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GOVERNMENT GAZETTE

STAATSKOERANT

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[No. 2444.]

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1040. 25th June, 1969.

No. 1040. 25 Junie 1969.

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. 78 of 1969: Orange River Development Project Act, 1969.]

No. 78 van 1969: Wet op die Oranjerivier-ontwikkelingsprojek, 1969.

Act No. 78, 1969

ORANGE RIVER DEVELOPMENT PROJECT ACT, 1969.

ACT

To provide for the supply and distribution of water from the Orange River in the execution of certain aspects of the Orange River Development Project, and for matters incidental thereto.

*(Afrikaans text signed by the State President.)
(Assented to 16th June, 1969.)*

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

Definitions.

1. In this Act "principal Act" means the Water Act, 1956 (Act No. 54 of 1956), and any expression to which a meaning has been assigned in the last-mentioned Act, when used in this Act, bears the same meaning, unless the context otherwise indicates.

Application of Act.

2. The provisions of this Act shall apply in respect of any Government water control area or any portion of any such area which the State President has at any time by proclamation in the *Gazette* declared, for the purposes of this Act, to be an area affected by water diverted from the Orange River and delivered into the Theebus Spruit through the Orange-Fish tunnel at present under construction, and shall so apply as from the date specified in such proclamation.

Use of water in areas affected by Orange River Development Project.

3. (1) Notwithstanding anything to the contrary contained in any law, or any existing right or other right to any water or the use thereof, but subject to the provisions of section 4, no person shall, as from the date referred to in section 2, be entitled to abstract, impound or store or to be supplied with any water flowing or found in or derived from the bed of any public stream, private stream or natural channel in any area referred to in the said section 2, otherwise than in accordance with the provisions of this Act or the principal Act.

(2) The provisions of section 62 (1) of the principal Act shall not apply for the purposes of subsection (1) of this section.

(3) Any person who on the date referred to in section 2 of this Act was lawfully abstracting, impounding or storing or in terms of the provisions of the principal Act, other than the provisions of section 63 thereof, being supplied with and beneficially using any water referred to in subsection (1) of this section shall be entitled—

(a) to a permit, to be issued by the Minister on such conditions as he may deem fit to impose, to enable such person to abstract, impound or store or to be supplied with such quantity of such water as the Minister may in his discretion, but with due regard to the provisions of subsection (4) of this section, from time to time determine; or

(b) to be supplied with such quantity of such water as the Minister may in terms of section 63 of the principal Act, but with due regard to the provisions of subsection (4) of this section, determine.

(4) The quantity of water referred to in subsection (3) shall—

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WET

Om voorsiening te maak vir die verskaffing en verdeling van water uit die Oranjerivier by die uitvoering van sekere aspekte van die Oranjerivier-ontwikkelingsprojek, en vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 16 Junie 1969.)*

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. In hierdie Wet beteken „Hoofwet” die Waterwet, 1956 (Wet No. 54 van 1956), en wanneer ’n uitdrukking waaraan in laasgenoemde Wet ’n betekenis toegeskryf is, in hierdie Wet gebesig word, het dit dieselfde betekenis tensy die samehang anders aandui. Woord-
omskrywing.

2. Die bepalings van hierdie Wet is van toepassing ten opsigte van ’n Staatswaterbeheergebied of ’n gedeelte van so ’n gebied ten opsigte waarvan die Staatspresident te eniger tyd by proklamasie in die *Staatskoerant* verklaar het dat dit vir die doeleindes van hierdie Wet ’n gebied is wat geraak word deur water wat uit die Oranjerivier uitgekeer word en deur die Oranje-Vistunnel wat tans in aanbou is, in die Theebusspruit losgelaat word, en wel vanaf ’n datum in dié proklamasie vermeld. Toepassing
van Wet.

3. (1) Ondanks andersluidende bepalings van ’n wet of ’n bestaande reg of ander reg op water of die gebruik daarvan, maar behoudens die bepalings van artikel 4, is niemand vanaf die datum in artikel 2 vermeld, geregtig om water wat in die bedding van ’n openbare stroom of private stroom of natuurlike bedding in ’n gebied ingenoemde artikel 2 vermeld, vloei of daarin aangetref word of daaruit afkomstig is, te neem, op te dam of op te gaar of om daarvan voorsien te word nie, anders as ooreenkomstig die bepalings van hierdie Wet of die Hoofwet. Gebruik van
water in gebiede
wat deur
Oranjerivier-
ontwikkelings-
projek geraak
word.

(2) Die bepalings van artikel 62 (1) van die Hoofwet geld nie by die toepassing van subartikel (1) van hierdie artikel nie.

(3) Iemand wat op die datum vermeld in artikel 2 van hierdie Wet, water vermeld in subartikel (1) van hierdie artikel wettiglik geneem, opgedam of opgegaar het, of aan wie ingevolge die bepalings van die Hoofwet, uitgesonderd die bepalings van artikel 63 daarvan, sodanige water toe voorsien is, en wat sodanige water toe op voordelige wyse gebruik het, is geregtig—

(a) op ’n permit, deur die Minister uitgereik op die voorwaardes wat hy na goeë dunnke oplê, om sodanige persoon in staat te stel om die hoeveelheid van dié water te neem, op te dam of op te gaar wat die Minister na goeë dunnke, maar met behoorlike inagneming van die bepalings van subartikel (4) van hierdie artikel, van tyd tot tyd bepaal, of om van dié hoeveelheid van dié water voorsien te word; of

(b) om van die hoeveelheid van dié water voorsien te word wat die Minister ingevolge artikel 63 van die Hoofwet, maar met behoorlike inagneming van die bepalings van subartikel (4) van hierdie artikel, bepaal.

(4) Die hoeveelheid water bedoel in subartikel (3) word—

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(a) subject to the provisions of subsection (5), in the case of the use of water for agricultural purposes be based on—

(i) the extent of land (other than uncultivated land) of which the person in question is the owner and which was under irrigation immediately prior to the date referred to in section 2, or, as the case may be, the area which appeared in any relevant schedule of rateable areas of any irrigation district on the date as from which the area in question was in terms of section 59 (1) of the principal Act declared to be a Government water control area, in respect of which the owner thereof was entitled to receive water on the last-mentioned date; and

(ii) the quantity of water which, in the opinion of the Minister, is sufficient for the annual irrigation of each morgen of land which was so under irrigation, or, as the case may be, which so appeared in such schedule of rateable areas and in respect of which such owner was so entitled to receive water; and

(b) in the case of the use of water for urban or industrial purposes, be based on the maximum quantity of water abstracted by or supplied to and beneficially used during any period of twelve months during the period of three years immediately preceding the date referred to in section 2, by either the local authority or the other person responsible for the supply and distribution of such water, or the other person in question.

(5) When making a determination in terms of subsection (3) for the purposes contemplated in subsection (4), the availability of water for irrigation purposes and the assurance of supply shall be taken into consideration.

(6) No person shall abstract, impound or store or be supplied with water referred to in subsection (1) otherwise than in accordance with the provisions of subsection (3) of this section or section 62 (2) of the principal Act or otherwise than in terms of section 56 (3) or 63 of that Act.

(7) Any permit issued in terms of subsection (3) of this section shall for all purposes be deemed to have been issued in terms of section 62 (1) (b) of the principal Act.

(8) Any person who abstracts, impounds or stores water in contravention of the provisions of this section or of any permit issued in terms of subsection (3) of this section, shall be guilty of an offence and liable on conviction to the penalties prescribed by section 170 (1) of the principal Act.

(9) There shall be a right of appeal to the water court against any determination under section 63 of the principal Act of any extent of land or area referred to in subparagraph (i) of paragraph (a) of subsection (4) of this section.

**Rights to
remain in force
until water
supplied
from Orange
River.**

4. Notwithstanding anything to the contrary contained in section 3 or the repeal by section 10 of the laws referred to in the last-mentioned section, any rights attaching to any land or held by any person in respect of the abstraction, impounding, storage, supply or use of water for any purpose from any public stream, private stream or natural channel in an area referred to in section 2, shall remain of force and effect as if the said section 3 had not been passed and the said laws had not been repealed, unless and until water is supplied from the Orange River or, as a result of the construction of any Government water work in the said river, from any other source or Government water work, in respect of such land or to such person, or unless and until such stream or channel is used for the conveyance of water from the said river in terms of section 6.

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(a) behoudens die bepalings van subartikel (5), in die geval van die gebruik van water vir landbou-doeleindes gebaseer op—

(i) die omvang van die grond (behalwe onbewerkte grond) waarvan die betrokke persoon die eienaar is en wat onmiddellik vóór die datum vermeld in artikel 2 onder besproeiing was, of, na gelang van die geval, die oppervlakte wat voorgekom het op 'n toepaslike lys van besproeibare oppervlakte van 'n besproeiingsdistrik op die datum van wanneer af die betrokke gebied ingevolge artikel 59 (1) van die Hoofwet tot 'n Staatswaterbeheergebied verklaar is, en ten opsigte waarvan die eienaar daarvan op laasgenoemde datum geregtig was om water te ontvang; en

(ii) die hoeveelheid water wat, na die oordeel van die Minister, voldoende is vir die jaarlikse besproeiing van iedere morg grond wat aldus onder besproeiing was, of, na gelang van die geval, wat aldus op daardie lys van besproeibare oppervlakte voorgekom het en ten opsigte waarvan sodanige eienaar aldus geregtig was om water te ontvang; en

(b) in geval van die gebruik van water vir stedelike of industriële doeleindes, gebaseer op die maksimum hoeveelheid water wat gedurende enige tydperk van twaalf maande gedurende die tydperk van drie jaar onmiddellik voor die datum bedoel in artikel 2, geneem is deur of voorsien is aan en op voordelige wyse gebruik is deur of die plaaslike bestuur of die ander persoon wat vir die voorsiening en verdeling van sodanige water verantwoordelik is, of die ander betrokke persoon.

(5) Wanneer 'n bepaling ingevolge subartikel (3) vir die doeleindes beoog in subartikel (4) gedoen word, moet die beskikbaarheid van water vir besproeiingsdoeleindes en die sekerheid van toevoer in aanmerking geneem word.

(6) Niemand mag water bedoel in subartikel (1) neem, opdam of opgaar of daarvan voorsien word nie anders as ooreenkomstig die bepalings van subartikel (3) van hierdie artikel of artikel 62 (2) van die Hoofwet of anders as ingevolge artikel 56 (3) of 63 van dié Wet.

(7) 'n Permit wat ingevolge subartikel (3) van hierdie artikel uitgereik is, word vir alle doeleindes geag ingevolge artikel 62 (1) (b) van die Hoofwet uitgereik te wees.

(8) Iemand wat in stryd met die bepalings van hierdie artikel of 'n permit uitgereik ingevolge subartikel (3) van hierdie artikel water neem, opdam of opgaar, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat by artikel 170 (1) van die Hoofwet voorgeskryf is.

(9) Daar is 'n reg van appèl na die waterhof teen 'n bepaling, kragtens artikel 63 van die Hoofwet, van die omvang van grond of 'n oppervlakte bedoel in subparagraaf (i) van paragraaf (a) van subartikel (4) van hierdie artikel.

4. Ondanks andersluidende bepalings van artikel 3 of die herroeping deur artikel 10 van die wette wat in laasgenoemde artikel vermeld word, bly regte wat aan grond verbonde is of deur iemand besit word ten opsigte van die uitneem, opdam, opgaar, voorsiening of gebruik van water, vir enige doel, uit 'n openbare stroom, private stroom of natuurlike bedding in 'n gebied bedoel in artikel 2, van krag asof genoemde artikel 3 nie aangeneem en genoemde wette nie herroep was nie, tensy en totdat water ten opsigte van sodanige grond of aan so iemand uit die Oranjerivier of, as gevolg van die bou van 'n Staatswaterwerk in genoemde rivier, uit 'n ander bron of Staatswaterwerk voorsien word, of tensy en totdat sodanige stroom of bedding vir die afvoer van water uit genoemde rivier ingevolge artikel 6 gebruik word.

Regte bly van krag totdat water uit Oranjerivier verskaf word.

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Sections 15 to 18 of Act 54 of 1956 not applicable in certain cases.

5. The provisions of sections 15, 16, 17 and 18 of the principal Act shall as from a date fixed by the State President by proclamation in the *Gazette*, which shall not be earlier than the date on which water is for the first time released by the Minister from the Orange River into any public stream, private stream or natural channel in terms of section 6, cease to apply in relation to any land which is riparian to any public stream referred to in that section.

Conveyance of water from Orange River in streams and natural channels.

6. (1) Notwithstanding anything to the contrary contained in any other law, the Minister may release water from the Orange River into or convey water from the said river in any public stream, private stream or natural channel in any area referred to in section 2, and all water flowing in or derived from any such stream or channel into which water has at any time been so released or in which water is or has at any time been so conveyed, or which the Minister may by notice in the *Gazette* declare to be a stream or channel into which water may be so released or in which water may be so conveyed, shall for the purposes of sections 56 (3) and 63 of the principal Act, but subject to the provisions of this Act, be deemed to be water derived from a Government water work.

(2) The Minister may take any action which he may deem necessary for exercising the powers conferred upon him by subsection (1).

Alteration of private water works.

7. The Minister may without the consent of the owner concerned alter, re-align, maintain or clean any canal, furrow or other water work in an area referred to in section 2.

Delegation of powers by Minister.

8. The Minister may, in addition to any function, power or duty which he may in terms of section 69 or 89 of the principal Act delegate or assign to an irrigation board whose area of jurisdiction falls wholly or partly within an area referred to in section 2, delegate to such board, in respect of its area of jurisdiction, any power conferred upon him by this Act or section 62 (3), (4) or (5) of the principal Act.

Constitution of certain irrigation boards.

9. Notwithstanding the provisions of section 80 (1) of the principal Act and the repeal by section 10 of this Act of the laws referred to in the last-mentioned section, any irrigation board for a major irrigation district in an area referred to in section 2, shall consist of so many members as there are sub-districts of such irrigation district, and such members shall be elected by the irrigation boards for the minor irrigation districts constituting such sub-districts, by each designating one of its members as a member of the irrigation board for such major irrigation district.

Repeal of laws and savings.

10. (1) Subject to the provisions of subsection (2) of this section, section 6 of the Irrigation Districts Adjustment Act, 1930 (Act No. 41 of 1930), the Sundays River Irrigation District Adjustments Act, 1934 (Act No. 39 of 1934), section 6 of the Irrigation Districts Adjustment Act, 1956 (Act No. 31 of 1956), and the Great Fish River Irrigation District Adjustment Act, 1956 (Act No. 46 of 1956), are hereby repealed.

(2) Subject to the provisions of this Act, any proclamation, notice, rule, regulation, by-law, order, determination, decision or other act issued, made, given, authorized or performed under any provision of a law repealed by subsection (1), shall be deemed to have been issued, made, given, authorized or performed

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5. Vanaf 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal, maar wat nie eerder mag wees nie as die datum waarop water vir die eerste maal deur die Minister ingevolge artikel 6 uit die Oranjerivier in 'n openbare stroom, private stroom of natuurlike bedding gelaat word, hou die bepalings van artikels 15, 16, 17 en 18 van die Hoofwet op om van toepassing te wees met betrekking tot grond wat oewergrond is met betrekking tot 'n openbare stroom in genoemde artikel 6 vermeld.

Artikels 15 tot 18 van Wet 54 van 1956 in sekere gevalle nie van toepassing nie.

6. (1) Ondanks andersluidende bepalings van 'n ander wet kan die Minister water uit die Oranjerivier laat in of afvoer met 'n openbare stroom, private stroom of natuurlike bedding in 'n gebied bedoel in artikel 2, en word by die toepassing van artikels 56 (3) en 63 van die Hoofwet, maar behoudens die bepalings van hierdie Wet, alle water wat vloei in of afkomstig is uit so 'n stroom of bedding waarin water te eniger tyd aldus gelaat is of waarmee water aldus afgevoer word of te eniger tyd aldus afgevoer is, of ten opsigte waarvan die Minister by kennisgewing in die *Staatskoerant* verklaar dat dit 'n stroom of bedding is waarin water aldus gelaat of waarmee water aldus afgevoer mag word, geag water te wees wat uit 'n Staatswaterwerk afkomstig is.

Afvoer van water uit Oranjerivier in strome en natuurlike beddings.

(2) Die Minister kan enige stappe doen wat hy nodig ag om die bevoegdhede uit te oefen wat by subartikel (1) aan hom verleen is.

7. Die Minister kan sonder die toestemming van die betrokke eienaar 'n kanaal, voor of ander waterwerk in 'n gebied bedoel in artikel 2 verander, verlê, in stand hou of skoonmaak.

Verandering van private waterwerke.

8. Die Minister kan benewens 'n werksaamheid, bevoegdheid of plig wat hy ingevolge artikel 69 of 89 van die Hoofwet kan oordra of toewys aan 'n besproeiingsraad waarvan die regsgebied in die geheel of ten dele in 'n gebied is wat in artikel 2 bedoel word, aan sodanige raad, ten opsigte van sy regsgebied, 'n bevoegdheid oordra wat by hierdie Wet of artikel 62 (3), (4) of (5) van die Hoofwet aan hom verleen is.

Oordrag van bevoegdhede deur Minister.

9. Ondanks die bepalings van artikel 80 (1) van die Hoofwet en die herroeping deur artikel 10 van hierdie Wet van die wette in laasgenoemde artikel vermeld, bestaan 'n besproeiingsraad vir 'n groter besproeiingsdistrik in 'n gebied in artikel 2 bedoel, uit soveel lede as wat daar subdistrikte van sodanige besproeiingsdistrik is, en word sodanige lede gekies deur die besproeiingsrade vir die kleinere besproeiingsdistrikte wat sodanige subdistrikte uitmaak, deur elkeen een van sy lede as 'n lid van die besproeiingsraad vir sodanige groter besproeiingsdistrik aan te wys.

Samestelling van sekere besproeiingsrade.

10. (1) Behoudens die bepalings van subartikel (2) van hierdie artikel, word artikel 6 van die Wet tot Reëling van Besproeiingsdistrikte, 1930 (Wet No. 41 van 1930), die Besproeiingsdistrik Sondagsrivier Reëlingswet, 1934 (Wet No. 39 van 1934), artikel 6 van die Wet tot Reëling van Besproeiingsdistrikte, 1956 (Wet No. 31 van 1956), en die Wet tot Reëling van die Groot-Visrivierbesproeiingsdistrik, 1956 (Wet No. 46 van 1956), hierby herroep.

Herroeping van wette en voorbehoud.

(2) Behoudens die bepalings van hierdie Wet word 'n proklamasie, kennisgewing, reël, regulasie, verordening, bevel, bepaling, beslissing of ander handeling wat uitgereik, uitgevaardig, gedoen, gemagtig of verrig is kragtens 'n bepaling van 'n Wet wat deur subartikel (1) herroep is, geag uitgereik, uitgevaardig, gedoen, gemagtig of verrig te wees kragtens die

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under the corresponding provision, if any, of the principal Act, and if that Act does not contain any such provision, shall continue to be of force and effect until it is withdrawn, cancelled or repealed by the Minister, where such withdrawal, cancellation or repeal by any authority was possible before the date of commencement of this Act.

Short title and commencement.

11. This Act shall be called the Orange River Development Project Act, 1969, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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ooreenstemmende bepaling, indien daar een is, van die Hoofwet en indien daardie Wet nie so 'n bepaling bevat nie, bly sodanige proklamasie, kennisgewing, reël, regulasie, verordening, bevel, bepaling, beslissing of ander handeling van krag totdat dit deur die Minister ingetrek of herroep word, indien sodanige intrekking of herroeping deur die een of ander gesag vóór die datum van inwerkingtreding van hierdie Wet moontlik was.

11. Hierdie Wet heet die Wet op die Oranjerivier-ontwikkelingsprojek, 1969, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. Kort titel en inwerking-treding.

