



REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprys • Selling price  
(AVB uitgesluit/GST excluded)

Plaaslik **60c** Local  
Buiteland 95c Other countries  
Posvry • Post free

VOL. 298

KAAPSTAD, 4 APRIL 1990

CAPE TOWN, 4 APRIL 1990

No. 12392

KANTOOR VAN DIE STAATSPRESIDENT

No. 755.

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.

STATE PRESIDENT'S OFFICE

No. 755.

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.

Wet No. 29, 1990

WYSIGINGSWET OP GEVAARLIKE WAPENS, 1990

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeningen aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeningen aan.

**WET**

Tot wysiging van die Wet op Gevaarlike Wapens, 1968, ten einde sekere uitdrukking nader te omskryf; die bevoegdheid van die Minister van Wet en Orde om die besit van gevaarlike wapens te beperk of te verbied, uit te brei om vuurwapens in te sluit; en die boetes wat ten opsigte van misdrywe opgelê kan word, te verhoog; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 23 Maart 1990.)*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 71 van 1968**

1. Artikel 1 van die Wet op Gevaarlike Wapens, 1968 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:  
"Minister" die Minister van **[Justisie]** Wet en Orde;"; en
- (b) deur die omskrywing van "vuurwapen" deur die volgende omskrywing te vervang:  
"vuurwapen" 'n wapen soos in artikel **[36 van die Wapens- en Ammuni-**  
**siewet, 1937 (Wet No. 28 van 1937)]** 1 van die Wet op Wapens en Ammunisie, 1969 (Wet No. 75 van 1969), omskryf."

**Vervanging van artikel 2 van Wet 71 van 1968**

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang: 15

**"Verbod op die besit van gevaarlike wapens, vuurwapens en sekere ander voorwerpe"**

2. (1) Iemand wat in besit is van 'n gevaarlike wapen, of van 'n voorwerp wat so na 'n vuurwapen lyk dat, onder omstandighede soos dié waaronder so iemand in besit daarvan is, dit waarskynlik vir 'n werklike vuurwapen aangesien sou word, is aan 'n misdryf skuldig, tensy hy kan bewys dat hy te gener tyd die bedoeling gehad het om sodanige wapen of voorwerp vir 'n onregmatige doel te gebruik nie, en is by skuldigbevinding strafbaar met 'n boete van hoogstens **[tweehonderd rand]** R4 000 of met gevengenisstraf vir 'n tydperk van hoogstens twaalf maande of met sowel sodanige boete as sodanige gevengenisstraf.

(2) Die Minister kan van tyd tot tyd by kennisgewing in die *Staatskoerant* en onderworpe aan die bedinge, voorwaardes, beperkings, voorskrifte of vrystellings wat in sodanige kennisgewing vermeld word of

## DANGEROUS WEAPONS AMENDMENT ACT, 1990

Act No. 29, 1990

## GENERAL EXPLANATORY NOTE:

- I** Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with solid line indicate insertions in existing enactments.
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## 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.)

**B**E 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—
- 5 (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); and
- 10 (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

- 15 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**
- 20 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.
- 25 (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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waarvoor daarin voorsiening gemaak word, enige persoon of enige persoon wat tot 'n klas persone behoort wat in sodanige kennisgewing vermeld word, verbied om te eniger tyd of gedurende 'n aldus vermelde tydperk en of in die algemeen of by of in 'n aldus vermelde plek of gebied of by 'n aldus vermelde byeenkoms of enige byeenkoms wat tot 'n klas byeenkomste behoort wat in sodanige kennisgewing vermeld word, in besit te wees van 'n voorwerp wat tot 'n klas [of], tipe, soort of kategorie voorwerp behoort wat na die Minister se oordeel 'n gevaaarlike wapen is en wat in sodanige kennisgewing vermeld word.

(3) Die Minister kan, ondanks andersluidende wetsbepalings, van tyd tot tyd by kennisgewing in die *Staatskoerant* en onderworpe aan die bedinge, voorwaardes, beperkings, voorskrifte of vrystellings wat in sodanige kennisgewing vermeld word of waarvoor daarin voorsiening gemaak word, enige persoon of enige persoon wat tot 'n klas persone behoort wat in sodanige kennisgewing vermeld word, verbied om te eniger tyd of gedurende 'n aldus vermelde tydperk en of in die algemeen of by of in 'n aldus vermelde plek of gebied of by 'n aldus vermelde byeenkoms of enige byeenkoms wat tot 'n klas byeenkomste behoort wat in sodanige kennisgewing vermeld word, in besit te wees van enige vuurwapen, of 'n replika daarvan, in die algemeen of enige vuurwapen, of 'n replika daarvan, wat tot 'n klas, tipe, soort of kategorie behoort wat in sodanige kennisgewing vermeld word.

(3) (4) Iemand wat in besit is van 'n voorwerp, vuurwapen of replika van 'n vuurwapen in stryd met die bepalings van 'n kragtens subartikel (2) of (3) uitgevaardigde kennisgewing, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die in subartikel (1) voorgeskrewe strawwe.

(4) (5) Die Minister kan 'n kragtens subartikel (2) of (3) uitgevaardigde kennisgewing te eniger tyd by kennisgewing in die *Staatskoerant* wysig of intrek.

## Wysiging van artikel 3 van Wet 71 van 1968

3. Artikel 3 van die Hoofwet word hierby gewysig deur in subartikel (3) die uitdrukking "R300" deur die uitdrukking "R6 000" te vervang.

## Vervanging van artikel 4 van Wet 71 van 1968, soos gewysig deur artikel 23 van Wet 102 van 1972

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

**"Strawwe wanneer gevaaarlike wapens of vuurwapens gebruik word by die pleeg van misdrywe waarby geweld betrokke is"**

4. (1) Wanneer iemand bo die ouderdom van agtien jaar skuldig bevind word aan 'n misdryf waarby geweld teenoor 'n ander persoon betrokke is en bewys is dat hy sodanige ander persoon deur gebruikmaking van 'n gevaaarlike wapen of vuurwapen gedood of beseer het, word hy, behalwe wanneer die doodstraf [of die by artikel 334ter of 334quat van die Strafproseswet, 1955 (Wet No. 56 van 1955), voorgeskrewe straf] opgelê word of hy ingevolge artikel [335] 286 van [daardie Wet] die Strafproseswet, 1977 (Wet No. 51 van 1977), tot 'n gewoontemisdadiger verklaar word, ondanks andersluidende wetsbepalings, gevangenisstraf vir 'n tydperk van minstens twee jaar en, indien hy voor 'n landdroshof aldus skuldig bevind word, hoogstens agt jaar, opgelê, en kan hy, benewens enige sodanige straf, lyfstraf van hoogstens [tien] sewe houe opgelê word: Met dien verstande dat indien die hof oortuig is dat daar omstandighede is wat dié oplegging van 'n liger straf as die by hierdie artikel voorgeskrewe straf regverdig, hy daardie omstandighede in die noule van die verrigtinge aanteken en dan die persoon wat aldus skuldig bevind word, sodanige liger straf kan oplê: Met dien verstande voorts dat in die geval van 'n landdroshof en sonder afbreuk aan sy bevoegdheid om lyfstraf op te lê, sodanige liger straf nie 'n boete van [vierhonderd rand] R8 000 of gevangenisstraf vir 'n tydperk van twee jaar te bowe gaan nie."

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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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## WYSIGINGSWET OP GEVAARLIKE WAPENS, 1990

- (2) Ondanks andersluidende wetsbepalings word daar met geen persoon ten opsigte van wie die oplegging van gevangenisstraf ingevolge subartikel (1) verpligtend is, kragtens artikel [342, 345 of 352] 290, 294 of 297 van die Strafproseswet, [1955] 1977, gehandel nie.
- (3) (a) Die bepalings van subartikels (1) en (2) is slegs van toepassing ten opsigte van 'n in subartikel (1) bedoelde misdryf wat gepleeg word in 'n gebied waarop die Minister van Justisie sodanige bepalings by kennisgewing in die *Staatskoerant* van toepassing verklaar het.
- (b) Die Minister van Justisie kan 'n kragtens paragraaf (a) uitgevaardigde kennisgewing te eniger tyd by kennisgewing in die *Staatskoerant* wysig of intrek." 10

**Kort titel en inwerkingtreding**

5. Hierdie Wet heet die Wysigingswet op Gevaarlike Wapens, 1990, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. 15

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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.

(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*.

