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GOVERNMENT GAZETTE

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KAAPSTAD, 29 APRIL 1991

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 963.

29 April 1991

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

No. 51 of 1991: Transfer of Powers and Duties of the State President Act.

No. 963.

29 April 1991

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

No. 51 van 1991: Wet op die Oordrag van Bevoegdhede en Pligte van die Staatspresident.

Act No. 51, 1991

TRANSFER OF POWERS AND DUTIES OF
THE STATE PRESIDENT ACT

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend certain laws so as to vest certain functions presently assigned to the State President, in the respective Ministers of State who are charged with the administration of those laws; and to provide for incidental matters.

(English text signed by the Acting State President.)
(Assented to 25 April 1991.)

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

Amendment of section 10 of Act 9 of 1929, as amended by section 5 of Act 42 of 1942, section 27 of Act 56 of 1949, section 26 of Act 54 of 1952 and section 2 of Act 34 of 1986

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1. Section 10 of the Black Administration Act, 1927, Amendment Act, 1929, is hereby amended—

- (a) by the substitution for the words preceding subparagraph (i) of paragraph (a) of subsection (4) of the following words:
“The **[State President]** Minister of Justice may from time to time make rules for the courts established by **[him]** the State President under this section, regulating—”; and
- (b) by the substitution for subparagraph (xi) of paragraph (a) of subsection (4) of the following subparagraph:
“(xi) generally, all such other matters relating to the courts as the **[State President]** Minister of Justice may deem necessary for the purposes of this section.”

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Amendment of section 39 of Act 30 of 1941, as amended by section 19 of Act 27 of 1945, section 15 of Act 36 of 1949, section 14 of Act 51 of 1956, section 5 of Act 7 of 1961, section 3 of Act 58 of 1967, section 2 of Act 60 of 1971, section 7 of Act 11 of 1974, section 6 of Act 28 of 1977, section 4 of Act 24 of 1981, section 13 of Act 29 of 1984 and section 3 of Act 35 of 1987

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2. Section 39 of the Workmen’s Compensation Act, 1941, is hereby amended by the substitution for paragraphs (b) and (c) of subsection (6) of the following paragraphs, respectively:

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- “(b) The **[State President]** Minister may, by **[proclamation]** notice in the *Gazette*, amend the said Schedule in accordance with any such recommendation: Provided that not less than one month before the publication of **[the proclamation]** this notice there has been published in the *Gazette* a notice—

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- (i) of the intention to publish the **[proclamation]** first-mentioned notice and

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- of its proposed contents; and
- (ii) inviting any person who objects to the publication of the **[proclamation]** first-mentioned notice to lodge an objection thereto in writing with the commissioner.

(c) Any **[such proclamation]** notice which amends the First Schedule to this Act may include amendments whereby the percentage of disablement for any injury or class of injury differs in respect of specified occupations or classes of occupations, or according to specified circumstances.”. 5

Substitution of section 91 of Act 44 of 1957, as amended by section 12 of Act 12 of 1961 10

3. The following section is hereby substituted for section 91 of the Defence Act, 1957:

“Mobilization of Citizen Force, Reserve and commandos in time of war

91. (1) The **[State President]** Minister may in time of war by **[proclamation]** notice in the *Gazette* or in such other manner as he may deem expedient, call out the whole or any portion of the Citizen Force, the whole or any portion of the Reserve and the whole or any portion of any commando for mobilization for service in defence of the Republic. 15

(2) If any action is taken under subsection (1) at a time when Parliament is in session, the **[State President]** Minister shall forthwith communicate the reason for such action to **[both Houses of]** Parliament, and if Parliament be not then sitting, the State President shall summon Parliament to meet as soon as possible but not later than thirty days after the said date, and the Minister shall thereupon at its first sitting communicate the reason aforesaid.”. 20 25

Amendment of section 92 of Act 44 of 1957, as substituted by section 4 of Act 1 of 1976 and amended by section 44 of Act 87 of 1984

4. Section 92 of the Defence Act, 1957, is hereby amended by the deletion of subsection (2). 30

Amendment of section 26 of Act 9 of 1972

5. Section 26 of the National Road Safety Act, 1972, is hereby amended—

- (a) by the deletion of paragraph (c) of subsection (1); and
- (b) by the substitution for subsection (2) of the following subsection:

“(2) **[The State President may on the recommendation of]** If, after consideration of the said representations, the Minister [and] is nevertheless satisfied that giving effect to the recommendation will promote road safety, he may by [proclamation] notice in the Gazette make regulations to promote road safety in the Republic.” 35

Amendment of section 1 of Act 18 of 1973, as amended by section 1 of Act 10 of 1978, section 1 of Act 38 of 1981, section 1 of Act 3 of 1984, section 2 of Act 34 of 1986 and section 1 of Act 55 of 1987 40

6. Section 1 of the Mental Health Act, 1973, is hereby amended—

- (a) by the deletion of the definition of “President’s patient”;
- (b) by the insertion before the definition of “superintendent” of the following definition:

“‘State patient’ means a person detained by order of any court of law or other competent authority at any place pending the signification of the decision of the Minister of Justice;” and

- (c) by the addition of the following subsection, the existing section becoming subsection (1):

“(2) Any reference in any other law or document contained to the expression ‘President’s patient’ or ‘State President’s patient’ shall henceforth be construed as a reference to the expression ‘State patient’.”

Substitution of certain expressions in Act 18 of 1973

7. Subject to the provisions of section 6 of this Act, the Mental Health Act, 1973, is hereby amended by the substitution for the expression “President’s patient” or “State President’s patient”, wherever it occurs, of the expression “State patient”.

Substitution of section 4 of Act 74 of 1989

8. The following section is hereby substituted for section 4 of the Diplomatic Immunities and Privileges Act, 1989:

“Conferment of immunities and privileges by agreement or otherwise

4. The State President **[may]**—

- (a) **may** on a basis of reciprocity and on such conditions as he may deem fit, enter into an agreement with another state or government whereby immunities and privileges are conferred upon any person referred to in subsections (1), (2), (3) and (5), respectively, of section 3; 20
- (b) **may** on such conditions as he may deem fit, enter into an agreement with any organization or institution referred to in subsection (4) of section 3 whereby immunities and privileges are conferred upon such organization or institution, or upon a member, agent or officer of, or a delegate or a permanent representative of another state or government to or with, such organization or institution; **[and]** 25
- (c) or the Minister, if authorized thereto by the State President, may, if **[he]** the State President or the Minister, as the case may be, is satisfied that in any particular case it is not possible or expedient to enter into an agreement contemplated in paragraph (a) or (b), and that the conferment of immunities and privileges will be in the interest of the Republic— 30
- (i) by proclamation or notice in the *Gazette*, as the case may be; 35
or
- (ii) in such other manner, and on such conditions, as **[he]** the State President or the Minister, as the case may be, determines, 40
- where possible on a basis of reciprocity, confer upon any person, irrespective of whether such person is a representative contemplated in the Vienna Convention on Diplomatic Relations, 1961, or in the Vienna Convention on Consular Relations, 1963, or a person contemplated in paragraph (a) or (b), such immunities and privileges as **[he]** the State President or the Minister, as the case may be, may so specify.” 45

Amendment of laws in First Schedule

9. The laws specified in the first and second columns of the First Schedule are hereby amended by the substitution for the expression “State President”, whenever it appears in a provision specified in the third column of that Schedule, of the expression specified in the fourth column of that Schedule. 50

Amendment of laws in Second Schedule

10. The laws specified in the first and second columns of the Second Schedule are hereby amended by the substitution for the word “proclamation”, wherever

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it appears in a provision specified in the third column of that Schedule, of the word "notice".

Savings

11. The continued operation after the commencement of this Act of anything done or permitted by the State President prior to such commencement in terms of a provision amended by this Act, shall not be affected solely by reason of the fact that the State President is by virtue of such amendment divested of, and a Minister of State is by virtue of such amendment invested and charged with, the power or duty to do or to permit any such thing, and as from such commencement— 5

(a) any such thing shall be deemed to have been done or permitted by the Minister of State invested and charged with the relevant power or duty; 10

(b) any such thing done or permitted by the State President by proclamation in the *Gazette* shall be deemed to have been done or permitted by the relevant Minister of State by notice in the *Gazette*; and

(c) any reference in any law to a proclamation referred to in paragraph (b) or to such a proclamation issued by the State President shall be deemed to be a reference to a notice referred to in that paragraph or to such a notice issued by the relevant Minister of State, respectively. 15

Short title and commencement

12. This Act shall be called the Transfer of Powers and Duties of the State President Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 20

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First Schedule

No. and year of Act	Short title	Number of section	Substituting expression
13 of 1944	Land Bank Act, 1944	4(1), (2) and (5)	"Minister"
13 of 1944	Land Bank Act, 1944	4bis(1)	"Minister"
13 of 1944	Land Bank Act, 1944	5(1) and (3)	"Minister"
13 of 1944	Land Bank Act, 1944	10(1)	"Minister"
13 of 1944	Land Bank Act, 1944	13(1)	"Minister"
44 of 1957	Defence Act, 1957	72G(1)	"Minister of Manpower with the concurrence of the Minister"
44 of 1957	Defence Act, 1957	73	"Minister"
44 of 1957	Defence Act, 1957	84(2)	"Minister"
44 of 1957	Defence Act, 1957	87(1) and (2)	"Minister"
44 of 1957	Defence Act, 1957	92(1)	"Minister"
44 of 1957	Defence Act, 1957	96(1)	"Minister"
44 of 1957	Defence Act, 1957	99(1) and (3)	"Minister"
44 of 1957	Defence Act, 1957	104(3)	"Minister"
16 of 1967	Mining Titles Registration Act, 1967	9(9)	"Minister"
57 of 1967	Designs Act, 1967	19(1)	"Minister"
57 of 1968	Armaments Development and Production Act, 1968	5(2), (4) and (5)	"Minister"
18 of 1973	Mental Health Act, 1973	29(1)(a), (2) and (3)	"Minister of Justice"
42 of 1974	Publications Act, 1974	35(2)(a)(i), (2)(b) and (3)(a) to (d)	"Minister"
51 of 1977	Criminal Procedure Act, 1977	77(6)(a), (7) and (9)	"Minister"
51 of 1977	Criminal Procedure Act, 1977	78(6)	"Minister"
67 of 1977	Civil Protection Act, 1977	9(1) and (2)(b)(vi)	"Minister"
96 of 1979	Maintenance and Promotion of Competition Act, 1979	3(2)(g), (3) and (5)	"Minister"
92 of 1982	Nuclear Energy Act, 1982	5(2)(a)	"Minister"
92 of 1982	Nuclear Energy Act, 1982	18(1)(b) and (2)	"Minister"
45 of 1984	Public Investment Commissioners Act, 1984	2(2)(b), (3) and (4)	"Minister"
52 of 1989	Auditor-General Act, 1989	3(2)	"Minister of Finance"
52 of 1989	Auditor-General Act, 1989	5(9)	"Minister of Finance"
74 of 1989	Diplomatic Immunities and Privileges Act, 1989	12	"Minister"
90 of 1989	South African Reserve Bank Act, 1989	4(1)	"Minister"
90 of 1989	South African Reserve Bank Act, 1989	6(1)(a)	"Minister"

Second Schedule

No. and year of Act	Short title	Number of section
44 of 1957	Defence Act, 1957	92(1)
44 of 1957	Defence Act, 1957	96(1)
57 of 1967	Designs Act, 1967	19(1)
92 of 1982	Nuclear Energy Act, 1982	18(1)(b) and (2)