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DEPARTMENT OF WATER AFFAIRS.

[13th January, 1961.

The following Bill which the Minister of Water Affairs proposes introducing at the next session of Parliament is published for general information.

DEPARTEMENT VAN WATERWESE.

[13 Januarie 1961.

Die volgende Wetsontwerp wat die Minister van Waterwese voornemens is om by die volgende Parlementsitting in te dien, word vir algemene inligting gepubliseer.

BILL

To amend the Water Act, 1956.

(To be introduced by the MINISTER OF WATER AFFAIRS.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 1 of Act 54 of 1956 and of reference to Director of Water Affairs.

1. (1) Section *one* of the Water Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion of the definition of "director"; and
 - (b) by the insertion after the definition of "riparian owner" of the following definition:
- "secretary" means the Secretary for Water Affairs;

(2) The principal Act is hereby amended by the substitution for the word "director", wherever it occurs in the Act, of the word "secretary".

(3) Any reference in any law to the Director of Water Affairs or to the Director of Irrigation shall be construed as a reference to the Secretary for Water Affairs.

(4) Anything done by the Director of Irrigation or the Director of Water Affairs before the commencement of this section shall, as from such commencement, be deemed to have been done by the Secretary for Water Affairs.

(5) The person who held office as Director of Water Affairs immediately prior to the commencement of this section shall be deemed to have been appointed as Secretary for Water Affairs.

Amendment of section 3 of Act 54 of 1956.

2. Section *three* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

- "(1) The secretary shall, subject to the control of the Minister, be responsible for the administration of this Act".

Amendment of section 6 of Act 54 of 1956.

3. Section *six* of the principal Act is hereby amended by the substitution in sub-section (2) for the words "a riparian owner" of the words "an owner of land".

Amendment of section 11 of Act 54 of 1956.

4. Section *eleven* of the principal Act is hereby amended—

- (a) by the insertion in paragraph (a) of sub-section (1) after the word "fifty-six" of the words "section sixty-two"; and
- (b) by the insertion in paragraph (a) of sub-section (2) after the words "such share," of the words "or, in the case of surplus water, such quantity of water as the said court may authorize".

Amendment of section 12 of Act 54 of 1956.

5. Section *twelve* of the principal Act is hereby amended—

- (a) by the insertion in sub-section (1) after the word "purposes", where it occurs for the first time, of the words "or who desires to expand an industrial undertaking in respect of which any quantity of water is used or is required to be used for such purposes" and by the insertion in the said sub-section after the word "establishing" of the words "or expanding"; and

- (b) by the insertion in sub-section (5) after the word "modifications" of the words "or subject to such conditions".

Amendment of section 21 of Act 54 of 1956.

6. Section *twenty-one* of the principal Act is hereby amended by the addition at the end of paragraph (a) of sub-section (1) of the words "or in relation to water derived from any specified public stream or in relation to water used in any prescribed area".

Amendment of

7. Section *twenty-four* of the principal Act is hereby

WETSONTWERP

Tot wysiging van die Waterwet, 1956.

(Ingedien te word deur die MINISTER VAN WATERWESE.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

1. (1) Artikel *een* van die Waterwet, 1956 (hieronder die Wysiging van artikel 1 van Wet 54 van 1956 en van verwysing na Direkteur van Waterwese. Hoofwet genoem), word hierby gewysig—
 - (a) deur die omskrywing van „direkteur” te skrap; en
 - (b) deur na die omskrywing van „regulasie” die volgende omskrywing in te voeg:
„,sekretaris” die Sekretaris van Waterwese;”.
- (2) Die Hoofwet word hierby gewysig deur die woord „direkteur”, oral waar dit in die Wet voorkom, deur die woord „sekretaris” te vervang.
- (3) Enige verwysing in 'n wet na die Direkteur van Waterwese of na die Direkteur van Besproeiing word as 'n verwysing na die Sekretaris van Waterwese uitgelê.
- (4) Enigets wat voor die inwerkingtreding van hierdie artikel deur die Direkteur van Besproeiing of die Direkteur van Waterwese gedoen is, word vanaf sodanige inwerkingtreding geag deur die Sekretaris van Waterwese gedoen te gewees het.
- (5) Die persoon wat onmiddellik voor die inwerkingtreding van hierdie artikel die amp van Direkteur van Waterwese beklee het, word geag as Sekretaris van Waterwese aangestel te gewees het.
2. Artikel *drie* van die Hoofwet word hierby gewysig deur Wysiging van artikel 3 van Wet 54 sub-artikel (1) deur die volgende sub-artikel te vervang:
 - „(1) Die Sekretaris is, onder toesig van die Minister, verantwoordelik vir die uitvoering van hierdie Wet”.
3. Artikel *ses* van die Hoofwet word hierby gewysig deur Wysiging van artikel 6 van Wet 54 van 1956. in sub-artikel (2) die woord „oewereienaar” deur die woorde „eienaar van grond” te vervang.
4. Artikel *elf* van die Hoofwet word hierby gewysig— Wysiging van artikel 11 van Wet 54 van 1956.
 - (a) deur in paragraaf (a) van sub-artikel (1) na die woord „ses-en-vyftig” die woorde „artikel twee-en-sestig” in te voeg; en
 - (b) deur in paragraaf (a) van sub-artikel (2) na die woorde „daardie aandeel” die woerde „of, in die geval van surpluswater, die hoeveelheid water wat bedoelde hof magtig.” in te voeg.
5. Artikel *twaalf* van die Hoofwet word hierby gewysig— Wysiging van artikel 12 van Wet 54 van 1956.
 - (a) deur in sub-artikel (1) na die woord „oprig”, waar dit die eerste keer voorkom, die woerde „of wat 'n nywerheidsonderneming ten opsigte waarvan enige hoeveelheid water vir sodanige doeleindes gebruik word of vir gebruik benodig is, wil uitbrei” in te voeg en deur in daardie sub-artikel na die woord „oprig”, waar dit die tweede keer voorkom, die woerde „of uitbrei” in te voeg; en
 - (b) deur in sub-artikel (5) na die woord „wysigings” die woerde „of onderworpe aan die voorwaardes” in te voeg.
6. Artikel *een-en-twintig* van die Hoofwet word hierby ge-wysig deur in paragraaf (a) van sub-artikel (1) na die woord „nywerheidsdoeleindes”, waar dit die laaste keer voorkom, die woerde „of met betrekking tot water verkry uit een of ander vermelde openbare stroom of met betrekking tot water gebruik in een of ander voorgeskrewe gebied” in te voeg.

Amendment of
section 30 of
Act 54 of 1956.

8. Section thirty of the principal Act is hereby amended—

- (a) by the insertion in sub-section (2) after the word “area”, where it occurs for the first time, of the words “or to any portion of such an area”; and
- (b) by the insertion in the said sub-section after the word “area,” where it occurs for the second and the third times, of the words “or portion thereof”.

Insertion of
section 42bis
in Act 54 of
1956.

9. The following section is hereby inserted in the principal Act after section forty-two:

“Minister may present certain evidence in apportionment suits.

42bis. If the Minister is of the opinion that it is desirable in the public interest that any evidence available to him should be presented in any apportionment suit before a water court, he or any person authorized thereto by him may, without becoming a party to such suit and notwithstanding anything to the contrary in any law contained, through witnesses called by him present to the court any such evidence as is relevant to the proceedings before it.”.

Amendment of
section 59 of
Act 54 of 1956.

10. Section fifty-nine of the principal Act is hereby amended by the substitution for paragraph (b) of sub-section (1) of the following paragraph:

“(b) an area (which may include non-riparian land) within which the abstraction, utilization, supply or distribution of the water of any public stream should in his opinion be controlled in the public interest.”.

Amendment of
section 60 of
Act 54 of 1956.

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

- (a) by the substitution in sub-section (1) for the words “or, as the case may be,” of the words “or to enable him to construct access roads to such Government water work for use by the public or by any person or”; and
- (b) by the addition at the end of sub-section (6) of the following paragraph, the existing sub-section becoming paragraph (a):

“(b) Any person authorized thereto in writing by the Minister or by the secretary may at any time enter upon or cross any land for the purpose of exercising any of the powers of the department under paragraph (a) or of making any inspection or investigation in connection with any such land, water work, substance, material or right as is referred to in the said paragraph, which the Minister or the secretary, as the case may be, deems necessary.”.

Amendment of
section 62 of
Act 54 of 1956.

12. Section sixty-two of the principal Act is hereby amended—

- (a) by the substitution in paragraph (b) of sub-section (1) for the words “has been” of the word “was” and by the addition at the end of the said paragraph of the words “at the date of publication of the relevant proclamation under section fifty-nine,”;
- (b) by the addition at the end of sub-section (1) of the following paragraph:
 - (d) For the purposes of paragraph (b) any person shall be deemed to have been lawfully abstracting or impounding and storing water in so far as the quantity of water which he has been abstracting or impounding and storing does not exceed—
 - (i) any quantity which may have been apportioned to him under any order or award of a water court which is in force together with any quantity which may have been so apportioned to any other person and to which he has become entitled; or
 - (ii) where no such order or award is in force, the quantity of water which, in the opinion of the Minister, would have been apportioned to that person if an apportionment

- 8. Artikel dertig van die Hoofwet word hierby gewysig—** Wysiging van artikel 30 van Wet 54 van 1956.
- (a) deur in sub-artikel (2) na die woord „waterbeheer-gebied” die woorde „of tot enige gedeelte van so ’n gebied” in te voeg; en
 - (b) deur in bedoelde sub-artikel na die woord „gebied”, op beide plekke waar dit voorkom, die woorde „of gedeelte daarvan” in te voeg.

- 9. Die volgende artikel word hierby na artikel twee-en-veertig van die Hoofwet ingevoeg:** Invoeging van artikel 42bis in Wet 54 van 1956.

Minister kan sekere getuenis by verdelingsgedinge voorle. **42bis.** Indien dit na die Minister se oordeel in die openbare belang wenslik is dat enige getuenis wat hy tot sy beskikking het by ’n verdelingsgeding voor ’n waterhof voorgelê moet word, kan hy of iemand deur hom daar toe gemagtig, sonder om ’n party by die geding te word en ondanks andersluidende wetsbepalings, deur middel van getuies deur hom opgeroep aan die hof enige sodanige getuenis as wat by die verrigtinge voor die hof ter sake is voorlê.”.

- 10. Artikel nege-en-vyftig van die Hoofwet word hierby gewysig deur paragraaf (b) van sub-artikel (1) deur die volgende paragraaf te vervang:** Wysiging van artikel 59 van Wet 54 van 1956.

„(b) ’n gebied is (wat nie-oewergrond mag insluit) waarin die uitneem, aanwending, voorsiening of distribusie van die water van ’n openbare stroom volgens sy oordeel in die openbare belang beheer behoort te word.”.

- 11. Artikel sestig van die Hoofwet word hierby gewysig—** Wysiging van artikel 60 van Wet 54 van 1956.

(a) deur in sub-artikel (1) die woorde „of, al na die geval,” deur die woorde „of om hom in staat te stel om toegangspaaie na sodanige Staatswaterwerk te bou vir gebruik deur die publiek of deur enige persoon of” te vervang; en

(b) deur aan die end van sub-artikel (6) die volgende paragraaf by te voeg terwyl die bestaande sub-artikel paragraaf (a) word:

„(b) Iemand wat skriftelik daartoe gemagtig is deur die Minister of deur die sekretaris kan te eniger tyd enige grond betree of daaroor gaan met die doel om enige van die bevoegdhede van die departement kragtens paragraaf (a) uit te oefen of om enige inspeksie of ondersoek in verband met enige in genoemde paragraaf bedoelde grond, waterwerk, stof, materiaal of reg te hou of in te stel wat die Minister of die sekretaris, na gelang van die geval, nodig ag.”.

- 12. Artikel twee-en-sestig van die Hoofwet word hierby gewysig—** Wysiging van artikel 62 van Wet 54 van 1956.

(a) deur in paragraaf (b) van sub-artikel (1) na die woord „hy”, waar dit die tweede keer voorkom, die woorde „op die datum van publikasie van die betrokke proklamasie kragtens artikel nege-en-vyftig” in te voeg;

(b) deur aan die end van sub-artikel (1) die volgende paragraaf by te voeg:

„(d) By die toepassing van paragraaf (b) word dit geag dat ’n persoon water wettiglik uitgeneem het of opgedam en opgegaar het vir sover as wat die hoeveelheid water wat hy uitgeneem of opgedam en opgegaar het nie die hoeveelheid oorskry nie—

(i) wat aan hom toegewys mag gewees het kragtens enige bevel of toekenning van ’n waterhof wat in werking is tesame met enige hoeveelheid wat aldus aan enige ander persoon toegewys mag gewees het en waarop hy geregtig geword het; of

(ii) wat, waar geen sodanige bevel of toekenning in werking is nie, na die Minister se oordeel, aan daardie persoon toegewys sou gewees

(c) by the substitution for paragraphs (a) and (b) of sub-section (2) of the following paragraphs:

- "(a) Notwithstanding anything to the contrary contained in this Act, the rights to the use and the control of water in any public stream or natural channel in a Government water control area shall vest in the Minister, and no person shall, except as provided in sub-section (1), or under the authority of a permit from the Minister and on such conditions as may be specified in that permit,
- (i) abstract, impound, store or use such water; or
 - (ii) construct, alter or enlarge any water work for the abstraction, impounding or storage of such water,

unless the Minister has by notice in the *Gazette* authorized the abstraction, impounding, storage or use of such water or the construction of such works, or otherwise than in accordance with the conditions specified in such notice.

- (b) A permit or notice under paragraph (a) may provide for the abstraction of water within the area in question and for the impounding, storage and use thereof by any person for any purpose at any place within such area and the conditions specified in such permit or notice may include any provisions which the Minister may consider necessary and different conditions may be specified in respect of different periods in any year or in respect of different persons or classes of persons.

(b)^{bis} The Minister may at any time amend the conditions specified in any such permit or notice."

Amendment of
section 63 of
Act 54 of 1956.

13. Section sixty-three of the principal Act is hereby amended—

- (a) by the insertion in sub-section (11) after the word "settlement", where it occurs for the first time, of the words "or land within the area of jurisdiction of a local authority", and by the insertion in the proviso to that sub-section after the word "such", where it occurs for the first time, of the word "Crown"; and
- (b) by the addition at the end of sub-section (12) of the words "and the provisions of sub-section (7) of section six of the Buffelspoort Irrigation Scheme Act, 1948, and sub-section (4) of section five of the Bospoort Irrigation Scheme Act, 1949, shall be deemed to have lapsed on the date of commencement of this Act."

Amendment of
section 65 of
Act 54 of 1956.

14. Section sixty-five of the principal Act is hereby amended by the substitution for the words "title to the land affected by such permission is" of the words "titles to the land affected by such permission are" and for the words "a notarial deed against the title deed of that land" of the words "an unilateral deed against the title deeds of the land in question indicating the alteration and".

Amendment of
section 88 of
Act 54 of 1956.

15. Section eighty-eight of the principal Act is hereby amended by the substitution for sub-section (8) of the following sub-section:

"(8) The provisions of paragraphs (a) and (b) of sub-section (8) and sub-sections (9) and (10) of section sixty-three shall *mutatis mutandis* apply in relation to—

- (a) the supply of water from water works belonging to an irrigation board for use for irrigation purposes on land scheduled under sub-paragraph (v) of paragraph (a) or sub-paragraph (ii) of paragraph (b) of sub-section (1) of this section; and
- (b) the use of water from any public stream within an irrigation district for irrigation purposes on land so scheduled as if such water were water supplied from water works belonging to the irrigation board for that district."

- (c) deur paragrawe (a) en (b) van sub-artikel (2) deur die volgende paragrawe te vervang:
- „(a) Ondanks andersluidende bepalings van hierdie Wet, berus die regte op die gebruik en die beheer van water in enige openbare stroom of natuurlike bedding in 'n Staatswaterbeheergebied by die Minister en niemand mag, behalwe soos in sub-artikel (1) bepaal, of op gesag van 'n permit van die Minister en op die voorwaardes in daardie permit uiteengesit,
- (i) sodanige water uitneem, opdam, opgaar of gebruik nie; of
 - (ii) enige waterwerk vir die uitneem, opdamming of opgaring van sodanige water bou, verander of vergroot nie,
- tensy die Minister die uitneem, opdamming, opgaring of gebruik van sodanige water of die bou van sodanige werke by kennisgewing in die *Staatskoerant* gemagtig het, of andersins as ooreenkomsdig die voorwaardes in bedoelde kennisgewing uiteengesit.
- (b) 'n Permit of kennisgewing kragtens paragraaf (a) kan voorsiening maak vir die uitneem van water binne bedoelde gebied en vir die opdamming, opgaring en gebruik daarvan deur enige persoon vir enige doel op enige plek binne bedoelde gebied, en die voorwaardes uiteengesit in so 'n permit of kennisgewing kan enige bepalings insluit wat die Minister nodig ag en verskillende voorwaardes kan ten opsigte van verschillende tydperke in enige jaar of ten opsigte van verschillende persone of kategorieë van persone uiteengesit word.
- (b)*bis* Die Minister kan te eniger tyd die voorwaardes uiteengesit in so 'n permit of kennisgewing wysig.”.

13. Artikel drie-en-sestig van die Hoofwet word hierby gewysig—

- (a) deur in sub-artikel (11) na die woord „gebruik,” die woorde „of grond binne dieregsgebied van 'n plaaslike bestuur” in te voeg en deur in die voorbehoudsbepaling by daardie sub-artikel die woord „grond” deur die woord „Kroongrond” te vervang; en
- (b) deur aan die end van sub-artikel (12) die woorde „en die bepalings van sub-artikel (7) van artikel ses van die Wet op die Besproeiingskema Buffelspoort, 1948, en sub-artikel (4) van artikel vyf van die Wet op die Besproeiingskema Bospoort, 1949, word geag op die datum van inwerkingtreding van hierdie Wet te verval het.” by te voeg.

Wysiging van artikel 63 van Wet 54 van 1956.

14. Artikel vyf-en-sestig van die Hoofwet word hierby gewysig deur die woord „titelbewys”, waar dit die eerste keer voorkom, deur die woord „titelbewyse” en die woorde „'n notariële akte teen die titelbewys van daardie grond registreer” deur die woorde „teen die titelbewyse van die betrokke grond 'n eensydige akte registreer wat die verandering aandui en” te vervang.

Wysiging van artikel 65 van Wet 54 van 1956.

15. Artikel agt-en-tagtig van die Hoofwet word hierby gewysig deur sub-artikel (8) deur die volgende sub-artikel te vervang:

Wysiging van artikel 88 van Wet 54 van 1956.

- „(8) Die bepalings van paragrawe (a) en (b) van sub-artikel (8) en sub-artikels (9) en (10) van artikel drie-en-sestig is *mutatis mutandis* van toepassing met betrekking tot—
- (a) die verskaffing van water van waterwerke wat aan 'n besproeiingsraad behoort vir gebruik vir besproeiingsdoeleindes op grond wat kragtens sub-paragraaf (v) van paragraaf (a) of sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1) van hierdie artikel in 'n lys opgeneem is; en
- (b) die gebruik van water uit 'n openbare stroom binne 'n besproeiingsdistrik vir besproeiingsdoeleindes op grond aldus in 'n lys opgeneem asof sodanige water water is wat verskaf word van waterwerke wat aan die besproeiingsraad vir daardie distrik behoort.”.

Amendment of
section 157 of
Act 54 of 1956.

17. Section *one hundred and fifty-seven* of the principal Act is hereby amended—

- (a) by the deletion in paragraph (b) of the proviso to sub-section (1) of all the words after the word “Parliament”;
- (b) by the addition at the end of the said proviso of the following paragraph:
- “(c) an irrigation loan in respect of any water works the total estimate (as made by the Minister) of the cost of which exceeds, when completed as an independent scheme, one hundred thousand pounds, shall not be granted unless a report on the proposed work has been laid on the Tables of both Houses of Parliament.”; and
- (c) by the substitution in sub-section (2) for the symbol “(b)” of the symbol “(c)”.

Amendment of
section 160
of Act 54 of
1956.

18. Section *one hundred and sixty* of the principal Act is hereby amended by the substitution in sub-section (3) for the expression “sub-section (2)” of the expression “paragraph (b) of sub-section (1)”.

Amendment of
section 162 of
Act 54 of 1956.

19. Section *one hundred and sixty-two* of the principal Act is hereby amended by the deletion of sub-section (6).

Amendment of
section 166 of
Act 54 of 1956.

20. Section *one hundred and sixty-six* of the principal Act is hereby amended by the insertion in sub-section (1) after the words “complied with” of the words “and may, for the purpose of gaining access to such land, after like notice, enter upon and cross any other land with the necessary men, animals, vehicles, appliances and instruments”.

Short title.

21. This Act shall be called the Water Amendment Act, 1961.

17. Artikel *honderd sewe-en-vyftig* van die Hoofwet word Wysiging van hierby gewysig— artikel 157 van Wet 54 van 1956.

- (a) deur in paragraaf (b) van die voorbehoudsbepaling by sub-artikel (1) al die woorde na die woorde „goedgekeur is” te skrap;
- (b) deur aan die end van bedoelde voorbehoudsbepaling die volgende paragraaf by te voeg:
- „(c) ’n besproeiingslening ten opsigte van waterwerke waarvan die totale raming (soos deur die Minister gedoen) van die koste by voltooiing as ’n selfstandige skema meer as honderdduisend pond bedra, nie toegestaan word nie tensy ’n verslag oor die voorgestelde werk in beide Huise van die Parlement ter Tafel gelê is.”; en
- (c) deur in sub-artikel (2) die simbool „(b)” deur die simbool „(c)” te vervang.

18. Artikel *honderd-en-sestig* van die Hoofwet word hierby Wysiging van gewysig deur in sub-artikel (3) die uitdrukking „sub-artikel artikel 160 (2)” deur die uitdrukking „paragraaf (b) van sub-artikel (1)” van Wet 54 te vervang.

19. Artikel *honderd twee-en-sestig* van die Hoofwet word hierby Wysiging van gewysig deur sub-artikel (6) te skrap. artikel 162 van Wet 54 van 1956.

20. Artikel *honderd ses-en-sestig* van die Hoofwet word hierby Wysiging van gewysig deur in sub-artikel (1) na die woorde „voldoen artikel 166 word” die woorde „en kan, met die doel om toegang tot so- van Wet 54 danige grond te verkry, na soortgelyke kennisgewing, enige ander grond met die nodige manne, diere, voertuie, toestelle en instrumente betree en daaroor gaan” in te voeg.

21. Hierdie Wet heet die Water-wysigingswet, 1961.

Kort titel.

