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REPUBLIC OF SOUTH AFRICA

**GOVERNMENT GAZETTE**

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**STAATSKOERANT**

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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CAPE TOWN, 26<sup>TH</sup> MAY, 1971.

**[No. 3116.**

KAAPSTAD, 26 MEI 1971.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 885. 26th May, 1971.

No. 885. 26 Mei 1971.

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

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

No. 39 of 1971: Armaments Amendment Act, 1971.

No. 39 van 1971: Wysigingswet op Krygstuig, 1971.

Act No. 39, 1971

ARMAMENTS AMENDMENT ACT, 1971.

# ACT

To amend the provisions of the Armaments Act, 1964, relating to definitions, the constitution and functions of the Armaments Board and the delegation of its powers; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 14th May, 1971.)*

**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 1 of Act 87 of 1964, as amended by section 1 of Act 63 of 1968.

1. Section 1 of the Armaments Act, 1964 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "armaments" of the following definition:

" 'armaments' means any vessels, vehicles, aircraft, bombs, ammunition or weapons or any substance, material, raw material, components or articles of whatever nature capable of being used in the manufacture thereof or for defence force purposes or other purposes determined by the Minister in consultation with the Minister of Economic Affairs;".

Amendment of section 3 of Act 87 of 1964, as amended by section 3 of Act 63 of 1968.

2. (1) Section 3 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The board shall consist of not fewer than seven and not more than nine members to be appointed by the Minister, of whom one shall be designated by the Minister as president and another as vice-president.";

(b) by the substitution for subsection (6) of the following subsection:

"(6) The president of the board shall preside at meetings of the board and whenever the president is absent or unable to perform his functions, the vice-president shall for all purposes act as president of the board."; and

(c) by the substitution for subsection (7) of the following subsection:

"(7) Whenever both the president and the vice-president of the board are absent or unable to fulfil their duties, or the offices of both the president and the vice-president are vacant, the Minister may, subject to such conditions and the payment of such remuneration and allowances as he may in consultation with the Minister of Finance determine, appoint some other person to act as president of the board until a president or a vice-president has been duly appointed or, as the

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case may be, until the president or the vice-president is able to resume his duties.”.

(2) The members of the Armaments Board designated under section 3 (1) of the principal Act, before the commencement of this Act, as chairman and vice-chairman, respectively, of the said Board and who at such commencement still hold office, shall be deemed to have been designated under that section as amended by this section, for the unexpired portion of the period of office in question, as president and vice-president, respectively, of the said Board.

Amendment of section 4 of Act 87 of 1964, as amended by section 4 of Act 63 of 1968.

3. Section 4 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) to exercise control over the manufacture, acquisition or supply of armaments, and—

(i) in the Republic or elsewhere, to acquire, maintain, test, inspect, lease, dispose of, lend or let armaments;

(ii) to enter into contracts with persons in the Republic or elsewhere for the manufacture, maintenance, testing or inspection of armaments;

(iii) to supply or render to the State such armaments or services as may from time to time be determined by the Minister who shall, if the armaments or services are required in a department of State other than the Department of Defence, act in consultation with the Minister administering the other department in question and the Minister of Finance;

(iv) on behalf of the State, to enter into contracts with persons in the Republic or elsewhere for the supply or rendering to the State of armaments or services determined as in the case of armaments or services referred to in subparagraph (iii):

Provided that, except where the Minister directs otherwise, no contract for the manufacture or acquisition of armaments shall be entered into unless a committee appointed under section 8 has considered and made recommendations in regard to such contract.”;

(b) by the substitution for paragraph (d) of the said subsection (1) of the following paragraph:

“(d) to erect, construct or maintain or enter into contracts for the erection, construction or maintenance of any buildings, structures or other works required by the board for the performance of its functions or by the State for such purposes as the Minister may determine.”;

(c) by the substitution for paragraph (g) of that subsection of the following paragraph:

“(g) to promote and co-ordinate the development, manufacture, standardization, maintenance, acquisition or supply of armaments by collaborating with, or assisting or rendering services to, or utilizing the services of, any person, body or institution or any department of State, or by

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taking such other steps as the board may consider necessary;”;

(d) by the substitution for paragraph (k) of that subsection of the following paragraph:

“(k) whenever, after it has entered into a contract whether as principal or on behalf of the State, the board is satisfied that fulfilment of the contract would cause an unavoidable loss to the person with whom the contract has been entered into, to—

(i) vary such contract to the detriment of the board with the approval of the Minister, or in accordance with general directions of the Minister to the board; or

(ii) in the case of a contract entered into on behalf of the State or a contract for the acquisition of property which is to be or has been disposed of to the State at a charge in accordance with the provisions of subsection (3), vary such contract to the detriment of the State with the approval of the Minister administering the department of State for the purposes of which the contract has been entered into or the property is required, granted in consultation with the Minister of Finance;”;

(e) by the deletion of paragraph (a) of subsection (2); and

(f) by the substitution for paragraph (b) of the said subsection (2) of the following paragraph:

“(b) dispose of, lend or let armaments other than armaments acquired for administrative purposes or for use by the board or by any person manufacturing or maintaining armaments by virtue of a contract with the board, except to the State, without the approval of the Minister;”.

Substitution of section 7 of Act 87 of 1964, as amended by section 5 of Act 63 of 1968.

4. The following section is hereby substituted for section 7 of the principal Act:

“Meetings of board. 7. (1) The meetings of the board shall be held at such times and places as may be fixed by the president of the board.

(2) The quorum for a meeting of the board shall be five members, one of whom shall be the president or the vice-president.

(3) All decisions at any meeting of the board shall be by resolution by majority vote of the members present thereat, and in the event of an equality of votes on any matter, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.”.

Substitution of section 9 of Act 87 of 1964, as substituted by section 7 of Act 63 of 1968.

5. The following section is hereby substituted for section 9 of the principal Act:

“Delegation of powers. 9. (1) The board may delegate to any person or body of persons (including any committee, member or officer of the board, the holder of a post under the board and, subject to the provisions of subsection (2) (a), any officer, any employee and the holder of any post in the public service), any power conferred on the board by this Act.

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- (2) (a) The board shall not delegate to an officer or employee or the holder of a post in the public service any power other than a power which the board may in terms of this Act exercise on behalf of the State, and may so delegate such a power only with the consent of the Minister who administers the department of State in which the officer or employee concerned or the holder of the post in question is employed.
- (b) An officer or employee or the holder of a post in the public service may exercise a power delegated to him under this section, or if authorized thereto by the board, authorize any other officer or employee or the holder of any other post in the public service to exercise such power.
- (c) The exercise of a power by an officer or employee, or the holder of a post in the public service, by virtue of a delegation or authorization under this section shall be deemed to be the performance of an official function by the officer or employee concerned or the holder of the post in question.
- (3) Where the board has delegated a power under subsection (1) to a person or body of persons referred to in that subsection, it may authorize such person or body to delegate the power in question to any other person or body of persons designated by the board.
- (4) A delegation under subsection (1), (2) or (3) may be made subject to such conditions and restrictions (if any) as may be determined by the board or by the person or body of persons making the delegation.
- (5) The board shall not be divested of a power delegated by it or under its authority, and may amend or withdraw any decision made in the exercise of such power, including a decision amending or withdrawing a decision as contemplated in subsection (6).
- (6) A person or body of persons referred to in subsection (1), shall not be divested of a power delegated by him or it, and may amend or withdraw any decision made in the exercise of such power.
- (7) Where a power has been delegated to the holder of a post, such power shall be deemed to have been delegated to the person who at any time holds such post."

Short title and  
commencement.

6. This Act shall be called the Armaments Amendment Act, 1971, and shall come into operation on the first day of July, 1971.