
GENERAL NOTICE

DEPARTMENT OF POLICE

No.

Date:

PUBLICATION OF EXPLANATORY SUMMARY OF THE DANGEROUS WEAPONS BILL, 2012

The Minister of Police intends to formally introduce the Dangerous Weapons Bill, 2012, in the National Assembly as soon as possible. The explanatory summary of the Bill is hereby published in accordance with Rule 241(c) of the Joint Rules of Parliament.

The Bill is introduced to review, update and rationalise the Dangerous Weapons Acts still in force in the Republic of South Africa as well as in the TBVC areas as they were constituted before 27 April 1994, to provide for uniform legislation applicable in the whole of South Africa. This followed the judgment of the K W Thunzi and S Mlonzi v The State, (Eastern Cape Division of the High Court, Mthatha, Case No. 213749), confirmed by the Constitutional Court in The State v K W Thunzi and S Mlonzi, by declaring Government Notice R. 409 published in Government Gazette No. 4601 of 7 March 1975, dealing with minimum sentences inconsistent with the Constitution of the Republic of South Africa, 1996, and hence invalid. The Constitutional Court therefore set the Government Notice aside. The said notice was consequently repealed.

The judgment of the Constitutional Court also necessitated the review and rationalisation of the legislation in question and the Bill gives effect to that part of the said judgment.

The Bill, as it will be introduced, is available on the Internet from 23 October 2012 at the following websites: www.policeseecretariat.gov.za and www.saps.gov.za .

EXPLANATORY SUMMARY
DANGEROUS WEAPONS BILL, 2012

The Bill seeks to repeal all the existing legislation regulating dangerous weapons in the Republic and the areas which constituted the TBVC states prior to 27 April 1994, and to provide for uniform legislation that will apply throughout the Republic. The Bill furthermore seeks to prohibit the possession of dangerous weapons, firearms or replicas or imitation firearms in public. "Dangerous weapon" is defined as meaning "any object, other than a firearm, designed as a weapon and capable of producing death or serious bodily harm.

Clause 2(1) of the Bill prohibits the possession of dangerous weapons, firearms or replicas or imitation firearms and provides that any person who is in possession of any dangerous weapon or 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 unlawful purposes is guilty of an offence. The penalty provided for is a fine or imprisonment for a period not exceeding three years.

Clause 2(2) of the Bill provides for factors which must be taken into account in determining whether a person intends to use the dangerous weapon, firearm, replica or imitation firearm for an unlawful purpose.

Clause 3(1) of the Bill repeals, in whole, all the Dangerous Weapons Acts presently in force in the Republic and the areas which were formerly known as the TBVC states.

Clause 4 of the Bill amends the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), in order to provide for a prohibition on the possession of—

- (a) airguns, firearms, imitation firearms, muzzle loading firearms or any object which resembles a firearm and that is likely to be mistaken for a firearm; and
 - (b) dangerous weapons,
- during gatherings and demonstrations. Exceptions which may be allowed under certain conditions are in respect of cultural or religious purposes and historical enactments.