



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1191.

9 June 1989

No. 1191.

9 Junie 1989

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

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

No. 76 of 1989: Police Third Amendment Act, 1989.

No. 76 van 1989: Derde Polisiewysigingswet, 1989.

Act No. 76, 1989

POLICE THIRD AMENDMENT ACT, 1989

**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.

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# ACT

To amend the Police Act, 1958, in order to provide for the establishment of municipal police units in the areas of Black local authorities and in certain development areas; for the appointment of members of those units, and the powers and duties of such members; for the transfer of certain persons in the employment of the said local authorities and of certain persons serving in the said development areas, to municipal police units; and for the transfer to the State of certain movable and immovable property used by the said local authorities or in the said development areas in connection with municipal police functions; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 1 June 1989.)*

**B**E 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 and section 1 of the Second Police Amendment Act, 1989 5

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

(a) by the insertion after the definition of “divisional commissioner” in subsection (1) of the following definition: 10

“‘local authority’ means a local authority as defined in the Black Local Authorities Act, 1982 (Act No. 102 of 1982);”;

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

“‘member of the Force’ means any commissioned officer, warrant officer, non-commissioned officer or constable serving in the South African Police in accordance with this Act, and includes— 15

(a) except for the purposes of any provision of this Act in respect of which the Commissioner may subject to the directions of the Minister otherwise prescribe, any member of the Police Reserve or the Reserve Police Force while serving in the Force, and any temporary member while employed in the Force; 20

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

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- (c) by the insertion after the definition of "Minister" in the said subsection (1) of the following definition:  
 "municipal police unit' means a municipal police unit established by or under section 17C;"; and
- (d) by the substitution for the definition of "the Force" in the said subsection (1) of the following definition: 5  
 "'the Force' means the commissioned officers, warrant officers, non-commissioned officers and constables **[of]** serving in the South African Police in accordance with this Act, and includes—
- (a) except for the purposes of any provision of this Act in respect of 10  
 which the Commissioner may subject to the directions of the Minister otherwise prescribe, the Police Reserve, the Reserve Police Force and temporary members;
- (b) for the purposes of sections 12, 14, 17, 17B, 22, 24, 25, 26, 27B, 33 (excluding paragraphs (b)bis, (eA) and (v) of subsection (1), and subsection (2) thereof), 34D and 34E, any municipal police unit;" 15

**Insertion of Chapter IIA in Act 7 of 1958**

2. The following Chapter is hereby inserted in the principal Act after section 17B:

**"CHAPTER IIA**

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**ESTABLISHMENT AND POWERS OF MUNICIPAL POLICE UNITS****Establishment of municipal police units for certain areas**

- 17C. (1) (a) There is hereby established a municipal police unit for the area of every local authority to perform, subject to the provisions of section 17D, in the area of such local authority the functions referred to in section 5. 25
- (b) The Minister may at any time establish by notice in the *Gazette* a municipal police unit for any development area as defined in section 1 of the Black Communities Development Act, 1984 (Act No. 4 of 1984), which is situated outside the area of a local authority. 30
- (2) The Commissioner shall, subject to the directions of the Minister, have the command, superintendence and control of any municipal police unit.
- (3) The provisions of this section shall not be construed as derogating from the functions of the South African Police Force or the powers and duties of a member of the Force or a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 35

**Appointment, training, promotion, transfer, dismissal, discharge and reduction in rank of members of municipal police units**

17D. The Commissioner may from time to time and on such conditions as may be prescribed by regulation appoint in the South African Police in respect of every municipal police unit such competent persons as he may deem necessary for the purposes of the performance of the functions of such municipal police unit to serve as members of a municipal police unit, and may so train, promote, transfer, dismiss, discharge or reduce in rank any member of a municipal police unit. 40 45

**Powers and duties of members of municipal police units**

- 17E. A member of a municipal police unit—
- (a) shall, subject to the provisions of this Act, exercise the powers and so carry out the duties in the area for which the relevant municipal police unit has been established— 50
- (i) which are by or under the provisions of any law conferred on or imposed upon a member of a municipal police unit;

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- (ii) which are by or under the provisions of this Act or any other law conferred on or imposed upon a police officer or a constable, as if such member were a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
- (b) shall in the performance of his official duties obey all lawful directions which he may from time to time receive from his superiors in the municipal police unit or a member of the Force or the incumbent of a post in the South African Police designated by the Commissioner for such purpose.”

**Amendment of section 33 of Act 7 of 1958, as amended by section 8 of Act 53 of 1961, section 19 of Act 64 of 1964, section 1 of Act 80 of 1970, section 5 of Act 94 of 1972, section 1 of Act 47 of 1981, section 46 of Act 97 of 1986, section 6 of Act 8 of 1988 and section 3 of the Police Second Amendment Act, 1989**

3. Section 33 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) the enrolment, training, promotion, posting, transfer, including the transfer from one post in a municipal police unit to another post in any such unit and from one municipal police unit to any other municipal police unit, leave of absence, resignation, discharge, dismissal, suspension or reduction of members of the Force;”;
- (b) by the substitution for paragraph (c) of the said subsection (1) of the following paragraph:
- “(c) the numerical establishment and distribution of the Force, the establishment of police districts and stations, and the conditions of service and the various regions, divisions, branches, grades, ranks, including ranks of members of municipal police units, designations and appointments in the Force or in such districts or at such stations;”;
- (c) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- “(a) Different regulations may be made with reference to—
- (i) different classes or categories of members of the Force;
- (ii) different classes or categories of members of municipal police units; and
- (iii) members of the Force and members of municipal police units.”

**Amendment or repeal of laws, transitional provisions and savings**

4. (1) The laws mentioned in the Schedule are hereby amended or repealed to the extent indicated in the third column thereof.
- (2) Notwithstanding the provisions of subsection (1), the provisions of sections 34 and 56 (1) (j) of the Black Local Authorities Act, 1982 (Act No. 102 of 1982), shall remain in force in a development area as defined in section 1 of the Black Communities Development Act, 1984 (Act No. 4 of 1984), which is situated outside the area of a local authority as defined in section 1 of the said Black Local Authorities Act, 1982, until a municipal police unit is established under subsection (1) (b) of section 17C of the principal Act, as inserted by section 2 of this Act, for that development area.
- (3) A reference in any law to a person appointed under section 34 of the said Black Local Authorities Act, 1982, shall, in respect of the area of such local authority or such development area, be construed as a reference to a member of a municipal police unit established by or under the said section 17C of the principal Act in respect of such area.
- (4) Subject to the provisions of this section a person who immediately prior to the date of commencement of this Act is by virtue of an appointment under section 34



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of the said Black Local Authorities Act, 1982, in the employment of a local authority as defined in that Act, shall, with recognition of his period of service by virtue of such appointment, be deemed to be appointed under section 17D of the principal Act, as inserted by section 2 of this Act, in the South African Police to serve as a member of the municipal police unit established for the area of that local authority, on such conditions of service as may under the principal Act be prescribed for members of municipal police units, and at such salary, wage or allowances as may be so determined for those members: Provided that—

- (a) the salary, wage or allowances of such a person shall not be less favourable than the salary, wage or allowances which were applicable to him in the employment of the local authority concerned;
- (b) any sick or vacation leave which stood to the credit of such person immediately prior to the commencement of this Act, shall be deemed to be leave earned by him as a member of the municipal police unit concerned; and
- (c) any disciplinary steps instituted, or which could have been instituted, against any such member before the commencement of this Act by a competent member of the South African Police Force, may after the commencement of this Act be proceeded with or instituted as if the conduct upon which those steps in any such case are based had occurred on or after such commencement.

(5) A person referred to in subsection (4) who immediately prior to the commencement of this Act was a contributor to the Associated Institutions Pension Fund established under section 2 of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963)—

- (a) shall be deemed to remain without a break in his service a member of such pension fund; and
- (b) shall, notwithstanding anything to the contrary contained in any other law, not be entitled to the payment of any benefit from such pension fund by virtue of the provisions of this Act, in so far as his transfer involves the termination of his service with the local authority concerned.

(6) In the application of the said Associated Institutions Pension Fund Act, 1963, in respect of a person referred to in subsection (5), the South African Police shall be deemed to be an associated institution and for that purpose deemed to have been declared as such an institution in terms of section 4 of that Act as from the date of commencement of this Act.

(7) The provisions of subsection (5) shall apply *mutatis mutandis* in relation to a person who immediately prior to the commencement of this Act was a member of a superannuation, pension or provident fund or scheme (other than an assurance scheme) established or approved by the local authority concerned for the benefit of its employees: Provided that the Minister of Law and Order may, with the concurrence of the controlling body of such superannuation, pension or provident fund or scheme, make regulations in relation to the basis and conditions on which such person shall remain a member of the fund or scheme concerned.

(8) The ownership and control of all movable property of which the ownership and control vested in a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982), immediately prior to the commencement of this Act and which has been used for the purposes of or in connection with the exercise or performance of the powers and duties of persons appointed under section 34 of the said Black Local Authorities Act, 1982, may on such conditions and terms as may be determined by mutual agreement between the Commissioner of the South African Police and the local authority concerned, with the concurrence of the Minister of Finance, be transferred to the State.

(9) All immovable property of which the ownership does not vest in the State and which has been used for the purposes of or in connection with the exercise or performance of the powers and duties of persons referred to in subsection (8) immediately prior to the commencement of this Act, may be made available for the purposes of or in connection with the exercise or performance of the powers and duties of municipal police units on such conditions and terms as may be determined

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by mutual agreement between the Minister of Public Works and Land Affairs, or an officer in his Department designated by him, and its owner, with the concurrence of the Minister of Finance, or may otherwise be so transferred to the State.

(10) The relevant registrar of deeds defined in section 102 of the Deeds Registry Act, 1937 (Act No. 47 of 1937), shall upon production to him of the title deed of immovable property transferred by virtue of the provisions of subsection (9) of this section to the State, endorse the relevant title deed to the effect that the immovable property described therein vests in the State, and shall make the necessary entries in his registers, and thereupon that deed shall serve and avail for all purposes as proof of the title of the State to the immovable property concerned.

(11) The provisions of subsections (4) to (7), inclusive, of this section relating to a person referred to therein, and of subsections (8) to (10), inclusive, of this section relating to movable and immovable property referred to therein, shall *mutatis mutandis* apply to a person who immediately prior to the establishment of a municipal police unit for a development area contemplated in subsection (2) was employed in such development area by virtue of an appointment under section 34 of the said Black Local Authorities Act, 1982, and to movable and immovable property in such development area which immediately prior to any such establishment of a municipal police unit was used as contemplated in the said subsections (8) and (9), respectively.

**Short title and commencement**

5. (1) This Act shall be called the Police Third Amendment Act, 1989, and shall come into operation on a date to be determined by the State President by notice in the *Gazette*.

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

(3) A reference in this Act to the commencement of this Act shall be construed as a reference to the applicable date so determined.

**Schedule**

## LAWS AMENDED OR REPEALED

## (Section 4 (1))

No. and year of law	Title	Extent of amendment or repeal
Act No. 102 of 1982	Black Local Authorities Act, 1982	(a) The amendment of section 27 by the insertion after subsection (3) of the following subsection: “(3A) Notwithstanding the provisions of subsection (1), a local authority shall not without the prior approval of the Minister of Law and Order make any by-law conferring or imposing any power or duty on or upon a member of a municipal police unit established by section 17C of the Police Act, 1958 (Act No. 7 of 1958), for the area of that local authority.”; (b) the repeal of section 34; and (c) the amendment of section 56 by the deletion of paragraph (j) of subsection (1).
Act No. 58 of 1986	Black Local Authorities Amendment Act, 1986	The repeal of section 11.
Act No. 32 of 1987	Constitutional Laws Amendment Act, 1987	The repeal of section 23.
Act No. 95 of 1988	Black Local Authorities Amendment Act, 1988	The repeal of section 16