanklikheidsvormende stof of 'n ongewenste afhanklikheidsvormende stof; (viii) 15
- (viii) "dwelmmisdryf"—
- (a) met betrekking tot 'n dwelmmisdryf in die Republiek gepleeg, 'n misdryf in artikel 13(f) bedoel;
- (b) met betrekking tot 'n dwelmmisdryf buite die Republiek gepleeg, 'n handeling of versuim wat, indien dit binne die Republiek plaasgevind het, 'n misdryf bedoel in daardie artikel sou uitgemaak het; (ix) 20
- (ix) "eiendom" geld of 'n ander roerende, onroerende, liggaamlike of onliggaamlike saak; (xxiii)
- (x) "ekonomiese misdryf"— 25
- (a) met betrekking tot 'n ekonomiese misdryf in die Republiek gepleeg, 'n misdryf in artikel 14(b) bedoel;
- (b) met betrekking tot 'n ekonomiese misdryf buite die Republiek gepleeg, 'n handeling of versuim wat, indien dit binne die Republiek plaasgevind het, 'n misdryf bedoel in daardie artikel sou uitgemaak het; (x) 30
- (xi) "finansiële instelling"—
- (a) 'n publieke maatskappy wat ingevolge die Wet op Depositonemende Instellings, 1990 (Wet No. 94 van 1990), voorlopig of finaal as 'n depositonemende instelling geregistreer is; 35
- (b) die Land- en Landboubank van Suid-Afrika;
- (c) die Ontwikkelingsbank van Suider-Afrika;
- (d) 'n onderlinge bouvereniging soos in artikel 1(1) van die Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965), omskryf;
- (e) 'n versekeraar wat ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer is en enige soort langtermyn-versekeringsbesigheid, uitgesonderd 'n begrafnisbesigheid, binne die Republiek bedryf; 40
- (f) 'n maatskappy wat as 'n bestuursmaatskappy ingevolge die Wet op Beheer van Effekte-trustskemas, 1981 (Wet No. 54 van 1981), geregistreer is of 'n maatskappy of instelling wat as 'n trustee ingevolge daardie Wet geregistreer is; (xi) 45
- (xii) "gelyste stof" 'n stof in Deel I of II van Bylae 1 opgeneem; (xxv)
- (xiii) "gevaarlike afhanklikheidsvormende stof" 'n stof of 'n plant waaruit 'n stof vervaardig kan word in Deel II van Bylae 2 opgeneem; (ii) 50
- (xiv) "handeldryf", met betrekking tot 'n dwelmmiddel, ook 'n handeling verrig in verband met die oorlaai, invoer, verbouing, insameling, vervaardiging, lewering, voorskryf, toediening, verkoop, versending of uitvoer van die dwelmmiddel; (iii)
- (xv) "Medisynewet" die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965 (Wet No. 101 van 1965); (xv) 55
- (xvi) "Minister" die Minister van Justisie; (xvi)
- (xvii) "omskep", met betrekking tot eiendom, ook—
- (a) 'n ooreenkoms of verstandhouding in verband met die eiendom, hetsy so 'n ooreenkoms of verstandhouding regtens afdwingbaar is al dan nie; of 60
- (b) 'n ander handeling in verband met die eiendom, hetsy so 'n handeling onafhanklik of in samewerking met ander persone verrig word,

- (a) any agreement or understanding in connection with the property, whether any such agreement or understanding is legally enforceable or not; or
- 5 (b) any other act in connection with the property, whether any such act is performed independently or in concert with other persons, which has or is likely to have the effect—
- (i) of concealing or disguising the nature, source, location, disposition or movement of the property or its ownership or any interest with respect thereto; or
- 10 (ii) of enabling or assisting any person who has committed or commits, whether in the Republic or elsewhere, a drug offence or an economic offence—
- (aa) to avoid prosecution; or
- 15 (bb) to remove or to diminish any property, or any part thereof, realized directly or indirectly by him as a result of the commission of the said offence, or to use it in order to obtain funds, investments or other property; (xvii)
- (ii) “dangerous dependence-producing substance” means any substance or any plant from which a substance can be manufactured included in Part 20 II of Schedule 2; (xiii)
- (iii) “deal in”, in relation to a drug, includes performing any act in connection with the transshipment, importation, cultivation, collection, manufacture, supply, prescription, administration, sale, transmission or exportation of the drug; (xiv)
- 25 (iv) “declaration of forfeiture” means a declaration of forfeiture made in terms of section 25(1); (xxiv)
- (v) “defined crime” means—
- (a) a drug offence; or
- 30 (b) the conversion of property, or any part thereof, which was derived directly or indirectly as a result of the commission, whether in the Republic or elsewhere, of a drug offence; (xviii)
- (vi) “dependence-producing substance” means any substance or any plant from which a substance can be manufactured included in Part I of Schedule 2; (iii)
- 35 (vii) “designated officer” means any officer referred to in section 8; (i)
- (viii) “drug” means any dependence-producing substance, any dangerous dependence-producing substance or any undesirable dependence-producing substance; (vii)
- (ix) “drug offence”—
- 40 (a) in relation to a drug offence committed in the Republic, means an offence referred to in section 13(f);
- (b) in relation to a drug offence committed outside the Republic, means any act or omission which, if it had occurred within the Republic, would have constituted an offence referred to in that section; (viii)
- 45 (x) “economic offence”—
- (a) in relation to an economic offence committed in the Republic, means an offence referred to in section 14(b);
- 50 (b) in relation to an economic offence committed outside the Republic, means any act or omission which, if it had occurred within the Republic, would have constituted an offence referred to in that section; (x)
- (xi) “financial institution” means—
- 55 (a) any public company registered provisionally or finally as a deposit-taking institution in terms of the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990);
- (b) the Land and Agricultural Bank of South Africa;
- (c) the Development Bank of Southern Africa;
- (d) a mutual building society as defined in section 1(1) of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965);
- 60 (e) an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), and carrying on any class of long-term insurance business, other than a funeral business, within the Republic;

- wat die uitwerking het of waarskynlik sal hê—
- (i) om die aard, bron, ligging, beskikking of beweging van die eiendom of die eienaarskap daarvan of 'n belang ten opsigte daarvan te verberg of te verbloem; of
- (ii) om iemand wat 'n dwelmmisdryf of 'n ekonomiese misdryf, hetsy binne of buite die Republiek, gepleeg het of pleeg in staat te stel of te help—
- (aa) om vervolging te vermy; of
- (bb) om enige eiendom, of 'n deel daarvan, wat regstreeks of onregstreeks deur hom verkry is as gevolg van die pleging van bedoelde misdryf te verwyder of te verminder, of om dit te gebruik ten einde fondse, beleggings of ander eiendom te verkry; (i)
- (xviii) “omskrewe misdaad”—
- (a) 'n dwelmmisdryf; of
- (b) die omskepping van eiendom, of 'n deel daarvan, wat regstreeks of onregstreeks as gevolg van die pleging, hetsy binne of buite die Republiek, van 'n dwelmmisdryf ontstaan het; (v)
- (xix) “ongewenste afhanklikheidsvormende stof” 'n stof of 'n plant waaruit 'n stof vervaardig kan word in Deel III van Bylae 2 opgeneem;
- (xxvii)
- (xx) “opbrengs”, met betrekking tot 'n omskrewe misdaad, enige eiendom, of 'n deel daarvan, wat regstreeks of onregstreeks ontstaan het as gevolg van—
- (a) die pleging in die Republiek van die omskrewe misdaad; of
- (b) 'n handeling of versuim buite die Republiek wat, indien dit in die Republiek plaasgevind het, die omskrewe misdaad sou uitgemaak het; (xxii)
- (xxi) “perseel” grond of 'n gebou, woning, woonstel, kamer, winkel, kantoor of ander bouwerk; (xxi)
- (xxii) “plant” ook 'n gedeelte van 'n plant; (xviii)
- (xxiii) “polisiebeampte” 'n lid van die Mag soos in artikel 1 van die Polisiewet, 1958 (Wet No. 7 van 1958), omskryf; (xix)
- (xxiv) “verbeurdverklaring” 'n verbeurdverklaring ingevolge artikel 25(1) gemaak; (iv)
- (xxv) “verkoop”, met betrekking tot 'n dwelmmiddel, ook om die dwelmmiddel vir verkoop aan te bied, te adverteer, te besit of uit te stal, om dit, hetsy teen 'n teenprestasie of andersins, van die hand te sit, of om dit te verruil; (xxvi)
- (xxvi) “vermaaklikheidsplek” ook 'n perseel, voertuig, vaartuig of lugvaartuig, of 'n deel daarvan, wat gebruik word vir of in verband met enige vertoning, voorstelling, uitvoering, dans, vermaak, spel, mededinging of sport; (xvii)
- (xxvii) “vervaardig”, met betrekking tot 'n stof, ook die bereiding, ekstrahering of voortbrenging van die stof. (xiii)
- (2) In hierdie Wet—
- (a) behalwe waar dit onbestaanbaar met die samehang of duidelik onvanpas is, word 'n verwysing na eiendom uitgelê as 'n verwysing ook na eiendom wat buite die Republiek geleë is;
- (b) word 'n verwysing na iemand wat 'n gesondheidsdiens- of aanverwante beroep beoefen, uitgelê as 'n verwysing na iemand wat 'n gesondheidsdiens- of aanverwante beroep beoefen soos in die Medisynewet omskryf.

Werking van Wet met betrekking tot Medisynewet

2. Die bepalings van hierdie Wet geld benewens die bepalings van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, en dien nie ter vervanging daarvan nie.

- (f) any company registered as a management company in terms of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981), or any company or institution registered as a trustee in terms of that Act;
- (xi)
- 5 (xii) "interest" includes any right; (v)
- (xiii) "manufacture", in relation to a substance, includes the preparing, extraction or producing of the substance; (xxvii)
- (xiv) "medicinal purposes", in relation to a particular drug, means the treatment or prevention of a disease or for some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of
- 10 a habit or of a craving for the particular drug or for any other drug; (iv)
- (xv) "Medicines Act" means the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965); (xv)
- (xvi) "Minister" means the Minister of Justice; (xvi)
- 15 (xvii) "place of entertainment" includes any premises, vehicle, vessel or aircraft, or any part thereof, used for or in connection with any exhibition, show, performance, dance, amusement, game, competition or sport; (xxvi)
- (xviii) "plant" includes any portion of a plant; (xxii)
- 20 (xix) "police official" means any member of the Force as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958); (xxiii)
- (xx) "possess", in relation to a drug, includes to keep or to store the drug, or to have it in custody or under control or supervision; (vi)
- (xxi) "premises" means land or any building, dwelling, flat, room, shop,
- 25 office or other structure; (xxi)
- (xxii) "proceeds", in relation to a defined crime, means any property, or any part thereof, which was derived directly or indirectly as a result of—
- (a) the commission in the Republic of the defined crime; or
- (b) any act or omission outside the Republic which, if it had occurred
- 30 in the Republic, would have constituted the defined crime; (xx)
- (xxiii) "property" means money or any other movable, immovable, corporeal or incorporeal thing; (ix)
- (xxiv) "record" includes any information contained in a computer or reproduced by a computer print-out, as the case may be; (ii)
- 35 (xxv) "scheduled substance" means any substance included in Part I or II of Schedule 1; (xii)
- (xxvi) "sell", in relation to a drug, includes to offer, advertise, possess or expose the drug for sale, to dispose of it, whether for consideration or otherwise, or to exchange it; (xxv)
- 40 (xxvii) "undesirable dependence-producing substance" means any substance or any plant from which a substance can be manufactured included in Part III of Schedule 2. (xix)
- (2) In this Act—
- (a) except where it is inconsistent with the context or clearly inappropriate,
- 45 any reference to property shall be construed as a reference also to property which is situate outside the Republic;
- (b) any reference to a person practising any health service or cognate profession shall be construed as a reference to a person practising any health service or cognate profession as defined in the Medicines Act.

50 Operation of Act with regard to Medicines Act

2. The provisions of this Act shall apply in addition to, and not in substitution for, the provisions of the Medicines Act or any regulation made thereunder.

HOOFSTUK II

ONWETTIGE HANDELINGE

*Handelinge met betrekking tot gelyste stowwe en dwelmmiddels***Vervaardiging en verskaffing van gelyste stowwe**

3. Niemand mag 'n gelyste stof vervaardig of dit aan iemand anders verskaf nie met die wete of vermoede dat so 'n gelyste stof by of vir die onwettige vervaardiging van 'n dwelmmiddel gebruik gaan word. 5

Gebruik en besit van dwelmmiddels

4. Niemand mag—
- (a) 'n afhanklikheidsvormende stof; of 10
- (b) 'n gevaarlike afhanklikheidsvormende stof of 'n ongewenste afhanklikheidsvormende stof,
- gebruik of in sy besit hê nie tensy—
- (i) hy 'n pasiënt is wat so 'n stof verkry of gekoop het—
- (aa) van 'n geneesheer, tandarts of praktisyn wat in sy professionele hoedanigheid en ooreenkomstig die voorskrifte van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, handel; of 15
- (bb) van 'n apteker ingevolge 'n mondelinge opdrag of 'n skriftelike voorskrif van so 'n geneesheer, tandarts of praktisyn, en daardie stof as geneesmiddel onder die sorg of behandeling van bedoelde geneesheer, tandarts of praktisyn gebruik; 20
- (ii) hy so 'n stof as geneesmiddel verkry of gekoop het—
- (aa) van 'n geneesheer, veearts, tandarts of praktisyn wat in sy professionele hoedanigheid en ooreenkomstig die voorskrifte van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, handel; 25
- (bb) van 'n apteker ingevolge 'n mondelinge opdrag of 'n skriftelike voorskrif van so 'n geneesheer, veearts, tandarts of praktisyn; of
- (cc) van 'n veeartsenykundige assistent of veeartsenykundige verpleegster ingevolge 'n skriftelike voorskrif van so 'n veearts, met die bedoeling om daardie stof aan 'n pasiënt of dier onder die sorg of behandeling van bedoelde geneesheer, veearts, tandarts of praktisyn toe te dien; 30
- (iii) hy die Direkteur-generaal: Nasionale Gesondheid en Bevolkingsontwikkeling is wat so 'n stof ooreenkomstig die voorskrifte van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, verkry of gekoop het; 35
- (iv) hy of sy 'n pasiënt, geneesheer, veearts, tandarts, praktisyn, verpleegster, vroedvrou, verpleegassistent, apteker, veeartsenykundige assistent, veeartsenykundige verpleegster, vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder, of 'n ander persoon beoog in die Medisynewet of 'n regulasie daarkragtens uitgevaardig, is wat so 'n stof verkry, gekoop, ingevoer, verbou, ingesamel of vervaardig het, of gebruik of in besit daarvan is, of voornemens is om dit toe te dien, te lewer, te verkoop, te versend of uit te voer ooreenkomstig die voorskrifte of voorwaardes van bedoelde Wet of regulasie, of 'n permit kragtens bedoelde Wet of regulasie aan hom of haar uitgereik; 45
- (v) hy 'n werknemer van 'n apteker, vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder is wat so 'n stof verkry, gekoop, ingevoer, verbou, ingesamel of vervaardig het, of gebruik of in besit daarvan is, of voornemens is om dit te lewer, te verkoop, te versend of uit te voer in die loop van sy diens en ooreenkomstig die voorskrifte of voorwaardes van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, of 'n permit kragtens bedoelde Wet of regulasie aan so 'n apteker, vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder uitgereik; of 50
- (vi) hy andersins op wettige wyse in besit van so 'n stof gekom het. 55

CHAPTER II

ILLEGAL ACTS

*Acts relating to scheduled substances and drugs***Manufacture and supply of scheduled substances**

- 5 3. No person shall manufacture any scheduled substance or supply it to any other person, knowing or suspecting that any such scheduled substance is to be used in or for the unlawful manufacture of any drug.

Use and possession of drugs

- 10 4. No person shall use or have in his possession—
 (a) any dependence-producing substance; or
 (b) any dangerous dependence-producing substance or any undesirable dependence-producing substance,
 unless—
- 15 (i) he is a patient who has acquired or bought any such substance—
 (aa) from a medical practitioner, dentist or practitioner acting in his professional capacity and in accordance with the requirements of the Medicines Act or any regulation made thereunder; or
 (bb) from a pharmacist in terms of an oral instruction or a prescription in writing of such medical practitioner, dentist or practitioner,
 20 and uses that substance for medicinal purposes under the care or treatment of the said medical practitioner, dentist or practitioner;
- (ii) he has acquired or bought any such substance for medicinal purposes—
 25 (aa) from a medical practitioner, veterinarian, dentist or practitioner acting in his professional capacity and in accordance with the requirements of the Medicines Act or any regulation made thereunder;
 (bb) from a pharmacist in terms of an oral instruction or a prescription in writing of such medical practitioner, veterinarian, dentist or practitioner; or
 30 (cc) from a veterinary assistant or veterinary nurse in terms of a prescription in writing of such veterinarian,
 with the intent to administer that substance to a patient or animal under the care or treatment of the said medical practitioner, veterinarian,
 35 dentist or practitioner;
- (iii) he is the Director-General: National Health and Population Development who has acquired or bought any such substance in accordance with the requirements of the Medicines Act or any regulation made thereunder;
- 40 (iv) he, she or it is a patient, medical practitioner, veterinarian, dentist, practitioner, nurse, midwife, nursing assistant, pharmacist, veterinary assistant, veterinary nurse, manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter, or any other person contemplated in the Medicines Act or any regulation made thereunder,
 45 who or which has acquired, bought, imported, cultivated, collected or manufactured, or uses or is in possession of, or intends to administer, supply, sell, transmit or export any such substance in accordance with the requirements or conditions of the said Act or regulation, or any permit issued to him, her or it under the said Act or regulation;
- 50 (v) he is an employee of a pharmacist, manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter who has acquired, bought, imported, cultivated, collected or manufactured, or uses or is in possession of, or intends to supply, sell, transmit or export
 55 any such substance in the course of his employment and in accordance with the requirements or conditions of the Medicines Act or any regulation made thereunder, or any permit issued to such pharmacist, manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter under the said Act or regulation; or
- 60 (vi) he has otherwise come into possession of any such substance in a lawful manner.

Handeldryf in dwelmmiddels**5. Niemand mag—**

- (a) in 'n afhanklikheidsvormende stof; of
- (b) in 'n gevaarlike afhanklikheidsvormende stof of 'n ongewenste afhanklikheidsvormende stof, 5

handel dryf nie tensy—

- (i) hy so 'n stof as geneesmiddel verkry of gekoop het—
 - (aa) van 'n geneesheer, veearts, tandarts of praktisyn wat in sy professionele hoedanigheid en ooreenkomstig die voorskrifte van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, handel; 10
 - (bb) van 'n apteker ingevolge 'n mondelinge opdrag of 'n skriftelike voorskrif van so 'n geneesheer, veearts, tandarts of praktisyn; of
 - (cc) van 'n veeartsenykundige assistent of veeartsenykundige verpleegster ingevolge 'n skriftelike voorskrif van so 'n veearts, 15
en daardie stof aan 'n pasiënt of dier onder die sorg of behandeling van bedoelde geneesheer, veearts, tandarts of praktisyn toedien;
- (ii) hy die Direkteur-generaal: Nasionale Gesondheid en Bevolkingsontwikkeling is wat so 'n stof ooreenkomstig die voorskrifte van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, verkry, koop of verkoop; 20
- (iii) hy of sy 'n geneesheer, veearts, tandarts, praktisyn, verpleegster, vroedvrou, verpleegassistent, apteker, veeartsenykundige assistent, veeartsenykundige verpleegster, vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder, of 'n ander persoon beoog in die Medisynewet of 'n regulasie daarkragtens uitgevaardig, is wat so 'n stof voorskryf, toedien, verkry, koop, oorlaai, invoer, verbou, insamel, vervaardig, lewer, verkoop, versend of uitvoer ooreenkomstig die voorskrifte of voorwaardes van bedoelde Wet of regulasie, of 'n permit kragtens bedoelde Wet of regulasie aan hom of haar uitgereik; of 25
- (iv) hy 'n werknemer van 'n apteker, vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder is wat so 'n stof verkry, koop, oorlaai, invoer, verbou, insamel, vervaardig, lewer, verkoop, versend of uitvoer in die loop van sy diens en ooreenkomstig die voorskrifte of voorwaardes van die Medisynewet of 'n regulasie daarkragtens uitgevaardig, of 'n permit kragtens bedoelde Wet of regulasie aan so 'n apteker, vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder uitgereik. 30 35

*Handelinge met betrekking tot opbrengs van omskrewe misdaad***Verkryging van opbrengs van omskrewe misdaad 40**

6. Niemand mag enige eiendom verkry nie, wetende dat sodanige eiendom die opbrengs van 'n omskrewe misdaad is.

Omskepping van opbrengs van omskrewe misdaad

7. Niemand mag enige eiendom omskep nie, terwyl hy weet of redelike gronde het om te vermoed dat sodanige eiendom die opbrengs van 'n omskrewe misdaad is. 45

HOOFSTUK III**AANMELDING VAN INLIGTING, EN ONDERSOEKE***Aanmelding van inligting***Aangewese offisiere 50**

8. Vir die doeleindes van hierdie Hoofstuk is elke offisier van die Suid-Afrikaanse Polisie wat aan die Suid-Afrikaanse Narkotikaburo toegewys is 'n aangewese offisier.

Dealing in drugs

5. No person shall deal in—

- (a) any dependence-producing substance; or
 (b) any dangerous dependence-producing substance or any undesirable dependence-producing substance,

unless—

- (i) he has acquired or bought any such substance for medicinal purposes—
 (aa) from a medical practitioner, veterinarian, dentist or practitioner acting in his professional capacity and in accordance with the requirements of the Medicines Act or any regulation made thereunder;
 (bb) from a pharmacist in terms of an oral instruction or a prescription in writing of such medical practitioner, veterinarian, dentist or practitioner; or
 (cc) from a veterinary assistant or veterinary nurse in terms of a prescription in writing of such veterinarian, and administers that substance to a patient or animal under the care or treatment of the said medical practitioner, veterinarian, dentist or practitioner;
 (ii) he is the Director-General: National Health and Population Development who acquires, buys or sells any such substance in accordance with the requirements of the Medicines Act or any regulation made thereunder;
 (iii) he, she or it is a medical practitioner, veterinarian, dentist, practitioner, nurse, midwife, nursing assistant, pharmacist, veterinary assistant, veterinary nurse, manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter, or any other person contemplated in the Medicines Act or any regulation made thereunder, who or which prescribes, administers, acquires, buys, transships, imports, cultivates, collects, manufactures, supplies, sells, transmits or exports any such substance in accordance with the requirements or conditions of the said Act or regulation, or any permit issued to him, her or it under the said Act or regulation; or
 (iv) he is an employee of a pharmacist, manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter who acquires, buys, transships, imports, cultivates, collects, manufactures, supplies, sells, transmits or exports any such substance in the course of his employment and in accordance with the requirements or conditions of the Medicines Act or any regulation made thereunder, or any permit issued to such pharmacist, manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter under the said Act or regulation.

*Acts relating to proceeds of defined crime***Acquisition of proceeds of defined crime**

6. No person shall acquire any property, knowing that any such property is the proceeds of a defined crime.

Conversion of proceeds of defined crime

7. No person shall convert any property, while he knows or has reasonable grounds to suspect that any such property is the proceeds of a defined crime.

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CHAPTER III

REPORTING OF INFORMATION, AND INVESTIGATIONS*Reporting of information***Designated officers**

8. For the purposes of this Chapter, every commissioned officer of the South African Police assigned to the South African Narcotics Bureau shall be a designated officer.

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Verslapping van beperkings op openbaarmaking van inligting

9. (1) Enigiemand kan, ondanks andersluidende bepalings van die een of ander wet wat hom verbied—

(a) om inligting met betrekking tot die sake of besigheid van iemand anders te openbaar; of 5

(b) om iemand toe te laat om toegang te verkry tot registers, aantekeninge of ander stukke wat op bedoelde sake of besigheid betrekking het, aan 'n prokureur-generaal of aangewese offisier die inligting openbaar wat hy vir die voorkoming of bekamping, hetsy binne of buite die Republiek, van 'n dwelmmisdryf of 'n ekonomiese misdryf nodig ag, of 'n aangewese offisier toelaat om toegang te verkry tot enige registers, aantekeninge of ander stukke wat na sy oordeel op laasgenoemde inligting betrekking kan hê. 10

(2) Die bepalings van subartikel (1) word nie so uitgelê nie dat dit 'n Minister of ander gesag deur wie of onder wie se beheer 'n wet bedoel in daardie subartikel uitgevoer word, of 'n raad, instelling of liggaam wat by of kragtens so 'n wet ingestel is, verbied om ander reëlings te tref met betrekking tot die verstrekking van inligting of die verlening van toegang in daardie subartikel beoog, waarvolgens die inligting of toegang verstrekk of verleen word— 15

(a) deur, of op gesag of met die goedkeuring van, so 'n Minister, gesag, raad, instelling of liggaam of 'n persoon deur so 'n Minister, gesag, raad, instelling of liggaam aangewys; en 20

(b) onderworpe aan die voorwaardes, indien daar is, deur so 'n Minister, gesag, raad, instelling, liggaam of persoon bepaal.

Verpligting om sekere inligting by polisie aan te meld

10. (1) Indien die eienaar, okkupeerder of bestuurder van 'n vermaaklikheidsplek, of iemand in beheer van 'n vermaaklikheidsplek of wat toesig daarvoor hou, rede het om te vermoed dat iemand in of op bedoelde vermaaklikheidsplek 'n dwelmmiddel in stryd met die bepalings van hierdie Wet gebruik, in sy besit het of daarin handel dryf, moet hy— 25

(a) so gou doenlik sy vermoede aan 'n polisiebeampte aan diens by daardie vermaaklikheidsplek of by die naaste polisiekantoor, na gelang van die geval, rapporteer; en 30

(b) op versoek van bedoelde polisiebeampte, die besonderhede waarvoor hy beskik aangaande die persoon ten opsigte van wie die vermoede bestaan aan daardie polisiebeampte verstrekk. 35

(2) Indien 'n direkteur, bestuurder of uitvoerende beampte van 'n finansiële instelling rede het om te vermoed dat eiendom wat deur die finansiële instelling in die gewone loop van die finansiële instelling se sake van iemand verkry is, die opbrengs van 'n omskrewe misdaad is, moet hy—

(a) so gou doenlik sy vermoede aan 'n aangewese offisier rapporteer; en 40

(b) op versoek van daardie aangewese offisier, die besonderhede waarvoor hy beskik aangaande so iemand aan bedoelde offisier verstrekk.

(3) Indien—

(a) 'n effektemakelaar soos in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985), omskryf of iemand in paragraaf (d), (e) of (f) van artikel 4(1) van daardie Wet beoog; of 45

(b) 'n finansiële instrument-handelaar soos in artikel 1 van die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989), omskryf of iemand in paragraaf (f), (g) of (h) van artikel 5(1) van daardie Wet beoog, 50

rede het om te vermoed dat eiendom wat deur hom in die gewone loop van sy sake van iemand anders verkry is, die opbrengs van 'n omskrewe misdaad is, moet hy—

(i) so gou doenlik sy vermoede aan 'n aangewese offisier rapporteer; en

(ii) op versoek van daardie aangewese offisier, die besonderhede waarvoor hy beskik aangaande die persoon van wie daardie eiendom verkry is aan bedoelde offisier verstrekk. 55

(4) Geen verpligting betreffende geheimhouding en geen ander beperking op die openbaarmaking van inligting betreffende die sake of besigheid van 'n klant of kliënt, hetsy by die een of ander wet, die gemene reg of 'n kontrak opgelê, raak 'n verpligting opgeloopt uit hoofde van die bepalings van subartikel (2) of (3) nie. 60

Relaxation of restrictions on disclosure of information

9. (1) Any person may, notwithstanding anything to the contrary contained in any law which prohibits him—

- 5 (a) from disclosing any information relating to the affairs or business of any other person; or
(b) from permitting any person to have access to any registers, records or other documents which have a bearing on the said affairs or business, disclose to any attorney-general or designated officer such information as he may consider necessary for the prevention or combating, whether in the Republic or
10 elsewhere, of a drug offence or an economic offence, or permit any designated officer to have access to any registers, records or other documents which may in his opinion have a bearing on the latter information.

(2) The provisions of subsection (1) shall not be construed as prohibiting any Minister by whom or any other authority by which, or under the control of whom
15 or which, any law referred to in that subsection is administered, or any board, institution or body established by or under any such law, from making any other arrangement with regard to the furnishing of information or the granting of access contemplated in that subsection, according to which the information or access shall be furnished or granted—

- 20 (a) by, or on the authority or with the approval of, any such Minister, authority, board, institution or body or any person designated by any such Minister, authority, board, institution or body; and
(b) subject to the conditions, if any, determined by any such Minister, authority, board, institution, body or person.

25 Obligation to report certain information to police

10. (1) If the owner, occupier or manager of any place of entertainment, or any person in control of any place of entertainment or who has the supervision thereof, has reason to suspect that any person in or on such place of entertainment uses, has in his possession or deals in any drug in contravention of the
30 provisions of this Act, he shall—

- (a) as soon as possible report his suspicion to any police official on duty at that place of entertainment or at the nearest police station, as the case may be; and
35 (b) at the request of the said police official, furnish that police official with such particulars as he may have available regarding the person in respect of whom the suspicion exists.

(2) If any director, manager or executive officer of a financial institution has reason to suspect that any property acquired by the financial institution from any person in the ordinary course of the financial institution's business is the
40 proceeds of a defined crime, he shall—

- (a) as soon as possible report his suspicion to any designated officer; and
(b) at the request of that designated officer, furnish the said officer with such particulars as he may have available regarding any such person.

(3) If—

- 45 (a) any stock-broker as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or any person contemplated in paragraph (d), (e) or (f) of section 4(1) of that Act; or
(b) any financial instrument trader as defined in section 1 of the Financial

50 Markets Control Act, 1989 (Act No. 55 of 1989), or any person contemplated in paragraph (f), (g) or (h) of section 5(1) of that Act, has reason to suspect that any property acquired by him from any other person in the ordinary course of his business is the proceeds of a defined crime, he shall—

- (i) as soon as possible report his suspicion to any designated officer; and
55 (ii) at the request of that designated officer, furnish the said officer with such particulars as he may have available regarding the person from whom that property has been acquired.

(4) No obligation as to secrecy and no other restriction on the disclosure of any information as to the affairs or business of a customer or client, whether imposed
60 by any law, the common law or any agreement, shall affect any obligation incurred by virtue of the provisions of subsection (2) or (3).

*Ondersoeke***Bevoegdheid van polisiebeamptes**

11. (1) 'n Polisiebeampte kan—
- (a) indien hy redelike gronde het om te vermoed dat 'n misdryf ingevolge hierdie Wet deur middel of ten opsigte van enige gelyste stof, dwelmmiddel of eiendom gepleeg is of gepleeg gaan word, te eniger tyd—
 - (i) 'n perseel, voertuig, vaartuig of lugvaartuig waarop of waarin sodanige stof, dwelmmiddel of eiendom vermoedelik is, betree of aan boord daarvan gaan en deursoek;
 - (ii) 'n houer of ander ding waarin sodanige stof, dwelmmiddel of eiendom vermoedelik is, ondersoek;
 - (b) indien hy redelike gronde het om te vermoed dat iemand 'n misdryf ingevolge hierdie Wet deur middel of ten opsigte van enige gelyste stof, dwelmmiddel of eiendom gepleeg het of gaan pleeg, so iemand of enigiets in sy besit of bewaring of onder sy beheer deursoek of laat deursoek: Met dien verstande dat 'n vrou slegs deur 'n vrou deursoek word;
 - (c) indien hy redelike gronde het om te vermoed dat 'n stuk wat deur die pos versend is of versend word enige gelyste stof, dwelmmiddel of eiendom bevat deur middel of ten opsigte waarvan 'n misdryf ingevolge hierdie Wet gepleeg is, so 'n stuk, ondanks andersluidende wetsbepalings, onderweg of andersins onderskep of laat onderskep en in die teenwoordigheid van 'n geskikte persoon oopmaak en ondersoek;
 - (d) iemand ondervra wat na sy oordeel moontlik in staat is om inligting te verstrek betreffende 'n misdryf of beweerde misdryf ingevolge hierdie Wet;
 - (e) van iemand wat 'n register, aantekening of ander stuk in sy besit of bewaring of onder sy beheer het wat na die oordeel van die polisiebeampte betrekking kan hê op 'n misdryf of beweerde misdryf ingevolge hierdie Wet, vereis om so 'n register, aantekening of stuk dadelik aan hom te oorhandig, of op die tyd en plek wat die polisiebeampte bepaal aan hom voor te lê;
 - (f) so 'n register, aantekening of stuk ondersoek of 'n uittreksel daaruit of 'n afskrif daarvan maak, en kan van iemand 'n verduideliking van 'n inskrywing in so 'n register, aantekening of stuk vereis;
 - (g) beslag lê op enigiets wat na sy oordeel betrokke is by, of tot bewys kan strek van, 'n oortreding van 'n bepaling van hierdie Wet.
- (2) 'n Polisiebeampte kan by die uitoefening van sy bevoegdheid kragtens hierdie artikel—
- (a) vereis dat 'n voertuig, vaartuig of lugvaartuig tot stilstand gebring word; of
 - (b) die gesagvoerder, loods of eienaar van 'n vaartuig of lugvaartuig versoek om so 'n vaartuig of lugvaartuig na die hawe of lughawe wat die polisiebeampte aanwys, te vaar of te vlieg of te laat vaar of vlieg.

Ondervraging van persone kragtens lasbrief tot aanhouding

12. (1) Wanneer dit aan 'n landdros uit inligting deur die betrokke prokureur-generaal, of deur 'n staatsaanklaer wat skriftelik deur daardie prokureur-generaal daartoe gemagtig is, onder eed aan hom voorgelê, blyk dat daar redelike gronde is om te glo dat iemand inligting betreffende 'n dwelmmisdryf, hetsy die dwelmmisdryf binne of buite die Republiek gepleeg is of gepleeg word of waarskynlik gepleeg sal word, van daardie prokureur-generaal, so 'n staatsaanklaer of 'n polisiebeampte, na gelang van die geval, weerhou, kan hy 'n lasbrief vir die inhegtenisname en aanhouding van so iemand uitreik.

(2) Ondanks andersluidende wetsbepalings word iemand wat uit hoofde van 'n lasbrief kragtens subartikel (1) in hegtenis geneem word so spoedig moontlik geneem na die plek in die lasbrief vermeld en aldaar, of by die ander plek wat die landdros van tyd tot tyd bepaal, vir ondervraging aangehou ooreenkomstig die voorskrifte, indien daar is, wat van tyd tot tyd deur die landdros uitgereik word.

*Investigations***Powers of police officials**

11. (1) A police official may—

- 5 (a) if he has reasonable grounds to suspect that an offence under this Act has been or is about to be committed by means or in respect of any scheduled substance, drug or property, at any time—
- 10 (i) enter or board and search any premises, vehicle, vessel or aircraft on or in which any such substance, drug or property is suspected to be found;
- 15 (ii) search any container or other thing in which any such substance, drug or property is suspected to be found;
- (b) if he has reasonable grounds to suspect that any person has committed or is about to commit an offence under this Act by means or in respect of any scheduled substance, drug or property, search or cause to be searched any such person or anything in his possession or custody or under his control: Provided that a woman shall be searched by a woman only;
- 20 (c) if he has reasonable grounds to suspect that any article which has been or is being transmitted through the post contains any scheduled substance, drug or property by means or in respect of which an offence under this Act has been committed, notwithstanding anything to the contrary in any law contained, intercept or cause to be intercepted either during transit or otherwise any such article, and open and examine it in the presence of any suitable person;
- 25 (d) question any person who in his opinion may be capable of furnishing any information as to any offence or alleged offence under this Act;
- 30 (e) require from any person who has in his possession or custody or under his control any register, record or other document which in the opinion of the police official may have a bearing on any offence or alleged offence under this Act, to deliver to him then and there, or to submit to him at such time and place as may be determined by the police official, any such register, record or document;
- 35 (f) examine any such register, record or document or make an extract therefrom or a copy thereof, and require from any person an explanation of an entry in any such register, record or document;
- (g) seize anything which in his opinion is connected with, or may provide proof of, a contravention of a provision of this Act.
- (2) A police official may in the exercise of his powers under this section—
- 40 (a) require any vehicle, vessel or aircraft to be stopped; or
- (b) request the master, pilot or owner of any vessel or aircraft to sail or to fly any such vessel or aircraft, or to cause it to be sailed or flown, to such harbour or airport as may be indicated by the police official.

Interrogation of persons under warrant of apprehension

45 12. (1) Whenever it appears to a magistrate from information submitted to him on oath by the attorney-general concerned, or by any public prosecutor authorized thereto in writing by that attorney-general, that there are reasonable grounds for believing that any person is withholding any information as to a drug offence, whether the drug offence has been or is being or is likely to be committed in the Republic or elsewhere, from that attorney-general, any such

50 public prosecutor or any police official, as the case may be, he may issue a warrant for the arrest and detention of any such person.

(2) Notwithstanding anything to the contrary in any law contained, any person arrested by virtue of a warrant under subsection (1) shall as soon as possible be taken to the place mentioned in the warrant and detained there, or at such other

55 place as the magistrate may from time to time determine, for interrogation in accordance with the directions, if any, issued by the magistrate from time to time.

(3) Iemand wat kragtens 'n lasbrief bedoel in subartikel (1) in hegtenis geneem en in aanhouding is, word aangehou totdat die landdros sy vrylating beveel wanneer hy oortuig is dat die aangehoudene alle vrae by die ondervraging bevredigend beantwoord het of dat dit nutteloos sal wees om hom langer aan te hou: Met dien verstande dat die betrokke prokureur-generaal te eniger tyd skriftelik kan gelas dat die ondervraging van 'n bepaalde aangehoudene gestaak word, waarop daardie aangehoudene sonder versuim vrygelaat word. 5

(4) (a) Iemand wat kragtens 'n lasbrief bedoel in subartikel (1) in hegtenis geneem is, moet binne 48 uur na sy inhegtenisname en daarna minstens een keer elke tien dae voor die landdros gebring word. 10

(b) Die landdros moet by elke verskyning van so iemand voor hom ondersoek instel of hy alle vrae by sy ondervraging bevredigend beantwoord het en of dit enige nut sal dien om hom langer aan te hou.

(c) So iemand is daarop geregtig om by sy verskyning deur sy regsverteenvoerder bygestaan te word. 15

(5) Iemand wat ingevolge hierdie artikel aangehou word, kan te eniger tyd skriftelike vertoë aan die landdros met betrekking tot sy aanhouding of vrylating rig.

(6) Niemand, behalwe 'n beampte in diens van die Staat wat by die verrigting van sy ampspligte optree— 20

(a) het toegang tot iemand wat ingevolge hierdie artikel aangehou word nie, behalwe met die toestemming van die landdros en op die voorwaardes wat hy bepaal: Met dien verstande dat die landdros—

(i) sodanige toestemming weerhou slegs indien hy rede het om te vermoed dat toegang tot iemand wat aldus aangehou word enige ondersoek deur die polisie sal belemmer; 25

(ii) sodanige toestemming nie weerhou nie ten opsigte van 'n regsverteenvoerder wat iemand wat aldus aangehou word, besoek met die oog om hom by te staan soos in subartikel (4)(c) beoog; of

(b) is op amptelike inligting met betrekking tot of verkry van so 'n aangehoudene geregtig nie. 30

(7)(a) Iemand wat ingevolge hierdie artikel aangehou word, moet—

(i) so gou doenlik deur 'n distriksgeneesheer ondersoek word; en

(ii) minstens een keer elke vyf dae deur 'n distriksgeneesheer in afsondering besoek word, 35

en so 'n distriksgeneesheer moet so gou doenlik ten opsigte van elke sodanige besoek 'n verslag opstel en dit aan die landdros voorlê.

(b) Die landdros kan, indien hy rede het om te vermoed dat dit nie enige ondersoek deur die polisie sal belemmer nie, op versoek van 'n bepaalde aangehoudene 'n afskrif van 'n verslag in paragraaf (a) bedoel aan 'n persoon deur daardie aangehoudene aangedui, verstrek. 40

(8) By die toepassing van hierdie artikel beteken "landdros" ook 'n addisionele landdros.

HOOFTUK IV

MISDRYWE, STRAWWE, VERMOEDENS EN VERBEURDVERKLARING 45

Misdrywe en strawwe

Misdrywe met betrekking tot gelyste stowwe en dwelmmiddels

13. Iemand wat—

(a) 'n dwelmmiddel in die besit, of in of op die perseel, voertuig, vaartuig of lugvaartuig, van iemand anders plaas met die opset dat laasgenoemde persoon van 'n misdryf ingevolge hierdie Wet aangekla word; 50

(b) 'n bepaling van artikel 3 oortree;

(c) 'n bepaling van artikel 4(a) oortree;

(d) 'n bepaling van artikel 4(b) oortree;

(e) 'n bepaling van artikel 5(a) oortree; of 55

(f) 'n bepaling van artikel 5(b) oortree,

is aan 'n misdryf skuldig.

(3) Any person arrested and detained under a warrant referred to in subsection (1) shall be detained until the magistrate orders his release when satisfied that the detainee has satisfactorily replied to all questions at the interrogation or that no useful purpose will be served by his further detention:
5 Provided that the attorney-general concerned may at any time direct in writing that the interrogation of any particular detainee be discontinued, whereupon that detainee shall be released without delay.

(4) (a) Any person arrested under a warrant referred to in subsection (1) shall be brought before the magistrate within 48 hours of his arrest and thereafter not
10 less than once every ten days.

(b) The magistrate shall at every appearance of such person before him enquire whether he has satisfactorily replied to all questions at his interrogation and whether it will serve any useful purpose to detain him further.

(c) Such person shall be entitled to be assisted at his appearance by his legal
15 representative.

(5) Any person detained in terms of this section may at any time make representations in writing to the magistrate relating to his detention or release.

(6) No person, other than an official in the service of the State acting in the performance of his official duties—

(a) shall have access to a person detained in terms of this section, except with the consent of the magistrate and subject to such conditions as he may determine: Provided that the magistrate—

(i) shall refuse such permission only if he has reason to believe that access to a person so detained will hamper any investigation by the
25 police;

(ii) shall not refuse such permission in respect of a legal representative who visits a person so detained with a view to assisting him as contemplated in subsection (4)(c); or

(b) shall be entitled to any official information relating to or obtained from such detainee.
30

(7)(a) Any person detained in terms of this section shall—

(i) as soon as possible be examined by a district surgeon; and

(ii) not less than once every five days be visited in private by a district surgeon,
35

and such a district surgeon shall as soon as possible compile a report in respect of each such visit and submit it to the magistrate.

(b) The magistrate may, if he has reason to believe that it will not hamper any investigation by the police, furnish at the request of any particular detainee a copy of any report referred to in paragraph (a) to a person indicated by that
40 detainee.

(8) For the purposes of this section "magistrate" includes an additional magistrate.

CHAPTER IV

OFFENCES, PENALTIES, PRESUMPTIONS AND FORFEITURE

45 *Offences and penalties*

Offences relating to scheduled substances and drugs

13. Any person who—

(a) places any drug in the possession, or in or on the premises, vehicle, vessel or aircraft, of any other person with intent that the latter person
50 be charged with an offence under this Act;

(b) contravenes a provision of section 3;

(c) contravenes a provision of section 4(a);

(d) contravenes a provision of section 4(b);

(e) contravenes a provision of section 5(a); or
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(f) contravenes a provision of section 5(b),

shall be guilty of an offence.

Misdrywe met betrekking tot opbrengs van omskrewe misdad

14. Iemand wat—
- (a) 'n bepaling van artikel 6 oortree; of
 - (b) 'n bepaling van artikel 7 oortree,
- is aan 'n misdryf skuldig. 5

Misdrywe met betrekking tot aanmelding van inligting

15. (1) Iemand wat versuim om aan 'n bepaling van artikel 10(1), (2) of (3) te voldoen, is aan 'n misdryf skuldig.
- (2) Geen vervolging ten opsigte van 'n misdryf in subartikel (1) bedoel, word sonder die skriftelike magtiging van die betrokke prokureur-generaal ingestel nie. 10

Misdrywe met betrekking tot bevoegdhede van polisiebeamptes

16. Iemand wat—
- (a) 'n polisiebeampte by die uitoefening van sy bevoegdhede kragtens artikel 11 hinder of belemmer;
 - (b) weier of versuim om na sy beste vermoë te voldoen aan 'n vereiste of versoek wat 'n polisiebeampte by die uitoefening van sy bevoegdhede kragtens artikel 11 aan hom gestel het; 15
 - (c) weier of versuim om na sy beste vermoë 'n vraag te beantwoord wat 'n polisiebeampte by die uitoefening van sy bevoegdhede kragtens artikel 11 aan hom gestel het; of 20
 - (d) opsetlik aan 'n polisiebeampte inligting verstrek wat vals of misleidend is,
- is aan 'n misdryf skuldig.

Strawwe

17. Iemand wat aan 'n misdryf ingevolge hierdie Wet skuldig bevind word, is strafbaar— 25
- (a) in die geval van 'n misdryf in artikel 16 bedoel, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande, of met sowel daardie boete as daardie gevangenisstraf;
 - (b) in die geval van 'n misdryf in artikel 13(a) of (c) bedoel, met die boete wat die hof goedvind om op te lê, of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met sowel daardie boete as daardie gevangenisstraf; 30
 - (c) in die geval van 'n misdryf in artikel 13(e) bedoel, met die boete wat die hof goedvind om op te lê, of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar, of met sowel daardie boete as daardie gevangenisstraf; 35
 - (d) in die geval van 'n misdryf in artikel 13(b) of (d), 14 of 15 bedoel, met die boete wat die hof goedvind om op te lê, of met gevangenisstraf vir 'n tydperk van hoogstens 15 jaar, of met sowel daardie boete as daardie gevangenisstraf; en 40
 - (e) in die geval van 'n misdryf in artikel 13(f) bedoel, met gevangenisstraf vir 'n tydperk van hoogstens 25 jaar, of met sowel daardie gevangenisstraf as die boete wat die hof goedvind om op te lê.

Vermoedens en aanspreeklikheid van werkgewers en prinsipale 45

Vermoede met betrekking tot monsters van stowwe

18. Indien daar by 'n vervolging weens 'n misdryf ingevolge hierdie Wet bewys word dat 'n monster wat geneem is van 'n stof deur middel of ten opsigte waarvan die misdryf na bewering gepleeg is bepaalde eienskappe besit, word vermoed, totdat die teendeel bewys word, dat so 'n stof dieselfde eienskappe besit. 50

Offences relating to proceeds of defined crime

14. Any person who—
 (a) contravenes a provision of section 6; or
 (b) contravenes a provision of section 7,
5 shall be guilty of an offence.

Offences relating to reporting of information

15. (1) Any person who fails to comply with a provision of section 10(1), (2) or (3) shall be guilty of an offence.
 (2) No prosecution shall be instituted in respect of an offence referred to in
10 subsection (1) without the written authority of the attorney-general concerned.

Offences relating to powers of police officials

16. Any person who—
 (a) hinders or obstructs any police official in the exercise of his powers under section 11;
15 (b) refuses or fails to comply to the best of his ability with any requirement or request made by any police official in the exercise of his powers under section 11;
 (c) refuses or fails to answer to the best of his ability any question which any police official in the exercise of his powers under section 11 has put
20 to him; or
 (d) wilfully furnishes to any police official information which is false or misleading,
shall be guilty of an offence.

Penalties

- 25 17. Any person who is convicted of an offence under this Act shall be liable—
 (a) in the case of an offence referred to in section 16, to a fine, or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment;
 (b) in the case of an offence referred to in section 13(a) or (c), to such fine
30 as the court may deem fit to impose, or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment;
 (c) in the case of an offence referred to in section 13(e), to such fine as the court may deem fit to impose, or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment;
35 (d) in the case of an offence referred to in section 13(b) or (d), 14 or 15, to such fine as the court may deem fit to impose, or to imprisonment for a period not exceeding 15 years, or to both such fine and such imprisonment; and
40 (e) in the case of an offence referred to in section 13(f), to imprisonment for a period not exceeding 25 years, or to both such imprisonment and such fine as the court may deem fit to impose.

*Presumptions and liability of employers and principals***Presumption relating to samples of substances**

- 45 18. If in any prosecution for an offence under this Act it is proved that a sample which was taken from any substance by means or in respect of which the offence allegedly was committed possesses particular properties, it shall be presumed, until the contrary is proved, that any such substance possesses the same properties.

Vermoedens met betrekking tot gesondheidsaangeleenthede

19. (1) Wanneer die vraag by 'n vervolging weens 'n misdryf bedoel in artikel 13(c), (d), (e) of (f) ontstaan—

- (a) of iemand 'n bepaalde gesondheidsdiens- of aanverwante beroep beoefen of beoefen het, word vermoed, totdat die teendeel bewys word, dat so iemand nie die bepaalde gesondheidsdiens- of aanverwante beroep beoefen of beoefen het nie; 5
- (b) of iemand 'n vervaardiger van, of groothandelaar in, farmaseutiese produkte, invoerder of uitvoerder is of was, word vermoed, totdat die teendeel bewys word, dat so iemand nie so 'n vervaardiger, groothandelaar, invoerder of uitvoerder is of was nie; 10
- (c) of 'n dwelmmiddel ingevolge 'n mondelinge opdrag of skriftelike voorskrif van 'n geneesheer, veearts, tandarts of praktisyn verkry of gekoop is, word vermoed, totdat die teendeel bewys word, dat so 'n dwelmmiddel nie ingevolge so 'n opdrag of voorskrif verkry of gekoop is nie. 15

(2) Indien daar by die vervolging van iemand weens 'n misdryf bedoel in artikel 13(e) of (f) bewys word dat die beskuldigde in besit gevind is van 'n hoeveelheid dwelmmiddels wat meer is as die hoeveelheid sodanige dwelmmiddels wat die beskuldigde as geneesmiddel kon verkry of gekoop het ingevolge 'n bepaalde mondelinge opdrag of 'n bepaalde skriftelike voorskrif van 'n geneesheer, veearts, tandarts of praktisyn, word vermoed, totdat die teendeel bewys word, dat die beskuldigde in sodanige dwelmmiddels handel gedryf het. 20

Vermoede met betrekking tot besit van dwelmmiddels

20. Indien daar by die vervolging van iemand weens 'n misdryf ingevolge hierdie Wet bewys word dat 'n dwelmmiddel in die onmiddellike nabyheid van die beskuldigde gevind is, word vermoed, totdat die teendeel bewys word, dat die beskuldigde in besit van so 'n dwelmmiddel gevind is. 25

Vermoedens met betrekking tot handeldryf in dwelmmiddels

21. (1) Indien daar by die vervolging van iemand weens 'n misdryf bedoel— 30
- (a) in artikel 13(f) bewys word dat die beskuldigde—
 - (i) in besit van meer as 115 gram dagga gevind is;
 - (ii) in of op 'n skoolterrein of binne 'n afstand van 100 meter van die grens van bedoelde skoolterrein af in besit van 'n gevaarlike afhanklikheidsvormende stof gevind is; of 35
 - (iii) in besit van 'n ongewenste afhanklikheidsvormende stof, uitgesonderd dagga, gevind is, word vermoed, totdat die teendeel bewys word, dat die beskuldigde in sodanige dagga of stof handel gedryf het;
 - (b) in artikel 13(f) bewys word— 40
 - (i) dat daggaplante van die bestaan waarvan die beskuldigde bewys was of redelikerwys verwag kon word om bewys te gewees het, op 'n bepaalde dag op bewerkte grond gevind is; en
 - (ii) dat die beskuldigde op die bepaalde dag die eienaar, okkupeerder, bestuurder of persoon in beheer van bedoelde grond was, word vermoed, totdat die teendeel bewys word, dat die beskuldigde in sodanige daggaplante handel gedryf het; 45
 - (c) in artikel 13(e) of (f) bewys word dat die beskuldigde 'n dwelmmiddel vervoer het, word vermoed, totdat die teendeel bewys word, dat die beskuldigde in so 'n dwelmmiddel handel gedryf het; 50
 - (d) in artikel 13(e) of (f) bewys word—
 - (i) dat 'n dwelmmiddel op of in 'n dier, voertuig, vaartuig of lugvaartuig gevind is; en
 - (ii) dat die beskuldigde op of in beheer van so 'n dier, voertuig, vaartuig of lugvaartuig was, of dat hy dit vergesel het, word vermoed, totdat die teendeel bewys word, dat die beskuldigde in so 'n dwelmmiddel handel gedryf het. 55

Presumptions relating to health matters

19. (1) Whenever in any prosecution for an offence referred to in section 13(c), (d), (e) or (f) the question arises—

- 5 (a) whether any person is or was practising a particular health service or cognate profession, it shall be presumed, until the contrary is proved, that such person is or was not practising the particular health service or cognate profession;
- 10 (b) whether any person is or was any manufacturer of, or wholesale dealer in, pharmaceutical products, importer or exporter, it shall be presumed, until the contrary is proved, that such person is or was not any such manufacturer, wholesale dealer, importer or exporter;
- 15 (c) whether any drug has been acquired or bought in terms of any oral instruction or prescription in writing of a medical practitioner, veterinarian, dentist or practitioner, it shall be presumed, until the contrary is proved, that such drug has not been acquired or bought in terms of any such instruction or prescription.

(2) If in the prosecution of any person for an offence referred to in section 13(e) or (f) it is proved that the accused was found in possession of a quantity of drugs which exceeds the quantity of such drugs which the accused could have acquired or bought for medicinal purposes in terms of a particular oral instruction or a particular prescription in writing of a medical practitioner, veterinarian, dentist or practitioner, it shall be presumed, until the contrary is proved, that the accused dealt in such drugs.

Presumption relating to possession of drugs

25 20. If in the prosecution of any person for an offence under this Act it is proved that any drug was found in the immediate vicinity of the accused, it shall be presumed, until the contrary is proved, that the accused was found in possession of such drug.

Presumptions relating to dealing in drugs

30 21. (1) If in the prosecution of any person for an offence referred to—

- (a) in section 13(f) it is proved that the accused—
- (i) was found in possession of dagga exceeding 115 grams;
- (ii) was found in possession in or on any school grounds or within a distance of 100 metres from the confines of such school grounds of any dangerous dependence-producing substance; or
- 35 (iii) was found in possession of any undesirable dependence-producing substance, other than dagga,
- it shall be presumed, until the contrary is proved, that the accused dealt in such dagga or substance;
- 40 (b) in section 13(f) it is proved—
- (i) that dagga plants of the existence of which plants the accused was aware or could reasonably be expected to have been aware, were found on a particular day on cultivated land; and
- (ii) that the accused was on the particular day the owner, occupier,
- 45 manager or person in charge of the said land,
- it shall be presumed, until the contrary is proved, that the accused dealt in such dagga plants;
- (c) in section 13(e) or (f) it is proved that the accused conveyed any drug, it shall be presumed, until the contrary is proved, that the accused dealt in such drug;
- 50 (d) in section 13(e) or (f) it is proved—
- (i) that any drug was found on or in any animal, vehicle, vessel or aircraft; and
- (ii) that the accused was on or in charge of, or that he accompanied,
- 55 any such animal, vehicle, vessel or aircraft,
- it shall be presumed, until the contrary is proved, that the accused dealt in such drug.

- (2) By die toepassing van subartikel (1)(a)(ii) beteken—
 “skool” ’n opvoedkundige instelling, uitgesonderd ’n universiteit, ’n
 onderwyskollege of ’n teknikon, waar heeltydse onderwys, met
 inbegrip van pre-primêre onderwys, aan leerlinge verskaf word;
 “skoolterrein”, met betrekking tot ’n skool, grond, ongeag of dit
 aanliggend is of nie, geboue of akkommodasie-, sport- of ander geriewe
 wat gebruik word vir of in verband met die bedrywighede van die skool. 5

Vermoede met betrekking tot verkryging van opbrengs van omskrewe misdaad

22. Indien daar by die vervolging van iemand weens ’n misdryf bedoel in artikel
 14(a) bewys word dat die beskuldigde in besit gevind is van enige eiendom wat die
 opbrengs van ’n omskrewe misdaad was, word vermoed dat die beskuldigde ten
 tyde van die verkryging van bedoelde eiendom geweet het dat dit die opbrengs van
 ’n omskrewe misdaad was, tensy hy bewys— 10
- (a) dat hy daardie eiendom te goeder trou verkry het; en
 (b) dat die omstandighede waaronder hy daardie eiendom verkry het, nie 15
 van so ’n aard was dat dit redelikerwys van hom verwag kon word om te
 vermoed dat dit die opbrengs van ’n omskrewe misdaad was nie.

Vermoede met betrekking tot aanmelding van inligting

23. Indien daar by ’n vervolging weens die versuim om aan ’n bepaling van
 subartikel (1) van artikel 10 te voldoen, bewys word— 20
- (a) dat die beskuldigde op ’n bepaalde dag die eienaar, okkupeerder of
 bestuurder was van ’n vermaaklikheidsplek waartoe toegang verkry of
 verleen word teen vergoeding, hetsy regstreeks of onregstreeks, of op
 grond van ’n bydrae tot ’n fonds of vir die een of ander doel of op grond
 van lidmaatskap van ’n vereniging van persone, of dat bedoelde 25
 vermaaklikheidsplek op die bepaalde dag onder die beheer of toesig van
 die beskuldigde was; en
- (b) dat iemand anders op die bepaalde dag, terwyl hy in of op bedoelde
 vermaaklikheidsplek was, en in stryd met die bepalings van hierdie Wet,
 ’n dwelmmiddel gebruik het of in sy besit gehad het of daarin handel 30
 gedryf het,
 word vermoed dat die beskuldigde rede gehad het vir die vermoede in daardie
 subartikel beoog, tensy hy bewys—
- (i) dat hy op die bepaalde dag nie daarvan bewus was dat iemand so ’n
 dwelmmiddel in of op daardie vermaaklikheidsplek gebruik of in sy besit 35
 het of daarin handel dryf nie; en
- (ii) dat die omstandighede waaronder die bewese gebruik of besit van, of
 handel dryf in, so ’n dwelmmiddel plaasgevind het, nie van so ’n aard was
 dat dit redelikerwys van hom verwag kon word om daarvan bewus te
 gewees het of om te vermoed dat iemand so ’n dwelmmiddel in of op 40
 daardie vermaaklikheidsplek gebruik of in sy besit het of daarin handel
 dryf nie; en
- (iii) indien daardie omstandighede van so ’n aard was dat dit redelikerwys
 van hom verwag kon word om voorsorg te tref teen die gebruik of besit
 van, of handeldryf in, so ’n dwelmmiddel deur enigiemand in of op 45
 daardie vermaaklikheidsplek, dat hy sodanige voorsorg getref het.

Aanspreeklikheid van werkgewers en prinsipale

24. (1) ’n Handeling of versuim van ’n werknemer of verteenwoordiger wat ’n
 misdryf ingevolge hierdie Wet uitmaak, word geag die handeling of versuim van
 sy werkgewer of prinsipaal te wees, en daardie werkgewer of prinsipaal kan ten
 opsigte daarvan skuldig bevind en gevonnissen word, tensy dit uit die getuienis
 blyk— 50

(2) For the purposes of subsection (1)(a)(ii)—

“school” means any educational institution, except a university, a college of education or a technikon, where full-time education, including pre-primary education, is provided to pupils;

5 “school grounds”, in relation to a school, means land, whether it is contiguous or not, buildings or accommodation, sporting or other facilities used for or in connection with the activities of the school.

Presumption relating to acquisition of proceeds of defined crime

22. If in the prosecution of any person for an offence referred to in section 10 14(a) it is proved that the accused was found in possession of any property which was the proceeds of a defined crime, it shall be presumed that the accused knew at the time of the acquisition of such property that it was the proceeds of a defined crime, unless he proves—

- 15 (a) that he acquired that property in good faith; and
 (b) that the circumstances under which he acquired that property were not of such a nature that he could reasonably have been expected to have suspected that it was the proceeds of a defined crime.

Presumption relating to reporting of information

23. If in any prosecution for the failure to comply with a provision of 20 subsection (1) of section 10, it is proved—

- (a) that the accused was on a particular day the owner, occupier or manager of any place of entertainment to which admission is obtained by virtue of any consideration, whether directly or indirectly, or by 25 virtue of any contribution to any fund or for any purpose or by virtue of membership of any association of persons, or that such place of entertainment was on the particular day under the control or supervision of the accused; and
 (b) that on the particular day any other person, while he was in or on such place of entertainment, and in contravention of the provisions of this 30 Act, used or was in possession of, or dealt in, any drug,

it shall be presumed that the accused had reason for the suspicion contemplated in that subsection, unless he proves—

- (i) that he was not on the particular day aware that any person was using or had in his possession or was dealing in such drug in or on that place 35 of entertainment; and
 (ii) that the circumstances under which the proven use or possession of, or dealing in, such drug occurred were not of such a nature that he could reasonably have been expected to have been aware of it or to have suspected that a person was using or had in his possession or was 40 dealing in such drug in or on that place of entertainment; and
 (iii) if those circumstances were of such a nature that it could reasonably be expected of him to have taken precautions against the use or possession of, or dealing in, such drug in or on that place of entertainment by any person, that such precautions had been taken.

45 Liability of employers and principals

24. (1) An act or omission of an employee or agent which constitutes an offence under this Act shall be deemed to be the act or omission of his employer or principal, and that employer or principal may be convicted and sentenced in respect of it, unless it appears from the evidence—

- (a) dat hy bedoelde handeling of versuim nie veroorloof of oogluikend toegelaat het nie; en
- (b) dat hy alle redelike stappe gedoen het om 'n handeling of versuim van die betrokke aard te voorkom; en
- (c) dat 'n handeling of versuim, hetsy wettig of onwettig, van die ten laste gelegde aard onder geen voorwaarde of omstandigheid in die loop van die diens of binne die bestek van die bevoegdheid van die betrokke werknemer of verteenwoordiger geval het nie.

(2) By die toepassing van subartikel (1)(b) word die feit dat 'n werkgewer of prinsipaal 'n handeling of versuim van die betrokke aard verbied het, nie op sigself as voldoende beskou dat hy alle redelike stappe gedoen het om so 'n handeling of versuim te voorkom nie.

(3) Die bepalinge van subartikel (1) onthef nie die betrokke werknemer of verteenwoordiger van aanspreeklikheid om ten opsigte van die betrokke handeling of versuim skuldig bevind en gevonnissen te word nie.

Verbeurdverklaring

Verbeurdverklarings

25. (1) Wanneer iemand aan 'n misdryf ingevolge hierdie Wet skuldig bevind word, moet die hof wat hom skuldig bevind, benewens enige straf wat daardie hof ten opsigte van die misdryf mag opleë—

- (a) enige gelyste stof, dwelmmiddel of eiendom—
 - (i) deur middel waarvan die misdryf gepleeg is;
 - (ii) wat by die pleging van die misdryf gebruik is; of
 - (iii) wat in die veroordeelde se besit gevind is;
- (b) enige dier, voertuig, vaartuig, lugvaartuig, houër of ander voorwerp wat gebruik is—
 - (i) vir die doel van of in verband met die pleging van die misdryf; of
 - (ii) vir die berging, vervoer, verwydering of verberging van enige gelyste stof, dwelmmiddel of eiendom deur middel waarvan die misdryf gepleeg is of wat by die pleging van die misdryf gebruik is;
- (c) in die geval van 'n misdryf in artikel 13(e) of (f) bedoel, enige onroerende eiendom wat vir die doel van of in verband met die pleging van daardie misdryf gebruik is,

en wat kragtens artikel 11(1)(g) in beslag geneem is of in die besit of bewaring of onder die beheer van die veroordeelde is, aan die Staat verbeurd verklaar.

(2) Enigiets verbeurd kragtens subartikel (1) moet, indien dit kragtens artikel 11(1)(g) in beslag geneem is, gehou word of, indien dit in die besit of bewaring of onder die beheer van die veroordeelde is, in beslag geneem en gehou word—

- (a) vir 'n tydperk van 30 dae vanaf die datum van die verbeurdverklaring; of
- (b) indien iemand in artikel 26(1) bedoel binne die tydperk in paragraaf (a) beoog 'n aansoek by die betrokke hof aangaande sy belang in so iets gedoen het, totdat daar tot 'n eindbeslissing ten opsigte van so 'n aansoek geraak is.

Belange van derdes

26. (1) 'n Verbeurdverklaring raak nie 'n belang wat iemand anders as die veroordeelde in die betrokke eiendom, dier, voertuig, vaartuig, lugvaartuig, houër, voorwerp of onroerende eiendom het nie, indien hy bewys—

- (a) in die geval van enige eiendom in paragraaf (a) van artikel 25(1) bedoel—
 - (i) dat hy die belang in daardie eiendom te goeder trou en teen vergoeding, hetsy in kontant of andersins, verkry het; en
 - (ii) dat die omstandighede waaronder hy die belang in daardie eiendom verkry het, nie van so 'n aard was dat dit redelikerwys van hom verwag kon word om te vermoed dat dit die opbrengs van 'n omskrewe misdaad was nie;

- (a) that he did not permit or connive at such act or omission; and
 (b) that he took all reasonable steps to prevent an act or omission of the kind in question; and
 5 (c) that an act or omission, whether legal or illegal, of the character of the act or omission charged did not under any condition or in any circumstance fall within the course of the employment or the scope of the authority of the employee or agent concerned.
- (2) For the purposes of subsection (1)(b) the fact that an employer or principal forbade an act or omission of the kind in question shall not by itself be regarded
 10 as sufficient that he took all reasonable steps to prevent such an act or omission.
- (3) The provisions of subsection (1) shall not relieve the employee or agent concerned from liability to be convicted and sentenced in respect of the act or omission in question.

Forfeiture

15 **Declarations of forfeiture**

25. (1) Whenever any person is convicted of an offence under this Act, the court convicting him shall, in addition to any punishment which that court may impose in respect of the offence, declare—
- 20 (a) any scheduled substance, drug or property—
 (i) by means of which the offence was committed;
 (ii) which was used in the commission of the offence; or
 (iii) which was found in the possession of the convicted person;
 (b) any animal, vehicle, vessel, aircraft, container or other article which was used—
 25 (i) for the purpose of or in connection with the commission of the offence; or
 (ii) for the storage, conveyance, removal or concealment of any scheduled substance, drug or property by means of which the offence was committed or which was used in the commission of the offence;
 30 (c) in the case of an offence referred to in section 13(e) or (f), any immovable property which was used for the purpose of or in connection with the commission of that offence,
 and which was seized under section 11(1)(g) or is in the possession or custody or
 35 under the control of the convicted person, to be forfeited to the State.
- (2) Anything forfeited under subsection (1) shall, if it was seized under section 11(1)(g), be kept or, if it is in the possession or custody or under the control of the convicted person, be seized and kept—
- 40 (a) for a period of 30 days from the date of the declaration of forfeiture; or
 (b) if any person referred to in section 26(1) has within the period contemplated in paragraph (a) made an application to the court concerned regarding his interest in such thing, until a final decision has been rendered in respect of any such application.

Interests of third parties

- 45 26. (1) A declaration of forfeiture shall not affect any interest which any person other than the convicted person may have in the property, animal, vehicle, vessel, aircraft, container, article or immovable property in question, if he proves—
- 50 (a) in the case of any property referred to in paragraph (a) of section 25(1)—
 (i) that he acquired the interest in that property in good faith and for consideration, whether in cash or otherwise; and
 (ii) that the circumstances under which he acquired the interest in that property were not of such a nature that he could reasonably have
 55 been expected to have suspected that it was the proceeds of a defined crime;

- (b) in die geval van enige dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom in paragraaf (b) of (c) van artikel 25(1) bedoel—
- (i) dat hy nie geweet het nie dat die betrokke dier, voertuig, vaartuig, lugvaartuig, houer of voorwerp gebruik was of sou word soos in genoemde paragraaf (b) beoog, of dat die betrokke onroerende eiendom gebruik was of sou word soos in genoemde paragraaf (c) beoog, na gelang van die geval; of
- (ii) dat hy sodanige gebruik nie kon verhoed nie.
- (2) (a) Behoudens die bepalings van subartikel (1) kan die betrokke hof of, indien die betrokke regter of regterlike amptenaar nie beskikbaar is nie, enige regter of regterlike amptenaar van daardie hof te eniger tyd binne 'n tydperk van drie jaar vanaf die datum van die verbeurdverklaring, op aansoek van iemand anders as die veroordeelde wat daarop aanspraak maak dat hy 'n belang in die betrokke eiendom, dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom het, ondersoek instel na so 'n belang en dit bepaal.
- (b) Indien 'n hof in paragraaf (a) bedoel, bevind—
- (i) dat die eiendom, dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom geheel die eiendom van die applikant is, moet die hof die betrokke verbeurdverklaring tersyde stel en gelas dat die eiendom, dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom, na gelang van die geval, aan die applikant terugbesorg word of, indien die Staat daarvoor beskik het, gelas dat die applikant deur die Staat vergoed word in die mate waarin die Staat deur die beskikking verryk is;
- (ii) dat die applikant 'n belang in die eiendom, dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom het—
- (aa) moet die hof gelas dat die eiendom, dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom, na gelang van die geval, per openbare veiling verkoop word en dat die applikant uit die opbrengs van die verkoping 'n bedrag betaal word wat gelyk is aan die waarde van sy belang daarin, maar wat nie die opbrengs van die verkoping oorskry nie; of
- (bb) indien die Staat oor die betrokke eiendom, dier, voertuig, vaartuig, lugvaartuig, houer, voorwerp of onroerende eiendom beskik het, moet die hof gelas dat die applikant deur die Staat vergoed word met 'n bedrag wat gelyk is aan die waarde van sy belang daarin, maar wat nie die verryking van die Staat deur die beskikking oorskry nie.
- (3) Iemand wat hom veronreg voel deur 'n bepaling wat die hof kragtens subartikel (2) gedoen het, kan teen die bepaling appelleer asof dit 'n skuldigbevinding was deur die hof wat die bepaling gedoen het, en so 'n appèl kan óf afsonderlik van óf saam met 'n appèl teen die skuldigbevinding as gevolg waarvan die verbeurdverklaring gemaak is, of teen 'n vonnis wat ten gevolge van so 'n skuldigbevinding opgelê is, verhoor word.

Getuienis ten opsigte van verbeurdverklarings en sekere belange

27. Ten einde 'n verbeurdverklaring te maak of 'n belang kragtens artikel 26(2) te bepaal, kan die hof die getuienis en verrigtinge by die verhoor raadpleeg of die verdere getuienis, hetsy mondeling of by beëdigde verklaring, aanhoor wat hy goedvind.

HOOFSTUK V

OPBRENGS VAN DWELMSMOKKELARY

Toepassing van Hoofstuk

Woordomskrywing

28. (1) In hierdie Hoofstuk, tensy uit die samehang anders blyk, beteken—
- (i) “aangetaste geskenk” 'n geskenk—

- (b) in the case of any animal, vehicle, vessel, aircraft, container, article or immovable property referred to in paragraph (b) or (c) of section 25(1)—
- 5 (i) that he did not know that the animal, vehicle, vessel, aircraft, container or article in question was used or would be used as contemplated in the said paragraph (b), or that the immovable property in question was used or would be used as contemplated in the said paragraph (c), as the case may be; or
- (ii) that he could not prevent such use.
- 10 (2) (a) Subject to the provisions of subsection (1), the court concerned or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court may at any time within a period of three years from the date of the declaration of forfeiture, on the application of any person other than the convicted person who claims that he has any interest in the property, animal,
- 15 vehicle, vessel, aircraft, container, article or immovable property in question, inquire into and determine any such interest.
- (b) If a court referred to in paragraph (a) finds—
- (i) that the property, animal, vehicle, vessel, aircraft, container, article or immovable property is wholly owned by the applicant, the court shall
- 20 set aside the declaration of forfeiture in question and direct that the property, animal, vehicle, vessel, aircraft, container, article or immovable property, as the case may be, be returned to the applicant or, if the State has disposed of it, direct that the applicant be compensated by the State to the extent to which the State has been enriched by the disposal;
- 25 (ii) that the applicant has an interest in the property, animal, vehicle, vessel, aircraft, container, article or immovable property—
- (aa) the court shall direct that the property, animal, vehicle, vessel, aircraft, container, article or immovable property, as the case
- 30 may be, be sold by public auction and that the applicant be paid out of the proceeds of the sale an amount equal to the value of his interest therein, but not exceeding the proceeds of the sale;
- or
- (bb) if the State has disposed of the property, animal, vehicle, vessel,
- 35 aircraft, container, article or immovable property in question, the court shall direct that the applicant be compensated by the State in an amount equal to the value of his interest therein, but not exceeding the enrichment of the State by the disposal.
- (3) Any person aggrieved by a determination made by the court under subsection (2), may appeal against the determination as if it were a conviction by
- 40 the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the declaration of forfeiture was made, or against a sentence imposed as a result of such conviction.

Evidence in respect of declarations of forfeiture and certain interests

- 45 27. In order to make a declaration of forfeiture or to determine any interest under section 26(2), the court may refer to the evidence and proceedings at the trial or hear such further evidence, either orally or by affidavit, as it may deem fit.

CHAPTER V

50 PROCEEDS OF DRUG TRAFFICKING

Application of Chapter

Definitions

28. (1) In this Chapter, unless the context indicates otherwise—
- (i) “affected gift” means any gift—

- (a) wat hoogstens vyf jaar voor die vasgestelde datum deur die betrokke verweerder gegee is; of
- (b) wat te eniger tyd deur die betrokke verweerder gegee is, indien dit 'n geskenk was—
- (i) van eiendom wat deur daardie verweerder ontvang is in verband met dwelmsmokkalery wat deur hom of iemand anders bedryf is; of
- (ii) van eiendom, of 'n deel daarvan, wat regstreeks of onregstreeks in daardie verweerder se hande eiendom verteenwoordig het wat deur hom in daardie verband ontvang is, hetsy so 'n geskenk voor of na die inwerkingtreding van hierdie Wet gegee is; (i)
- (ii) "dwelmsmokkalery" ook—
- (a) 'n handeling in die Republiek wat 'n dwelmmisdryf of 'n ekonomiese misdryf uitmaak; of
- (b) 'n handeling of versuim buite die Republiek wat, indien dit in die Republiek plaasgevind het, 'n dwelmmisdryf of 'n ekonomiese misdryf sou uitgemaak het, of om by so 'n handeling of versuim betrokke te wees; (iv)
- (iii) "hoër hof" 'n provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika, en ook, by die toepassing van artikels 41 tot 45, 'n regter daarvan; (vii)
- (iv) "inbeslagnemingsbevel" 'n bevel in artikel 35(1) bedoel; (ii)
- (v) "inkortingsbevel" 'n bevel in artikel 42(1) bedoel; (vi)
- (vi) "vasgestelde datum", met betrekking tot 'n verweerder—
- (a) indien 'n vervolging weens 'n misdryf in artikel 13(f) of 14(b) bedoel teen die verweerder ingestel is, die datum waarop so 'n vervolging ingestel is; of
- (b) indien 'n inkortingsbevel teen die verweerder gemaak is of gemaak word, die datum van so 'n inkortingsbevel, na gelang van watter datum die vroegste is; (v)
- (vii) "verweerder" iemand teen wie 'n vervolging weens 'n misdryf bedoel in artikel 13(f) of 14(b) ingestel is, ongeag of hy skuldig bevind is of nie, en ook iemand in artikel 41(1)(b) bedoel. (iii)
- (2) In hierdie Hoofstuk, behalwe waar dit onbestaanbaar met die samehang of duidelik onvanpas is, word 'n verwysing—
- (a) na iemand wat eiendom besit, uitgelê as 'n verwysing na iemand wat 'n belang in die eiendom het, en—
- (i) indien die boedel van so iemand gesekwestreer is, ook na die kurator van sy insolvente boedel; of
- (ii) indien so iemand 'n maatskappy of ander regspersoon is wat gelikwedeer word, ook na die likwidateur daarvan;
- (b) na iemand wat eiendom aan iemand anders oordra, uitgelê as 'n verwysing na iemand wat 'n belang in die eiendom aan iemand anders oordra of verleen;
- (c) na enigiets wat in verband met dwelmsmokkalery ontvang is, uitgelê as 'n verwysing ook na enigiets wat in daardie verband sowel as in enige ander verband ontvang is.

Persone wat voordeel uit dwelmsmokkalery getrek het

29. By die toepassing van hierdie Hoofstuk het iemand voordeel uit dwelmsmokkalery getrek indien hy te eniger tyd, hetsy voor of na die inwerkingtreding van hierdie Wet, enige betaling of ander beloning ontvang het in verband met dwelmsmokkalery wat deur hom of iemand anders bedryf is.

Opbrengs van dwelmsmokkalery

30. By die toepassing van hierdie Hoofstuk is enige betaling of ander beloning wat te eniger tyd, hetsy voor of na die inwerkingtreding van hierdie Wet, deur 'n verweerder ontvang is in verband met dwelmsmokkalery wat deur hom of iemand anders bedryf is sy opbrengs van dwelmsmokkalery.

- (a) made by the defendant in question not more than five years before the fixed date; or
- (b) made by the defendant in question at any time, if it was a gift—
- 5 (i) of property received by that defendant in connection with drug trafficking carried on by him or any other person; or
- (ii) of property, or any part thereof, which directly or indirectly represented in that defendant's hands property received by him in that connection,
- 10 whether any such gift was made before or after the commencement of this Act; (i)
- (ii) "confiscation order" means an order referred to in section 35(1); (iv)
- (iii) "defendant" means a person against whom a prosecution for an offence referred to in section 13(f) or 14(b) has been instituted, irrespective of whether he has been convicted or not, and includes a
- 15 person referred to in section 41(1)(b); (vii)
- (iv) "drug trafficking" includes—
- (a) any act in the Republic which constitutes a drug offence or an economic offence; or
- 20 (b) any act or omission outside the Republic which, if it had occurred in the Republic, would have constituted a drug offence or an economic offence,
- or to be concerned in any such act or omission; (ii)
- (v) "fixed date", in relation to a defendant—
- 25 (a) if a prosecution for an offence referred to in section 13(f) or 14(b) has been instituted against the defendant, means the date on which such prosecution has been instituted; or
- (b) if a restraint order has been or is being made against the defendant, means the date of such restraint order,
- 30 whichever is the earlier date; (vi)
- (vi) "restraint order" means an order referred to in section 42(1); (v)
- (vii) "superior court" means a provincial or local division of the Supreme Court of South Africa, and includes, for the purposes of sections 41 to 45, any judge thereof. (iii)
- (2) In this Chapter, except where it is inconsistent with the context or clearly
- 35 inappropriate, any reference—
- (a) to a person who holds property shall be construed as a reference to a person who has any interest in the property, and—
- (i) if the estate of such person has been sequestered, also to the
- 40 executor of his insolvent estate; or
- (ii) if such person is a company or other juristic person which is being wound up, also to the liquidator thereof;
- (b) to a person who transfers property to any other person shall be construed as a reference to a person who transfers or grants to any other person any interest in the property;
- 45 (c) to anything received in connection with drug trafficking shall be construed as a reference also to anything received both in that connection and in some other connection.

Persons who have benefited from drug trafficking

29. For the purposes of this Chapter, a person has benefited from drug

50 trafficking if he has at any time, whether before or after the commencement of this Act, received any payment or other reward in connection with drug trafficking carried on by him or any other person.

Proceeds of drug trafficking

30. For the purposes of this Chapter, any payment or other reward received

55 by a defendant at any time, whether before or after the commencement of this Act, in connection with drug trafficking carried on by him or any other person shall be his proceeds of drug trafficking.

Realiseerbare eiendom

31. (1) Behoudens die bepalings van subartikel (2) is die volgende eiendom realiseerbaar ingevolge die bepalings van hierdie Hoofstuk, naamlik—
- (a) enige eiendom wat in besit van die betrokke verweerder is; en
 - (b) enige eiendom wat in besit is van iemand aan wie daardie verweerder 5
regstreeks of onregstreeks 'n aangetaste geskenk gegee het.
- (2) Eiendom is nie realiseerbare eiendom nie indien 'n verbeurdverklaring ten opsigte van die eiendom van krag is.

Waarde van eiendom

32. (1) By die toepassing van hierdie Hoofstuk is die waarde van eiendom, 10
uitgesonderd geld, met betrekking tot iemand wat die eiendom besit—
- (a) waar iemand anders 'n belang in die eiendom het—
 - (i) die markwaarde van die eiendom; min
 - (ii) die bedrag benodig om 'n beswaring op die eiendom op te hef; en
 - (b) waar niemand anders 'n belang in die eiendom het nie, die markwaarde 15
van die eiendom.
- (2) Ondanks die bepalings van subartikel (1) word 'n verwysing in hierdie Hoofstuk na die waarde van 'n betaling of beloning op 'n bepaalde tydstip uitgelê as 'n verwysing na—
- (a) die waarde van die betaling of beloning op die tydstip waarop die 20
ontvanger dit verkry het soos aangepas om daaropvolgende skommelings in die waarde van geld in berekening te bring; of
 - (b) waar subartikel (3) van toepassing is, die waarde in daardie subartikel genoem, 25
watter waarde ook al die grootste is.
- (3) Indien die ontvanger op die bepaalde tydstip in besit is van—
- (a) die eiendom, uitgesonderd kontant, wat hy ontvang het, is die betrokke 30
waarde die waarde van die eiendom op die bepaalde tydstip; of
 - (b) eiendom, of 'n deel daarvan, wat regstreeks of onregstreeks in sy hande die eiendom verteenwoordig wat hy ontvang het, is die betrokke waarde 30
die waarde van die eiendom, vir sover dit die eiendom verteenwoordig wat hy ontvang het, op die bepaalde tydstip.

Geskenke

33. (1) By die toepassing van hierdie Hoofstuk word 'n verweerder geag 'n 35
geskenk te gegee het indien hy regstreeks of onregstreeks eiendom aan iemand anders oorgedra het vir 'n teenprestasie waarvan die waarde aansienlik minder is as die waarde van die teenprestasie deur die verweerder gelewer.
- (2) By die toepassing van artikel 37(2) word so 'n verweerder geag 'n geskenk te gegee het van daardie aandeel in die eiendom wat in dieselfde verhouding tot die eiendom in sy geheel staan as die verskil tussen die waardes in subartikel (1) 40
bedoel tot die waarde van die teenprestasie gelewer deur daardie verweerder staan.

Afhandeling van verrigtinge teen verweerder

34. By die toepassing van hierdie Hoofstuk is die verrigtinge teen 'n verweerder 45
afgehandel wanneer—
- (a) die verweerder vrygespreek word van, of onskuldig bevind word aan, 'n misdryf in artikel 13(f) of 14(b) bedoel;
 - (b) die hof wat die verweerder aan so 'n misdryf skuldig bevind, die verweerder vonnis sonder om 'n inbeslagnemingsbevel teen hom te verleen; 50
 - (c) die skuldigbevinding ten opsigte van so 'n misdryf op hersiening of appèl tersyde gestel word; of
 - (d) die verweerder aan die inbeslagnemingsbevel wat teen hom verleen is, voldoen.

Realizable property

31. (1) Subject to the provisions of subsection (2), the following property shall be realizable in terms of the provisions of this Chapter, namely—

- 5 (a) any property held by the defendant in question; and
(b) any property held by a person to whom that defendant has directly or indirectly made any affected gift.

(2) Property shall not be realizable property if a declaration of forfeiture is in force in respect of the property.

Value of property

10 32. (1) For the purposes of this Chapter, the value of property, excluding any money, in relation to any person holding the property—

- (a) where any other person holds an interest in the property, shall be—
15 (i) the market value of the property; less
(ii) the amount required to discharge any encumbrance on the property; and
(b) where no other person holds an interest in the property, the market value of the property.

(2) Notwithstanding the provisions of subsection (1), any reference in this Chapter to the value at a particular time of a payment or reward, shall be
20 construed as a reference to—

- (a) the value of the payment or reward at the time when the recipient received it as adjusted to take into account subsequent fluctuations in the value of money; or
(b) where subsection (3) applies, the value mentioned in that subsection,
25 whichever is the greater value.

(3) If at the particular time the recipient holds—

- (a) the property, other than cash, which he received, the value in question shall be the value of the property at the particular time; or
30 (b) property, or any part thereof, which directly or indirectly represents in his hands the property which he received, the value in question shall be the value of the property, in so far as it represents the property which he received, at the relevant time.

Gifts

33. (1) For the purposes of this Chapter, a defendant shall be deemed to have
35 made a gift if he has transferred any property to any other person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration supplied by the defendant.

(2) For the purposes of section 37(2), such a defendant shall be deemed to have made a gift of that share in the property which bears to the property as a
40 whole the same proportion as the difference between the values referred to in subsection (1) bears to the value of the consideration supplied by that defendant.

Conclusion of proceedings against defendant

34. For the purposes of this Chapter, the proceedings against a defendant shall be concluded when—

- 45 (a) the defendant is acquitted or found not guilty of an offence referred to in section 13(f) or 14(b);
(b) the court convicting the defendant of such an offence, sentences the defendant without making a confiscation order against him;
(c) the conviction in respect of such an offence is set aside on review or
50 appeal; or
(d) the defendant satisfies the confiscation order made against him.

*Inbeslagnemingsbevele***Inbeslagnemingsbevele**

35. (1) Wanneer 'n verweerder aan 'n misdryf bedoel in artikel 13(f) of 14(b) skuldig bevind word, kan die hof wat die verweerder skuldig bevind, op aansoek van die staatsaanklaer ondersoek instel na enige voordeel wat die verweerder uit dwelmsmokkelary kon verkry het en, indien daardie hof bevind dat die verweerder voordeel uit dwelmsmokkelary getrek het, kan daardie hof, benewens enige straf wat daardie hof ten opsigte van die misdryf mag oplê, 'n bevel teen die verweerder verleen vir die betaling aan die Staat van die bedrag wat daardie hof gepas ag, watter bedrag—
- (a) nie die waarde van die verweerder se opbrengs van dwelmsmokkelary soos deur daardie hof ooreenkomstig die bepalings van hierdie Hoofstuk bepaal, oorskry nie; of
- (b) indien daardie hof oortuig is dat die bedrag wat opgelewer sou kon word soos in artikel 37(1) beoog minder is as die waarde in paragraaf (a) bedoel, nie 'n bedrag wat na die oordeel van daardie hof aldus opgelewer sou kon word, oorskry nie.
- (2) Geen aansoek in subartikel (1) bedoel, word sonder die skriftelike magtiging van die betrokke prokureur-generaal gedoen nie.
- (3) 'n Hof voor wie verrigtinge kragtens hierdie artikel hangende is, kan—
- (a) ten einde 'n inbeslagnemingsbevel te verleen—
- (i) die getuienis en verrigtinge by die verhoor raadpleeg;
- (ii) die verdere mondelinge getuienis aanhoor wat die hof goedvind;
- (iii) die staatsaanklaer gelas om 'n verklaring in subartikel (1)(a) van artikel 38 bedoel aan die hof voor te lê; of
- (iv) 'n verweerder gelas om 'n verklaring in subartikel (3)(a) van daardie artikel bedoel aan die hof voor te lê;
- (b) behoudens subartikel (1)(b) of subartikel (3)(b) van genoemde artikel, bedoelde verrigtinge na enige dag verdaag op die voorwaardes wat nie met 'n bepaling van die Strafproseswet, 1977 (Wet No. 51 van 1977), in stryd is nie en wat die hof goedvind.
- (4) Ondanks andersluidende bepalings van hierdie artikel moet die hof wat 'n inbeslagnemingsbevel verleen het die inbeslagnemingsbevel in aanmerking neem by die bepaling van die boete wat hy ten opsigte van die betrokke misdryf mag oplê.

Waarde van opbrengs van dwelmsmokkelary

36. (1) Behoudens die bepalings van subartikel (2) is die waarde van 'n verweerder se opbrengs van dwelmsmokkelary die som van die waardes van die betalings of ander belonings wat te eniger tyd, hetsy voor of na die inwerkingtreding van hierdie Wet, deur hom ontvang is in verband met dwelmsmokkelary wat deur hom of iemand anders bedryf is.
- (2) By die bepaling van die waarde van 'n verweerder se opbrengs van dwelmsmokkelary moet die hof—
- (a) waar die hof 'n verbeurdverklaring gemaak het of waar 'n verbeurdverklaring voorheen gemaak is ten opsigte van eiendom wat ten genoeë van die hof bewys word—
- (i) die eiendom te gewees het wat die verweerder ontvang het in verband met dwelmsmokkelary wat deur hom of iemand anders bedryf is; of
- (ii) eiendom, of 'n deel daarvan, te gewees het wat regstreeks of onregstreeks in die verweerder se hande die eiendom verteenwoordig het wat hy in daardie verband ontvang het, die eiendom buite rekening laat;
- (b) waar 'n inbeslagnemingsbevel voorheen teen die verweerder verleen is, daardie opbrengs van dwelmsmokkelary buite rekening laat wat ten genoeë van die hof bewys word by die bepaling van die bedrag wat kragtens daardie inbeslagnemingsbevel verhaal moes word, in aanmerking geneem is.

*Confiscation orders***Confiscation orders**

35. (1) Whenever a defendant is convicted of an offence referred to in section 13(f) or 14(b), the court convicting the defendant may, on the application of the public prosecutor, enquire into any benefit which the defendant may have derived from drug trafficking and, if that court finds that the defendant has benefited from drug trafficking, that court may, in addition to any punishment which that court may impose in respect of the offence, make an order against the defendant for the payment to the State of such amount as that court may consider appropriate, which amount—

(a) shall not exceed the value of the defendant's proceeds of drug trafficking as determined by that court in accordance with the provisions of this Chapter; or

(b) if that court is satisfied that the amount which might be realized as contemplated in section 37(1) is less than the value referred to in paragraph (a), shall not exceed an amount which in the opinion of that court might be so realized.

(2) No application referred to in subsection (1) shall be made without the written authority of the attorney-general concerned.

(3) A court before which proceedings under this section are pending, may—

(a) in order to make a confiscation order—

(i) refer to the evidence and proceedings at the trial;

(ii) hear such further oral evidence as the court may deem fit;

(iii) direct the public prosecutor to tender to the court a statement referred to in subsection (1)(a) of section 38; or

(iv) direct a defendant to tender to the court a statement referred to in subsection (3)(a) of that section;

(b) subject to subsection (1)(b) or subsection (3)(b) of the said section, adjourn such proceedings to any day on such conditions not inconsistent with a provision of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and as the court may deem fit.

(4) Notwithstanding anything to the contrary in this section contained, the court which made a confiscation order shall take the confiscation order into account in determining the fine which it may impose in respect of the offence in question.

Value of proceeds of drug trafficking

36. (1) Subject to the provisions of subsection (2), the value of a defendant's proceeds of drug trafficking shall be the sum of the values of the payments or other rewards received by him at any time, whether before or after the commencement of this Act, in connection with drug trafficking carried on by him or any other person.

(2) In determining the value of a defendant's proceeds of drug trafficking, the court shall—

(a) where the court has made a declaration of forfeiture or where a declaration of forfeiture has previously been made in respect of property which is proved to the satisfaction of the court—

(i) to have been the property which the defendant received in connection with drug trafficking carried on by him or any other person; or

(ii) to have been property, or any part thereof, which directly or indirectly represented in the defendant's hands the property which he received in that connection;

leave the property out of account;

(b) where a confiscation order has previously been made against the defendant, leave out of account those proceeds of drug trafficking which are proved to the satisfaction of the court to have been taken into account in determining the amount to be recovered under that confiscation order.

Bedrae wat opgelewer sou kon word

37. (1) By die toepassing van artikel 35(1)(b) of 38(3)(a) is die bedrag wat opgelewer sou kon word ten tyde van die verlening van 'n inbeslagnemingsbevel teen 'n verweerder, 'n bedrag gelyk aan—
- (a) die som van—
 - (i) die waardes op daardie tydstip van alle realiseerbare eiendom wat in besit van die verweerder is; en
 - (ii) die waardes op daardie tydstip van alle aangetaste geskenke wat deur die verweerder gegee is; min
 - (b) indien daar verpligtings is wat op daardie tydstip voorkeur het, die som van alle bedrae wat na aanleiding van sodanige verpligtings betaalbaar is.
- (2) Ondanks die bepalings van artikel 32(1) maar behoudens die bepalings van artikel 33(2) is die waarde van 'n aangetaste geskenk ten tyde van die verlening van die betrokke inbeslagnemingsbevel—
- (a) die waarde van die aangetaste geskenk op die tydstip waarop die ontvanger dit verkry het soos aangepas om daaropvolgende skommelings in die waarde van geld in berekening te bring; of
 - (b) waar subartikel (3) van toepassing is, die waarde in daardie subartikel genoem,
- watter waarde ook al die grootste is.
- (3) Indien die ontvanger ten tyde van die verlening van die betrokke inbeslagnemingsbevel in besit is van—
- (a) die eiendom, uitgesonderd kontant, wat hy ontvang het, is die betrokke waarde van die eiendom op daardie tydstip; of
 - (b) eiendom, of 'n deel daarvan, wat regstreeks of onregstreeks in sy hande die eiendom verteenwoordig wat hy ontvang het, is die betrokke waarde van die eiendom, vir sover dit die eiendom verteenwoordig wat hy ontvang het, op daardie tydstip.
- (4) By die toepassing van subartikel (1) het 'n verpligting op die betrokke tydstip voorkeur—
- (a) indien dit 'n verpligting van die verweerder is, waar hy deur 'n hof aan 'n misdryf skuldig bevind is—
 - (i) om 'n boete te betaal wat voor daardie tydstip deur die hof opgelê is; of
 - (ii) om 'n ander bedrag te betaal kragtens 'n gevolglike bevel wat voor daardie tydstip deur die hof verleen is;
 - (b) indien dit 'n verpligting is wat—
 - (i) indien die boedel van die verweerder op daardie tydstip insolvent verklaar was; of
 - (ii) waar die verweerder 'n maatskappy of ander regs persoon is, indien so 'n maatskappy of regs persoon op daardie tydstip gelikwieder word, betaalbaar sou wees na aanleiding van 'n versekerde of preferente eis teen die insolvente boedel of teen so 'n maatskappy of regs persoon, na gelang van die geval.

Verklarings met betrekking tot dwelmsmokkelary

38. (1) (a) Die staatsaanklaer kan of, indien aldus deur die hof gelas, moet 'n skriftelike verklaring onder eed of bevestiging deur hom of iemand anders in verband met 'n aangeleentheid wat kragtens artikel 35(1) deur die hof ondersoek word, of wat op die bepaling van die waarde van 'n verweerder se opbrengs van dwelmsmokkelary betrekking het, aan die hof voorlê.
- (b) 'n Afskrif van so 'n verklaring moet aan die verweerder beteken word minstens 14 dae voor die datum waarop daardie verklaring aan die hof voorgelê staan te word.
- (2) (a) Die hof kan 'n verweerder 'n geleentheid bied om die juistheid van 'n bewering te betwis wat in 'n verklaring bedoel in subartikel (1)(a) vervat is, en die verweerder moet, indien hy die juistheid van so 'n bewering betwis, die gronde vermeld waarop hy steun.
- (b) Vir sover die verweerder nie die juistheid van 'n bewering betwis wat in so 'n verklaring vervat is nie, word daardie bewering geag afdoende bewys te wees van die aangeleentheid waarop dit betrekking het.

Amounts which might be realized

37. (1) For the purposes of section 35(1)(b) or 38(3)(a), the amount which might be realized at the time of the making of a confiscation order against a defendant shall be an amount equal to—

- 5 (a) the sum of—
 (i) the values at that time of all realizable property held by the defendant; and
 (ii) the values at that time of all affected gifts made by the defendant; less
10 (b) if there are obligations having priority at that time, the sum of all amounts payable in pursuance of such obligations.

(2) Notwithstanding the provisions of section 32(1) but subject to the provisions of section 33(2), the value of an affected gift at the time of the making of the relevant confiscation order shall be—

- 15 (a) the value of the affected gift at the time when the recipient received it as adjusted to take into account subsequent fluctuations in the value of money; or
 (b) where subsection (3) applies, the value mentioned in that subsection, whichever is the greater value.

20 (3) If at the time of the making of the relevant confiscation order the recipient holds—

- (a) the property, other than cash, which he received, the value in question shall be the value of the property at that time; or
 (b) property, or any part thereof, which directly or indirectly represents in
25 his hands the property which he received, the value in question shall be the value of the property, in so far as it represents the property which he received, at that time.

(4) For the purposes of subsection (1), an obligation has priority at the time in question—

- 30 (a) if it is an obligation of the defendant, where he has been convicted by a court of any offence—
 (i) to pay a fine imposed before that time by the court; or
 (ii) to pay any other amount under any resultant order made before that time by the court;
35 (b) if it is an obligation which—
 (i) if the estate of the defendant had at that time been sequestrated; or
 (ii) where the defendant is a company or other juristic person, if such
40 company or juristic person is at that time being wound up, would be payable in pursuance of any secured or preferent claim against the insolvent estate or against such company or juristic person, as the case may be.

Statements relating to drug trafficking

38. (1) (a) The public prosecutor may or, if so directed by the court, shall
45 tender to the court a statement in writing under oath or affirmation by him or any other person in connection with any matter which is being enquired into by the court under section 35(1), or which relates to the determination of the value of a defendant's proceeds of drug trafficking.

(b) A copy of such statement shall be served on the defendant at least 14 days
50 before the date on which that statement is to be tendered to the court.

(2) (a) The court may afford a defendant an opportunity to dispute the correctness of any allegation contained in a statement referred to in subsection (1)(a), and the defendant shall, if he disputes the correctness of any such allegation, state the grounds on which he relies.

55 (b) In so far as the defendant does not dispute the correctness of any allegation contained in such statement, that allegation shall be deemed to be conclusive proof of the matter to which it relates.

(3) (a) 'n Verweerder kan of, indien aldus deur die hof gelas, moet 'n skriftelike verklaring onder eed of bevestiging deur hom of iemand anders in verband met 'n aangeleentheid wat betrekking het op die bepaling van die bedrag wat opgelewer sou kon word soos in artikel 37(1) beoog aan die hof voorlê.

(b) 'n Afskrif van so 'n verklaring moet aan die staatsaanklaer beteken word minstens 14 dae voor die datum waarop daardie verklaring aan die hof voorgelê staan te word. 5

(4) (a) Die hof kan die staatsaanklaer 'n geleentheid bied om die juistheid van 'n bewering te erken wat in 'n verklaring bedoel in subartikel (3)(a) vervat is.

(b) Vir sover die staatsaanklaer die juistheid van 'n bewering erken wat in so 'n verklaring vervat is, word daardie bewering geag afdoende bewys te wees van die aangeleentheid waarop dit betrekking het. 10

(5) Geen uitdruklike of stilswyende aanvaarding deur 'n verweerder uit hoofde van hierdie artikel dat enige betaling of ander beloning deur hom ontvang is in verband met dwelmsmokkelary wat deur hom of iemand anders bedryf is, is by enige verrigtinge ten opsigte van 'n misdryf as getuienis toelaatbaar nie. 15

Vermoedens met betrekking tot opbrengs van dwelmsmokkelary

39. (1) Vir die doeleindes van 'n ondersoek kragtens artikel 35(1) en, indien daar bevind is dat 'n verweerder voordeel uit dwelmsmokkelary getrek het, by die bepaling van die waarde van sy opbrengs van dwelmsmokkelary word, by ontstentenis van getuienis tot die teendeel, vermoed— 20

(a) dat enige eiendom—

(i) wat te eniger tyd sedert sy skuldigbevinding in sy besit is; of
(ii) wat te eniger tyd sedert die begin van 'n tydperk van vyf jaar voor die vasgestelde datum aan hom oorgedra is, 25

deur hom, op die vroegste tydstip waarop dit in sy besit is, as 'n betaling of ander beloning ontvang is in verband met dwelmsmokkelary wat deur hom bedryf is;

(b) dat enige uitgawes wat sedert die begin van die tydperk in paragraaf (a) beoog deur hom aangegaan is, bestry is uit betalings wat deur hom ontvang is in verband met dwelmsmokkelary wat deur hom bedryf is; en 30

(c) dat, met die doel om die waarde te bepaal van enige eiendom—

(i) wat te eniger tyd deur hom as 'n beloning ontvang is in verband met dwelmsmokkelary wat deur hom of iemand anders bedryf is; of

(ii) wat ingevolge paragraaf (a) vermoed word deur hom as 'n beloning ontvang te gewees het in verband met dwelmsmokkelary wat deur hom bedryf is, 35

hy daardie eiendom vry van 'n ander belang daarin verkry het.

(2) Subartikel (1) is nie van toepassing nie ten opsigte van 'n verweerder wat slegs aan 'n misdryf bedoel in artikel 14(b) skuldig bevind is. 40

Uitwerking van inbeslagnemingsbevele

40. (1) 'n Inbeslagnemingsbevel verleen—

(a) deur 'n landdroshof, uitgesonderd 'n streekhof, het die uitwerking van 'n siviele vonnis van daardie hof;

(b) deur 'n streekhof het die uitwerking van 'n siviele vonnis van die landdroshof van die distrik waarin die betrokke verhoor plaasgevind het. 45

(2) Waar 'n hoër hof 'n inbeslagnemingsbevel verleen—

(a) het die inbeslagnemingsbevel die uitwerking van 'n siviele vonnis van daardie hof; of 50

(b) kan die voorsittende regter die griffier van daardie hof gelas om 'n gewaarmerkte afskrif van die inbeslagnemingsbevel aan te stuur aan die klerk van die landdroshof deur die voorsittende regter aangewys of, indien so 'n hof nie aangewys word nie, aan die klerk van die landdroshof binne die regsgebied waarvan die betrokke misdryf gepleeg is, en, by ontvangs van bedoelde afskrif van die inbeslagnemingsbevel deur die klerk van die betrokke landdroshof, het die inbeslagnemingsbevel die uitwerking van 'n siviele vonnis van daardie landdroshof. 55

(3) (a) A defendant may or, if so directed by the court, shall tender to the court a statement in writing under oath or affirmation by him or any other person in connection with any matter which relates to the determination of the amount which might be realized as contemplated in section 37(1).

5 (b) A copy of such statement shall be served on the public prosecutor at least 14 days before the date on which that statement is to be tendered to the court.

(4) (a) The court may afford the public prosecutor an opportunity to admit the correctness of any allegation contained in a statement referred to in subsection (3)(a).

10 (b) In so far as the public prosecutor admits the correctness of any allegation contained in such statement, that allegation shall be deemed to be conclusive proof of the matter to which it relates.

(5) No express or implied acceptance by a defendant by virtue of this section that any payment or other reward was received by him in connection with drug trafficking carried on by him or any other person shall be admissible as evidence
15 at any proceedings in respect of an offence.

Presumptions relating to proceeds of drug trafficking

39. (1) For the purposes of an enquiry under section 35(1) and, if it is found that a defendant has benefited from drug trafficking, in determining the value of
20 his proceeds of drug trafficking, it shall be presumed, in the absence of evidence to the contrary—

(a) that any property—

(i) held by him at any time since his conviction; or

25 (ii) transferred to him at any time since the beginning of a period of five years before the fixed date,

was received by him, at the earliest time at which he held it, as a payment or other reward in connection with drug trafficking carried on by him;

30 (b) that any expenditure incurred by him since the beginning of the period contemplated in paragraph (a) was met out of payments received by him in connection with drug trafficking carried on by him; and

(c) that, for the purpose of determining the value of any property—

35 (i) received by him at any time as a reward in connection with drug trafficking carried on by him or any other person; or

(ii) presumed in terms of paragraph (a) to have been received by him as a reward in connection with drug trafficking carried on by him, he received that property free of any other interest therein.

(2) Subsection (1) shall not apply in respect of a defendant who has been convicted of an offence referred to in section 14(b) only.

40 Effect of confiscation orders

40. (1) A confiscation order made—

(a) by a magistrate's court, other than a regional court, shall have the effect of a civil judgment of that court;

45 (b) by a regional court shall have the effect of a civil judgment of the magistrate's court of the district in which the relevant trial took place.

(2) Where a superior court makes a confiscation order—

(a) the confiscation order shall have the effect of a civil judgment of that court; or

50 (b) the presiding judge may direct the registrar of that court to forward a certified copy of the confiscation order to the clerk of the magistrate's court designated by the presiding judge or, if no such court is designated, to the clerk of the magistrate's court within the area of jurisdiction of which the offence in question was committed, and, on receipt of the said copy of the confiscation order by the clerk of the
55 magistrate's court concerned, the confiscation order shall have the effect of a civil judgment of that magistrate's court.

Inkortingsbevele

Gevalle waarin inkortingsbevele verleen kan word

41. (1) 'n Hoër hof kan die bevoegdhede by artikel 42(1) aan hom verleen, uitoefen—
- (a) wanneer— 5
 - (i) 'n vervolging weens 'n misdryf in artikel 13(f) of 14(b) bedoel teen die betrokke verweerder ingestel is;
 - (ii) óf 'n inbeslagnemingsbevel teen daardie verweerder verleen is óf dit aan daardie hof blyk dat daar redelike gronde is om te glo dat 'n inbeslagnemingsbevel teen daardie verweerder verleen kan word; 10
en
 - (iii) die verrigtinge teen daardie verweerder nie afgehandel is nie; of
 - (b) wanneer—
 - (i) daardie hof oortuig is dat iemand van 'n misdryf bedoel in artikel 13(f) of 14(b) aangekla staan te word; en 15
 - (ii) dit aan daardie hof blyk dat daar redelike gronde is om te glo dat 'n inbeslagnemingsbevel teen so iemand verleen kan word.
- (2) Waar 'n hoër hof 'n inkortingsbevel uit hoofde van die bepalings van subartikel (1)(b) verleen het, moet daardie hof die inkortingsbevel intrek indien die betrokke persoon nie aangekla word binne die tydperk wat daardie hof redelik ag nie. 20

Inkortingsbevele

42. (1) Die betrokke prokureur-generaal, of 'n staatsaanklaer wat skriftelik deur hom daartoe gemagtig is, kan by wyse van 'n *ex parte*-aansoek 'n bevel by 'n bevoegde hoër hof aanvra wat iemand verbied om, onderworpe aan die 25
voorwaardes en uitsonderings wat in die bevel vermeld word, op enige wyse te handel met enige eiendom waarop die bevel betrekking het.
- (2) 'n Inkortingsbevel kan verleen word—
- (a) ten opsigte van die realiseerbare eiendom wat in die inkortingsbevel vermeld word en wat in besit is van die persoon teen wie die 30
inkortingsbevel verleen word;
 - (b) ten opsigte van alle realiseerbare eiendom wat in besit van so 'n persoon is, hetsy dit in die inkortingsbevel vermeld word al dan nie; en
 - (c) ten opsigte van alle eiendom wat, indien dit na die verlening van die 35
inkortingsbevel aan so 'n persoon oorgedra word, realiseerbare eiendom sal wees.
- (3) (a) 'n Inkortingsbevel moet voorsiening maak vir kennisgewing aan persone wat deur die bevel geraak word.
- (b) Iemand wat deur 'n inkortingsbevel geraak word, kan te eniger tyd aansoek doen om die wysiging of intrekking van die bevel. 40
- (4) Die hoër hof wat 'n inkortingsbevel verleen het—
- (a) kan te eniger tyd die inkortingsbevel wysig of intrek; of
 - (b) moet die inkortingsbevel intrek indien die verrigtinge teen die betrokke verweerder afgehandel is.
- (5) Sonder om afbreuk te doen aan die algemeenheid van die bevoegdhede by subartikel (1) verleen, kan 'n inkortingsbevel die voorsiening wat die hoër hof goeddink, maak—
- (a) vir die redelike lewenskoste van 'n persoon teen wie die inkortingsbevel verleen word en sy familie of gesin; en
 - (b) vir die redelike regsonkoste van so 'n persoon in verband met enige 50
geregtelike stappe wat ingevolge hierdie Wet teen hom gedoen word.

Inbeslagneming van eiendom onderworpe aan inkortingsbevel

43. (1) Ten einde te voorkom dat enige realiseerbare eiendom in stryd met 'n inkortingsbevel vervreem of verwyder word, kan 'n polisiebeampte bedoelde eiendom in beslag neem. 55
- (2) Met eiendom wat kragtens subartikel (1) in beslag geneem is, word gehandel ooreenkomstig die voorskrifte van die hoër hof wat die betrokke inkortingsbevel verleen het.

*Restraint orders***Cases in which restraint orders may be made**

41. (1) A superior court may exercise the powers conferred upon it by section 42(1)—
- 5 (a) whenever—
- (i) a prosecution for an offence referred to in section 13(f) or 14(b) has been instituted against the defendant in question;
- (ii) either a confiscation order has been made against that defendant or it appears to that court that there are reasonable grounds for believing that a confiscation order may be made against that defendant; and
- 10 (iii) the proceedings against that defendant have not been concluded; or
- (b) whenever—
- 15 (i) that court is satisfied that a person is to be charged with an offence referred to in section 13(f) or 14(b); and
- (ii) it appears to that court that there are reasonable grounds for believing that a confiscation order may be made against such person.
- 20 (2) Where a superior court has made a restraint order by virtue of the provisions of subsection (1)(b), that court shall rescind the restraint order if the relevant person is not charged within such period as that court may consider reasonable.

Restraint orders

- 25 42. (1) The attorney-general concerned, or any public prosecutor authorized thereto in writing by him, may by way of an *ex parte* application apply to a competent superior court for an order prohibiting any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property to which the order relates.
- 30 (2) A restraint order may be made—
- (a) in respect of such realizable property as may be specified in the restraint order and which is held by the person against whom the restraint order is being made;
- (b) in respect of all realizable property held by such person, whether it is specified in the restraint order or not; and
- 35 (c) in respect of all property which, if it is transferred to such person after the making of the restraint order, would be realizable property.
- (3) (a) A restraint order shall provide for notice to be given to persons affected by the order.
- 40 (b) Any person affected by a restraint order may at any time apply for the variation or rescission of the order.
- (4) The superior court which made a restraint order—
- (a) may at any time vary or rescind the restraint order; or
- (b) shall rescind the restraint order if the proceedings against the defendant in question are concluded.
- 45 (5) Without derogating from the generality of the powers conferred by subsection (1), a restraint order may make such provision as the superior court thinks fit—
- (a) for the reasonable living expenses of a person against whom the restraint order is being made and his family or household; and
- 50 (b) for the reasonable legal expenses of such person in connection with any proceedings instituted against him in terms of this Act.

Seizure of property subject to restraint order

43. (1) In order to prevent any realizable property from being disposed of or removed contrary to a restraint order, any police officer may seize any such property.
- 55 (2) Property seized under subsection (1) shall be dealt with in accordance with the directions of the superior court which made the relevant restraint order.

Aanstelling van *curator bonis* ten opsigte van eiendom onderworpe aan inkortingsbevel

44. (1) Waar 'n hoër hof 'n inkortingsbevel verleen het, kan daardie hof te eniger tyd—
- (a) 'n *curator bonis* aanstel om, behoudens die voorskrifte van daardie hof, namens die persoon teen wie die inkortingsbevel verleen is een of meer van die volgende te doen, naamlik—
 - (i) om 'n bepaalde handeling te verrig ten opsigte van enige van of al die eiendom waarop die inkortingsbevel betrekking het;
 - (ii) om vir bedoelde eiendom te sorg;
 - (iii) om bedoelde eiendom te administreer; en
 - (iv) waar bedoelde eiendom 'n besigheid of onderneming is, om, met inagneming van enige toepaslike wetsbepaling, die besigheid of onderneming voort te sit;
 - (b) die persoon teen wie die inkortingsbevel verleen is, beveel om onverwyld, of binne die tydperk wat daardie hof bepaal, enige eiendom ten opsigte waarvan 'n *curator bonis* kragtens paragraaf (a) aangestel is in die bewaring van daardie *curator bonis* af te gee.
- (2) Iemand wat geraak word deur 'n bevel in subartikel (1)(b) beoog, kan te eniger tyd aansoek doen—
- (a) om die wysiging of intrekking van die bevel; en
 - (b) om die wysiging van die bewoording van die aanstelling van die betrokke *curator bonis* of om die ontslag van daardie *curator bonis*.
- (3) Die hoër hof wat 'n bevel beoog in subartikel (1)(b) verleen het—
- (a) kan te eniger tyd—
 - (i) die bevel wysig of intrek; of
 - (ii) die bewoording van die aanstelling van die betrokke *curator bonis* wysig of daardie *curator bonis* ontslaan; of
 - (b) moet die bevel intrek en die betrokke *curator bonis* ontslaan indien die betrokke inkortingsbevel ingetrek word.

Bevele ten opsigte van onroerende eiendom onderworpe aan inkortingsbevel

45. (1) 'n Hoër hof wat 'n inkortingsbevel ten opsigte van onroerende eiendom verleen het, kan te eniger tyd, met die doel om die betaling aan die Staat—
- (a) waar 'n inbeslagnemingsbevel nog nie verleen is nie, van 'n bedrag gelyk aan die jongste waarde van die onroerende eiendom; of
 - (b) waar 'n inbeslagnemingsbevel verleen is, van 'n bedrag van hoogstens die bedrag wat kragtens die inbeslagnemingsbevel betaalbaar is,
- te verseker, die betrokke registrateur van aktes beveel om een of meer van die beperkings in subartikel (2) beoog op die titelbewys van die onroerende eiendom aan te teken.
- (2) 'n Bevel in subartikel (1) beoog, kan ten opsigte van die volgende beperkings verleen word, naamlik—
- (a) dat die onroerende eiendom nie sonder die toestemming van die hoër hof met verband of andersins beswaar mag word nie;
 - (b) dat die onroerende eiendom nie sonder die toestemming van die hoër hof vir beslaglegging vatbaar is of uitgewin mag word nie; en
 - (c) dat die onroerende eiendom nie sonder die toestemming van die hoër hof—
 - (i) op die betrokke Meester van die Hooggeregshof of kurator, na gelang van die geval, oorgaan nie wanneer die boedel van die eenaar van daardie onroerende eiendom gesekwestreer word; of
 - (ii) waar die eenaar van daardie onroerende eiendom 'n maatskappy of ander regspersoon is wat gelikwieder word, deel uitmaak van die bates van so 'n maatskappy of regspersoon nie,
- indien die eenaar van daardie onroerende eiendom nog nie die betaling in daardie subartikel bedoel aan die Staat gemaak het nie.
- (3) Ten einde aan subartikel (1) gevolg te gee, moet die betrokke registrateur van aktes—
- (a) die nodige aantekeninge in sy registers en die nodige endossement op die kantoorafskrif van die titelbewys aanbring, en daarna is so 'n beperking

Appointment of *curator bonis* in respect of property subject to restraint order

44. (1) Where a superior court has made a restraint order, that court may at any time—

- 5 (a) appoint a *curator bonis* to do, subject to the directions of that court, any one or more of the following on behalf of the person against whom the restraint order has been made, namely—
- (i) to perform any particular act in respect of any of or all the property to which the restraint order relates;
- (ii) to take care of the said property;
- 10 (iii) to administer the said property; and
- (iv) where the said property is a business or undertaking, to carry on, with due regard to any law which may be applicable, the business or undertaking;
- 15 (b) order the person against whom the restraint order has been made to surrender forthwith, or within such period as that court may determine, any property in respect of which a *curator bonis* has been appointed under paragraph (a), into the custody of that *curator bonis*.
- (2) Any person affected by an order contemplated in subsection (1)(b) may at any time apply—
- 20 (a) for the variation or rescission of the order; and
- (b) for the variation of the terms of the appointment of the *curator bonis* concerned or for the discharge of that *curator bonis*.
- (3) The superior court which made an order contemplated in subsection (1)(b)—
- 25 (a) may at any time—
- (i) vary or rescind the order; or
- (ii) vary the terms of the appointment of the *curator bonis* concerned or discharge that *curator bonis*; or
- 30 (b) shall rescind the order and discharge the *curator bonis* concerned if the relevant restraint order is rescinded.

Orders in respect of immovable property subject to restraint order

45. (1) A superior court which has made a restraint order in respect of immovable property may at any time, with a view to ensuring the payment to the State—

- 35 (a) where a confiscation order has not been made, of an amount equal to the most recent value of the immovable property; or
- (b) where a confiscation order has been made, of an amount not exceeding the amount payable under the confiscation order,
- order the registrar of deeds concerned to endorse any one or more of the
- 40 restrictions contemplated in subsection (2) on the title deed of the immovable property.
- (2) An order contemplated in subsection (1) may be made in respect of the following restrictions, namely—
- 45 (a) that the immovable property shall not without the consent of the superior court be mortgaged or otherwise encumbered;
- (b) that the immovable property shall not without the consent of the superior court be attached or sold in execution; and
- (c) that the immovable property shall not without the consent of the superior court—
- 50 (i) vest in the Master of the Supreme Court or trustee concerned, as the case may be, when the estate of the owner of that immovable property is sequestered; or
- (ii) where the owner of that immovable property is a company or other juristic person which is being wound up, form part of the
- 55 assets of such company or juristic person,
- if the owner of that immovable property has not made the payment referred to in that subsection to the State.
- (3) In order to give effect to subsection (1), the registrar of deeds concerned shall—
- 60 (a) make the necessary entries in his registers and the necessary endorsement on the office copy of the title deed, and thereupon any such

- teenoor alle persone van krag behalwe, in die geval van 'n beperking in paragraaf (b) van subartikel (2) beoog, teenoor iemand ten gunste van wie 'n verband of ander las teen die titelbewys van onroerende eiendom geregistreer was voordat die beperking op die titelbewys van die onroerende eiendom aangeteken is, maar verval so 'n beperking by die oordrag van eiendomsreg van die betrokke onroerende eiendom; 5
- (b) wanneer die oorspronklike titelbewys aan hom voorgelê word, die nodige endossement daarop aanbring.
- (4) Tensy die hoër hof anders gelas, berus die bewaring van onroerende eiendom op die titelbewys waarvan 'n beperking beoog in paragraaf (c) van subartikel (2) aangeteken is, vanaf die datum waarop— 10
- (a) die boedel van die eienaar van die onroerende eiendom gesekwestreer word; of
- (b) waar die eienaar van die onroerende eiendom 'n maatskappy of ander regspersoon is, so 'n maatskappy of regspersoon gelikwieder word, 15
- by die persoon by wie bedoelde bewaring sou berus het indien so 'n beperking nie aldus aangeteken was nie.
- (5) Waar die hoër hof sy toestemming verleen het ten opsigte van 'n beperking in paragraaf (c) van subartikel (2) beoog en wat op die titelbewys van onroerende eiendom aangeteken is, word die onroerende eiendom geag— 20
- (a) indien die boedel van die eienaar van die onroerende eiendom gesekwestreer is, op die betrokke Meester van die Hooggeregshof of kurator, na gelang van die geval, oor te gegaan het asof so 'n beperking nie aldus aangeteken was nie; of
- (b) indien die eienaar van die onroerende eiendom 'n maatskappy of ander regspersoon is wat gelikwieder is, deel uit te maak het van die bates van so 'n maatskappy of regspersoon asof so 'n beperking nie aldus aangeteken was nie. 25
- (6) Iemand wat geraak word deur 'n bevel in subartikel (1) beoog, kan te eniger tyd aansoek doen om die intrekking van die bevel. 30
- (7) (a) Die hoër hof wat 'n bevel beoog in subartikel (1) verleen het—
- (i) kan te eniger tyd die bevel intrek; of
- (ii) moet die bevel intrek indien die betrokke inkortingsbevel ingetrek word of die bedrag waarvan die betaling deur die bevel verseker word met die toestemming van daardie hof geregtelik inbetaal is. 35
- (b) Indien so 'n bevel ingetrek word, moet die hoër hof die betrokke registrateur van aktes gelas om enige beperking wat uit hoofde van daardie bevel op die titelakte van onroerende eiendom aangeteken is, te rojeer, en daardie registrateur van aktes gee aan so 'n lasgewing gevolg.

Tegeldemaking van eiendom

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Tegeldemaking van eiendom

46. (1) 'n Hoër hof kan die bevoegdhede by subartikel (2) aan hom verleen, uitoefen wanneer—
- (a) 'n inbeslagnemingsbevel teen die betrokke verweerder verleen is;
- (b) so 'n inbeslagnemingsbevel nie meer aan hersiening of appèl onderhewig is nie; en 45
- (c) die verrigtinge teen daardie verweerder nie afgehandel is nie.
- (2) 'n Bevoegde hoër hof kan, op aansoek van die betrokke prokureur-generaal of 'n staatsaanklaer wat skriftelik deur daardie prokureur-generaal daartoe gemagtig is— 50
- (a) indien 'n *curator bonis* nog nie ten opsigte van enige van die betrokke eiendom aangestel is nie, 'n *curator bonis* ten opsigte van realiseerbare eiendom aanstel;
- (b) behoudens subartikel (3), 'n *curator bonis* kragtens paragraaf (a) van artikel 44(1) of kragtens paragraaf (a) van hierdie subartikel aangestel, na gelang van die geval, magtig om enige realiseerbare eiendom te gelde te maak op die wyse wat daardie hof bepaal; 55
- (c) 'n persoon wat realiseerbare eiendom in sy besit het, beveel om bedoelde eiendom onverwyld af te gee in die bewaring van 'n *curator bonis* kragtens paragraaf (a) van artikel 44(1) of kragtens paragraaf (a) van hierdie subartikel aangestel, na gelang van die geval. 60

- restriction shall be effective against all persons except, in the case of a restriction contemplated in paragraph (b) of subsection (2), against any person in whose favour a mortgage bond or other charge was registered against the title deed of immovable property prior to the endorsement of the restriction on the title deed of the immovable property, but shall lapse on the transfer of ownership of the immovable property in question;
- (b) when the original of the title deed is produced to him, make the necessary endorsement thereon.
- (4) Unless the superior court directs otherwise, the custody of immovable property on the title deed of which a restriction contemplated in paragraph (c) of subsection (2) was endorsed shall vest as from the date on which—
- (a) the estate of the owner of the immovable property is sequestered; or
- (b) where the owner of the immovable property is a company or other juristic person, such company or juristic person is being wound up, in the person in whom the said custody would have vested if such a restriction were not so endorsed.
- (5) Where the superior court granted its consent in respect of a restriction contemplated in paragraph (c) of subsection (2) and endorsed on the title deed of immovable property, the immovable property shall be deemed—
- (a) if the estate of the owner of the immovable property was sequestered, to have vested in the Master of the Supreme Court or trustee concerned, as the case may be, as if such a restriction were not so endorsed; or
- (b) if the owner of the immovable property is a company or other juristic person which is being wound up, to have formed part of the assets of such company or juristic person as if such a restriction were not so endorsed.
- (6) Any person affected by an order contemplated in subsection (1) may at any time apply for the rescission of the order.
- (7) (a) The superior court which made an order contemplated in subsection (1)—
- (i) may at any time rescind the order; or
- (ii) shall rescind the order if the relevant restraint order is rescinded or the amount payment of which is ensured by the order has with the consent of that court been paid into court.
- (b) If such order is rescinded, the superior court shall direct the registrar of deeds concerned to cancel any restriction endorsed by virtue of that order on the title deed of immovable property, and that registrar of deeds shall give effect to any such direction.

Realization of property

Realization of property

46. (1) A superior court may exercise the powers conferred upon it by subsection (2) whenever—
- (a) a confiscation order has been made against the defendant in question;
- (b) such confiscation order is no longer subject to review or appeal; and
- (c) the proceedings against that defendant have not been concluded.
- (2) A competent superior court may, on the application of the attorney-general concerned or any public prosecutor authorized thereto in writing by that attorney-general—
- (a) if a *curator bonis* has not been appointed in respect of any of the property in question, appoint a *curator bonis* in respect of realizable property;
- (b) subject to subsection (3), authorize a *curator bonis* appointed under paragraph (a) of section 44(1) or under paragraph (a) of this subsection, as the case may be, to realize any realizable property in such manner as that court may determine;
- (c) order any person who holds realizable property to surrender the said property forthwith into the custody of a *curator bonis* appointed under paragraph (a) of section 44(1) or under paragraph (a) of this subsection, as the case may be.

(3) 'n Hoër hof oefen nie sy bevoegdhede kragtens subartikel (2)(b) uit nie tensy hy alle persone wat 'n belang in die betrokke eiendom het 'n geleentheid gegee het om verhoë in verband met die tegeldemaking van daardie eiendom tot hom te rig.

Aanwending van sekere somme geld

47. Die volgende somme geld wat in besit is van 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, naamlik— 5

(a) die opbrengs van enige realiseerbare eiendom wat uit hoofde van artikel 46 te gelde gemaak is; en

(b) enige ander somme geld, synde eiendom besit deur die betrokke verweerder, 10

word, nadat die betalings wat die hoër hof gelas uit bedoelde somme geld gemaak is, ten behoeve van daardie verweerder aangewend ter voldoening aan die inbeslagnemingsbevel wat teen hom verleen is: Met dien verstande dat, indien daar somme geld in die *curator bonis* se besit oorbly nadat die bedrag wat kragtens so 'n inbeslagnemingsbevel betaalbaar is ten volle betaal is, die *curator bonis* daardie somme geld verdeel— 15

(i) onder dié persone wat in besit was van realiseerbare eiendom wat uit hoofde van artikel 46 te gelde gemaak is; en

(ii) in die verhoudings,

wat daardie hof, nadat hy bedoelde persone 'n geleentheid gegee het om verhoë in verband met die verdeling van daardie somme geld tot hom te rig, gelas. 20

Algemeen

Werkzaamhede van *curator bonis*

48. (1) Onmiddellik nadat 'n brief van kuratele uitgereik is aan 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, moet die *curator bonis* al die eiendom ten opsigte waarvan hy aangestel is, asook enige boek, aantekening of ander stuk in die besit of bewaring of onder die beheer van 'n persoon in artikel 44(1)(b) of 46(2)(c) bedoel wat op bedoelde eiendom betrekking het, in sy bewaring neem. 25

(2) Behalwe vir sover hierdie Hoofstuk anders bepaal, is die bepalings van die Boedelwet, 1965 (Wet No. 66 van 1965), *mutatis mutandis* van toepassing ten opsigte van 'n *curator bonis* kragtens hierdie Hoofstuk aangestel. 30

Uitoefening van bevoegdhede deur hoër hof en *curator bonis*

49. (1) Die bevoegdhede verleen aan 'n hoër hof by artikels 42 tot 47, of aan 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, word—

(a) behoudens paragrafe (b) en (c), uitgeoefen met die oog op die beskikbaarstelling vir die voldoening aan 'n inbeslagnemingsbevel wat teen die betrokke verweerder verleen is of wat teen daardie verweerder verleen kan word, na gelang van die geval, van die heersende waarde van realiseerbare eiendom wat in besit van die een of ander persoon is deur die tegeldemaking van bedoelde eiendom; 40

(b) in die geval van realiseerbare eiendom besit deur iemand aan wie daardie verweerder regstreeks of onregstreeks 'n aangetaste geskenk gegee het, uitgeoefen met die oog op die tegeldemaking van hoogstens die heersende waarde van so 'n geskenk;

(c) uitgeoefen met die oog daarop om 'n ander persoon as daardie verweerder of die ontvanger van so 'n geskenk in staat te stel om die waarde van enige eiendom deur hom besit, te behou of te verhaal, 45

en, behalwe soos in artikels 37(1) en 42(5) bepaal, word 'n verpligting van daardie verweerder of die ontvanger van so 'n geskenk wat in stryd is met die verpligting om aan 'n inbeslagnemingsbevel te voldoen, buite rekening gelaat. 50

(2) Die bepalings van subartikel (1) word nie so uitgelê nie dat dit 'n hoër hof verbied om 'n bykomende bevel te verleen ten opsigte van 'n skuld wat aan die Staat verskuldig is.

Wysiging van inbeslagnemingsbevele

50. (1) Indien die hoër hof oortuig is dat die realiseerbare eiendom onvoldoende 55

(3) A superior court shall not exercise its powers under subsection (2)(b) unless it has afforded all persons having any interest in the property in question an opportunity to make representations to it in connection with the realization of that property.

5 Application of certain sums of money

47. The following sums of money in the hands of a *curator bonis* appointed under this Chapter, namely—

- (a) the proceeds of any realizable property realized by virtue of section 46; and
- 10 (b) any other sums of money, being property held by the defendant in question,

shall, after such payments as the superior court may direct have been made out of such sums of money, be applied on that defendant's behalf in satisfaction of the confiscation order made against him: Provided that, if sums of money remain 15 in the hands of the *curator bonis* after the amount payable under such confiscation order has been fully paid, the *curator bonis* shall distribute those sums of money—

- (i) among such persons who held realizable property which has been realized by virtue of section 46; and
 - 20 (ii) in such proportions,
- as that court may, after affording such persons an opportunity to make representations to it in connection with the distribution of those sums of money, direct.

General

Functions of *curator bonis*

25 48. (1) Immediately after letters of curatorship have been granted to a *curator bonis* appointed under this Chapter, the *curator bonis* shall take into his custody all the property in respect of which he was appointed, as well as any book, record or other document in the possession or custody or under the control of any person referred to in section 44(1)(b) or 46(2)(c) which relates to the said 30 property.

(2) Save as is otherwise provided in this Chapter, the provisions of the Administration of Estates Act, 1965 (Act No. 66 of 1965), shall *mutatis mutandis* apply in respect of a *curator bonis* appointed under this Chapter.

Exercise of powers by superior court and *curator bonis*

35 49. (1) The powers conferred upon a superior court by sections 42 to 47, or upon a *curator bonis* appointed under this Chapter, shall—

- (a) subject to paragraphs (b) and (c), be exercised with a view to making available for satisfying any confiscation order which has been made against the defendant in question or which may be made against that 40 defendant, as the case may be, the value for the time being of realizable property held by any person by the realization of such property;
- (b) in the case of realizable property held by a person to whom that defendant has directly or indirectly made an affected gift, be exercised with a view to realizing no more than the value for the time being of 45 such gift;
- (c) be exercised with a view to allowing any person other than that defendant or the recipient of such gift to retain or recover the value of any property held by him,

and, except as provided in sections 37(1) and 42(5), any obligation of that 50 defendant or the recipient of such gift which conflicts with the obligation to satisfy a confiscation order shall be left out of account.

(2) The provisions of subsection (1) shall not be construed as prohibiting any superior court from making any additional order in respect of a debt owed to the State.

55 Variation of confiscation orders

50. (1) If the superior court is satisfied that the realizable property is

is vir die betaling van die balans van die bedrag wat kragtens 'n inbeslagnemingsbevel teen die betrokke verweerder verhaal moet word, kan daardie hof, op aansoek van daardie verweerder, 'n sertifikaat met dié strekking uitreik waarin die redes waarom daardie hof aldus oortuig is, vermeld word.

(2) By die toepassing van subartikel (1) kan die hoër hof— 5

(a) in die geval van realiseerbare eiendom besit—

(i) deur iemand wie se boedel gesekwestreer is, die mate waarin die opbrengs van eiendom in daardie boedel onder die skuldeisers verdeel kan word in aanmerking neem; of

(ii) deur 'n maatskappy of ander regspersoon wat gelikwieder word, die mate waarin die bates van so 'n maatskappy of regspersoon onder die skuldeisers verdeel kan word in aanmerking neem; 10

(b) enige onvoldoendheid betreffende die realiseerbare eiendom buite rekening laat wat na die oordeel van daardie hof in sy geheel of gedeeltelik toe te skryf is aan enigiets wat die verweerder gedoen het met die doel om enige eiendom wat in besit is van iemand aan wie die verweerder regstreeks of onregstreeks 'n aangetaste geskenk gegee het, te beskerm teen die risiko van 'n tegeldemaking ingevolge hierdie Hoofstuk. 15

(3) (a) Indien 'n sertifikaat bedoel in subartikel (1) uitgereik is, kan die verweerder by die hof wat die inbeslagnemingsbevel teen hom verleen het aansoek doen om die vermindering van die bedrag wat kragtens daardie inbeslagnemingsbevel verhaal moet word. 20

(b) Bedoelde hof of, indien die betrokke regter of regterlike amptenaar nie beskikbaar is nie, enige regter of regterlike amptenaar van daardie hof kan die bedrag wat kragtens so 'n inbeslagnemingsbevel verhaal moet word, vervang deur die mindere bedrag wat daardie hof in die omstandighede van die geval billik ag. 25

Uitwerking van sekwestrasie van boedels op realiseerbare eiendom

51. (1) Wanneer die boedel van iemand wat realiseerbare eiendom besit, gesekwestreer word, gaan— 30

(a) geen eiendom wat dan onderworpe is aan 'n inkortingsbevel wat voor die datum van sekwestrasie verleen is; en

(b) geen opbrengs van enige realiseerbare eiendom wat uit hoofde van artikel 46 te gelde gemaak is en wat dan in besit is van 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, 35

oor op die betrokke Meester van die Hooggeregshof of kurator, na gelang van die geval, nie.

(2) Wanneer die boedel van 'n verweerder wat regstreeks of onregstreeks 'n aangetaste geskenk aan iemand anders gegee het, gesekwestreer word—

(a) mag 'n hof nie kragtens artikel 29, 30 of 31 van die Insolvensiewet, 1936 (Wet No. 24 van 1936), die vervreemding van so 'n geskenk tot niet maak nie— 40

(i) indien 'n vervolging weens 'n misdryf in artikel 13(f) of 14(b) bedoel teen die verweerder ingestel is en die verrigtinge teen hom nie afgehandel is nie; of 45

(ii) indien die eiendom van so 'n ander persoon aan 'n inkortingsbevel onderworpe is;

(b) moet 'n hof wat 'n vervreemding in paragraaf (a) beoog na die afhandeling van die verrigtinge teen die verweerder tot niet maak, enige tegeldemaking van die eiendom van so 'n ander persoon ingevolge hierdie Hoofstuk in aanmerking neem. 50

(3) Waar die boedel van 'n insolvent gesekwestreer is, word die bevoegdhede verleen aan 'n hoër hof by artikels 42 tot 47 en 49(2), of aan 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, nie uitgeoefen nie—

(a) ten opsigte van enige eiendom wat deel van daardie boedel uitmaak; of 55

(b) ten opsigte van enige eiendom wat die betrokke kurator kragtens artikel 23 van die Insolvensiewet, 1936, van die insolvent mag invorder.

(4) Die Insolvensiewet, 1936, word nie so uitgelê nie dat dit 'n hoër hof of *curator bonis* kragtens hierdie Hoofstuk aangestel, verbied om 'n bevoegdheid in subartikel (3) beoog ten opsigte van enige eiendom of opbrengs in subartikel (1) vermeld, uit te oefen. 60

inadequate for the payment of the balance of the amount to be recovered under a confiscation order against the defendant in question, that court may, on the application of that defendant, issue a certificate to that effect stating the reasons for that court being so satisfied.

- 5 (2) For the purposes of subsection (1), the superior court may—
- (a) in the case of realizable property held—
- (i) by a person whose estate has been sequestered, take into account the extent to which the proceeds of property in that estate may be distributed among the creditors; or
- 10 (ii) by a company or other juristic person which is being wound up, take into account the extent to which the assets of such company or juristic person may be distributed among the creditors;
- (b) leave out of account any inadequacy in the realizable property which is in the opinion of that court wholly or partly attributable to anything
- 15 done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made an affected gift from the risk of any realization under this Chapter.
- (3) (a) If a certificate referred to in subsection (1) has been issued, the defendant may apply to the court which made the confiscation order against him
- 20 for the reduction of the amount to be recovered under that confiscation order.
- (b) Such court or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court may substitute for the amount to be recovered under such confiscation order such lesser amount as that court may consider just in the circumstances of the case.

25 Effect of sequestration of estates on realizable property

51. (1) When the estate of a person who holds realizable property is sequestered—

- (a) no property for the time being subject to a restraint order made before the date of sequestration; and
- 30 (b) no proceeds of any realizable property realized by virtue of section 46 and for the time being in the hands of a *curator bonis* appointed under this Chapter,

shall vest in the Master of the Supreme Court or trustee concerned, as the case may be.

35 (2) When the estate of a defendant who has directly or indirectly made an affected gift to any other person is sequestered—

- (a) no court shall set aside the disposition of such gift under section 29, 30 or 31 of the Insolvency Act, 1936 (Act No. 24 of 1936)—
- 40 (i) if a prosecution for an offence referred to in section 13(f) or 14(b) has been instituted against the defendant and the proceedings against him have not been concluded; or
- (ii) if the property of such other person is subject to a restraint order;
- (b) any court which sets aside any disposition contemplated in paragraph (a) after the conclusion of the proceedings against the defendant, shall
- 45 take into account any realization of the property of such other person under this Chapter.

(3) Where the estate of an insolvent has been sequestered, the powers conferred upon a superior court by sections 42 to 47 and 49(2), or upon a *curator bonis* appointed under this Chapter, shall not be exercised—

- 50 (a) in respect of any property which forms part of that estate; or
- (b) in respect of any property which the trustee concerned is entitled to claim from the insolvent under section 23 of the Insolvency Act, 1936.

(4) Nothing in the Insolvency Act, 1936, shall be construed as prohibiting any superior court or *curator bonis* appointed under this Chapter from exercising any

55 power contemplated in subsection (3) in respect of any property or proceeds mentioned in subsection (1).

Uitwerking van likwidasie van maatskappy of ander regpersone op realiseerbare eiendom

52. (1) Wanneer die een of ander bevoegde hof 'n bevel vir die likwidasie van 'n maatskappy of ander regpersoon wat realiseerbare eiendom besit, verleen het of 'n besluit vir die vrywillige likwidasie van so 'n maatskappy of regpersoon ingevolge 'n toepaslike wetsbepaling geregistreer is, maak— 5

- (a) geen eiendom wat dan onderworpe is aan 'n inkortingsbevel wat voor die betrokke tydstip verleen is; en
- (b) geen opbrengs van enige realiseerbare eiendom wat uit hoofde van artikel 46 te gelde gemaak is en wat dan in besit is van 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, 10

deel van die bates van so 'n maatskappy of regpersoon uit nie.

(2) Waar 'n bevel in subartikel (1) vermeld ten opsigte van 'n maatskappy of ander regpersoon verleen is of 'n besluit in daardie subartikel vermeld ten opsigte van so 'n maatskappy of regpersoon geregistreer is, word die bevoegdhele verleen aan 'n hoër hof by artikels 42 tot 47 en 49(2), of aan 'n *curator bonis* kragtens hierdie Hoofstuk aangestel, nie ten opsigte van enige eiendom wat deel van die bates van so 'n maatskappy of regpersoon uitmaak, uitgeoefen nie. 15

(3) Die Maatskappywet, 1973 (Wet No. 61 van 1973), of 'n ander wet wat op regpersone in die algemeen of 'n bepaalde regpersoon betrekking het, word nie so uitgelê nie dat dit 'n hoër hof of *curator bonis* kragtens hierdie Hoofstuk aangestel, verbied om 'n bevoegdheid in subartikel (2) beoog ten opsigte van enige eiendom of opbrengs in subartikel (1) vermeld, uit te oefen. 20

(4) By die toepassing van subartikel (1) beteken "die betrokke tydstip"—

- (a) waar 'n bevel vir die likwidasie van die maatskappy of regpersoon, na gelang van die geval, verleen is, die tydstip van die voorlegging aan die betrokke hof van die aansoek om likwidasie; of 25
- (b) waar so 'n bevel nie verleen is nie, die tydstip van die registrasie van die besluit wat die vrywillige likwidasie van die maatskappy of regpersoon, na gelang van die geval, magtig. 30

Vergoeding

53. (1) Indien 'n vervolging weens 'n misdryf in artikel 13(f) of 14(b) bedoel teen 'n verweerder ingestel is en óf—

- (a) die vervolging nie op 'n skuldigbevinding aan so 'n misdryf uitloop nie; óf 35
- (b) die skuldigbevinding ten opsigte van so 'n misdryf op hersiening of appèl tersyde gestel word,

kan 'n hoër hof, op aansoek van iemand wat eiendom besit het wat realiseerbare eiendom was, die Staat beveel om vergoeding aan die applikant te betaal indien daardie hof, met inagneming van die omstandighede van die geval, dit gepas ag om so 'n bevel te verleen. 40

(2) 'n Hoër hof verleen nie 'n bevel in subartikel (1) bedoel nie tensy daardie hof oortuig is—

- (a) dat daar die een of ander ernstige versuim was by 'n polisiebeampte of staatsaanklaer wat by die ondersoek of vervolging van die misdryf betrokke was; en 45
- (b) dat die vervolging nie ingestel of voortgesit sou gewees het as dit nie vir so 'n versuim was nie; en
- (c) dat die applikant beduidende verlies of skade gely het as gevolg van enigiets wat ten opsigte van die eiendom kragtens artikels 42 tot 47 en 49(2) gedoen is. 50

(3) Die bedrag wat ingevolge hierdie artikel as vergoeding betaal moet word, is die bedrag wat die hoër hof in die omstandighede van die geval billik ag.

HOOFSTUK VI**ONDERLINGE BYSTAND TEN OPSIGTE VAN DWELMSMOKKELARY 55***Toepassing van Hoofstuk***Woordomskrywing**

54. In hierdie Hoofstuk, tensy uit die samehang anders blyk, beteken—

Effect of winding-up of companies or other juristic persons on realizable property

52. (1) When any competent court has made an order for the winding-up of any company or other juristic person which holds realizable property or a resolution for the voluntary winding-up of any such company or juristic person has been registered in terms of any applicable law—

- (a) no property for the time being subject to a restraint order made before the relevant time; and
- (b) no proceeds of any realizable property realized by virtue of section 46 and for the time being in the hands of a *curator bonis* appointed under this Chapter,

shall form part of the assets of any such company or juristic person.

(2) Where an order mentioned in subsection (1) has been made in respect of a company or other juristic person or a resolution mentioned in that subsection has been registered in respect of such company or juristic person, the powers conferred upon a superior court by sections 42 to 47 and 49(2), or upon a *curator bonis* appointed under this Chapter, shall not be exercised in respect of any property which forms part of the assets of such company or juristic person.

(3) Nothing in the Companies Act, 1973 (Act No. 61 of 1973), or any other law relating to juristic persons in general or any particular juristic person, shall be construed as prohibiting any superior court or *curator bonis* appointed under this Chapter from exercising any power contemplated in subsection (2) in respect of any property or proceeds mentioned in subsection (1).

(4) For the purposes of subsection (1), "the relevant time" means—

- (a) where an order for the winding-up of the company or juristic person, as the case may be, has been made, the time of the presentation to the court concerned of the application for the winding-up; or
- (b) where no such order has been made, the time of the registration of the resolution authorizing the voluntary winding-up of the company or juristic person, as the case may be.

30 Compensation

53. (1) If a prosecution for an offence referred to in section 13(f) or 14(b) has been instituted against a defendant and either—

- (a) the prosecution does not result in a conviction of such an offence; or
- (b) the conviction in respect of such an offence is set aside on review or appeal,

any superior court may, on the application of any person who held property which was realizable property, order the State to pay compensation to the applicant if, having regard to the circumstances of the case, that court considers it appropriate to make such an order.

(2) A superior court shall not make an order contemplated in subsection (1) unless that court is satisfied—

- (a) that there has been some serious default on the part of any police official or public prosecutor concerned in the investigation or prosecution of the offence; and
- (b) that, but for such default, the prosecution would not have been instituted or continued; and
- (c) that the applicant has suffered substantial loss or damage in consequence of anything done in respect of the property under sections 42 to 47 and 49(2).

(3) The amount to be paid as compensation in terms of this section shall be such amount as the superior court may consider just in the circumstances of the case.

CHAPTER VI**MUTUAL ASSISTANCE IN RESPECT OF DRUG TRAFFICKING****55 Application of Chapter****Definitions**

54. In this Chapter, unless the context indicates otherwise—

- (i) "aangewese land" 'n land kragtens artikel 55(1)(a) aangewys; (iii)
 - (ii) "buitelandse inbeslagnemingsbevel" 'n bevel deur 'n hof van 'n aangewese land verleen met die doel om enige betaling of ander beloning wat in verband met dwelmsmokkelary ontvang is, of die waarde van so 'n betaling of beloning, te verhaal; (iv) 5
 - (iii) "gewaarmerkte afskrif", met betrekking tot 'n buitelandse inbeslagnemingsbevel, 'n afskrif van die buitelandse inbeslagnemingsbevel wat as 'n juiste afskrif gewaarmerk is deur 'n persoon wat vir dié doel voorgeskryf is; (ii)
 - (iv) "hierdie Hoofstuk" ook 'n regulasie; (viii) 10
 - (v) "laer hof", met betrekking tot—
 - (a) iemand teen wie 'n buitelandse inbeslagnemingsbevel vir die betaling van geld afgedwing kan word, die landdroshof van die distrik waarin so iemand—
 - (i) woon, besigheid dryf of werksaam is; of 15
 - (ii) enige roerende of onroerende eiendom besit;
 - (b) 'n maatskappy of ander regspersoon teen wie bedoelde buitelandse inbeslagnemingsbevel afgedwing kan word, die landdroshof van die distrik waarin die geregistreerde kantoor of belangrikste besigheidsplek van so 'n maatskappy of regspersoon geleë is; 20
 - (c) 'n vennootskap teen wie bedoelde buitelandse inbeslagnemingsbevel afgedwing kan word, die landdroshof van die distrik waarin enige besigheidsplek van so 'n vennootskap geleë is, of waarin enige lid daarvan woon; of
 - (d) 'n buitelandse inbeslagnemingsbevel vir die verhaal van bepaalde eiendom, die landdroshof van die distrik waarin daardie eiendom op die datum van die registrasie van so 'n buitelandse inbeslagnemingsbevel aangetref word; (v) 25
 - (vi) "regulasie" 'n regulasie kragtens artikel 61(1) uitgevaardig; (vii)
 - (vii) "toepaslike gesag", met betrekking tot 'n aangewese land, die toepaslike gesag van die aangewese land kragtens artikel 55(1)(b) bepaal; (i) 30
 - (viii) "voorgeskryf" by regulasie voorgeskryf, (vi)
- en het 'n ander woord of uitdrukking die betekenis wat in Hoofstuk V daaraan geheg word.

Aangewese lande en toepaslike gesaghebbendes 35

55. (1) Vir die doeleindes van hierdie Hoofstuk kan die Minister by kennisgewing in die *Staatskoerant*—
- (a) 'n land buite die Republiek as 'n aangewese land aanwys; en
 - (b) die toepaslike gesag van so 'n land bepaal.
- (2) Die Minister kan te eniger tyd 'n kennisgewing in subartikel (1) bedoel by dergelike kennisgewing in die *Staatskoerant* wysig of intrek. 40

Buitelandse inbeslagnemingsbevele

Registrasie van buitelandse inbeslagnemingsbevele

56. (1) Wanneer 'n gewaarmerkte afskrif van 'n buitelandse inbeslagnemingsbevel by 'n klerk van 'n laer hof in die Republiek ingedien word, registreer daardie klerk die buitelandse inbeslagnemingsbevel op die voorgeskrewe wyse— 45
- (a) waar die buitelandse inbeslagnemingsbevel vir die betaling van geld verleen is, ten opsigte van die balans van die bedrag wat daarkragtens betaalbaar is; of
 - (b) waar die buitelandse inbeslagnemingsbevel vir die verhaal van bepaalde eiendom verleen is, ten opsigte van die eiendom wat daarin vermeld is. 50
- (2) Die klerk van die laer hof wat 'n buitelandse inbeslagnemingsbevel registreer, moet onverwyld 'n kennisgewing uitreik wat gerig is aan iemand teen wie die buitelandse inbeslagnemingsbevel afgedwing kan word en waarin vermeld word— 55
- (a) dat die buitelandse inbeslagnemingsbevel by die betrokke laer hof geregistreer is; en

- (i) "appropriate authority", in relation to a designated country, means the appropriate authority of the designated country determined under section 55(1)(b); (vii)
- 5 (ii) "certified copy", in relation to a foreign confiscation order, means a copy of the foreign confiscation order certified to be a true copy by a person prescribed for that purpose; (iii)
- (iii) "designated country" means a country designated under section 55(1)(a); (i)
- 10 (iv) "foreign confiscation order" means an order made by a court of a designated country with a view to recovering any payment or other reward received in connection with drug trafficking, or the value of any such payment or reward; (ii)
- (v) "lower court", in relation to—
- 15 (a) any person against whom a foreign confiscation order for the payment of money may be enforced, means the magistrate's court of the district in which any such person—
- (i) resides, carries on business or is employed; or
- (ii) holds any movable or immovable property;
- 20 (b) any company or other juristic person against which the said foreign confiscation order may be enforced, means the magistrate's court of the district in which the registered office or main place of business of any such company or juristic person is situate;
- (c) any partnership against which the said foreign confiscation order may be enforced, means the magistrate's court of the district in
- 25 which any place of business of any such partnership is situate, or in which any member thereof resides; or
- (d) any foreign confiscation order for the recovery of particular property, means the magistrate's court of the district in which that property is to be found on the date of the registration of any such
- 30 foreign confiscation order; (v)
- (vi) "prescribed" means prescribed by regulation; (viii)
- (vii) "regulation" means a regulation made under section 61(1); (vi)
- (viii) "this Chapter" includes a regulation, (iv)
- and any other word or expression shall have the meaning assigned thereto in
- 35 Chapter V.

Designated countries and appropriate authorities

55. (1) For the purposes of this Chapter, the Minister may by notice in the *Gazette*—

- 40 (a) designate any country outside the Republic as a designated country; and
- (b) determine the appropriate authority of any such country.

(2) The Minister may at any time amend or withdraw a notice referred to in subsection (1) by like notice in the *Gazette*.

Foreign confiscation orders

45 Registration of foreign confiscation orders

56. (1) Whenever a certified copy of a foreign confiscation order is lodged with a clerk of a lower court in the Republic, that clerk shall register the foreign confiscation order in the prescribed manner—

- 50 (a) where the foreign confiscation order was made for the payment of money, in respect of the balance of the amount payable thereunder; or
- (b) where the foreign confiscation order was made for the recovery of particular property, in respect of the property which is specified therein.

(2) The clerk of the lower court registering a foreign confiscation order shall

55 forthwith issue a notice addressed to any person against whom the foreign confiscation order may be enforced and stating—

- (a) that the foreign confiscation order has been registered at the lower court concerned; and

- (b) dat so iemand binne die voorgeskrewe tydperk by daardie laer hof aansoek om die tersydestelling van die registrasie van die buitelandse inbeslagnemingsbevel kan doen, en so 'n kennisgewing word op die voorgeskrewe wyse aan so iemand beteken.
- (3) Indien 'n bedrag wat betaalbaar is kragtens 'n buitelandse inbeslagnemingsbevel wat ingevolge hierdie artikel geregistreer word in 'n ander betaalmiddel as die betaalmiddel van die Republiek uitgedruk is, word daardie bedrag omgerek in die betaalmiddel van die Republiek op die grondslag van die wisselkoers wat op die datum van die registrasie van die buitelandse inbeslagnemingsbevel geheers het.

Uitwerking van registrasie, en tenuitvoerlegging van buitelandse inbeslagnemingsbevele

57. (1) Wanneer 'n buitelandse inbeslagnemingsbevel ingevolge artikel 56 geregistreer is, het daardie buitelandse inbeslagnemingsbevel die uitwerking van 'n siviele vonnis van die laer hof waarby dit geregistreer is.
- (2) Ondanks die bepalings van subartikel (1) word 'n buitelandse inbeslagnemingsbevel wat ingevolge artikel 56 geregistreer is, nie ten uitvoer gelê nie—
- (a) voor die verstryking van die tydperk in artikel 56(2)(b) beoog; of
- (b) indien 'n aansoek om die tersydestelling van die registrasie van die buitelandse inbeslagnemingsbevel binne daardie tydperk gedoen is, totdat daar tot 'n eindbeslissing ten opsigte van so 'n aansoek geraak is.

Tersydestelling van registrasie van buitelandse inbeslagnemingsbevele

58. (1) Die registrasie van 'n buitelandse inbeslagnemingsbevel ingevolge artikel 56 word, op aansoek van iemand teen wie die buitelandse inbeslagnemingsbevel afgedwing kan word, tersyde gestel indien die laer hof waarby dit geregistreer is, oortuig is—
- (a) dat die buitelandse inbeslagnemingsbevel in stryd met 'n bepaling van hierdie Hoofstuk geregistreer is;
- (b) dat die hof van die betrokke aangewese land in die omstandighede van die geval geen jurisdiksie gehad het nie;
- (c) dat die buitelandse inbeslagnemingsbevel aan hersiening of appèl onderhewig is;
- (d) waar die persoon teen wie die buitelandse inbeslagnemingsbevel verleen is, nie verskyn het by die verrigtinge waarin dit verleen is nie, dat so 'n persoon nie kennis van bedoelde verrigtinge ontvang het soos by die wetsbepalings van die betrokke aangewese land voorgeskryf nie of, indien so 'n kennisgewing nie aldus voorgeskryf is nie, dat hy nie redelike kennis van daardie verrigtinge ontvang het om hom in staat te stel om hom in die verrigtinge te verweer nie;
- (e) dat die afdwinging van die buitelandse inbeslagnemingsbevel nie in die belang van die regspleging sou wees nie;
- (f) dat daar op die een of ander wyse, met inbegrip van die uitdiening van gevangenisstraf by wanbetaling, aan die buitelandse inbeslagnemingsbevel voldoen is.
- (2) Die laer hof wat 'n aansoek bedoel in subartikel (1) verhoor, kan te eniger tyd die verhoor van die aansoek uitstel tot die datum wat hy bepaal.

Voldoening aan inbeslagnemingsbevele

Voldoening aan inbeslagnemingsbevele in aangewese lande

59. Waar—
- (a) die betrokke prokureur-generaal 'n versoek tot die toepaslike gesag van 'n aangewese land gerig het vir bystand by die afdwinging van 'n inbeslagnemingsbevel; en
- (b) in die uitvoering van so 'n versoek, 'n bedrag in bedoelde land betaal is, of eiendom aldaar verhaal is,
- word die bedrag wat kragtens die inbeslagnemingsbevel betaalbaar is, geag verminder te gewees het met die bedrag wat aldus betaal is of met die waarde van die eiendom wat aldus verhaal is, na gelang van die geval.

- (b) that any such person may within the prescribed period apply to that lower court for the setting aside of the registration of the foreign confiscation order,
and such notice shall be served on any such person in the prescribed manner.
- 5 (3) If any amount payable under a foreign confiscation order registered in terms of this section is expressed in a currency other than the currency of the Republic, that amount shall be converted into the currency of the Republic on the basis of the exchange rate prevailing on the date of registration of the foreign confiscation order.

10 Effect of registration, and execution of foreign confiscation orders

57. (1) Whenever any foreign confiscation order has been registered in terms of section 56, that foreign confiscation order shall have the effect of a civil judgment of the lower court at which it has been registered.
- (2) Notwithstanding the provisions of subsection (1), no foreign confiscation order registered in terms of section 56 shall be executed—
- 15 (a) before the expiry of the period contemplated in section 56(2)(b); or
(b) if an application for the setting aside of the registration of the foreign confiscation order has been made within that period, until a final decision has been rendered in respect of any such application.

20 Setting aside of registration of foreign confiscation orders

58. (1) The registration of a foreign confiscation order in terms of section 56 shall, on the application of any person against whom the foreign confiscation order may be enforced, be set aside if the lower court at which it was registered is satisfied—
- 25 (a) that the foreign confiscation order was registered in contravention of a provision of this Chapter;
(b) that the court of the designated country concerned had no jurisdiction in the circumstances of the case;
(c) that the foreign confiscation order is subject to review or appeal;
- 30 (d) where the person against whom the foreign confiscation order was made did not appear at the proceedings in which it was made, that such person did not receive notice of the said proceedings as prescribed by the law of the designated country concerned or, if no such notice is so prescribed, that he did not receive reasonable notice of those proceedings to enable him to defend the proceedings;
- 35 (e) that the enforcement of the foreign confiscation order would be contrary to the interests of justice;
(f) that the foreign confiscation order has been satisfied in any manner, including the serving of imprisonment in default of payment.
- 40 (2) The lower court hearing an application referred to in subsection (1) may at any time postpone the hearing of the application to such date as it may determine.

Satisfaction of confiscation orders

Satisfaction of confiscation orders in designated countries

- 45 59. Where—
(a) the attorney-general concerned has addressed a request to the appropriate authority of a designated country for assistance in enforcing a confiscation order; and
(b) in the execution of such request, an amount is paid, or property is
- 50 recovered, in the said country,
the amount payable under the confiscation order shall be deemed to have been reduced by the amount so paid or by the value of the property so recovered, as the case may be.

Omrekening van betaalmiddels

60. (1) Indien 'n bedrag wat in 'n aangewese land betaal is in die uitvoering van 'n versoek in artikel 59(a) bedoel in 'n ander betaalmiddel as die betaalmiddel van die Republiek uitgedruk is, word daardie bedrag omgerekend in die betaalmiddel van die Republiek op die grondslag van die wisselkoers wat geheers het op die datum waarop daardie bedrag in daardie aangewese land betaal is. 5

(2) Indien die waarde van eiendom wat in 'n aangewese land verhaal is in die uitvoering van 'n versoek in artikel 59(a) bedoel in 'n ander betaalmiddel as die betaalmiddel van die Republiek uitgedruk is, word daardie waarde omgerekend in die betaalmiddel van die Republiek op die grondslag van die wisselkoers wat geheers het op die datum waarop die eiendom in daardie aangewese land verhaal is. 10

*Regulasies***Regulasies**

61. (1) Die Minister kan regulasies uitvaardig— 15
- (a) wat voorsiening maak vir die toepassing, in die mate in die regulasies genoem, van die bepalings van Hoofstuk V op 'n buitelandse inbeslagnemingsbevel of op verrigtinge wat ingestel is of ingestel staan te word in 'n aangewese land en wat tot gevolg kan hê dat 'n buitelandse inbeslagnemingsbevel in daardie aangewese land verleen word; 20
- (b) wat voorsiening maak vir 'n aangeleentheid met betrekking tot die doen van stappe in 'n aangewese land met die oog op voldoening aan 'n inbeslagnemingsbevel;
- (c) betreffende getuienis of bewys van 'n aangeleentheid vir die doeleindes van hierdie Hoofstuk; 25
- (d) betreffende 'n aangeleentheid wat kragtens hierdie Hoofstuk by regulasie voorgeskryf moet of kan word;
- (e) in die algemeen, betreffende 'n aangeleentheid wat die Minister nodig of dienstig ag om voor te skryf of te reël ten einde die oogmerke van hierdie Hoofstuk te bereik. 30
- (2) Die bevoegdheid by subartikel (1)(a) aan die Minister verleen, sluit die bevoegdheid in—
- (a) om Hoofstuk V te wysig of aan te pas ten einde die toepassing daarvan te reël; en
- (b) om aan 'n hof of persoon 'n diskresionêre bevoegdheid te verleen. 35
- (3) Verskillende regulasies kan kragtens subartikel (1) ten opsigte van verskillende aangewese lande uitgevaardig word.

Tertafellegging van regulasies

62. (1) 'n Afskrif van 'n regulasie moet deur die Minister in die Parlement ter Tafel gelê word binne 14 dae na die afkondiging daarvan, indien die Parlement dan in sessie is of, indien die Parlement dan nie in sessie is nie, binne 14 dae na die aanvang van sy eersvolgende sessie. 40

(2) Indien die Parlement so 'n regulasie of 'n bepaling daarvan afkeur, verval die regs-krag van so 'n regulasie of bepaling vir sover dit aldus afgekeur word.

(3) Die bepalings van subartikel (2) doen nie afbreuk aan die geldigheid van enigiets wat kragtens so 'n regulasie of bepaling gedoen is voor die datum waarop die regs-krag daarvan verval het, of aan 'n reg, voorreg, verpligting of aanspreeklikheid wat op genoemde datum ingevolge of uit hoofde van so 'n regulasie of bepaling verkry is of ontstaan of opgeloop het nie. 45

HOOFSTUK VII 50**ALGEMENE BEPALINGS****Wysiging van Bylaes 1 en 2**

63. Die Minister kan by kennisgewing in die *Staatskoerant* en na oorlegpleging met die Minister van Nasionale Gesondheid— 55

Conversion of currencies

60. (1) If any amount paid in a designated country in the execution of a request referred to in section 59(a) is expressed in a currency other than the currency of the Republic, that amount shall be converted into the currency of the Republic on the basis of the exchange rate prevailing on the date on which that amount was paid in that designated country.

(2) If the value of property recovered in a designated country in the execution of a request referred to in section 59(a) is expressed in a currency other than the currency of the Republic, that value shall be converted into the currency of the Republic on the basis of the exchange rate prevailing on the date on which the property was recovered in that designated country.

*Regulations***Regulations**

61. (1) The Minister may make regulations—
- 15 (a) providing for the application, to the extent stated in the regulations, of the provisions of Chapter V to any foreign confiscation order or to proceedings which have been or are to be instituted in a designated country and may result in a foreign confiscation order being made in that designated country;
- 20 (b) providing for any matter relating to the taking of action in a designated country with a view to satisfying a confiscation order;
- (c) as to evidence or proof of any matter for the purposes of this Chapter;
- (d) as to any matter required or permitted to be prescribed under this Chapter by regulation;
- 25 (e) in general, as to any matter which the Minister may consider necessary or expedient to prescribe or regulate in order that the objects of this Chapter may be achieved.

(2) The power conferred upon the Minister by subsection (1)(a) shall include the power—

- 30 (a) to amend or adapt Chapter V in order to regulate its application; and
 (b) to confer any discretionary power upon any court or person.

(3) Different regulations may be made under subsection (1) in respect of different designated countries.

Tabling of regulations

35 62. (1) A copy of a regulation shall be laid upon the Table in Parliament by the Minister within 14 days after the publication thereof if Parliament is then in session or, if Parliament is then not in session, within 14 days after the commencement of its next ensuing session.

(2) If Parliament disapproves of such regulation or any provision thereof, such regulation or provision shall cease to be of force and effect to the extent to which it is so disapproved.

(3) The provisions of subsection (2) shall not derogate from the validity of anything done under such regulation or provision before the date upon which it so ceased to be of force and effect, or from any right, privilege, obligation or liability acquired, accrued or incurred at the said date in terms of or by virtue of such regulation or provision.

45

CHAPTER VII**GENERAL PROVISIONS****Amendment of Schedules 1 and 2**

50 63. The Minister may by notice in the *Gazette* and after consultation with the Minister of National Health—

- (a) 'n stof of plant in Bylae 1 of 2 opneem;
- (b) 'n stof of plant opgeneem in daardie Bylae skrap; of
- (c) daardie Bylae andersins wysig.

Jurisdiksie van landdroshowe

64. 'n Landdroshof is bevoeg— 5
- (a) om 'n straf vermeld in artikel 17 op te lê, selfs al sou daardie straf die strafbevoegdheid van 'n landdroshof oorskry; en
 - (b) om 'n bevel bedoel in artikel 35(1) te verleen, selfs al sou die bedrag wat kragtens daardie bevel betaalbaar is die siviele bevoegdheid van 'n landdroshof oorskry. 10

Hofreëls

65. Die bevoegdhe by artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), aan die Reëlsraad vir Geregshowe verleen, sluit die bevoegdheid in om reëls te maak wat nie met 'n bepaling van hierdie Wet of 'n regulasie kragtens artikel 61(1) uitgevaardig onbestaanbaar is nie betreffende 'n aangeleentheid wat daardie Reëlsraad nodig of dienstig ag om voor te skryf of te reël ten einde die oogmerke van Hoofstukke V en VI te verwesenlik. 15

Herroeping van wette

66. Die wette in Bylae 3 vermeld, word hierby herroep in die mate in die derde kolom daarvan aangedui. 20

Voorbehoud ten opsigte van hangende vervolgings

67. Hierdie Wet raak nie 'n vervolging wat voor die inwerkingtreding van hierdie Wet ingestel is nie, en so 'n vervolging word voortgesit en afgehandel asof hierdie Wet nie aangeneem is nie.

Kort titel en inwerkingtreding 25

68. Hierdie Wet heet die Wet op Dwelmmiddels en Dwelmsmokkalary, 1992, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

- (a) include any substance or plant in Schedule 1 or 2;
- (b) delete any substance or plant included in that Schedule; or
- (c) otherwise amend that Schedule.

Jurisdiction of magistrates' courts

- 5 **64.** A magistrate's court shall have jurisdiction—
- (a) to impose any penalty mentioned in section 17, even though that penalty may exceed the punitive jurisdiction of a magistrate's court; and
 - (b) to make any order referred to in section 35(1), even though the amount
- 10 payable under that order may exceed the civil jurisdiction of a magistrate's court.

Rules of court

- 15 **65.** The powers conferred upon the Rules Board for Courts of Law by section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), shall include the power to make rules not inconsistent with a provision of this Act or a regulation made under section 61(1) as to any matter which that Rules Board may consider necessary or expedient to prescribe or regulate in order that the objects of Chapters V and VI may be achieved.

Repeal of laws

- 20 **66.** The laws mentioned in Schedule 3 are hereby repealed to the extent indicated in the third column thereof.

Saving in respect of pending prosecutions

- 25 **67.** Nothing in this Act shall affect any prosecution instituted before the commencement of this Act, and any such prosecution shall be continued and concluded as if this Act had not been passed.

Short title and commencement

- 68.** This Act shall be called the Drugs and Drug Trafficking Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

BYLAE 1

GELYSTE STOWWE

STOWWE WAT NUTTIG VIR DIE VERVAARDIGING
VAN DWELMMIDDELS IS

DEEL I

1. Die volgende stowwe, naamlik—

Efedrien.

Ergometrien.

Ergotamien.

1-feniel-2-propanoon.

Lisergiensuur.

Pseudoefedrien.

2. Die soute van alle stowwe in hierdie Deel opgeneem, waar die bestaan van sodanige soute moontlik is.

DEEL II

1. Die volgende stowwe, naamlik—

Antranielsuur.

Asetoon.

Asynsuuranhidried.

Etieleter.

Fenielasynsuur.

Piperidien.

2. Die soute van alle stowwe in hierdie Deel opgeneem, waar die bestaan van sodanige soute moontlik is.

SCHEDULE 1

SCHEDULED SUBSTANCES

SUBSTANCES USEFUL FOR THE MANUFACTURE OF DRUGS

PART I

1. The following substances, namely—
 - Ephedrine.
 - Ergometrine.
 - Ergotamine.
 - Lysergic acid.
 - 1-phenyl-2-propanone.
 - Pseudoephedrine.
2. The salts of all substances included in this Part, where the existence of such salts is possible.

PART II

1. The following substances, namely—
 - Acetic anhydride.
 - Acetone.
 - Anthranilic acid.
 - Ethyl ether.
 - Phenylacetic acid.
 - Piperidine.
2. The salts of all substances included in this Part, where the existence of such salts is possible.

BYLAE 2

DEEL 1

AFHANKLIKHEIDSVORMENDE STOWWE

1. Die volgende stowwe, naamlik—
Amobarbital, pentobarbital en siklobarbitol, uitgesonderd preparate en mengsels wat hoogstens 30 milligram per minimum aanbevole of voorgeskrewe dosis bevat wanneer vir aanhoudende gebruik by asma bestem of wat hoogstens 50 milligram per minimum aanbevole of voorgeskrewe dosis bevat wanneer vir aanhoudende gebruik by epilepsie bestem.
Buprenorfien.
Chloorfentemien.
Diëtielpropioon (amfepramoon).
Glutetimied.
Meptasinol.
Pentasosien.
Tiletamien.
2. Tensy uitdruklik uitgesluit, sluit alle stowwe in hierdie Deel opgeneem die volgende in:
 - (a) Die soute en esters van vermelde stowwe, waar die bestaan van sodanige soute en esters moontlik is; en
 - (b) alle preparate en mengsels van vermelde stowwe.

DEEL II

GEVAARLIKE AFHANKLIKHEIDSVORMENDE STOWWE

1. Die volgende stowwe of plante, naamlik—
Alfameprodien.
Alfametadol.
Alfaprodien.
Alfasetielmetadol.
Alfentaniel.
Allielprodien.
Anileridien.
Asetieldihidrokodeïen, uitgesonderd preparate en mengsels wat hoogstens 20 milligram asetieldihidrokodeïen per aanbevole of voorgeskrewe dosis bevat.
Asetielmetadol.
Asetorfien.
Bensetidien.
Bensfetamien.
Bensielmorfien.
Besitramied.
Betameprodien.
Betametadol.
Betaprodien.
Betasetielmetadol.
Chlorodien ("Chloroform and Morphine Tincture BP 1980") of enige preparaat of mengsel daarvan beskryf as chlorodien, uitgesonderd preparate en mengsels wat hoogstens 5,0 persent chlorodien in samestelling met ander aktiewe medisinale bestanddele bevat.
Dekstromoramied.
Dekstropopoksifeen, uitgesonderd preparate en mengsels vir mondelinge gebruik wat hoogstens 135 milligram dekstropopoksifeen, as die basis bereken, per doseringseenheid bevat, of met 'n konsentrasie van hoogstens 2,5 persent in onverdeelde preparate.
Desomorfien.
Diampromied.
Diëtieltiambuteen.
Difenoksien (of difenoksielsuur), uitgesonderd mengsels wat, per doseringseenheid, hoogstens 0,5 milligram difenoksien, as die basis bereken, bevat, en

SCHEDULE 2

PART I

DEPENDENCE-PRODUCING SUBSTANCES

1. The following substances, namely—

Amobarbital, cyclobarbital and pentobarbital, except preparations and mixtures containing not more than 30 milligrams per minimum recommended or prescribed dose when intended for continued use in asthma, or containing not more than 50 milligrams per minimum recommended or prescribed dose when intended for continued use in epilepsy.

Buprenorphine.

Chlorphentermine.

Diethylpropion (amfepramone).

Gluthethimide.

Meptazinol.

Pentazocine.

Tiletamine.

2. Unless expressly excluded, all substances included in this Part include the following:

(a) The salts and esters of the specified substances, where the existence of such salts and esters is possible; and

(b) all preparations and mixtures of the specified substances.

PART II

DANGEROUS DEPENDENCE-PRODUCING SUBSTANCES

1. The following substances or plants, namely—

Acetorphine.

Acetyldihydrocodeine, except preparations and mixtures containing not more than 20 milligrams of acetyldihydrocodeine per recommended or prescribed dose.

Acetylmethadol.

Alfentanil.

Allylprodine.

Alphacetylmethadol.

Alphameprodine.

Alphamethadol.

Alphaprodine.

Anileridine.

Benzethidine.

Benzphetamine.

Benzyllmorphine.

Betacetylmethadol.

Betameprodine.

Betamethadol.

Betaprodine.

Bezitramide.

Chlorodyne (Chloroform and Morphine Tincture BP 1980) or any preparation or mixture thereof described as chlorodyne, except preparations and mixtures containing not more than 5.0 per cent of chlorodyne in combination with other active medicinal substances.

Clonitazene.

Coca leaf and any salt, compound, derivative or preparation of coca leaf, and any salt, compound, derivative or preparation thereof that is chemically equivalent or identical to any of these substances, whether obtained directly or indirectly by extraction from material or substances obtained from plants, or obtained independently by chemical synthesis, or by a combination of extraction and chemical synthesis, except decocainized coca leaf and extractions of coca leaf where such extractions contain no cocaine or ecgonine.

'n hoeveelheid atropiensulfaat, gelyk aan minstens 5,0 persent van die hoeveelheid difenoksien, as die basis bereken, in die mengsel.

Difenoksilaat, uitgesonderd preparate wat hoogstens 2,5 milligram difenoksilaat, as die basis bereken, en minstens 25 mikrogram atropiensulfaat per doseringseenheid bevat.

Dihidrokodeïen, uitgesonderd preparate en mengsels wat hoogstens 20 milligram dihidrokodeïen per aanbevole of voorgeskrewe dosis bevat.

Dihidromorfien.

Dimefeptanol.

Dimenoksadol.

Dimetietiambuteen.

Dioksafetielbutiraat.

Dipipanoon.

Dronabinol [(-)-transdelta-9-tetrahidrokannabinol].

Drotebanol.

Ekgonien en die esters en derivate daarvan wat veranderbaar is in ekgonien en kokaïen.

Etielmetietiambuteen.

Etielmorfien, uitgesonderd preparate en mengsels wat hoogstens 20 milligram etielmorfien per aanbevole of voorgeskrewe dosis bevat.

Etokseridien.

Etonitaseen.

Etorfien.

Fenadoksoon.

Fenampromied.

Fenasosien.

Fendimetrasien.

Fenomorfaan.

Fenoperidien.

Fenproporeks.

Fentaniel.

Folkodien, uitgesonderd preparate en mengsels wat hoogstens 20 milligram folkodien per aanbevole of voorgeskrewe dosis bevat.

Furetidiën.

Hidrokodeon (dihidrokodeïnoon).

Hidroksipetidien.

Hidromorfinol (14-hidroksidihidromorfien).

Hidromorfoon (dihidromorfinoon).

Isometadoon.

Ketobemidoon.

Klonitaseen.

Kodeïen (metielmorfien), uitgesonderd preparate en mengsels wat hoogstens 20 milligram kodeïen per aanbevole of voorgeskrewe dosis bevat.

Kodoksiem.

Kokablare en enige sout, verbinding, derivaat of preparaat van kokablare, en enige sout, verbinding, derivaat of preparaat daarvan wat chemies ekwivalent of identies is aan enige van hierdie stowwe, hetsy regstreeks of onregstreeks verkry deur ekstraksie uit materiaal of stowwe van plantaardige afkoms, of onafhanklik verkry deur middel van chemiese sintese, of deur 'n kombinasie van ekstraksie en chemiese sintese, uitgesonderd gedekokaïniseerde kokablare en ekstraksies van kokablare waar sodanige ekstraksies geen kokaïen of ekgonien bevat nie.

Levofenasielmorfaan.

Levomoramied.

Levorfanol.

Mefenoreks.

Meklokaloon.

Metadoon.

Metadoon-intermediër.

Metasosien.

Metieldesorfien.

Metieldihidromorfien.

Metielfenidaat en die derivate daarvan.

Metopoon.

Codeine (methyilmorphine), except preparations and mixtures containing not more than 20 milligrams of codeine per recommended or prescribed dose.

Codoxime.

Desomorphine.

Dextromoramide.

Dextropropoxyphene, except preparations and mixtures for oral use containing not more than 135 milligrams dextropropoxyphene, calculated as the base, per dosage unit, or with a concentration of not more than 2,5 per cent in undivided preparations.

Diampromide.

Diethylthiambutene.

Difenoxin (or diphenoxylate), except mixtures containing, per dosage unit, not more than 0,5 milligrams of difenoxin, calculated as the base, and a quantity of atropine sulphate equal to at least 5,0 per cent of the quantity of difenoxin, calculated as the base, which is present in the mixture.

Dihydrocodeine, except preparations and mixtures containing not more than 20 milligrams of dihydrocodeine per recommended or prescribed dose.

Dihydromorphine.

Dimenoxadol.

Dimepheptanol.

Dimethylthiambutene.

Dioxaphetylbutyrate.

Diphenoxylate, except preparations containing not more than 2,5 milligrams of diphenoxylate, calculated as the base, and not less than 25 micrograms of atropine sulphate per dosage unit.

Dipipanone.

Dronabinol [(-)-transdelta-9-tetrahydrocannabinol].

Drotebanol.

Ecgonine and the esters and derivatives thereof which are convertible to ecgonine and cocaine.

Ethylmethylthiambutene.

Ethylmorphine, except preparations and mixtures containing not more than 20 milligrams of ethylmorphine per recommended or prescribed dose.

Etonitazene.

Etorphine.

Etoxadine.

Fenproporex.

Fentanyl.

Furethidine.

Hydrocodone (dihydrocodeinone).

Hydromorphanol (14-hydroxydihydromorphine).

Hydromorphone (dihydromorphinone).

Hydroxypethidine.

Isomethadone.

Ketobemidone.

Levomoramide.

Levophenacetylmorphan.

Levorphanol.

Mecloqualone.

Mefenorex.

Metazocine.

Methadone.

Methadone-intermediate.

Methorphan, including levomethorphan and racemethorphan, but excluding dextromethorphan.

Methyldesorphine.

Methyldihydromorphine.

Methylphenidate and the derivatives thereof.

Metopon.

Moramide-intermediate.

Morpheridine.

Morphine, except preparations and mixtures of morphine containing not more than 0,2 per cent of morphine, calculated as anhydrous morphine.

Metorfaan, insluitende levometorfaan en rasemetorfaan, maar uitgesonderd deksstrometorfaan.

Mirofien (miristielbensielmorfien).

Moramied-intermediêr.

Morferidien.

Morfien, uitgesonderd preparate en mengsels van morfien wat hoogstens 0,2 persent morfien, bereken as anhidriese morfien, bevat.

Morfienmetobromied en ander pentavalente stikstofmorfienderivate.

Morfien-N-oksied en die derivate daarvan.

Nikodikodien.

Nikokodien.

Nikomorfien.

Norasimetadol.

Norkodeïen, uitgesonderd preparate en mengsels wat hoogstens 20 milligram norkodeïen per aanbevole of voorgeskrewe dosis bevat.

Norlevorfanol.

Normetadoon.

Normorfien (demetielmorfien of N-gedemetileerde morfien).

Norpipanoon.

Oksikodoon (14-hidroksidihidrokodeïnoon of dihidrohidroksikodeïnoon).

Oksimorfoon (14-hidroksidihidromorfinoon of dihidrohidroksimorfinoon).

Opium en opiate en enige sout, verbinding, derivaat of preparaat van opium of opiate, hetsy regstreeks of onregstreeks verkry deur ekstraksie uit materiaal of stowwe van plantaardige afkoms, of onafhanklik verkry deur middel van chemiese sintese, of deur 'n kombinasie van ekstraksie en chemiese sintese, uitgesonderd mengsels wat hoogstens 0,2 persent morfien, bereken as anhidriese morfien, bevat.

Opiumpapawer en papawerstrooi, hetsy regstreeks of onregstreeks verkry deur ekstraksie uit materiaal of stowwe van plantaardige afkoms, of onafhanklik verkry deur middel van chemiese sintese, of deur 'n kombinasie van ekstraksie en chemiese sintese.

Petidien, petidien-intermediêr A, petidien-intermediêr B en petidien-intermediêr C.

Piminodien.

Piritramied.

Proheptasien.

Properidien.

Propiraam.

Rasemoramied.

Rasemorfaan.

Sekobarbital.

Sufentaniel.

Tebaïen.

Tebakon.

Tilidien.

Trimeperidien.

2. Tensy uitdruklik uitgesluit, sluit alle stowwe of plante in hierdie Deel opgeneem die volgende in:

- (a) Die isomere van vermelde stowwe of plante, waar die bestaan van sodanige isomere moontlik is;
- (b) die esters en eters van vermelde stowwe of plante en van die isomere in subparagraaf (a) bedoel, asook die isomere van sodanige esters en eters, waar die bestaan van sodanige esters, eters en isomere moontlik is;
- (c) die soute van vermelde stowwe of plante, van die isomere in subparagraaf (a) bedoel en van die esters, eters en isomere in subparagraaf (b) bedoel, asook die isomere van sodanige soute, waar die bestaan van sodanige soute en isomere moontlik is; en
- (d) alle preparate en mengsels van vermelde stowwe of plante en van die isomere, esters, eters en soute in hierdie paragraaf bedoel.

Morphine methobromide and other pentavalent nitrogen morphine derivatives.

Morphine-N-oxide and the derivatives thereof.

Myrophine (myristylbenzylmorphine).

Nicocodine.

Nicodicodine.

Nicomorphine.

Noracymethadol.

Norcodeine, except preparations and mixtures containing not more than 20 milligrams norcodeine per recommended or prescribed dose.

Norlevorphanol.

Normethadone.

Normorphine (demethylmorphine or N-demethylated morphine).

Norpipanone.

Opium and opiates and any salt, compound, derivative or preparation of opium or opiates, whether obtained directly or indirectly by extraction from material or substances obtained from plants, or obtained independently by chemical synthesis, or by a combination of extraction and chemical synthesis, except mixtures containing not more than 0,2 per cent of morphine, calculated as anhydrous morphine.

Opium-poppy and poppy straw, whether obtained directly or indirectly by extraction from material or substances obtained from plants, or whether obtained independently by chemical synthesis, or by a combination of extraction and chemical synthesis.

Oxycodone (14-hydroxydihydrocodeinone or dihydrohydroxycodeinone).

Oxymorphone (14-hydroxydihydromorphinone or dihydrohydroxymorphinone).

Pethidine, pethidine-intermediate A, pethidine-intermediate B and pethidine-intermediate C.

Phenadoxone.

Phenampromide.

Phenazocine.

Phendimetrazine.

Phenomorphan.

Phenoperidine.

Pholcodine, except preparations and mixtures containing not more than 20 milligrams of pholcodine per recommended or prescribed dose.

Piminodine.

Piritramide.

Proheptazine.

Properidine.

Propiram.

Racemoramide.

Racemorphan.

Secobarbital.

Sufentanil.

Thebacon.

Thebaine.

Tilidine.

Trimeperidine.

2. Unless expressly excluded, all substances or plants included in this Part include the following:

- (a) The isomers of the specified substances or plants, where the existence of such isomers is possible;
- (b) the esters and ethers of the specified substances or plants and of the isomers referred to in subparagraph (a), as well as the isomers of such esters and ethers, where the existence of such esters, ethers and isomers is possible;
- (c) the salts of the specified substances or plants, of the isomers referred to in subparagraph (a) and of the esters, ethers and isomers referred to in subparagraph (b), as well as the isomers of such salts, where the existence of such salts and isomers is possible; and
- (d) all preparations and mixtures of the specified substances or plants and of the isomers, esters, ethers and salts referred to in this paragraph.

DEEL III

ONGEWENSTE AFHANKLIKHEIDSVORMENDE STOWWE

1. Die volgende stowwe of plante, naamlik—
 - Amfetamien.
 - Brolamfetamien.
 - Bufotenien (N,N-dimietielserotonien).
 - Cannabis (dagga), die hele plant of enige gedeelte of produk daarvan, uitgesonderd dronabinol [(-)-transdelta-9-tetrahydrokannabinol].
 - Deksamfetamien.
 - Diëtieltriptamien [3-(2-(diëtielamino)-etiel)-indool].
 - 3-(1,2-dimietielheptiel)-7,8,9,10-tetrahydro-6,6,9-trimietiel-6*H*- dibenso [*b*, *d*] piraan-1-ol (DMHP).
 - Dimietieltriptamien [3-(2-(dimietielamino)-etiel)-indool].
 - 2,5-dimetoksiamfetamien (DMA).
 - 2,5-dimetoksi-4-etielamfetamien (DOET).
 - Fenetillien.
 - Fenmetrasien.
 - Fensiklidien en die verwante stowwe daarvan, naamlik, N-etiel-1-fenielsikloheksielamien (PCE), 1-(1-fenielsikloheksiel) pirrolidien (PHP of PCPY) en 1-[1-(2-tiëniel) sikloheksiel] piperidien (TCP).
 - Fentaniel-analoë:
 - alfametielfentaniel;
 - alfametielfentanielasetanilied;
 - alfametieltiofentaniel;
 - asetielalfametielfentaniel;
 - bensielfentaniel;
 - betahidroksifentaniel;
 - betahidroksi-3-metielfentaniel;
 - 3-metielfentaniel en die twee isomeriese vorme daarvan, naamlik, cis-N-(3-metiel-1-(2-fenetiel)-4-piperidiel)propioonanilied en trans-N-(3-metiel-1-(2-fenetiel)-4-piperidiel)propioonanilied;
 - 3-metieltiofentaniel;
 - parafluorfentaniel; en
 - tiofentaniel.
 - Harmalien (3,4-dihidroharmien).
 - Harmien [7-metoksi-1-metiel-9*H*-pirido (3,4-*b*)-indool].
 - Heroïen (diasetielfentaniel).
 - Katinoon.
 - Levamfetamien.
 - Levometaamfetamien.
 - Lisergied (lisergiensuurdiëtielamied).
 - Meskalien (3,4,5-trimetoksifenetiellamien).
 - Metakaloon, met inbegrip van Mandrax, Isonox, Quaalude of enige ander preparaat wat metakaloon bevat en onder enige ander handelsnaam bekend staan.
 - Metamfetamien en metamfetamienrasemaat.
 - 4-metielaminoreks.
 - 4-metiel-2,5-dimetoksiamfetamien (DOM) en die derivate daarvan.
 - Metileendioksiamfetamien (MDA):
 - N-etielmetileendioksiamfetamien; en
 - N-hidroksimetileendioksiamfetamien.
 - 2-metoksie-4,5-metileendioksiamfetamien (MMDA).
 - Nabiloon.
 - Paraheksiel.
 - Parametoksiamfetamien (PMA).
 - Petidien-analoë:
 - 1-metiel-4-feniel-4-propioonoksipiperidien (MPPP);
 - 1-metiel-4-feniel-1,2,5,6-tetrahidropiperidien (MPTP); en
 - 1-fenieletiel-4-feniel-4-asetieloksipiperidien (PEPAP).
 - Psilosibien (4-fosforieloksie-N,N-dimietieltriptamien).
 - Psilosien (4-hidroksidimietieltriptamien).

PART III

UNDESIRABLE DEPENDENCE-PRODUCING SUBSTANCES

1. The following substances or plants, namely—
 - Amphetamine.
 - Brolamfetamine.
 - Bufotenine (N,N-dimethylserotonin).
 - Cannabis (dagga), the whole plant or any portion or product thereof, except dronabinol [(-)-transdelta-9-tetrahydrocannabinol].
 - Cathinone.
 - Dexamphetamine.
 - Diethyltryptamine [3-(2-(diethylamino)-ethyl)-indole].
 - 2,5-dimethoxyamphetamine (DMA).
 - 2,5-dimethoxy-4-ethylamphetamine (DOET).
 - 3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo [*b*, *d*]pyran-1-ol (DMHP).
 - Dimethyltryptamine [3-(2-(dimethylamino)-ethyl)-indole].
 - Fenetylline.
 - Fentanyl-analogues:
 - acetyl-alpha-methyl-fentanyl;
 - alpha-methyl-fentanyl;
 - alpha-methyl-fentanyl-acetanilide;
 - alpha-methyl-thio-fentanyl;
 - benzyl-fentanyl;
 - beta-hydroxy-fentanyl;
 - beta-hydroxy-3-methyl-fentanyl;
 - 3-methyl-fentanyl and the two isomeric forms thereof, namely, cis-N-(3-methyl-1-(2-phenethyl)-4-piperidyl)propionanilide and trans-N-(3-methyl-1-(2-phenethyl)-4-piperidyl)propionanilide;
 - 3-methyl-thio-fentanyl;
 - para-fluoro-fentanyl; and
 - thiofentanyl.
 - Harmaline (3,4-dihydroharmine).
 - Harmine [7-methoxy-1-methyl-9*H*-pyrido (3,4-*b*)-indole].
 - Heroin (diacetylmorphine).
 - Levamphetamine.
 - Levomethamphetamine.
 - Lysergide (lysergic acid diethylamide).
 - Mescaline (3,4,5-trimethoxyphenethylamine).
 - Methamphetamine and methamphetamine racemate.
 - Methaqualone, including Mandrax, Isonox, Quaalude, or any other preparation containing methaqualone and known by any other trade name.
 - 2-methoxy-4,5-methylenedioxyamphetamine (MMDA).
 - 4-methylaminorex.
 - 4-methyl-2,5-dimethoxyamphetamine (DOM) and the derivatives thereof.
 - Methylenedioxyamphetamine (MDA):
 - N-ethyl-methylenedioxyamphetamine; and
 - N-hydroxy-methylenedioxyamphetamine.
 - Nabilone.
 - Parahexyl.
 - Paramethoxyamphetamine (PMA).
 - Phencyclidine and the congeners thereof, namely, N-ethyl-1-phenylcyclohexylamine (PCE), 1-(1-phenylcyclohexyl) pyrrolidine (PHP or PCPY) and 1-[1-(2-thienyl) cyclohexyl] piperidine (TCP).
 - Pethidine-analogues:
 - 1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP);
 - 1-methyl-4-phenyl-1,2,5,6-tetrahydropiperidine (MPTP); and
 - 1-phenylethyl-4-phenyl-4-acetyloxy-piperidine (PEPAP).
 - Phenmetrazine.
 - Psilocin (4-hydroxydimethyltryptamine).
 - Psilocybin (4-phosphoryloxy-N,N-dimethyltryptamine).
 - Tetrahydrocannabinol.

Tetrahidrokannabinol.

3,4,5-trimetoksiamfetamien (TMA).

2. Tensy uitdruklik uitgesluit, sluit alle stowwe of plante in hierdie Deel opgeneem die volgende in:

- (a) Die isomere van vermelde stowwe of plante, waar die bestaan van sodanige isomere moontlik is;
- (b) die esters en eters van vermelde stowwe of plante en van die isomere in subparagraaf (a) bedoel, asook die isomere van sodanige esters en eters, waar die bestaan van sodanige esters, eters en isomere moontlik is;
- (c) die soute van vermelde stowwe of plante, van die isomere in subparagraaf (a) bedoel en van die esters, eters en isomere in subparagraaf (b) bedoel, asook die isomere van sodanige soute, waar die bestaan van sodanige soute en isomere moontlik is; en
- (d) alle preparate en mengsels van vermelde stowwe of plante en van die isomere, esters, eters en soute in hierdie paragraaf bedoel.

3,4,5-trimethoxy amphetamine (TMA).

2. Unless expressly excluded, all substances or plants included in this Part include the following:

- (a) The isomers of the specified substances or plants, where the existence of such isomers is possible;
- (b) the esters and ethers of the specified substances or plants and of the isomers referred to in subparagraph (a), as well as the isomers of such esters and ethers, where the existence of such esters, ethers and isomers is possible;
- (c) the salts of the specified substances or plants, of the isomers referred to in subparagraph (a) and of the esters, ethers and isomers referred to in subparagraph (b), as well as the isomers of such salts, where the existence of such salts and isomers is possible; and
- (d) all preparations and mixtures of the specified substances or plants and of the isomers, esters, ethers and salts referred to in this paragraph.

BYLAE 3

WETTE HERROEP (ARTIKEL 66)

No. en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 41 van 1971	Wet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1971	Soveel as wat nie herroep is nie.
Wet No. 80 van 1973	Wysigingswet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1973	Soveel as wat nie herroep is nie.
Wet No. 14 van 1977	Wysigingswet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1977	Soveel as wat nie herroep is nie.
Wet No. 76 van 1978	Wysigingswet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1978	Die geheel.
Wet No. 97 van 1986	Wet op die Oordrag van Bevoegdhe en Pligte van die Staatspresident, 1986	Artikel 40.
Wet No. 101 van 1986	Wysigingswet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1986	Die geheel.
Wet No. 78 van 1990	Wysigingswet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1990	Die geheel.

SCHEDULE 3

LAWS REPEALED (SECTION 66)

No. and year of law	Short title	Extent of repeal
Act No. 41 of 1971	Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971	So much as is unrepealed.
Act No. 80 of 1973	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1973	So much as is unrepealed.
Act No. 14 of 1977	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1977	So much as is unrepealed.
Act No. 76 of 1978	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1978	The whole.
Act No. 97 of 1986	Transfer of Powers and Duties of the State President Act, 1986	Section 40.
Act No. 101 of 1986	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1986	The whole.
Act No. 78 of 1990	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1990	The whole.