



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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.

(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:—

STAATSKOERANT

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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.

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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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WET

Tot wysiging van die bepalings van die Krygstuigwet, 1964, met betrekking tot woordomskrywings, die samestelling en werksaamhede van die Krygstuigraad en die delegering van sy bevoegdhede; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 14 Mei 1971.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 1 van die Krygstuigwet, 1964 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van „krygstuig” deur die volgende omskrywing te vervang:

Wysiging van artikel 1 van Wet 87 van 1964, soos gewysig deur artikel 1 van Wet 63 van 1968.

„krygstuig” enige vaartuig, voertuig, vliegtuig, bom, ammunisie of wapen of enige stof, materiaal, grondstof, onderdeel of artikel van watter aard ook al wat by die vervaardiging daarvan of vir weermagsdoeleindes of ander deur die Minister in oorlog met die Minister van Ekonomiese Sake bepaalde doeleindes gebruik kan word;”.

2. (1) Artikel 3 van die Hoofwet word hierby gewysig—

Wysiging van artikel 3 van Wet 87 van 1964, soos gewysig deur artikel 3 van Wet 63 van 1968.

(a) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Die raad bestaan uit minstens sewe en hoogstens nege deur die Minister aangestelde lede waarvan een as president en ’n ander as vise-president deur die Minister aangewys word.”;

(b) deur subartikel (6) deur die volgende subartikel te vervang:

„(6) Die president van die raad sit voor op vergaderings van die raad en wanneer die president afwesig is of nie sy ampspligte kan verrig nie, tree die vise-president vir alle doeleindes op as president van die raad.”; en

(c) deur subartikel (7) deur die volgende subartikel te vervang:

„(7) Wanneer sowel die president as die vise-president van die raad afwesig is of nie in staat is om sy ampspligte te verrig nie, of die setels van sowel die president as die vise-president vakant is, kan die Minister op die voorwaardes en onderworpe aan betaling van die besoldiging en toelaes wat hy in oorlog met die Minister van Finansies bepaal, iemand anders aanstel om as president van die raad op te tree totdat ’n president of vise-president behoorlik aangestel is of,

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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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na gelang van die geval, totdat die president of die vise-president sy ampspligte kan hervat.”.

(2) Die lede van die Krygstuigraad wat voor die inwerking-treding van hierdie Wet onderskeidelik as voorsitter en onder-voorsitter van daardie Raad aangewys is kragtens artikel 3 (1) van die Hoofwet en wat by bedoelde inwerkingtreding nog hul ampte beklee, word geag vir die onverstreke deel van die betrokke ampstermyn as onderskeidelik president en vise-president van daardie Raad aangewys te wees kragtens daardie artikel soos deur hierdie artikel gewysig.

3. Artikel 4 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 4 van Wet
87 van 1964, soos
gewysig deur
artikel 4 van Wet
63 van 1968.

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

„(a) om beheer uit te oefen oor die vervaardiging, verkryging of verskaffing van krygstuig, en—

(i) om krygstuig in die Republiek of elders te verkry, in stand te hou, te toets, te inspekteer, te huur, van die hand te sit, uit te leen of te verhuur;

(ii) om met persone in die Republiek of elders kontrakte aan te gaan vir die vervaardiging, instandhouding, toets of inspeksie van krygstuig;

(iii) om aan die Staat die krygstuig of dienste te verskaf of te lewer wat van tyd tot tyd bepaal word deur die Minister wat, indien die krygstuig of dienste in 'n ander Staatsdepartement as die Departement van Verdediging benodig is, optree in oorleg met die Minister wat die betrokke ander departement administreer en die Minister van Finansies;

(iv) om namens die Staat met persone in die Republiek of elders kontrakte aan te gaan vir die verskaffing of lewering aan die Staat van krygstuig of dienste wat bepaal word soos in die geval van krygstuig of dienste in subparagraaf (iii) bedoel:

Met dien verstande dat, behalwe waar die Minister anders gelas, geen kontrak vir die vervaardiging of verkryging van krygstuig aangegaan word tensy 'n kragtens artikel 8 aangestelde komitee bedoelde kontrak oorweeg en aanbevelings daarvoor gedoen het nie;”;

(b) deur paragraaf (d) van genoemde subartikel (1) deur die volgende paragraaf te vervang:

„(d) om geboue, bou- of ander werke op te rig, aan te lê of in stand te hou wat die raad vir die verrigting van sy werksaamhede of die Staat vir die doeleindes wat die Minister bepaal, nodig het, of om kontrakte vir die oprigting, aanlê of instandhouding daarvan aan te gaan;”;

(c) deur paragraaf (g) van daardie subartikel deur die volgende paragraaf te vervang:

„(g) om die ontwikkeling, vervaardiging, standaardisering, instandhouding, verkryging of verskaffing van krygstuig te bevorder en te koördineer deur saam te werk met, of hulp te verleen of dienste te verskaf aan, of gebruik te maak van die dienste van, die een of ander persoon, liggaam, inrigting

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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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of Staatsdepartement, of deur die ander stappe te doen wat die raad nodig ag;”;

(d) deur paragraaf (k) van daardie subartikel deur die volgende paragraaf te vervang:

„(k) wanneer hy, nadat hy hetsy as prinsipaal of namens die Staat ’n kontrak aangegaan het, oortuig is dat nakoming van die kontrak ’n onvermygbare verlies sou meebring vir die persoon met wie die kontrak aangegaan is, om—

(i) bedoelde kontrak tot nadeel van die raad te wysig met die goedkeuring van die Minister, of ooreenkomstig algemene voorskrifte van die Minister aan die raad; of

(ii) in die geval van ’n kontrak wat namens die Staat aangegaan is of ’n kontrak vir die verkryging van goedere wat volgens voorskrif van subartikel (3) teen vergoeding aan die Staat van die hand gesit moet word of van die hand gesit is, bedoelde kontrak tot nadeel van die Staat te wysig met die goedkeuring van die Minister wat die Staatsdepartement administreer vir die doeleindes waarvan die kontrak aangegaan of die goedere benodig is, verleen in oorleg met die Minister van Finansies;”;

(e) deur paragraaf (a) van subartikel (2) te skrap; en

(f) deur paragraaf (b) van genoemde subartikel (2) deur die volgende paragraaf te vervang:

„(b) ander krygstuig as krygstuig wat verkry is vir administratiewe doeleindes of vir gebruik deur die raad of deur ’n persoon wat uit hoofde van ’n kontrak met die raad krygstuig vervaardig of in stand hou, behalwe aan die Staat, sonder goedkeuring van die Minister, van die hand sit, uitleen of verhuur nie;”.

4. Artikel 7 van die Hoofwet word hierby deur die volgende artikel vervang:

„Vergaderings van raad.

7. (1) Die vergaderings van die raad word gehou op die tye en plekke wat die president van die raad vasstel.

(2) Die kworum vir ’n vergadering van die raad is vyf lede, van wie een die president of die vise-president moet wees.

(3) Alle besluite op ’n vergadering van die raad geskied by meerderheidsbesluit van die aldaar aanwesige lede, en by ’n staking van stemme oor enige saak het die persoon wat op die vergadering voorsit, benewens sy beraadslagende stem ook ’n beslissende stem.”.

Vervanging van artikel 7 van Wet 87 van 1964, soos gewysig deur artikel 5 van Wet 63 van 1968.

5. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

„Delegering van bevoegdhede.

9. (1) Die raad kan ’n bevoegdheid by hierdie Wet aan die raad verleen, deleger aan ’n persoon of liggaam van persone (met inbegrip van ’n komitee, lid of beampte van die raad, die bekleër van ’n pos by die raad en, behoudens die bepalinge van subartikel (2) (a), ’n beampte, ’n werknemer en die bekleër van ’n pos in die Staatsdiens).

Vervanging van artikel 9 van Wet 87 van 1964, soos vervang deur artikel 7 van Wet 63 van 1968.

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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.

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- (2) (a) Die raad delegeer nie aan 'n beampte of werknemer of die bekleër van 'n pos in die Staatsdiens 'n ander bevoegdheid as 'n bevoegdheid wat die raad ingevolge hierdie Wet namens die Staat kan uitoefen nie, en kan so 'n bevoegdheid aldus delegeer slegs met die goedkeuring van die Minister wat die Staatsdepartement administreer waarin die betrokke beampte of werknemer of die bekleër van die betrokke pos werksaam is.
- (b) 'n Beampte of werknemer, of die bekleër van 'n pos in die Staatsdiens, kan 'n bevoegdheid wat kragtens hierdie artikel aan hom gedelegeer is, uitoefen of, indien deur die raad daartoe gemagtig, 'n ander beampte of werknemer of die bekleër van 'n ander pos in die Staatsdiens magtig om bedoelde bevoegdheid uit te oefen.
- (c) Die uitoefening van 'n bevoegdheid deur 'n beampte of werknemer, of die bekleër van 'n pos in die Staatsdiens, uit hoofde van 'n delegering of magtiging kragtens hierdie artikel, word geag die verrigting van 'n ampswerkzaamheid deur die betrokke beampte of werknemer of die bekleër van die betrokke pos te wees.
- (3) Waar die raad kragtens subartikel (1) 'n bevoegdheid aan 'n in daardie subartikel bedoelde persoon of liggaam van persone gedelegeer het, kan hy sodanige persoon of liggaam magtig om die betrokke bevoegdheid te delegeer aan 'n ander persoon of liggaam van persone deur die raad aangewys.
- (4) 'n Delegasie kragtens subartikel (1), (2) of (3) kan verleen word onderworpe aan die voorwaardes en beperkings (indien daar is) wat deur die raad of deur die persoon of liggaam van persone wat die delegasie verleen, bepaal word.
- (5) Die raad is nie ontdoen van 'n bevoegdheid deur hom of kragtens sy magtiging gedelegeer nie, en kan 'n beslissing geneem in die uitoefening van sodanige bevoegdheid, met inbegrip van 'n beslissing waardeur 'n beslissing gewysig of ingetrek word soos in subartikel (6) bedoel, wysig of intrek.
- (6) 'n Persoon of liggaam van persone in subartikel (1) bedoel, is nie ontdoen van 'n bevoegdheid deur hom gedelegeer nie, en kan 'n beslissing, geneem in die uitoefening van sodanige bevoegdheid, wysig of intrek.
- (7) Waar 'n bevoegdheid aan die bekleër van 'n pos gedelegeer is, word sodanige bevoegdheid geag gedelegeer te wees aan die persoon wat te eniger tyd sodanige pos bekleë."

6. Hierdie Wet heet die Wysigingswet op Krygstuig, 1971, en tree in werking op die eerste dag van Julie 1971.

Kort titel en inwerkingtreeding.