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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1458.

4 Julie 1990

No. 1458.

4 July 1990

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

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

83 van 1990: Wysigingswet op Brandweerdienste, 1990.

No. 83 of 1990: Fire Brigade Services Amendment Act, 1990.

FIRE BRIGADE SERVICES AMENDMENT ACT, 1990

Act No. 83, 1990

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 Fire Brigade Services Act, 1987, so as to insert, amend or replace certain definitions; to further regulate the functions of the Fire Brigade Board; to further regulate the establishment, maintenance and employment of services of local authorities; to further regulate the employment of designated services; to make provision for the appointment of an acting chief fire officer; to make provision for the institution of a fire brigade reserve force; to make provision for the institution and awarding of decorations, medals and service certificates; to authorize the Administrator to designate a certain category of persons; to enable the Minister to recover an amount spent in the handling of urgent cases; to further regulate the making of regulations; and to authorize a chief fire officer to issue a written instruction not only to the owner but also to the authorized agent of an owner; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 21 June 1990.)

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

Amendment of section 1 of Act 99 of 1987

1. Section 1 of the Fire Brigade Services Act, 1987 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for paragraphs (c) and (d) of the definition of "local authority" of the following paragraphs:
- "(c) a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982); **[or]**
- (d) a local government body established by virtue of the provisions of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927);
- (e) a local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No. 94 of 1987); or
- (f) an institution or body declared by the Minister, by notice in the *Gazette*, to be a local government for the purposes of this Act; Provided that the Minister may only declare an institution or body to be a local government if such institution or body was established by an Act of Parliament and if it, in terms of or by virtue of that Act, exercises powers and performs duties which, in the opinion of the Minister, may be exercised or performed by an institution, body or board contemplated in section 84 (1) (f) of the Provincial Government Act, 1961, or in paragraphs (a) to (e) of this definition;"
- (b) by the substitution for the definition of "material" of the following definition:

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“material’ means water or any other substance consumed by a service [in fighting or extinguishing a fire] in the performance of its functions;”;
 (c) by the substitution for the definition of “Minister” of the following definition:

5 “Minister’ means the Minister of **[Constitutional Development and Planning] Planning and Provincial Affairs;**” and

(d) by the insertion after the definition of “prescribe” of the following definition:

10 “self-governing territory’ means a self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971);”.

Amendment of section 2 of Act 99 of 1987

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

15 “(4) The administrative work arising from the performance of the functions of the Board under this Act shall be performed by officers **[designated by the Chief: Constitutional Development Services for that purpose]** or employees of the Department of Planning and Provincial Affairs.”;

20 (b) by the insertion after subsection (5) of the following subsection:

“(5A) The Board may at the request of the government of another state or the government of a self-governing territory advise such government, or the representatives of such government, concerning any matter which falls within the functions of the Board.”; and

25 (c) by the addition of the following subsection:

“(8) The Minister shall designate an officer in the public service to act as secretary of the Board.”.

Amendment of section 3 of Act 99 of 1987

3. Section 3 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

30 “(3) A service contemplated in this section shall be employed inside **[its]** the area of the local authority concerned, unless **[it]** such local authority is requested, or in terms of an agreement contemplated in section 12 obliged, to **[be employed]** employ the service outside **[its]** the area.”.

35 Amendment of section 4 of Act 99 of 1987

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

40 “(4) A designated service shall be employed inside the area or areas, whether adjacent or not, demarcated for it by the Minister after consultation with the Board, unless **[it]** the controlling authority concerned is requested, or is obliged in terms of an agreement contemplated in section 12, to **[be employed]** employ the service outside that area or areas, as the case may be.”.

Amendment of section 5 of Act 99 of 1987

5. Section 5 of the principal Act is hereby amended by the addition of the following subsection:

45 “(3) Whenever a chief fire officer is for any reason unable to perform his duties of office, the controlling authority shall appoint a member of the service as acting chief fire officer to perform the duties and functions of the chief fire officer.”.

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Insertion of sections 6A and 6B in Act 99 of 1987

6. The following sections are hereby inserted in the principal Act after section 6:

“Fire brigade reserve force

5 **6A. (1) A controlling authority may establish a fire brigade reserve force for its area of jurisdiction.**

(2) A chief fire officer may, on the prescribed conditions, appoint a person who applies therefor, as a member of a fire brigade reserve force.

10 (3) A member of a fire brigade reserve force shall be a temporary member of the service and shall perform the functions entrusted to him by the chief fire officer, or a member of the service acting on behalf of the chief fire officer: Provided that a member of a fire brigade reserve force may, as far as possible, only be employed for the performance of those functions for which he, in the opinion of the chief fire officer, has received adequate training.

15 (4) A chief fire officer may at any time discharge a member of a fire brigade reserve force.

(5) A member of a fire brigade reserve force shall have the same powers as a member of the service and shall, in the performance of his functions, be regarded as a member of the service.

20 **Decorations, medals and certificates**

25 **6B. (1) The State President may, subject to such requirements as he may deem fit, institute decorations and medals and, in respect of such decorations and medals, bars, clasps and ribbons, which may be awarded by the Minister or any person designated by the Minister to any member of a service, including a chief fire officer, in respect of his service as such a member or chief fire officer, as the case may be, or to any other person in respect of exceptional service rendered in terms of this Act.**

30 (2) The Minister may, subject to such requirements as he may deem fit, institute service certificates, which may be awarded by the Administrator or any person designated by the Administrator, to any member of a service, including a chief fire officer, in respect of his service as such a member or chief fire officer, as the case may be, or to any other person in respect of exceptional service rendered in terms of this Act.”.

Amendment of section 8 of Act 99 of 1987

35 7. Section 8 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) close any road or street;”.

Amendment of section 11 of Act 99 of 1987

40 8. Section 11 of the principal Act is hereby amended by the substitution in subsection (3) for the expression “Provincial Secretary”, wherever it occurs, of the expression “Director-General”.

Amendment of section 13 of Act 99 of 1987

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

“Minister may authorize persons

45 13. The Minister may, after consultation with the Board, by notice in the *Gazette* declare that a category of persons in the service of the State or a controlling authority designated for the purpose by the Administrator may [by virtue of their offices] perform the prescribed functions in order to ensure that the objects of this Act are achieved.”.

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Amendment of section 14 of Act 99 of 1987

10. Section 14 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

5 “Notwithstanding anything to the contrary contained in any other law, the Minister or [his deputy] anybody designated by him may, in any case where in his opinion urgent action is necessary in the public interest —”; and

(b) by the addition of the following subsection:

10 “(3) Where assistance has been rendered in terms of this section to a controlling authority or any other person, or where any action in terms of this section by a controlling authority or any other person has been necessitated, the Minister may recover any amount spent in terms of subsection (2) from such controlling authority or person.”.

15 Amendment of section 15 of Act 99 of 1987

11. Section 15 of the principal Act is hereby amended—

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

20 “(e) regarding the use, manufacture, storage or transportation of explosives, fireworks, petroleum or any other [inflammable] flammable or combustible substance [or], gas or any other dangerous substance;”;

(b) by the insertion in subsection (1) after paragraph (f) of the following paragraph:

25 “(fA) regarding the control over and registration of the chief fire officer and members of a service;”;

(c) by the insertion after subsection (2) of the following subsection:

“(2A) Different regulations may be made under subsection (1) in respect of different areas or different categories of persons.”;

(d) by the substitution for subsection (3) of the following subsection:

30 “(3) The Minister may after consultation with the Board incorporate in the regulations any code of practice issued under section 18 of the Standards Act, 1982 (Act No. 30 of 1982), or any part of that code, by means of a mere reference to particulars by which it can be identified, and thereafter the code of practice or the part thereof concerned shall in so far as it is not repugnant to this Act be deemed to be part of the regulations.”;

35 and

(e) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

40 “(a) A regulation contemplated in this section shall not be made before the proposed regulation has been published in the *Gazette* together with a notice calling upon interested persons to lodge any comments, representations or objections they may have against it in writing to the [Minister] secretary referred to in section 2(8) within the period mentioned therein and that period has expired.”.

45 Substitution of section 16 of Act 99 of 1987

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

“By-laws and regulations

50 16. (1) A local authority may, after consultation with the Board, and subject to the provisions of any law applicable to the local authority in relation to the promulgation of by-laws or regulations, as the case may be, make by-laws or regulations, as the case may be, which are not contrary to any law, for its area of jurisdiction regarding any matter which it may deem necessary or expedient in order to employ its service effectively.

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5 (2) The Administrator may after consultation with the Board make by-laws or regulations, as the case may be, which are not contrary to any law, regarding any matter referred to in subsection (1), and such by-laws or regulations shall apply in the area of jurisdiction of every local authority in the province concerned in so far as they are applicable and not inconsistent with the by-laws or regulations, as the case may be, of the local authority concerned.

10 (3) A by-law or regulation contemplated in subsection (1) or (2) may in respect of a contravention thereof or failure to comply therewith provide for a punishment of a fine not exceeding R5 000 or of imprisonment for a period not exceeding six months.”.

Amendment of section 18 of Act 99 of 1987

13. Section 18 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

15 “(2) If the chief fire officer finds that such provisions are not being complied with, he may issue to the owner of those premises, or his authorized agent, a written instruction to comply with the provisions in question within the period mentioned therein.”.

Amendment of section 19 of Act 99 of 1987

20 14. Section 19 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

25 “(a) delegate any power granted to him by or under this Act, the regulations contemplated in section 15 or the by-laws or regulations contemplated in section 16, excluding the power referred to in this section, to a member of the service concerned; and”.

Short title and commencement

15. (1) This Act shall be called the Fire Brigade Services Amendment Act, 1990.

(2) Section 9 of this Act shall be deemed to have come into operation on 30 June 1989.