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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GENERAL NOTICE

NOTICE 1811 OF 2001

DEPARTMENT OF DEFENCE

PUBLICATION OF EXPLANATORY SUMMARY OF DEFENCE BILL

The Minister of Defence intends introducing the Defence Bill in the National Assembly early in August 2001. The explanatory summary of the Bill is hereby published in accordance with Rule 241(c) of the Rules of the National Assembly.

The Bill provides for:

Section 224 of the Interim Constitution, which is being kept alive by item 24(1) of Schedule 6 to the new Constitution, establishes the National Defence Force as the only defence force for the Republic and regulates the composition of the Force at its establishment. Section 236(8) of the Interim Constitution provides that the National Defence Force referred to in 224 is governed by the Defence Act, 1957 (Act No. 44 of 1957), subject to the Constitution and any Act of Parliament.

One of the governing principles of security services as set out in section 198(b) of the Constitution is "(T)he resolve to live in peace and harmony precludes any South African citizen from participating in armed conflict, nationally and internationally, except as provided for in terms of the Constitution or national legislation". In terms of section 199(4) of the Constitution the security forces must be structured and regulated by national legislation and in terms of section 204 of the Constitution a civilian secretariat for defence must be established by national legislation.

The object of the Bill is to repeal the Defence Act, 1957 (except for the provisions in respect of military discipline, which will be dealt with in separate legislation), and to provide for the defence of the Republic in a way which will take into account and give effect to all the requirements and values enshrined in the Constitution in respect of security services. It is proposed that the Department of Defence should consist of the Defence Secretariat, the South African National Defence Force and auxiliary services. The Defence Force is to consist of the Regular and Reserve Forces. It is also proposed that the Secretary for Defence should head the Department and act as the accounting officer as required by finance legislation.

The Bill gives effect to the prescripts contained in the White Paper on Defence that conscription to the Force must be voluntary. However, the Bill stipulates that persons contracted for services will be obligated to remain in service during a time of war, a state of national defence or a state of emergency. During such time or states persons may be mobilised for compulsory military service by proclamation issued by the President. Adequate provision is made for exemption from or deferment of such compulsory military service.

The following are some of the other issues that the Bill seeks to regulate or make provision for:

- (a) Employment and use of the Defence Force;
- (b) Law enforcement powers of the Defence Force at sea;
- (c) Military policy and defence intelligence;
- (d) Council of Defence and other councils; and
- (e) Cooperation with other forces and forces visiting the Republic.

Copies of the Bill can be obtained from:

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