

REPUBLIC OF SOUTH AFRICA

WATER AMENDMENT BILL

(As introduced)

(MINISTER OF WATER AFFAIRS AND FORESTRY)

[B 58—97]

REPUBLIEK VAN SUID-AFRIKA

WATERWYSIGINGSWETSONTWERP

(Soos ingedien)

(MINISTER VAN WATERWESE EN BOSBOU)

[W 58—97]

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**MEMORANDUM ON THE OBJECTS OF THE WATER AMEND-
MENT BILL, 1997**

Water delivery from the Lesotho Highlands Water Project will commence from about the middle of 1997 when the tunnels of the Project will be pressure tested. The water released from that Project will be discharged into the Axle River and will then flow along that river, the Liebenbergsvlei River and the Wilge River, which is a direct tributary of the Vaal River, into the Vaal dam. It is not the intention that the owners of land which is riparian to the said rivers should have the right to abstract the water so discharged, but that the abstraction should be subject to control. If the said land had formed part of the Vaal Dam Catchment Government Water Control Area, established in 1970 under section 59(1) of the Water Act, 1956 (Act No. 54 of 1956), and it was judged that it did so form part, the water discharged from the Project and flowing in the said rivers would have been subject to the necessary control relating to its abstraction and use. However, in a recent decision the Water Court of the Orange Free State ruled that it is only land which is riparian to the Vaal River and its direct tributaries which is covered by the proclamation in terms of which the said Control Area was established. In order to establish control over the abstraction of water discharged as aforesaid, it is now proposed to extend the provisions of section 56A of the Water Act, 1956. The said section at present prohibits the abstraction of water from a public stream if the Minister of Water Affairs and Forestry is of the opinion that such stream is continuously or from time to time augmented by purified or treated water derived from effluent resulting from the use for industrial purposes of water supplied or distributed by means of a Government water work or any water work mentioned in section 56(3)(b) of the Water Act, 1956. In terms of the said section, as so extended, the abstraction of water discharged into that stream after it has been released from any "other source", that is to say, any source other than that just mentioned, by a Government water work or a water work constructed and operated pursuant to a treaty contemplated in section 138A of the Water Act, 1956, will also be subject to the provisions of that section. That will mean that the abstraction of water so discharged will be prohibited unless it is done by virtue of a permit issued by the Minister.

In the opinion of the State Law Advisers and the Department the Bill should be dealt with in accordance with section 75 of the Constitution.