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GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 467.

16 Maart 1988

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

No. 8 van 1988: Polisiewysigingswet, 1988.

No. 467.

16 March 1988

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

No. 8 of 1988: Police Amendment Act, 1988.

Wet No. 8, 1988

POLISIEWYSIGINGSWET, 1988

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Polisiewet, 1958, ten einde 'n tekstuele verbetering aan te bring; sekere boetes te verhoog; die posisie van offisiere wat aan wangedrag skuldig bevind word, verder te reël; en voorsiening te maak vir die summiere ontslag van offisiere in sekere gevalle; die Minister se bevoegdheid om regulasies te maak, uit te brei; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 4 Maart 1988.)*

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

Wysiging van artikel 3 van Wet 7 van 1958, soos gewysig deur artikel 2 van Wet 64 van 1964, artikel 2 van Wet 74 van 1967, artikel 2 van Wet 94 van 1972 en artikel 29 van Wet 97 van 1986

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1. Artikel 3 van die Polisiewet, 1958, word hierby gewysig deur in die Engelse teks van subartikel (1B), voor die woord "officer", die woord "commissioned" in te voeg.

Wysiging van artikel 9 van Wet 7 van 1958, soos gewysig deur artikel 1 van Wet 43 van 1958, artikel 4 van Wet 53 van 1961, artikel 7 van Wet 64 van 1964, artikel 3 van 10 Wet 94 van 1972, artikel 4 van Wet 34 van 1973, artikel 1 van Wet 90 van 1977, artikel 4 van Wet 64 van 1979 en artikel 3 van Wet 68 van 1984

2. Artikel 9 van die Polisiewet, 1958, word hierby gewysig—

- (a) deur in subartikel (1) die uitdrukking "tweehonderd rand" deur die uitdrukking "R300" te vervang; en 15
- (b) deur in subartikel (2) die uitdrukking "R50" deur die uitdrukking "R100" te vervang.

Wysiging van artikel 10 van Wet 7 van 1958, soos gewysig deur artikel 8 van Wet 64 van 1964, artikel 4 van Wet 74 van 1967, artikel 5 van Wet 64 van 1979, artikel 4 van 20 Wet 68 van 1984 en artikel 30 van Wet 97 van 1986

3. Artikel 10 van die Polisiewet, 1958, word hierby gewysig—

- (a) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) Na oorweging van die getuienis by die ondersoek aangevoer en nadat die aangeklaagde offisier of sy regsvertegenwoordiger die geleentheid gegee is om die raad van ondersoek toe te spreek, vind die raad bedoelde 25 offisier skuldig of onskuldig aan die wangedrag hom ten laste gelê en verwittig hom van die bevinding van die raad: Met dien verstande dat, indien die aangeklaagde offisier [ingevolge 'n versoek kragtens subartikel

POLICE AMENDMENT ACT, 1988

Act No. 8, 1988

GENERAL EXPLANATORY NOTE:

Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Police Act, 1958, so as to effect a textual improvement; to increase certain fines; to further regulate the position of commissioned officers found guilty of misconduct; and to provide for the summary discharge of commissioned officers in certain cases; to extend the powers of the Minister to make regulations; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 4 March 1988.)

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

Amendment of section 3 of Act 7 of 1958, as amended by section 2 of Act 64 of 1964, section 2 of Act 74 of 1967, section 2 of Act 94 of 1972 and section 29 of Act 97 of 1986

5 1. Section 3 of the Police Act, 1958, is hereby amended by the insertion in subsection (1B), before the word "officer", of the word "commissioned".

Amendment of section 9 of Act 7 of 1958, as amended by section 1 of Act 43 of 1958, section 4 of Act 53 of 1961, section 7 of Act 64 of 1964, section 3 of Act 94 of 1972, section 4 of Act 34 of 1973, section 1 of Act 90 of 1977, section 4 of Act 64 of 1979 and section 3 of Act 68 of 1984

2. Section 9 of the Police Act, 1958, is hereby amended—

(a) by the substitution in subsection (1) for the expression "two hundred rand" of the expression "R300"; and

(b) by the substitution in subsection (2) for the expression "R50" of the expression "R100".

Amendment of section 10 of Act 7 of 1958, as amended by section 8 of Act 64 of 1964, section 4 of Act 74 of 1967, section 5 of Act 64 of 1979, section 4 of Act 68 of 1984 and section 30 of Act 97 of 1986

3. Section 10 of the Police Act, 1958, is hereby amended—
 20 (a) by the substitution for subsection (6) of the following subsection:
 “(6) After considering the evidence adduced at the enquiry and affording
 the commissioned officer charged or his legal adviser an opportunity of
 addressing the board of enquiry, the board shall find the said officer guilty
 or not guilty of the misconduct with which he has been charged and inform
 25 him of its finding: Provided that, if the officer charged admits **[pursuant to
 a request under subsection (1) or to the board]** that he is guilty of the

Wet No. 8, 1988

POLISIËWYSIGINGSWET, 1988

- (1) of teenoor die raad] erken dat hy aan die betrokke wangedrag skuldig is, hy, indien die Kommissaris **[dit goedkeur]** voor die aanvang van die ondersoek deur die raad magtiging daartoe verleen het, skuldig bevind kan word sonder dat getuienis aangevoer is.”;
- (b) deur subartikel (6A) deur die volgende subartikel te vervang: 5
 “(6A) ’n Offisier wat aan wangedrag skuldig bevind word, kan binne die tydperk en op die by regulasie voorgeskrewe wyse, teen die bevinding van die raad van ondersoek na die Minister appelleer en skriftelike versoë met betrekking tot **[strafoplegging]** enige aanbeveling deur die raad of die Kommissaris kragtens subartikel (6B) gedoen, tot die Minister rig.”; 10
- (c) deur subartikel (6B) deur die volgende subartikel te vervang:
 “(6B) **[Die raad van ondersoek moet en die Kommissaris kan]** Nadat ’n raad van ondersoek ’n offisier aan wangedrag skuldig bevind het—
 (a) moet die raad by die Minister aanbevelings doen met betrekking tot die straf wat **[’n]** die offisier **[wat skuldig bevind is]** kragtens subartikel 15 (6C) opgelê kan word; en
 (b) kan die Kommissaris by die Minister aanbevelings doen met betrekking tot ’n bevinding of aanbeveling van die raad:
 Met dien verstande dat die betrokke offisier vir die doeleindes van sy versoë bedoel in subartikel (6A) in kennis gestel moet word van **[(a)]** die 20 **[aanbeveling]** aanbevelings van die raad en **[(b) die aanbeveling van]** die Kommissaris.”; en
- (d) deur subartikel (6C) deur die volgende subartikel te vervang:
 “(6C) Die Minister kan, na oorweging van die relaas van die verrigtinge voor die raad van ondersoek, die aanbevelings van die raad en die 25 Kommissaris, **[en]** die appèlgronde van en versoë gerig deur die aangeklaagde offisier, en die raad en die Kommissaris se repliek daarop—
 (a) indien hy van oordeel is dat geregtigheid om die een of ander rede nie geskied het nie, die bevinding van die raad tersyde stel; of
 (b) gelas dat geen verdere stappe in verband met die saak gedoen word 30 nie; of
 (c) gelas dat die saak weer vir afhandeling ingevolge hierdie artikel aan hom voorgelê word na verstryking van die tydperk, maar hoogstens 12 maande, wat hy bepaal; of
 (d) gelas dat die betrokke offisier gewaarsku of berispe word; of 35
 (e) gelas dat die betrokke offisier ’n boete van hoogstens **[R200]** R300 opgelê word, wat by wyse van aftrekkings van die salaris of toelaes van die betrokke offisier verhaal kan word; of
 (f) gelas dat die salaris van die betrokke offisier verlaag word na ’n laer kerf op die skaal wat op sy rang van toepassing is; of 40
 (g) enige van die in artikel 3 (1B) (b) bedoelde stappe doen of die saak na die Staatspresident verwys, wat daarop die Minister kragtens daardie artikel kan gelas om enige van bedoelde stappe te doen; of
 (h) **[so ’n]** die ander bevel uitvaardig **[as]** wat hy billik ag.”.

Wysiging van artikel 17 van Wet 7 van 1958, soos gewysig deur artikel 6 van Wet 53 45 van 1961, artikel 10 van Wet 64 van 1964 en artikel 8 van Wet 64 van 1979

4. Artikel 17 van die Polisiewet, 1958, word hierby gewysig deur paragraaf (b) van subartikel (1A) deur die volgende paragraaf te vervang:

- “(b) binne ’n tydperk van 12 maande na die lid se inlywing as ’n lid van die Mag, indien dit aan die Kommissaris blyk dat die lid weens ongeskiktheid vir sy 50 pligte of onvermoë om hulle op ’n bekwame wyse uit te voer of weens enige gedrag wat tot nadeel van die goeie orde, doeltreffende administrasie, beheer of dissipline van die Mag strek, ongeskik is om in die Mag te bly.”.

Invoeging van artikel 17A in Wet 7 van 1958

5. Die volgende artikel word hierby in die Polisiewet, 1958, na artikel 17 ingevoeg: 55

“Summiere ontslag van offisiere

17A. Ondanks die bepalinge van artikel 10 kan die Minister summier ’n

POLICE AMENDMENT ACT, 1988

Act No. 8, 1988

misconduct in question, he may, if the Commissioner **[approves]** has prior to the commencement of the enquiry by the board granted permission thereto, be found guilty without any evidence having been adduced.”;

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

“(6A) A commissioned officer found guilty of misconduct may, within such period and in such manner as may be prescribed by regulation, appeal to the Minister against the finding of the board of enquiry and make representations in writing to the Minister in regard to **[the imposition of punishment]** any recommendation made by the board or the Commissioner under subsection (6B).”;

(c) by the substitution for subsection (6B) of the following subsection:

“(6B) **[The board of enquiry shall and the Commissioner may]** After a board of enquiry has found a commissioned officer guilty of misconduct—

(a) the board shall make recommendations to the Minister in regard to any punishment which may be imposed upon **[a]** the commissioned officer **[found guilty]** under subsection (6C); and

(b) the Commissioner may make recommendations to the Minister in regard to any finding or recommendation of the board:

Provided that the commissioned officer concerned shall, for the purposes of his representations referred to in subsection (6A), be notified of

[(a)] the **[recommendation]** recommendations of the board and

[(b)] the **[recommendations of]** the Commissioner.”; and

(d) by the substitution for subsection (6C) of the following subsection:

“(6C) The Minister may, after considering the record of the proceedings before the board of enquiry, the recommendations of the board and the Commissioner, **[and]** the grounds of appeal of and any representations made by the commissioned officer charged, and the reply of the board and the Commissioner thereto—

(a) if he is of the opinion that for any reason there was a failure of justice, set aside the finding of the board; or

(b) direct that no further action be taken in connection with the matter; or

(c) direct that the matter be re-submitted to him for disposal in terms of this section after the expiry of such period, not exceeding 12 months, as he may specify; or

(d) direct that the commissioned officer concerned be cautioned or reprimanded; or

(e) **[impose]** direct that a fine not exceeding **[R200]** R300 be imposed upon the commissioned officer concerned, which may be recovered by way of **[stoppages]** deductions from the salary or allowances of the commissioned officer concerned; or

(f) direct that the salary of the commissioned officer concerned be reduced to a lower notch on the scale applicable to his rank; or

(g) take any of the steps referred to in section 3 (1B) (b) or refer the matter to the State President, who may thereupon order the Minister under that section to take any of the said steps; or

(h) make such other order as to him seems just.”.

Amendment of section 17 of Act 7 of 1958, as amended by section 6 of Act 53 of 1961, section 10 of Act 64 of 1964 and section 8 of Act 64 of 1979

4. Section 17 of the Police Act, 1958, is hereby amended by the substitution for paragraph (b) of subsection (1A) of the following paragraph:

“(b) within a period of 12 months after the member’s enrolment as a member of the Force, if it appears to the Commissioner that, on account of unfitness for his duties or incapacity to carry them out efficiently or on account of any conduct which is prejudicial to the good order, efficient administration, control or discipline of the Force, the member is unfit to remain in the Force.”.

Insertion of section 17A in Act 7 of 1958

5. The following section is hereby inserted in the Police Act, 1958, after section 17:

“Summary discharge of commissioned officers

17A. Notwithstanding the provisions of section 10, the Minister may

Wet No. 8, 1988

POLISIEWYSIGINGSWET, 1988

offisier uit die Mag ontslaan indien daardie offisier 'n vonnis van gevangenisstraf sonder die keuse van 'n boete ten opsigte van 'n misdryf uitdien.'".

Wysiging van artikel 33 van Wet 7 van 1958, soos gewysig deur artikel 8 van Wet 53 van 1961, artikel 19 van Wet 64 van 1964, artikel 1 van Wet 80 van 1970, artikel 5 5 van Wet 94 van 1972 en artikel 1 van Wet 47 van 1981

6. Artikel 33 van die Polisiewet, 1958, word hierby gewysig deur paragraaf (j) van subartikel (1) deur die volgende paragraaf te vervang:

“(j) appèlle, en verhoë met betrekking tot aanbevelings ingevolge hierdie Wet;”.

10

Kort titel

7. Hierdie Wet heet die Polisie wysigingswet, 1988.

POLICE AMENDMENT ACT, 1988

Act No. 8, 1988

summarily discharge any commissioned officer from the Force if that officer is serving a sentence of imprisonment without the option of a fine in respect of any offence."

Amendment of section 33 of Act 7 of 1958, as amended by section 8 of Act 53 of 1961, section 19 of Act 64 of 1964, section 1 of Act 80 of 1970, section 5 of Act 94 of 1972 and section 1 of Act 47 of 1981

6. Section 33 of the Police Act, 1958, is hereby amended by the substitution for paragraph (j) of subsection (1) of the following paragraph:

10 "(j) appeals, and representations in regard to recommendations in terms of this Act;".

Short title

7. This Act shall be called the Police Amendment Act, 1988.

