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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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DEPARTMENT OF THE PRIME MINISTER

No. 1202. 18 June 1975.

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

No. 54 of 1975: National Supplies Procurement Amendment Act, 1975.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1202. 18 Junie 1975.

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

No. 54 van 1975: Wysigingswet op die Verkryging van Landsvoorrade, 1975.

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ACT

To amend the provisions of the National Supplies Procurement Act, 1970, so as to further regulate the powers of the Minister in respect of goods; to provide for the liability of employers and principals for certain acts and omissions of their managers, employees or agents, the admissibility of certain statements and records in prosecutions for offences under the said Act and the application of a certain presumption in certain prosecutions; to amend certain provisions of certain Acts with reference to the application of such provisions in respect of certain offences and sentences; to authorize the Minister to declare the provisions of certain notices to be applicable to persons in the employment of the State acting in the performance of their duties, and to grant certain exemptions; and to provide for incidental matters.

(*English text signed by the State President.*)
(*Assented to* 12 *June* 1975.)

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

Amendment of section 2 of Act 89 of 1970.

1. (1) Section 2 of the National Supplies Procurement Act, 1970 (hereinafter referred to as the principal Act), is hereby amended by the insertion in paragraph (*b*) after subparagraph (i) of the following subparagraph:

"(iA) in order to effect saving or economy in the use of goods specified in the notice, regulate in such manner as he may deem fit, or prohibit—

(*aa*) the use of such goods for specified purposes or for the performance of a specified act in a specified manner or for the use of other specified goods;

(*bb*) the possession of specified goods;".

(2) Subsection (1) shall be deemed to have come into operation on 16 November 1973.

Insertion of sections 16A, 16B, 16C and 16D in Act 89 of 1970.

2. The following sections are hereby inserted in the principal Act after section 16:

"Liability of employer or principal.

16A. (1) An act or omission of an employee, manager or agent which constitutes an offence under this Act shall be deemed to be the act or omission of his employer or principal and such employer or principal may be convicted and sentenced in respect thereof unless he proves—

(*a*) that he did not permit or connive at such act or omission; and

(*b*) that he took all reasonable measures to prevent an act or omission of the nature in question; and

(*c*) that an act or omission, whether legal or illegal, of the nature in question did not under any

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WYSIGINGSWET OP DIE VERKRYGING VAN LANDSVOORRADE, 1975.

Wet No. 54, 1975

WET

Tot wysiging van die bepalings van die Wet op die Verkryging van Landsvoorrade, 1970, ten einde die bevoegdhede van die Minister ten opsigte van goedere verder te reël; voorsiening te maak vir die aanspreeklikheid van werkgewers en prinsipale vir sekere handelinge en versuime van hul bestuurders, werknemers of agente, die toelaatbaarheid van sekere verklarings en aantekenings in vervolgings weens misdrywe ingevolge gemelde Wet en die toepassing van 'n sekere vermoede in sekere vervolgings; om sekere bepalings van sekere Wette te wysig met betrekking tot die toepassing van daardie bepalings ten opsigte van sekere misdrywe en vonnisse; die Minister te magtig om die bepalings van sekere kennisgewings van toepassing te verklaar op persone in die diens van die Staat wat by die uitvoering van hul pligte handel, en om sekere vrystellings te verleen; en om vir bykomstige aangeleenthede voorsiening te maak.

(*Engelse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 12 *Junie* 1975.)

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 89 van 1970.

1. (1) Artikel 2 van die Wet op die Verkryging van Landsvoorrade, 1970 (hieronder die Hoofwet genoem), word hierby gewysig deur in paragraaf (*b*) na subparagraaf (i) die volgende subparagraaf in te voeg:

„(iA) ten einde besparing of besuiniging te bewerkstellig by die gebruik van goedere in die kennisgewing vermeld—

(*aa*) die gebruik van sodanige goedere vir vermelde doeleindes of vir die verrigting van 'n vermelde handeling op 'n vermelde wyse of vir die gebruik van ander vermelde goedere;

(*bb*) die besit van vermelde goedere,

reël op 'n wyse wat hy goedvind, of verbied;".

(2) Subartikel (1) word geag op 16 November 1973 in werking te getree het.

Invoeging van artikels 16A, 16B, 16C en 16D in Wet 89 van 1970.

2. Die volgende artikels word hierby in die Hoofwet na artikel 16 ingevoeg:

„Aanspreeklikheid van werkgewer of prinsipaal.

16A. (1) 'n Handeling of versuim van 'n werknemer, bestuurder of agent, wat 'n misdryf ingevolge hierdie Wet uitmaak, word geag die handeling of versuim van sy werkgewer of prinsipaal te wees, en daardie werkgewer of prinsipaal kan ten opsigte daarvan skuldig bevind en gevonnis word tensy hy bewys—

(*a*) dat hy bedoelde handeling of versuim nie veroorloof of oogluikend toegelaat het nie; en

(*b*) dat hy alle redelike maatreëls getref het om 'n handeling of versuim van die betrokke aard te voorkom; en

(*c*) dat 'n handeling of versuim, hetsy wettig of onwettig, van die betrokke aard onder geen

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condition or in any circumstances fall within the course of the employment or the scope of the authority of the employee, manager or agent concerned.

(2) For the purposes of subsection (1) (*b*) the fact that an employer or principal forbade an act or omission of the nature in question shall not by itself be regarded as sufficient proof that he took all reasonable measures to prevent such an act or omission.

(3) The provisions of subsection (1) shall not relieve the employee, manager or agent concerned from liability to be convicted and sentenced in respect of the act or omission in question.

Evidence.

16B. (1) At the trial of any person charged with an offence under this Act, any statement or record contained in any book or document kept by the accused or any employee or agent of the accused, in respect of any goods or service specified in a notice under section 2 (*b*), shall be admissible in evidence against the accused as an admission of the facts set out in that statement or record, unless it is proved that the statement or record was not made by such person or his employee or agent.

(2) If in any prosecution for a contravention of a prohibition imposed under section 2 (*b*) relating to the use of goods specified in the charge, it is proved that the accused performed an act which would have constituted the contravention if such goods had been used for the performance of that act, it shall be presumed unless the contrary is proved, that the accused used such goods for the performance of that act.

Application of provisions of certain Acts.

16C. (1) In the application of section 258, 259, 309*bis* or 351 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), in respect of an offence under this Act, a reference in the section in question to an amount of one hundred rand shall be construed as a reference to an amount of five hundred rand.

(2) In the application of section 96 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), to a sentence in a criminal case in respect of an offence under this Act, a reference to an amount of two hundred and fifty rand shall be construed as a reference to an amount of five hundred rand.

Application of certain notices to persons in employment of State.

16D. (1) The Minister may by notice in the *Gazette* declare a notice under section 2 (*b*), or one or more of the provisions thereof, to be applicable to any person in the employment of the State acting in the performance of his duties.

(2) A notice under subsection (1) may grant exemption from the provisions thereof or may provide for the granting of such exemption.".

Short title.

3. This Act shall be called the National Supplies Procurement Amendment Act, 1975.

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voorwaarde of omstandighede in die loop van die diens of binne die bestek van die bevoegdheid van die betrokke werknemer, bestuurder of agent geval het nie.

(2) By die toepassing van subartikel (1) (*b*) word die feit dat 'n werkgewer of prinsipaal 'n handeling of versuim van die betrokke aard verbied het, nie op sigself as voldoende bewys beskou dat hy alle redelike maatreëls getref het om so 'n handeling of versuim te voorkom nie.

(3) Die bepalings van subartikel (1) onthef nie die betrokke werknemer, bestuurder of agent van aanspreeklikheid om ten opsigte van die betrokke handeling of versuim skuldig bevind en gevonnis te word nie.

Getuienis.

16B. (1) By die verhoor van iemand wat aangekla is weens 'n misdryf ingevolge hierdie Wet, is 'n verklaring of aantekening vervat in 'n boek of dokument gehou deur die beskuldigde of 'n werknemer of agent van die beskuldigde ten opsigte van enige goedere of diens vermeld in 'n kennisgewing kragtens artikel 2 (*b*), toelaatbaar as getuienis teen die beskuldigde as 'n erkenning van die feite in daardie verklaring of aantekening uiteengesit, tensy daar bewys word dat die verklaring of inskrywing nie deur bedoelde persoon of sy werknemer of agent gedoen is nie.

(2) Indien by 'n vervolging weens 'n oortreding van 'n verbod kragtens artikel 2 (*b*) opgelê met betrekking tot die gebruik van goedere in die klagstaat vermeld, dit bewys word dat die beskuldigde 'n handeling verrig het wat die betrokke oortreding sou uitmaak indien daardie goedere vir die verrigting van daardie handeling gebruik was, word dit vermoed tensy die teendeel bewys word, dat die beskuldigde daardie goedere vir die verrigting van daardie handeling gebruik het.

Toepassing van bepalings van sekere Wette.

16C. (1) By die toepassing van artikel 258, 259, 309*bis* of 351 van die Strafproseswet, 1955 (Wet No. 56 van 1955), ten opsigte van 'n misdryf ingevolge hierdie Wet word 'n verwysing in die betrokke artikel na 'n bedrag van honderd rand uitgelê as 'n verwysing na 'n bedrag van vyfhonderd rand.

(2) By die toepassing van artikel 96 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), op 'n vonnis in 'n strafsaak ten opsigte van 'n misdryf ingevolge hierdie Wet, word 'n verwysing na 'n bedrag van tweehonderd-en-vyftig rand uitgelê as 'n verwysing na 'n bedrag van vyfhonderd rand.

Toepassing van sekere kennisgewings op persone in diens van Staat.

16D. (1) Die Minister kan by kennisgewing in die *Staatskoerant* 'n kennisgewing kragtens artikel 2 (*b*), of een of meer van die bepalings daarvan, van toepassing verklaar op enige persoon in die diens van die Staat wat by die uitvoering van sy pligte handel.

(2) 'n Kennisgewing kragtens subartikel (1) kan vrystelling van die bepalings daarvan verleen of voorsiening maak vir die verlening van sodanige vrystelling.".

Kort titel.

3. Hierdie Wet heet die Wysigingswet op die Verkryging van Landsvoorrade, 1975.