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OFFICE OF THE PRESIDENT

o. 1298. 3 October 1997

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

o. 41 of 1997: South African Police Service Amendment Act, 1997.

KANTOOR VAN DIE PRESIDENT

No. 1298. 3 Oktober 1997

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

No. 41 van 1997: Wysingswet op die Suid-Afrikaanse Polisiediens, 1997.

GENERAL EXPLANATORY NOTE:

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

__________ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the South African Police Service Act, 1995, so as to substitute the definition of "strike"; to make certain textual alterations; to extend to airports the powers of members of the Service in respect of search and seizure for the purposes of control over the illegal movement of people or goods across the borders of the Republic; to provide that a regulation may prescribe penalties; and to regulate the prohibition of publication of photographs and sketches of certain persons who are in custody, anew; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 25 September 1997.)

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

Amendment of section 1 of Act 68 of 1995

1. Section 1 of the South African Police Service Act, 1995 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "strike" of the following definition:

" 'strike' means a strike within the meaning of the Labour Relations Act, **[1956 (Act No. 28 of 1956)]** 1995 (Act No. 66 of 1995);".

Amendment of section 12 of Act 68 of 1995

2. Section 12 of the principal Act is hereby amended by the substitution for paragraph *(a)* of subsection (2) of the following paragraph:

"*(a)* subject to a determination under section 11(2)**[*(a)*]***(b)*, delimit any area in the province and determine the boundaries thereof until the province has been divided into as many areas as may be necessary for the purposes of the organisation of the Service under his or her jurisdiction; and".

Amendment of section 13 of Act 68 of 1995

3. Section 13 of the principal Act is hereby amended—

(a) by the substitution for subsection (6) of the following subsection:

"(6) Any member may, where it is reasonably necessary for the purposes of control over the illegal movement of people or goods across

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 Wet op die Suid-Afrikaanse Polisiediens, 1995, ten einde die omskrywing van "staking" te vervang; sekere teksveranderinge aan te bring; die bevoegdhede van lede van die Diens ten opsigte van deursoeking en beslaglegging vir die doeleindes van beheer oor die onwettige beweging van mense of goedere oor die grense van die Republiek, na lughawens uit te brei; voorsiening te maak dat 'n regulasie strawwe kan voorskryf; en die verbod op publikasie van foto's en sketse van sekere persone wat in hegtenis is, opnuut te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 25 September 1997.)

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

Wysiging van artikel 1 van Wet 68 van 1995

1. Artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van "staking" deur die volgende omskrywing te vervang:

" 'staking' 'n staking binne die bedoeling van die Wet op Arbeidsverhoudinge, **[1956 (Wet No. 28 van 1956)]** 1995 (Wet No. 66 van 1995);".

Wysiging van artikel 12 van Wet 68 van 1995

2. Artikel 12 van die Hoofwet word hierby gewysig deur paragraaf *(a)* van subartikel (2) deur die volgende paragraaf te vervang:

"*(a)* behoudens 'n bepaling kragtens artikel 11(2)**[*(a)*]** *(b)*, enige area in die provinsie afbaken en die grense daarvan bepaal totdat die provinsie in soveel areas verdeel is as wat nodig is vir die doeleindes van die organisasie van die Diens onder sy of haar jurisdiksie; en".

Wysiging van artikel 13 van Wet 68 van 1995

3. Artikel 13 van die Hoofwet word hierby gewysig—

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

"(6) Enige lid kan, waar dit redelikerwys noodsaaklik is vir die doeleindes van beheer oor die onwettige beweging van mense of

the borders of the Republic, without a warrant search any person, premises, other place, vehicle, vessel or aircraft, or any receptacle of whatever nature, at any place in the Republic within 10 kilometres or any reasonable distance from any border between the Republic and any foreign state, or in the territorial waters of the Republic, or inside the Republic within 10 kilometres or any reasonable distance from such territorial waters, or at any airport as defined in section 1 of the Aviation Act, 1962 (Act No. 74 of 1962), or within any reasonable distance from such airport and seize anything found in the possession of such person or upon or at or in such premises, other place, vehicle, vessel, aircraft or receptacle and which may lawfully be seized."; and

(b) by the substitution in paragraph *(d)* of subsection (8) for the words preceding subparagraph (i) of the following words:

"Notwithstanding the provisions of paragraph *(a)*, any member who has reasonable **[suspicion to believe]** grounds to suspect that—".

Amendment of section 24 of Act 68 of 1995

4. Section 24 of the principal Act is hereby amended by the addition of the following subsection:

"(5) Any regulation made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith, of a fine, or imprisonment for a period not exceeding 12 months or both such fine and such imprisonment.".

Amendment of section 34 of Act 68 of 1995

5. Section 34 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The National Commissioner may designate a member, a category of members or any other person or category of persons who may, in general or in a specific case, **[investigate or]** obtain and lead evidence **[in]** for the purposes of an inquiry contemplated in subsection (1).".

Substitution of section 69 of Act 68 of 1995

6. The following section is hereby substituted for section 69 of the principal Act:

"Prohibition on publication of photographs or sketches of certain persons in custody

69. (1) For the purposes of this section—

'photograph' includes any picture, visually perceptible image, depiction or any other similar representation of the person concerned; and

'publish', in relation to a photograph or sketch, includes to exhibit, show, televise, represent or reproduce.

(2) No person may, without the written permission of the National or Provincial Commissioner, publish a photograph or sketch of a person—

(a) who is suspected of having committed an offence and who is in custody pending a decision to institute criminal proceedings against him or her;

(b) who is in custody pending the commencement of criminal proceedings in which he or she is an accused; or

(c) who is or may reasonably be expected to be a witness in criminal proceedings and who is in custody pending the commencement of his or her testimony in such proceedings.

(3) Any person who publishes a photograph or sketch in contravention of subsection (2), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.".

goedere oor die grense van die Republiek, sonder 'n lasbrief enige persoon, perseel, ander plek, voertuig, vaartuig of vliegtuig of enige houer van watter aard ook al op enige plek in die Republiek binne 10 kilometer of enige redelike afstand vanaf enige grens tussen die Republiek en 'n vreemde staat, of in die gebiedswaters van die Republiek, of in die Republiek binne 10 kilometer of enige redelike afstand vanaf sodanige gebiedswaters, of op enige lughawe soos omskryf in artikel 1 van die Lugvaartwet, 1962 (Wet No. 74 van 1962), of binne enige redelike afstand vanaf sodanige lughawe deursoek en enige voorwerp in beslag neem wat hy of sy in besit van sodanige persoon of op of by of in bedoelde perseel, ander plek, voertuig, vaartuig, vliegtuig of houer vind en wat regtens in beslag geneem kan word."; en

(b) deur in paragraaf *(d)* van subartikel (8) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

"Ondanks die bepalings van paragraaf *(a)*, kan enige lid wat redelike **[vermoede het om te glo]** gronde het om te vermoed dat—".

Wysiging van artikel 24 van Wet 68 van 1995

4. Artikel 24 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

"(5) 'n Regulasie wat kragtens subartikel (1) uitgevaardig word, kan vir oortreding daarvan of versuim om daaraan te voldoen, strawwe voorskryf van 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens 12 maande of daardie boete sowel as daardie gevangenisstraf.".

Wysiging van artikel 34 van Wet 68 van 1995

5. Artikel 34 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die Nasionale Kommissaris kan 'n lid, 'n kategorie lede of enige ander persoon of kategorie persone aanwys wat in die algemeen of in 'n besondere geval **[in]** vir die doeleindes van 'n ondersoek in subartikel (1) beoog, **[ondersoek kan instel of]** getuienis kan inwin en lei.".

Vervanging van artikel 69 van Wet 68 van 1995

6. Artikel 69 van die Hoofwet word hierby deur die volgende artikel vervang:

"**Verbod op publikasie van foto's of sketse van sekere persone in hegtenis**

69. (1) Vir die doeleindes van hierdie artikel beteken—

'foto' ook enige prent, visueel waarneembare beeld, voorstelling of ander soortgelyke weergawe van die betrokke persoon; en

'publiseer', met betrekking tot 'n foto of skets, ook vertoon, wys, beeldsend, weergee of reproduseer.

(2) Niemand mag, sonder die skriftelike toestemming van die Nasionale of Provinsiale Kommissaris, 'n foto of skets publiseer van 'n persoon wat—

(a) daarvan verdink word dat hy of sy 'n misdryf gepleeg het en wat in hegtenis is hangende 'n besluit om strafregtelike vervolging teen hom of haar in te stel;

(b) in hegtenis is hangende die aanvang van strafregtelike verrigtinge waarin hy of sy die beskuldigde is; of

(c) in hegtenis is hangende die aanvang van sy of haar getuienis in strafregtelike verrigtinge waarin hy of sy 'n getuie is of redelikerwys verwag kan word 'n getuie te wees.

(3) Enige persoon wat 'n foto of skets publiseer strydig met subartikel (2), is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande.".

Short title

7. This Act shall be called the South African Police Service Amendment Act, 1997.

Kort titel

7. Hierdie Wet heet die Wysigingswet op die Suid-Afrikaanse Polisiediens, 1997.