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No. 12393

KANTOOR VAN DIE STAATSPRESIDENT

No. 756.

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. 30 van 1990: Wysigingswet op Wapens en Ammunition, 1990.

STATE PRESIDENT'S OFFICE

No. 756.

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. 30 of 1990: Arms and Ammunition Amendment Act, 1990.

Wet No. 30, 1990

WYSIGINGSWET OP WAPENS EN AMMUNISIE, 1990

ALGEMENE VERDUIDELIKENDE NOTA:

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

Tot wysiging van die Wet op Wapens en Ammunisie, 1969, ten einde aan 'n hof 'n diskresie te verleen ten opsigte van gevalle waar 'n persoon by skuldigbevinding aan sekere misdrywe geag word onbevoeg verklaar te wees om 'n wapen te besit; te bepaal dat 'n persoon wat 'n skulderkenningsboete betaal, nie geag word onbevoeg te wees om 'n wapen te besit nie; die Bylae by die Wet aan te vul betreffende die misdrywe ten opsigte waarvan 'n persoon by skuldigbevinding geag word onbevoeg te wees om 'n wapen te besit; die boetes wat vir oortredings ingevolge die Wet opgelê kan word, te verhoog; en sekere teksverbeterings aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

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

Vervanging van artikel 12 van Wet 75 van 1969, soos vervang deur artikel 12 van Wet 60 van 1988

1. Artikel 12 van die Wet op Wapens en Ammunisie, 1969 (hieronder die Hoofwet genoem), word hierby deur die volgende artikel vervang: 5

"Persoon in sekere omstandighede by skuldigbevinding geag onbevoeg verklaar te wees om wapen te besit

12. (1) (a) Behoudens die bepalings van subartikel (2) word 'n persoon wat deur 'n hof skuldig bevind word aan 'n oortreding van artikel 39 (1) (i), (j), (k), (l) of (m), of aan 'n misdryf in Bylae 2 by hierdie Wet bedoel, **[word]** geag ingevolge hierdie Deel onbevoeg verklaar te wees om 'n wapen te besit, tensy die hof anders gelas. 10

(b) Die hof moet by skuldigbevinding van 'n persoon in paragraaf (a) bedoel, die bepalings van daardie paragraaf onder so 'n persoon se aandag bring. 15

(2) 'n Persoon wat 'n skulderkenningsboete ingevolge artikel 57 van die Strafproseswet, 1977 (Wet No. 51 van 1977), betaal ten opsigte van 'n oortreding of misdryf in subartikel (1) bedoel, word nie geag ingevolge hierdie Deel onbevoeg verklaar te wees om 'n wapen te besit nie. 20

[2] (3) Die bepalings van artikel 14 is vanaf die datum van sy skuldigbevinding *mutatis mutandis* van toepassing op 'n persoon wat ingevolge subartikel (1) onbevoeg geraak het om 'n wapen te besit. 25

[3] By 'n aansoek ingevolge subartikel (2) moet daardie persoon die voorgeskrewe gelde op die voorgeskrewe wyse betaal]".

ARMS AND AMMUNITION AMENDMENT ACT, 1990

Act No. 30, 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 Arms and Ammunition Act, 1969, so as to give a discretion to a court in respect of instances where a person shall upon conviction of certain offences be deemed to be declared unfit to possess an arm; to provide that a person who pays an admission of guilt fine shall not be deemed unfit to possess an arm; to supplement the Schedule to the Act regarding the offences in respect of which a person shall upon conviction be deemed to be unfit to possess an arm; to increase the fines which may be imposed for offences under the Act; and to effect certain textual emendations; and to provide for incidental matters.

*(English 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:—

Substitution of section 12 of Act 75 of 1969, as substituted by section 12 of Act 60 of 1988

5 1. The following section is hereby substituted for section 12 of the Arms and Ammunition Act, 1969 (hereinafter called the principal Act):

"Person in certain instances upon conviction deemed to be declared unfit to possess arm

10 12. (1) (a) Subject to the provisions of subsection (2), a person who is convicted by a court of a contravention of section 39 (1) (i), (j), (k), (l) or (m), or of an offence referred to in Schedule 2 of this Act, is deemed to be declared unfit to possess an arm under this Part, unless the court determines otherwise.

15 12. (b) The court shall upon convicting any person referred to in paragraph (a), bring the provisions of that paragraph to the notice of such person.

20 12. (2) A person who has paid an admission of guilt fine in terms of section 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in respect of a contravention or offence referred to in subsection (1) shall not be deemed to be declared unfit to possess an arm under this Part.

25 12. (3) The provisions of section 14 shall from the date of his conviction *mutatis mutandis* apply to a person who has become unfit to possess an arm in terms of subsection (1).

12. (3) On an application in terms of subsection (2) that person shall pay the prescribed fee in the prescribed manner".

Wet No. 30, 1990**WYSIGINGSWET OP WAPENS EN AMMUNISIE, 1990****Vervanging van artikel 13 van Wet 75 van 1969**

2. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang:

"Tenuitvoerlegging van lasbrieve kragtens artikel 11 uitgereik

13. 'n Lasbrief kragtens artikel 11 (2) **[of 12(2)]** uitgereik, word op die in artikel **[42]** 21 van die Strafproseswet, **[1955 (Wet No. 56 van 1955)]** 5
1977 (Wet No. 51 van 1977), bepaalde wyse ten uitvoer gelê en 'n wapen waarop daar kragtens so 'n lasbrief beslag gelê is, word oorhandig aan die bekleer van 'n amp in die Suid-Afrikaanse Polisie wat die Kommissaris aanwys.'".

Wysiging van artikel 14A van Wet 75 van 1969, soos ingevoeg deur artikel 14 van Wet 10 60 van 1988

3. Artikel 14A van die Hoofwet word hierby gewysig deur subparagraph (ii) van paragraaf (b) van subartikel (2) deur die volgende subparagraph te vervang:

"(ii) om kragtens die Wet op die Toelating van Advokate, 1964 (Wet No. **[67]** 15
74 van 1964), toegelaat te word om as 'n advokaat te praktiseer; of".

Wysiging van artikel 15 van Wet 75 van 1969, soos gewysig deur artikel 15 van Wet 60 van 1988

4. Artikel 15 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Alle bevoegdheidsertifikate, lisensies om wapens te besit, magtigings wat 20
kragtens Deel I uitgereik is aan 'n persoon wat kragtens hierdie Deel onbevoeg verklaar is om 'n wapen te besit en alle permitte wat aan hom uitgereik is kragtens artikel 45 **[2] (a) (iii)] (5)** of wat ingevolge artikel 27 lisensies geag word om wapens te besit, hou **[op om]** vanaf die datum van die verklaring op om geldig te wees, tensy die verklaring by appèl tersyde gestel word.".

Wysiging van artikel 16 van Wet 75 van 1969, soos gewysig deur artikel 16 van Wet 60 van 1988

5. Artikel 16 van die Hoofwet word hierby gewysig—

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

"(a) alle bevoegdheidsertifikate, lisensies, magtigings of permitte om wapens en ammunisie te besit aan hom uitgereik kragtens Deel I of artikel 45 **[2] (a) (iii)] (5)** of 'n by hierdie Wet herroepé wet;"; en

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

"(a) op versoek van 'n onbevoegde persoon binne dié tydperk wat die Minister bepaal, 'n wapen waarop kragtens artikel 11 (2) **[of 12 (2)]** beslag gelê is en wat aan bedoelde persoon behoort of 'n wapen of ammunisie deur hom ingevolge subartikel (1) van hierdie artikel oorhandig, aan 'n houer van 'n kragtens artikel 3 uitgereikte lisensie 40 om daardie wapen te besit of aan 'n gelisensieerde handelaar oorhandig;".

Wysiging van artikel 28 van Wet 75 van 1969

6. Artikel 28 van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

"(a) in 'n fabriek geregistreer kragtens die **[Wet op Fabrieke, Masjinerie en Bouwerk, 1941 (Wet No. 22 van 1941), of die Ordonnansie op Fabrieke, Masjinerie en Bouwerk, 1952 (Ordonnansie No. 34 van 1952 van die gebied)]** Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983); en".

ARMS AND AMMUNITION AMENDMENT ACT, 1990

Act No. 30, 1990

Substitution of section 13 of Act 75 of 1969

2. The following section is hereby substituted for section 13 of the principal Act:

"Execution of warrants issued under section 11"

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13. Any warrant issued under section 11 (2) [or 12 (2)] shall be executed in the manner provided in section [42] 21 of the Criminal Procedure Act, [1955 (Act No. 56 of 1955)] 1977 (Act No. 51 of 1977), and any arm seized in pursuance of such a warrant shall be handed over to such holder of an office in the South African Police as the Commissioner may designate.”.

10 **Amendment of section 14A of Act 75 of 1969, as inserted by section 14 of Act 60 of 1988**

3. Section 14A of the principal Act is hereby amended by the substitution for subparagraph (ii) of paragraph (b) of subsection (2) of the following subparagraph:

15 “(ii) to be admitted to practise as an advocate under the Admission of Advocates Act, 1964 (Act No. [67] 74 of 1964); or”.

Amendment of section 15 of Act 75 of 1969, as amended by section 15 of Act 60 of 1988

4. Section 15 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

20 “(1) All certificates of competence, licences to possess arms, authorizations issued under Part I to any person declared under this Part to be unfit to possess an arm and all permits issued to him under section 45 [(2) (a) (iii)] (5) or which are deemed under section 27 to be licences to possess arms, shall cease to be valid as from the date of the declaration, unless the declaration is set aside on appeal.”.

25 **Amendment of section 16 of Act 75 of 1969, as amended by section 16 of Act 60 of 1988**

5. Section 16 of the principal Act is hereby amended—

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

30 “(a) all certificates of competence, licences, authorizations or permits to possess arms and ammunition issued to him under Part I or section 45 [(2) (a) (iii)] (5) or any law repealed by this Act;”; and

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

35 “(a) at the request of a disqualified person within such period as the Minister may fix, hand over any arm seized under section 11 (2) [or 12 (2)] belonging to such person or any arm or ammunition surrendered by him in terms of subsection (1) of this section, to the holder of a licence issued under section 3 to possess that arm or to a licensed dealer;”.

40 **Amendment of section 28 of Act 75 of 1969**

6. Section 28 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

45 “(a) in a factory registered under the [Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), or the Factories, Machinery and Building Work Ordinance, 1952 (Ordinance No. 34 of 1952 of the territory)] Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983); and”.

Wet No. 30, 1990**WYSIGINGSWET OP WAPENS EN AMMUNISIE, 1990****Wysiging van artikel 29 van Wet 75 van 1969**

7. Artikel 29 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

- “(a) in 'n fabriek van ontplofbare stowwe gelisensieer kragtens die Wet op Ontplofbare Stowwe, 1956 (Wet No. 26 van 1956) [of die Ordonnansie op Ontplofbare Stowwe, 1962 (Ordonnansie No. 31 van 1962 van die gebied)]; en”.

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Vervanging van artikel 34 van Wet 75 van 1969

8. Artikel 34 van die Hoofwet word hierby deur die volgende artikel vervang:

“Vrystelling van sekere bepalings van wette met betrekking tot ontplofbare stowwe 10

34. Die verbod vervat in die Wet op Ontplofbare Stowwe, 1956 (Wet No. 26 van 1956) [of die Ordonnansie op Ontplofbare Stowwe, 1962 (Ordonnansie No. 31 van 1962 van die gebied)], op die verkoop van of handeldryf in of invoer van ontplofbare stowwe sonder die besit van of verkryging van 'n lisensie, permit of magtiging, is nie op die verkoop van of handeldryf in of invoer van ammunisie ooreenkomsdig 'n handelaarslisensie of 'n kragtens hierdie Wet toegestane permit of magtiging van toepassing nie.”.

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Wysiging van artikel 38A van Wet 75 van 1969, soos ingevoeg deur artikel 6 van Wet 20 van 1983 20

9. Artikel 38A van die Hoofwet word hierby gewysig deur in subartikel (3) die uitdrukking “R500” deur die uitdrukking “R2 000” te vervang.

Wysiging van artikel 39 van Wet 75 van 1969, soos gewysig deur artikel 6 van Wet 16 van 1978, artikel 7 van Wet 19 van 1983 en artikel 23 van Wet 60 van 1988 25

10. Artikel 39 van die Hoofwet word hierby gewysig—

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

“(l) 'n wapen laat afgaan en daardeur nataaliglik 'n ander persoon [dood] beseer, aan liggamlike letsel blootstel of die eiendom van 'n ander persoon beskadig, of wat 'n wapen op enige nataalige wyse hanteer, hetsy daardie wapen afgaan al dan nie; of”;

- (b) deur in subartikel (2) in die woorde wat op subparagraaf (iii) van paragraaf (b) volg die uitdrukking “R5 000” deur die uitdrukking “R12 000” te vervang;

- (c) deur in subartikel (2) in die woorde wat op subparagraaf (ii) van paragraaf (c) volg die uitdrukking “R3 000” deur die uitdrukking “R4 000” te vervang; en

- (d) deur in paragraaf (d) van subartikel (2) die uitdrukking “R1 000” deur die uitdrukking “R4 000” te vervang.

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Wysiging van artikel 41 van Wet 75 van 1969

11. Artikel 41 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) By die deursoeking van 'n vrou is die bepalings van artikel [36 (3)] 29 van die Strafproseswet, [1955 (Wet No. 56 van 1955)] 1977 (Wet No. 51 van 1977), mutatis mutandis van toepassing.”; en

- (b) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:

“(a) kragtens subartikel (1) (a), word mee gehandel asof daarop beslag gelê is kragtens die bepalings van bedoelde Strafproseswet [of, indien daarop in die gebied beslag gelê is, die Strafprosesordonnansie, 1963 (Ordonnansie No. 34 van 1963 van die gebied)];”.

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ARMS AND AMMUNITION AMENDMENT ACT, 1990

Act No. 30, 1990

Amendment of section 29 of Act 75 of 1969

7. Section 29 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

- 5 “(a) in an explosives factory licensed under the Explosives Act, 1956 (Act No. 26 of 1956) [or the Explosives Ordinance, 1962 (Ordinance No. 31 of 1962 of the territory)]; and”.

Substitution of section 34 of Act 75 of 1969

8. The following section is hereby substituted for section 34 of the principal Act:

“Exemption from certain provisions of laws relating to explosives

- 10 34. The prohibition contained in the Explosives Act, 1956 (Act No. 26 of 1956) [or the Explosives Ordinance, 1962 (Ordinance No. 31 of 1962 of the territory)], against selling or dealing in or the importation of explosives without being in possession of or obtaining any licence, permit or authority, shall not apply to the sale of or dealing in or importation of ammunition in accordance with a dealer's licence or any permit or authority granted under this Act.”.
- 15

Amendment of section 38A of Act 75 of 1969, as inserted by section 6 of Act 19 of 1983

9. Section 38A of the principal Act is hereby amended by the substitution in subsection (3) for the expression “R500” of the expression “R2 000”.

- 20 **Amendment of section 39 of Act 75 of 1969, as amended by section 6 of Act 16 of 1978, section 7 of Act 19 of 1983 and section 23 of Act 60 of 1988**

10. Section 39 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (l) of subsection (1) of the following paragraph:
- 25 “(l) discharges an arm and thereby negligently [kills] injures, endangers the life or limb of another person or damages property of any other person, or who handles an arm in any negligent manner, whether that arm discharges or not; or”;
- (b) by the substitution in subsection (2) in the words following subparagraph (iii) of paragraph (b) for the expression “R5 000” of the expression “R12 000”;
- 30 (c) by the substitution in subsection (2) in the words following subparagraph (ii) of paragraph (c) for the expression “R3 000” of the expression “R4 000”; and
- 35 (d) by the substitution in paragraph (d) of subsection (2) for the expression “R1 000” of the expression “R4 000”.

Amendment of section 41 of Act 75 of 1969

11. Section 41 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
- 40 “(2) In searching a woman the provisions of section [36 (3)] 29 of the Criminal Procedure Act, [1955 (Act No. 56 of 1955)] 1977 (Act No. 51 of 1977), shall *mutatis mutandis* apply.”; and
- (b) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- 45 “(a) under subsection (1) (a) shall be dealt with as if it has been seized under the provisions of the said Criminal Procedure Act [or, if seized in the territory, the Criminal Procedure Ordinance, 1963 (Ordinance No. 34 of 1963 of the territory)];”.

Wet No. 30, 1990**WYSIGINGSWET OP WAPENS EN AMMUNISIE, 1990**

Wysiging van artikel 43 van Wet 75 van 1969, soos gewysig deur artikel 25 van Wet 80 van 1971, artikel 7 van Wet 35 van 1973, artikel 7 van Wet 16 van 1978 en artikel 26 van Wet 60 van 1988

12. Artikel 43 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te 5 vervang:

“(b) die gelde betaalbaar vir bevöegdheidsertifikate en licensies vir verskilende klasse wapens kragtens Deel I uitgereik, of vir handelaarslisensies of oordragte daarvan, of by [aansoek] die aantekening van appèl ingevolge artikel [12 (3)] 14 (1), of vir permitte ingevolge 10 artikel 45 [(2) (a) (iii)] (5), of vir afskrifte daarvan, en die wyse waarop bedoelde gelde betaal moet word;”; en

(b) deur na paragraaf (b) van subartikel (1) die volgende paragraaf in te voeg:

“(bA) die wyse waarop ‘n appèl ingevolge artikel 14 (1) aangeteken word;”.

Wysiging van artikel 45 van Wet 75 van 1969, soos gewysig deur artikel 8 van Wet 19 van 1983 en artikel 28 van Wet 60 van 1988

13. Artikel 45 van die Hoofwet word hierby gewysig deur subparagraaf (iii) van paragraaf (a) van subartikel (2) te skrap.

Wysiging van Bylae 2 by Wet 75 van 1969, soos bygevoeg deur artikel 29 van Wet 60 van 1988

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14. Bylae 2 by die Hoofwet word hierby gewysig deur na die woord “Kinderdiefstal” die volgende woorde in te voeg:

“Strafbare manslag waarby die hantering van ‘n wapen betrokke is”.

Kort titel en inwerkingtreding

15. (1) Hierdie Wet heet die Wysigingswet op Wapens en Ammunisie, 1990, en 25 tree in werking op ‘n datum wat die Staatspresident by proklamasie in die Staatskoerant bepaal.

(2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

ARMS AND AMMUNITION AMENDMENT ACT, 1990

Act No. 30, 1990

Amendment of section 43 of Act 75 of 1969, as amended by section 25 of Act 80 of 1971, section 7 of Act 35 of 1973, section 7 of Act 16 of 1978 and section 26 of Act 60 of 1988

12. Section 43 of the principal Act is hereby amended—

- 5 (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
“(b) the fees payable for certificates of competence and licences for different classes of arms issued under Part I, or for dealers' licences or transfers thereof, or on [application] the noting of appeals in terms of section [12 (3)] 14 (1), or for permits in terms of section 45 [(2) (a) (iii)] 10 (5), or for copies thereof, and the manner in which such fees shall be paid;”; and
15 (b) by the insertion after paragraph (b) of subsection (1) of the following paragraph:
“(bA) the manner in which an appeal shall be noted in terms of section 14 (1);”.

Amendment of section 45 of Act 75 of 1969, as amended by section 8 of Act 19 of 1983 and section 28 of Act 60 of 1988

13. Section 45 of the principal Act is hereby amended by the deletion of 20 subparagraph (iii) of paragraph (a) of subsection (2).

Amendment of Schedule 2 to Act 75 of 1969, as added by section 29 of Act 60 of 1988

14. Schedule 2 to the principal Act is hereby amended by the insertion after the word “Childstealing” of the following words:

“Culpable homicide involving the handling of an arm”.

25 **Short title and commencement**

15. (1) This Act shall be called the Arms and Ammunition Amendment Act, 1990, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

