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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 907.

24 April 1985

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

Act No. 47 of 1985: National Key Points Amendment Act, 1985.

No. 907.

24 April 1985

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

No. 47 van 1985: Wysigingswet op Nasionale Sleutelpunte, 1985.

Act No. 47, 1985

NATIONAL KEY POINTS AMENDMENT ACT, 1985

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 National Key Points Act, 1980, so as to provide for two or more National Key Points to be declared a National Key Points Complex with a view to joint steps being taken in respect of the security of those Key Points by the owners thereof; to empower the Minister of Defence in certain circumstances to take or cause to be taken the necessary steps in respect of the security of Key Points and to recover the costs thereof from the owners; to state the duties of the owners of National Key Points more clearly; to provide for the establishment of a Special Account for the Safeguarding of National Key Points; to provide for the appointment of persons to advise the Minister of Defence and to assist him in the exercise of his powers under the Act; to state the powers of entry of places and areas under the Act more clearly; to validate certain acts of the Minister of Defence; and to effect a certain correction in the Afrikaans text; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 12 April 1985.)*

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

Amendment of
section 1 of
Act 102 of 1980.

1. Section 1 of the National Key Points Act, 1980 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution in the Afrikaans text for the definition of "eienaar" of the following definition: 5
"eienaar", met betrekking tot 'n plek of gebied wat kragtens artikel 2 tot 'n Nasionale Sleutelpunt verklaar is, ook—
- (a) die persoon wat geregistreer is as die eienaar 10 van die grond wat sodanige plek of gebied uitmaak;
- (b) die persoon wat uit hoofde van 'n reg van 'n in paragraaf **[(i)] (a)** bedoelde persoon verkry sodanige plek of gebied wettiglik okkupeer; 15
- (c) waar die in paragraaf **[(i)] (a)** of **[(ii)] (b)** bedoelde persoon oorlede, minderjarig, insolvent, kranksinnig of andersins regtens onbevoeg is, 'n eksekuteur, administrateur, voog, trustee, likwidateur, kurator of ander persoon 20 wat die boedel en bates van daardie persoon beheer of hom verteenwoordig;
- (d) waar die Staat sodanige plek of gebied besit of okkupeer, die hoof van die departement onder wie se beheer die plek of gebied is; 25

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- (e) 'n persoon onder wie se beheer of bestuur 'so-danige plek of gebied is'; and
- (b) by the insertion after the definition of "National Key Point' or 'Key Point'" of the following definition:
- "National Key Points Complex' or 'Key Points Complex' means those National Key Points declared a National Key Points Complex under section 2A;".

Insertion of section 2A in Act 102 of 1980.

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

2A. (1) When in the opinion of the Minister it will contribute to the safeguarding of two or more National Key Points if certain steps in respect of their security are taken jointly by their owners, he may declare those Key Points a National Key Points Complex irrespective of whether one of the Key Points adjoins any other and irrespective of whether the steps contemplated will be taken at or on any of the Key Points.

(2) The owner of a Key Point included in a Key Points Complex shall forthwith be notified thereof by written notice, as well as of the name and address of each of the other owners of Key Points included in the Key Points Complex.

(3) The inclusion of a Key Point in a Key Points Complex shall not exempt the owner of that Key Point from any obligation in terms of this Act."

Substitution of section 3 of Act 102 of 1980.

3. The following section is hereby substituted for section 3 of the principal Act:

3. (1) On receipt of a notice mentioned in section 2 (2), the owner of the National Key Point concerned shall after consultation with the Minister at his own expense take steps to the satisfaction of the Minister in respect of the security of the said Key Point.

(2) If the said owner fails to take the said steps, the Minister may by written notice order him to take, within a period specified in the notice and at his own expense, such steps in respect of the security of the said Key Point as may be specified in the notice.

(3) (a) If the said owner without reasonable cause refuses or fails [without reasonable cause] to take the steps specified in the said notice within the period specified therein he shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment [and in addition the Minister may take or cause to be taken the said steps and recover the cost thereof from that owner].

(b) If the said owner refuses or fails to take the steps specified in the said notice within the period specified therein, the Minister may take or cause to be taken the said steps irrespective of whether the refusal or failure took place with or without reasonable cause and irrespective of whether the owner was charged or convicted in connection with that refusal or failure, and the Minister may recover the cost thereof from that owner to such extent as the Minister may determine.

(4) (a) The Minister may after consultation with the owners of Key Points included in a Key

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Points Complex order them by written notice to take, within a period specified in the notice and at their expense, such joint steps in respect of the security of that Key Points Complex as may be specified in the notice, and to determine within a period specified in the notice on the proportion in which each shall be responsible for the cost thereof. 5

(b) If the owners are unable to determine within the period specified the said proportion, the Minister may determine that proportion. 10

(5) If an owner referred to in subsection (4) without reasonable cause refuses or fails to take the steps for which he is responsible within the period specified in the notice, or delays, frustrates or renders them impossible, irrespective of whether any other owner with or without reasonable cause refuses or fails to take the steps for which he is responsible within the period concerned, or delays, frustrates or renders them impossible— 15

(a) the first-mentioned owner shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; 20

(b) the Minister may take or cause to be taken those steps, as well as the steps which any other owner was unable to take as a result of the first-mentioned owner's refusal or failure to take the said steps, irrespective of whether the owner has been charged or convicted in connection with that refusal or failure, and the Minister may recover the cost of those steps from all the owners on whose behalf they were taken in the proportion in which they were responsible for the cost or to such extent as he may determine. 25

(6) The Minister may at any time amend any period or steps in terms of a notice under this section, and the owner or owners concerned shall forthwith be notified thereof by written notice." 30 35 40

Insertion of sections 3A and 3B in Act 102 of 1980.

4. The following sections are hereby inserted after section 3 of the principal Act:

"Power of Minister to take over duties of owners.

3A. (1) The Minister may at any time, on behalf of and with the consent of the owner of a National Key Point or the owners of National Key Points included in a National Key Points Complex, take or cause to be taken any or all of the steps which in his opinion are or may become necessary in respect of the security of that Key Point or Key Points Complex, and the owner or owners shall be liable for the cost thereof to such extent as the Minister may determine. 45 50

(2) When the Minister takes or causes to be taken steps under subsection (1) of this section or section 3 (3) (b) or 3 (5) (b), he may take over the obligations of the owner or owners concerned arising from any contract or contracts with a third party or third parties, with the consent of that third party or those third parties, if in the opinion of the Minister the fulfilment of the contract or contracts will contribute to the security of the Key Point or Key Points Complex concerned. 55 60

Special Account for the Safeguarding of National Key Points.

3B. (1) There is hereby established an account to be known as the Special Account for the Safeguarding of National Key Points (hereinafter referred to as the account), into which shall be paid— 65

(a) moneys appropriated by Parliament for the account;

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- (b) moneys appropriated by Parliament by an Appropriation Act or any other Act for the requirements of a State department and which the Minister who administers that department, with the concurrence of the Minister of Finance directs to be utilized for the security of a particular Key Point or Key Points Complex; 5
- (c) moneys recovered or received from the owner of a Key Point in terms of this Act;
- (d) moneys received by way of a refund of expenditure incurred on the account; 10
- (e) interest derived from the investment of moneys standing to the credit of the account; and
- (f) moneys which accrue to the account from any other source. 15
- (2) The moneys in the account shall be utilized to—
- (a) render at the discretion of and on the conditions determined by the Minister financial assistance, including loans at the interest rate contemplated in section 26 of the Exchequer and Audit Act, 1975 (Act No 66 of 1975), to an owner in connection with steps taken or to be taken by such owner in respect of the security of a Key Point in terms of this Act; 20
- (b) take or cause to be taken the steps contemplated in sections 3 (3) (b), 3 (5) (b) and 3A; and 25
- (c) defray expenditure in connection with the safeguarding of Key Points.
- (3) Notwithstanding anything to the contrary in any other law contained, the Minister, with the concurrence of the Minister of Finance, shall designate a person in the service of the State who shall be deemed to be the accounting officer for the account for the purposes of section 15 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975). 30
- (4) A bank account shall be kept for the account at the South African Reserve Bank.
- (5) Moneys standing to the credit of the account which are not required for immediate use or as a reasonable working balance, may be invested in such manner as the Minister may determine with the concurrence of the Minister of Finance. 40
- (6) Any unexpended balance in the account at the close of any financial year, including accrued interest on investment balances and other receipts, shall be carried forward as a credit in the account to the following financial year. 45
- (7) The account shall be audited by the Auditor-General.” 50

Amendment of
section 6 of
Act 102 of 1980.

5. Section 6 of the principal Act is hereby amended—

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

“(1) The Minister may appoint such persons or committees as he may deem fit to report to him or to advise him or to exercise any power conferred on him under this Act, except a power excluded in terms of section 9.”; and 55

- (b) by the substitution for subsection (2) of the following subsection: 60

“(2) There shall be paid to any such person or member of any such committee who is not an officer as defined in section 1 of the Public Service Act, [1957 (Act No. 54 of 1957)] 1984 (Act No. 111 of 1984), such remuneration and allowances as the Minister may determine with the concurrence of the Minister of Finance.”. 65

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Amendment of section 11 of Act 102 of 1980, as amended by section 1 of Act 44 of 1984.

6. Section 11 of the principal Act is hereby amended by the deletion of paragraph (d) of subsection (1).

Substitution of section 12 of Act 102 of 1980.

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

“Entry upon places and areas. 12. The Minister or any person authorized thereto 5
by him may enter upon any place or area so as to—
(a) exercise any power granted to him by this Act;
(b) verify any information furnished in terms of section 4 [or to];
(c) gather information; [or to] 10
(d) check any steps being or to be taken in terms of this Act.”.

Substitution of section 13 of Act 102 of 1980, as amended by section 2 of Act 44 of 1984.

8. The following section is hereby substituted for section 13 of the principal Act:

“Certain provisions bind the State. 13. The provisions of sections 2, 3 (1), 3 (2), 3 (4), 15
3A and 12 and, to such extent as may be determined by the Minister or any person authorized thereto by him, of the regulations made under this Act, shall bind the State.”.

Validation of certain acts.

9. Any steps taken or caused to be taken by the Minister of 20
Defence before the commencement of this Act, including the concluding of agreements and the taking over of obligations, which he could have taken or caused to be taken under section 3A of the principal Act, as inserted by this Act, if the said section 3A were then in force, are deemed to have been taken or caused 25
to be taken thereunder.

Short title.

10. This Act is called the National Key Points Amendment Act, 1985.