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GOVERNMENT GAZETTE

STAATSKOERANT

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KAAPSTAD, 25 JUNIE 1969.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1039. 25th June, 1969.

No. 1039. 25 Junie 1969.

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

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

No. 77 of 1969: Water Amendment Act, 1969.

No. 77 van 1969: Waterwysigingswet, 1969.

ACT

To amend the Water Act, 1956, to control the use of public water by local authorities in certain circumstances; to provide for the proclamation of dam basin control areas; further to regulate the payment of interest on certain sums of money in the case of expropriation of land and rights by the Minister of Water Affairs; to control the use of water and the construction of water works in certain public streams and natural channels; further to regulate the constitution of irrigation boards; to provide for the vesting in the said Minister of the control of certain waterworks belonging to or controlled by irrigation boards and of the supply of certain water; to regulate criminal liability in the case of contravention of certain provisions of the said Act; to regulate the conservation and use of water in the territory of South-West Africa; and so as to effect certain alterations to certain financial provisions and provisions relating to the duties of the said Minister.

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

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

Substitution of
section 13 of
Act 54 of 1956

1. The following section is hereby substituted for section 13 of the Water Act, 1956 (hereinafter referred to as the principal Act):

“Use of
public
water
by a local
authority.

13. (1) If an owner of land which is situated within the area of jurisdiction of a local authority is entitled to the use of the water of a public stream to which such land is riparian for the irrigation of that land, and the said local authority requires such water or any portion thereof for urban purposes, it may, with the consent of the Administrator of the province in which such local authority has been established and of the Minister, but subject to the provisions of subsection (3), take such water or any portion thereof which it may so require.

(2) A local authority shall, before exercising the power conferred upon it by subsection (1), give to the owner concerned not less than six months' prior notice in writing of its intention to do so, and shall pay to such owner such compensation as may be agreed upon or, failing agreement, determined by a water court.

(3) (a) A local authority shall not—

(i) construct, alter or enlarge any water work in which more than forty-five morgen feet of public water could be impounded or stored or by means of which more than

WET

Tot wysiging van die Waterwet, 1956, om die gebruik van openbare water deur plaaslike besture onder sekere omstandighede te beheer; om voorsiening te maak vir die proklamering van damkombeheergebiede; om die betaling van rente op sekere bedrae in die geval van onteiening van grond en regte deur die Minister van Waterwese verder te reël; om die gebruik van water en die aanbou van waterwerke in sekere openbare strome en natuurlike beddings te beheer; om die samestelling van besproeiingsrade verder te reël; om voorsiening te maak vir die oordrag aan dié Minister van die beheer van sekere waterwerke wat behoort aan of wat beheer word deur besproeiingsrade, en van die voorsiening van sekere water; om strafregtelike aanspreeklikheid in die geval van oortreding van sekere bepalings van genoemde Wet te reël; om die bewaring en gebruik van water in die gebied Suidwes-Afrika te reël; en ten einde sekere veranderings aan sekere finansiële bepalings en bepalings betreffende die pligte van genoemde Minister aan te bring.

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

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

1. Artikel 13 van die Waterwet, 1956 (hieronder die Hoofwet genoem), word hierby deur die volgende artikel vervang: Vervanging van artikel 13 van Wet 54 van 1956.
- „Gebruik van openbare water deur 'n plaaslike bestuur.
13. (1) Indien 'n eienaar van grond wat binne die regsgebied van 'n plaaslike bestuur geleë is, geregtig is op die gebruik, vir die besproeiing van daardie grond, van die water van 'n openbare stroom waaraan daardie grond oewergrond is, en genoemde plaaslike bestuur bedoelde water of enige deel daarvan vir stedelike doeleindes nodig het, kan hy met die toestemming van die Administrateur van die provinsie waarin daardie plaaslike bestuur ingestel is en van die Minister, maar behoudens die bepalings van subartikel (3), bedoelde water of enige gedeelte daarvan wat hy aldus nodig het, neem.
- (2) 'n Plaaslike bestuur moet, voordat hy die by subartikel (1) aan hom verleende bevoegdheid uitoefen, aan die betrokke eienaar minstens ses maande vooruit skriftelik kennis gee van sy voorneme om dit te doen, en moet aan bedoelde eienaar die vergoeding betaal waarop ooreengekom of wat by ontstentenis van ooreenkoms deur 'n waterhof vasgestel word.
- (3) (a) 'n Plaaslike bestuur mag nie—
- (i) 'n waterwerk oprig, verander of vergroot nie waarin meer as vyf-en-veertig morgvoet openbare water opgedam of opgegaan kan word of deur middel waarvan meer as

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one million gallons of water per day could be abstracted or diverted from a public stream, or alter or enlarge any other water work to such an extent that more than such quantity of public water could be impounded or stored therein or more than one million gallons of water per day could by means thereof be abstracted or diverted from such a stream;

- (ii) if it was using less than one million gallons of public water per day immediately prior to the commencement of the Water Amendment Act, 1969, increase its use of such water to more than one million gallons per day, or, if it was using more than one million gallons of such water per day immediately prior to such commencement, increase its use of such water, irrespective of whether or not such use is for agricultural, urban or industrial purposes, unless the Minister has authorized such construction, alteration, enlargement or increase by permit.
- (b) In considering an application for a permit under paragraph (a), the Minister shall, after consultation with the Administrator of the province concerned, as far as is possible and practicable, have due regard to the circumstances contemplated in paragraphs (a) and (b) of section 12 (4), and the Minister may grant such application either unconditionally or with such modifications and subject to such conditions as he may deem fit.
- (c) A water court shall not consider an application by a local authority to impound, store, abstract, divert or use public water in a manner contemplated in paragraph (a), whether for agricultural, urban or industrial purposes, or for any other purpose, and irrespective of whether or not such water is to be used on land riparian to the public stream in question, unless such application is accompanied by an appropriate permit referred to in paragraph (a).
- (d) A permit granted in terms of this subsection shall not exempt the local authority concerned from obtaining such rights or servitudes as may be necessary to enable it to impound, store, abstract, divert or use public water in terms of such permit."

Amendment of section 58 of Act 54 of 1956.

2. Section 58 of the principal Act is hereby amended by the substitution in subsection (1) for the words "one hundred thousand pounds" of the words "five hundred thousand rand".

Amendment of section 59 of Act 54 of 1956, as amended by section 9 of Act 56 of 1961 and section 4 of Act 79 of 1967.

3. Section 59 of the principal Act is hereby amended by the addition of the following subsection:

"(4) (a) Whenever in the opinion of the State President it is in the public interest that any particular area, irrespective of whether or not such area includes a portion of the bed of a public or private stream, should be reserved for a dam, being a government water work to be constructed at some future date, he may by proclamation in the *Gazette* define such area and declare it to be a dam basin control area: Provided that such a dam basin control area shall not be greater than an

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'n miljoen gelling water per dag uit 'n openbare stroom uitgeneem of uitgekeer kan word, of 'n ander waterwerk sodanig verander of vergroot nie dat meer as so 'n hoeveelheid openbare water daarin opgedam of opgegaar kan word of meer as 'n miljoen gelling water per dag deur middel daarvan uit so 'n stroom uitgeneem of uitgekeer kan word;

- (ii) indien hy minder as 'n miljoen gelling openbare water per dag onmiddellik vóór die inwerkingtreding van die Waterwysigingswet, 1969, gebruik het, sy gebruik van sodanige water tot meer as 'n miljoen gelling per dag verhoog nie, of, indien hy meer as 'n miljoen gelling sodanige water per dag onmiddellik vóór sodanige inwerkingtreding gebruik het, sy gebruik van sodanige water verhoog nie, ongeag of sodanige gebruik vir landboudoeleindes, stedelike doeleindes of nywerheidsdoeleindes geskied, al dan nie, tensy die Minister sodanige oprigting, verandering, vergroting of verhoging by wyse van 'n permit gemagtig het.
- (b) By die oorweging van 'n aansoek om 'n permit kragtens paragraaf (a) moet die Minister, na oorlegpleging met die Administrateur van die betrokke provinsie, behoorlik rekening hou met die omstandighede beoog in paragrawe (a) en (b) van artikel 12 (4), vir sover dit doenlik en prakties is, en die Minister kan die aansoek of onvoorwaardelik of met die wysigings en op die voorwaardes wat hy goedvind, toestaan.
- (c) 'n Waterhof mag nie 'n aansoek deur 'n plaaslike owerheid oorweeg nie om openbare water op te dam, op te gaar, uit te neem, uit te keer of te gebruik soos in paragraaf (a) beoog, en hetsy vir landboudoeleindes, stedelike doeleindes of nywerheidsdoeleindes, of vir 'n ander doel, en ongeag of sodanige water gebruik gaan word op grond wat oewergrond is aan die betrokke openbare stroom al dan nie, tensy sodanige aansoek vergesel gaan van 'n toepaslike permit vermeld in paragraaf (a).
- (d) 'n Permit ingevolge hierdie subartikel verleen, stel nie die betrokke plaaslike bestuur vry nie van die verkryging van die regte of serwitute wat nodig is om hom in staat te stel om openbare water ingevolge dié permit op te dam, op te gaar, uit te neem, uit te keer of te gebruik."

2. Artikel 58 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde „honderdduisend pond” deur die woorde „vyfhonderdduisend rand” te vervang.

Wysiging van artikel 58 van Wet 54 van 1956.

3. Artikel 59 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

- „(4) (a) Wanneer dit volgens die oordeel van die Staatspresident in die openbare belang is dat 'n bepaalde gebied, ongeag of dié gebied 'n gedeelte van die bedding van 'n openbare of private stroom insluit, al dan nie, oopgehou word vir 'n dam wat in die toekoms opgerig sal word en 'n Staatswaterwerk sal wees, kan hy by proklamasie in die *Staatskoerant* dié gebied omskryf en tot 'n damkombeheergebied verklaar: Met dien verstande dat so 'n damkombeheergebied nie groter mag wees nie as 'n gebied wat, volgens die oordeel van

Wysiging van artikel 59 van Wet 54 van 1956, soos gewysig deur artikel 9 van Wet 56 van 1961 en artikel 4 van Wet 79 van 1967.

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area which, in the opinion of the Minister, is necessary for a dam capable of impounding and storing twice the total mean annual run-off of the catchment areas from which water may be expected to flow into or to be diverted to the dam envisaged.

- (b) No person (including a provincial administration) shall in such a dam basin control area establish any township or exercise any activity which involves the construction or alteration of any road, building, water work or any other work or structure of a permanent nature (excluding any activity connected with the ordinary carrying on of farming operations), without a permit from the Minister and otherwise than subject to such conditions as he may deem fit to impose in such permit.
- (c) If the owner of any land situated in any such dam basin control area, or the holder of any right in respect of any such land, or the holder of any existing right, suffers or is likely to suffer any damage as a result of such area having been declared to be a dam basin control area, he shall be entitled to be compensated by the State in respect of such damage or anticipated damage, and if he and the State cannot agree on the amount of such compensation, or if the Minister deems it expedient that the State shall expropriate such land, the State shall expropriate such land, right or existing right, as the case may be, and for the purposes of such expropriation the provisions of section 60 shall *mutatis mutandis* apply.
- (d) Any debt coming into existence by virtue of the provisions of paragraph (c) shall not be prescribed.
- (e) Any person who contravenes the provisions of paragraph (b) shall be guilty of an offence.”.

Amendment of section 60 of Act 54 of 1956, as amended by section 1 of Act 75 of 1957, section 10 of Act 56 of 1961, section 1 of Act 71 of 1965 and section 5 of Act 79 of 1967.

4. Section 60 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) *bis* of the following paragraph:

- “(a) Interest shall, as from the date on which any relevant act may be performed by the department in terms of subsection (6) (a) (i), and subject to the provisions of paragraph (b) of this subsection, be paid on any outstanding amount payable by way of compensation in terms of this section, and such interest shall be so paid at the rate which, on the said date, is by virtue of a notice published in the *Gazette* under section 1 of the Financial Adjustments Act, 1917 (Act No. 42 of 1917), applicable in respect of State loans and advances.”.

Amendment of section 62 of Act 54 of 1956, as amended by section 11 of Act 56 of 1961, section 3 of Act 11 of 1966 and section 6 of Act 79 of 1967.

5. Section 62 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

- “(a) Notwithstanding anything to the contrary contained in this Act, the rights to the use and the control of water in any public stream or natural channel in a government water control area shall vest in the Minister, and no person shall, except as provided in subsection (1), or under the authority of a permit from the Minister and on such conditions as may be specified in that permit,
- (i) abstract, impound, store or use such water; or
- (ii) construct, alter or enlarge any water work for the abstraction, impounding or storage of such water, unless the Minister has by notice in the *Gazette* authorized the abstraction, impounding, storage or use

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die Minister, benodig is vir 'n dam waarin opgedam of opgegaar kan word twee maal die totale gemiddelde jaarlikse afloop van die opvanggebiede waarvandaan, na verwagting, water in of na die beoogde dam sal loop of afgekeer sal word.

- (b) Niemand (met inbegrip van 'n provinsiale administrasie) mag in so 'n damkombeheergebied 'n dorp stig of 'n bedrywigheid uitoefen wat die oprigting of verandering van 'n pad, gebou, waterwerk of 'n ander werk of struktuur van 'n permanente aard (uitgesonderd 'n bedrywigheid wat in verband staan met die gewone beoefening van die boerderybedryf) behels nie, sonder 'n permit van die Minister en anders as onderworpe aan die voorwaardes wat hy goedvind om in dié permit op te lê.
- (c) Indien die eienaar van grond geleë in so 'n damkombeheergebied, of die houer van 'n reg ten opsigte van sodanige grond, of die houer van 'n bestaande reg skade ly of vermoedelik skade sal ly ten gevolge van die verklaring van daardie gebied tot 'n damkombeheergebied, is hy op vergoeding deur die Staat ten opsigte van sodanige skade of verwagte skade geregtig, en indien hy en die Staat nie oor die bedrag van sodanige vergoeding kan ooreenkom nie, of indien die Minister dit dienstig ag dat die Staat sodanige grond onteien, moet die Staat sodanige grond, reg of bestaande reg, na gelang van die geval, onteien, en vir die doeleindes van sodanige onteiening is die bepalings van artikel 60 *mutatis mutandis* van toepassing.
- (d) 'n Skuld wat ingevolge paragraaf (c) ontstaan, verjaar nie.
- (e) Iemand wat die bepalings van paragraaf (b) oortree, is aan 'n misdryf skuldig."

4. Artikel 60 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (4)*bis* deur die volgende paragraaf te vervang:

- „(a) Rente word vanaf die datum waarop die departement enige betrokke handeling ingevolge subartikel (6) (a) (i) kan verrig, en behoudens die bepalings van paragraaf (b) van hierdie subartikel, betaal op enige uitstaande bedrag wat ingevolge hierdie artikel by wyse van vergoeding betaalbaar is, en sodanige rente word aldus betaal teen die koers wat op genoemde datum ten opsigte van Staatslenings en -voorskotte geld uit hoofde van 'n kennisgewing kragtens artikel 1 van die „Finansiële Regelings Wet, 1917“ (Wet No. 42 van 1917), in die *Staatskoerant* gepubliseer.”.

Wysiging van artikel 60 van Wet 54 van 1956, soos gewysig deur artikel 1 van Wet 75 van 1957, artikel 10 van Wet 56 van 1961, artikel 1 van Wet 71 van 1965 en artikel 5 van Wet 79 van 1967.

5. Artikel 62 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

- „(a) Ondanks andersluidende bepalings van hierdie Wet, berus die regte op die gebruik en die beheer van water in enige openbare stroom of natuurlike bedding in 'n Staatswaterbeheergebied by die Minister, en niemand mag, behalwe soos in subartikel (1) bepaal, of op gesag van 'n permit van die Minister en op die voorwaardes in daardie permit uiteengesit,
- (i) sodanige water uitneem, opdam, opgaar of gebruik nie; of
- (ii) enige waterwerk vir die uitneem, opdamming of opgaring van sodanige water bou, verander of vergroot nie,
- tensy die Minister die uitneem, opdamming, opgaring

Wysiging van artikel 62 van Wet 54 van 1956, soos gewysig deur artikel 11 van Wet 56 van 1961, artikel 3 van Wet 11 van 1966 en artikel 6 van Wet 79 van 1967.

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of such water or the construction of such works, or otherwise than in accordance with the conditions specified in such notice: Provided that the Minister shall take all necessary steps to comply with the provisions of subsections (1) and (2)*bis* as soon as possible after the date on which the area concerned has been or is declared a government water control area in terms of section 59 (1).”.

Amendment of section 63 of Act 54 of 1956, as amended by section 12 of Act 56 of 1961 and section 1 of Act 63 of 1963.

6. Section 63 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“Subject to the provisions of subsection (1), the Minister shall, in respect of every area specified in a notice issued under paragraph (b) of subsection (1), determine in such manner and subject to such conditions as he may deem fit, but with due regard to any existing right beneficially exercised at the date referred to in the said paragraph, and either generally or in any particular case—”;

(b) by the insertion after the said subsection (2) of the following subsection:

“(2A) For the purposes of subsection (2) any water flowing or found in or derived from a public stream or natural channel in any area referred to in the said subsection, shall be deemed to be water released from a government water work.”;

(c) by the insertion after subsection (11) of the following subsections:

“(11A) The Minister may by notice in the *Gazette* prohibit the construction, alteration or enlargement of any water work for the abstraction, diversion, impoundment or storage of water from or in a stream or channel referred to in subsection (2A), except under the authority of a permit issued by him and subject to such conditions as may be specified in such permit or subject to such limitations or conditions as may be specified in such notice.

(11B) The Minister may by notice in writing take over the control and maintenance of any privately owned water work used for the abstraction, diversion, impoundment, storage or use of water from or in a stream or channel referred to in subsection (2A), if in his opinion such control and maintenance are necessary for the supply of water in accordance with the provisions of this section.

(11C) The provisions of section 62 (4) and (5) shall *mutatis mutandis* apply in connection with a water work referred to in subsection (11B) of this section.”; and

(d) by the addition of the following subsection:

“(13) Any person who—

(a) abstracts or diverts from any stream or channel referred to in subsection (2A) any water to which he is not entitled by virtue of the provisions of this section;

(b) contravenes or fails to comply with the provisions of a notice or any condition referred to in subsection (11A),

shall be guilty of an offence.”.

Substitution of section 80 of Act 54 of 1956.

7. The following section is hereby substituted for section 80 of the principal Act:

“Number and appointment instead of 80. (1) An irrigation board shall consist of so many members, but not less than three or more than nine, as the Minister shall from time to time determine, or, in the case of the board of a district which

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of gebruik van sodanige water of die bou van sodanige werke by kennisgewing in die *Staatskoerant* gemagtig het, of andersins as ooreenkomstig die voorwaardes in bedoelde kennisgewing uiteengesit: Met dien verstande dat die Minister alle nodige stappe doen om die bepalings van sub-artikels (1) en (2)*bis* toe te pas so gou doenlik na die datum waarop die betrokke gebied kragtens artikel 59 (1) tot 'n Staatswaterbeheergebied verklaar is of word."

6. Artikel 63 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

„Die Minister bepaal, behoudens die bepalings van subartikel (1), ten opsigte van elke gebied vermeld in 'n kennisgewing kragtens paragraaf (b) van subartikel (1) uitgevaardig, of algemeen of in enige besondere geval, en op die wyse en onderworpe aan die voorwaardes wat hy goetvind, maar met behoorlike inagneming van 'n bestaande reg wat op die datum vermeld in genoemde paragraaf op voordelige wyse uitgeoefen is—”;

- (b) deur na genoemde subartikel (2) die volgende subartikel in te voeg:

„(2A) By die toepassing van subartikel (2) word water wat in 'n openbare stroom of natuurlike bedding in 'n gebied vermeld in genoemde subartikel vloei of aangetref word of daaruit afkomstig is, geag water te wees wat uit 'n Staatswaterwerk uitgelaat is.”;

- (c) deur na subartikel (11) die volgende subartikels in te voeg:

„(11A) Die Minister kan by kennisgewing in die *Staatskoerant* 'n verbod lê op die oprigting, verandering of vergroting van 'n waterwerk vir die uitneem, uitkeer, opdamming of opgaring van water uit of in 'n stroom of bedding vermeld in subartikel (2A), behalwe kragtens magtiging van 'n permit wat deur hom uitgereik is en onderworpe aan die voorwaardes vermeld in so 'n permit, of onderworpe aan die beperkings of voorwaardes wat in so 'n kennisgewing vermeld is.

(11B) Die Minister kan by skriftelike kennisgewing die beheer en instandhouding oorneem van 'n waterwerk wat privaat besit word en gebruik word vir die uitneem, uitkeer, opdamming, opgaring of gebruik van water uit of in 'n stroom of bedding vermeld in subartikel (2A), indien volgens sy oordeel sodanige beheer en instandhouding nodig is vir die voorsiening van water ooreenkomstig die bepalings van hierdie artikel.

(11C) Die bepalings van artikel 62 (4) en (5) is *mutatis mutandis* van toepassing in verband met 'n waterwerk vermeld in subartikel (11B) van hierdie artikel.”; en

- (d) deur die volgende subartikel by te voeg:

„(13) Iemand wat—

- (a) uit 'n stroom of bedding vermeld in subartikel (2A) water uitneem of afkeer waarop hy nie uit hoofde van die bepalings van hierdie artikel geregtig is nie;

- (b) die bepalings van 'n kennisgewing of 'n voorwaarde vermeld in subartikel (11A) oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.”.

7. Artikel 80 van die Hoofwet word hierby deur die volgende artikel vervang:

„Getal en aanstelling in plaas van ver-

80. (1) 'n Besproeiingsraad bestaan uit soveel lede, maar minstens drie en hoogstens nege, as wat die Minister van tyd tot tyd bepaal, of, in die geval van die raad van 'n distrik wat in sub-distrikte in-

Wysiging van artikel 63 van Wet 54 van 1956, soos gewysig deur artikel 12 van Wet 56 van 1961 en artikel 1 van Wet 63 van 1963.

Vervanging van artikel 80 van Wet 54 van 1956.

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election of
members of
irrigation
board.

is divided into sub-districts, of so many members in respect of each such sub-district, not exceeding four, as the Minister may from time to time determine, but so that the total number of members shall not exceed twelve: Provided that if a local authority is supplied with water by an irrigation board in terms of section 89 (1) (j), the Minister may, unless a nominee of such local authority is elected as a member of the board, appoint any person nominated by such local authority to represent it on the board for such period as he may deem fit, and the person so appointed shall for all purposes be deemed to be a member of that board.

(2) If an irrigation district which is divided into sub-districts ceases to be so divided, or any such district not divided into sub-districts is so divided, or the number of members of the irrigation board of an irrigation district is increased or reduced, the persons then holding office as members of the irrigation board of such district, shall vacate their offices on a date to be determined by the Minister, and an election of members of such board shall be held in the manner prescribed in this Act in respect of a first election of members of such a board, and all the provisions of this Act relating to such a first election and to the persons elected thereat shall apply in respect of such election and in respect of the members thereupon elected.

(3) The members of an irrigation board shall, subject to the provisions of subsection (1) of this section and section 84 (5), be elected in the manner hereinafter specified: Provided that one-half of the members of an irrigation board or, in the case of an irrigation board established in pursuance of a recommendation under section 73, two-thirds of the members of such board, may be appointed by the Minister.

(4) If the Minister decides to exercise his right under subsection (3) to appoint any members of an irrigation board, he shall make known his decision—

- (a) in the case of a first election of members of such board, in the manner prescribed by regulation and before the date of such first election; or
- (b) in the case of an irrigation board the members of which have already been elected, by registered letter to such board, in which event the provisions of subsection (2) shall *mutatis mutandis* apply.

(5) In the case of an irrigation board established otherwise than in pursuance of a recommendation under section 73, only a person qualified to be elected as a member of such irrigation board and who has not been elected as a member of such board, may be appointed by the Minister in terms of this section as a member of that board: Provided that the proviso to section 81 shall not apply in respect of any such appointment.

(6) Any person appointed by the Minister in terms of this section as a member of an irrigation board shall be advised of such appointment by registered letter and shall hold office as such a member for such period as the Minister may specify in such letter.”.

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kiesing
van lede
van
besproei-
ingsraad.

gedeel is, uit soveel lede ten opsigte van elke sodanige sub-distrik, maar hoogstens vier, as wat die Minister van tyd tot tyd bepaal, maar s6 dat die totale aantal lede nie twaalf te bowe gaan nie: Met dien verstande dat indien 'n plaaslike bestuur ooreenkomstig artikel 89 (1) (j) deur 'n besproeiingsraad van water voorsien word, die Minister, tensy 'n genomineerde van daardie plaaslike bestuur as lid van die raad gekies word, 'n deur daardie plaaslike bestuur benoemde persoon kan aanstel om daardie plaaslike bestuur in die raad te verteenwoordig vir die tydperk wat die Minister goedvind, en die aldus aangestelde persoon word vir alle doeleindes geag 'n lid van daardie raad te wees.

(2) Indien 'n besproeiingsdistrik wat in sub-distrikte ingedeel is, ophou om aldus ingedeel te wees, of so 'n distrik wat nie aldus ingedeel is nie, wel so ingedeel word, of die aantal lede van die besproeiingsraad van 'n besproeiingsdistrik vermeerder of verminder word, ontruim die persone wat dan as lede van die besproeiingsraad van daardie distrik dien, hul ampte op 'n datum wat die Minister bepaal, en word 'n verkiesing van lede van bedoelde raad gehou op die wyse in hierdie Wet ten opsigte van 'n eerste verkiesing van lede van so 'n raad bepaal, en al die bepalings van hierdie Wet met betrekking tot so 'n eerste verkiesing en tot die aldaar verkose persone is van toepassing ten opsigte van bedoelde verkiesing en ten opsigte van die lede wat daarop gekies word.

(3) Die lede van 'n besproeiingsraad word, behoudens die bepalings van subartikel (1) van hierdie artikel en artikel 84 (5), op die hieronder bepaalde wyse gekies: Met dien verstande dat 'n helfte van die lede van 'n besproeiingsraad of, in die geval van 'n besproeiingsraad wat ingevolge 'n aanbeveling kragtens artikel 73 ingestel is, twee-derdes van die lede van so 'n raad deur die Minister aangestel kan word.

(4) Indien die Minister besluit om sy reg kragtens subartikel (3) uit te oefen om lede van 'n besproeiingsraad aan te stel, moet hy sy besluit bekend maak—

- (a) in die geval van 'n eerste verkiesing van lede van sodanige raad, op die wyse by regulasie voorgeskryf, en wel v66r die datum van sodanige eerste verkiesing; of
- (b) in die geval van 'n besproeiingsraad waarvan die lede alreeds verkies is, per aangetekende brief aan sodanige raad, in watter geval die bepalings van subartikel (2) *mutatis mutandis* van toepassing is.

(5) In die geval van 'n besproeiingsraad wat anders ingestel is as ingevolge 'n aanbeveling kragtens artikel 73, kan slegs iemand wat bevoeg is om as lid van di6 besproeiingsraad gekies te word en nie as lid van di6 raad gekies is nie, deur die Minister ingevolge hierdie artikel as lid van daardie raad aangestel word: Met dien verstande dat die voorbehoudsbepaling by artikel 81 nie ten opsigte van so 'n aanstelling van toepassing is nie.

(6) Iemand wat deur die Minister ingevolge hierdie artikel as 'n lid van 'n besproeiingsraad aangestel is, word per aangetekende brief van sodanige aanstelling in kennis gestel, en beklee sy amp as sodanige lid vir die tydperk wat die Minister in sodanige brief vermeld."

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Insertion of section 95A in Act 54 of 1956.

8. The following section is hereby inserted in the principal Act after section 95:

“Vesting in Minister of control of certain water works belonging to or controlled by irrigation boards, and control of supply of water.

95A. (1) Notwithstanding the provisions of this Act or of any other law, and notwithstanding the delegation by the Minister, in terms of paragraph (a) of section 69 (1), of any relevant power referred to in that paragraph, the State President may by proclamation in the *Gazette* vest in the Minister—

(a) the power of control of the water works belonging to or controlled by any irrigation board of any irrigation district situated in an area defined in such proclamation, and of the distribution, supply or use of water in or from any such water work; or

(b) the power of control of the distribution, supply or use of water which has in terms of section 89 (1) been assigned to an irrigation board, and may in like manner from time to time amend or withdraw any such proclamation.

(2) The Minister may, in the exercise of any power vested in him in terms of subsection (1) repair, alter or enlarge any water work in question whenever he deems it to be in the interests of the community served or to be served with water by means of such work, and shall for that purpose utilize moneys voted by Parliament therefor.

(3) (a) Any water work the control of which has been vested in the Minister in terms of subsection (1) shall for all purposes be deemed to be a Government water work: Provided that unless the irrigation board in question is not indebted to the State, rates shall in terms of section 66 (1) (a) be assessed on land irrigated with water abstracted, supplied or distributed from such a water work, or charges in terms thereof assessed for water so abstracted, supplied or distributed, only for the purposes of the recovery of any expenditure incurred by the Minister in terms of subsection (2) of this section in respect of such water work.

(b) If an irrigation loan has under the provisions of this Act been granted to an irrigation board in respect of any water work the control of which has been vested in the Minister in terms of subsection (1), any amount still owing in respect of such loan, together with the amount of any interest payable in respect of such loan, may, with the approval, by resolution, of the Senate and of the House of Assembly, on a petition by the Minister, submitted after consultation with the Minister of Finance, be written off.

(4) The Minister or any officer in the Department authorized thereto by him may by notice in writing to any irrigation board direct such board to take such steps in regard to the maintenance, repair or betterment of any water work belonging to or controlled by it, or in regard to the method of distribution, supply or use of water in or from any such water work, or water the distribution, supply or use of which is controlled by such board, as he may deem necessary to ensure the most economical and

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8. Die volgende artikel word hierby in die Hoofwet na artikel 95 ingevoeg:

Invoeging van artikel 95A in Wet 54 van 1956.

„Oordrag aan Minister van beheer van sekere waterwerke wat behoort aan of beheer word deur besproeiingsrade, en beheer van voorsiening van water.

95A. (1) Ondanks andersluidende bepalings van hierdie Wet of 'n ander wet, en ondanks die oordrag deur die Minister ingevolge paragraaf (a) van artikel 69 (1) van 'n relevante bevoegdheid vermeld in daardie paragraaf, kan die Staatspresident by proklamasie in die *Staatskoerant*—

- (a) die bevoegdheid om die waterwerke wat behoort aan of beheer word deur 'n besproeiingsraad van 'n besproeiingsdistrik geleë in 'n gebied in dié proklamasie omskryf, en om die distribusie, voorsiening of gebruik van water in of uit so 'n waterwerk te beheer, aan die Minister oordra; en
- (b) die bevoegdheid om die distribusie, voorsiening of gebruik van water te beheer wat ingevolge artikel 89 (1) aan 'n besproeiingsraad toegewys is, aan die Minister oordra, en kan hy so 'n proklamasie insgelyks van tyd tot tyd wysig, of intrek.

(2) Die Minister kan by die uitoefening van 'n bevoegdheid wat ingevolge subartikel (1) aan hom verleen is, enige betrokke waterwerk herstel, verander of vergroot wanneer hy dit in die belang ag van die gemeenskap wat deur middel van dié waterwerk van water voorsien word of voorsien sal word, en moet vir dié doel geld aanwend wat die Parlement daarvoor bewillig het.

(3) (a) 'n Waterwerk waarvan die beheer ingevolge subartikel (1) aan die Minister oorgedra is, word vir alle doeleindes geag 'n Staatswaterwerk te wees: Met dien verstande dat, tensy die betrokke besproeiingsraad nie by die Staat in die skuld staan nie, belastings ingevolge artikel 66 (1) (a) gehef word op grond wat besproei word deur middel van water wat uit so 'n waterwerk geneem, voorsien of gedistribueer word, of vorderings daarkragtens gehef word vir water wat aldus geneem, voorsien of gedistribueer word, slegs om uitgawes te verhaal wat deur die Minister ingevolge subartikel (2) van hierdie artikel ten opsigte van so 'n waterwerk aangegaan is.

(b) Indien 'n besproeiingslening kragtens die bepalings van hierdie Wet aan 'n besproeiingsraad verleen is ten opsigte van 'n waterwerk waarvan die beheer ingevolge subartikel (1) aan die Minister oorgedra is, kan 'n bedrag wat nog ten opsigte van dié lening betaalbaar is, tesame met die rente wat ten opsigte van dié lening betaalbaar is, met die goedkeuring, by besluit, van die Senaat en van die Volksraad, na 'n versoekskrif deur die Minister, voorgelê na oorleg met die Minister van Finansies, afgeskryf word.

(4) Die Minister of 'n amptenaar in die Departement wat deur die Minister daartoe gemagtig is, kan by skriftelike kennisgewing aan 'n besproeiingsraad dié raad gelas om dié stappe met betrekking tot die instandhouding, herstel of verbetering van 'n waterwerk wat aan hom behoort of wat hy beheer, of met betrekking tot die wyse van distribusie, voorsiening of gebruik van water in of uit so 'n waterwerk, of water waarvan die distribusie, voorsiening of gebruik deur dié raad beheer word, te doen wat die Minister of so 'n beampete, na gelang van die geval, nodig ag om die mees ekonomiese en billike

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equitable distribution of water to the persons entitled to the use thereof, and if such board fails to take such steps in accordance with such directions the Minister or such officer, as the case may be, may by notice in writing to such board, take over the control of such work or the distribution or supply of such water for such period as he may deem necessary.

(5) The provisions of this section shall not be construed as precluding the Minister from delegating any of his powers in terms of paragraph (a) of section 69 (1) to an irrigation board contemplated in subsection (1) of this section, irrespective of whether or not prior to the issue of the relevant proclamation in terms of that subsection the Minister had delegated any of his powers to that board in terms of the said paragraph."

Amendment of section 153 of Act 54 of 1956.

9. Section 153 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words "nine hundred pounds" of the words "three thousand rand"; and
- (b) by the substitution in subsection (3) for the words "nine hundred pounds" of the words "three thousand rand".

Amendment of section 157 of Act 54 of 1956, as amended by section 16 of Act 56 of 1961.

10. Section 157 of the principal Act is hereby amended by the substitution in paragraph (b) (ii) of the proviso to subsection (1) for the words "thirty thousand pounds" of the words "one hundred and fifty thousand rand".

Amendment of section 162 of Act 54 of 1956, as amended by section 18 of Act 56 of 1961 and section 6 of Act 71 of 1965.

11. Section 162 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph:

"(c) the amount of the subsidy to be granted to any person or body, other than an irrigation board or a local authority, shall not exceed thirty-three and one third per centum of the cost of the work in respect of which it is granted, or three thousand rand, whichever amount is the lesser: Provided that if a group of persons desire to construct a joint water work for the use of water for agricultural purposes and the Minister is of opinion that their purpose may be conveniently and efficiently achieved without the establishment of an irrigation district and the constitution of an irrigation board to carry out the said work, such group of persons may, subject to the provisions of paragraph (a), be granted a subsidy not exceeding three thousand rand in respect of each such person, but not exceeding in the aggregate thirty-three and one-third per centum of the cost of such work."

Amendment of section 170 of Act 54 of 1956, as amended by section 5 of Act 63 of 1963 and section 7 of Act 79 of 1967.

12. Section 170 of the principal Act is hereby amended by the insertion after subsection (5) of the following subsection:

"(5A) (a) Whenever any manager, agent or employee of any person (in this subsection hereafter called the employer) does or omits to do any act which it would be an offence under this Act for the employer to do or omit to do, then unless it is proved that—

- (i) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of the employer; and
- (ii) all reasonable steps were taken by the employer to prevent any act or omission of the kind in question; and
- (iii) it was not under any condition or in any circumstances within the scope of the authority or in the

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distribusie van water aan die persone wat op die gebruik daarvan geregtig is, te verseker, en indien dié raad versuim om dié stappe ooreenkomstig daardie lasgewing te doen, kan die Minister of daardie beamppte, na gelang van die geval, by skriftelike kennisgewing aan dié raad die beheer van daardie waterwerk of die distribusie of voorsiening van sodanige water oorneem vir die tydperk wat die Minister of daardie beamppte nodig ag.

(5) Die bepalings van hierdie artikel word nie só uitgelê dat dit die Minister belet om van sy bevoegdhede ingevolge paragraaf (a) van artikel 69 (1) aan 'n besproeiingsraad beoog in subartikel (1) van hierdie artikel oor te dra nie, ongeag of die Minister vóór die uitvaardiging van die toepaslike proklamasie ingevolge daardie subartikel van sy bevoegdhede aan daardie raad ingevolge genoemde paragraaf oorgedra het of nie."

9. Artikel 153 van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (2) die woorde „negehonderd pond” deur die woorde „drieduisend rand” te vervang; en
 (b) deur in subartikel (3) die woorde „negehonderd pond” deur die woorde „drieduisend rand” te vervang.

Wysiging van artikel 153 van Wet 54 van 1956.

10. Artikel 157 van die Hoofwet word hierby gewysig deur in paragraaf (b) (ii) van die voorbehoudsbepaling by subartikel (1) die woorde „dertigduisend pond” deur die woorde „honderden-vyftigduisend rand” te vervang.

Wysiging van artikel 157 van Wet 54 van 1956, soos gewysig deur artikel 16 van Wet 56 van 1961.

11. Artikel 162 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:

Wysiging van artikel 162 van Wet 54 van 1956, soos gewysig deur artikel 18 van Wet 56 van 1961 en artikel 6 van Wet 71 van 1965.

„(c) mag die bedrag van die subsidie wat aan enige persoon of liggaam, uitgesonderd 'n besproeiingsraad of plaaslike bestuur, toegestaan word, nie drie-en-dertig en 'n derdepersent van die koste van die werk ten opsigte waarvan dit toegestaan word, of drieduisend rand, na gelang watter bedrag die kleinste is, oorskry nie: Met dien verstande dat indien 'n groep persone 'n gesamentlike waterwerk wil bou vir die gebruik van water vir landboudoeleindes en die Minister van oordeel is dat hul doel gerieflik en doeltreffend bereik kan word sonder die instelling van 'n besproeiingsdistrik en die daarstelling van 'n besproeiingsraad om bedoelde werk uit te voer, daar behoudens die bepalings van paragraaf (a) aan bedoelde groep persone 'n subsidie van hoogstens drieduisend rand ten opsigte van elk van daardie persone, maar in die geheel hoogstens drie-en-dertig en 'n derdepersent van die koste van daardie werk, toegestaan kan word."

12. Artikel 170 van die Hoofwet word hierby gewysig deur na subartikel (5) die volgende subartikel in te voeg:

Wysiging van artikel 170 van Wet 54 van 1956, soos gewysig deur artikel 5 van Wet 63 van 1963 en artikel 7 van Wet 79 van 1967.

- „(5A) (a) Wanneer 'n bestuurder, agent of werknemer van enige persoon (in hierdie subartikel hieronder die werkgewer genoem) enige daad of versuim begaan wat 'n misdryf ingevolge hierdie Wet sou wees as die werkgewer dit begaan het, dan, tensy bewys word dat—
 (i) die werkgewer daardie daad of versuim van die bestuurder, agent of werknemer nie oogluikend toegelaat of veroorloof het nie; en
 (ii) die werkgewer alle redelike stappe gedoen het om so 'n daad of versuim te voorkom; en
 (iii) 'n daad of versuim, hetsy wettig of onwettig, van die ten laste gelegde aard onder geen voorwaardes of omstandighede binne die bestek van die be-

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course of the employment of the manager, agent or employee to do or omit to do acts, whether lawful or unlawful, of the character of the act or omission charged,

the employer shall be presumed himself to have done or omitted to do that act and shall be liable to be convicted and sentenced in respect thereof, and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, by itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

- (b) Whenever any manager, agent or employee of any such employer does or omits to do an act which it would be an offence under this Act for the employer to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer.
- (c) Any such manager, agent or employee may be so convicted and sentenced in addition to the employer.”.

Substitution of section 180 of Act 54 of 1956.

13. The following section is hereby substituted for section 180 of the principal Act:

“Applica-
tion of
Act to
South-
West
Africa.

180. (1) The State President may, by proclamation in the *Gazette*, apply any of or all the provisions of this Act to the territory of South-West Africa or any portion thereof.

(2) The provisions of sections 1 to 4, inclusive, shall be deemed to have been applied to the said territory in terms of subsection (1) of this section as from the date of commencement of the Water Amendment Act, 1969, and for the purposes of such application the expression ‘commencement of this Act’ occurring in the said section 4 shall be construed as meaning the commencement of the said Water Amendment Act, 1969.

(3) The State President may, in addition, from time to time make such regulations applicable in such territory, or any portion thereof, as he may deem necessary to enable the Minister to exercise the powers vested in him by sections 2 and 3 with a view to the preservation, conservation, control, supply, distribution or utilization for domestic, agricultural, urban or industrial purposes of the water resources or water of the said territory or portion, in the best interests of the inhabitants thereof, and may from time to time amend or withdraw any such regulations.

(4) No such regulation shall be of force and effect unless it has been approved by resolution of the Senate and of the House of Assembly.

(5) Notwithstanding the provisions of subsection (4) the Water Ordinance, 1932 (Ordinance No. 13 of 1932), and the Artesian Water Control Ordinance, 1955 (Ordinance No. 35 of 1955), of the said territory shall be deemed to be regulations made in terms of subsection (3), and any reference in—

- (a) either of the said Ordinances to the ‘Administration’ shall, except in section 24 of the said Water Ordinance, 1932, be construed as a reference to the department;
- (b) either of the said Ordinances to the ‘Administrator’ shall, except in the definition of ‘owner’ in section 1 and in section 25 of the said Water Ordinance, 1932, and in section 2 (2) of the said

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voegdheid of in die loop van die diens van die bestuurder, agent of werknemer geval het nie, word veronderstel dat die werkgewer self die daad of versuim begaan het, en kan hy ten opsigte daarvan skuldig bevind en gevonnissen word, en word die feit dat hy 'n daad of versuim van die betrokke aard verbied het, nie op sigself aanvaar as voldoende bewys dat hy alle redelike stappe gedoen het om die daad of versuim te voorkom nie.

- (b) Wanneer 'n bestuurder, agent of werknemer van enige sodanige werkgewer 'n daad of versuim begaan wat 'n misdryf ingevolge hierdie Wet sou wees as die werkgewer dit begaan, kan hy ten opsigte daarvan skuldig bevind en gevonnissen word asof hy die werkgewer is.
- (c) Enige sodanige bestuurder, agent of werknemer kan benewens die werkgewer aldus skuldig bevind en gevonnissen word."

13. Artikel 180 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 180 van Wet 54 van 1956.

„Toepassing van Wet op Suidwes-Afrika.

180. (1) Die Staatspresident kan by proklamasie in die *Staatskoerant*, verklaar dat enige bepaling of al die bepalings van hierdie Wet van toepassing is op die gebied Suidwes-Afrika of 'n gedeelte daarvan.

(2) Die bepalings van artikels 1 tot en met 4 word geag ingevolge subartikel (1) van hierdie artikel van toepassing op genoemde gebied verklaar te wees vanaf die datum van inwerkingtreding van die Waterwysigingswet, 1969, en vir die doeleindes van sodanige toepassing word die uitdrukking 'inwerkingtreding van hierdie Wet', wat in genoemde artikel 4 voorkom, uitgelê asof dit die inwerkingtreding van genoemde Waterwysigingswet, 1969, beteken.

(3) Die Staatspresident kan daarbenewens van tyd tot tyd regulasies uitvaardig wat in genoemde gebied, of 'n gedeelte daarvan, van toepassing is en wat hy nodig ag om die Minister in staat te stel om die bevoegdheid wat ingevolge artikels 2 en 3 by hom berus, uit te oefen met die oog op die bewaring, opgaring, beheer, voorsiening, distribusie of gebruik vir huishoudelike doeleindes, landboudoeleindes, stedelike doeleindes, of nywerheidsdoeleindes van die watervoorrade of water van genoemde gebied of gedeelte, in die belang van die inwoners daarvan, en kan van tyd tot tyd sodanige regulasies wysig of intrek.

(4) So 'n regulasie is nie van krag nie tensy dit by besluit van die Senaat en van die Volksraad goedgekeur is.

(5) Die Waterordonnansie, 1932 (Ordonnansie No. 13 van 1932), en die Ordonnansie op die Beheer van Artesiese Water, 1955 (Ordonnansie No. 35 van 1955), van genoemde gebied word, ondanks die bepalings van subartikel (4), geag regulasies te wees wat ingevolge subartikel (3) uitgevaardig is, en 'n verwysing in—

- (a) een van die genoemde Ordonnansies na die 'Administrasie', behalwe in artikel 24 van genoemde Waterordonnansie, 1932, word uitgelê as 'n verwysing na die departement;
- (b) een van die genoemde Ordonnansies na die 'Administrateur', behalwe in die woordomskrywing van 'eienaar' in artikel 1 en in artikel 25 van genoemde Waterordonnansie, 1932, en in artikel 2 (2) van genoemde Ordonnansie op die Beheer

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Artesian Water Control Ordinance, 1955, be construed as a reference to the Minister;

(c) section 19*bis* of the said Water Ordinance, 1932, to the 'Department' shall be construed as a reference to the 'Branch' as defined in section 1 of the said Ordinance; and

(d) either of the said Ordinances to the 'Legislative Assembly' shall be construed as a reference to Parliament;

and anything done by any authority under any provision of either of the said Ordinances prior to the commencement of the Water Amendment Act, 1969, shall be deemed to have been done by the corresponding authority under such provision of such Ordinance as so construed."

Short title.

14. This Act shall be called the Water Amendment Act, 1969.

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- van Artesiese Water, 1955, word uitgelê as 'n verwysing na die Minister;
- (c) artikel 19*bis* van genoemde Waterordonnansie, 1932, na die 'Departement' word uitgelê as 'n verwysing na die 'Afdeling' soos omskryf in artikel I van genoemde Ordonnansie; en
- (d) een van die genoemde Ordonnansies na die 'Wetgewende Vergadering' word uitgelê as 'n verwysing na die Parlement;
- en iets wat deur 'n gesag gedoen is kragtens 'n bepaling van een van genoemde Ordonnansies vóór die inwerkingtreding van die Waterwysigingswet, 1969, word geag gedoen te wees deur die ooreenstemmende gesag kragtens sodanige bepaling van genoemde Ordonnansie soos aldus uitgelê."

14. Hierdie Wet heet die Waterwysigingswet, 1969.

Kort titel.