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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1234.

20 Junie 1984

No. 1234.

20 June 1984

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

⊕
No. 68 van 1984: Polisiewysigingswet, 1984.

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

No. 68 of 1984: Police Amendment Act, 1984.

POLICE AMENDMENT ACT, 1984

Act No. 68, 1984

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 Police Act, 1958, so as to replace the definition of "Minister"; to make further provision for the delegation by the Commissioner of his powers; to increase the fine which may be imposed by a commissioned officer upon conviction of a member of the Force who is not a commissioned officer; to further regulate the procedure in the case of alleged misconduct of officers and to increase the fine which may be imposed by the Minister upon conviction of a commissioned officer of misconduct; to provide that acts or offences committed outside the Republic by members of the Force shall be deemed to have been committed inside the Republic for the purposes of sections 9 and 10 of the said Act; to further regulate the position of witnesses at trials and boards of enquiry; and to make further provision for the service which shall or may be rendered by members of the Police Reserve; and to make provision for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 7 June 1984.)

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

1. Section 1 of the Police Act, 1958 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Minister" of the following definition:

"Minister" means the Minister of **[Police] Law and Order**;

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 and section 1 of Act 64 of 1979.

2. Section 4 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

10 "(2) Any power vested in the Commissioner under **[sub-**
section (1)] this Act may **[subject to his directions, be exer-**
cised by], with the approval of the Minister, be delegated in
15 writing by the Commissioner to any other officer of or
above the rank of Lieutenant-Colonel [designated by him],
who shall exercise that power subject to the directions of
the Commissioner."

Amendment of section 4 of Act 7 of 1958, as amended by section 2 of Act 53 of 1961 and section 3 of Act 74 of 1967.

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3. Section 9 of the principal Act is hereby amended—

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

5 “(2) Notwithstanding anything contained in subsection (1), any member of the Force who is not a commissioned officer may be tried for a contravention of any provision of this Act by any commissioned officer under whose command he is serving or who has been generally or specially deputed thereto, and may on conviction by such officer be reprimanded or sentenced to a fine not exceeding [thirty rand] R50, which shall be recovered by stoppages from the salary or wages of the member so convicted.”; and

(b) by the deletion of subsection (3).

Amendment of section 9 of Act 7 of 1958, as amended by section 1 of Act 43 of 1958, section 4 of Act 53 of 1961, section 7 of Act 64 of 1964, section 3 of Act 94 of 1972, section 4 of Act 34 of 1973, section 1 of Act 90 of 1977 and section 4 of Act 64 of 1979.

15 4. Section 10 of the principal Act is hereby amended—

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

20 “(1) The Commissioner or any other commissioned officer acting under his authority may, in the manner prescribed by regulation, charge any commissioned officer with misconduct [and request him to submit, within such period and in such manner as may be so prescribed, a written admission or denial of the charge and any written explanation he may wish to offer in regard to the alleged misconduct].”;

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

25 “(2) [After the expiration of the period aforesaid] If a commissioned officer has been so charged with misconduct, the Minister or [if authorized thereto by the Minister, either specially in a particular case or generally] the Commissioner may appoint a board of enquiry to investigate the charge in question.”;

(c) by the deletion of subsections (3) and (4);

30 (d) by the addition to subsection (6B) of the following proviso:

“Provided that the commissioned officer concerned shall, for the purposes of his representations referred to in subsection (6A), be notified of—

40 (a) the recommendation of the board; and

(b) the recommendation of the Commissioner.”; and

(e) by the substitution for paragraph (e) of subsection (6C) of the following paragraph:

45 “(e) impose a fine not exceeding [R100] R200, which may be recovered by way of stoppages from the salary or allowances of the officer concerned; or”.

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 and section 5 of Act 64 of 1979.

5. The following section is hereby inserted in the principal Act after section 10:

50 “Offences committed outside Republic. 10A. If a member of the Force does or omits to do any act outside the Republic which, if done or omitted in the Republic, would have constituted an offence; it shall be deemed for the purposes of sections 9 and 10 that such act was done or omitted in the Republic.”.

Insertion of section 10A in Act 7 of 1958.

55 6. Section 11 of the principal Act is hereby amended—

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

60 “(1) (a) For the purposes of a trial by a commissioned officer referred to in section 9 (2) or an enquiry by a board of enquiry appointed in terms of this Act, the officer or board concerned may—

(i) in the manner prescribed by regulation sub-

Amendment of section 11 of Act 7 of 1958, as amended by section 6 of Act 64 of 1979.

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- poena any person to appear as a witness at the time and place specified in the subpoena before the officer or board concerned in order to answer questions or to produce a document or thing under his control; and
- 5 (ii) call any person present at the trial or enquiry as a witness and administer an oath or affirmation to him or admonish him to tell the truth.
- 10 (b) At such trial or enquiry the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), relating to witnesses and evidence which are applicable in connection with criminal proceedings in a magistrate's court, except paragraph (a) of the proviso to section 217 (1), shall *mutatis mutandis* apply.
- 15 (c) A witness at such trial or enquiry who—
- (i) having been duly subpoenaed under paragraph (a) (i), fails to appear at the time and place specified in the subpoena or fails to remain in attendance at the trial or enquiry concerned until he has been lawfully excused from further attendance;
- 20 (ii) refuses to take an oath or to make an affirmation administered to him under paragraph (a) (ii);
- 25 (iii) refuses or fails to answer satisfactorily all questions which have lawfully been put to him; or
- 30 (iv) refuses or fails to produce a document or thing which he has been lawfully required to produce,
- shall, unless he proves sufficient cause for that failure or refusal, be guilty of an offence and liable on conviction to a fine not exceeding R100 or imprisonment for a period not exceeding three months.”; and
- 35 (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- “(a) at any such enquiry or trial, having taken an oath, having made an affirmation or having been admonished as contemplated in subsection (1) (a) (ii), makes [on oath] any false statement knowing it to be false, shall be guilty of an offence and liable on conviction to the penalties [prescribed by] which may be imposed under the law for the crime of perjury; or”.
- 45
7. Section 34A of the principal Act is hereby amended—
- (a) by the insertion after subsection (3A) of the following subsection:
- 50 “(3B) If a member of the Police Reserve has consented in writing to render voluntary service in addition to the service to which he is liable in terms of this section, the Minister or any commissioned officer acting under his authority may, in accordance with subsection (3), order that member to report for the voluntary service in question.”;
- 55 (b) by the substitution for subsection (5) of the following subsection:
- “(5) The period referred to in subsection (3) shall, subject to [the provisions of] subsection (11), not exceed—
- 60 (a) 90 days per year, and in the aggregate not 150 days in the case of any person who [becomes] became a member of the Police Reserve before 1 July 1979, or 180 days in the case of any person who [becomes] became a member of the Police Reserve on or after 1 July 1979 but before 1 January 1980, or
- 65 240 days in the case of any person who [becomes]

Amendment of section 34A of Act 7 of 1958, as 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 and section 2 of Act 50 of 1980.

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- became a member of the Police Reserve on or after 1 January 1980 but before 1 January 1983: Provided that where any member of the Police Reserve has on or after 1 July 1979 but before 1 January 1983 rendered more than two years continuous service in a permanent capacity in the Force, his obligation so to serve shall be reduced by 30 days in respect of every completed year [of] by which such continuous service exceeds two years;
- (b) 90 days per year and 120 days in a cycle of two years, and in the aggregate not 720 days in the case of a person who, on or after 1 January 1983, became or becomes a member of the Police Reserve: Provided that where any member of the Police Reserve has rendered more than four years continuous service in a permanent capacity in the Force, his obligation so to serve shall be reduced by 120 days in respect of every completed year by which such continuous service exceeds four years.”;
- (c) by the insertion after subsection (5) of the following subsections:
 “(5A) The Minister or any commissioned officer acting under his authority may, in accordance with the provisions of subsection (3), order any person who on or after 1 January 1983 became or becomes a member of the Police Reserve, after completion of the service to which he is liable in terms of this section, to report for a further maximum period of 30 days’ service in the Force in each completed cycle of three years until he attains the age of 55 years.
 (5B) Any person who on or after 1 January 1983 became or becomes a member of the Police Reserve and who due to any act or omission on his part has not rendered service to which he is liable in terms of this section shall, notwithstanding the provisions of subsection (6), but subject to the provisions of subsection (3), remain liable to render that service, unless the Minister or any commissioned officer acting under his authority otherwise directs.”;
- (d) by the substitution for paragraph (a) of subsection (6) of the following paragraph:
 “(a) to a member of the Police Reserve referred to in subsection (1) (a), (b) or (bA) after the expiration of a period of five years, or to a member of the Police Reserve referred to in subsection (1) (bB) after the expiration of a period of [eight] 12 years, as from the date on which he terminated his service in a permanent capacity in the Force or the date on which he was discharged or dismissed from the Force or was retired on pension from such service; or”;
- (e) by the substitution for paragraph (c) of subsection (11) of the following paragraph:
 “(c) in the case of any person allotted to the Force for training and service on or after 1 January 1980 but before 1 January 1983, be completed in not more than [eight] nine periods and shall not exceed 24 months during the first period of service and 90 days during every later period of service and in the aggregate 240 days during such later periods of service; and”;
- (f) by the addition to subsection (11) of the following paragraph:
 “(d) in the case of any person who was or is allotted to the Force for training and service on or after 1 January 1983, be completed in not more than 13 periods of service and shall not exceed 24 months

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5 during the first period of service and 90 days during every later period of service (but not exceeding 120 days during every cycle of two years) and in the aggregate 720 days during such later periods of service.”.

8. Section 34B of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

10 “(1) An employer shall afford any person in his employ who is ordered in terms of section 34A to report for service, other than voluntary service referred to in subsection (3B) of that section, all reasonable facilities to enable him to report for such service.”.

Amendment of section 34B of Act 7 of 1958, as substituted by section 7 of Act 94 of 1972 and amended by section 11 of Act 90 of 1977 and section 58 of Act 56 of 1981.

9. This Act shall be called the Police Amendment Act, 1984, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.