



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 406.

17 Maart 1976.

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

No. 1 van 1976: Wysigingswet op Verdediging, 1976.

No. 406.

17 March 1976.

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

No. 1 of 1976: Defence Amendment Act, 1976.

WET

Tot wysiging van die Verdedigingswet, 1957, om verdere voorsiening te maak vir die gebruik van die Suid-Afrikaanse Weermag vir diens ter verdediging van die Republiek en ter bestryding van terrorisme; en om voorsiening te maak vir vrywarings ten opsigte van sekere handeling vir die doeleindes van of in verband met die bestryding van terrorisme; tot wysiging van die Moratoriumwet, 1963, om die betekenis van „diens” uit te brei; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Maart 1976.)

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

Wysiging van artikel 1 van Wet 44 van 1957, soos gewysig deur artikel 1 van Wet 12 van 1961, artikel 1 van Wet 42 van 1961, artikel 1 van Wet 77 van 1963, artikel 20 van Wet 39 van 1966, artikel 1 van Wet 85 van 1967, artikel 1 van Wet 26 van 1973 en artikel 1 van Wet 8 van 1974.

1. Artikel 1 van die Verdedigingswet, 1957 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur in subartikel (1), paragraaf (c) van die omskrywing van „diens ter verdediging van die Republiek” deur die volgende paragraaf te vervang:

„(c) ter voorkoming of onderdrukking van enige gewapende konflik buite die Republiek wat, volgens die oordeel van die Staatspresident, die veiligheid van die Republiek bedreig of mag bedreig.”; en
- (b) deur in daardie subartikel na die omskrywing van „Republiek” die volgende omskrywing in te voeg:

„terrorisme” terroristiese bedrywighede in die Republiek of wat teen die Republiek of enige gesag in of inwoners van die Republiek gerig is;”.

Wysiging van artikel 3 van Wet 44 van 1957, soos gewysig deur artikel 2 van Wet 77 van 1963 en artikel 3 van Wet 85 van 1967.

2. Artikel 3 van die Hoofwet word hierby gewysig deur in subartikel (2) na paragraaf (a) die volgende paragraaf in te voeg:

„(aA) in diens ter voorkoming of onderdrukking van terrorisme;”.

Vervanging van opschrift by Hoofstuk X van Wet 44 van 1957.

3. Die opschrift by Hoofstuk X van die Hoofwet word hierby deur die volgende opschrift vervang:
„BEPALINGS VAN TOEPASSING IN OORLOGSTYD OF IN VERBAND MET DIE BESTRYDING VAN TERRORISME OF IN VERBAND MET 'N GEWAPENDE KONFLIK BUITE DIE REPUBLIEK OF IN VERBAND MET BINNELANDSE ONLUSTE OF 'N ANDER NOODSTOETAND”.

DEFENCE AMENDMENT ACT, 1976.

Act No. 1, 1976

ACT

To amend the Defence Act, 1957, so as to further provide for the employment of the South African Defence Force on service for the defence of the Republic and for the combating of terrorism; and to provide for indemnities in respect of certain acts for the purposes of or in connection with the combating of terrorism; to amend the Moratorium Act, 1963, so as to extend the meaning of "service"; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 2 March 1976.)

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 Defence Act, 1957 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution, in subsection (1), for paragraph (c) of the definition of "service in defence of the Republic" of the following paragraph: "(c) for the prevention or suppression of any armed conflict outside the Republic which, in the opinion of the State President, is or may be a threat to the security of the Republic."; and (b) by the insertion in that subsection after the definition of "service in the merchant fleet" of the following definition: "'terrorism' means terroristic activities in the Republic or directed against the Republic or any authority in or inhabitants of the Republic;".	Amendment of section 1 of Act 44 of 1957, as amended by section 1 of Act 12 of 1961, section 1 of Act 42 of 1961, section 1 of Act 77 of 1963, section 20 of Act 39 of 1966, section 1 of Act 85 of 1967, section 1 of Act 26 of 1973 and section 1 of Act 8 of 1974.
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2. Section 3 of the principal Act is hereby amended by the insertion in subsection (2) after paragraph (a) of the following paragraph:

"(aA) on service for the prevention or suppression of terrorism;".	Amendment of section 3 of Act 44 of 1957, as amended by section 2 of Act 77 of 1963 and section 3 of Act 85 of 1967.
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3. The following heading is hereby substituted for the heading to Chapter X of the principal Act:

"PROVISIONS APPLICABLE IN TIME OF WAR OR IN CONNECTION WITH THE COMBATING OF TERRORISM OR IN CONNECTION WITH AN ARMED CONFLICT OUTSIDE THE REPUBLIC OR IN CONNECTION WITH INTERNAL DISORDER OR OTHER EMERGENCY".	Substitution of heading to Chapter X of Act 44 of 1957.
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Vervanging van artikel 92 van Wet 44 van 1957, soos gewysig deur artikel 13 van Wet 12 van 1961, artikel 15 van Wet 77 van 1963 en artikel 7 van Wet 83 van 1974.

4. Artikel 92 van die Hoofwet word hierby deur die volgende artikel vervang:

„Mobilisasie van Burgermag, Reserwe en kommando's vir bestryding van terrorisme, binnelandse onluste of ander noodtoestand.

92. (1) Die Staatspresident kan, by proklamasie in die *Staatskoerant* of op 'n ander wyse wat hy dienstig ag, die geheel of enige deel van die Burgermag, die geheel of enige deel van die Reserwe en die geheel of enige deel van 'n kommando vir mobilisering oproep om diens ter voorkoming of onderdrukking van terrorisme, of ter voorkoming of onderdrukking van binnelandse onluste in die Republiek, of ter behoud of bewaring van lewens, gesondheid of eiendom, of ter instandhouding van noodsaaklike dienste te doen.

(2) Waar die omstandighede volgens die Minister se oordeel sodanig is dat dit dringend nodig is om die geheel of 'n deel van bedoelde Mag of die Reserwe of 'n kommando vir mobilisering vir voormelde diens op te roep voordat ingevolge subartikel (1) opgetree kan word, kan hy in afwagting van sodanige optrede by bevel onder sy hand of op die ander wyse wat hy dienstig ag, die geheel of bedoelde deel van daardie Mag of die Reserwe of daardie kommando vir mobilisering vir sodanige diens oproep, en enige optrede deur die Minister ingevolge hierdie subartikel het dieselfde krag en uitwerking as enige ooreenstemmende optrede deur die Staatspresident ingevolge subartikel (1), en bly van krag totdat die geheel of 'n deel van bedoelde Mag of die Reserwe of 'n kommando ingevolge laasbedoelde subartikel opgeroep word, maar in geen geval vir langer as vier dae nie.

(3) Waar die omstandighede in 'n landdrosdistrik van die Republiek sodanig is dat dit dringend nodig is om lede van die Suid-Afrikaanse Weermag onmiddellik in die in subartikel (1) vermelde diens te stel voordat ingevolge subartikel (1) of (2) opgetree kan word, kan al of sommige van die lede van die Burgermag of die kommando's wat in die betrokke landdrosdistrik woonagtig is, in afwagting van sodanige optrede en op die wyse wat dienstig geag word, opgeroep word vir genoemde diens, en enige optrede kragtens hierdie subartikel het dieselfde krag en uitwerking as ooreenstemmende optrede deur die Staatspresident kragtens subartikel (1), maar dit bly in iedere geval nie vir langer as viertien-twentig uur van krag nie.”

Wysiging van artikel 92ter van Wet 44 van 1957, soos ingevoeg deur artikel 14 van Wet 12 van 1961 en vervang deur artikel 8 van Wet 83 van 1974.

5. Artikel 92ter van die Hoofwet word hierby gewysig deur paragraaf (b) van die voorbehoudsbepaling by subartikel (1) deur die volgende paragraaf te vervang:

„(b) geen diens ingevolge hierdie subartikel in verband met die voorkoming of onderdrukking van terrorisme of die voorkoming of onderdrukking van binnelandse onluste in die Republiek of die behoud of bewaring van lewens, gesondheid of eiendom of die instandhouding van noodsaaklike dienste, langer as sewe dae voortduur na die verstryking van die tyd wat die diens, pligte of opleiding wat die lid verrig of ondergaan, sou geduur het nie.”

Vervanging van artikel 95 van Wet 44 van 1957.

6. Artikel 95 van die Hoofwet word hierby deur die volgende artikel vervang:

„Diensplig buite die Republiek.

95. (1) 'n Lid van die Suid-Afrikaanse Weermag kan in oorlogstyd verplig word tot diens teen 'n vyand op enige plek buite die Republiek.

(2) By die toepassing van subartikel (1) word diens ter voorkoming of onderdrukking van terrorisme of

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4. The following section is hereby substituted for section 92 of the principal Act:

"Mobilization of Citizen Force, Reserve and commandos for the combating of terrorism, internal disorder or other emergency.

92. (1) The State President may by proclamation 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 service in the prevention or suppression of terrorism or in the prevention or suppression of internal disorder in the Republic or in the preservation of life, health or property or the maintenance of essential services.

Substitution of section 92 of Act 44 of 1957, as amended by section 13 of Act 12 of 1961, section 15 of Act 77 of 1963 and section 7 of Act 83 of 1974.

(2) Where in the opinion of the Minister the urgency of the circumstances requires that the whole or any portion of the said Force or the Reserve or a commando be called out for mobilization for the aforesaid service before action can be taken in terms of subsection (1), he may, in anticipation of such action, by order under his hand or in such other manner as he may deem expedient, call out for mobilization for such service the whole or that portion of the said Force or the Reserve or that commando, and any action by the Minister under this subsection shall have the same force and effect as any corresponding action by the State President under subsection (1), and shall remain in force until the whole or any portion of the said Force or the Reserve or a commando is called out under the lastmentioned subsection, but not in any case for longer than four days.

(3) Where the urgency of the circumstances in a magisterial district of the Republic requires the immediate employment of members of the South African Defence Force in the service mentioned in subsection (1) before action can be taken in terms of subsection (1) or (2), all or some of the members of the Citizen Force or the commandos who are resident in the magisterial district concerned, may, in anticipation of such action, in such manner as may be deemed expedient, be called out for the said service, and any action under this subsection shall have the same force and effect as any corresponding action by the State President under subsection (1) but shall not remain in force in any case for longer than twenty-four hours."

5. Section 92*ter* of the principal Act is hereby amended by the substitution for paragraph (b) of the proviso to subsection (1) of the following paragraph:

"(b) no service under this subsection in the prevention or suppression of terrorism, or in the prevention or suppression of internal disorder in the Republic, or in the preservation of life, health or property or the maintenance of essential services, shall extend for a period of more than seven days beyond the termination of the time which would have been occupied by the service, duty or training which the member is performing or undergoing."

Amendment of section 92*ter* of Act 44 of 1957, as inserted by section 14 of Act 12 of 1961 and substituted by section 8 of Act 83 of 1974.

6. The following section is hereby substituted for section 95 of the principal Act:

"Compulsory service outside the Republic.

95. (1) A member of the South African Defence Force may in time of war be required to perform service against an enemy at any place outside the Republic.

(2) For the purposes of subsection (1) service for the prevention or suppression of terrorism or of any

Substitution of section 95 of Act 44 of 1957.

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van enige gewapende konflik in paragraaf (c) van die omskrywing van „diens ter verdediging van die Republiek” in artikel 1 bedoel, geag diens in oorlogstyd teen ’n vyand te wees: Met dien verstande dat die gebruik buite die grense van die Republiek vir ’n tydperk wat een maand oorskry van lede van die Suid-Afrikaanse Weermag vir die voorkoming of onderdrukking van ’n gewapende konflik buite die Republiek, geag word mobilisasie ingevolge artikel 91 te wees en aan die bepalings van artikel 91 (2) onderhewig is.”.

Wysiging van artikel 96 van Wet 44 van 1957, soos gewysig deur artikel 18 van Wet 77 van 1963.

7. Artikel 96 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Ondanks andersluidende bepalings van hierdie Wet en ondanks die verstryking van die tydperk van enige aanstelling, indienseneming of verpligte diens, is geen lid van die Suid-Afrikaanse Weermag wat in diens ter verdediging van die Republiek of ter voorkoming of onderdrukking van terrorisme of ter voorkoming of onderdrukking van binnelandse onluste in die Republiek of ter behoud of bewaring van lewens, gesondheid of eiendom of ter instandhouding van noodsaaklike dienste, in diens gestel word, geregtig om solank daardie diens duur, sy vrylating of ontslag uit daardie Mag te verkry nie.”.

Invoeging van artikels 103ter en 103quat in Wet 44 van 1957.

8. Die volgende artikels word hierby in die Hoofwet na artikel 103bis ingevoeg:

„Vrywaring in verband met die bestryding van terrorisme.

103ter. (1) In hierdie artikel beteken—

„handeling” ook ’n versuim om, wanneer ’n handeling aangeraai, gebied, beveel, gelas of verrig word, ’n voorskrif van ’n wet in verband daarmee na te kom;

„lid van die Suid-Afrikaanse Weermag”, met betrekking tot ’n handeling, ook iemand wat ten tyde van die verrigting van daardie handeling ’n lid van die Suid-Afrikaanse Weermag was;

„operasionele gebied”, met betrekking tot ’n handeling, enige plek of gebied waar, ten tyde van die verrigting van daardie handeling, lede van die Suid-Afrikaanse Weermag in diens ter voorkoming of onderdrukking van terrorisme in diens gestel was.

(2) Geen siviele of strafregtelike geding word in enige geregshof teen die Staat, die Staatspresident, die Minister, ’n lid van die Suid-Afrikaanse Weermag of ’n ander persoon in diens van die Staat ingestel of voortgesit nie op grond van ’n handeling wat te goeder trou deur die Staatspresident, die Minister of ’n lid van die Suid-Afrikaanse Weermag aangeraai, gebied, beveel, gelas of verrig is vir die doeleindes van of in verband met die voorkoming of onderdrukking van terrorisme in ’n operasionele gebied.

(3) ’n Sertifikaat deur die Minister onderteken waarin verklaar word dat ’n daarin vermelde handeling aangeraai, gebied, beveel, gelas of verrig is vir die doeleindes van of in verband met die voorkoming of onderdrukking van terrorisme in ’n operasionele gebied, is by blote oorlegging daarvan

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armed conflict contemplated in paragraph (c) of the definition of 'service in defence of the Republic' in section 1, shall be deemed to be service in time of war against an enemy: Provided that the employment, for a period exceeding one month, beyond the borders of the Republic of members of the South African Defence Force for the prevention or suppression of any armed conflict outside the Republic, shall be deemed to be mobilization in terms of section 91 and shall be subject to the provisions of section 91 (2).".

7. Section 96 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 96 of Act 44 of 1957, as amended by section 18 of Act 77 of 1963

"(2) Notwithstanding anything to the contrary contained in this Act, and notwithstanding the expiration of the period of any appointment, engagement or compulsory service, no member of the South African Defence Force employed on service in defence of the Republic or in the prevention or suppression of terrorism or in the prevention or suppression of internal disorder in the Republic or in the preservation of life, health or property or in the maintenance of essential services, shall be entitled to obtain his release or discharge from that Force during the continuance of such service.".

8. The following sections are hereby inserted in the principal Act after section 103*bis*:

Insertion of sections 103*ter* and 103*quat* in Act 44 of 1957.

"Indemnity in connection with the combating of terrorism.

103*ter*. (1) In this section—

'act' includes any default, when advising, commanding, ordering, directing or doing any act, to comply, in connection therewith, with any provision of any law;

'member of the South African Defence Force', in relation to any act, includes any person who at the time of the doing of that act was a member of the South African Defence Force;

'operational area', in relation to any act, means any place or area where, at the time of the doing of that act, members of the South African Defence Force were employed on service in the prevention or suppression of terrorism.

(2) No proceedings, whether civil or criminal, shall be instituted or continued in any court of law against the State, the State President, the Minister, a member of the South African Defence Force or any other person in the service of the State by reason of any act advised, commanded, ordered, directed or done in good faith by the State President, the Minister, or a member of the South African Defence Force for the purposes of or in connection with the prevention or suppression of terrorism in any operational area.

(3) A certificate signed by the Minister stating that an act specified therein was advised, commanded, ordered, directed or done for the purposes of or in connection with the prevention or suppression of terrorism in an operational area, shall on its mere

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deur enige persoon in enige verrigtinge in 'n geregs-hof afdoende bewys dat dié handeling vir daardie doeleindes of in daardie verband deur die Staatspresident, die Minister of 'n lid van die Suid-Afrikaanse Weermag aangeraai, gebied, beveel, gelas of verrig is: Met dien verstande dat indien die betrokke handeling dié van die Minister is, so 'n sertifikaat deur die Eerste Minister onderteken moet wees.

(4) Indien enige geding te eniger tyd in 'n geregs-hof teen die Staat, die Staatspresident, die Minister, of 'n lid van die Suid-Afrikaanse Weermag of 'n ander persoon in diens van die Staat ingestel is en die Staatspresident van mening is—

- (a) dat die geding ingestel is op grond van 'n handeling wat te goeder trou deur die Staatspresident, die Minister of 'n lid van die Suid-Afrikaanse Weermag aangeraai, gebied, beveel, gelas of verrig is vir die doeleindes van of in verband met die voorkoming of onderdrukking van terrorisme in 'n operasionele gebied; en
- (b) dat dit in landsbelang is dat die geding nie voortgesit word nie,

magtig hy die Minister van Justisie om 'n sertifikaat uit te reik waarin gelas word dat daardie proses nie voortgesit mag word nie.

(5) Die Staatspresident magtig nie die Minister van Justisie soos in subartikel (4) beoog nie behalwe na oorweging van 'n verslag deur die Minister waarin die omstandighede uiteengesit word waaronder die betrokke handeling plaasgevind het asook die faktore wat aandui dat dié handeling te goeder trou en vir die doeleindes van of in verband met die voorkoming of onderdrukking van terrorisme in 'n operasionele gebied aangeraai, gebied, beveel, gelas of verrig is.

- (6) (a) Wanneer die hof waarin 'n geding ingestel is, van mening is dat die geding uit hoofde van subartikel (2) nie voortgesit mag word nie, moet die hof 'n bevinding in dier voege maak.
- (b) Wanneer die hof so 'n bevinding gemaak het, of waar 'n sertifikaat, deur die Minister van Justisie kragtens subartikel (4) uitgereik, waarin gelas word dat sodanige geding nie voortgesit mag word nie, by daardie hof ingedien word, verval daardie geding en word dit geag nietig te wees.
- (c) Die hof maak geen bevel, met inbegrip van 'n bevel vir koste, in of ten opsigte van 'n geding wat ingevolge paragraaf (b) verval het nie: Met dien verstande dat, indien die hof 'n bevinding in paragraaf (a) beoog ten opsigte van 'n siviele geding gemaak het, die hof 'n bevel kan maak vir die koste in verband met die vraag of subartikel (2) ten opsigte van daardie geding van toepassing is.
- (7) (a) Behoudens die bepalings van paragraaf (b), is geen hof bevoeg om 'n sertifikaat, kragtens subartikel (3) of (4) uitgereik, te hersien of nietig te verklaar of die geldigheid daarvan op enige ander wyse in twyfel te trek nie, en die Staats-

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production by any person in any proceedings in a court of law be conclusive proof that that act was advised, commanded, ordered, directed or done for those purposes or in that connection by the State President, the Minister or a member of the South African Defence Force: Provided that if the act concerned is that of the Minister, such certificate shall be signed by the Prime Minister.

(4) If any proceedings have at any time been instituted in a court of law against the State, the State President, the Minister, a member of the South African Defence Force or any other person in the service of the State and the State President is of the opinion—

- (a) that the proceedings were instituted by reason of an act advised, commanded, ordered, directed or done in good faith by the State President, the Minister or a member of the South African Defence Force for the purposes of or in connection with the prevention or suppression of terrorism in an operational area; and
- (b) that it is in the national interest that the proceedings shall not be continued,

he shall authorize the Minister of Justice to issue a certificate directing that the proceedings shall not be continued.

(5) The State President shall not authorize the Minister of Justice as contemplated in subsection (4) except after having considered a report by the Minister setting forth the circumstances under which the act in question took place as well as the factors indicating that that act was advised, commanded, ordered, directed or done in good faith and for the purposes of or in connection with the prevention or suppression of terrorism in an operational area.

- (6) (a) Whenever the court in which any proceedings have been instituted, is of the opinion that by virtue of subsection (2) the proceedings may not be continued, the court shall make a finding to that effect.
- (b) Whenever the court has made such a finding, or where a certificate issued by the Minister of Justice under subsection (4) directing that such proceedings shall not be continued is lodged at that court, the proceedings shall lapse and be deemed to be void.
- (c) The court shall not make any order, including an order as to costs, in or in respect of any proceedings which have lapsed in terms of paragraph (b): Provided that, if the court has made a finding contemplated in paragraph (a) in respect of civil proceedings, the court may make an order as to the costs in connection with the question whether subsection (2) applies in respect of those proceedings.
- (7) (a) Subject to the provisions of paragraph (b), no court shall have power to review, set aside or declare to be void or otherwise question the validity of any certificate issued under subsection (3) or (4), and the State President, the

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president, die Minister of die Eerste Minister of die Minister van Justisie is nie verplig om redes vir die magtiging tot uitreiking of vir die uitreiking daarvan te verstrek nie.

- (b) 'n Sertifikaat in paragraaf (a) bedoel wat heet deur die Minister of die Eerste Minister onderteken te wees of wat heet deur die Minister van Justisie uitgereik te wees, word vermoed aldus onderteken of uitgereik te wees, na gelang van die geval, tensy die teendeel bewys word.

Vergoeding. 103quat. (1) Iemand wat—

- (a) skade gely het as gevolg van 'n handeling of versuim ten opsigte waarvan ingevolge artikel 103bis geen geding ingestel mag word nie of enige geding verval het; of
- (b) in verband met 'n siviele geding wat soos voormeld verval het, koste opgeloop het ten opsigte waarvan die hof ingevolge daardie artikel nie 'n bevel kan maak nie,

kan aan die Minister 'n skriftelike aansoek om vergoeding rig waarin die gronde waarop die aansoek rus, die omvang en aard van die skade of koste en die vergoeding verlang, volledig uiteengesit word.

- (2) (a) Die Minister, handelende in oorleg met die Minister van Finansies, kan 'n aansoek kragtens subartikel (1) gedoen, toestaan en 'n bedrag as vergoeding betaal aan die persoon wat die aansoek gedoen het.

- (b) Indien die aansoek nie kragtens paragraaf (a) toegestaan word nie of aldus toegestaan word maar geen bedrag as vergoeding kragtens daardie paragraaf betaal word nie of aldus toegestaan word en die aansoeker die vergoeding as onvoldoende beskou, moet die Minister die aansoek verwys na 'n raad ingevolge subartikel (3) ingestel.

(3) Die Minister stel so dikwels as wat hy dit dienstig ag 'n raad in, wat 'n kompensasieraad genoem word, wat enige aansoek wat ingevolge subartikel (2) na hom verwys word, moet oorweeg en aan die Minister 'n aanbeveling moet doen oor die toestaan of weiering van die aansoek of enige deel daarvan en die bedrag van die vergoeding wat betaal moet word vir sover hy aanbeveel dat die aansoek toegestaan moet word.

- (4) (a) 'n Kompensasieraad bestaan uit 'n voorsitter, wat iemand moet wees wat die amp van regter van die Hooggeregshof van Suid-Afrika of van landdros beklee of beklee het, en die aantal ander lede (indien daar is), maar hoogstens vier, wat die Minister bepaal.

- (b) Die lede van 'n kompensasieraad word deur die Minister aangestel.

- (c) 'n Lid van 'n kompensasieraad beklee sy amp op die voorwaardes, met inbegrip van voorwaardes betreffende sy ampstermyn en besoldiging, wat die Minister behoudens die bepalinge van paragraaf (d) ten tyde van sy aanstelling bepaal.

- (d) Aan 'n lid van 'n kompensasieraad wat nie in die heeltidse diens van die Staat is nie, kan die besoldiging of toelaes betaal word wat die Minister in oorleg met die Minister van Finansies bepaal.

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Minister or the Prime Minister or the Minister of Justice shall not be obliged to furnish any reasons for the authorization for the issue or for the issue thereof.

- (b) A certificate referred to in paragraph (a) which purports to be signed by the Minister or the Prime Minister or which purports to have been issued by the Minister of Justice, shall be presumed to have been so signed or issued, as the case may be, unless the contrary is proved.

Compensation.

103quat. (1) Any person who—

- (a) suffered damage as a result of an act or omission in respect of which, in terms of section 103ter, no proceedings may be instituted or any proceedings have lapsed; or
- (b) in connection with any civil proceedings which have lapsed as aforesaid, incurred any costs in respect of which the court may in terms of that section not make an order,

may apply to the Minister in writing for compensation, setting out fully the grounds on which the application is based, the extent and nature of the damage or costs and the compensation desired.

- (2) (a) The Minister, acting in consultation with the Minister of Finance, may grant any application made under subsection (1) and pay an amount by way of compensation to the person who made the application.
- (b) If the application is not granted under paragraph (a) or is so granted but no amount is paid under that paragraph by way of compensation or is so granted and the applicant considers the compensation inadequate, the Minister shall refer the application to a board established under subsection (3).

(3) The Minister shall, as often as he may deem it expedient, establish a board, to be known as a compensation board, which shall consider any application referred to it under subsection (2) and make a recommendation to the Minister as to the granting or refusal of such application or any part thereof and the amount of the compensation to be paid in so far as it recommends that the application is to be granted.

- (4) (a) A compensation board shall consist of a chairman, who shall be a person who holds or held office as a judge of the Supreme Court of South Africa or as a magistrate, and such number of other members (if any), not exceeding four, as the Minister may determine.
- (b) The members of a compensation board shall be appointed by the Minister.
- (c) A member of a compensation board shall hold office under such conditions, including conditions relating to his period of office and remuneration, as the Minister may subject to the provisions of paragraph (d) determine at the time of his appointment.
- (d) A member of a compensation board who is not in the full-time service of the State may be paid such remuneration or allowances as the Minister may determine in consultation with the Minister of Finance.

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- (5) (a) 'n Kompensasieraad vergader op die tyd en plek en volg die prosedure wat die voorsitter bepaal.
- (b) Waar 'n kompensasierraad uit meer as twee lede bestaan, maak die meerderheid 'n kworum vir 'n vergadering uit en is 'n besluit van die meerderheid wat op 'n vergadering teenwoordig is, die besluit van die kompensasierraad.
- (c) Waar 'n kompensasierraad uit twee of meer persone bestaan, het die voorsitter by 'n staking van stemme oor enige aangeleentheid 'n beslissende stem benewens sy beraadslagende stem.
- (6) (a) 'n Kompensasieraad kan sy aanbeveling in verband met 'n aansoek verstrek na oorweging van die stukke ingevolge subartikel (2) aan hom voorgelê of, na goeddunke, die ondersoek in verband met daardie aansoek op die wyse doen wat hy nodig ag ten einde hom in staat te stel om 'n aanbeveling te verstrek.
- (b) Vir die doeleindes van so 'n ondersoek kan 'n kompensasierraad, vir sover hy dit nodig ag—
- (i) skriftelike of mondelinge verklarings, getuienis of argumente ontvang of aanhoor;
 - (ii) deur middel van sy voorsitter iemand 'n eed of plegtige bevestiging afneem;
 - (iii) by skriftelike kennisgewing deur of met die magtiging van sy voorsitter onderteken, enigiemand aansê om op 'n tyd en plek in die kennisgewing genoem, voor die kompensasierraad te verskyn om getuienis af te lê of om 'n boek of ander stuk of voorwerp wat in sy besit of bewaring of onder sy beheer is en in die kennisgewing aangedui word, oor te lê.
- (7) Die Minister moet die aanbeveling van 'n kompensasierraad in verband met 'n aansoek om vergoeding skriftelik meedeel aan die persoon wat die aansoek gedoen het, en moet uitvoering aan daardie aanbeveling gee.
- (8) 'n Bedrag ingevolge hierdie artikel deur die Minister betaalbaar, word uit die Gekonsolideerde Inkomstefonds betaal.
- (9) (a) Die Minister of 'n kompensasierraad is nie verplig om inligting in verband met of redes vir 'n besluit of aanbeveling vir die doeleindes van hierdie artikel aan enigiemand te verstrek nie.
- (b) Niemand is geregtig om die verrigtinge van 'n kompensasierraad by te woon of voor 'n kompensasierraad te verskyn of verteenwoordig te word nie, behalwe met die verlof of op versoek van daardie kompensasierraad of ter voldoening aan 'n kennisgewing kragtens subartikel (6) (b) (iii).
- (10) Iemand wat—
- (a) versuim om aan 'n kennisgewing kragtens subartikel (6) (b) (iii) te voldoen; of
 - (b) weier om inligting waaroor hy beskik, of 'n boek, ander stuk of voorwerp wat in sy besit of bewaring of onder sy beheer is, aan 'n kompensasierraad te verstrek of oor te lê nadat hy deur daardie kompensasierraad aangesê is om dit te doen; of
 - (c) in 'n aansoek om vergoeding kragtens subartikel (1) of aan 'n kompensasierraad in verband met so 'n aansoek 'n valse verklaring aflê wetende dat dit vals is,

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- (5) (a) A compensation board shall meet at such time and place and shall adhere to such procedure as the chairman may determine.
- (b) Where a compensation board consists of more than two members, the majority shall constitute a quorum for any meeting and any decision of the majority present at any meeting shall be the decision of the compensation board.
- (c) Where a compensation board consists of two or more members, the chairman shall in the event of an equality of votes on any matter have a casting vote in addition to his deliberative vote.
- (6) (a) A compensation board may furnish its recommendation in connection with any application after consideration of the documents submitted to it in terms of subsection (2), or, at its discretion, make such investigation in connection with that application in such manner as it may deem necessary in order to enable it to furnish a recommendation.
- (b) For the purposes of such an investigation a compensation board may, in so far as it deems necessary—
 - (i) receive or hear written or oral statements, evidence or arguments;
 - (ii) through its chairman administer an oath or solemn affirmation to any person;
 - (iii) by notice in writing signed by or under the authority of its chairman, require any person to appear before the compensation board, at a time and place stated in the notice, to give evidence or to produce any book or other document or thing in his possession or custody or under his control and indicated in the notice.
- (7) The Minister shall in writing notify a compensation board's recommendation in connection with an application for compensation to the person who made the application, and shall give effect to such recommendation.
- (8) Any amount payable by the Minister in terms of this section shall be paid out of the Consolidated Revenue Fund.
- (9) (a) The Minister or a compensation board shall not be obliged to furnish any person with any information in connection with or any reasons for a decision or recommendation for the purposes of this section.
- (b) No person shall be entitled to attend the proceedings of a compensation board or to appear or be represented before a compensation board, except with the leave or at the request of such compensation board or in compliance with a notice under subsection (6) (b) (iii).
- (10) Any person who—
 - (a) fails to comply with a notice under subsection (6) (b) (iii); or
 - (b) refuses to supply or produce to a compensation board, after having been required by such compensation board to do so, any information at his disposal or any book, other document or thing in his possession or custody or under his control; or
 - (c) makes a false statement, knowing it to be false, in any application for compensation under subsection (1) or to a compensation board in connection with any such application,

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is aan 'n misdryf skuldig en by skuldigbevinding strafbaar, in die geval van 'n misdryf in paragraaf (a) of (b) bedoel, met 'n boete van hoogstens tweehonderd rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande, en, in die geval van 'n misdryf in paragraaf (c) bedoel, met enige straf wat regtens vir meenede opgelê kan word."

Wysiging van artikel 145 van Wet 44 van 1957, soos vervang deur artikel 8 van Wet 8 van 1974 en gewysig deur artikel 13 van Wet 83 van 1974.

9. Artikel 145 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

„(b) op 'n lid van die Staande Mag wat ly aan ongeskiktheid veroorsaak of vererger gedurende diens ter voorkoming of onderdrukking van terrorisme te eniger tyd na 10 April 1973 deur daardie lid gedoen, ongeag die datum waarop die ongeskiktheid ontstaan het of die verergering daarvan verskyn het, mits daardie ongeskiktheid nie aan die lid se eie wangedrag te wyte is nie of veroorsaak of aldus vererger is terwyl hy sonder verlof afwesig was nie;”.

Wysiging van artikel 1 van Wet 25 van 1963, soos gewysig deur artikel 1 van Wet 4 van 1969 en artikel 3 van Wet 26 van 1973.

10. Artikel 1 van die Moratoriumwet, 1963, word hierby gewysig deur die omskrywing van „diens” deur die volgende omskrywing te vervang:

„diens’ die ononderbroke diens in die Burgermag wat gedurende die tydperke in artikel 22 (3), of die ononderbroke diens in 'n kommando wat gedurende die tydperke in artikel 44 (3) van die Verdedigingswet, 1957, bedoel, gedoen word deur 'n burger wat ingevolge Hoofstuk VIII van daardie Wet aan die Burgermag of die kommando's toegewys is, en ook enige diens waarin so 'n burger ingevolge Hoofstuk X van daardie Wet gedurende bedoelde tydperke van ononderbroke diens in diens gestel word, en indien so 'n burger 'n siekte of besering opdoen as gevolg van sodanige diens, word hy geag diens te doen gedurende 'n tydperk waartydens hy in 'n hospitaal behandeling ondergaan vir daardie siekte of besering indien sodanige behandeling 'n aanvang neem gedurende bedoelde tydperke van ononderbroke diens.”.

Kort titel en inwerkingtreding.

11. (1) Hierdie Wet heet die Wysigingswet op Verdediging, 1976.

(2) Artikels 2, 6 en 10 word geag op 9 Augustus 1975 in werking te getree het.

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shall be guilty of an offence and liable on conviction, in the case of an offence referred to in paragraph (a) or (b), to a fine not exceeding two hundred rand or imprisonment for a period not exceeding three months, and, in the case of an offence referred to in paragraph (c), to any punishment that may in law be imposed for perjury.”.

9. Section 145 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

Amendment of section 145 of Act 44 of 1957, as substituted by section 8 of Act 8 of 1974 and amended by section 13 of Act 83 of 1974.

“(b) to a member of the Permanent Force who is suffering from disablement caused or aggravated during service in the prevention or suppression of terrorism rendered by such member at any time after 10 April 1973, irrespective of the date on which such disablement arose or the aggravation thereof became manifest, provided such disablement is not due to the member's own misconduct or was not caused or so aggravated while he was absent without leave;”.

10. Section 1 of the Moratorium Act, 1963, is hereby amended by the substitution for the definition of “service” of the following definition:

Amendment of section 1 of Act 25 of 1963, as amended by section 1 of Act 4 of 1969 and section 3 of Act 26 of 1973.

“‘service’ means the continuous service in the Citizen Force which is rendered during the periods referred to in section 22 (3), or the continuous service in a commando which is rendered during the periods referred to in section 44 (3) of the Defence Act, 1957, by a citizen who has been allotted to the Citizen Force or the commandos in terms of Chapter VIII of that Act, and includes any service on which such citizen is employed in terms of Chapter X of that Act during the said periods of continuous service, and if such citizen contracts any illness or sustains any injury as a result of such service, he shall be deemed to be rendering service during any period during which he is undergoing treatment in hospital for any such illness or injury if such treatment is commenced during the said periods of continuous service.”.

11. (1) This Act shall be called the Defence Amendment Act, 1976.

Short title and commencement.

(2) Sections 2, 6 and 10 shall be deemed to have come into operation on 9 August 1975.

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