

## OFFICE OF THE PRESIDENT

No. 2086 7 December 1994

### NO. 32 OF 1994: WATER LAWS RATIONALISATION AND AMENDMENT ACT, 1994.

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

#### General Explanatory Note:

Words in ***bold italic*** indicate omissions from existing enactments.

Words in *italic* indicate insertions in existing enactments.

#### ACT

To provide for the rationalisation of certain laws relating to water matters that remained in force in various areas of the national territory of the Republic by virtue of section 229 of the Constitution; to amend the Rand Water Board Statutes (Private) Act, 1950, so as to authorise the Rand Water Board to render water supply and sanitation services; to amend the Water Act, 1956, so as to redefine certain expressions; to make certain provisions of the Water Act applicable to the Rand Water Board; to authorise the Minister and water boards to render water supply and sanitation services; to provide for the establishment and functioning of local water supply and sanitation committees; and to further regulate the financial year of a water board; to amend the Water Act, 1988 (Bophuthatswana), so as to define, redefine or delete certain expressions; to amend the Bophuthatswana Water Supply Authority Act, 1988, so as to further regulate the composition of the Bophuthatswana Water Supply Authority Board; to further regulate the term of office of the members of the said Board; to further regulate the quorum at meetings of the said Board; to authorise the Bophuthatswana Water Supply Authority to render water supply and sanitation services; to replace the short title of the Act, and to change the names of the said Board and Authority; and to provide for the functioning of the said Authority in an extended area of jurisdiction; to make provision that water boards may function in certain areas of the territory of the former Republic of Bophuthatswana; and to provide for matters connected therewith.

(Afrikaans text signed by the President.) (Assented to 23 November 1994.)

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

#### Repeal of laws, and savings

1. (1) Subject to the provisions of subsection (2), the laws mentioned in the second column of Part I of Schedule 1 are hereby repealed to the extent that such laws were in force in the various areas of the national territory of the Republic as set out in the fourth column of Part 1 of Schedule I immediately prior to the commencement of the Constitution.

(2) Anything done under a law mentioned in the second column of Part I of Schedule 1 which is capable of being done under a provision of a law mentioned in the second column of Schedule 2, shall be deemed to have been done under such provision of such law.

#### Restriction of application of certain laws

2. (1) The laws mentioned in the second column of Part 2 of Schedule 1 shall, subject to the provisions of subsection (2), from a date determined by the Minister of Water Affairs and Forestry by notice in the Gazette, cease to apply in respect of-

(a) land situated in the district of Thaba Nchu as described under the heading of the Province of the Orange Free State in Part t of Schedule 1 to the Constitution;

(b) land described in Proclamation R.142 of 30 September 1983; and

(c) land described under the heading of Province of the Orange Free State in Proclamation R.98 of 30 June 1989.

(2) A notice contemplated in subsection (1)-

(a) shall, in respect of land referred to in subsection (1), provide for-

(i) the continued exercise of any water right as defined in section I of the Water Act, 1988 (Act No. 38 of 1988) (Bophuthatswana), or of any other authorisation under the said Act; and

(ii) the continued recognition of any other entitlement to water recognised under the said Act, in terms of a provision of the Water Act, 1956 (Act No. 54 of 1956), mentioned in the second column of Schedule 2 to this Act or in terms of such other provision made by the Minister of Water Affairs and Forestry in such notice, to effect such continued exercise or recognition;

(b) shall, in respect of land referred to in subsection (1), provide for the continuation, by the Minister of Water Affairs and Forestry or a water board established under the said Water Act, 1956, of the supply and distribution of water or the purification, treatment and disposal of effluent undertaken immediately prior to the commencement of this Act by the Bophuthatswana Water Supply Authority or any other designated body or person as contemplated in Chapter III of the Bophuthatswana Water Supply Authority Act, 1988 (Act No. 39 of 1988) (Bophuthatswana);

(c) may provide for the transfer of any asset or liability of the Bophuthatswana Water Supply Authority or body or person referred to in paragraph (b) to the State or such water board, as the Minister of Water Affairs and Forestry considers desirable for or in connection with the continuation of such supply and distribution of water or such purification, treatment and disposal of effluent.

### **Extension of application of certain laws**

3. The laws mentioned in the second column of Schedule 2 which immediately prior to the commencement of the Constitution were in force in the national territory of the Republic, excluding the areas of the national territory set out in the fourth column of Part 1 of Schedule 1, shall, on the commencement of this Act, also apply in respect of all the areas of the national territory set out in the fourth column of Part 1 of Schedule 1, to the extent that such laws can be applied: Provided that with regard to the territory of the former Republic of Bophuthatswana, the laws mentioned under items (a), (e) and (f) of Schedule 2 shall only apply in respect of that part of the territory of the former Republic of Bophuthatswana referred to in section 2(1), which application shall commence on the date contemplated in section 2(1).

### **Insertion of section 31A in Act 17 of 1950**

4. The following section is hereby inserted in the Rand Water Board Statutes (Private) Act, 1950, after section 31:

"Power to render water supply and sanitation service

*31A. (1) (a) The board may, subject to subsection (2), render or cause a water supply and sanitation service to be rendered within the limits of supply to any community occupying land for residential and related purposes with a view to promoting the object of section 29 of the Constitution or to promoting public health, if in respect of that community, no local authority exists or a local authority having jurisdiction is not able to render such service.*

*(b) For the purposes of this section, 'water supply and sanitation service' shall have the meaning assigned thereto in section 26A of the Water Act, 1956 (Act No. 54 of 1956).*

*(2) (a) The rendering of a water supply and sanitation service under subsection (1)(a), shall be subject to the approval of the Minister which may relate-*

(i) to the rendering of such service to all communities concerned within the limits of supply;

(ii) to the rendering of such service to a particular community or to a category of communities within the limits of supply as may be determined by the Minister;

(iii) to the capacity or any other typical feature, as may be determined by the Minister, of any facility to be provided, operated or maintained by or on behalf of the board for or in connection with the rendering of a water supply and sanitation service, and which approval shall be subject to such conditions as may be determined by the Minister and specified in the approval.

(b) Conditions contemplated in paragraph (a) may include conditions relating to-

(i) minimum standards to be maintained or guidelines to be taken into account in the rendering of a water supply and sanitation service;

(ii) the financing of such service;

(iii) charges to be assessed in respect of such service and the persons from whom such charges shall be recovered."

**Amendment of section I of Act 54 of 1956, as amended by:**

section I of Act 56 of 1961  
section 57 of Act 28 of 1966  
section I of Act 79 of 1967  
section I of Act 36 of 1971  
section I of Act 51 of 1979  
section I of Act 92 of 1980  
section 1 of Act 96 of 1984  
section 1 of Act 68 of 1987  
section I of Act 68 of 1990 and  
section 1 of Act 92 of 1993

5. Section I of the Water Act, 1956, is hereby amended-

(a) by the substitution for the definition of "Minister" of the following definition: " 'Minister' means the Minister of Water Affairs and Forestry;"; and

(b) by the substitution for the definition of "use for urban purposes" of the following definition: " ' use for urban purposes', in relation to water, means use, by urban and rural people, for purposes for which water is ordinarily used by a local authority or by the inhabitants of such an area, including use for domestic purposes or for the purpose of waterborne sanitation or for the watering of gardens, the watering or cleaning of streets or for industrial purposes;".

**Amendment of section 4 of Act 54 of 1956, as amended by section 3 of Act 68 of 1987**

6. Section 4 of the Water Act, 1956, is hereby amended by the substitution for subsection (2) of the following subsection: "(2) Nothing in this Act contained shall be construed as affecting or derogating from any rights, powers, duties or functions vested in, conferred upon or assigned to the Rand Water Board under any law: *Provided that this subsection shall not apply in respect of any provision of this Act which binds the State.*".

**Insertion of Chapter HA in Act 54 of 1956**

7. The following Chapter is hereby inserted in the Water Act, 1956, after section 26:

"CHAPTER IIA

**Water supply and Sanitation**

## **Definitions**

*26A. In this Chapter- 'committee' means any local water supply and sanitation committee established in terms of section 26C(1); 'water supply and sanitation service' means the provision, operation and maintenance of any facility-*

*(a) permitting access to water of a quality suitable for use for domestic purposes and in sufficient quantities to satisfy basic human needs; and*

*(b) relating to the removal of night-soil or sewage of domestic origin from a domestic environment and its disposal, and includes measures intended to promote the effective use of such facility*

## **Rendering of water supply and sanitation services by Minister**

*26B. (1) The Minister may, out of moneys appropriated by Parliament for the purpose, render or cause a water supply and sanitation service to be rendered to any community occupying land for residential and related purposes with a view to promoting the object of section 29 of the Constitution or to promoting public health, if, in respect of that community, no local authority exists or a local authority having jurisdiction is not able to render such service.*

*(2) Any facility provided, operated or maintained by or on behalf of the Minister for or in connection with the rendering of a water supply and sanitation service in terms of subsection (1) shall, for the purposes of sections 56(4), 60 and 69, be deemed to be a Government water work.*

*(3) (a) In order to defray any expenditure incurred or to be incurred in connection with the rendering of a water supply and sanitation service, the Minister may from time to time assess such charges as he or she deems fit, and may recover the charges so assessed in accordance with the provisions of paragraph (c): Pro- vided that such charges shall be assessed with due regard to the ability of the community or communities concerned to afford such charges, and that revenue resulting from such charges shall not exceed in any case the cost incurred in the rendering of such service.*

*(b) Charges under paragraph (a) may be assessed-*

*(i) in general in respect of all water supply and sanitation services rendered by or on behalf of the Minister;*

*(ii) in respect of a particular community or categories of communities as may be determined by the Minister, in relation to which a water supply and sanitation service is rendered;*

*(iii) in respect of a facility or categories of facilities as may be determined by the Minister, that is provided, operated or maintained by or on behalf of the Minister for or in connec-tion with the rendering of water supply and sanitation ser-vices.*

*(c) Charges assessed in terms of this subsection shall be recovered from such members of the community concerned on a basis and in a manner as may be determined by the Minister-*

*(i) in general in respect of all communities in relation to which water supply and sanitation services are rendered;*

*(ii) in respect of a particular community or categories of communities as may be determined by the Minister in relation to which water supply and sanitation services are rendered; or*

*(iii) in respect of a facility or categories of facilities as may be determined by the Minister that is provided, operated or maintained for or in connection with the rendering of water supply and sanitation services.*

## **Minister may establish local water supply and sanitation committees**

*26C. (1) Subject to section 26B(1), the Minister may, in accord- ance with the regulations made under section 26D, establish a local water supply and sanitation committee to render in accordance with the said regulations any water supply and sanitation service as the Minister may from time to time direct.*

*(2) A committee contemplated in subsection (1) shall only be established and any direction contemplated in that subsection shall only be issued after consultation with the community concerned, or any constituency of such a*

*community and with such other persons or bodies, as the Minister may determine in general or in any particular instance, with regard to-*

*(a) the nature and extent of the water supply and sanitation service to be rendered;*

*(b) the area within which or the community in relation to which the water supply and sanitation service is to be rendered;*

*(c) the composition of the committee and the manner in which members are to be identified and appointed;*

*(d) any contribution, in kind or otherwise, to be made by the community or members of the community in respect of the provision, operation or maintenance of any facility involved in the rendering of the water supply and sanitation service under consideration; and*

*(e) any other matter which the Minister or the community considers relevant to the rendering of the water supply and sanitation service under consideration.*

*(3) (a) The Minister may at any time, subject to the provisions of subsection (2), in writing direct a committee to undertake the supply of water under its control, to any person for use for any purpose, at any place and on such conditions as specified in the direction,*

*(b) Any direction under paragraph (a) may at any time be revoked or amended by the Minister or any condition specified therein be cancelled or amended, or the direction may be made subject to such new or additional conditions as the Minister may impose.*

*(4) Any committee established in terms of subsection (1) shall be a juristic person.*

*(5) The Minister may, in accordance with the regulations made under section 26D, disestablish any committee by notice in the Gazette.*

## **Regulations**

*26D.(1) The Minister may, subject to subsection (2), make regulations as to-*

*(a) the manner in which a committee shall be established;*

*(b) the constitution of a committee and the election or appointment of persons as members of such committee;*

*(c) the qualifications for election or appointment as, the period of office of, and the vacating of their office as, members of a committee, and the filling of casual vacancies in a committee;*

*(d) the election and the period of office of a chairperson and any other functionary of a committee;*

*(e) the convening of and the procedure and quorum at meetings of a committee; the remuneration of, and the payment of allowances for ex-penses to, a member of a committee;*

*(g) the appointment, the salary, wage or other remuneration, and the rights, privileges and other conditions of service, of any officer or employee of a committee;*

*(h) the powers, duties and functions of a committee, and the delegation or assignment of any power, duty or function entrusted to a committee by or under this Act to a chairperson or other functionary of a committee or an officer or employee of a committee;*

*(i) charges to be assessed by a committee in relation to the water supply and sanitation service rendered by it, the recovery of any such charges and the steps that a committee can take on failure to pay any such charges on time, including the payment of interest on outstanding charges;*

*(j) the keeping of records of moneys received or expended by a committee, and of its assets, liabilities and financial transactions, the preparation of its annual financial statements, the auditing and inspection of such records and statements, and the returns to be furnished to the department;*

*(k) the convening of and the procedure at an annual general meeting and a special meeting of the members of the community in respect of which a water supply and sanitation service is rendered or to be (h) the powers, duties and functions of a committee, and the delegation or assignment of any power, duty or function entrusted to a committee by or under this Act to a chairperson or other functionary of a committee or an officer or employee of a committee;*

*(i) charges to be assessed by a committee in relation to the water supply and sanitation service rendered by it, the recovery of any such charges and the steps that a committee can take on failure to pay any such charges on time, including the payment of interest on outstanding charges;*

*(j) the keeping of records of moneys received or expended by a committee, and of its assets, liabilities and financial transactions, the preparation of its annual financial statements, the auditing and inspection of such records and statements, and the returns to be furnished to the department;*

*(k) the convening of and the procedure at an annual general meeting and a special meeting of the members of the community in respect of which a water supply and sanitation service is rendered or to be rendered;*

*(l) the investigation of the affairs of a committee by an officer of the department, any steps that may be taken by the Minister or the Director-General pursuant to such investigation and the representation of the department at meetings of a committee; Minister.*

### **Committees may make bye-laws**

*26E. A committee may make by-laws not inconsistent with a provision of this Act or the regulations made under section 26D as to-*

*(a) the method of supervising or controlling the use made by members of the community concerned of a water supply and sanitation service rendered by the committee or of any facility provided by the committee for or in connection with such service;*

*(b) the supply of water as contemplated in section 26C(3);*

*(c) the procedure at its meetings;*

*(d) the appointment, salary, wage or other remuneration, and the rights, privileges and other conditions of service, of its officers and employees;*

*(e) the powers, duties and functions of the various functionaries of the committee and of its officers and employees; and in general, any matter which the committee may consider necessary or desirable to prescribe or regulate in order to exercise or perform its powers, duties and functions.*

### **Validity of acts performed by committees**

*26F. (1) Any act performed in good faith by a committee or any functionary or officer or employee thereof in the exercise or performance of any power, duty or function entrusted to a committee by or under this Act shall, although it may afterwards be discovered that there was some defect in the constitution, election or appointment of the committee, functionary, officer or employee, or that the committee, functionary, officer or employee was otherwise disqualified from so acting, be as valid as if the committee, functionary, officer or employee had been duly constituted, elected, appointed or qualified.*

*(2) A committee shall not be deemed to be defectively constituted merely by reason of any failure to elect or appoint the prescribed number of members thereof, or by reason of any vacancy existing therein, provided that there is a sufficient number of members on the committee to form a quorum.*

### **Minister may render assistance to committees**

*26G. (1) The Minister may out of moneys appropriated by Parliament for such purpose and on such conditions as he or she may by notice in the Gazette determine, with the concurrence of the Minister of Finance-*

*(a) in general, in respect of all committees or in respect of different categories of committees; or*

*(b) in any particular case, subsidise a committee or committees in respect of any cost incurred by a committee or committees in rendering any water supply and sanitation service: Provided that no subsidy shall be paid under this subsection unless the Minister has approved the subsidisation before the cost in question has been incurred.*

*(2) The Minister may through officers of the department or through such other persons as the Minister deems expedient, at the cost of the department, render technical, administrative, accounting or other assistance to a committee in the exercise or performance of its powers, duties and functions.*

*(3) The Minister may out of moneys appropriated by Parliament for such purpose and on such conditions as he or she may determine, with the concurrence of the Minister of Finance, advance moneys to a committee to enable it to exercise or perform any of its powers, duties or functions in anticipation of revenue to be raised from charges assessed by the committee in respect of a water supply and sanitation service rendered by it.*

## **Offences**

26H. Any person who-

*(a) contravenes or fails to comply with a provision of any regulation made under section 26D; or*

*(b) contravenes or fails to comply with any provision of a by-law made under section 26E(a) or (b), shall be guilty of an offence."*

## **Insertion of section 110C in Act 54 of 1956**

8. The following section is hereby inserted in the Water Act, 1956, after section 110B:

"Power of water board to render water supply and sanitation service

*IIOC. (1) (a) A water board may, subject to subsection (2), render or cause a water supply and sanitation service to be rendered within the area for which it has been established to any community occupying land for residential and related purposes with a view to promoting the object of section 29 of the Constitution or to promoting public health, if in respect of that community, no local authority exists or a local authority having jurisdiction is not able to render such service.*

*(b) For the purposes of this section 'water supply and sanitation service' shall have the meaning assigned thereto in section 26A.*

*(2) (a) The rendering of a water supply and sanitation service under subsection (1)(a) shall be subject to the approval of the Minister which may relate-*

*(i) to the rendering of such service to all communities concerned within the area for which that water board has been established;*

*(ii) to the rendering of such service to a particular community or to a category of communities within the area for which that water board has been established as may be determined by the Minister;*

*(iii) to the capacity or any other typical feature, as may be determined by the Minister, of any facility to be provided, operated or maintained by or on behalf of that water board for or in connection with the rendering of a water supply and sanitation service, and which approval shall be subject to such conditions as may be determined by the Minister and specified in the approval.*

*(b) Conditions contemplated in paragraph (a) may include conditions relating to-*

*(i) minimum standards to be maintained or guidelines to be taken into account in the rendering of a water supply and sanitation service;*

(ii) *the financing of such service;*

(iii) *charges to be assessed in respect of such service and the persons from whom such charges shall be recovered."*

#### **Amendment of section 123 of Act 54 of 1956, as amended by section 49 of Act 96 of 1984**

9. Section 123 of the Water Act, 1956, is hereby amended by the substitution for subsection (1) of the following subsection: "(1) The financial year of a water board shall end on **\*\*the last day of February\*\*** *a date* in each year as *determined from time to time by the water board.* "

#### **Amendment of section 2 of Act 38 of 1988 (Bophuthatswana)**

10. Section 2 of the Water Act, 1988, is hereby amended-

(a) by the substitution for the definition of "Department" of the following definition: " 'Department' means the Department of Water Affairs and *Forestry*";;

(b) by the insertion after the definition of "Department" of the following definition: " '*Director-General*' means the *Director-General: Water Affairs and Forestry*";;

(c) by the substitution for the definition of "Minister" of the following definition: " 'Minister' means the Minister of Water Affairs *and Forestry*";;

(d) by the insertion after the definition of "repealed law" of the following definition: " '*Republic*' means the territory of the former Republic of Bophuthatswana;"; and

(e) by the deletion of the definition of "Secretary".

#### **Substitution of certain expressions in Act 38 of 1988 (Bophuthatswana)**

11. The Water Act, 1988, is hereby amended-

(a) by the substitution for the expression "Bophuthatswana Water Supply Authority", wherever it occurs, of the expression "North-West Water Supply Authority"; and

(b) by the substitution for the expression "Secretary", wherever it occurs, of the expression "Director-General".

#### **Amendment of section 2 of Act 39 of 1988 (Bophuthatswana)**

12. Section 2 of the Bophuthatswana Water Supply Authority Act, 1988, is hereby amended-

(a) by the substitution for the definition of "Department" of the following definition: " 'Department' means the Department of Water Affairs and Forestry";;

(b) by the insertion after the definition of "designated water supply authority" of the following definition: '*Director-General*' means the *Director-General: Water Affairs*

(c) by the insertion after the definition of "General Reserve Fund" of the following definition: " '*Government of the Republic*' means the *Government of the Republic of South Africa*";;

(d) by the substitution for the definition of "Minister" of the following definition: '*Minister*' means the Minister of Water Affairs and Forestry--"

(e) by the insertion after the definition of "regulation" of the following definition: " '*Republic*' means the territory of the former Republic of Bophuthatswana;"; and

(f) by the deletion of the definition of "Secretary".

#### **Substitution of sections 3 and 4 of Act 39 of 1988 (Bophuthatswana)**

13. The following sections are hereby substituted for sections 3 and 4 of the Bophuthatswana Water Supply Authority Act, 1988, respectively:

"Establishment of North-West Water Supply Authority, and objects thereof

3. (1) There is hereby established the **Bophuthatswana** *North-West* Water Supply Authority, which shall, subject to the provisions of the Water Act, 1988, and in accordance with the provisions of this Act-

(a) supply and distribute and ensure the provision of water, whether in purified or unpurified form, on a coordinated basis to consumers on a national scale;

(b) render effluent treatment or purification services to persons in the Republic and, where necessary, dispose of effluent, including water recovered from effluent.

(2) The **Bophuthatswana** *North-West* Water Supply Authority shall, under that name, be a body corporate with perpetual succession and, for the purposes of carrying on its business and operations and exercising and performing its powers, functions and duties under this Act, be capable in law of instituting or defending or opposing legal proceedings of whatever nature, of purchasing or otherwise acquiring and holding and alienating movable and immovable property and acquiring real and other rights thereto or any interests therein, of entering into contracts and agreements and, generally, of performing and doing such other acts and things as bodies corporate may by law perform and do, subject to the provisions of this Act.

(3) As from the commencement of this Act and subject to the provisions thereof, the Authority shall be controlled and represented by the **Bophuthatswana** *North-West* Water Supply Authority Board as hereinafter provided, and all acts of that Board shall be deemed to be acts of the Authority.

#### **Composition of North-West Water Supply Authority Board**

4. (1) The **Bophuthatswana** *North-West* Water Supply Authority Board shall consist of **not more than eleven and not fewer than seven members** *such number of members as the Minister may from time to time determine* of whom-

(a) **one shall be the Chief Executive Officer;**

(b) **one shall be the Secretary** *an officer of the Department designated by the Director-General;* and

[(c)](b) the remaining members shall be appointed in terms of subsection (3) by virtue of being suitable for membership in view of-

(i) their professional, technical or administrative qualifications, expertise or experience; or

(ii) being representative of the broad classes of consumers within the Republic.

(2) There may for each or any member of the Board referred to in subsection (1)(c) - hereinafter referred to as an appointed member - be appointed an alternate member, and for the purposes of the appointment of **such** an alternate member *in respect of a member contemplated in subsection (1)(b)*, the considerations in subparagraphs (i) and (ii) of that subsection which are relevant to the appointment of the member of the Board for whom he *or she* is an alternate, shall *mutatis mutandis* apply.

(3) The members of the board referred to in **subsections (1)(c)** *subsection (1)(b)* and *referred to in subsection (2)*, *excluding the alternate member to the member referred to in subsection (1)(a)*, shall be appointed by the Minister for such period (not exceeding three years) as the Minister may generally or in relation to any particular member determine, and any such member who is not in the full-time service of the State shall, in connection with the performance of his *or her* functions and duties as a member of the Board, be paid such remuneration and allowances and be entitled to such perquisites as the Minister in consultation with the Minister of Finance may from time to time determine.

(4) Upon the expiration of the term of office of any appointed member or alternate member, he *or she* shall be eligible for re-appointment.

(5) Whenever an appointed member of the Board in respect of whom a person has been appointed as alternate, is for any reason unable to attend a meeting of the Board or to exercise and perform his *or her* powers, functions and duties as a member of the Board, such alternate member may in the place of the appointed member for whom he or she is the alternate attend such meeting of the Board and participate in the proceedings and voting thereat and fully exercise and perform all the other powers, functions and duties of that appointed member: Provided that the person appointed as the alternate for the **\*\*chairman\*\*** *chairperson* shall not at any meeting of the Board at which the **\*\*chairman\*\*** *chairperson* is absent, exercise or perform any of the powers, functions or duties pertaining to the office of **\*\*chairman\*\*** *chairperson*

#### **Amendment of section 6 of Act 39 of 1988 (Bophuthatswana)**

14. Section 6 of the Bophuthatswana Water Supply Authority Act, 1988, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Notwithstanding the provisions of section 4(3), the term of office of any appointed or alternate member may, before the expiration thereof, be terminated *at any time* by the Minister *if in the opinion of the Minister there are good reasons for doing so* (whereupon the member concerned shall be removed from office) **\*\***-

- (a) on account of his misconduct;
- (b) on account of unfitness for the duties of his office;
- (c) on the ground of a permanent infirmity of mind or body which renders him incapable of discharging the duties of his office or discharging them properly;
- (d) if he is or has become disqualified in terms of section 5;
- (e) when he ceases to hold any qualification which, in terms of section 4(1)(c), is a prerequisite for his appointment as a member under that section**\*\***. "

#### **Amendment of section 10 of Act 39 of 1988 (Bophuthatswana)**

15. Section 10 of the Bophuthatswana Water Supply Authority Act, 1988, is hereby amended by the substitution for subsection (1) of the following subsection: "(1) At any meeting of the Board the quorum shall be

- \*\***(a) four members where the Board has seven or eight members;
- (b) five members where the Board has nine or ten members; or
- (c) six members where the Board has eleven members**\*\*** *such number of members as constitutes half of the total number of members constituting the Board at the time of the meeting or, if the Board is constituted of an unequal number of members, such number as just exceeds half of the total number of members.*"

#### **Amendment of section 17 of Act 39 of 1988 (Bophuthatswana), as amended by section 8 of Act 40 of 1989 (Bophuthatswana)**

16. Section 17 of the Bophuthatswana Water Supply Authority Act, 1988, is hereby amended-

- (a) by the insertion after subsection (5) of the following subsection: "*(5A) The Chief Executive Officer shall not, without his or her own consent, be removed from his or her office, nor shall his or her salary or his or her emoluments be reduced, without the approval of the Minister: Provided that the Board may suspend the Chief Executive Officer from the duties or emoluments of his or her office for gross incapacity, neglect or misconduct pending the sanction of the Minister to his or her dismissal, in which event the Chief Executive Officer shall, upon sanction being granted, be deemed to have been removed from office as from the date of such suspension.*"; and
- (b) by the deletion of subsections (6), (7) and (8).

### **Amendment of section 22 of Act 39 of 1988 (Bophuthatswana)**

17. Section 22 of the Bophuthatswana Water Supply Authority Act, 1988, is hereby amended-

- (a) by the substitution for the expression "State President", wherever it occurs in subsections (1), (2), (3) and (4), of the expression "Minister"; and
- (b) by the substitution for the expression "Minister", wherever it occurs in subsections (2) and (3), of the expression "Director-General".

### **Amendment of section 34 of Act 39 of 1988 (Bophuthatswana), as amended by section I of Act 33 of 1991 (Bophuthatswana)**

18. Section 34 of the Bophuthatswana Water Supply Authority Act, 1988, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The Board shall, not later than 30 days after receipt of the auditor's report referred to in subsection (2), submit a copy of the audited financial statements of the Authority, together with such report and the report referred to in subsection (3), to the Minister \*\*who shall, within fourteen days after receipt thereof, lay it on the table in the National Assembly, if the National Assembly is then in session, or, if the National Assembly is not then in session, within fourteen days after the commencement of its next ensuing session\*\*."

### **Insertion of Chapter IIIA in Act 39 of 1988 (Bophuthatswana)**

19. The following Chapter is hereby inserted in the Bophuthatswana Water Supply Authority Act, 1988, after section 40:

"CHAPTER IIIA

#### **Water supply and Sanitation**

##### **Power of Authority to render water supply and sanitation service**

*40A. (1) (a) The Authority may, subject to subsection (2), render or cause a water supply and sanitation service to be rendered within an area of supply as determined in terms of section 36(l) to any community occupying land for residential and related purposes with a view to promoting the object of section 29 of the Constitution or to promoting public health, if in respect of that community, no local authority exists or a local authority having jurisdiction is not able to render such service.*

*(b) For the purposes of this section 'water supply and sanitation service' shall have the meaning assigned thereto in section 26A of the Water Act, 1956 (Act No. 54 of 1956).*

*(2)(a) The rendering of a water supply and sanitation service under subsection (1)(a) shall be subject to the approval of the Minister which may relate-*

*(i) to the rendering of such service to all communities concerned within the Authority's area of supply as determined in terms of section 36(l);*

*(ii) to the rendering of such service to a particular community or to a category of communities within the Authority's area of supply as determined in terms of section 36(l) as may be determined by the Minister;*

*(iii) to the capacity or any other typical feature, as may be determined by the Minister, of any facility to be provided, operated or maintained by or on behalf of the Authority for or in connection with the rendering of a water supply and sanitation service, and which approval shall be subject to such conditions as may be determined by the Minister and specified in the approval.*

*(b) Conditions contemplated in paragraph (a) may include conditions relating to-*

*(i) minimum standards to be maintained or guidelines to be taken into account in the rendering of a water supply and sanitation service;*

*(ii) the financing of such service;*

*(iii) charges to be assessed in respect of such service and the persons from whom such charges shall be recovered."*

### **Substitution of section 47 of Act 39 of 1988 (Bophuthatswana)**

20. The following section is hereby substituted for section 47 of the Bophuthatswana Water Supply Authority Act, 1988:

"Short title

47. This Act shall be called the [Bophuthatswana] North-West Water Supply Authority Act, 1988."

### **Substitution of certain expressions in Act 39 of 1988 (Bophuthatswana)**

21. (1) The Bophuthatswana Water Supply Authority Act, 1988, is hereby amended-

(a) by the substitution for the expression "Bophuthatswana Water Supply Authority", wherever it occurs, of the expression "North-West Water Supply Authority";

(b) by the substitution for the expression "Bophuthatswana Water Supply Authority Board", wherever it occurs, of the expression "North-West Water Supply Authority Board"; and

(c) by the substitution for the expression "Secretary", wherever it occurs, of the expression "Director-General".

(2) Unless it is clearly inappropriate in any particular case, any reference in any law or document to "Bophuthatswana Water Supply Authority" or "Bophuthatswana Water Supply Authority Board" shall be construed as a reference to "North-West Water Supply Authority" and "North-West Water Supply Authority Board", respectively.

### **Extension of area of jurisdiction of North-West Water Supply Authority**

22. (1) Notwithstanding any provision of the Water Act, 1988 (Act No. 38 of 1988) (Bophuthatswana), the North-West Water Supply Authority Act, 1988 (Act No. 39 of 1988) (Bophuthatswana), or any other law, the North-West Water Supply Authority (in this section referred to as "the Authority") established by section 3 of the said North-West Water Supply Authority Act, 1988, shall, subject to subsections (2) and (3), be capable of exercising any power and performing any function or duty conferred or imposed on it by or under any law referred to or contemplated in this subsection, within the area of the Province of North-West as defined in Part 1 of Schedule I to the Constitution that is not normally in its area of jurisdiction.

(2) The exercise or performance of any power, function or duty as contemplated in subsection (1), shall be subject to the publication in the Gazette of a notice by the Director-General: Water Affairs and Forestry in which-

(a) the power, function or duty to be exercised or performed by the Authority shall be set out; and

(b) the area in which such power, function or duty shall be exercised or performed shall be described.

(3) The Minister of Water Affairs and Forestry may in general or in relation to any particular notice referred to in subsection (2), by notice in the Gazette-

(a) declare that any provision of the Water Act, 1956 (Act No. 54 of 1956), relating to an area for which a water board has been established under section 108 of the said Act, or relating to such water board, shall apply to the Authority to the extent stated in the declaration;

(b) in so far as he or she considers it necessary for the efficient exercise or performance by the Authority of such power, function or duty or for the efficient carrying out of the said Water Act, 1956, or any law referred to or contemplated in subsection (I)-

(i) amend or adapt the Water Act, 1956, or such other law in order to regulate its application or interpretation;

(ii) repeal and re-enact those provisions of the Water Act, 1956, or any such other law to which the exercise or performance of any such power, function or duty by the Authority relates;

(iii) regulate any other matter which is necessary for the exercise or performance of such power, function or duty.

(4) The Minister of Water Affairs and Forestry may at any time amend or withdraw a notice referred to in subsection (3) by notice in the Gazette.

## **Exercise and performance of powers, functions or duties by water boards in certain areas of the Province of North-West**

23. (1) The Minister of Water Affairs and Forestry may, notwithstanding the provisions of the North-West Water Supply Authority Act, 1988 (Act No. 39 of 1988) (Bophuthatswana), but subject to subsections (2) and (3) of this section, by notice in the Gazette, direct a water board established under section 108 of the Water Act, 1956 (Act No. 54 of 1956), to exercise or perform any power, function or duty vested in or assigned to such water board by the provisions of the said Water Act, 1956, within any area of the Province of North-West as defined in Part 1 of Schedule 1 to the Constitution, in respect of which the said North-West Water Supply Authority Act, 1988, applies.

(2) The exercise or performance of any power, function or duty referred to in subsection (1), shall be subject to the provisions of the Water Act, 1988 (Act No. 38 of 1988) (Bophuthatswana): Provided that any reference in that Act to the North-West Water Supply Authority, shall be construed as a reference to the water board in question.

(3) A notice referred to in subsection (1) shall-

(a) set out the power, function or duty to be exercised or performed; and

(b) describe the area in which such power, function or duty is to be exercised or performed.

### **Short title**

24. This Act shall be called the *Water Laws Rationalisation and Amendment Act, 1994*.

## **Schedule 1**

### **PART 1**

#### ***Laws repealed by section 1(l)***

**Number and year of law** - Short title - *Extent of laws repealed* - Area of national territory in respect of which law is repealed

(a) **Act No. 11 of 1919** Riparian Land (Erven and Commonages) Act, 1919 *The whole* The territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane

(b) **Act No. 24 of 1921** Durban Waterworks Consolidation (Private) Act, 1921 *The whole* The territory of the self-governing territory of KwaZulu

**Act No. 20 of 1937** The Durban Waterworks (Private) Act, 1937 *The whole*

(c) **Act No.37 of 1946** N'Jelele Irrigation District Adjustment Act, 1946 *The whole* The territory of the former Republic of Venda

(d) **Act No.24 of 1949** Bospoort Irrigation Scheme Act, 1949 *The whole* The territory of the former Republic of Bophuthatswana

(e) **Act No.54 of 1956** Water Act, 1956 *The whole*

**Act No.75 of 1957** Water Amendment Act, 1957 *The whole* Transkei, Venda and Ciskei and the territories of the former

**Act No. 56 of 1961** Water Amendment Act, 1961 *The whole* self-governing territories of Lebowa, Gazankulu, Qwaqwa,

**Act No. 63 of 1963** Water Amendment Act, 1963 *The whole* KwaZulu, KwaNdebele and KaNgwane

**Act No.71 of 1965** Water Amendment Act, 1965 *The whole*

**Act No.11 of 1966** Water Amendment Act, 1966 *The whole*

**Act No.28 of 1966** Agricultural Credit Act, 1966 Section 57

**Act No.79 of 1967** Water Amendment Act, 1967 *The whole*

**Act No.15 of 1969** Establishment of the Northern Cape Division of the Supreme Court of South Africa Act, 1969 Section 19

**Act No.77 of 1969** Water Amendment Act, 1969 *The whole*

**Act No.36 of 1971** Water Amendment Act, 1971 *The whole*

**Act No.45 of 1972** Water Amendment Act, 1972 *The whole*

**Act No.102 of 1972** General Laws Amendment Act, 1972 Sections 11 and 12

**Act No.58 of 1974** Water Amendment Act, 1974 *The whole*

**Act No.42 of 1975** Water Amendment Act, 1975 *The whole*

**Act No.63 of 1975** Expropriation Act, 1975 Section 41

**Act No.27 of 1976** Water Amendment Act, 1976 *The whole*

**Act No.108 of 1977** Water Amendment of the Act, 1977 *The whole* The territories former Republics of Venda and Ciskei and

**Act No.73 of 1978** Water Amendment of the Act, 1978 *The whole* the territories former self-governing territories of Lebowa,

**Act No. 51 of 1979** Water Amendment Act, 1979 *The whole* Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane

(g) **Act No.21 1980** Finance Act, 1980 in so far as it amends:

**Act No.54 of 1956** Section 3 of the territories of the former Republic of Ciskei

**Act No.92 of 1980** Water Amendment Act, 1980 *The whole* self-governing territories of Lebowa, Gazankulu, Owaqwa,

**Act No.89 of 1981** Water Amendment Act, 1981 *The whole* KwaZulu, KwaNdebele and KaNgwane

(h) **Act No.96 of 1984** Water Amendment Act, 1984 *The whole* The territories of the former self-governing

territories of Lebowa,

**Act No.97 of 1986** Transfer of Powers Act, 1986 State President *Sections 10 to 26, 46 and 47 in so far as they amend Act No. 54 of 1956* Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane

**Act No.110 of 1986** Water Amendment Act, 1986 *The whole*

**Act No.68 of 1987** Water Amendment Act, 1987 *The whole*

**Act No.37 of 1988** Water Amendment Act, 1988 *The whole*

**Act No. 9 of 1989** Legal Succession to the South African Transport Services *Section 36(6) in so far as it amends Act No. 54 of 1956 Act, 1989*

**Act No.68 of 1990** Water Amendment Act, 1990 *The whole*

**Act No.16 of 1991** Water Amendment Act, 1991 *The whole*

**Act No.45 of 1992** Expropriation Amendment Act, 1992 *Section 28*

**Act No.92 of 1993** Water Amendment Act, 1993 *The whole*

(i) **Act No.34 of 1971** Water Research Act, 1971 *The whole* T

**Act No 16 of 1974** Water Research Amendment Act, 1974 *The whole* Transkei, Bophuthatswana, Venda and Ciskei.

**Act No.37 of 1975** Water Research Amendment Act, *The whole* Ciskei and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane

(j) **Act No.106 of 1977** Water Research Amendment Act, 1977 *The whole* The territories of the former Republics of Venda and Ciskei and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane

(k) **Act No.10 of 1982** Water Research Amendment Act, 1982 *The whole* The territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa

**Act No.93 of 1985** Water Research Amendment Act, 1985 *The whole* KwaZulu, Kwa-ndebele and KaNgwane

## **Schedule I**

### **PART 2**

#### **Laws restricted in application by section 2(l)**

**Number and year of law** - Short title - *Extent of restriction of application*

**Act No.38 of 1988** Water Act, 1988 (Bophuthatswana) *The whole*

**Act No.39 of 1988** Bophuthatswana Water Supply Authority Act, 1988 (Bophuthatswana) *The whole*

**Act No.17 of 1989** Water Amendment Act, 1989 (Bophuthatswana) *The whole*

**Act No.40 of 1989** General Laws Amendment Act, 1989 (Bophuthatswana) *Sections 8 and 9*

**Act No.33 of 1991** Bophuthatswana Water Supply Authority Amendment Act, 1991 (Bophuthatswana) *The whole*

## **Schedule 2**

#### **Extension of the application of certain laws by section 3(1)**

**Number and year of law - Short title - *Extent of extension of application***

(a) **Act No.II of 1919** Riparian Land (Erven and Commonages) Act, 1919 *The whole*

(b) **Act No.24 of 1921** Durban Waterworks Consolidation (Private) Act, 1921 *The whole*

**Act No.20 of 1937** The Durban Waterworks (Private) Act, 1937 *The whole*

(c) **Act No.37 of 1946** N'Jelele Irrigation District Adjustment Act, 1946 *The whole*

(d) **Act No.24 of 1949** Bospoort Irrigation Scheme Act, 1949 *The whole*

(e) **Act No.54 of 1956** Water Act, 1956 *The whole*

**Act No.56 of 1961** Water Amendment Act, 1961 *Section 1(3), (4) and (5)*

**Act No.108 of 1977** Water Amendment Act, 1977 *Section 9(2)*

**Act No. 96 of 1984** Water Amendment Act, 1984 *Sections 7(2), 20(2) and 73*

**Act No. 68 of 1987** Water Amendment Act, 1987 *Sections 17(2), 36 and 37*

**Act No. 68 of 1990** Water Amendment Act, 1990 *Sections 14(2), (3) and (4), 30(2) and 31(2)*

**Act No. 92 of 1993** Water Amendment Act, 1993 *Section 20(2)*

(f) **Act No.34 of 1971** Water Research Act, 1971 *The whole*

**Act No. 93 of 1985** Water Research Amendment Act, 1985 *Section 5*

(g) **Act No.73 of 1989** Environment Conservation *Sections 20, 24 and 29(4), Act, 1989 and sections 33(1) and 35(1) and (3) in so far as they relate to section 20*

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