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KAAPSTAD, 28 OKTOBER 1998

OFFICE OF THE PRESIDENT

No. 1387.

28 October 1998

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

No. 83 of 1998: South African Police Service Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1387.

28 Oktober 1998

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

No. 83 van 1998: Wysigingswet op die Suid-Afrikaanse Polisiediens, 1998.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with a solid line indicate insertions in existing enactments.
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ACT

To amend the South African Police Service Act, 1995, so as to provide a framework for the establishment, functions and control of municipal police services; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 20 October 1998.)*

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

Amendment of section 1 of Act 68 of 1995, as amended by section 1 of Act 41 of 1997

1. Section 1 of the South African Police Service Act, 1995 (hereinafter referred to as the principal Act), is hereby amended by—
- (a) the deletion of the definition of “metropolitan police service”;
 - (b) the substitution for the definition of “municipal police service” of the following definition:
- “‘municipal police service’ means a municipal police service established under [section 64(1)(a)] section 64A;”; and
- (c) the insertion after the definition of “national public order policing unit” of the following definition:
- “‘national standards’ means national standards determined under section 64L(1);”.

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Substitution of section 64 of Act 68 of 1995

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2. The following section is hereby substituted for section 64 of the principal Act:

“Interpretation

64. This Chapter shall not be interpreted so as to derogate from the powers of the Minister of Transport or the member of the Executive Council responsible for transport and traffic matters, nor shall it be interpreted as conferring any power on any functionary to interfere with the exercise of their powers by the Minister of Transport or the member of the Executive Council responsible for transport and traffic matters.”.

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ALGEMENE VERDUIDELIKENDE NOTA:

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

_____ Woerde met 'n volstreep daaronder, dui invloegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op die Suid-Afrikaanse Polisiediens, 1995, ten einde 'n raamwerk te voorsien vir die instelling en werkzaamhede van en beheer oor munisipale polisiedienste; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 20 Oktober 1998.)

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

Wysiging van artikel 1 van Wet 68 van 1995, soos gewysig deur artikel 1 van Wet 41 van 1997

- 5 1. Artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (hieronder die Hoofwet genoem), word hierby gewysig deur—
 (a) die omskrywing van "metropolitaanse polisiediens" te skrap;
 (b) die omskrywing van "munisipale polisiediens" deur die volgende omskrywing te vervang:
 10 "munisipale polisiediens" 'n munisipale polisiediens kragtens [artikel 64(1)(a)] artikel 64A ingestel;" en
 (c) na die omskrywing van "nasionale polisie-eenheid vir openbare orde" die volgende omskrywing in te voeg:
 "nasionale standarde" nasionale standarde kragtens artikel 64L(1)
 15 bepaal".

Vervanging van artikel 64 van Wet 68 van 1995

- 20 2. Artikel 64 van die Hoofwet word hierby deur die volgende artikel vervang:

"Uitleg

- 25 64. Hierdie Hoofstuk word nie so uitgelê dat dit inbreuk maak op die bevoegdhede van die Minister van Vervoer of die lid van die Uitvoerende Raad wat verantwoordelik is vir vervoer- en verkeersaangeleenthede nie, en word ook nie so uitgelê as sou dit enige bevoegdhede aan 'n funksionaris verleen om in te meng met die Minister van Vervoer of die lid van die Uitvoerende Raad wat verantwoordelik is vir vervoer- en verkeersaangeleenthede in die uitoefening van hulle bevoegdhede nie.".

Insertion of sections 64A to 64Q in Act 68 of 1995

3. The following sections are hereby inserted in the principal Act after section 64:

"Establishment of municipal police service

64A. (1) Any municipality may in the prescribed manner apply to the member of the Executive Council for the establishment of a municipal police service for its area of jurisdiction.

(2) The member of the Executive Council may, subject to subsection (3) and such conditions as he or she may determine, approve an application for the establishment of a municipal police service if—

- (a) the application complies with the prescribed requirements;
- (b) the municipality has the resources at its disposal to provide for a municipal police service which complies with national standards on a 24-hour basis;
- (c) traffic policing services by the municipality will not be prejudicially affected by the establishment of a municipal police service;
- (d) proper provision has been made by the municipality to ensure civilian supervision of the municipal police service; and
- (e) the establishment of the municipal police service will improve effective policing in that part of the province.

(3) The member of the Executive Council may approve the application only—

- (a) after consultation with the National Commissioner;
- (b) after consultation with the metropolitan council if the municipality falls in the area of jurisdiction of a metropolitan council; and
- (c) with the approval of the member or members of the Executive Council responsible for local government, finance, transport and traffic matters, or where no such member or members have been appointed, the Premier or the member or members of the Executive Council to whom those responsibilities have been assigned by the Premier.

(4) If the application for the establishment of a municipal police service is approved by the member of the Executive Council, the member shall establish the municipal police service by notice in the *Gazette*.

(5) The establishment of a municipal police service shall not derogate from the functions of the Service or the powers and duties of a member in terms of any law.

(6) All expenditure incurred by or in connection with the establishment, maintenance and functioning of a municipal police service shall be for the account of the municipality in question.

Chief Executive Officer of municipality

64B. The chief executive officer of a municipality shall be responsible to the municipal council for the functioning of the municipal police service.

Executive head of municipal police service

64C. (1) Subject to section 64D, a municipal council shall appoint a member of the municipal police service as the executive head thereof.

(2) The executive head shall, subject to this Act, national standards and the directives of the chief executive officer of the municipality, exercise control over the municipal police service, and shall—

- (a) be responsible for maintaining an impartial, accountable, transparent and efficient municipal police service;
- (b) subject to the applicable laws, be responsible for the recruitment, appointment, promotion and transfer of members of the municipal police service;
- (c) ensure that traffic policing services by the municipality are not prejudicially affected by the establishment of the municipal police service;
- (d) be responsible for the discipline of the municipal police service;

Invoeging van artikels 64A tot 64Q in Wet 68 van 1995

3. Die volgende artikels word hierby in die Hoofwet na artikel 64 ingevoeg:

"Instelling van munisipale polisiediens

- 64A.** (1) 'n Munisipaliteit kan op die voorgeskrewe wyse by die lid van die Uitvoerende Raad aansoek doen om die instelling van 'n munisipale polisiediens vir die jurisdiksiegebied van die munisipaliteit.
- (2) Die lid van die Uitvoerende Raad kan, behoudens subartikel (3) en die voorwaardes wat hy of sy bepaal, 'n aansoek om die instelling van 'n munisipale polisiediens goedkeur indien—
- (a) die aansoek aan die voorgeskrewe vereistes voldoen;
 - (b) die munisipaliteit die hulpbronne tot sy beskikking het om 'n munisipale polisiediens wat aan nasionale standarde voldoen op 'n 24-uur grondslag te voorsien;
 - (c) verkeerspolisiërdienste deur die munisipaliteit nie nadelig beïnvloed sal word deur die instelling van 'n munisipale polisiediens nie;
 - (d) behoorlike voorsiening deur die munisipaliteit gemaak is om burgerlike toesig oor die munisipale polisiediens te verseker; en
 - (e) die instelling van die munisipale polisiediens doeltreffende polisiëring in daardie gedeelte van die provinsie sal verbeter.
- (3) Die lid van die Uitvoerende Raad kan die aansoek slegs goedkeur—
- (a) na oorlegpleging met die Nasionale Kommissaris;
 - (b) na oorlegpleging met die metropolitaanse raad indien die munisipaliteit in die area van jurisdiksie van 'n metropolitaanse raad val;
 - (c) met die goedkeuring van die lid of lede van die Uitvoerende Raad wat verantwoordelik is vir plaaslike regering, finansies, vervoer- en verkeersaangeleenthede, of waar geen sodanige lid of lede aangestel is nie, die Premier of die lid of lede van die Uitvoerende Raad aan wie daardie verantwoordelikheid deur die Premier opgedra is.
- (4) Indien die aansoek om die instelling van 'n munisipale polisiediens deur die lid van die Uitvoerende Raad goedgekeur is, stel die lid die munisipale polisiediens by kennisgewing in die *Staatskoerant* in.
- (5) Die instelling van 'n munisipale polisiediens maak nie inbreuk op die werksaamhede van die Diens of die bevoegdhede en pligte van 'n lid ingevolge enige wet nie.
- (6) Alle uitgawes aangegaan by of in verband met die instelling, instandhouding en funksionering van 'n munisipale polisiediens is vir die rekening van die betrokke munisipaliteit.

Hoof- uitvoerende beampete van Munisipaliteit

- 64B.** Die hoof- uitvoerende beampete van 'n munisipaliteit is teenoor die munisipale raad verantwoordelik vir die funksionering van die munisipale polisiediens.

Uitvoerende hoof van munisipale polisiediens

- 64C.** (1) 'n Munisipale raad stel, behoudens artikel 64D, 'n lid van die munisipale polisiediens as die uitvoerende hoof daarvan aan.
- (2) Die uitvoerende hoof oefen, behoudens hierdie Wet, nasionale standarde en die voorskrifte van die hoof- uitvoerende beampete van die munisipaliteit, beheer uit oor die munisipale polisiediens, en—
- (a) is verantwoordelik vir die handhawing van 'n onpartydige, verantwoordbare, deursigtige en doeltreffende munisipale polisiediens;
 - (b) is, behoudens die toepaslike wette, verantwoordelik vir die werwing, aanstelling, bevordering en verplasing van lede van die munisipale polisiediens;
 - (c) moet verseker dat verkeerspolisiërdienste deur die munisipaliteit nie nadelig beïnvloed word deur die instelling van 'n munisipale polisiediens nie;
 - (d) is verantwoordelik vir die dissipline van die munisipale polisiediens;

- (e) either personally or through a member or members of the municipal police service designated by him or her for that purpose, represent the municipal police service on every local policing co-ordinating committee established in terms of section 64K within the area of jurisdiction of the municipality; 5
- (f) either personally or through a member or members of the municipal police service designated by him or her for that purpose, represent the municipal police service on every community police forum or subforum established in terms of section 19 within the area of jurisdiction of the municipality; 10
- (g) before the end of each financial year, develop a plan which sets out the priorities and objectives of the municipal police service for the following financial year: Provided that such plan in so far as it relates to the prevention of crime, shall be developed in co-operation with the Service; and 15
- (h) perform such duties as may from time to time be imposed upon him or her by the chief executive officer of the municipality.

First executive head of municipal police service

64D. When a municipal police service is established under section 64A, the municipal council in question shall appoint a fit and proper person as first executive head of the municipal police service. 20

Functions of municipal police service

- 64E.** The functions of a municipal police service are—
- (a) traffic policing, subject to any legislation relating to road traffic;
 - (b) the policing of municipal by-laws and regulations which are the responsibility of the municipality in question; and 25
 - (c) the prevention of crime.

Powers of member of municipal police service

64F. (1) Subject to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and with due regard to the fundamental rights of every person, a member of a municipal police service may exercise such powers and shall perform such duties as are by law conferred upon or assigned to a member of a municipal police service. 30

(2) The Minister may from time to time prescribe that any power conferred upon a member of the Service by this Act or any other law, may be exercised by a member of a municipal police service: Provided that where the power includes the power to seize an article, the member of the municipal police service shall forthwith deliver the article to a member. 35

(3) Every member of a municipal police service is a peace officer and may exercise the powers conferred upon a peace officer by law within the area of jurisdiction of the municipality in question: Provided that a member may exercise such powers outside the area of jurisdiction if it is done—

- (a) in pursuit of a person whom the member reasonably suspects of having committed an offence, and if the pursuit commenced within the area of jurisdiction of the municipality; or 40
- (b) in terms of an agreement between the municipal council and another municipal council in terms of section 10C(7) of the Local Government Transition Act, 1993 (Act No. 209 of 1993). 45

Proof of appointment

64G. A document in the prescribed form certifying that a person has been appointed as a member of the municipal police service, shall be *prima facie* proof of such appointment. 50

- 5 (e) moet persoonlik, of deur 'n lid of lede van die munisipale polisiediens deur hom of haar vir daardie doel aangewys, die munisipale polisiediens op elke plaaslike polisiëringsoördineringsskomitee wat ingevolge artikel 64K binne die jurisdiksiegebied van die munisipaliteit ingestel is, verteenwoordig;
- 10 (f) moet persoonlik, of deur 'n lid of lede van die munisipale polisiediens deur hom of haar vir daardie doel aangewys, die munisipale polisiediens op elke gemeenskapspolisieforum of -subforum wat ingevolge artikel 19 binne die jurisdiksiegebied van die munisipaliteit ingestel is, verteenwoordig;
- 15 (g) moet voor die einde van elke boekjaar, 'n plan uitwerk wat die prioriteit en oogmerke van die munisipale polisiediens vir die daaropvolgende boekjaar uiteensit: Met dien verstande dat vir sover daardie plan betrekking het op die voorkoming van misdaad dit in samewerking met die Diens uitgewerk moet word; en
- (h) verrig die werksaamhede wat van tyd tot tyd deur die hoof- uitvoerende beampete van die munisipaliteit aan hom of haar opgedra word.

Eerste uitvoerende hoof van munisipale polisiediens

20 **64D.** Wanneer 'n munisipale polisiediens kragtens artikel 64A ingestel word, stel die betrokke munisipale raad 'n gesikte en gepaste persoon as eerste uitvoerende hoof van die munisipale polisiediens aan.

Werksaamhede van munisipale polisiediens

25 **64E.** Die werksaamhede van 'n munisipale polisiediens is—

- (a) verkeerspolisiëring, behoudens enige wetgewing betreffende padverkeer;
- (b) die polisiëring van munisipale verordeninge en regulasies wat die verantwoordelikheid van die betrokke munisipaliteit is; en
- (c) die voorkoming van misdaad.

Bevoegdhede van lid van munisipale polisiediens

30 **64F. (1)** Behoudens die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), en met behoorlike inagneming van die fundamentele regte van elke persoon, kan 'n lid van 'n munisipale polisiediens die bevoegdhede, en moet 'n lid die pligte, wat by wet aan 'n lid van 'n munisipale polisiediens verleen of opgedra word, uitoefen of verrig.

35 (2) Die Minister kan van tyd tot tyd voorskryf dat 'n bevoegdheid wat deur hierdie Wet of enige ander wet aan 'n lid van die Diens opgedra is deur 'n lid van 'n munisipale polisiediens uitgeoefen kan word: Met dien verstande dat waar die bevoegdheid die bevoegdheid insluit om 'n voorwerp in beslag te neem, die lid van die munisipale polisiediens die voorwerp onverwyld aan 'n lid moet oorhandig.

40 (3) Elke lid van 'n munisipale polisiediens is 'n vredesbeampete en kan die bevoegdhede wat by wet aan 'n vredesbeampete opgedra is binne die jurisdiksiegebied van die betrokke munisipaliteit uitoefen: Met dien verstande dat 'n lid daardie bevoegdhede buite die jurisdiksiegebied kan uitoefen indien dit gedoen word—

45 (a) tydens die agtervolging van 'n persoon wat die lid redelikerwys vermoed 'n misdryf gepleeg het en die agtervolging 'n aanvang geneem het in die jurisdiksiegebied van die munisipaliteit; of

50 (b) ingevolge 'n ooreenkoms tussen die munisipale raad en ander munisipale raad ingevolge artikel 10C(7) van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993).

Bewys van aanstelling

55 **64G.** 'n Dokument in die voorgeskrewe vorm wat sertificeer dat 'n persoon as 'n lid van 'n munisipale polisiediens aangestel is, is *prima facie*-bewys van sodanige aanstelling.

Procedure after arrest by member of municipal police service

64H. A person arrested with or without warrant by a member of a municipal police service shall as soon as possible be brought to a police station under the control of the Service or, in the case of an arrest by warrant, to any other place which is expressly mentioned in the warrant, to be dealt with in terms of section 50 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 5

Legal proceedings against municipal police service

64I. (1) Any legal proceedings against a municipal police service or member of a municipal police service in respect of any alleged act performed under or in terms of this Act or any other law, or an alleged failure to do anything which should have been done in terms of this Act or any other law, shall be instituted against the municipal council in question. 10

(2) For the purposes of this section—

- (a) section 57 shall not be applicable; and
- (b) the Limitation of Legal Proceedings (Provincial and Local Authorities) Act, 1970 (Act No. 94 of 1970), shall be applicable. 15

Civilian oversight of municipal police services

64J. (1) A municipal council shall appoint a committee consisting of members of the council and such other persons as may be determined by the municipal council to ensure civilian oversight of the municipal police service. 20

(2) The committee contemplated in subsection (1) shall—

- (a) at the request of the municipal council in question, advise the council on matters relating to the municipal police service;
- (b) advise the chief executive officer with regard to the performance of his or her functions in respect of the municipal police service;
- (c) perform such functions as the member of the Executive Council, the municipal council or the chief executive officer may consider necessary or expedient to ensure civilian oversight of the municipal police service;
- (d) promote accountability and transparency in the municipal police service;
- (e) monitor the implementation of policy and directives issued by the chief executive officer and report to the municipal council or chief executive officer thereon;
- (f) perform such functions as may from time to time be assigned to the committee by the municipal council or the chief executive officer; and
- (g) evaluate the functioning of the municipal police service and report to the municipal council or chief executive officer thereon. 40

Policing co-ordinating committees

64K. (1) In order to co-ordinate policing in the province, the Provincial Commissioner shall, after consultation with the member of the Executive Council, establish at least one of the following committees: 45

- (a) local policing co-ordinating committees;
- (b) area policing co-ordinating committees;
- (c) provincial policing co-ordinating committees.

(2) The Provincial Commissioner, or a person designated by him or her for that purpose, shall act as chairperson at a meeting of a policing co-ordinating committee. 50

(3) Every policing co-ordinating committee shall determine its own procedure and cause minutes to be kept of its proceedings.

(4) The Minister may, with the concurrence of the Minister of Transport, make regulations to ensure the proper functioning of policing co-ordinating committees. 55

Procedure na inhegtenisneming deur lid van munisipale polisiediens

64H. Iemand wat met of sonder lasbrief deur 'n lid van 'n munisipale polisiediens in hechtenis geneem is, word so gou moontlik na 'n polisiekantoor onder die beheer van die Diens geneem of, in die geval van inhegtenisneming met 'n lasbrief, na 'n ander plek wat uitdruklik in die lasbrief genoem word, ten einde mee gehandel te word ingevolge artikel 50 van die Strafproseswet, 1977 (Wet No. 51 van 1977).

Regsgedinge teen munisipale polisiediens

64I. (1) 'n Regsgeding teen 'n munisipale polisiediens of lid van 'n munisipale polisiediens ten opsigte van enige beweerde handeling kragtens of ingevolge hierdie Wet of enige ander wet verrig, of 'n beweerde versuim om iets te doen wat ingevolge hierdie Wet of enige ander wet gedoen behoort te word, word ingestel teen die betrokke munisipale raad.

(2) By die toepassing van hierdie artikel is—

- (a) artikel 57 nie van toepassing nie; en
- (b) die Wet op Beperking van Regsgedinge (Provinsiale en Plaaslike Besture) Wet, 1970 (Wet No. 94 van 1970), van toepassing.

Burgerlike toesig oor munisipale polisiediens

64J. (1) 'n Munisipale raad stel 'n komitee aan wat bestaan uit lede van die raad en die ander persone wat die munisipale raad bepaal, ten einde burgerlike toesig oor die munisipale polisiediens te verseker.

(2) Die komitee beeog in subartikel (1) moet—

- (a) op die versoek van die betrokke munisipale raad, die raad adviseer oor aangeleenthede in verband met die munisipale polisiediens;
- (b) die hoof- uitvoerende beampete adviseer betreffende die verrigting van sy of haar werksaamhede in verband met die munisipale polisiediens;
- (c) die werksaamhede verrig wat die lid van die Uitvoerende Raad, die munisipale raad of die hoof- uitvoerende beampete nodig of dienstig ag ten einde burgerlike toesig oor die munisipale polisiediens te verseker;
- (d) verantwoordingspligtigheid en deursigtigheid in die munisipale polisiediens bevorder;
- (e) die implementering van beleid en voorskrifte wat deur die hoof- uitvoerende beampete uitgereik is, moniteer en aan die munisipale raad of hoof- uitvoerende beampete daaroor verslag doen;
- (f) die werksaamhede verrig wat van tyd tot tyd deur die munisipale raad of hoof- uitvoerende beampete aan die komitee opgedra word; en
- (g) die funksionering van die munisipale polisiediens evalueer en daaroor aan die munisipale raad of hoof- uitvoerende beampete verslag doen.

Polisiéringskoördineringskomitees

64K. (1) Die Provinsiale Kommissaris moet, ten einde polisiëring in die provinsie te koördineer en na oorlegpleging met die lid van die Uitvoerende Raad, minstens een van die volgende komitees instel:

- (a) plaaslike polisiéringskoördineringskomitees;
- (b) area-polisiéringskoördineringskomitees;
- (c) provinsiale polisiéringskoördineringskomitees.

(2) Die Provinsiale Kommissaris, of 'n persoon wat deur hom of haar vir daardie doel aangewys is, tree as voorsitter op 'n vergadering van 'n polisiéringskoördineringskomitee op.

(3) Elke polisiéringskoördineringskomitee bepaal sy eie prosedure en laat notule van sy verrigtinge hou.

(4) Die Minister kan, met die instemming van die Minister van Vervoer, regulasies uitvaardig om die behoorlike funksionering van polisiéringskoördineringskomitees te verseker.

Powers and duties of National Commissioner in respect of municipal police service

64L. (1) The National Commissioner may determine national standards of policing for municipal police services and, in addition to the training prescribed for traffic officers in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), determine national standards with regard to the training of members of municipal police services.

(2) (a) A draft of the national standards contemplated in subsection (1) shall be published in the *Gazette*, together with a notice inviting all interested persons to submit comments regarding the proposed national standards in writing, within a period stated in the notice and which shall not be less than 60 days from the date of publication.

(b) If the National Commissioner decides to amend the national standards as a result of comments received, it shall not be necessary to publish the national standards again before promulgation.

(3) In order to ensure that national standards are maintained, the National Commissioner—

- (a) may request and obtain information and documents under the control of the municipal police service or municipality in question;
- (b) may enter any building or premises under the control of the municipal police service or municipality in question; and
- (c) shall be entitled to all reasonable assistance by any member of the municipal police service and any employee of the municipality in question.

(4) If a municipal police service has failed to maintain national standards, the National Commissioner shall report the failure to the Minister.

Minister's power in respect of municipal police service

64M. (1) Upon receipt of a report contemplated in section 64L, the Minister may request the member of the Executive Council concerned to intervene as contemplated in section 139 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and shall provide the member with a copy of that report.

(2) (a) If the member of the Executive Council fails to intervene as requested, the Minister may intervene as contemplated in section 100 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), in which case section 64N(4) to (7) shall apply with the necessary changes.

(b) For the purposes of this subsection, any reference in section 64N(4) to (7) to—

- (a) the member of the Executive Council, shall be deemed to be a reference to the Minister;
- (b) the member of the Executive Council responsible for local government, shall be deemed to be a reference to the Minister for Provincial Affairs and Constitutional Development;
- (c) the member of the Executive Council responsible for transport and traffic matters, shall be deemed to be a reference to the Minister of Transport;
- (d) the Premier, shall be deemed to be a reference to the President;
- (e) an official of the provincial government, shall be deemed to be a reference to an official of the national government; and
- (f) to section 139(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), shall be deemed to be a reference to section 100(2).

Bevoegdhede en pligte van Nasionale Kommissaris ten aansien van munisipale polisiediens

- 64L.** (1) Die Nasionale Kommissaris kan nasionale standarde van polisiëring vir munisipale polisiedienste bepaal en kan, benewens die opleiding wat vir verkeersbeampes ingevolge die Padverkeerswet, 1989 (Wet No. 29 van 1989), voorgeskryf is, nasionale standarde met betrekking tot die opleiding van lede van munisipale polisiedienste bepaal.
- (2) (a) 'n Konsep van die nasionale standarde beoog in subartikel (1) moet in die *Staatskoerant* gepubliseer word met 'n kennisgewing wat alle belanghebbendes uitnooi om binne 'n tydperk in die kennisgewing vermeld wat nie minder as 60 dae vanaf die datum van publikasie is nie, skriftelik kommentaar oor die voorgestelde nasionale standarde voor te lê.
- (b) Indien die Nasionale Kommissaris besluit om die nasionale standarde te wysig as gevolg van kommentaar wat ontvang is, is dit nie nodig om die nasionale standarde weer te publiseer voor afkondiging nie.
- (3) Ten einde te verseker dat die nasionale standarde gehandhaaf word—
- (a) kan die Nasionale Kommissaris inligting en dokumente onder die beheer van die munisipale polisiediens of die betrokke munisipaliteit aanvra en bekom;
 - (b) kan die Nasionale Kommissaris enige gebou of perseel onder die beheer van die munisipale polisiediens of die betrokke munisipaliteit, betree; en
 - (c) is die Nasionale Kommissaris op alle redelike bystand deur 'n lid van die munisipale polisiediens en 'n werknemer van die betrokke munisipaliteit geregtig.
- (4) Indien 'n munisipale polisiediens versuim het om nasionale standarde na te kom, rapporteer die Nasionale Kommissaris die versuim aan die Minister.

Bevoegdhede van Minister ten aansien van munisipale polisiediens

- 64M.** (1) By die ontvangs van 'n verslag beoog in artikel 64L kan die Minister die betrokke lid van die Uitvoerende Raad versoek om soos beoog in artikel 139 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), in te gryp en moet hy of sy die lid van 'n afskrif van die verslag voorsien.
- (2) (a) Indien die lid van die Uitvoerende Raad versuim om in te gryp soos versoek, kan die Minister soos beoog in artikel 100 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), ingryp in welke geval artikel 64N(4) tot (7) met die nodige veranderings van toepassing is.
- (b) By die toepassing van hierdie subartikel word 'n verwysing in subartikel 64N(4) tot (7) na—
- (a) die lid van die Uitvoerende Raad geag 'n verwysing na die Minister te wees;
 - (b) die lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering geag 'n verwysing na die Minister vir Provinciale Sake en Staatkundige Ontwikkeling te wees;
 - (c) die lid van die Uitvoerende Raad verantwoordelik vir vervoer en verkeersaangeleenthede geag 'n verwysing na die Minister van Vervoer te wees;
 - (d) die Premier geag 'n verwysing na die President te wees;
 - (e) 'n beampte van die provinsiale regering geag 'n verwysing na 'n beampte van die nasionale regering te wees; en
 - (f) 'n verwysing na artikel 139(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), geag 'n verwysing na artikel 100(2) te wees.

Member of Executive Council's power in respect of municipal police service

64N. (1) In order to ensure that the conditions, if any, subject to which a municipal police service was established, are complied with and that national standards are maintained, the member of the Executive Council or a member of the provincial secretariat designated in writing for that purpose by the member—

- (a) may request and obtain information and documents under the control of the municipal police service or municipality in question;
- (b) may enter any building or premises under the control of the municipal police service or municipality in question; and
- (c) shall be entitled to all reasonable assistance by any member of the municipal police service and any employee of the municipality in question.

(2) If the member of the Executive Council is satisfied that a municipal police service has failed to comply with the conditions or national standards, he or she may, by notice in writing, inform the municipal council in question of such failure and request the council to ensure that the municipal police service complies with the conditions or national standards within a period specified in the notice.

(3) The member of the Executive Council may, from time to time, upon the request of the municipal council extend the period contemplated in subsection (2).

(4) If the municipal council fails to comply with the notice contemplated in subsection (2) within the period specified in the notice or within the extended period contemplated in subsection (3), the member of the Executive Council may, after consultation with the member or members of the Executive Council responsible for local government, transport and traffic matters or where no such member or members have been appointed, the Premier or such member or members of the Executive Council to whom the responsibilities have been assigned by the Premier—

- (a) appoint an official of the provincial government as administrator of the municipal police service in question and charge such official with the responsibility to ensure that the municipal police service complies with the conditions and national standards; and
- (b) take such other steps as he or she may deem necessary to ensure compliance with the conditions and national standards.

(5) The administrator appointed under subsection (4)(a) may, subject to section 139(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and subject to the directions of the member of the Executive Council, exercise all the powers and perform all the duties of the executive head of the municipal police service.

(6) If the member of the Executive Council is satisfied that the municipal police service complies with the conditions and national standards, he or she may terminate the appointment of the administrator.

(7) All expenditure incurred by or in connection with the intervention by the member of the Executive Council shall be for the account of the municipality in question.

Certain other sections of this Act to apply to municipal police service

64O. The Minister may prescribe which other provisions of this Act shall apply to a municipal police service and the extent to which they shall apply.

Bevoegdhede van lid van Uitvoerende Raad ten aansien van munisipale polisiediens

64N. (1) Ten einde te verseker dat die voorwaardes, indien enige, waarop 'n munisipale polisiediens ingestel is, nagekom word en dat nasionale standaarde gehandhaaf word—

- (a) kan die lid van die Uitvoerende Raad of 'n beampte van die provinsiale sekretariaat wat skriftelik vir daardie doel deur die lid aangewys is, inligting en dokumente onder die beheer van die munisipale polisiediens of die betrokke munisipaliteit aanvra en bekom;
- (b) kan die lid van die Uitvoerende Raad of 'n beampte van die provinsiale sekretariaat wat skriftelik vir daardie doel deur die lid aangewys is, enige gebou of perseel onder die beheer van die munisipale polisiediens of die betrokke munisipaliteit, betree; en
- (c) is die lid van die Uitvoerende Raad of 'n beampte van die provinsiale sekretariaat wat skriftelik vir daardie doel deur die lid aangewys is, op alle redelike bystand deur 'n lid van die munisipale polisiediens en 'n werknemer van die betrokke munisipaliteit geregtig.

(2) Indien die lid van die Uitvoerende Raad tevrede is dat die munisipale polisiediens versuim het om aan die voorwaardes of nasionale standaarde te voldoen, kan hy of sy by skriftelike kennisgewing die betrokke munisipale raad inlig van daardie versuim en die raad versoek om te verseker dat die munisipale polisiediens binne 'n tydperk wat in die kennisgewing vermeld word aan die voorwaardes of nasionale standaarde voldoen.

(3) Die lid van die Uitvoerende Raad kan van tyd tot tyd op die versoek van die munisipale raad die tydperk beoog in subartikel (2) verleng.

(4) Indien die munisipale raad versuim om binne die tydperk vermeld in die kennisgewing in subartikel (2) beoog of binne die verlengde tydperk in subartikel (3) beoog aan die kennisgewing te voldoen, kan die lid van die Uitvoerende Raad, na oorlegpleging met die lid of lede van die Uitvoerende Raad wat verantwoordelik is vir plaaslike regering, vervoer en verkeersaangeleenthede of waar geen sodanige lid of lede aangewys is nie, die Premier of die lid of lede van die Uitvoerende Raad aan wie die verantwoordelikhede deur die Premier opgedra is—

- (a) 'n beampte van die provinsiale regering as administrateur van die betrokke munisipale polisiediens aanstel en die verantwoordelikhed aan daardie beampte opdra om te verseker dat die munisipale polisiediens voldoen aan die voorwaardes en nasionale standaarde; en
- (b) die ander stappe doen wat hy of sy nodig ag om voldoening aan die voorwaardes en nasionale standaarde te verseker.

(5) Die administrateur wat kragtens subartikel (4)(a) aangestel is, kan behoudens artikel 139(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), en onderhewig aan die voorskrifte van die lid van die Uitvoerende Raad, al die bevoegdhede en pligte van die uitvoerende hoof van die munisipale polisiediens uitoefen en verrig.

(6) Indien die lid van die Uitvoerende Raad tevrede is dat die munisipale polisiediens aan die voorwaardes en nasionale standaarde voldoen, kan hy of sy die aanstelling van die administrateur beëindig.

(7) Alle uitgawes aangegaan by of in verband met die ingryping deur die lid van die Uitvoerende Raad is vir die rekening van die betrokke munisipaliteit.

Sekere ander bepalings van hierdie Wet van toepassing op munisipale polisiedienste

64O. Die Minister kan voorskryf watter ander bepalings van hierdie Wet op 'n munisipale polisiediens van toepassing is en die mate waartoe dit van toepassing is.

Regulations in respect of municipal police service

64P. (1) The Minister may, subject to subsection (2), make regulations regarding the effective functioning of municipal police services.

(2) (a) A draft of the regulations contemplated in subsection (1) shall be published in the *Gazette*, together with a notice inviting all interested persons to submit comments regarding the proposed regulations in writing, within a period stated in the notice and which shall not be less than 60 days from the date of publication.

(b) If the Minister decides to amend the regulations as a result of comments received, it shall not be necessary to publish the regulations again before promulgation.

Saving and transitional arrangements in respect of existing municipal police service

64Q. (1) (a) When the South African Police Service Amendment Act, 1998, takes effect, the Durban City Police, established under section 83 of the Durban Extended Powers Consolidated Ordinance, 1976 (Natal Ordinance No. 18 of 1976), shall be deemed to have been established under section 64A, and shall continue to so exist until 30 September 1999.

(b) If an application for its establishment under section 64A is lodged on or before 30 September 1999, the Durban City Police shall continue to so exist until the application is either approved or disapproved.

(c) Any person who was a member of the Durban City Police immediately before the South African Police Service Amendment Act, 1998, took effect, shall continue to be a member of the Durban City Police and become a member of the municipal police service if the establishment thereof is approved as contemplated in paragraph (b), even if that person does not comply with the training requirements for appointment as a member of a municipal police service established under this Act: Provided that the person shall cease to be a member with effect from 1 October 2003, unless he or she complies with the training requirements for appointment.

(2) (a) Every person who, on the date of the establishment of a municipal police service under section 64A for a particular municipality, is registered as a traffic officer in terms of any law and who is employed by that municipality may be appointed as a member of the municipal police service even though the person may not comply with the training requirements for appointment as a member of the municipal police service.

(b) A person appointed as contemplated in paragraph (a) shall cease to be a member of the municipal police service with effect from 1 October 2003, unless he or she has successfully completed a training course which complies with the requirements determined by the National Commissioner.

(3) (a) After the South African Police Service Amendment Act, 1998, has taken effect, no municipal service may include the word "police" in its name unless the service has been established as a municipal police service under section 64A.

(b) Before 1 January 1999, a municipal council shall change the name of any service other than a municipal police service which is in existence when the South African Police Service Amendment Act, 1998, takes effect and which includes the word "police" in its name: Provided that the National Commissioner may from time to time, upon good cause shown, extend that date for a total period of 24 months."

Amendment of section 72 of Act 68 of 1995

4. Section 72 of the principal Act is hereby amended by the deletion of subsections (5) and (6).

Regulasies ten aansien van munisipale polisiediens

64P. (1) Die Minister kan, behoudens subartikel (2), regulasies uitvaardig betreffende die doeltreffende funksionering van munisipale polisiedienste.

5 (2) (a) 'n Konsep van die regulasies beoog in subartikel (1) moet in die *Staatskoerant* gepubliseer word met 'n kennisgewing wat alle belanghebbendes uitnooi om binne 'n tydperk in die kennisgewing vermeld wat nie minder as 60 dae vanaf die datum van publikasie van die kennisgewing is nie, skriftelik kommentaar oor die voorgestelde regulasies voor te lê.

10 (b) Indien die Minister besluit om die regulasies te wysig as gevolg van kommentaar wat ontvang is, is dit nie nodig om die regulasies weer te publiseer voor afkondiging nie.

Voorbehoud en oorgangsbeplings ten aansien van munisipale polisiediens

15 **64Q.** (1) (a) Wanneer die Wysigingswet op die Suid-Afrikaanse Polisiediens, 1998, in werking tree, word die Durban Stadspolisie wat kragtens artikel 83 van die Konsolideringsordonnansie op die Uitgebreide Bevoegdhede van Durban, 1976 (Natal Ordonnansie No. 18 van 1976), ingestel is, geag kragtens artikel 64A ingestel te gewees het, en bly dit aldus voortbestaan tot 30 September 1999.

20 (b) Indien 'n aansoek vir sy instelling kragtens artikel 64A op of voor 30 September 1999 ingedien word, bly die Durban Stadspolisie aldus voortbestaan totdat die aansoek óf goed- óf afgekeur word.

25 (c) Enigiemand wat onmiddellik voor die Wysigingswet op die Suid-Afrikaanse Polisiediens, 1998, in werking getree het 'n lid van die Durban Stadspolisie was, bly 'n lid van die Durban Stadspolisie en word 'n lid van die munisipale polisiediens indien die instelling daarvan goedgekeur word soos beoog in paragraaf (b), selfs al voldoen daardie persoon nie aan die opleidingsvereistes vir aanstelling as 'n lid van 'n munisipale polisiediens wat kragtens hierdie Wet ingestel is nie: Met dien verstande dat die persoon ophou om 'n lid te wees met ingang van 1 Oktober 2003, tensy hy of sy aan die opleidingsvereistes vir aanstelling voldoen.

30 (d) (a) Elke persoon wat op die datum van die instelling van 'n munisipale polisiediens kragtens artikel 64A vir 'n bepaalde munisipaliteit, ingevolge enige wet as 'n verkeersbeampte geregistreer is en in diens van daardie munisipaliteit is, kan as 'n lid van die munisipale polisiediens aangestel word selfs as die persoon nie aan die opleidingsvereistes vir aanstelling as 'n lid van die munisipale polisiediens voldoen nie.

35 (b) Iemand wat soos in paragraaf (a) beoog, aangestel is, hou met ingang van 1 Oktober 2003 op om 'n lid van die munisipale polisiediens te wees tensy hy of sy 'n opleidingskursus wat aan die vereistes wat deur die Nasionale Kommissaris bepaal is, voldoen, suksesvol voltooi het.

40 (c) (a) Nadat die Wysigingswet op die Suid-Afrikaanse Polisiediens, 1998, in werking getree het, mag geen munisipale diens die woord "polisie" in sy naam insluit nie tensy die diens as 'n munisipale polisiediens kragtens artikel 64A ingestel is.

45 (b) 'n Munisipaliteit moet voor 1 Januarie 1999 die naam van enige ander diens as 'n munisipale polisiediens wat bestaan het voor die inwerkingtreding van die Wysigingswet op die Suid-Afrikaanse Polisiediens, 1998, en wat die woord 'polisie' in sy naam insluit, verander: Met dien verstande dat die Nasionale Kommissaris, by die aanvoer van goeie redes, van tyd tot tyd daardie datum kan verleng vir 'n totale tydperk van 24 maande.".

Wysiging van artikel 72 van Wet 68 van 1995

55 4. Artikel 72 van die Hoofwet word hierby gewysig deur subartikels (5) en (6) te skrap.

Repeal of law

5. Section 83 of the Durban Extended Powers Consolidated Ordinance, 1976 (Natal Ordinance No. 19 of 1976), is hereby repealed.

Short title and commencement

6. This Act is called the South African Police Service Amendment Act, 1998, and takes effect on a date determined by the President by proclamation in the *Gazette*. 5

Herroeping van wet

5. Artikel 83 van die Konsolideringsordonnansie op die Uitgebreide Bevoegdhede van Durban, 1976 (Natal Ordonnansie No. 19 van 1976), word hierby herroep.

Kort titel en inwerkingtreding

5 6. Hierdie Wet heet die Wysigingswet op die Suid-Afrikaanse Polisiediens, 1998, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

