

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.



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OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 587.

7 April 1989

No. 587.

7 April 1989

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

☐ No. 36 of 1989: Police Amendment Act, 1989.

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

No. 36 van 1989: Polisiewysigingswet, 1989.

Act No. 36, 1989

POLICE AMENDMENT ACT, 1989

or other person in the employment of the Force or the board or body established under this Act, who shall exercise that power subject to the directions of the Commissioner.”.

Amendment of section 6 of Act 7 of 1958, as amended by section 4 of Act 64 of 1964, section 1 of Act 74 of 1965, section 3 of Act 34 of 1973, section 2 of Act 64 of 1979, section 1 of Act 50 of 1980 and section 1 of Act 24 of 1983

3. Section 6 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (4A) of the following paragraph:

“(c) A person who refuses or neglects to stop a vehicle in accordance with an order under paragraph (b), shall be guilty of an offence **[and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment].”.**

Insertion of section 6A in Act 7 of 1958

4. The following section is inserted in the principal Act after section 6:

“Secondment of member of the Force

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6A. (1) The services of a member of the Force may, in terms of the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), be placed at the disposal of any other department of State, or any authority established by or under any law, or of the Police Force of the territory of South West Africa or any state the territory of which previously formed part of the Republic or any self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971).

(2) If the services of any member of the Force are placed at disposal as contemplated in subsection (1), his powers as such a member shall be suspended for the period during which he is so placed at disposal, without detracting from his engagement with the South African Police, but in the execution of his functions such member shall act in terms of the provisions of the laws applicable to such other department, authority or Police Force, and subject to the conditions agreed to between the Commissioner and such other department, authority or Police Force.

(3) Notwithstanding the provisions of the Public Service Act, 1984, the services of a member of the Force may be placed at the disposal of any other department of State or any authority established by or under any law, or of the Police Force of the territory of South West Africa or any state the territory of which previously formed part of the Republic or any self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971), or a foreign state.

(4) If the services of any member of the Force are placed at disposal as contemplated in subsection (3), it shall be deemed that such a member, during the period for which his services are so placed at disposal, is serving in the South African Police, and such member shall retain all powers and privileges as a member of the South African Police, subject to the conditions agreed to between the Commissioner and such other department, authority or Police Force.”;

Amendment of section 10 of Act 7 of 1958, as amended by section 8 of Act 64 of 1964, section 4 of Act 74 of 1967, section 5 of Act 64 of 1979, section 4 of Act 68 of 1984, section 30 of Act 97 of 1986 and section 3 of Act 8 of 1988

5. Section 10 of the principal Act is hereby amended by the deletion of subsection (8).

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Substitution of section 12 of Act 7 of 1958

6. The following section is hereby substituted for section 12 of the principal Act:

“Representation of accused person at trial or enquiry

12. At any trial or enquiry held **[under]** in terms of this Act, and at any enquiry held under the regulations at which the fitness of a member of the Force to remain in the Force or to retain his rank is investigated, or at any enquiry with regard to any deficiency, loss, damage or expense caused to the State as a result of the alleged wrongful and unlawful wilful or negligent conduct of a member of the Force or any other employee of the South African Police, the accused or the person in respect of whom the enquiry is held (as the case may be) may be represented and assisted by his legal adviser.”

Substitution of section 16 of Act 7 of 1958

7. The following section is hereby substituted for section 16 of the principal Act:

“Member of the Force may be charged and tried in terms of this Act as well as other laws

16. (1) The provisions of sections 9 (2) and 10 shall not indemnify any member of the Force from liability to prosecution in and conviction by a court of law in respect of an offence.

(2) No member of the Force who has been acquitted or convicted by a court of law on a charge relating to the commission of an offence shall be indemnified from being tried or charged in terms of section 9 (2) or 10.”

Insertion of section 17B in Act 7 of 1958

8. The following section is hereby inserted in the principal Act after section 17A:

“Summary dismissal of member of the Force who strikes

17B. If he has reasonable grounds to believe that a member of the Force strikes or conspires with another person to strike, the Commissioner may, without hearing any person, summarily dismiss such member from the Force: Provided that—

- (a) such member shall as soon as practicable after the date of such dismissal be notified in writing of the dismissal, the reasons for the dismissal being stated;
- (b) such member may, within 30 days after the date of receipt of the notice, make written representations to the Minister regarding the revocation of the dismissal;
- (c) the Minister may, after having considered the representations, reinstate such member in his employment as from the date of his dismissal.”

Substitution of section 19 of Act 7 of 1958, as substituted by section 2 of Act 90 of 1977

9. The following section is hereby substituted for section 19 of the principal Act:

“Unlawful receiving or possession of property belonging to the Force

19. Any person who receives or has in his possession any means of transport, animal, arms, ammunition, accoutrements, clothing, or other article of equipment, knowing the same to have been sold, pledged, lent or otherwise disposed of in contravention of this Act, shall be guilty of an offence **[and liable on conviction to a fine not exceeding R500 or, in default of payment, imprisonment for a period not exceeding 12 months, or to such imprisonment without the option of a fine].**”

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Substitution of section 23 of Act 7 of 1958, as substituted by section 3 of Act 90 of 1977

10. The following section is hereby substituted for section 23 of the principal Act:

“Offences in respect of decorations and medals

23. Any person who wears or without the written permission of the Commissioner makes use of any decoration or medal instituted, constituted or created under this Act, or its bar, clasp or ribbon, or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive, shall, unless he is the person to whom such decoration or medal was awarded, be guilty of an offence **[and liable on conviction to a fine not exceeding R200]**.”

Substitution of section 24 of Act 7 of 1958, as substituted by section 4 of Act 90 of 1977

11. The following section is hereby substituted for section 24 of the principal Act:

“False representations as to association with the Force

24. Any person who, without the approval of the Minister, in connection with any activity carried on by him takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or to convey or calculated or likely to lead other persons to believe or infer that such activity is carried on under or by virtue of the provisions of this Act or under the patronage of the Force, or is in any manner associated or connected with the Force, shall be guilty of an offence **[and liable on conviction to a fine not exceeding R200]**.”

Amendment of section 25 of Act 7 of 1958, as substituted by section 5 of Act 90 of 1977

12. Section 25 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (d) and the words following thereafter, of the following paragraph and words:

“(d) is a party to or aids or abets or incites to the commission of any act whereby any lawful order given to a member or any regulation may be evaded,

shall be guilty of an offence and liable on conviction—

- (i) in the case of a first conviction of such offence, to a fine not exceeding **[R500]** R4 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment;
- (ii) in the case of a second or subsequent conviction of such offence, to a fine not exceeding **[R1 000]** R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) Any person who by means of a false certificate or any false representation obtains admission to the Force, or, having been dismissed from the Force, receives, by concealing the dismissal, any salary, wages, allowance, gratuity or pension, shall be guilty of an offence **[and liable on conviction to a fine not exceeding R200 or, in default of payment, imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine]**.”

Amendment of section 26 of Act 7 of 1958, as amended by section 7 of Act 53 of 1961, section 16 of Act 64 of 1964 and section 6 of Act 90 of 1977

13. Section 26 of the principal Act is hereby amended by the substitution for the words following paragraph (b) of the following words:

“be guilty of an offence **[and liable on conviction to a fine not exceeding R200]**.”

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Amendment of section 26A of Act 7 of 1958, as inserted by section 1 of Act 14 of 1978

14. Section 26A of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence **[and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding twelve months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment].**”.

Amendment of section 27 of Act 7 of 1958, as substituted by section 7 of Act 90 of 1977

15. Section 27 of the principal Act is hereby amended by the substitution for the words following paragraph (b) of subsection (2) of the following words:

“shall be guilty of an offence **[and liable on conviction to a fine not exceeding R500 or imprisonment for a period not exceeding 12 months or both such fine and such imprisonment].**”.

Amendment of section 27A of Act 7 of 1958, as inserted by section 8 of Act 90 of 1977 and amended by section 1 of Act 5 of 1985

16. Section 27A of the principal Act is hereby amended by the substitution for the words following subparagraph (ii) of subsection (1) of the following words:

“shall, notwithstanding anything to the contrary contained in any law, be guilty of an offence **[and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment].**”.

Amendment of section 28 of Act 7 of 1958, as amended by section 18 of Act 64 of 1964 and section 9 of Act 90 of 1977

17. Section 28 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any person who may demand any such toll, fee or due, or who **[wilfully]** subjects any such member, person, animal, means of transport or article of equipment to unreasonable delay or detention in respect of the entry to, passage through or going over any such wharf, landing place, ferry, bridge, toll-bar, gate or door, shall be guilty of an offence **[and liable on conviction to a fine not exceeding R200].**”.

Amendment of section 34A of Act 7 of 1958, as inserted by section 21 of Act 64 of 1964, substituted by section 1 of Act 15 of 1975 and amended by section 1 of Act 34 of 1976, section 10 of Act 90 of 1977, section 11 of Act 64 of 1979, section 2 of Act 50 of 1980 and section 7 of Act 68 of 1984

18. Section 34A of the principal Act is hereby amended by the substitution for subsection (13) of the following subsection:

“(13) (a) Any member of the Police Reserve who contravenes any provision of this section or fails to comply with an order issued in terms thereof, shall, except where such contravention or failure has by section 9 (1) been declared an offence, be guilty of an offence **[and liable on conviction to a fine not exceeding R300 or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment].**

(b) Any member of the Police Reserve liable in terms of subsection (10) of this section to render service in the Force and who—

- (i) when called up, does not report for such service; or
- (ii) having reported for service, does not render such service,

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shall be guilty of an offence **[and liable on conviction to the penalties prescribed by paragraph (a)].**”.

Amendment of section 34B of Act 7 of 1958, as inserted by section 21 of Act 64 of 1964, substituted by section 7 of Act 94 of 1972 and amended by section 11 of Act 90 of 1977, section 58 of Act 56 of 1981 and section 8 of Act 68 of 1984

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19. Section 34B of the principal Act is hereby amended by the substitution for the words following paragraph (c) of subsection (2) of the following words:

“shall subject to the provisions of subsections (3) and (4) be guilty of an offence **[and liable on conviction to a fine not exceeding R300 or, in default of payment, imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment]**.”.

Insertion of sections 34F and 34G in Act 7 of 1958

20. The following sections are hereby inserted in the principal Act after section 34E:

“Punishments

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34F. Any person convicted of an offence—

- (a) referred to in sections 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.
- (b) referred to in sections 19, 26A (2), 27 (2) and 27A shall be liable to a fine not exceeding R4 000, or in default of payment to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.

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Minister may enter into agreements with other states or territories

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34G. (1) The Minister may enter into agreements with the Minister or other person responsible for the Police Force of a foreign state; the territory of South West Africa, any state the territory of which previously formed part of the Republic or a self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971), in regard to co-operation and mutual aid between the Police Force of the Republic and that of such state or territory, the circumstances and conditions in terms of which members of the respective Police Forces may undertake cross-border operations or any other matter of mutual concern.

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(2) Any such agreement or part thereof, and any amendment thereof or addition thereto which may be made from time to time, shall acquire the force of law within the Republic by publication thereof in the *Gazette*.

(3) The Minister shall lay a copy of every notice issued under subsection (2) upon the Table in Parliament within 14 days after the date of publication thereof in the *Gazette*, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.”.

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Short title

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21. This Act shall be called the Police Amendment Act, 1989.