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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. 792.

13 Maart 1992

No. 792.

13 March 1992

Hierby word bekend gemaak dat die Staatspresident sy 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. 23 van 1992: Polisie wysigingswet, 1992.

No. 23 of 1992: Police Amendment Act, 1992.

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Tot wysiging van die Polisiwet, 1958, ten einde aanstellings en vulling van poste in die Suid-Afrikaanse Polisie verder te reël; voorsiening te maak vir die behoud van hul kommissies deur oud-offisiere; die bepalings betreffende die verbod op die publiseer van sekere onware verklarings te herroep; en die bevoegdhede van polisiebeamptes van sekere state en gebiede, vir die doeleindes van optredes in die Republiek ingevolge ooreenkomste met sodanige state of gebiede, verder te reël; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse 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 7 van 1958, soos gewysig deur artikel 1 van Wet 53 van 1961, artikel 1 van Wet 64 van 1964, artikel 1 van Wet 74 van 1967, artikel 1 van Wet 94 van 1972, artikel 1 van Wet 34 van 1973, artikel 1 van Wet 64 van 1979, artikel 1 van Wet 68 van 1984, artikel 1 van Wet 36 van 1989, artikel 1 van Wet 75 van 1989, artikel 1 van Wet 76 van 1989, artikel 1 van Wet 110 van 1990, artikel 1 van Wet 55 van 1991 en artikel 1 van Wet 87 van 1991 5

1. Artikel 1 van die Polisiwet, 1958 (hieronder die Hoofwet genoem), word 10 hierby gewysig—

(a) deur in subartikel (1) paragraaf (b) van die omskrywing van “die Mag” deur die volgende paragraaf te vervang:

“(b) by die toepassing van die bepalings van artikels 12, 14, 17, 17B, 22, 24, 25, 26, [27B] 33 (uitgesonderd paragrawe (eA) 15 en (v) van subartikel (1), en subartikel (2) daarvan), 34D, 34E en 35, 'n munisipale polisie-eenheid;” en

(b) deur in subartikel (1) paragraaf (b) van die omskrywing van “lid van die Mag” deur die volgende paragraaf te vervang:

“(b) by die toepassing van die bepalings van artikels 4(3), 9, 10, 10A, 10B, 10C, 10D, 10E, 10F, 11, 12, 14, 15, 16, 17, 17B, 18, 20, 21, 22, 25, 26, 26A, 27, [27B] 28, 31, 32bis, 33 20 (uitgesonderd paragrawe (eA) en (v) van subartikel (1), en subartikel (2) daarvan), 34D, 34E en 35, 'n lid van 'n munisipale polisie-eenheid;” 25

Invoeging van artikel 2A in Wet 7 van 1958

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

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 Police Act, 1958, so as to further regulate appointments and filling of posts in the South African Police; to make provision for the retention of their commissions by ex-officers; to repeal the provisions regarding the prohibition of the publication of certain untrue statements; and to further regulate the powers of police officials of certain states and territories, for the purposes of actions in the Republic in terms of agreements with such states or territories; and to provide for incidental matters.

(Afrikaans 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 7 of 1958, as amended by section 1 of Act 53 of 1961, section 1 of Act 64 of 1964, section 1 of Act 74 of 1967, section 1 of Act 94 of 1972, section 1 of Act 34 of 1973, section 1 of Act 64 of 1979, section 1 of Act 68 of 1984, section 1 of Act 36 of 1989, section 1 of Act 75 of 1989, section 1 of Act 76 of 1989, section 1 of Act 110 of 1990, section 1 of Act 55 of 1991 and section 1 of Act 87 of 1991

1. Section 1 of the Police Act, 1958 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for paragraph (b) of the definition of “member of the Force” of the following paragraph:

“(b) for the purposes of sections 4(3), 9, 10, 10A, 10B, 10C, 10D, 10E, 10F, 11, 12, 14, 15, 16, 17, 17B, 18, 20, 21, 22, 25, 26, 26A, 27, **[27B]** 28, 31, 32bis, 33 (excluding paragraphs (eA) and (v) of subsection (1), and subsection (2) thereof), 34D, 34E and 35, a member of a municipal police unit;”;

(b) by the substitution in subsection (1) for paragraph (b) of the definition of “the Force” of the following paragraph:

“(b) for the purposes of sections 12, 14, 17, 17B, 22, 24, 25, 26, **[27B]** 33 (excluding paragraphs (eA) and (v) of subsection (1), and subsection (2) thereof), 34D, 34E and 35, any municipal police unit;”.

25 **Insertion of section 2A in Act 7 of 1958**

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

“Aanstellings en vulling van poste

2A. By die doen van 'n aanstelling of die vulling van 'n pos in die Suid-Afrikaanse Polisie—

- (a) mag niemand wat vir die betrokke aanstelling, oorpasing of bevordering kwalifiseer, begunstig of benadeel word nie;
- (b) mag slegs die kwalifikasies, peil van opleiding, relatiewe verdienstelikheid, bekwaamheid en geskiktheid van die persone wat vir die betrokke aanstelling, bevordering of oorpasing kwalifiseer, in ag geneem word.”

Wysiging van artikel 3 van Wet 7 van 1958, soos gewysig deur artikel 2 van Wet 64 van 1964, artikel 2 van Wet 74 van 1967, artikel 2 van Wet 94 van 1972 en artikel 29 van Wet 97 van 1986

3. Artikel 3 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1A) deur die volgende subartikel te vervang:

“(1A) (a) 'n In subartikel (1) bedoelde kommissie word deur die Staatspresident uitgereik onder die handtekening van die Staatspresident en die Minister, of onder replikas van daardie handtekening.

(b) Behoudens die bepalings van paragraaf (c) behou 'n offisier sy kommissie solank dit die Staatspresident behaag.

(c) Die kommissie van 'n offisier word geag ingetrek te wees in die gevalle en onder die omstandighede wat die Minister by regulasie voorskryf.

(d) 'n Persoon wie se kommissie ingevolge hierdie subartikel ingetrek is, moet, binne 14 dae na ontvangs van kennis te dien effekte per aangetekende pos aan hom gerig, sy Akte van Kommissie aan die offisier in die kennisgewing vermeld, oorhandig of laat oorhandig.

(e) 'n Persoon wat nalaat om aan die bepalings van paragraaf (d) te voldoen, is aan 'n misdryf skuldig.”; en

- (b) deur die volgende subartikel by te voeg:

“(3) 'n Offisier word by die beëindiging van sy diens soos bedoel in subartikel (2), op 'n lys van afgetredenes geplaas, en 'n offisier op daardie lys behou sy kommissie en is geregtig om uniform te dra soos by regulasie voorgeskryf: Met dien verstande dat die Staatspresident kan gelas dat 'n offisier nie aldus op 'n lys van afgetredenes geplaas word nie.”.

Herroeping van artikel 27B van Wet 7 van 1958

4. Artikel 27B van die Hoofwet word hierby herroep.

Wysiging van artikel 34F van Wet 7 van 1958, soos ingevoeg deur artikel 20 van Wet 36 van 1989

5. Artikel 34F van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

“(a) genoem in artikels 3(1A)(e), 6(4A)(c), 23, 24, 25(2), 26, 28(2), 34A(13) en 34B(2) is strafbaar met 'n boete van hoogstens R2 000, of by wanbetaling met gevangenisstraf vir 'n tydperk van hoogstens ses maande, of met daardie boete sowel as daardie gevangenisstraf;”.

Wysiging van artikel 34G van Wet 7 van 1958, soos ingevoeg deur artikel 20 van Wet 36 van 1989 en gewysig deur artikel 14 van Wet 87 van 1991

6. Artikel 34G van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

“(4) 'n Lid van 'n Polisiemag van 'n staat of gebied in subartikel (1) bedoel wat ooreenkomstig die bepalings van 'n ooreenkoms in daardie subartikel bedoel in die Republiek optree, kan vir die doeleindes van sodanige optrede enige bevoegdheid uitoefen of plig uitvoer wat by of kragtens hierdie Wet of 'n ander wet aan 'n polisiebeampte of konstabel verleen of opgedra is.”.

"Appointments and filling of posts

- 2A. In the making of any appointment or the filling of any post in the South African Police—
- 5 (a) no person who qualifies for the appointment, transfer or promotion concerned shall be favoured or prejudiced;
- (b) only the qualifications, level of training, relative merit, efficiency and suitability of the persons who qualify for the appointment, promotion or transfer concerned shall be taken into account."

10 **Amendment of section 3 of Act 7 of 1958, as amended by section 2 of Act 64 of 1964, section 2 of Act 74 of 1967, section 2 of Act 94 of 1972 and section 29 of Act 97 of 1986**

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

- 15 (a) by the substitution for subsection (1A) of the following subsection:
- "(1A) (a) A commission referred to in subsection (1) bearing the signatures of the State President and the Minister or replicas of such signatures, shall be issued by the State President.
- (b) Subject to the provisions of paragraph (c), any officer shall hold his commission during the pleasure of the State President.
- 20 (c) The commission of any officer shall be deemed to have been cancelled in the cases and under the circumstances prescribed by the Minister by regulation.
- (d) Any person whose commission has been cancelled under this subsection shall within 14 days after receipt of notice to that effect addressed to him by registered post, deliver or cause to be delivered his Deed of Commission to the officer mentioned in such notice.
- 25 (e) Any person who fails to comply with the provisions of paragraph (d) shall be guilty of an offence."; and
- (b) by the addition of the following subsection:
- 30 "(3) Any officer shall, at the termination of his service as referred to in subsection (2), be placed on a retired list, and any officer on that list shall retain his commission and shall be entitled to wear uniform as prescribed by regulation: Provided that the State President may direct that an officer shall not so be placed on a retired list."

35 **Repeal of section 27B of Act 7 of 1958**

4. Section 27B of the principal Act is hereby repealed.

Amendment of section 34F of Act 7 of 1958, as inserted by section 20 of Act 36 of 1989

- 40 5. Section 34F of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:
- "(a) referred to in sections 3(1A)(e), 6(4A)(c), 23, 24, 25(2), 26, 28(2), 34A(13) and 34B(2) shall be liable to a fine not exceeding R2 000, or in default of payment to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment;"
- 45

Amendment of section 34G of Act 7 of 1958, as inserted by section 20 of Act 36 of 1989 and amended by section 14 of Act 87 of 1991

6. Section 34G of the principal Act is hereby amended by the addition of the following subsection:
- 50 "(4) Any member of a Police Force of any state or territory referred to in subsection (1) who acts in the Republic in accordance with the provisions of an agreement referred to in that subsection, may for the purposes of such action exercise any power or perform any duty conferred or imposed by or under this Act or any other law on any police official or constable."

Kort titel en inwerkingtreding

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

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

5

10 Amendment of section 3 of Act 7 of 1958, as amended by section 2 of Act 64 of 1964, section 2 of Act 74 of 1967, section 2 of Act 94 of 1972 and section 29 of Act 97 of 1986

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

(a) by the substitution for subsection (1A) of the following subsection:

(1A) (a) A commission referred to in subsection (1) bearing the signatures of the State President and the Minister or members of such committee, shall be issued by the State President.

(b) Subject to the provisions of paragraph (c), any officer shall hold

his commission during the pleasure of the State President.

(c) The commission of any officer shall be deemed to have been cancelled in the cases and under the circumstances prescribed by the Minister by regulation.

(d) Any person whose commission has been cancelled under this subsection shall within 14 days after receipt of notice to that effect

addressed to him by registered post, deliver or cause to be delivered his Deed of Commission to the officer mentioned in such notice.

(e) Any person who fails to comply with the provisions of paragraph (d) shall be guilty of an offence, and

(f) by the addition of the following subsection:

(3) Any officer shall, at the termination of his service as referred to in subsection (2), be placed on a retired list, and any officer on that list

shall retain his commission and shall be entitled to wear uniform as prescribed by regulation; provided that the State President may direct

that an officer shall not so be placed on a retired list.

35 Repeal of section 37B of Act 7 of 1958

4. Section 37B of the principal Act is hereby repealed.

Amendment of section 34F of Act 7 of 1958, as inserted by section 20 of Act 36 of 1989

5. Section 34F of the principal Act is hereby amended by the substitution for

paragraph (a) of the following paragraph:

(a) referred to in sections 34A(1), 34A(2), 34A(3), 34A(4), 34A(5), 34A(6), 34A(7), 34A(8), 34A(9), 34A(10), 34A(11), 34A(12), 34A(13) and 34A(14) shall be liable to a fine not exceeding R2 000,

or in default of payment to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Amendment of section 34G of Act 7 of 1958, as inserted by section 20 of Act 36

of 1989 and amended by section 14 of Act 87 of 1991

6. Section 34G of the principal Act is hereby amended by the addition of the

following subsection:

(f) Any member of a Police Force of any state or territory referred to in

subsection (1) who acts in the Republic in accordance with the provisions of an agreement referred to in that subsection may for the purposes of such

agreement exercise any power or perform any duty conferred or imposed by or under this Act or any other law on any police official or constable.

Short title and commencement

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

- 5 (2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.

Short title and commencement

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

(2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.