

SOUTH AFRICAN WEATHER SERVICE ACT 8 OF 2001

(English text signed by the President)

[Assented To: 22 June 2001]

[Commencement Date: 15 July 2001]

[Proc. R37 / GG 22448 / 20010713]

as amended by:

South African Weather Service Amendment Act 48 of 2013

[with effect from 16 March 2014]

ACT

To establish a juristic person to be known as the South African Weather Service; to determine its objects, functions and method of work; to prescribe the manner in which it is to be managed and governed; to regulate its staff matters and financial affairs; and to provide for matters connected therewith.

Be it enacted by the Parliament of the Republic of South Africa, as follows:-

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTRODUCTION

1. Definitions

CHAPTER 2

SOUTH AFRICAN WEATHER SERVICE

2. Establishment of South African Weather Service
 - 2A. Determination of policy
 - 2B. Minister's supervisory powers
3. Objectives of Weather Service
4. Functions of Weather Service

CHAPTER 3

BOARD OF WEATHER SERVICE

5. Board of Weather Service and its composition
6. Functions of Board
7. Removal
8. Vacancies
9. Remuneration
10. Meetings of Board
11. Committees of Board
12. Meteorological advisory committees

CHAPTER 4

MANAGEMENT OF WEATHER SERVICE

13. Chief Executive Officer

13A. Removal of Chief Executive Officer from office

CHAPTER 5

STAFF OF WEATHER SERVICE

14. Staff and conditions of service

15. Pensions

CHAPTER 6

FINANCIAL MATTERS

16. Funds

17. Accounting authority

CHAPTER 7

TRANSITIONAL PROVISIONS

18.

19. Transfer of certain assets and liabilities to Weather Service

CHAPTER 8

REGULATORY CONTROL

20. Regulating Committee

21. Functions of Regulating Committee

22. Removal

23. Vacancies
24. Remuneration
25. Meetings of Regulating Committee

CHAPTER 9

GENERAL AND MISCELLANEOUS PROVISIONS

26. Intellectual property rights
27. Limitation of liability
28. Regulations
29. Rules of Board
30. Delegation of powers and assignment of duties
- 30A. Offences and penalties
31. Repeal of Meteorology Act, 1988 (Bophuthatswana)
32. Short title and commencement

Schedule 1- Public good services

Schedule 2 - Commercial services

[Arrangement of sections substituted by s. 18 of Act 48/2013]

CHAPTER 1

INTRODUCTION

1. Definitions

In this Act unless the context indicates otherwise-

“advisory alert” means an alert raising awareness up to five days in advance to either expected large-scale potential disruptive weather systems that could later lead to specific watches or warnings with time, or to less urgent alerts of uncommon conditions;

[Definition of “advisory alert” inserted by s. 1 of Act 48/2013]

“advisory services” means any climatological advice or advice on ambient air quality, and includes advice on weather outlooks, weather forecasts, severe weather warnings, ambient air quality information services, ambient air quality forecasts and ambient air quality warnings;

[Definition of “advisory services” substituted by s. 1 of Act 48/2013]

“Air Quality Act” means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

[Definition of “Air Quality Act” inserted by s. 1 of Act 48/2013]

“ambient air” has the meaning assigned to it in [section 1](#) of the Air Quality Act;

[Definition of “ambient air” inserted by s. 1 of Act 48/2013]

“ambient air quality forecast” means a prediction or estimation of ambient air quality at some time in the future using recognised air quality forecasting techniques or methodologies;

[Definition of “ambient air quality forecast” inserted by s. 1 of Act 48/2013]

“ambient air quality information” means information regarding ambient air quality generated by-

- (i) the NAAQMN in terms of this Act and the Air Quality Act; or
- (ii) a private entity's ambient monitoring station that feeds into the SAAQIS in terms of a memorandum of understanding;

[Definition of “ambient air quality information” inserted by s. 1 of Act 48/2013]

“ambient air quality warning” means an alert of exceedance or forecast exceedance of ambient air quality standards established in terms of the Air Quality Act;

[Definition of “ambient air quality warning” inserted by s. 1 of Act 48/2013]

“Board” means the Board contemplated in [section 5](#);

“Chief Directorate” means the Chief Directorate: Weather Bureau as a division of the Department as it existed immediately before the commencement of this Act;

“Chief Executive Officer” means the Chief Executive Officer appointed in terms of [section 13](#)(1);

[Definition of “Chief Executive Officer” substituted by s. 1 of Act 48/2013]

“commercial services” means services specified in [Schedule 2](#);

“Committee” means any committee established under [section 11](#);

“Department” means the department responsible for the administration of this Act;

“financial year” means a period which commences on 1 April in one year and ends on 31 March in the following year;

“meteorological service” means-

- (a) the collection, processing and provision of meteorological and climatological information, data and advisory services;

(b) the maintenance and development of weather-related instruments and computer programs;

(c) research with the aim-

(i) of improving products and the delivery of services; and

(ii) of reducing the impact of weather-related natural disasters; and

(d) the provision of meteorologically-related training in partnership with higher education institutions;

“Minister” means the Minister responsible for the administration of this Act;

“NAAQMN” means the National Ambient Air Quality Monitoring Network that provides ambient air quality information to the SAAQIS and consists of a network of government-owned ambient air quality monitoring stations located around the country;

[Definition of “NAAQMN” inserted by s. 1 of Act 48/2013]

“national framework” means the national framework established in terms of [section 7](#)(1) of the Air Quality Act;

[Definition of “national framework” inserted by s. 1 of Act 48/2013]

“prescribe” means prescribe by regulation;

[Definition of “prescribe” inserted by s. 1 of Act 48/2013]

“public good services” means services specified in [Schedule 1](#);

“Regulating Committee” means the Regulating Committee contemplated in [section 20](#);

“regulations” means regulations made under [section 28](#);

“SAAQIS” means the South African Air Quality Information System, and refers to the electronic information management system established in accordance with the national framework established in terms of [section 7\(1\)](#) of the Air Quality Act;

[Definition of “SAAQIS” inserted by s. 1 of Act 48/2013]

“severe weather” means an extreme meteorological event or phenomenon, which represents a real hazard to human life or property and has the potential to cause damage, serious social disruption, loss of human life, or economic loss;

[Definition of “severe weather” inserted by s. 1 of Act 48/2013]

“severe weather warning” means an alert issued by the Weather Service with regard to severe weather which includes an advisory, watch or warning alert;

[Definition of “severe weather warning” inserted by s. 1 of Act 48/2013]

“specialised service” means a meteorological service provided to an identifiable client or customer who will use the service for economic gain or benefit;

“warning alert” means an alert calling for action due to a very high certainty of a severe weather hazard that is already occurring or imminent within 24 hours and that could lead to disruptive and disastrous conditions;

[Definition of “warning alert” inserted by s. 1 of Act 48/2013]

“watch alert” means an alert calling for preparedness to weather hazards that most likely will occur within one to three days and that could lead to disruptive and disastrous conditions;

[Definition of “watch alert” inserted by s. 1 of Act 48/2013]

“Weather Service” means the South African Weather Service established by [section 2](#);

“this Act” includes the regulations.

CHAPTER 2

SOUTH AFRICAN WEATHER SERVICE

2. Establishment of South African Weather Service

- (1) There is hereby established a juristic person known as the South African Weather Service.
- (2) The Weather Service acts through the Board.

2A. Determination of policy

- (1) The Minister must, after consultation with the Board, determine and publish the policy within which the Weather Service must exercise its powers and perform its functions.
- (2) The Minister may, after consultation with the Board, amend, substitute or withdraw the policy determined in terms of subsection (1), and must publish the amended policy.
- (3) The Minister must, 30 days before the final publication of a policy contemplated in subsections (1) and (2), table the policy in Parliament.
- (4) The Minister must, within six months after the commencement of the South African Weather Service Amendment Act, 2013, table the existing policies in Parliament.

[S. 2A inserted by s. 2 of Act 48/2013]

2B. Minister's supervisory powers

- (1) The Weather Service must exercise its powers and perform its functions subject to the policy determined in terms of section 2A(1), the norms and standards contemplated in subsection (2)(b) and any directives issued by the Minister in terms of subsection (2)(c).
- (2) The Minister-

- (a) must monitor the exercise of powers and performance of the functions of the Weather Service against the policy determined in terms of section 2A(1);
- (b) may set norms and standards for the Weather Service to exercise its powers and perform its functions; or
- (c) must issue directives to the Weather Service on non-compliance with the policy determined in terms of section 2A(1) or the norms and standards issued in terms of subsection (2)(b), to ensure the effective and efficient functioning of the Weather Service, for the achievement of the objectives of this Act.

[S. 2B inserted by s. 2 of Act 48/2013]

3. Objectives of Weather Service

The objectives of the Weather Service are-

- (a) to maintain, extend and improve the quality of meteorological and ambient air quality-related information services for the benefit of all South Africans;

[Para. (a) substituted by s. 3 of Act 48/2013]

- (b) to provide public good services and commercial services to all South Africans;
- (c) to ensure the ongoing collection of meteorological and ambient air quality data over South Africa and surrounding southern oceans for the use by current and future generations;

[Para. (c) substituted by s. 3 of Act 48/2013]

- (d) to be the long-term custodian of a reliable national climatological and ambient air quality record;

[Para. (d) substituted by s. 3 of Act 48/2013]

- (e) as the national meteorological service of the Republic of South Africa, to fulfil the international obligations of the Government under the Convention of the World Meteorological Organization;
- (f) as the Aviation Meteorological Authority, to fulfil the international obligations of the Government under the Convention of the International Civil Aviation Organization;
- (g) to provide services that are sensitive to the demographic realities of the country;

[Para. (g) amended by s. 3 of Act 48/2013]

- (h) to fulfill such other weather-related or ambient air quality information international obligations as the Minister may direct; and

[Para. (h) substituted by s. 3 of Act 48/2013]

- (i) to be the custodian of the SAAQIS

[Para. (i) added by s. 3 of Act 48/2013]

4. Functions of Weather Service

(1) The Weather Service must-

- (a) provide such meteorological services, including public good services and commercial services, as are necessary to achieve its objectives, provided that it is in the interests of the Weather Service and the State;
- (aA) provide such ambient air quality information services as is necessary to achieve the objectives of the Air Quality Act;

[Para. (aA) inserted by s. 4 of Act 48/2013]

- (aB) collect ambient air quality data over the Republic of South Africa;

[Para. (aB) inserted by s. 4 of Act 48/2013]

(aC) act as the custodian of the SAAQIS;

[Para. (aC) inserted by s. 4 of Act 48/2013]

(aD) manage, operate, maintain and develop NAAQMN;

[Para. (aD) inserted by s. 4 of Act 48/2013]

(b) adhere to the intent of Resolution 40 of the Twelfth Congress of the World Meteorological Organization, and any other related resolutions regarding the internationally free and unrestricted exchange of meteorologically-related data and products; and

(c) perform any other function assigned to it by the Minister.

(2) The Weather Service may, in order to achieve its objectives-

(a) co-operate or enter into agreements or contracts with any person, institution, government or administration;

(b) purchase or otherwise acquire, possess, hire, pledge, sell or let property;

(c) with the approval of the Minister, granted with the concurrence of the Minister of Finance, raise money by way of loans from any lawful source, on such terms and conditions and against such security as may be agreed upon;

(d) with the approval of the Minister, establish or assist in establishing companies for the promotion of meteorological services or any related business purpose;

(e) charge fees for the provision of any commercial services;

(f) enter into an agreement with any other weather service to deliver services or be of assistance with the delivery of services outside the borders of South Africa; and

(g) enter into agreements with State departments for the delivery of services considered to be within the capacity of the Weather Service. These contract services are not deemed part of the public good services.

(3) Only the Weather Service may issue severe weather-related warnings over South Africa in order to ensure that there is a single authoritative voice in this regard.

(4) The Weather Service must take reasonable steps to develop skills and capacity of the Weather Service so as to enable it to provide for the needs of disadvantaged communities.

(5) The Weather Service may issue ambient air quality forecasts.

[Subs. (5) added by s. 4 of Act 48/2013]

(6) The Weather Service may issue ambient air quality warnings.

[Subs. (6) added by s. 4 of Act 48/2013]

(7) Before issuing ambient air quality warnings the Weather Service must-

(a) inform the Minister;

(b) provide the Minister with all relevant information pertaining to the ambient air quality warning; and

(c) afford the Minister a reasonable opportunity to consult with relevant Ministers or any other stakeholder whose area of responsibility may be affected by the ambient air quality warning.

[Subs. (7) added by s. 4 of Act 48/2013]

CHAPTER 3

BOARD OF WEATHER SERVICE

5. Board of Weather Service and its composition

(1) The Board of the Weather Service consists of-

- (a) the Chief Executive Officer by virtue of his or her office;
- (b) a senior official of the Department designated by the Director-General with the approval of the Minister; and
- (c) no fewer than eight and no more than ten other persons appointed on a part-time basis by the Minister, in accordance with subsection (3) and taking into account the provisions of subsection (2).

(2) The members contemplated in subsection (1)(c)-

- (a) must be suitably qualified-
 - (i) to provide effective corporate governance and must be able to bring their special expertise and knowledge to bear on the strategy, enterprise and innovative ideas and business planning of the Weather Service; and
 - (ii) to develop policies for the Weather Service and to advise the Minister on matters relating to weather-related and climate-related research programmes, technological development, service delivery to clients, marketing of services, international co-operation and the application of meteorology in weather-sensitive industries; and
- (b) are appointed in their personal capacities, but the Minister must ensure that the needs of the following stakeholders are taken into account when appointing the members of the Board:
 - (i) Water resource management;
 - (iA) air quality management;

[Subpara. (iA) inserted by s. 5 of Act 48/2013]

- (ii) agriculture;
- (iii) subsistence farmers and disadvantaged communities;
- (iv) the media, which may include radio, television and newspapers;
- (v) disaster management;
- (vi) aviation industry;
- (vii) maritime industry;
- (viii) legal profession and insurance industry;
- (ix) any other weather sensitive industry or occupation; and
- (x) atmospheric science education and research community.

(3) Before appointing any person contemplated in subsection (1)(c) or [section 20\(2\)](#), the Minister must-

- (a) by notice in the *Gazette* and in at least two nationally circulated newspapers invite nominations;
- (b) in such notice, specify a period within which nominations must be submitted and stipulate the procedure to be adopted regarding such nominations; and
- (c) ensure that the Board is broadly representative of the South African society.

(4) The Minister must appoint one of the members of the Board as chairperson and another member of the Board as the deputy chairperson.

(5) Members of the Board contemplated in subsection (1)(c) are appointed for a period of three years and are eligible for re-appointment for another final term of three years.

(6) The Chief Executive Officer is a full-time member of the Board and is appointed for such period as the Board may determine at the time of appointment.

(7) In the absence of a Board all the functions of the Board are vested in the Minister.

6. Functions of Board

The Board must within the policy determined by the Minister in terms of section 2A(1) and in compliance with any norms and standards issued in terms of section 2B(b) and any directive issued in terms of section 2B(c)-

[Words preceding para. (a) substituted by s. 6 of Act 48/2013]

(a) ensure the financial viability and development of the commercial services;

(b) ensure an efficient, cost-effective and high quality weather service;

(c) set operational policy, standards, and objectives and ensure that the executive management implements these policies, standards and objectives;

[Para. (c) substituted by s. 6 of Act 48/2013]

(d) facilitate succession and give guidance in the appointment of senior managers;

(e) ensure that the Weather Service has adequate systems of internal control, both operational and financial;

(f) monitor the performance of the Weather Service and make adjustments to the conditions of service of the personnel with due regard to the applicable labour legislation;

(g) recommend any budget proposals or adjustments and submit them to the Minister;

(h) subject to the departmental human resources and transformation framework, set policy for recruitment, training and transformation of the Weather Service;

[Para. (h) substituted by s. 6 of Act 48/2013]

- (i) approve a business plan for the Weather Service annually for the next three years and submit it to the Minister for final approval;
- (j) perform any other function assigned to it by the Minister

7. Removal

(1) A member of the Board may at any time be removed from office by the Minister on account of-

- (a) misconduct;
- (b) inability to perform the duties of his or her office effectively;
- (c) absence from three consecutive meetings of the Board without the prior permission of the Board, except on good cause shown; or
- (d) election as a member of Parliament or a provincial legislature.

(2) A member may not be removed from office except after due enquiry.

8. Vacancies

(1) A vacancy in the Board occurs if a member of the Board contemplated in section 5(1)(c)-

- (a) upon at least one month's written notice, tenders his or her resignation to the Minister;
- (b) is removed from office in terms of section 7; or
- (c) dies or becomes permanently incapable of doing his or her work.

(2)

(a) When a vacancy in the Board has occurred as contemplated in subsection (1) the procedure contemplated in section 5 applies.

(b) Any member appointed under this section holds office for the rest of the period of the predecessor's term of office.

9. Remuneration

Any member of the Board, other than the Chief Executive Officer and the official contemplated in section 5(1)(b), must be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

10. Meetings of Board

(1)

(a) The meetings of the Board must be held at least four times a year at such times and places as the Board may determine.

(b) The first meeting of the Board must be held at such time and place as the Minister determines.

(2)

(a) In the absence of the chairperson, the deputy chairperson must perform all functions of the chairperson.

(b) The chairperson or the deputy chairperson, and failing him or her, a member of the Board elected by the members present, must preside at a meeting of the Board.

(3)

(a) The chairperson may at any time convene a special meeting of the Board which must be held at such time and place as the chairperson determines.

- (b) If the majority of the members of the Board request a special meeting in writing, the chairperson must convene such a meeting within seven days after receiving the request.
- (4) The Board may determine its own procedure but any decision of the Board must be taken by resolution of the majority of the members present at any meeting of the Board and, in the event of an equality of votes, the person presiding has a casting vote in addition to his or her deliberative vote.
- (5) Subject to the approval of the chairperson, any person may attend or take part, but may not vote, in a meeting of the Board.
- (6) A majority of the Board members forms a quorum at any meeting of the Board.
- (7) Despite the provisions of subsection (4), the Minister may set policy guidelines within which any Board decision must be taken.

11. Committees of Board

(1)

- (a) The Board may establish one or more committees which must perform such functions of the Board as the Board may determine.
- (b) A committee established under paragraph (a) performs the functions in question subject to the instructions of the Board.
- (c) The Board may at any time dissolve or reconstitute any committee established under paragraph (a).

(2)

- (a) Each committee established under this section consists of such number of members of the Board and of the staff of the Weather Service as the Board may consider necessary.
- (b) If a committee consists of more than one member, the Board must designate a member of that committee to act as chairperson.

12. Meteorological advisory committees

The Board may establish such number of meteorological advisory committees on a national and regional basis as may be necessary, to advise it on any relevant matter.

CHAPTER 4

MANAGEMENT OF WEATHER SERVICE

13. Chief Executive Officer

- (1) The members of the Board contemplated in section 5(1)(b) and (c), acting with the concurrence of the Minister, must appoint a person as the Chief Executive Officer in accordance with the process set out in subsections (2), (3), (4) and (5).
- (2) The Chief Executive Officer must be appointed-
 - (a) for a term or terms not exceeding five years; and
 - (b) on each occasion in terms of the process set out in subsections (3), (4) and (5).
- (3) The appointment of the Chief Executive Officer must be made after following a transparent and competitive selection process, which must include an invitation of applications for the post contemplated in subsection (1) by publishing advertisements in the media circulating nationally.
- (4) The Board must consider the appointment of the Chief Executive Officer after following the prescribed recruitment and selection process.

- (5) A person appointed in terms of subsection (2) must be a fit and proper person with appropriate qualifications and experience to perform the functions of a Chief Executive Officer.
- (6) The Chief Executive Officer is employed subject to such terms and conditions of employment as the Board may determine with the concurrence of the Minister.
- (7) The Chief Executive Officer must be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.
- (8) The Board must enter into an annual performance agreement with the Chief Executive Officer within three months of his or her employment and thereafter, at the beginning of each financial year.
- (9) The Chief Executive Officer is accountable to the Board.
- (10) The Chief Executive Officer is responsible for-
 - (a) the management of the Weather Service;
 - (b) ensuring the exercise of the powers and performance of the functions of the Weather Service; and
 - (c) reporting to the Board on aspects of management, the exercise of the powers and performance of the functions of the Weather Service.
- (11) When there is a vacancy in the office of the Chief Executive Officer, if the Chief Executive Officer is absent or unable to perform his or her duties, the Chairperson of the Board may, with the concurrence of the members of the Board and the Minister, appoint another employee of the Weather Service to act as the Chief Executive Officer.
- (12) The acting Chief Executive Officer has all the powers and may perform all the functions of the Chief Executive Officer.

[S. 13 substituted by s. 7 of Act 48/2013]

13A. Removal of Chief Executive Officer from office

(1) The Chief Executive Officer vacates his or her office-

- (a) when he or she dies;
- (b) in the case of resignation, on the date the resignation takes effect;
- (c) on expiry of the term of his or her contract of employment; or
- (d) upon having been removed from office in terms of subsection (2).

(2) Subject to subsections (6), (7), (8) and (9), the Board, in concurrence with the Minister, may remove the Chief Executive Officer from office in terms of subsection (1)(d)-

- (a) for misconduct;
- (b) for failing to perform the functions connected with that office or to exercise the powers and to perform the functions adequately, diligently and efficiently;
- (c) if, because of any physical or mental illness or disability, the holder of that office has become incapable of performing or efficiently exercising the powers or performing the functions connected with that office;
- (d) where an irreparable breakdown in the working relationship between the Board and the Chief Executive Officer has occurred;
- (e) for being absent from duty or Board meetings, without the leave of the Board or for good reason.

(3) If the Board for any reason needs to have any allegation or allegations levelled at the Chief Executive Officer investigated, or if the Minister requests an investigation of any matter

relating to the Chief Executive Officer, the Board must request the Minister to institute a preliminary investigation.

- (4) If the preliminary investigation outcome indicates any of the grounds of removal in subsection (2)(a), (b), (d) or (e), the Minister must, within 60 days, proceed with the independent investigation contemplated in subsection (9).
- (5) If the preliminary investigation outcome does not indicate the grounds of removal in subsection (2)(a), (b), (d) or (e) but a lesser transgression, the Board must deal with the allegation or allegations in accordance with its internal disciplinary code.
- (6) The Chief Executive Officer may be removed from office for the reasons mentioned in subsections (2)(a), (b), (d) and (e) if the Board is satisfied that removal from office is justified in the circumstances and only-
 - (a) on a finding to that effect by the Board after disciplinary proceedings contemplated in subsection (13) have been concluded;
 - (b) on the adoption by the Board of a resolution calling for the Chief Executive Officer's removal from office; and
 - (c) if the Minister concurs with the finding of the Board; or
 - (d) in the event that the Minister does not concur with the findings of the Board, but is of the view that some other good cause found during the investigation contemplated in terms of this section justifies the removal of the Chief Executive Officer, the Chief Executive Officer may be removed from office on such good cause shown if the Board concurs with the Minister.
- (7) The Chief Executive Officer may be removed from office in the case of subsection (2)(c), if the Board is satisfied that removal from office is justified in the circumstances based on the report and recommendation of a medical practitioner with the necessary expertise.

(8) Where the Chief Executive Officer does not agree with the medical practitioner's report and recommendation contemplated in subsection (7), the Chief Executive Officer is entitled to obtain a second medical opinion from a medical practitioner of his or her choice and to submit such report and recommendation to the Board for consideration.

(9)

(a) Where the Chief Executive Officer-

(i) denies, or does not admit the allegation or allegations that are relied upon by the Board for the removal of the Chief Executive Officer in terms of subsection (2)(a), (b), (d) or (e);or

(ii) alleges that the allegation or allegations do not justify removal from office,

the Minister must, within 60 days, appoint an independent investigator to investigate the allegation or allegations levelled at the Chief Executive Officer.

(10) The independent investigator must, as soon as possible, but at least within a period of 60 days of his or her appointment, submit a report containing all the information gathered, any findings and recommendations to the Board.

(11) The independent investigator must provide the Chief Executive Officer with a reasonable opportunity to provide any relevant information to the independent investigator, including a reasonable opportunity to respond to any allegation or show cause why the allegations do not justify his or her removal.

(12) If the Chief Executive Officer, in the opinion of the independent investigator, fails or refuses fully or partially or adequately to co-operate with the independent investigator or in any other manner delays or undermines the investigation, the independent investigator may continue with the investigation in the absence of or without the participation of the Chief Executive Officer.

- (13) If there is evidence or information available which may support the allegation or allegations against the Chief Executive Officer or if the independent investigator for any reason so recommends, the Board must, within 60 days after receiving the report contemplated in subsection (10), institute disciplinary proceedings against the Chief Executive Officer in accordance with prescribed disciplinary procedure.
- (14) The Minister must appoint an independent Chairperson to preside over the disciplinary proceedings.
- (15) A disciplinary procedure instituted in terms of this Act must not be postponed, suspended or dispensed with as a result of criminal, civil or other legal action having been instituted, or pending the outcome of such action.
- (16) The Minister, after consultation with the Board, may, for any reason he or she deems fit, suspend the Chief Executive Officer from office, pending the outcome of the investigation contemplated in subsection (3) or (9) or disciplinary procedures contemplated in subsection (5) or (13), on any condition as to remuneration or any other matter relating to the employment of the Chief Executive Officer that the Minister, after consultation with the Board, may approve.

[S. 13A inserted by s. 8 of Act 48/2013]

CHAPTER 5

STAFF OF WEATHER SERVICE

14. Staff and conditions of service

- (1) Subject to [section 6\(h\)](#), the Chief Executive Officer may, on such terms and conditions of service as may be determined by the Board, appoint such number of employees to the Weather Service as are necessary, to exercise its powers and enable the Weather Service to perform its functions.

[Subs. (1) substituted by s. 9 of Act 48/2013]

(2) The Weather Service must out of its own funds pay to its employees such remuneration, allowances, subsidies and other benefits as the Board may determine in accordance with a system approved for that purpose by the Minister with the concurrence of the Minister of Finance

(3)

[Subs. (3) deleted by s. 9 of Act 48/2013]

(4) Every employee must enter into a service contract with the Weather Service

(5) The Chief Executive Officer may when necessary, appoint persons under contract as consultants in accordance with the terms and conditions determined by the Board.

15. Pensions

(1) All employees shall have the choice to-

(a) remain or become a member of the Government Employees Pension Fund;

(b) elect dormant membership and to join any existing fund as a new member from a current date; or

(c) withdraw from the Government Employees Pension Fund in accordance with the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996).

(2) The Weather Service may, under the Pension Fund Act, 1956 (Act No. 24 of 1956), establish a pension fund for its employees.

(3) For purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer must be regarded as having taken place when employment is taken up at the Weather Service by persons in terms of section 18, and the position of those persons in respect of the phasing-in of tax levied on benefits or advantages derived by reason of employment or the holding

of any office as contemplated in Schedule 7 to the Income Tax Act, 1962, must be regarded as remaining unchanged.

CHAPTER 6

FINANCIAL MATTERS

16. Funds

(1) The funds of the Weather Service consist of-

- (a) money appropriated by Parliament to enable the Weather Service to perform the public good services;
- (b) income derived from commercial services;
- (c) money raised by the Weather Service under section 4;
- (d) fees or royalties contemplated in subsection (4) paid to the Weather Service;
- (e) donations, user charges or contributions received by the Weather Service from any source;
- (f) interest on investments; and
- (g) income derived from any other source.

(2) The Weather Service must utilise its funds to defray expenses in connection with the performance of its functions.

(3) The Weather Service must utilise any donations or contributions contemplated in subsection (1)(e) for such purposes and in accordance with such conditions as may be specified by the donor or contributor concerned, provided that these conditions are in the interest of the Weather Service and the State.

(4) The Chief Executive Officer may in respect of any work performed or services rendered by the Weather Service under this Act other than public good services, or for the use of the facilities of the Weather Service or rights resulting from any discoveries, inventions, computer programs or improvements made by employees of the Weather Service charge such fees or make such other financial arrangements as the Board may deem fit.

17. Accounting authority

(1) In accordance with section 49(2)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Board is the accounting authority of the Weather Service, and must comply with the provisions of the Public Finance Management Act, 1999.

[Subs. (1) substituted by s. 10 of Act 48/2013]

(2) The Weather Service must-

(a) furnish the Minister with information which he or she may require concerning the activities and financial position of the Weather Service; and

(b) submit to the Minister not later than five months after the end of each year, an annual report containing a balance sheet, a statement of income and expenditure certified by the Auditor-General and such other particulars as the Minister may require.

(3) The Minister must table the annual report in Parliament within 14 days of receipt thereof if Parliament is then sitting or, if Parliament is not then sitting, within 14 days after the commencement of the next sitting.

CHAPTER 7

TRANSITIONAL PROVISIONS

18.

[S. 18 repealed by s. 11 of Act 48/2013]

19. Transfer of certain assets and liabilities to Weather Service

(1) On the date of commencement of this Act, all the assets, rights, liabilities and obligations which the Minister determines, pass to the Weather Service.

(2)

(a) Such assets must include-

(i) stock, equipment, instrumentation and furniture on the registers or records of the Chief Directorate;

(ii) vehicles, aircraft, buildings and land allocated to the Chief Directorate; and

(iii) the remainder of part 264 of Garsfontein 374 JR (Waterkloof Heights) Pretoria; and

(b) funds to lease and maintain buildings, office space and to pay for the provision of services on behalf of the Chief Directorate for the remainder of the financial year after the commencement of this Act.

(3) The Registrar of Deeds concerned must, on application by the Board and lodgement of the relevant title deeds, make such entries or endorsement in his or her registers or records and on the relevant title deeds as may be necessary in order to give effect to subsection (1).

(4) No fees may be charged in respect of any transfer contemplated in subsection (3).

(5) In addition to the provisions of subsection (2), the Minister may, with the concurrence of the Minister of Finance, transfer any movable property belonging to the State to the Weather Service to enable it to exercise or perform its powers and functions or to achieve any of its objectives.

CHAPTER 8

REGULATORY CONTROL

20. Regulating Committee

(1) G

(a) The Minister must establish a committee, to be known as the Regulating Committee for Meteorological Services.

(b) In this Chapter any reference to Committee means the Regulating Committee referred to in paragraph (a).

(2) The members of the Committee consist of five persons appointed on a part-time basis by the Minister of whom at least three are not officials of any State department.

(3)

(a) The Minister must appoint one of the five members as the chairperson of the Committee.

(b) In the absence of the chairperson a member of the Committee elected by members present, must preside at a meeting of the Committee.

(4) Members of the Committee contemplated in subsection (1) are appointed in accordance with section 5(3) for a period of three years and are eligible for re-appointment for another final term of three years.

(5) The Committee must, after consultation with the Minister, determine the procedure to be followed in the performance of its functions.

21. Functions of Regulating Committee

(1) The Committee must-

(a) set broad limits on prices of services and products of the Weather Service;

- (b) determine the level of user charges to be applied to the aviation and maritime industries by the Weather Service and advise the Minister on the making of regulations in this regard;
 - (c) ensure that the Weather Service does not abuse its position, but in such a manner as not to place undue restrictions on the Weather Service's commercial activities and guard the Weather Service against unfair competition from national and international private weather services;
 - (d) promote the safe, efficient, economical and profitable operation of the Weather Service;
 - (e) promote the reasonable interest and needs of clients and customers of the Weather Service;
 - (f) monitor service standards and, where necessary, issue instructions to the Weather Service for improvement; and
 - (g) perform any other function assigned to it by the Minister.
- (2) The Committee must, if it has reasonable grounds to believe that the Weather Service has failed to comply with instructions contemplated in subsection (1)(f)-
- (a) immediately investigate the matter;
 - (b) give the Weather Service an opportunity to make representations to the Committee within a period determined by the Committee; and
 - (c) make representations to the Minister.
- (3) The Committee must report before 30 June each year on the work of the Committee to the Minister, and the Minister must table the report in Parliament within 30 days after it is submitted to him or her.

(4) All administrative work in connection with the performance of the functions of the Committee must be carried out by the Department.

22. Removal

(1) A member of the Committee may at any time be removed from the office by the Minister on account of-

- (a) misconduct;
- (b) inability to perform the duties of his or her office effectively;
- (c) absence from any meeting of the Committee without the prior permission of the chairperson, except on good cause shown; or
- (d) election as a member of Parliament or a provincial legislature.

(2) A member may not be removed from office except after due enquiry.

23. Vacancies

(1) A vacancy in the Committee occurs if a member-

- (a) upon at least one month's written notice, tenders his or her resignation to the Minister;
- (b) is removed from office in terms of section 22; or
- (c) dies or becomes permanently incapable of doing his or her work.

(2)

- (a) When a vacancy in the Committee has occurred, the procedure contemplated in section 20(4) applies.

- (b) Any member appointed under this section holds office for the rest of the period of the predecessor's term of office.

24. Remuneration

Any member of the Committee, other than officials from State departments, must be paid by the Department such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

25. Meetings of Regulating Committee

The Committee must meet at least once a year at such times and places as the Committee may determine, but the first meeting of the Committee must be held at such time and place as the Minister determines.

CHAPTER 9

GENERAL AND MISCELLANEOUS PROVISIONS

26. Intellectual property rights

- (1) The Weather Service retains the intellectual property rights on any data, meteorological and advisory services, computer programs, inventions, discoveries and improvements generated by the Weather Service in the fulfilment of its functions.
- (2) Any data, information, advisory services and meteorological services of the Weather Service provided to a client or customer may not be provided by that client or customer to a third party or be distributed without the written consent of the Chief Executive Officer.
- (3) Any use of material by way of publication, including radio, television or other such medium, must acknowledge the Weather Service's contribution.

(4) Ambient air quality data that the Weather Service has not collected itself remains the property of the collector of that ambient air quality data, even if the provision of such ambient air quality data is required by legislation.

[Subs. (4) added by s. 12 of Act 48/2013]

(5) The use of such externally sourced ambient air quality data is governed by the objectives of this Act and the Air Quality Act

[Subs. (5) added by s. 12 of Act 48/2013]

27. Limitation of liability

(1) The Weather Service is not liable for any damage, loss or injury sustained or alleged to have been sustained by any person as a result of his or her reliance on meteorological information provided by the Weather Service.

(2) Neither the Weather Service nor any person employed by the weather service nor any other person acting on behalf of the Weather Service is liable for any damage, loss or injury caused by any act performed or omitted in good faith, in the course of exercising a power or performing a function assigned by or under this Act.

[Subs. (2) added by s. 13 of Act 48/2013]

[S. 27 renumbered to subs. (1) by s. 13 of Act 48/2013]

28. Regulations

(1) The Minister may, after consultation with the Board, make regulations regarding-

(a) the method and frequency of reports on Board meetings to be submitted to the Minister;

(aA) the recruitment and selection process for the Chief Executive Officer contemplated in section 13;

[Para. (aA) inserted by s. 14 of Act 48/2013]

(aB) the disciplinary procedure for the Chief Executive Officer contemplated in section 13A of this Act;

[Para. (aB) inserted by s. 14 of Act 48/2013]

(b) fees for the provision of aviation and maritime meteorological services; and

(c) any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objectives of this Act.

(2) The Minister must table the draft regulations made under subsection (1)(aB) in Parliament, before the final publication of such regulations.

[Subs. (2) added by s. 14 of Act 48/2013]

[S. 28 renumbered to subs. (1) by s. 13 of Act 48/2013]

29. Rules of Board

The Board may make rules, which are not in conflict with this Act or the regulations, for the proper management of the Weather Service and its interests.

30. Delegation of powers and assignment of duties.

(1) The Board may delegate any power and assign any duty of the Board in writing to the chairperson of the Board, the Chief Executive Officer or an employee of the Weather Service.

(2) The Chief Executive Officer may in writing delegate any power and assign any duty conferred or imposed upon the Chief Executive Officer by or under this Act to an employee of the Weather Service, except powers delegated to the Chief Executive Officer under subsection (1).

- (3) Any delegation or assignment under subsection (1) or (2) may at any time be rescinded or amended by the Board or the Chief Executive Officer, as the case may be.
- (4) The Board and the Chief Executive Officer are neither divested of any power or function delegated or assigned under subsection (1) or (2) nor absolved from their responsibilities, and may, subject to the provisions of subsection (5), amend or withdraw any decision made in the exercise of such delegated power or in the performance of a function so assigned.
- (5) A decision made in the exercise of a power so delegated and in consequence of which a payment has been made or any right has been conferred upon any person, may not be amended or withdrawn without the consent of the beneficiary.
- (6) The Minister may delegate any power entrusted to him or her in terms of this Act to the chairperson or the Chief Executive Officer, except the powers contemplated in section 28.

30A. Offences and penalties

- (1) No person may-
 - (a) publish, disseminate or distribute in any manner whatsoever any severe weather warning which he or she knows, believes or ought to have reasonably known or suspected-
 - (i) to be false or misleading; or
 - (ii) may incite public reaction which may lead to the undue mobilisation of resources, public alarm or evacuations, or economic loss arising from such actions; or
 - (b) impersonate or falsely represent himself or herself to be an employee of the Weather Service or purport to act on behalf of the Weather Service; or
 - (c) use official corporate branding from the Weather Service, or corporate branding closely resembling that of the Weather Service, such that it will be difficult for a

reasonable person to distinguish between the original and resembling version, with the intention to deceive a member of the public into believing that the document or message presented or disseminated is an official document or message originating from the Weather Service.

(1A) Whenever a person lays a criminal charge relating to an incident contemplated in subsection (1)(a), the Director of Public Prosecutions who has jurisdiction in the area where the incident occurred, must take the decision whether to institute criminal proceedings on behalf of the State.

(2) A person who contravenes any provision of subsection (1) is guilty of an offence and is liable, in the case of a first conviction, to a fine not exceeding five million rand or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding ten million rand or imprisonment for a period not exceeding 10 years, or in both instances to both such fine and such imprisonment, respectively.

(3) Whenever any person is convicted of an offence under subsection (2) and it appears that such person has by that offence caused loss or damage to any organ of state or other person, the court may in the same proceedings at the written request of the Minister, another organ of state or other person concerned, and in the presence of the convicted person-

(a) inquire summarily and without pleadings into the amount of the loss or damage so caused; and

(b) upon proof of such amount, the court may give judgment therefore in favour of the organ of state or other person concerned against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court.

(4) Whenever any person is convicted of an offence under subsection (2), the court convicting such person may summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, the court may order-

(a) the award of damages, compensation or a fine equal to the amount so assessed; or

(b) that such remedial measures as the court may determine must be undertaken by the convicted person.

(5) Notwithstanding anything to the contrary in any other law, a Magistrate's Court shall have the jurisdiction to impose any penalty or any other sanction in terms of this Act.

[S. 30A inserted by s. 15 of Act 48/2013]

31. Repeal of Meteorology Act, 1988 (Bophuthatswana)

The (Bophuthatswana) Meteorology Act, 1988 (Act No. 18 of 1988), is hereby repealed.

32. Short title and commencement

This Act is called the South African Weather Service Act, 2001, and takes effect on a date fixed by the President by proclamation in the Gazette.

SCHEDULE 1

PUBLIC GOOD SERVICES

1. The gathering of meteorological and climatological observational data over South Africa and surrounding oceans, sufficient for the needs of the country and to comply with international obligations and in accordance with World Meteorological Organization standards, where practicable.
2. The carrying out of those international obligations agreed under World Meteorological Organization arrangements, including the international distribution of data and acting as Regional Telecommunications Hub and as Regional Specialised Meteorological Centre.
3. The provision of other meteorological services and the representation of Government in fulfilment of international obligations, where appropriate.
4. The provision of weather and climatic forecasting and warning services intended for the general benefit of the population and the safety of life and property.
5. The provision of daily rainfall and maximum and minimum temperatures data to the general public.
6. The custody of the National Climatological Databank.
7. The operation of a national meteorological telecommunication network and computer infrastructure necessary to provide public good services.
8. The maintenance of the National Meteorological Library.
9. The provision of advice to Government regarding meteorological and climatological matters.
10. The provision of meteorological and functional-related training in partnership with higher education institutions.

11. The conducting of research focused on reducing the impact of weather-related natural disasters and on improving the quality of the public good services.

[Item 11 substituted by s. 16 of Act 48/2013]

12. The provision of meteorological support for aviation and maritime search and rescue activities in accordance with international obligations of the Government.

13. The provision of service for the benefit of subsistence farmers and fisheries.

14. The collection of ambient air quality data over the Republic of South Africa.

[Item 14 added by s. 16 of Act 48/2013]

15. The provision of ambient air quality forecasts and warning services intended for the general public benefit.

[Item 15 added by s. 16 of Act 48/2013]

16. To act as the custodian of the SAAQIS.

[Item 16 added by s. 16 of Act 48/2013]

17. The publication of air quality and air quality-related publications

[Item 17 added by s. 16 of Act 48/2013]

18. The management, operation, maintenance and the development of NAAQMN and other ambient air quality-related instruments and computer programs.

[Item 18 added by s. 16 of Act 48/2013]

SCHEDULE 2

COMMERCIAL SERVICES

1. The provision of specialised weather forecasting and climate information services.
 2. The provision of services to the maritime industry that are not included in international obligations of the SOLAS Convention (Safety of Life at Sea).
 3. The provision of aviation meteorological services.
 4. Weather and climate related publications.
 5. Meteorological consultations including advice to the legal and insurance industries.
 6. Contracted weather and climate-related research.
 7. Research to improve commercial services.
 8. The dissemination of weather and climate information.
 9. The manufacturing and selling of meteorological equipment to State departments and users from the private sector as well as the servicing, repairing and standardisation of equipment falling within the competence of the Weather Service.
 10. The provision of specialised services to the media.
 11. Commercial services provided on an ad hoc basis to State departments.
 12. The provision of specialised ambient air quality forecasts or ambient air quality information services.
- [Item 12 added by s. 17 of Act 448/2013]
13. The provision of services to the air quality management, air quality monitoring or air quality modelling industry.

[Item 13 added by s. 17 of Act 448/2013]

14. Contracted air quality-related research.

[Item 14 added by s. 17 of Act 448/2013]

15. The selling of ambient air quality or meteorological information packages

[Item 15 added by s. 17 of Act 448/2013]