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STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 785.

13 Maart 1992

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13 March 1992

Hierby word bekend gemaak dat die Staatspresident goedkeuring gegee 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. 16 van 1992: Lugvaartwysigingswet, 1992.

No. 16 of 1992: Aviation Amendment Act, 1992.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Lugvaartwet, 1962, ten einde sekere omskrywings in te voeg; die omskrywing van "Minister" te vervang; voorsiening te maak vir die aanstelling en werksaamhede van en ampsontruiming deur die Kommissaris van Burgerlugvaart; sekere verouderde uitdrukkings te vervang; en die strawwe vir misdrywe ingevolge genoemde Wet te verhoog; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 Maart 1992.)

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

Wysiging van artikel 1 van Wet 74 van 1962, soos gewysig deur artikel 3 van Wet 12 van 1965, artikel 1 van Wet 83 van 1969, artikel 1 van Wet 63 van 1981, artikel 1 van Wet 4 van 1982 en artikel 33 van Wet 115 van 1990

1. Artikel 1 van die Lugvaartwet, 1962 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die volgende omskrywing voor die omskrywing van "drank" in te voeg:
" 'departement' die Departement van Vervoer;"; 10
- (b) deur die volgende omskrywing na die omskrywing van "eienaar" in te voeg:
" 'gemagtigde beampte' 'n gemagtigde beampte ingevolge artikel 5(4)(a) aangewys;";
- (c) deur die volgende omskrywings na die omskrywing van "hierdie Wet" in te voeg:
" 'inspekteur' 'n inspekteur ingevolge artikel 5(4)(a) aangewys;
'Kommissaris' die Kommissaris van Burgerlugvaart ingevolge artikel 5(1) aangestel;"; en 15
- (d) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang: 20
" 'Minister' die Minister van [Vervoerwese] Vervoer;".

Invoeging van artikel 5 in Wet 74 van 1962

2. Die volgende artikel word hierby in die Hoofwet na artikel 4 ingevoeg:

"Aanstelling en werksaamhede van en ampsontruiming deur Kommissaris van Burgerlugvaart 25

5. (1) Die Minister stel na oorleg met die Direkteur-generaal: Vervoer 'n beampte in diens van die departement as Kommissaris van Burgerlugvaart aan.

GENERAL EXPLANATORY NOTE:

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

 Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Aviation Act, 1962, so as to insert certain definitions; to replace the definition of "Minister"; to provide for the appointment and functions of and vacating of office by the Commissioner for Civil Aviation; to replace certain obsolete expressions; and to increase the penalties for offences in terms of the said Act; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 3 March 1992.)

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

Amendment of section 1 of Act 74 of 1962, as amended by section 3 of Act 12 of 1965, section 1 of Act 83 of 1969, section 1 of Act 63 of 1981, section 1 of Act 4 of 1982 and section 33 of Act 115 of 1990

1. Section 1 of the Aviation Act, 1962 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion after the definition of "aircraft" of the following definitions:
 - 10 " 'authorized officer' means an authorized officer designated in terms of section 5(4)(a);
 - " 'Commissioner' means the Commissioner for Civil Aviation appointed in terms of section 5(1);";
- 15 (b) by the insertion after the definition of "Convention" of the following definition:
 - " 'department' means the Department of Transport;";
- (c) by the insertion after the definition of "flight path" of the following definition:
 - 20 " 'inspector' means an inspector designated in terms of section 5(4)(a);"; and
- (d) by the substitution for the definition of "Minister" of the following definition:
 - " 'Minister' means the Minister of Transport **[Affairs]**";.

Insertion of section 5 in Act 74 of 1962

25 2. The following section is hereby inserted in the principal Act after section 4:

"Appointment and functions of and vacating of office by Commissioner for Civil Aviation

30 **5. (1) The Minister shall, after consultation with the Director-General: Transport, appoint an officer in the service of the department as Commissioner for Civil Aviation.**

(2) Die Kommissaris word ten opsigte van die werksaamhede as Kommissaris deur hom verrig geen besoldiging betaal bo en behalwe sy besoldiging as beampte van die departement nie en word ook nie 'n toelae ten opsigte van reis- en verblyf-koste betaal teen 'n hoër skaal as dié wat as so 'n beampte op hom van toepassing is nie.

(3) Die Kommissaris beklee sy amp op die voorwaardes wat die Minister mag bepaal wanneer hy die aanstelling doen.

(4) Die Kommissaris—

(a) wys een of meer beamptes in diens van die departement aan as inspekteurs of gemagtigde beamptes, wie se bevoegdhede en pligte, behoudens die bepalinge van artikel 4(2) en (3), is soos voorgeskryf; en

(b) besit die bevoegdhede en verrig die pligte wat deur hierdie Wet of enige ander wet aan hom verleen of opgedra word.

(5) Die Kommissaris ontruim sy amp indien—

(a) hy na oorleg met die Direkteur-generaal: Vervoer by skriftelike kennisgewing aan die Minister bedank;

(b) die Minister hom van sy amp onthef omdat hy—

(i) versuim het om aan 'n voorwaarde van sy aanstelling te voldoen; of

(ii) hom volgens die oordeel van die Minister aan onbehoorlike gedrag skuldig gemaak het of sy pligte as Kommissaris verwaarloos het; of

(iii) volgens die oordeel van die Minister nie in staat is om sy pligte as Kommissaris te verrig nie.

(6) Indien die Kommissaris te sterwe kom of ingevolge die bepalinge van subartikel (5) sy amp ontruim, stel die Minister, behoudens die bepalinge van subartikel (1), iemand anders as Kommissaris aan.”.

Wysiging van artikel 12 van Wet 74 van 1962

3. Artikel 12 van die Hoofwet word hierby gewysig deur subartikels (5) en (6) deur die volgende subartikels te vervang:

“(5) Die bepalinge van hierdie artikel word nie vertolk nie as sou dit die bevoegdhede of pligte raak wat aan **[landdroste]** regterlike beamptes verleen of hulle opgelê is deur die Wet op Geregte Doodsondersoeke, 1959 (Wet No. 58 van 1959).

(6) Indien 'n raad bestaande uit slegs 'n **[landdros]** regterlike beampte, of 'n raad waarvan 'n **[landdros]** regterlike beampte 'n lid is, 'n ondersoek instel na 'n ongeluk wat lewensverlies meegebring het, kan die ondersoek wat kragtens hierdie Wet gehou word, 'n gesamentlike ondersoek deur die raad en geregte doodsondersoek deur die **[landdros]** regterlike beampte wees.”.

Wysiging van artikel 19 van Wet 74 van 1962, soos gewysig deur artikel 33 van Wet 115 van 1990

4. Artikel 19 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Iemand wat die bepalinge van hierdie Wet of die Konvensie of die Transito-ooreenkoms oortree of 'n misdryf daarkragtens pleeg, of wat versuim om so 'n bepaling wat hy moet nakom, na te kom, is, behalwe waar 'n ander straf in die besonder voorgeskryf is, by skuldigbevinding strafbaar met 'n boete **[van hoogstens vierhonderd rand]** of met gevangenisstraf vir 'n tydperk van hoogstens **[ses maande]** 10 jaar of met **[dié]** 'n boete sowel as dié gevangenisstraf.”.

Wysiging van artikel 22 van Wet 74 van 1962, soos gewysig deur artikel 5 van Wet 12 van 1965, artikel 3 van Wet 83 van 1969, artikel 25 van Wet 62 van 1973, artikel 7 van Wet 4 van 1982 en artikel 2 van Wet 1 van 1984

5. (1) Artikel 22 van die Hoofwet word hierby gewysig deur paragraaf (a) bis van subartikel (1) deur die volgende paragraaf te vervang:

- (2) The Commissioner shall not, in respect of the functions performed by him as Commissioner, be paid any remuneration in addition to his remuneration as an officer of the department, nor shall he be paid any allowance in respect of subsistence and transport at a rate higher than that applicable to him as such an officer.
- (3) The Commissioner shall hold office upon such conditions as the Minister may determine when making the appointment.
- (4) The Commissioner shall—
- (a) designate one or more officers in the service of the department as inspectors or authorized officers, whose powers and duties shall, subject to the provisions of section 4(2) and (3), be as prescribed; and
- (b) possess such powers and perform such duties as may be conferred upon or assigned to him by this Act or any other law.
- (5) The Commissioner shall vacate his office if—
- (a) he, after consultation with the Director-General: Transport, resigns by notice in writing addressed to the Minister;
- (b) the Minister removes him from his office because—
- (i) he has failed to comply with any condition of his appointment; or
- (ii) he has, in the opinion of the Minister, been guilty of improper conduct or neglected his duties as Commissioner; or
- (iii) he is, in the opinion of the Minister, unable to perform his duties as Commissioner.
- (6) If the Commissioner dies, or vacates his office in terms of the provisions of subsection (5), the Minister shall, subject to the provisions of subsection (1), appoint another person as Commissioner.”.

30 Amendment of section 12 of Act 74 of 1962

3. Section 12 of the principal Act is hereby amended by the substitution for subsections (5) and (6) of the following subsections:

- “(5) Nothing in this section contained shall be construed as affecting the powers or duties conferred or imposed upon **[magistrates] judicial officers** by the Inquests Act, 1959 (Act No. 58 of 1959).
- (6) Where an accident involving loss of life is enquired into under this section by a board consisting of a **[magistrate] judicial officer** only or by a board of which a **[magistrate] judicial officer** is a member, the inquiry held under this Act may be a joint inquiry of the board and inquest of the **[magistrate] judicial officer**.”.

Amendment of section 19 of Act 74 of 1962, as amended by section 33 of Act 115 of 1990

4. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) Any person who contravenes the provisions of, or commits an offence under, this Act or the Convention or the Transit Agreement, or who fails to comply with any such provision with which it is his duty to comply, shall, except where another penalty is specially provided, be liable on conviction to a fine **[not exceeding four hundred rand]** or to imprisonment for a period not exceeding **[six months] 10 years** or to both **[such]** a fine and such imprisonment.”.

Amendment of section 22 of Act 74 of 1962, as amended by section 5 of Act 12 of 1965, section 3 of Act 83 of 1969, section 25 of Act 62 of 1973, section 7 of Act 4 of 1982 and section 2 of Act 1 of 1984

5. (1) Section 22 of the principal Act is hereby amended by the substitution for paragraph (a)bis of subsection (1) of the following paragraph:

“(a) *bis* die bevoegdhede en pligte van inspekteurs en gemagtigde beamptes;”.

(2) 'n Persoon wat kragtens 'n regulasie uit hoofde van 'n bepaling van artikel 22(1)(a) *bis* van die Hoofwet aangewys is en wat onmiddellik voor die vervanging van daardie artikel by subartikel (1) aldus aangewese is, word geag 'n inspekteur of gemagtigde beampte, na gelang van die geval, te wees wat ingevolge artikel 5(4)(a) van die Hoofwet deur die Kommissaris van Burgerlugvaart aangewys is.

Wysiging van artikel 22A van Wet 74 van 1962, soos ingevoeg deur artikel 3 van Wet 1 van 1984

6. Artikel 22A van die Hoofwet word hierby gewysig deur in subartikels (5) en (6) die uitdrukking “Departement van Vervoer” deur die uitdrukking “departement” te vervang.

Kort titel en inwerkingtreeding

7. (1) Hierdie Wet heet die Lugvaartwysigingswet, 1992, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

“(a) *bis* the powers and duties of inspectors and authorized officers;”.

(2) Any person designated under any regulation by virtue of any provision of section 22(1)(a) *bis* of the principal Act and who is so designated immediately before the substitution of that section by subsection (1), shall be deemed to be
5 an inspector or authorized officer, as the case may be, designated in terms of section 5(4)(a) of the principal Act by the Commissioner for Civil Aviation.

Amendment of section 22A of Act 74 of 1962, as inserted by section 3 of Act 1 of 1984

6. Section 22A of the principal Act is hereby amended by the substitution in
10 subsections (5) and (6) for the expression “Department of Transport” of the expression “department”.

Short title and commencement

7. (1) This Act shall be called the Aviation Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in
15 the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

(a) the powers and duties of inspectors and authorised officers;
 (2) Any person designated under any regulation by virtue of any provision of section 23(1)(b) of the principal Act and who is so designated immediately before the substitution of that section by subsection (1), shall be deemed to be an inspector or authorised officer as the case may be, designated in terms of section 23(1)(a) of the principal Act by the Commissioner for Civil Aviation.

Amendment of section 23A of Act 74 of 1945, as inserted by section 3 of Act 1 of 1984

6. Section 23A of the principal Act is hereby amended by the substitution in 10 subsections (2) and (3) for the expression "Department of Transport" of the expression "department".

Short title and commencement

7. (1) This Act shall be called the Aviation Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in 15 the Gazette.
 (2) Different dates may be so fixed in respect of different provisions of this Act.