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STAATSKOERANT

GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 755.

4 April 1990

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

No. 29 van 1990: Wysigingswet op Gevaarlike Wapens, 1990.

No. 755.

4 April 1990

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

No. 29 of 1990: Dangerous Weapons Amendment Act, 1990.

DANGEROUS WEAPONS AMENDMENT ACT, 1990

Act No. 29, 1990

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Dangerous Weapons Act, 1968, so as to further define certain expressions; to extend the power of the Minister of Law and Order to restrict or prohibit the possession of dangerous weapons to include firearms; and to increase the fines which may be imposed in respect of offences; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 23 March 1990.)*

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

Amendment of section 1 of Act 71 of 1968

1. Section 1 of the Dangerous Weapons Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of “firearm” of the following definition:

“firearm’ means an arm as defined in section **[36 of the Arms and Ammunition Act, 1937 (Act No. 28 of 1937)] 1 of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969);**”;

(b) by the substitution for the definition of “Minister” of the following definition:

“Minister’ means the Minister of **[Justice] Law and Order.**”

Substitution of section 2 of Act 71 of 1968

2. The following section is hereby substituted for section 2 of the principal Act:

“Prohibition of the possession of dangerous weapons, firearms and certain other objects

2. (1) Any person who is in possession of any dangerous weapon, or of any object which so resembles a firearm that, under circumstances such as those under which such person is in possession thereof, it is likely to be mistaken for a real firearm, shall be guilty of an offence, unless he is able to prove that he at no time had any intention of using such weapon or object for any unlawful purpose, and shall on conviction be liable to a fine not exceeding **[two hundred rand] R4 000** or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(2) The Minister may from time to time by notice in the *Gazette* and subject to such terms, conditions, restrictions, directions or exemptions as may be specified in such notice or as may be provided for therein,

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prohibit any person or any person belonging to any class of persons specified in such notice, from being in possession at any time or during any period so specified and either generally or at or in any place or area so specified or at a specified gathering or at any gathering belonging to any class specified in such notice, of any object belonging to a class [or], type, kind or category of object which, in the opinion of the Minister, is a dangerous weapon and which is specified in such notice.

(3) The Minister may, notwithstanding anything to the contrary in any law contained, from time to time by notice in the *Gazette* and subject to such terms, conditions, restrictions, directions or exemptions as may be specified in such notice or as may be provided for therein, prohibit any person or any person belonging to any class of persons specified in such notice, from being in possession at any time or during any period so specified and either generally or at or in any place or area so specified or at a specified gathering or at any gathering belonging to any class specified in such notice, of any firearm, or a replica thereof, in general or any firearm, or a replica thereof, belonging to a class, type, kind or category specified in such notice.

[(3)] (4) Any person who is in possession of any object, firearm or replica of a firearm in contravention of the provisions of any notice issued in terms of subsection (2) or (3), shall be guilty of an offence and liable on conviction to the penalties prescribed in subsection (1).

[(4)] (5) The Minister may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of subsection (2) or (3)."

25 Amendment of section 3 of Act 71 of 1968

3. Section 3 of the principal Act is hereby amended by the substitution in subsection (3) for the expression "R300" of the expression "R6 000".

Substitution of section 4 of Act 71 of 1968, as amended by section 23 of Act 102 of 1972

4. The following section is hereby substituted for section 4 of the principal Act:

"Penalties when dangerous weapons or firearms are used in the commission of offences involving violence"

4. (1) Whenever any person above the age of eighteen years is convicted of an offence involving violence to any other person and it has been proved that he killed or injured such other person by using a dangerous weapon or a firearm, he shall, except when the death sentence [or the punishment prescribed by section 334ter or 334quat of the Criminal Procedure Act, 1955 (Act No. 56 of 1955)] is imposed or he is in terms of section [335] 286 of [that Act] the Criminal Procedure Act, 1977 (Act No. 51 of 1977), declared an habitual criminal, notwithstanding anything to the contrary in any law contained, be sentenced to imprisonment for a period of not less than two years and, if he is so convicted by a magistrate's court, not exceeding eight years, and may in addition to any such punishment be sentenced to a whipping not exceeding [ten] seven strokes: Provided that if the court is of the opinion that there are circumstances which justify the imposition of a lighter sentence than the punishment prescribed by this section, it shall enter those circumstances on the record of the proceedings and may thereupon impose such lighter sentence on the person so convicted: Provided further that in the case of a magistrate's court and without derogation from its powers to impose a whipping, such lighter sentence shall not exceed a fine of [four hundred rand] R8 000 or imprisonment for a period of two years.

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(2) Notwithstanding anything to the contrary in any law contained, no person in respect of whom the imposition of a sentence of imprisonment is compulsory in terms of subsection (1), shall be dealt with under section [342, 345 or 352] 290, 294 or 297 of the Criminal Procedure Act, [1955] 1977.

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(3) (a) The provisions of subsections (1) and (2) shall apply only in respect of an offence referred to in subsection (1) which is committed in an area to which the Minister of Justice has, by notice in the *Gazette*, declared such provisions to be applicable.

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(b) The Minister of Justice may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of paragraph (a)."

Short title and commencement

5. This Act shall be called the Dangerous Weapons Amendment Act, 1990, and shall come into operation on a date fixed by the State President by proclamation in 15 the *Gazette*.