

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KAAPSTAD, 24 MEI 1991

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1147.

24 May 1991

No. 1147.

24 Mei 1991

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

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

—o. 64 of 1991: Harmful Business Practices Amendment Act, 1991.

No. 64 van 1991: Wysigingswet op Skadelike Sakepraktyke, 1991.

Act No. 64, 1991

HARMFUL BUSINESS PRACTICES AMENDMENT ACT, 1991

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Harmful Business Practices Act, 1988, so as to increase the maximum period of office of members of the Business Practices Committee; to provide for the making of preliminary investigations and the submission of annual reports by the said Committee; and to extend the powers of investigating officers; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 14 May 1991.)

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

Amendment of section 2 of Act 71 of 1988

1. Section 2 of the Harmful Business Practices Act, 1988 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (a) of subsection (5) of the following paragraph: 5

“(a) shall hold office for such period, but not exceeding **[three]** five years, and on such conditions as the Minister may determine at the time of his appointment;”.

Substitution of section 4 of Act 71 of 1988 10

2. The following section is hereby substituted for section 4 of the principal Act:

“Functions of committee

4. (1) The committee **[shall]**—

(a) shall from time to time make known information on current policy in relation to harmful business practices, to serve as general guidelines for persons affected thereby; 15

(b) shall receive and dispose of representations in relation to any matter with which **[the committee]** it may deal in terms of this Act; **[and]** (c) may make such preliminary investigation as it may consider necessary into, or confer with any interested party in connection with, any harmful business practice which allegedly exists or may come into existence; and 20

[(c)](d) shall or may, as the case may be, perform any other function assigned to it by this Act.

(2) (a) As soon as practicable after 31 December 1991 the committee shall submit to the Minister a report on the functions performed by it during the preceding period, and thereafter the committee shall as soon as practicable after 31 December in each succeeding year submit to the Minister a report on the functions performed by it during the relevant year. 25 30

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- (b) Any report submitted to the Minister in terms of paragraph (a), shall as soon as practicable be laid upon the Tables of Parliament.”.

Amendment of section 5 of Act 71 of 1988

3. Section 5 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(1) For the purposes of a preliminary investigation or an investigation in terms of this Act—
 (a) the chairman of the committee may summon any person who is believed to be able to furnish any information on the subject of the preliminary investigation or the investigation, as the case may be, or to 10
have in his possession or under his control any book, document or other object which refers to that subject, to appear before the committee at a time and place specified in the summons, to be questioned or to produce that book, document or other object; and
 (b) the committee or an investigating officer may question that person 15
under oath or affirmation administered by the chairman, and the committee may examine or retain for further examination or for safe custody such a book, document or other object.”; and
 (b) by the substitution for subsection (2) of the following subsection: 20
 “(2) A person from whom a book or document **[or other object]** has been taken under subsection (1) (b) shall, **[so]** as long as **[that book, document or object]** it is in the possession of the committee, at his request be allowed, at his own expense and under the supervision of an investigating officer, to make copies thereof or to take extracts therefrom at any reasonable time.”.

Amendment of section 7 of Act 71 of 1988

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4. Section 7 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
 “(2) An investigating officer who is not in the full-time service of the State shall **[subject to the laws relating to the public service]** be appointed on such conditions and at such remuneration as the Minister may determine 30
[with the concurrence of the Minister of Finance].”; and
 (b) by the substitution for subsection (3) of the following subsection:
 “(3) In order to ascertain whether this Act is being observed by any person to whom it applies, or to obtain any information required by the committee in relation to a preliminary investigation or an investigation by 35
 it in terms of this Act, an investigating officer may at all reasonable times enter any premises on or in which any commodity, book, statement **[or other]**, document or other object connected with that observation or information is or is suspected to be, and may—
 (a) inspect or search those premises; 40
 (b) **[request information regarding]** examine that commodity, and request from the owner or person in charge of those premises, information regarding that commodity;
 (c) examine or make copies of, or take extracts from, any book, statement or **[other]** document found in or upon those premises and which refers 45
 or is suspected to refer to any business practice which may be relevant at any such **[an]** preliminary investigation or investigation by the committee, and
[(d)] request from the owner or person in charge of those premises or from 50
 any person in whose possession or charge that book, statement or **[other]** document is, an explanation of any entry therein;
 (d) examine any object found in or upon those premises and which refers or is suspected to refer to any business practice which may be relevant at any such preliminary investigation or investigation by the committee, and request from the owner or person in charge of those premises 55
or from any person in whose possession or charge that object is, information regarding that object;

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(e) seize against the issue of a receipt that book, statement, document or object, if it appears to provide proof of a contravention of a provision of this Act, or if he wishes to retain it for further examination or for safe custody: Provided that a person from whose possession or charge that book, statement or document has been taken under this paragraph shall, as long as it is in the possession or charge of the investigating officer concerned, at such person's request be allowed, at his own expense and under the supervision of that investigating officer, to make copies thereof or to take extracts therefrom at any reasonable time.”

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Short title

5. This Act shall be called the Harmful Business Practices Amendment Act, 1991.