



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 877. 26th May, 1972.

No. 877. 26 Mei 1972.

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. 45 of 1972: Water Amendment Act, 1972.

No. 45 van 1972: Waterwysigingswet, 1972.

# WET

Tot wysiging van die Waterwet, 1956, ten einde die reg op die gebruik van private water te beperk; die verbod op die besoedeling van water uit te brei; die Minister te magtig om onder sekere omstandighede oor water wat ondergronds verkry word, te beskik; voorsiening te maak vir beheer oor bedrywighede wat die natuurlike voorkoms van sekere tipes van atmosferiese neerslag kan verander; sekere bepalinge van die Onteiningswet, 1965, van toepassing te maak op die ontfening van sekere goed en die neem van sekere regte vir die doeleindes van genoemde Wet; die Minister te magtig om vorderings te hef ten opsigte van water wat uit Staatswaterwerke aan sekere persone verskaf word; verdere voorsiening te maak met betrekking tot verteenwoordiging in waterrade; verdere beperkings te lê op die gebruik van water in ondergrondse waterbeheergebiede; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 17 Mei 1972.)

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

Wysiging van  
artikel 2 van  
Wet 54 van 1956.

1. Artikel 2 van die Waterwet, 1956 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (e) deur die volgende paragraaf te vervang:

„(e) om hidrologiese en hidrografiese stasies en werke te stig of in stand te hou en van die waarnemings aldaar gedoen aantekening te hou, en in die algemeen inligting en statistieke betreffende hidrografiese en hidrologiese toestande te verkry en aan te teken, en om wysiging van neerslag te beheer ooreenkomstig die bepalinge van Hoofstuk IIIA;”.

Vervanging van  
artikel 5 van  
Wet 54 van 1956.

2. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

„Gebruik  
van private  
water.

5. (1) Behoudens die bepalinge van subartikel (2) en wettig verkreeë regte wat by die inwerkingtreding van hierdie Wet bestaan, berus die enigste en uitsluitlike reg op die gebruik en genot van private water by die eienaar van die grond waarop daardie water aangetref word: Met dien verstande dat die bepalinge van hierdie artikel nie so uitgelê word nie dat dit afbreuk doen aan die reg van 'n eienaar van grond op 'n redelike aandeel in water wat op die grond van 'n hoër geleë eienaar ontspring, in 'n bekende en bepaalde bedding vloei op, of langs die grens van, grond geleë onderkant die grond

# ACT

To amend the Water Act, 1956, so as to restrict the right to the use of private water; to extend the prohibition on the pollution of water; to authorize the Minister to dispose in certain circumstances of water found underground; to provide for control of activities which may alter the natural occurrence of certain types of atmospheric precipitation; to apply certain provisions of the Expropriation Act, 1965, to the expropriation of certain property and the taking of certain rights for the purposes of the said Act; to authorize the Minister to assess charges in respect of water supplied to certain persons from Government Water Works; to make further provision in regard to representation on water boards; to impose further restrictions on the use of water in subterranean water control areas; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)  
(Assented to 17th May, 1972.)

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

1. Section 2 of the Water Act, 1956 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (e) of the following paragraph: Amendment of section 2 of Act 54 of 1956.

“(e) to establish or maintain hydrologic and hydrographic stations and works and to record the observations obtained thereby, and generally to obtain and record information and statistics as to hydrographic and hydrologic conditions, and to control modification of precipitation in accordance with the provisions of Chapter IIIA;”.

2. The following section is hereby substituted for section 5 of the principal Act: Substitution of section 5 of Act 54 of 1956.

“Use of private water.

5. (1) Subject to the provisions of subsection (2) and rights lawfully acquired and existing at the commencement of this Act, the sole and exclusive use and enjoyment of private water belongs to the owner of the land on which such water is found: Provided that nothing in this section contained shall be construed as derogating from the right of an owner of land to a reasonable share of water which, rising on the land of an upper owner, flows in a known and defined channel on, or along the boundary of, land situated beyond that upon which

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waarop daardie water ontspring, en vir 'n tydperk van minstens dertig jaar deur die eienaar van die aldus geleë grond voordelig gebruik is.

(2) Iemand wat soos in subartikel (1) beoog word, geregtig is op die gebruik en genot van private water wat aangetref word op grond waarvan hy die eienaar is, mag nie sodanige water aan iemand anders vir gebruik op ander grond verkoop, gee of andersins van die hand sit, of sodanige water vir sy eie gebruik oor die grense van die grond waarop dit aangetref word, vervoer nie, behalwe op gesag van 'n permit deur die Minister en op voorwaardes in daardie permit uiteengesit.

(3) Die bepalings van subartikel (2) is nie van toepassing op die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en ook nie op die verkoop, gee of vandiehandsetting op 'n ander wyse van water aan genoemde Administrasie nie.

(4) Iemand wat die bepalings van subartikel (2) oortree, is aan 'n misdryf skuldig."

Wysiging van artikel 23 van Wet 54 van 1956.

3. Artikel 23 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Iemand wat opsetlik of op nalatige wyse, en, waar enige bepaling van artikel 21 of 22 van toepassing is, in stryd met daardie bepaling, enigiets doen wat openbare of private water, insluitende onderaardse water, op so 'n wyse kan besoedel dat dit minder geskik word vir die doeleindes waarvoor dit gewoonlik gebruik word of gebruik kan word deur ander persone (met inbegrip van die Regering, die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en 'n provinsiale administrasie), of vir die voortplanting van vis- of ander waterlewe, of vir ontspannings- of ander regmatige doeleindes, is aan 'n misdryf skuldig."

Wysiging van artikel 30 van Wet 54 van 1956, soos gewysig deur artikel 7 van Wet 56 van 1961 en artikel 4 van Wet 36 van 1971.

4. Artikel 30 van die Hoofwet word hierby gewysig deur subartikel (6) te skrap.

Invoeging van artikel 30A in Wet 54 van 1956.

5. Die volgende artikel word hierby in die Hoofwet na artikel 30 ingevoeg:

„Beskikking deur Minister oor water wat ondergronds verkry word.

30A. (a) Ondanks die ander bepalings van hierdie Hoofstuk kan die Minister, binne sowel as buite 'n ondergrondse waterbeheergebied, water wat onttrek word uit 'n boorgat deur die Regering gemaak, of wat deur die Regering onttrek of verkry word uit 'n ander ondergrondse bron, na en aan iemand vervoer en voorsien vir gebruik op enige grond vir 'n doel deur die Minister gemagtig, hetsy bedoelde water onttrek of verkry is op grond wat aan die Regering behoort of op ander grond: Met dien verstande dat geen water wat aldus onttrek of verkry is, aldus deur die Minister vervoer of voorsien mag word nie indien dit gevind is op grond wat nie aan die Regering behoort nie, tensy die Minister 'n reg op sodanige water verkry het deur ooreenkoms met die eienaar van daardie grond of deur onteiening ooreenkomsstig die bepalings van hierdie Wet.

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such water rises, and has for a period of not less than thirty years been beneficially used by the owner of the land so situated.

(2) A person who is, as contemplated in subsection (1), entitled to the use and enjoyment of private water found on any land of which he is the owner, shall not, except under the authority of a permit from the Minister and on such conditions as may be specified in that permit, sell, give or otherwise dispose of such water to any other person for use on any other land, or convey such water for his own use beyond the boundaries of the land on which such water is found.

(3) The provisions of subsection (2) shall not apply to the South African Railways and Harbours Administration and to the selling, giving or disposal in any other manner of any water to the said Administration.

(4) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence."

3. Section 23 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 23 of Act 54 of 1956.

"(1) Any person who wilfully or negligently, and, where any provision of section 21 or 22 applies, contrary to that provision, does any act which could pollute any public or private water, including underground water, in such a way as to render it less fit for the purposes for which it is or could be ordinarily used by other persons (including the Government, the South African Railways and Harbours Administration and any provincial administration), or for the propagation of fish or other aquatic life, or for recreational or other legitimate purposes, shall be guilty of an offence."

4. Section 30 of the principal Act is hereby amended by the deletion of subsection (6). Amendment of section 30 of Act 54 of 1956, as amended by section 7 of Act 56 of 1961 and section 4 of Act 36 of 1971.

5. The following section is hereby inserted in the principal Act after section 30: Insertion of section 30A in Act 54 of 1956.

"Disposal by Minister of water found underground.

30A. (a) Notwithstanding the other provisions of this Chapter the Minister may, within as well as outside a subterranean water control area, convey and supply any water abstracted from a borehole sunk by the Government or abstracted or obtained by the Government from any other underground source to any person for use on any land for any purpose authorized by the Minister, whether such water has been abstracted or obtained on land belonging to the Government or on other land: Provided that no water so abstracted or obtained shall be so conveyed or supplied by the Minister if it has been found on land not belonging to the Government unless the Minister has acquired a right to such water by agreement with the owner of the said land or by expropriation in accordance with the provisions of this Act.

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- (b) Vir die doeleindes van sodanige onteiening geld die bepalings van artikel 60 *mutatis mutandis* asof die betrokke boorgat of ander ondergrondse bron in 'n Staatswaterbeheergebied geleë was."

Invoeging van Hoofstuk IIIA en artikels 33A tot 33J in Wet 54 van 1956.

6. Die volgende hoofstuk word hierby in die Hoofwet na artikel 33 ingevoeg:

„HOOFSTUK IIIA.

BEHEER OOR BEDRYWIGHEDE WAT DIE NATUURLIKE VOORKOMS VAN SEKERE Tipes VAN ATMOSFERIESE NEERSLAG KAN VERANDER.

Omskrywing van 'Minister' en 'wysiging van neerslag'.

33A. In hierdie Hoofstuk beteken 'Minister' die Minister van Waterwese handelende in oorleg met die Minister van Vervoer en 'wysiging van neerslag' 'n wysiging van die natuurlike voorkoms van atmosferiese neerslag wat 'n uitwerking kan hê op die afloop van water of op die hoeveelheid ondergrondse water.

Wysiging van neerslag deur Staat, en verbod op sodanige wysiging deur persone.

33B. (1) Die Staat kan werksaamhede verrig of laat verrig om 'n wysiging van neerslag teweeg te bring.  
(2) Niemand mag, behalwe op gesag van 'n permit uitgereik kragtens artikel 33D (1) en onderworpe aan die voorwaardes in daardie permit uiteengesit, opsetlik enige wysiging van neerslag teweegbring of opsetlik 'n handeling verrig om so 'n wysiging teweeg te bring nie.

Uitreiking van lisensies in verband met wysiging van neerslag.

33C. Die Minister kan, na oorlegpleging met die adviserende komitee bedoel in artikel 33F en onderworpe aan die betaling van die gelde wat die Minister bepaal (indien wel), aan iemand wat, volgens die oordeel van die Minister, oor voldoende finansiële middele en tegniese kennis en vaardigheid beskik, 'n lisensie uitreik wat so iemand in staat stel om aansoek te doen om 'n permit ingevolge artikel 33D (1).

Uitreiking van permitte deur Minister.

33D. (1) Die Minister kan, na oorlegpleging met die adviserende komitee bedoel in artikel 33F en onderworpe aan die voorwaardes wat hy goedvind, aan iemand aan wie 'n lisensie kragtens artikel 33C uitgereik is, 'n permit uitreik wat hom magtig om namens homself of iemand anders dié wysiging van neerslag in die gebied en gedurende die tydperk in die permit vermeld, teweeg te bring.

(2) Die voorwaardes in subartikel (1) bedoel kan voorwaardes insluit met betrekking tot die metode, die toerusting en die materiaal wat aangewend kan word om die betrokke wysiging van neerslag teweeg te bring, en die verstrekking van inligting aan die sekretaris tydens en na afloop van die betrokke bedrywighede, asook die ander voorwaardes wat die Minister nodig ag, en verskillende voorwaardes kan ten opsigte van verskillende tydperke in 'n jaar voorgeskryf word.

(3) (a) Alvorens die houer van 'n permit met werksaamhede begin wat deur die permit gemagtig word, moet hy ter betaling van vergoeding vir skade, die sekuriteit by wyse van versekering verstrek wat die Minister bepaal op aanbeveling van die adviserende komitee in artikel 33F vermeld.

(b) Die sekuriteit beoog in paragraaf (a) is beperk tot sekuriteit ten opsigte van skade wat moontlik

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(b) For the purposes of such expropriation the provisions of section 60 shall *mutatis mutandis* apply as if the borehole or other underground source concerned were situated within a Government water control area.”.

6. The following chapter is hereby inserted in the principal Act after section 33:

Insertion of Chapter IIIA and sections 33A to 33J in Act 54 of 1956.

“CHAPTER IIIA.

CONTROL OF ACTIVITIES WHICH MAY ALTER THE NATURAL OCCURRENCE OF CERTAIN TYPES OF ATMOSPHERIC PRECIPITATION.

Definition of ‘Minister’ and ‘modification of precipitation’.

33A. In this Chapter ‘Minister’ means the Minister of Water Affairs acting in consultation with the Minister of Transport and ‘modification of precipitation’ means a modification of the natural occurrence of atmospheric precipitation which may have an effect on the run-off of water or on the quantity of underground water.

Modification of precipitation by State, and prohibition of such modification by persons.

33B. (1) The State may carry out or cause to be carried out operations to effect any modification of precipitation.

(2) No person shall, except under the authority of a permit issued under section 33D (1) and subject to such conditions as may be specified in that permit, wilfully effect any modification of precipitation or wilfully perform any act to effect any such modification.

Issue of licences in connection with modification of precipitation.

33C. The Minister may, after consultation with the advisory committee referred to in section 33F and subject to the payment of such fee as the Minister may determine (if so), issue to any person who, in the opinion of the Minister, commands sufficient financial means and possesses adequate technical knowledge and skill, a licence enabling such person to apply for a permit in terms of section 33D (1).

Issue of permit by Minister.

33D. (1) The Minister may, after consultation with the advisory committee referred to in section 33F and subject to such conditions as he may deem fit, issue to any person to whom a licence has been issued under section 33C, a permit authorizing him to effect such modification of precipitation on behalf of himself or any other person in such area and during such period as may be specified in the permit.

(2) The conditions referred to in subsection (1) may include conditions relating to the method, equipment and material which may be used to effect the modification of precipitation in question, the furnishing of information to the secretary during and after the operations in question, and any other conditions which the Minister may deem necessary, and different conditions may be specified in respect of different periods of any year.

(3) (a) The holder of a permit shall, before commencing any operations authorized by such permit and for the purpose of paying compensation for any damage, furnish such security by way of insurance as may be determined by the Minister on the recommendation of the advisory committee referred to in section 33F.

(b) The security referred to in paragraph (a) shall be limited to security in respect of damage which

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kan ontstaan binne die gebied en binne die tydperk wat die Minister op aanbeveling van dié komitee in elke afsonderlike geval bepaal.

Intrekking van lisensies en permitte.

**33E.** (1) Die Minister kan te eniger tyd 'n permit wat ingevolge artikel 33D (1) uitgereik is, intrek of 'n voorwaarde wysig wat in dié permit vermeld is, indien volgens sy oordeel die metode, toerusting of materiaal wat in dié permit vermeld word vir aanwending vir wysiging van neerslag, onwenslike veranderinge in weersomstandighede veroorsaak het of kan veroorsaak of indien die permithouer 'n voorwaarde in die permit vermeld, nie nagekom het nie, en kan 'n lisensie wat ingevolge artikel 33C uitgereik is, intrek, indien, na sy oordeel, die lisensiehouer nie meer ingevolge genoemde artikel 33C vir 'n lisensie kwalifiseer nie, of so 'n voorwaarde nie nagekom het nie.

(2) Die Staat of die Minister is nie aanspreeklik nie vir verlies deur iemand gely as gevolg van sodanige intrekking of wysiging van 'n permit of lisensie.

Aanstelling van advise-rende komitee.

**33F.** (1) Die Minister stel 'n adviserende komitee aan wat uit die persone bestaan wat hy bepaal. met inbegrip van 'n beampte van 'n Staatsdepartement, om hom van advies te dien oor 'n aangeleentheid in artikel 33C, 33D of 33E bedoel.

(2) Aan lede van die adviserende komitee wat nie in die heelydse diens van die Staat is nie, word daar ten opsigte van die verrigting van hul pligte as sodanige lede die besoldiging en toelaes betaal wat die Minister in oorleg met die Minister van Finansies bepaal.

Voorgenome handeling moet bekend gemaak word.

**33G.** Iemand aan wie 'n permit ingevolge artikel 33D (1) uitgereik is, mag nie met werksaamhede wat deur daardie permit gemagtig word, begin nie, tensy hy minstens drie weke voordat sodanige werksaamhede uitgevoer gaan word sy voorneme om dit te doen by kennisgewing in die *Staatskoerant* en in albei amptelike tale in 'n nuusblad in omloop in die omgewing waar dié werksaamhede uitgevoer gaan word en per aangetekende brief aan die Sekretaris van Vervoer, bekend gemaak het, met vermelding van die aard en verwagte gevolge van die voorgenome werksaamhede en die tydperk waarin dit uitgevoer gaan word.

Vrystelling van aanspreeklikheid vir skadevergoeding.

**33H.** Die Staat of 'n beampte van die Staat is nie aanspreeklik nie vir enige skade gely as gevolg van 'n handeling verrig kragtens 'n permit wat ingevolge artikel 33D (1) uitgereik is.

Verhelping.

**33I.** Indien die Minister van oordeel is dat iemand onopsetlik 'n wysiging van neerslag veroorsaak, kan die Minister so iemand skriftelik gelas om op eie koste die verhelpende stappe te doen wat die Minister nodig ag en in die lasgewing vermeld, en as so iemand versuim om sodanige stappe ten genoë van die Minister binne die tydperk in die lasgewing vermeld te doen, kan die Minister daardie stappe laat doen en die koste daardeur aangegaan op so iemand verhaal.



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may possibly arise within such area and within such period as the Minister may on the recommendation of such committee determine in any particular case.

Withdrawal of licences and permits.

**33E.** (1) The Minister may at any time withdraw a permit issued in terms of section 33D (1) or vary any condition specified in such permit, if in his opinion the method, equipment or material specified in such permit to be used to effect modification of precipitation has caused or may cause undesirable changes in the weather conditions or if the permit holder has not observed any condition specified in such permit, and may cancel any licence issued in terms of section 33C if in his opinion the licensee no longer qualifies for a licence in terms of the said section 33C or has not observed any such condition.

(2) The State or the Minister shall not be liable for any loss sustained by any person consequent upon such withdrawal, variation or cancellation of a permit or licence.

Appointment of advisory committee.

**33F.** (1) The Minister shall appoint an advisory committee consisting of such persons as he may determine, including any officer of a department of State, to advise him on any matter referred to in section 33C, 33D or 33E.

(2) Members of the advisory committee who are not in the full-time employment of the State shall be paid in respect of the performance of their duties as such members, such remuneration and allowances as the Minister in consultation with the Minister of Finance may determine.

Intended action to be made known.

**33G.** A person to whom a permit has been issued in terms of section 33D (1) shall not commence any operations authorized by such permit, unless he has made known his intention to do so, not less than three weeks before such operations are to be carried out, by notice in the *Gazette* and in both official languages in a newspaper circulating in the area where such operations are to be carried out and by registered letter to the Secretary for Transport, stating the nature and anticipated consequences of the intended operations and the period during which they are to be carried out.

Exemption from responsibility for compensation.

**33H.** The State or an officer of the State shall not be liable for any damage suffered as a result of any act performed under a permit issued under section 33D (1).

Remedial steps.

**33I.** If the Minister is of opinion that any person is unintentionally causing any modification of precipitation, the Minister may in writing direct such person to take such remedial steps at his own cost as the Minister may deem necessary and specify in such direction, and may, if such person fails to carry out such steps to the satisfaction of the Minister within the time specified in the direction, cause such steps to be carried out and recover the cost thereby incurred from that person.

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Misdrywe. **33J.** Iemand wat 'n bepaling van hierdie Hoofstuk oortree of versuim om te voldoen aan 'n voorwaarde deur die Minister kragtens artikel 33D opgelê of 'n lasgewing kragtens artikel 33I uitgereik, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe by artikel 170 (2) voorgeskryf."

Wysiging van artikel 34 van Wet 54 van 1956, soos gewysig deur artikel 19 van Wet 15 van 1969.

7. Artikel 34 van die Hoofwet word hierby gewysig deur in paragraaf (g) van subartikel (1) die woord „die”, waar dit die eerste keer voorkom, deur die woord „enige” te vervang.

Vervanging 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, artikel 5 van Wet 79 van 1967 en artikel 4 van Wet 77 van 1969.

8. Artikel 60 van die Hoofwet word hierby deur die volgende artikel vervang:

„Onteiening in sekere gebiede.

**60.** (1) Die Minister kan, onderworpe aan 'n verpligting om vergoeding te betaal, goed binne 'n Staatswaterbeheergebied of 'n opvangbeheergebied onteien of die reg neem om sodanige goed tydelik te gebruik, indien hy dit nodig ag vir of in verband met 'n Staatswaterwerk binne so 'n Staatswaterbeheergebied of om hom in staat te stel om toegangspaaie na sodanige Staatswaterwerk te bou vir gebruik deur die publiek of deur enige persoon of vir die doeltreffende uitvoering binne so 'n opvangbeheergebied van 'n werk wat hy in verband met die een of ander doeleinde vermeld in artikel 59 (2) nodig ag.

(2) (a) By die toepassing van subartikel (1) beteken „goed” roerende sowel as onroerende goed, met inbegrip van 'n bestaande reg, en „onroerende goed” ook 'n saaklike reg in of oor grond.

(b) Die bepalinge van artikels 3 tot 13 van die Onteieningswet, 1965 (Wet No. 55 van 1965), is, behoudens die bepalinge van subartikel (3) van hierdie artikel, *mutatis mutandis* van toepassing ten opsigte van die onteiening van goed of die neem van 'n reg ingevolge hierdie artikel, en 'n verwysing in genoemde artikels van daardie Wet—

- (i) na „Minister” word uitgelê as 'n verwysing na die Minister van Waterwese;
- (ii) na „artikel 2” word uitgelê as 'n verwysing na hierdie artikel;
- (iii) na „die Hooggeregshof van Suid-Afrika” word uitgelê as 'n verwysing na 'n waterhof;
- (iv) na „regter” word uitgelê as 'n verwysing na 'n regter van 'n waterhof; en
- (v) na „hierdie Wet” word uitgelê as 'n verwysing na hierdie Wet.

(3) Die bedrag vergoeding wat aan iemand betaalbaar is ten opsigte van die onteiening van goed of die neem van 'n reg ingevolge hierdie artikel, word bepaal met behoorlike inagneming ook van enige ter sake hoeveelhede water waarop so iemand geregtig is uit hoofde van die bepalinge van artikel 62 (1) of 63, of uit hoofde van 'n permit wat aan hom uitgereik is of waarskynlik uitgereik sal word kragtens artikel 62 (2).

(4) Die bepalinge van hierdie artikel is ondanks andersluidende bepalinge van die een of ander wet ook van toepassing ten opsigte van goed—

(a) in 'n gebied wat 'n afgesonderde Bantoegebied is ingevolge die Bantoe-trust en -grond Wet, 1936 (Wet No. 18 van 1936); of

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Offences. **33J.** Any person who contravenes a provision of this Chapter or neglects to comply with a condition imposed by the Minister under section 33D or a direction given under section 33I, shall be guilty of an offence and liable on conviction to the penalties prescribed by section 170 (2)."

7. Section 34 of the principal Act is hereby amended by the substitution in paragraph (g) of subsection (1) for the word "the", where it occurs for the second time, of the word "any".

Amendment of section 34 of Act 54 of 1956, as amended by section 19 of Act 15 of 1969.

8. The following section is hereby substituted for section 60 of the principal Act:

"Expropriation in certain areas.

**60.** (1) The Minister may, subject to an obligation to pay compensation, expropriate, or take the right to use temporarily, any property within a Government water control area or a catchment control area, if he considers it necessary for or in connection with any Government water work within such Government water control area or to enable him to construct access roads to such Government water work for use by the public or by any person or for the effective carrying out of any work, within such catchment control area, which he may consider necessary in connection with any of the purposes mentioned in section 59 (2).

Substitution 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, section 5 of Act 79 of 1967 and section 4 of Act 77 of 1969.

(2) (a) For the purposes of subsection (1) 'property' means both movable and immovable property, including an existing right, and 'immovable property' includes a real right in or over land.

(b) The provisions of sections 3 to 13 of the Expropriation Act, 1965 (Act No. 55 of 1965), shall, subject to the provisions of subsection (3) of this section, *mutatis mutandis* apply in respect of the expropriation of any property or the taking of any right in terms of this section, and any reference in the said sections of that Act—

- (i) to 'Minister' shall be construed as a reference to the Minister of Water Affairs;
- (ii) to 'section 2' shall be construed as a reference to this section;
- (iii) to 'the Supreme Court of South Africa' shall be construed as a reference to a water court;
- (iv) to 'judge' shall be construed as a reference to a judge of a water court; and
- (v) to 'this Act' shall be construed as a reference to this Act.

(3) The amount of compensation payable to any person in respect of the expropriation of any property or the taking of any right in terms of this section, shall be determined with due regard also to any relevant quantities of water to which such person may be entitled by virtue of the provisions of section 62 (1) or 63, or by virtue of a permit issued or likely to be issued to him under section 62 (2).

(4) Notwithstanding anything to the contrary contained in any other law, the provisions of this section shall also apply in respect of any property—

(a) in any area which is a scheduled Bantu area in terms of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936); or

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(b) in 'n gebied wat ingevolge daardie Wet 'n oopgestelde gebied is:

Met dien verstande dat die Minister geen bevoegdheid wat by hierdie artikel aan hom verleen is, ten opsigte van goed in so 'n gebied uitoefen nie, behalwe met die goedkeuring van die Staatspresident.

(5) Indien die Minister goed kragtens die bepalings van hierdie artikel onteien het en die bepalings van artikel 31 (6) (a) of 32 (5) van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), nie ten opsigte van sodanige onteiening van toepassing is nie, moet die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van enige betrokke grond geregistreer is, indien deur die sekretaris daartoe versoek en in afwagting van die oordrag of registrasie van die betrokke goed, in die gepaste registers aantekeninge maak dat sodanige goed deur die Minister verkry is.

(6) Die bepalings van artikels 142, 145 (1) (c) en 151 (2) is *mutatis mutandis* van toepassing in verband met 'n serwituut wat kragtens hierdie artikel verkry word."

Invoeging van artikel 60A in Wet 54 van 1956.

9. Die volgende artikel word hierby in die Hoofwet na artikel 60 ingevoeg:

„Oordrag van onteiene goed.

60A. Indien die Staatspresident kragtens 'n vorige wet of die Minister kragtens hierdie Wet deur onteiening of andersins grond of 'n reg verkry het in verband met water wat hy geregtig is om te gebruik, te voorsien of te beheer, of in verband met 'n waterwerk wat hy gebou het of besig is of voornemens is om te bou, hetsy namens die Regering of namens enige persoon, kan die Minister te eniger tyd daardie grond of reg oordra aan iemand namens wie hy genoemde werk gebou het of besig is of voornemens is om dit te bou of aan wie genoemde werk of die beheer daarvan of die gebruik, voorsiening, distribusie of beheer van genoemde water ooreenkomstig die bepalings van hierdie Wet of daardie vorige wet oorgedra is."

Wysiging van artikel 66 van Wet 54 van 1956, soos gewysig deur artikel 7 van Wet 36 van 1971.

10. Artikel 66 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

„(a) Ondanks andersluidende bepalings van hierdie Wet of 'n ander wet, of 'n bestaande reg of 'n ander reg op water of die gebruik daarvan kan die Minister van tyd tot tyd belastings hef op grond wat besproei kan word deur middel van water uitgeneem, voorsien of gedistribueer uit 'n Staatswaterwerk of uit 'n openbare stroom of natuurlike bedding wat in 'n Staatswaterbeheergebied is of waarin water uit so 'n werk losgelaat word, of vorderings hef vir water aldus vir enige doel uitgeneem, voorsien of gedistribueer, of kan hy sodanige belastings sowel as sodanige vorderings hef, en die belastings of vorderings aldus gehef op die eenaars van bedoelde grond of, al na die geval, op die persone wat geregtig is om sodanige water te gebruik, verhaal."

Vervanging van artikel 109 van Wet 54 van 1956, soos gewysig deur artikel 10 van Wet 36 van 1971.

11. Artikel 109 van die Hoofwet word hierby vervang deur die volgende artikel:

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(b) in any area which is a released area in terms of that Act:

Provided that the Minister shall not exercise any powers vested in him by this section in respect of any property in any such area, except with the approval of the State President.

(5) If the Minister has expropriated any property under the provisions of this section and the provisions of section 31 (6) (a) or 32 (5) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), do not apply in respect of such expropriation, the registrar of deeds in charge of the deeds registry in which the title deed to any land concerned is registered shall, if requested thereto by the secretary and pending the transfer or registration of the property in question, make notes in the appropriate registers that such property has been acquired by the Minister.

(6) The provisions of sections 142, 145 (1) (c) and 151 (2) shall *mutatis mutandis* apply in relation to any servitude acquired under this section.”.

9. The following section is hereby inserted in the principal Act after section 60:

“Transfer of expropriated property.

**60A.** If the State President has under any prior law, or the Minister has under this Act, acquired by expropriation or otherwise, any land or right in connection with any water which he is entitled to use, supply or control, or in connection with any water work which he has constructed or is constructing or intends to construct, whether on behalf of the Government or on behalf of any person, the Minister may at any time transfer such land or right to any person on behalf of whom he has constructed or is constructing or intends to construct such work or to whom the said work or the control thereof or the use, supply, distribution or control of the said water has been transferred in accordance with the provisions of this Act or the said prior law.”.

Insertion of section 60A in Act 54 of 1956.

10. Section 66 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) Notwithstanding anything to the contrary contained in this Act or any other law, or any existing right or any other right to any water or the use thereof, the Minister may from time to time assess rates on land which may be irrigated with water abstracted, supplied or distributed from a Government water work or from a public stream or natural channel which is in a Government water control area or into which water from such a work is released, or assess charges for water so abstracted, supplied or distributed for any purpose, or assess both such rates and such charges, and may recover the rates or charges so assessed from the owners of the said land or, as the case may be, from the persons entitled to use such water.”.

Amendment of section 66 of Act 54 of 1956, as amended by section 7 of Act 36 of 1971.

11. The following section is hereby substituted for section 109 of the principal Act:

Substitution of section 109 of Act 54 of 1956, as amended by section 10 of Act 36 of 1971.

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„Aanstelling van lede van waterrade, en ampstyd van lede.

- 109.** (1) (a) 'n Waterraad bestaan, behoudens die bepalings van paragraaf (b), uit soveel lede as wat die Minister van tyd tot tyd bepaal, deur hom aangestel te word (na sodanige oorlegpleging as wat hy nodig ag) uit sulke persone dat die aanstelling, volgens die oordeel van die Minister, redelike verteenwoordiging verseker van persone of klasse persone aan wie water deur daardie raad verskaf word of verskaf gaan word.
- (b) Die Minister kan, benewens die in paragraaf (a) bedoelde lede, sodanige persone as lede van 'n waterraad aanstel as wat hy goedvind.
- (2) (a) Iedere aanstelling van 'n lid van 'n waterraad word in die *Staatskoerant* afgekondig, en so 'n lid beklee sy amp, behoudens die bepalings van subartikel (4) (b), vir 'n tydperk van vier jaar vanaf die datum waarop sy aanstelling aldus afgekondig word.
- (b) 'n Lid van 'n waterraad kan, indien daartoe bevoeg, by verstryking van enige tydperk waarvoor hy sy amp beklee het, weer aangestel word.
- (3) 'n Persoon is onbevoeg om as lid van 'n waterraad aangestel te word of lid daarvan te bly indien hy weens 'n misdryf veroordeel en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen is, of indien hy insolvent of kranksinnig is of sonder die raad se verlof van drie agtereenvolgende vergaderings van die raad afwesig was.
- (4) (a) Enige toevallige vakature wat weens dood, bedanking, onbevoegdheid of andersins in 'n waterraad ontstaan, word deur die Minister gevul na sodanige oorlegpleging met die betrokke persone of klasse persone as wat hy nodig ag.
- (b) Elke sodanige vakature word gevul sodra doenlik nadat die vakature ontstaan het, maar die lid wat aangestel word om die vakature te vul, beklee sy amp slegs vir die tydperk wat die uitgaande lid dit sou beklee het indien geen vakature ontstaan het nie.
- (5) Daar kan aan 'n lid van 'n waterraad verlof tot afwesigheid van vergaderings van die raad verleen word vir so 'n tydperk as wat die raad goedvind, en die Minister kan, na sodanige oorlegpleging met die betrokke persone of klasse persone as wat hy nodig ag, 'n ander lid aanstel om in die plek van die afwesige lid op te tree gedurende die tydperk waarvoor verlof tot afwesigheid deur die raad verleen is.
- (6) Geen handeling van 'n waterraad word bloot op grond van 'n vakature in die raad of 'n gebrek of onreëlmatigheid in verband met die aanstelling of bevoegdheid van 'n lid van die raad ongeldig of onwettig gemaak nie.
- (7) Op die eerste vergadering van 'n waterraad en daarna op 'n vergadering wat in die maand Januarie van elke jaar gehou moet word, moet 'n waterraad een van sy lede as voorsitter en een van dié lede as vise-voorsitter vir die volgende jaar kies, en op 'n vergadering van so 'n raad moet die voorsitter of, in sy afwesigheid, die vise-voorsitter, of, in die afwesigheid van beide die voorsitter en die vise-voorsitter, 'n ander deur die aanwesige lede gekose lid van die raad voorsit, en indien die aldus

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"Appointment of members of water boards, and period of office of members.

109. (1) (a) A water board shall, subject to the provisions of paragraph (b), consist of so many members as the Minister may from time to time determine, to be appointed by him (after such consultation as he deems necessary) from amongst such persons that the appointment ensures, in the opinion of the Minister, reasonable representation of persons or classes of persons to whom water is or is to be supplied by that board.
- (b) The Minister may appoint such persons to be members of a water board, in addition to the members referred to in paragraph (a), as he may deem fit.
- (2) (a) Every appointment of a member of a water board shall be notified in the *Gazette*, and any such member shall, subject to the provisions of subsection (4) (b), hold office for a period of four years from the date upon which his appointment is so notified.
- (b) A member of a water board shall, if qualified, be eligible for re-appointment on termination of any period for which he has held office.
- (3) A person shall be disqualified from being appointed to or remaining a member of a water board if he has been convicted of an offence and sentenced to imprisonment without the option of a fine, or if he is insolvent or of unsound mind or has without the consent of the board absented himself from three consecutive meetings thereof.
- (4) (a) Any casual vacancy on a water board caused by death, resignation, disqualification or otherwise shall be filled by the Minister after such consultation with the persons or classes of persons concerned as he may deem necessary.
- (b) Any such vacancy shall be filled as soon as practicable after the occurrence of the vacancy, but the member appointed to fill the vacancy shall retain his office only for so long as the vacating member would have retained such office if no vacancy had occurred.
- (5) Any member of a water board may be granted leave of absence from meetings of the board for such period as the board may deem fit, and the Minister may, after such consultation with the persons or classes of persons concerned as he may deem necessary, appoint another member to act in the place of the absent member during the period for which leave of absence has been granted by the board.
- (6) No act of a water board shall be rendered invalid or illegal by reason only of any vacancy on the board or of any defect or irregularity in the appointment or qualification of any member of the board.
- (7) At the first meeting of a water board and thereafter at a meeting to be held in the month of January of each year, a water board shall elect one of the members thereof to be chairman, and one of such members to be vice-chairman for the ensuing year, and at any meeting of such board the chairman or, in his absence, the vice-chairman, or, in the absence of both the chairman and the vice-chairman, another member of the board chosen by the members present shall preside, and if the chair-

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gekose voorsitter of vise-voorsitter te sterwe kom of bedank of onbevoeg raak of andersins nie in staat is om as lid van bedoelde raad te dien nie, moet die raad op sy eersvolgende vergadering 'n ander voorsitter of vise-voorsitter, na gelang van die geval, kies, en so 'n voorsitter of vise-voorsitter dien as sodanig vir die oorblywende gedeelte van die tydperk waarvoor sy voorganger aldus verkies was."

Wysiging van artikel 172 van Wet 54 van 1956.

**12.** Artikel 172 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Ondanks andersluidende wetsbepalings, mag niemand water binne 'n gebied wat kragtens artikel 59 tot 'n Staatswaterbeheergebied verklaar is, of ondergrondse water binne 'n gebied wat kragtens artikel 28 tot 'n ondergrondse waterbeheergebied verklaar is, uitneem of verdeel nie, dan alleen ooreenkomstig die bepalinge van hierdie Wet."

Vervanging van lang titel van Wet 54 van 1956.

**13.** Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

„Tot samevatting en wysiging van die wette met betrekking tot die beheer, bewaring en gebruik van water vir huishoudelike, landbou-, stedelike, en nywerheidsdoeleindes en om voorsiening te maak vir die beheer van sekere bedrywighede op of in water in sekere gebiede en van bedrywighede wat die natuurlike voorkoms van sekere tipes van atmosferiese neerslag kan verander."

Kort titel.

**14.** Hierdie Wet heet die Waterwysigingswet, 1972.



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man or the vice-chairman so elected dies or resigns or becomes disqualified or is otherwise unable to serve as a member of the said board, the board shall at its next succeeding meeting elect another chairman or vice-chairman, as the case may be, and such chairman or vice-chairman shall serve as such for the remainder of the period for which his predecessor in office was so elected.”.

12. Section 172 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: Amendment of section 172 of Act 54 of 1956.

“(3) Notwithstanding anything contained in any law, no person shall abstract or distribute water within an area which has under section 59 been declared to be a Government water control area, or subterranean water within an area which has under section 28 been declared to be a subterranean water control area, except in accordance with the provisions of this Act.”.

13. The following long title is hereby substituted for the long title to the principal Act: Substitution of long title to Act 54 of 1956.

“To consolidate and amend the laws relating to the control, conservation and use of water for domestic, agricultural, urban and industrial purposes and to make provision for the control of certain activities on or in water in certain areas and of activities which may alter the natural occurrence of certain types of atmospheric precipitation.”.

14. This Act shall be called the Water Amendment Act, 1972. **Short title.**