

Statutes of the Republic of South Africa – WATER

**WATER RESEARCH ACT
NO. 34 OF 1971**

[ASSENTED TO 7 MAY, 1971]

[DATE OF COMMENCEMENT: 6 AUGUST, 1971]

(English text signed by the State President)

as amended by

Water Research Amendment Act, No. 16 of 1974
Water Research Amendment Act, No. 37 of 1975
Water Research Amendment Act, No. 106 of 1977
Water Research Amendment Act, No. 10 of 1982
Water Research Amendment Act, No. 93 of 1985
General Law Amendment Act, No. 49 of 1996

[with effect from 4 October 1996 – see title GENERAL LAW AMENDMENT ACTS]

ACT

To provide for the promotion of research in connection with water affairs; for that purpose to establish a Water Research Commission and Water Research Fund; and to provide for matters incidental thereto.

- 1 Definitions:** In this Act, unless the context otherwise indicates, any expression to which a meaning has been assigned in the Water Act, 1956 (Act No. 54 of 1956), shall, when used in this Act, have the same meaning, and –

“**commission**” means the Water Research Commission established by section 2;

“**financial year**” means the period from 1 April 1974 to 31 December 1974 and thereafter the period from 1 January in any year to 31 December in the same year, in each case both days inclusive;

[Definition of “financial year” substituted by s.1 of Act No. 16 of 1974]

“**fund**” means the Water Research Fund established by section 12;

“**university**” means a university established by Act of Parliament.

2 Establishment and general objects of Water Research Commission

- (1) There is hereby established a commission to be known as the Water Research Commission.
- (2) The Commission shall be a body corporate, capable of suing and being sued in its corporate name and of performing all such acts as are necessary for or incidental to the exercise of its powers and the performance of its functions and duties in terms of this Act.
- (3) The objects of the commission are to co-ordinate, to promote, to encourage or to cause to be undertaken, as determined by the Minister specifically or in broad outline, research in respect of –
 - (a) the occurrence, preservation, conservation, utilization, control, supply, distribution, purification, pollution or reclamation of water supplies and water;
 - (b) The use of water for:

- agricultural purposes;
- industrial purposes; or
- urban purposes

3 Functions of the commission

(1) The functions of the commission shall be –

- (a) to cause, by itself or in collaboration with the Council for Scientific and Industrial Research established by section 2 of the Scientific Research Council Act, 1945 (Act No. 33 of 1945), any State department, university or other institution, research to be undertaken in respect of matters relating to water;
- (b) to promote the research referred to in section 2(3), and in connection therewith to establish research programmes or to alter research programmes to established;
- (c) to make grants, with the approval of the Minister, and on such conditions as the Minister may approve (including conditions relating to rights regarding inventions and discoveries arising therefrom) from the fund to individuals, universities and other institutions for the benefit of such research, the development work for the application of the results of such research and the establishment of facilities for such research;
- (d) to receive and to examine progress reports on such research and the development work for the application of the results of such research;
- (e) to obtain information relating to such research and to development work for the application of the results of such research;
- (f) to accumulate, to assimilate and disseminate knowledge in regard to the results of such research and the application thereof, and to promote development work for the purposes of such application;
- (g) to cooperate with institutions undertaking such research in other countries, with a view to the accumulation or dissemination of knowledge of such research and the results thereof;
- (h) to advise the Minister in respect of the levying of rates or charges under section 11;
- (i) with the approval of the Minister, to purchase, hire or otherwise acquire and to hold such immovable property as the commission may consider necessary for the performance of its functions, and alienate or let any immovable property held by it;

[Para. (1) substituted by s. 2 of Act No. 16 of 1974 and by s. 1 (1) of Act No. 37 of 1975]

- (j) to take such other measures as the commission may consider conducive to the attainment of its objects

[Para. (j) added by s. 1 (1) (b) of Act No. 37 of 1975]

- (2) If progress reports on research by virtue of the provisions of subsection (1) (a), or on research, development work or the establishment of facilities, for the benefit of which any grant is made under subsection (1) (c), are not furnished by the person or body concerned as called for by the commission from time to time, the payment or any part thereof for the research concerned, or the paying over of the grant concerned or any part thereof, may be withheld as the commission may think fit.

4 Constitution of commission and period of office of its members

- (1) The commission shall consist of the director-general, the executive director mentioned in section 10 and seven other members appointed by the Minister on

grounds of their special knowledge or experience in regard to any aspect of the commission's functions.

- (2) The Minister shall designate one of the members of the commission as chairman and one as vice-chairman of the commission for such period as he may in each case determine, and if the office of chairman or vice-chairman becomes vacant for any reason the Minister shall designate another member of the commission as chairman or vice-chairman, as the case may be, for the remainder of the period for which his predecessor was so designated, or as acting chairman or vice-chairman, as the case may be, for such period as he may determine: Provided that the executive director shall not be so designated.
- (3) A member of the commission, with the exception of the director-general and the executive director, shall hold office for such period and subject to such conditions as the Minister may determine at the time of his appointment, but shall be eligible for reappointment at the expiry of such period: Provided that if in his opinion there are good reasons for doing so, the Minister may at any time terminate the period of office of any member of the commission other than the director-general and the executive director.
- (4) The executive director shall be the chief executive officer of the commission and manage and control the work authorized by the commission, and shall be responsible to the commission for the carrying out of their duties by the officers and employees of the commission.
- (5) In addition to the duties devolving upon the chairman in terms of this Act and such duties as the commission may assign to him, it shall be the duty of the chairman, after consultation with the executive director, to formulate policy proposals for consideration by the commission, and from time to time to submit reports to the commission on the progress of the work authorized by the commission.

[S. 4 substituted by s. 3 of Act No. 16 of 1974 and by s. 1 of Act No. 93 of 1985]

5 Advisory members of commission

- (1) The commission may co-opt during its pleasure so many persons as the Minister may determine, in an advisory capacity as members of the commission.
- (2) The members co-opted under subsection (1) may take part in the proceedings at any meeting of the commission but shall not be entitled to vote at such meeting.

6 Remuneration and allowances of members of commission

Members of the commission (including co-opted members) 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: provided that the remuneration and allowances payable to the chairman shall not exceed one-third of the pensionable salary and allowances payable to the executive director

[S. 6 amended by s. 2 of Act No. 93 of 1985]

7 Meetings of commission

- (1) The first meeting of the commission shall be held at a time and place to be determined by its chairman, and thereafter meetings of the commission shall, subject to the provisions of subsection (2), be held at such times and places as the commission may determine.
- (2) The chairman of the commission may at any time call a special meeting of the commission, and shall call such a meeting within fourteen days after receipt of a request therefore by the Minister.
- (3) Four members of the commission shall form a quorum for any meeting of the commission.
- (4) The chairman, or in his absence the vice-chairman, of the commission shall preside at all meetings thereof at which he is present, and if both the chairman and the vice-chairman are absent from any meeting, the members present shall elect one of their number to preside at such meeting.
- (5) The decision of a majority of the members of the commission present at any meeting thereof shall be the decision of the commission, and in the event of an equality of votes on any matter before such a meeting, the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.
- (6) A member of the commission (including a co-opted member) shall not be present at or take part in the discussion of or vote upon any matter before the commission, in which he or his spouse or his partner or employer or the partner or employer of his spouse has, directly or indirectly, any pecuniary interest, unless –
 - (a) he has previously in writing informed the commission of such interest; and
 - (b) the commission has approved that he may be so present or so take part or so vote.

8 Validity of decision taken by, or act performed under authority of, the commission

No decision taken by the commission or act performed under authority of the commission, shall be invalid by reason only of a defect in the appointment of a person purporting to be a member of, or the existence of a vacancy on, the commission, or of the fact that a person who was not entitled to sit and act as a member of the commission sat or acted as a member of the commission at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the commission who were present at the time and entitled to sit and act as members.

9 Rules of the commission

The commission may make rules in relation to the procedure at meetings of the commission, including the keeping of minutes of the proceedings at meetings of the commission, and such other matters as it may consider necessary or expedient for the due performance of the functions of the commission.

10 Executive director and officers and employees of commission

- (1)(a) The establishment of the commission shall consist of the post of executive director and such other posts as the commission may determine.

- (b) The executive director shall be appointed by the Minister after consultation with the commission, and the other officers and employees of the commission shall be appointed by the commission.
- (2) The conditions of service of the executive director and the other officers and employees of the commission shall be determined by the commission, subject to the approval of the Minister granted with the concurrence of the Minister of Finance.
- (3) The commission may at any time terminate the services of any officer or employee if in its opinion there are sound reasons for doing so, but the services of the executive director may only be terminated by the Minister after consultation with the commission.
- (4) If the executive director or any officer or employee wants to address a request or communication concerning any complaint or grievance or any official act or omission to the commission, he may lodge that request or communication in writing with the chairman, who shall submit it to the commission within such period as the commission may determine in general for that purpose.

[s. 10 substituted by s. 4 of Act No. 16 of 1974 and by s. 3 of Act No. 93 of 1985]

10A Committees of the commission

The commission may establish committees, consisting of members of the commission, for such purposes as it may deem fit, and may at any time dissolve any committee established by it.

[S.10A inserted by s. 2 of Act No. 37 of 1975]

10B Delegation or powers by commission

The commission may delegate any power conferred upon it by or under this Act to member of the commission or to any officer in the full-time service of the commission or to a committee established under section 10A, to be exercised by such member or officer or committee subject to such directions or conditions (if any) as the commission may give or determine from time to time.

[S. 10B inserted by s. 2 of Act No. 37 of 1975]

10C Delegation of powers by executive director

The executive director may with the approval of the commission delegate any power conferred upon him by or under this Act to any other officer or employee of the commission.

[S.10C inserted by s. 4 of Act No. 93 of 1985]

11 Levying of rates and charges

- (1) Notwithstanding anything contained in any law, the Minister may, in consultation with the Minister of Finance, from time to time by notice in the *Gazette* -
 - (a) levy rates on land which may be irrigated by means of water supplied or made available by the State, an irrigation board or a water board;
 - (b) levy charges on water supplied or made available for use for agricultural purposes, urban purposes, industrial purposes or any other purposes by

the Ste, an irrigation board, a water board, a local authority, the Rand Water Board or any other body; or

- (c) levy both such rates and such charges
- (2) Rates or charges levied under subsection (1), shall be recovered in the manner prescribed by any such notice from the occupiers, or, failing such occupiers, from the owners, of land referred to in subsection (1) (a), or from the persons or bodies entitled to use water referred to in subsection (1) (b), by
 - (a) the Secretary, on behalf of the State;
 - (b) the irrigation board, water board, local authority or other body concerned, or the Rand Water Board,as the case may be.
- (3) (a) The amounts of such rates or charges recovered by any body referred to in subsection (2) (b) shall be paid over to the secretary.
 - (b) Duly audited statements in support of the amounts referred to in paragraph (a) shall be submitted annually to the secretary.
- (4) Any notice referred to in subsection (1) may, in respect of the amount or tariff of such rates or charges, differentiate between different classes or categories of occupiers, owners, persons or bodies referred to in subsection (2), and may absolve any particular such class or category from liability for the payment of any such rate or charge.
- (5) The Minister may charge interest on any rates and charges referred to in subsection (1), levied by him and which are due and payable but unpaid, as from the date fixed for payment thereof, at a rate not exceeding the standard interest rate which at that date applies in respect of loans granted by the State out of the State Revenue Fund under section 26(1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and the amount of any such rate or charge which is unpaid shall for the purposes of this Act be increased by the amount of such interest accrued in respect thereof: Provided that no interest shall be payable in respect of such last-mentioned amount.

[Sub-s. (5) added by s. 1 of Act No. 106 of 1977]

- (5A) The Minister may from time to time write off any rates or charges which must be recovered in terms of subsection (2) or any interest charged thereon under subsection (5), if such rates, charges or interest for any reason cannot be recovered.

[Sub-s. (5A) inserted by s. 1 of Act No. 10 of 1982]

- (6) The provisions of this section shall bind the State.

[Sub-s. (6) added by s. 1 of Act No. 106 of 1977]

12 Establishment of Water Research Fund

There is hereby established a fund to be known as the Water Research Fund, into which shall be deposited all moneys which become payable to the commission.

13 Administration of the fund

- (1) The fund shall consist of -
 - (a) moneys appropriated by Parliament for the benefit of the fund;
 - (b) rates and charges levied under section 11;
 - (c) donations, bequests or contributions which the commission may receive from any other source.
 - (2) Subject to the provisions of subsection (6), the commission shall utilize the moneys in the fund for defraying expenses in connection with the performance of its functions, which are not defrayed from other sources.

The commission shall utilize any moneys appropriated by Parliament for the benefit of the commission in accordance with the statement in question of its estimated income and expenditure referred to in subsection (5) as approved by the Minister: Provided that, subject to the provisions of subsection (2), the commission may utilize any amount or portion of any amount required to be so utilized for a particular purpose in connection with a specified matter, for any other purpose in connection with that matter: Provided further that the commission may utilize any balance of such moneys remaining at the end of the commission's financial year in question, for any expenses in connection with the performance of its functions.
 - (3) The commission shall utilize any moneys appropriated by Parliament for the benefit of the commission in accordance with the statement in question of its estimated income and expenditure referred to in subsection (5) as approved by the Minister: Provided that, subject to the provisions of subsection (2), the commission may utilize any amount or portion of any amount required to be so utilized for a particular purpose in connection with a specified matter, for any other purpose in connection with that matter: Provided further that the commission may utilize any balance of such moneys remaining at the end of the commission's financial year in question, for any expenses in connection with the performance of its functions.
 - (4) The commission shall utilize any donations, bequests or contributions contemplated in subsection (1) (c) in accordance with the conditions (if any) imposed by the donor, testator or contributor in question.
 - (5) The commission shall in each financial year, at a time determined by the Minister, submit a statement of its estimated income and expenditure during the following financial year to the Minister for his approval in consultation with the Minister of Finance.
 - (6) The commission may invest any unexpended portion of its moneys with the Public Debt Commissioners or in such other manner as may be determined by the Minister in consultation with the Minister of Finance.
 - (7) The commission shall cause proper books to be kept of all moneys deposited in or paid out of the fund.
- [Sub-s. (7) substituted by s. 5 (a) of Act No. 16 of 1974]
- (8) The secretary shall, as soon as practicable after the end of every month, pay to the commission all moneys recovered by him in terms of section 11 (2) during that month and all moneys paid over to him in terms of section 11 (3) (a) during that month.

[Sub-s (8) added by s. 5 of Act No. 6 of 1974]

- (9) The amount of any expenses incurred by the secretary by virtue of the provisions of section 11 (2) (a) and (3) (a) and subsection (8) of this section, as determined by the secretary, shall be paid by the commission to the State out of moneys in the fund.

[Sub-s. (9) added by s. 5 (b) of Act No. 16 of 1974]

14 Auditing and annual report

- (1) The Controller and Auditor-General shall audit the accounts of the commission.
- (2) The commission shall furnish the Minister with such information in connection with the activities and financial position of the commission as he may from time to time require, and shall in addition, as soon as practicable after the end of every financial year, submit to the Minister an annual report, including a balance sheet and a statement of income and expenditure certified by the controller and Auditor-General, and such other particulars as the Minister may require.
- (3) The Minister shall lay the said report upon the Table of the Senate and of the House of Assembly within fourteen days after receipt thereof, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

14A Delegation of powers by Minister

- (1) The Minister may delegate any power conferred upon him by section 11 (5A) or 13 (6) to the Director-General: Environment Affairs or any other officer in the Department of Environment Affairs.
- (2) The Minister may at any time revoke any delegation under subsection (1), and no delegation of any power shall prevent the exercise of that power by the Minister himself.

[S.14A inserted by s. 2 of Act No. 10 of 1982]

15

[S. 15 repealed by S. 1 of Act No. 49 of 1996]

16 Short title and commencement

This Act shall be called the Water Research Act, 1971, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.
