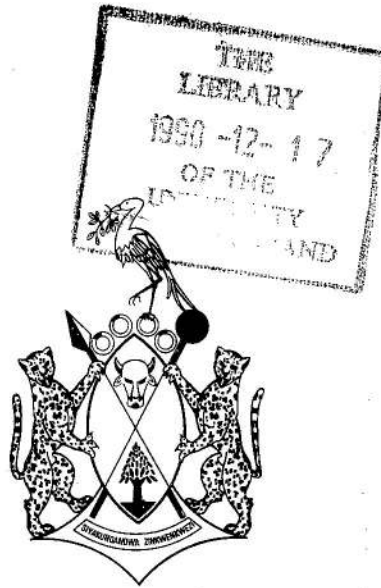


**IRIPHABLIKI
YECISKEI**

**REPUBLIC OF
CISKEI**

**IGAZETHI
YOBURHULUMENTE**

**GOVERNMENT
GAZETTE**



DIMBAZA PRINTERS — 35231

Price 30c

Umq. 18	eBISHO 26/10/90	No. 135	Vol. 18	BISHO 26/10/90	No. 135
----------------	----------------------------------	----------------	----------------	---------------------------------	----------------

DEPARTMENT OF THE COUNCIL OF STATE

GOVERNMENT NOTICE No. 84

It is hereby notified that the Chairman of the Council of State has assented to the following decree which is hereby published for general information:-

ARMS AND AMMUNITION AMENDMENT DECREE, 1990.

DECREE No. 37 OF 1990

COUNCIL OF STATE — REPUBLIC OF CISKEI

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

DECREE

To amend the Arms and Ammunition Act, 1984.

(English text signed by the Chairman of the Council of State. Assented to on 18 October 1990)

BE IT DECREED by the Council of State of the Republic of Ciskei, as follows:-

1. Amendment of section 1 of Act 41 of 1984, as amended by section 1 of Act 2 of 1987 - Section 1 of the Arms and Ammunition Act, 1984 (hereinafter in this Decree referred to as the principal Act) is hereby amended -

(a) by the insertion in subsection (1) after the definition of "arm" of the following definition:

"'armament' includes —

(a) any machine gun, machine rifle, machine pistol, cannon, recoilless gun or mortar, rocket launcher or the like, or any part of any of the same;

(b) any projectile, missile or rocket (or part thereof) intended to be discharged from a cannon, recoilless gun or mortar or rocket launcher or any substance capable of propelling or assisting in the propulsion of any such projectile, missile or rocket so discharged, or any grenade, bomb or mine or any device, substance or thing intended to activate or to detonate any of the same; or

(c) any explosive or incendiary device or any part thereof; or

(d) any imitation of any article referred to in paragraph (b) or (c);

(b) by the substitution in subsection (1) for the definition of "disqualified person" of the following definition:

"'disqualified person' means any person who under section 13 has, or under section 14 is deemed to have been declared unfit to possess an arm and 'disqualification' has a corresponding meaning;"

(c) by the substitution in subsection (1) for the definition of "gunsmith" of the following definition:

"'gunsmith' means any person who carries on the business of repairing, altering or improving, but not manufacturing, arms;"

(d) by the deletion in subsection (1) of the definition of "manufacture".

2. Amendment of section 2 of Act 41 of 1984. - Section 2 of the principal Act is hereby amended —

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

"(a) no person shall —

(i) have any arm in his possession unless he holds or is deemed to hold a licence to possess such arm, or

(ii) have in his possession any frame, receiver, magazine or cylinder of an arm unless he holds or is deemed to hold a licence to possess the arm with which that frame, receiver, magazine or cylinder can be used,"; and

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

"(d) no disqualified person shall have any arm or ammunition in his possession at any time while his disqualification remains of force and effect."

3. Amendment of section 3 of Act 41 of 1984. - Section 3 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) shall, subject to the provisions of subsections (4) and (5) of section 4, not be issued —

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

- (i) except with the approval of the Commissioner first had and obtained;
- (ii) except where the Commissioner has in any particular case otherwise directed, unless there is stamped or engraved in a conspicuous place on a constituent metal part of the arm to which it relates (other than the barrel of a pistol) the manufacturer's serial or identification number or such other number as the Commissioner may have specified; and
- (iii) if in terms of this Act it is not being issued free of charge, except upon payment (in such manner as may be prescribed) of a licence fee of two rand."

4. Substitution of section 5 of Act 41 of 1984. - The following section is hereby substituted for section 5 of the principal Act:

"5. Certain extra-territorial licences may be made valid in Ciskei. - (1) The Chairman of the Council of State may by proclamation in the *Gazette* declare that, subject to such conditions or restrictions as he may specify, a licence or other authorization to possess a particular arm, which has been issued in a country mentioned in such proclamation shall —

- (a) while it remains valid in such country, and
 - (b) if the holder is not a disqualified person, whether in Ciskei or elsewhere
- be deemed to be a licence to possess that arm issued in terms of section 4.

- (2) A proclamation issued under subsection (1) may be amended, suspended or repealed by like proclamation."

5. Amendment of section 6 of Act 41 of 1984. - Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Any permission granted under paragraph (b) or (c) of subsection (1) —

- (a) shall be contained in a statement signed by the licence-holder and setting forth the period for which permission has been granted and particulars sufficient to identify the arm; and
- (b) may, where the licence-holder is a corporate body, be given by an officer of that body who has been duly authorized to grant such permission."

6. Amendment of section 10 of Act 41 of 1984, as amended by section 3 of Act 21 of 1987. - Section 10 of the principal Act is hereby amended —

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

"(2) No person shall —

- (a) wilfully point any arm at any other person;
- (b) without lawful cause, brandish any arm by way of threat;
- (c) negligently or recklessly handle or discharge any arm; or
- (d) handle an arm while he is under the influence of intoxicating liquor or a drug which has a narcotic effect, or supply an arm to any other person whom he knows or suspects or reasonably ought to suspect to be under the influence of intoxicating liquor or a drug which has a narcotic effect."; and

- (b) by the substitution in subsection (3) for the expression "paragraph (b) or (c)" of the expression "paragraph (b), (c) or (d)".

7. Amendment of section 12 of Act 41 of 1984. - Section 12 of the principal Act is hereby amended —

- (a) by the substitution for subsections (1) and (2) of the following subsections:

"(1) The Chairman of the Council of State may from time to time by proclamation in the *Gazette* declare and make known that any person who is in possession of any arm or ammunition contrary to any provision of this Act shall surrender that arm or ammunition at a place, to a person and within a period mentioned in the proclamation.

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

- (2)(a) Any person who surrenders an arm in compliance with a proclamation under subsection (1) may at the same time make application in terms of section 4 for a licence to possess that arm.
- (b) If a licence to possess the arm is issued to the person concerned, such arm and any ammunition surrendered therewith shall forthwith be returned to that person.”;
- (b) by the substitution for subsection (4) of the following subsection:

“(4) No person who has surrendered any arm or ammunition in compliance with a proclamation under subsection (1) shall be prosecuted for any contravention of this Act arising solely from his possession of such arm or ammunition prior to such surrender.”; and
- (c) by the deletion of subsection (5).

8. Substitution of section 13 of Act 41 of 1984. - The following section is hereby substituted for section 13 of the principal Act:

“13. Declaration of person to be unfit to possess arm. - (1) The Commissioner may —

- (a) in the case of any person who has committed any offence in which an arm was used, or
- (b) if information is furnished to him on oath that the possession by any person of an arm is not in the interests of such person or of anybody else by reason of such person's mental state, his inclination to violence (whether or not he uses or has used an arm to commit violence) or his dependence on intoxicating liquor or a drug which has a narcotic effect, or
- (c) in the case of any person who by means of an arm has injured any other person through negligence or has wantonly or through negligence endangered the life or limb of any other person, or
- (d) in the case of any person who has been found guilty of the offence of contravening any provision of section 10 (2) or section 41 (1) (g) or (h) or of an offence referred to in Schedule 1 of the Criminal Procedure Act, 1977, not being an offence mentioned in Schedule 2 of this Act, or
- (e) in the case of any other person who has been found guilty of an offence and sentenced to imprisonment without the option of a fine for a period of not less than six months,

by notice in writing delivered or tendered to such person by a police official, call upon him to appear before the Commissioner at a place and time specified in the notice in order to show cause why he should not be declared unfit to possess an arm on any of the aforesaid grounds also so specified.

- (2) If the Commissioner has reason to believe that the person to whom such notice has been addressed has an arm in his possession, he may issue a search warrant authorizing the seizure thereof.
- (3) Any person appearing before the Commissioner in response to a notice under subsection (1) shall be entitled to be legally represented.
- (4) Upon proof that the notice was duly delivered or tendered to the person concerned, the Commissioner may at any time after the time specified in such notice and whether or not such person has appeared before him, but subject to the provisions of subsection (5), declare such person to be unfit to possess an arm, whether at any time or during a specified period of not less than three years, if, having regard to any reasons advanced by or on behalf of that person and to any other information available on oath, the Commissioner is satisfied that such person is unfit to possess an arm: Provided that the Commissioner may, at his discretion and on such conditions as he may deem fit, suspend the operation of his declaration for a period not exceeding three years.
- (5) The Commissioner shall not declare any person to be unfit to possess an arm on the grounds mentioned in paragraph (b), (c) or (e) of subsection (1) except with the prior approval in writing of the Minister.

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

- (6) The Commissioner shall in writing notify the person in respect of whom a declaration has been made under subsection (4) —
- (a) of the tenor of and reasons for the declaration; and
 - (b) if such declaration has been suspended, of the period and conditions of such suspension.
- (7) Any person who feels aggrieved by any such declaration as aforesaid may, not later than one month after the date of the notification contemplated in subsection (6), appeal to the Minister in writing against such declaration and the Minister may confirm, vary or set aside the declaration: Provided that the Minister may, before arriving at a decision, direct that such further enquiry be made into the matter as he may deem necessary."

9. Substitution of section 14 of Act 41 of 1984. - The following section is hereby substituted for section 14 of the principal Act:

"14. Person convicted of certain offence deemed to be declared unfit to possess any arm. - (1) Any person convicted of an offence referred to in Schedule 2 shall, with effect from the date of such conviction, be deemed to have been declared unfit to possess any arm.

(2) A judge or magistrate of the court by which a person has been convicted of an offence referred to in Schedule 2 may, if he has reason to believe that such person has an arm in his possession, issue a search warrant for the seizure thereof.

(3)(a) Any person who in terms of subsection (1) is deemed to be unfit to possess an arm may, if he has appealed against the conviction in question and the appeal has been disallowed, not later than one month thereafter appeal in writing to the Minister against the disqualification and the Minister may, after causing such enquiry to be made as he may deem necessary, confirm the disqualification or set it aside.

(b) An appellant under paragraph (a) shall submit with his appeal a certified copy of the record of the criminal case which resulted in his disqualification."

10. Substitution of section 16 of Act 41 of 1984. - The following section is hereby substituted for section 16 of the principal Act:

"16. Effect of disqualification. - Whenever any person becomes disqualified under section 13 or 14 to possess an arm, every licence held by him to possess an arm shall forthwith become invalid and he shall remain a disqualified person, notwithstanding the lodging by him of an appeal against the declaration contemplated in section 13(7) or against the conviction referred to in section 14, but subject nevertheless to the provisions of section 17 (4)."

11. Amendment of section 17 of Act 41 of 1984. - Section 17 of the principal Act is hereby amended —

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

"A disqualified person shall surrender or cause to be surrendered to the officer in charge of a police station not later than seven days after his disqualification -";

(b) by the substitution in subsection (2) for the words "six months" of the words "twelve months"; and

(c) by the substitution for subsection (4) of the following subsection:

"(4) If the disqualification of any person is set aside on appeal under section 13(7) or 14(3), as the case may be, any arm and ammunition seized from him or surrendered by him under this Chapter shall be restored to him without delay together with any licences, authorizations and permits surrendered by him, if he may otherwise lawfully possess such arm or ammunition."

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

12. Substitution of section 18 of Act 41 of 1984. - The following section is hereby substituted for section 18 of the principal Act:

"18. Proof of disqualification. - A certificate, purporting to be signed by the Commissioner and stating that the person mentioned therein has, or is deemed to have, been declared unfit to possess an arm with effect from a specified date and during a specified period (if any) shall, on its mere production by any person, be *prima facie* proof of the facts stated in such certificate."

13. Substitution of section 19 of Act 41 of 1984. - The following section is hereby substituted for section 19 of the principal Act:

"19. Minister may annul disqualification. - Any disqualified person may at any time after the expiration of a period of not less than three years after the date on which he became disqualified, apply to the Minister in writing through the Commissioner to annul the disqualification and the Minister may thereupon direct in writing that, as from a date fixed by him, the disqualification shall no longer have any force or effect."

14. Amendment of section 24 of Act 41 of 1984. - Section 24 of the principal Act is hereby amended by the substitution in subsection (1) for the words "at a fee" of the words "of a fee".

15. Amendment of section 25 of Act 41 of 1984. - Section 25 of the principal Act is hereby amended by the substitution in paragraph (b) for the word "throughfare" of the word "thoroughfare".

16. Substitution of section 26 of Act 41 of 1984, as amended by section 5 of Act 21 of 1987. - The following section is hereby substituted for section 26 of the principal Act:

"26. Control over importation or exportation of arms and ammunition. - (1) Subject to the provisions of any proclamation issued under section 5(1) and save as hereinafter provided, no person shall, except on behalf of the State, import into or export from Ciskei any arm or ammunition, including any arm or ammunition in transit through Ciskei to any place outside Ciskei, unless authorized thereto by a permit issued under this Chapter.

(2) The provisions of subsection (1) shall not apply in respect of —

(a) the importation of any arm and ammunition designed and intended solely for the slaughter of livestock; or

(b) the importation of an arm (together with any ammunition therefor) by the holder of a licence or authorization to possess that arm issued under section 4."

17. Amendment of section 27 of Act 41 of 1984, as amended by section 6 of Act 21 of 1987. - Section 27 of the principal Act is hereby amended by the substitution in subsection (2) for the word "identified" of the word "identified".

18. Amendment of section 37 of Act 41 of 1984. - Section 37 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) any arm, or any frame, receiver or magazine of any arm or any cylinder of a revolver unless such other person has produced to the supplier a licence or authorization to possess that arm or as the case may be, a licence or authorization to possess the arm with which that frame, receiver, magazine or cylinder can be used;"

19. Amendment of section 38 of Act 41 of 1984, as amended by section 7 of Act 21 of 1987. - Section 38 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No person shall, except on behalf of the State or under the authority of and in accordance with a permit issued by the Minister at his discretion, import or introduce into Ciskei or supply to any other person or have in his possession any armament."

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

20. Amendment of section 41 of Act 41 of 1984, as amended by section 8 of Act 21 of 1987. - Section 41 of the principal Act is hereby amended —

- (a) by the substitution for subparagraph (ii) of paragraph (j) of subsection (1) of the following subparagraph:
“(ii) a firearm referred to in paragraph (a) of the definition of ‘armament’ in section 1(1); or;
- (b) by the substitution for paragraph (k) of subsection (1) of the following paragraph:
“(k) contravenes the provisions of section 2(b) in having in his possession more than one hundred rounds of ammunition intended for firing in an arm other than an arm referred to in paragraph (a), (b) or (c) of the definition of ‘arm’ in section 1(1); or”;
- (c) by the substitution in paragraph (b) of subsection (2) for the words “two thousand rand” of the words “four thousand rand”;
- (d) by the substitution for paragraph (c) of subsection (2) of the following paragraph:
“(c) in the case of any offence not mentioned in paragraph (a) or (b) of this subsection to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding one year.”; and
- (e) by the substitution for subsection (4) of the following subsection:
“(4) If the evidence on a charge of contravening section 38(1) does not prove that offence but the offence of contravening section 2(a) or 2(b), the accused may be found guilty of the offence so proved.”.

21. Amendment of section 47 of Act 41 of 1984, as amended by section 9 of Act 21 of 1987. - Section 47 of the principal Act is hereby amended —

- (a) by the substitution in subsection (2) (a) (ii) for the words “domestic animals” of the word “livestock”;
- (b) by the substitution for subparagraph (i) of paragraph (b) of subsection (2) of the following subparagraph:
“(i) by any person for the purposes and in the ordinary course of his business or the business of his employer as licensed dealer, authorized manufacturer or gunsmith;”;
- (c) by the substitution for subparagraph (ii) of paragraph (b) of subsection (2) of the following subparagraph:
“(ii) by any person who conveys or stores arms under the authority in writing of, and in the manner determined by, the Commissioner;”.

22. Amendment of section 49 of Act 41 of 1984. - Section 49 of the principal Act is hereby amended by the substitution in subsection (1) for the words “the Schedule” of the expression “Schedule 1”.

23. Insertion of Schedule 2 in Act 41 of 1984. - The following Schedule is hereby added to the principal Act, the existing schedule becoming Schedule 1:

“SCHEDULE 2

(section 14)

OFFENCES RESULTING IN DISQUALIFICATION

- (1) Treason
- (2) Sedition
- (3) Public Violence
- (4) Murder

ARMS AND AMMUNITION AMENDMENT DECREE, 1990

- (5) Rape
- (6) Robbery
- (7) Kidnapping
- (8) Childstealing
- (9) Culpable homicide involving the handling of an arm
- (10) Breaking or entering any premises, whether under the common law or a statutory provision, with intent to commit an offence
- (11) Terrorism
- (12) Subversion
- (13) Sabotage
- (14) Any conspiracy, incitement or attempt to commit any of the foregoing offences
- (15) Hunting a specially protected wild animal in contravention of section 8(a) of the Nature Conservation Act, 1987 (Act 10 of 1987)."

24. Short title and commencement. - This Decree shall be called the Arms and Ammunition Amendment Decree, 1990 and shall come into operation on a date to be fixed by the Chairman of the Council of State by proclamation in the *Gazette*.

OKUQULATHIWEYO			CONTENTS		
<i>Isaziso sika-</i>	<i>Inani</i>	<i>Inani le</i>	<i>Govt.</i>	<i>Page</i>	<i>Gazette</i>
<i>Rhulumente No.</i>	<i>leKhasi</i>	<i>Gazethi</i>	<i>Notice No.</i>	<i>No.</i>	<i>No.</i>
84		135	84		135
DEPARTMENT OF THE COUNCIL OF STATE			DEPARTMENT OF THE COUNCIL OF STATE		
GOVERNMENT NOTICE No. 84			GOVERNMENT NOTICE No. 84		
ARMS AND AMMUNITION AMENDMENT DECREE, 1990.			ARMS AND AMMUNITION AMENDMENT DECREE, 1990.		
DECREE No. 37 OF 1990			DECREE No. 37 OF 1990		

NOTICE

The Ciskei Government Gazette Index provides quick and easy access to notices in the Government Gazettes. By means of a direct subject indexing the retrieval of information on any subject is facilitated. Subjects are arranged alphabetically and subdivisions within each subject range from the general to the specific. Thus the user may either be directed to an individual notice or obtain an overview of existing legislation on a particular subject.

The series of Indexes for the Ciskei Government Gazettes consists of a cumulative edition covering the period, 1972-1981, and annual volumes commencing in 1982.

The index is available from:

Publication Section

The State Library

PO Box 397

PRETORIA

0001

Contact Person:

Mrs C.M. Henning

Tel. (012) 386-1661

The price of publication is:

1972-1981.....R10,50

1982.....7,50

1983.....7,50

1984.....7,50

1984/85.....30,00

1986.....25,00

1987.....36,00

plus G.S.T., postage and
handling charges

It is issued in a hard cover and microfiche editions of the Index are available at the same price as the printed ones.