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GOVERNMENT GAZETTE

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CAPE TOWN, 28TH JUNE, 1972.

[No. 3597.

KAAPSTAD, 28 JUNIE 1972.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1129.

28th June, 1972.

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

No. 94 of 1972: Police Amendment Act, 1972.

No. 1129.

28 Junie 1972.

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

No. 94 van 1972: Wysigingswet op Polisie, 1972.

POLICE AMENDMENT ACT, 1972.

Act No. 94, 1972

ACT

To amend the provisions of the Police Act, 1958, relating to definitions; the appointment of officers; contraventions by members of the Force; certified canteens of the South African Police; the powers of the State President to make regulations concerning certain laboratories, funds and the Police Reserve; the establishment of a Police Reserve; the duties of employers concerning members of the Police Reserve in their employment; the employment in the Force of certain members of the Police Reserve; the remuneration of members of the Force; and the conditions of service of certain members of the Force; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 16th June, 1972.)*

BE IT ENACTED by the State President, the Senate 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—
 - (a) by the substitution for the definition of “member of the Force” of the following definition:

“‘member of the Force’ means any commissioned officer, warrant-officer or constable serving in the South African Police in accordance with this Act and includes, 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 employed in the Force and any temporary member while so employed;”;
 - (b) by the substitution for the definition of “the Force” of the following definition:

“‘the Force’ means the commissioned officers, warrant-officers, non-commissioned officers and constables of the South African Police and includes, 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, the Police Reserve, the Reserve Police Force and temporary members;”.
2. Section 3 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) A commission referred to in subsection (1) bearing the signatures of the State President and the Minister or replicas of such signatures, shall be issued by the State President.”.
3. Section 9 of the principal Act is hereby amended—
 - (a) by the substitution for subsection (1) of the following subsection:

“(1) Any member of the Force who contravenes any provision of this Act or fails to comply with an 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 and section 1 of Act 74 of 1967.

Amendment of section 3 of Act 7 of 1955, as substituted by section 2 of Act 74 of 1967.

Amendment of section 9 of Act 7 of 1958, as amended by section 1 of Act 43 of 1958,

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issued in terms of this Act shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand 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.”;

section 4 of Act 53 of 1961 and section 7 of Act 64 of 1964.

- (b) by the substitution for subsection (6) of the following subsection:

“(6) Any member of the Force who has been convicted and sentenced by a commissioned officer under this section, may, subject to the provisions of the regulations, appeal to the Commissioner against the conviction and sentence, and thereupon the Commissioner may confirm the sentence, or make such finding or impose such sentence which, in his opinion, should have been made or imposed at the trial of such member.”;

- (c) by the substitution for subsection (9) of the following subsection:

“(9) Whenever any member of the Force has been convicted and sentenced by a commissioned officer under this section, the Commissioner may, if he thinks fit, direct that the record of the proceedings in the case be submitted to him for review, and may thereupon confirm the sentence or make such finding or impose such sentence which, in his opinion, should have been made or imposed at the trial of such member.”.

4. Section 29 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

Amendment of section 29 of Act 7 of 1958, as amended by section 7 of Act 92 of 1970.

“(1) No licence moneys, tax, duty or fee (other than customs, excise or sales duties leviable by law) shall be payable by any person under any law or bye-law in respect of a certified canteen of the South African Police or in respect of any article on sale at such a canteen.

(2) The production of an official document bearing the signature of the Minister or any person authorized by the Minister to sign any such document, and indicating that he has certified the canteen, shall be conclusive proof that it is a canteen falling within this section.”.

5. Section 33 of the principal Act is hereby amended—

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 and section 1 of Act 80 of 1970.

- (a) by the insertion after paragraph (d) of subsection (1) of the following paragraph:

“(dA) the control and functions of laboratories established for the purposes of the South African Police;”;

- (b) by the insertion after paragraph (e) of subsection (1) of the following paragraph:

“(eA) the keeping of registers containing all the necessary information regarding members of the Police Reserve, the duties of officers in charge of police stations regarding members of the Police Reserve, and the nature of service of members of the Police Reserve who, in terms of this Act, are ordered to serve in the Force;”;

- (c) by the insertion after paragraph (t) of subsection (1) of the following paragraph:

“(tA) the control of funds which are administered by a committee or other like body under the chair-

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manship of a member of the Force and have been collected or accepted by or from members of the Force, for the benefit of members and ex-members of the Force, or their dependants;”.

6. The following section is hereby substituted for section 34bis of the principal Act:

“Police Reserve.

34A. (1) There is hereby established a Police Reserve consisting of every person who has served in the Force in a permanent capacity for a period of not less than six months and who, before or after the commencement of the Police Amendment Act, 1972, terminated his service or was retired on pension.

Substitution of section 34bis of Act 7 of 1958, as inserted by section 21 of Act 64 of 1964 and amended by section 7 of Act 74 of 1967.

(2) Every member of the Police Reserve shall advise an officer, appointed by the Commissioner, of his name and address within three months after the commencement of the Police Amendment Act, 1972, or within three months after he has become such a member, and of any change of his address within fourteen days of such change.

(3) The Minister or any commissioned officer acting under his authority may, from time to time, by notice in writing, sent by post or delivered, order any member of the Police Reserve, other than a member who has attained the age of sixty-five years, to report for service to the officer in charge of such police station as may be specified in such notice, and at such time and for such period as may be so specified: Provided that the Minister or any commissioned officer acting under his authority may exempt any such member from any obligation imposed upon him in terms of this section.

(4) No member of the Police Reserve shall be compelled to serve in the Force in a rank inferior to the rank in which he served in the Force at the termination of his permanent service.

(5) The period referred to in subsection (3) shall not exceed thirty days per year;

(6) The provisions of subsection (3) shall not apply to a member of the Police Reserve after the expiration of a period of five 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 retired on pension from such service.

(7) If the Minister is of the opinion that any action or threat of action by any person or body of persons is of such a nature and extent that the public safety, the maintenance of public order, or life or property, is seriously endangered, he may, notwithstanding the provisions of subsections (5) and (6) but subject to the provisions of subsection (3), order any member of the Police Reserve to serve in the Force for a period which he thinks fit.

(8) The provisions of subsection (7) shall be in addition to and not in substitution for the provisions of section 7 of this Act.

(9) No provision of this Act shall be so construed as to exempt any person who at the termination of his permanent service in the Force has served as such for a period of less than six months, or any member of the Police Reserve who in terms of this section is exempted from service in the Force, from the provisions of the Defence Act, 1957 (Act No. 44 of 1957).”.

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7. The following section is hereby substituted for section 34^{ter} of the principal Act:

"Duties of employers.

34B. (1) An employer shall afford any person in his employ who is ordered in terms of section 34A to report for service all reasonable facilities to enable him to report for such service.

Substitution of section 34^{ter} of Act 7 of 1958, as inserted by section 21 of Act 64 of 1964 and amended by section 7 of Act 74 of 1967.

(2) Any employer who—

- (a) fails to afford facilities as aforesaid;
- (b) dismisses an employee or reduces his salary or wages or alters his position to his disadvantage or in any other manner penalizes such employee for the reason that he has reported for or has rendered service referred to in subsection (1); or
- (c) by words, conduct or in any other manner directly or indirectly compels, induces or prevails upon, or attempts to compel, induce or prevail upon, any person in or seeking to enter his employment to evade service referred to in subsection (1) or to refrain from reporting or rendering such service,

shall subject to the provisions of subsections (3) and (4) be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand 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.

(3) (a) Nothing in this section shall be construed as requiring any employer to pay any person in his employ any salary or wages in respect of any period during which he is absent from his work for the purpose of rendering service referred to in subsection (1).

(b) Notwithstanding the provisions of subsections (1) and (2) and of any other law, no employee who is rendering service referred to in subsection (1) and who is by law or in terms of any condition of his employment entitled to increased remuneration, paid sick leave or other paid leave of absence, or, subject to the provisions of subparagraph (ii), any similar benefit upon completion of a fixed period or successive fixed periods of employment shall—

- (i) have the right to reckon in respect of any one unbroken period of service referred to in subsection (1) more than four months of the absence from his employment occasioned by such service as employment in the determination of such increased remuneration, paid sick leave, or other paid leave of absence or similar benefit as may accrue to him in respect of such employment: Provided that this paragraph shall not be construed as limiting any longer period which may be determined or fixed by or under any law relating to his employment;
- (ii) be entitled to the grant to him by his employer of paid sick leave in respect of a period falling within the limits of any period of service referred to in subsection (1), during which he is incapacitated as a result of any injury or illness;
- (iii) claim any such paid sick leave or other paid leave of absence or any other benefit

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before he has, pursuant to the provisions of this Act, been permitted to resume his employment and has so resumed his employment.

(4) If an employee referred to in subsection (3) is an apprentice as defined in the Apprenticeship Act, 1944 (Act No. 37 of 1944), the provisions of section 26 (1) of that Act shall not apply in respect of a period of not more than four months of the first period and not more than three weeks of any subsequent period of his absence from his employment occasioned by service referred to in subsection (1) during the prescribed period of his apprenticeship.

(5) Whenever in any proceedings under subsection (2) (b), it is proved that an employer has dismissed the employee concerned or has reduced his salary or wages or altered his position to his disadvantage, or has in any other manner penalized such employee, that employer shall be deemed, unless the contrary is proved, to have dismissed such employee or to have so reduced his salary or wages or to have so altered his position or to have so penalized him, as the case may be, for the reason that such employee has been ordered in terms of section 34A to report for service or has rendered such service.”.

8. The following sections are hereby inserted in the principal Act after section 34B:

Insertion of sections 34C and 34D in Act 7 of 1958.

“Employment of certain members of the Police Reserve.

34C. (1) Notwithstanding the provisions of section 34A, the Commissioner or any commissioned officer acting under his authority may employ any member of the Police Reserve in the Force and may at any time terminate the services of any such member so employed.

(2) Subsection (1) shall be deemed to have come into operation on the first day of February, 1965.

Remuneration of members of the Force and conditions of service of certain members.

34D. (1) All members of the Force other than members of the Reserve Police Force who by agreement receive no remuneration for their services, shall be paid salaries, wages or allowances in accordance with the provisions of the Public Service Act, 1957 (Act No. 54 of 1957).

(2) The Commissioner may, subject to the regulations, on the recommendation of the Public Service Commission and with the approval of the Treasury, prescribe conditions of service in respect of the Police Reserve, the Reserve Police Force and temporary members.

(3) Members of the Reserve Police Force who receive no remuneration for their services in the Force, shall not by reason of the fact that they receive no such remuneration be regarded as not being in the service of the State.”.

9. (1) This Act shall be called the Police Amendment Act, 1972, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.

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