

REPUBLIC OF SOUTH AFRICA

DANGEROUS WEAPONS BILL

(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette No. of2012) (The English text is the official text of the Bill)

MINISTER OF POLICE

[B----2012]

BILL

To provide for certain prohibitions and restrictions in respect of the possession of a dangerous weapon, firearm or replica or imitation firearm; to repeal the Dangerous Weapons Acts in operation in the areas of the erstwhile South Africa, Transkei, Bophuthatswana, Venda and Ciskei, as those areas were constituted immediately before 27 April 1994; to amend an Act; and to provide for matters connected therewith.

Preamble

WHEREAS the Constitution of the Republic of South Africa, 1996 entrenches the right to security of persons and the right to be free from all forms of violence;

AND WHEREAS the Constitution of the Republic of South Africa, 1996 guarantees the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—

"dangerous weapon" means any object, other than a firearm, designed as a weapon and capable of producing death or seriously bodily harm;

"firearm" bears the same meaning as defined in section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000), and includes a muzzle loading firearm or an airgun as defined in the said Act;

"imitation firearm" means an imitation firearm as defined in section 1 of the Firearms Control Act, and **"replica"** has a corresponding meaning.

Prohibition of possession of dangerous weapons, firearms and replicas or imitations firearms

2. (1) Any person who is in possession of—

(a) any dangerous weapon; or

(b) any firearm, replica or imitation firearm,

under circumstances which may raise a reasonable suspicion that the person intends to use the dangerous weapon, firearm, replica or imitation firearm for an unlawful purpose, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three years.

(2) In determining whether a person intends to use the dangerous weapon, firearm, replica or imitation firearm for unlawful purpose, all relevant factors including but not limited to the following, must be taken into account:

(a) The place and time where the person is found;

(b) the general behaviour of the person, including the making of any threat or intimidatory behaviour;

- (c) the manner in which the dangerous weapon, firearm, replica or imitation firearm is carried or displayed;
- (d) whether the possession of the dangerous weapon, firearm, replica or imitation firearm was within the context of drug dealing, gang association or any organised crime activity; or
- (e) whether the person in whose possession the dangerous weapon, firearm, replica or imitation firearm was found, was at the time part of persons who were also in possession of dangerous weapons, firearms, replicas or imitation firearms.

Repeal of laws

3. The laws specified in the Schedule are hereby repealed to the extent indicated in the third column thereof.

Amendment of Regulation of Gatherings Act, 1993

4. The Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), is hereby amended—

(a) by the substitution in section 8 for subsection (4) of the following subsection:

“(4) **[Participants]** No participants at a gathering or demonstration **[shall abide by any law in respect of the carrying of dangerous weapons,]** may have in his or her possession—

(a) any airgun, firearm, imitation firearm or any muzzle loading firearm, as defined in section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000), or any object which resembles a firearm and that is likely to be mistaken for a firearm;
or

(b) any dangerous weapon, as defined in the Dangerous Weapons Act, 2012 or any other object that is likely to cause injury to a person or damage to property,

unless the responsible officer has approved under specific conditions the possession of any article mentioned in paragraphs (a) and (b) during a gathering or demonstration, for cultural or religious purposes or historical enactments and the convener and marshals, if any, shall take all reasonable steps to ensure that [the said laws are] this section is complied with.”.

(b) by the substitution in section 13(1)(a) for subparagraph (ii) of the following subparagraph:

“(ii) **[Dangerous Weapons Act, 1968 (Act No. 71 of 1968)]** Dangerous Weapons Act, 2012; or”.

Short title and commencement

5. This Act is called the Dangerous Weapons Act, 2012 and comes into operation on a date determined by the President by Proclamation in the *Gazette*.

Schedule***Laws repealed by section 5***

No. and year of law	Short title	Extent of repeal
Act No. 71 of 1968	Dangerous Weapons Act, 1968	The whole
Act. No.71 of 1968 (Transkei)	Dangerous Weapons Act, 1968	The whole
Act. No.71 of 1968 (Venda)	Dangerous Weapons Act, 1968	The whole
Act. No.71 of 1968(Ciskei)	Dangerous Weapons Act, 1968	The whole
Act. No.28 of 1982 (Bophuthatswana)	Dangerous Weapons Act, 1982	The whole