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GOVERNMENT GAZETTE

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KAAPSTAD, 25 JUNIE 1980

OFFICE OF THE PRIME MINISTER

KANTOOR VAN DIE EERSTE MINISTER

No. 1310.

25 June 1980.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 86 of 1980: Armaments Development and Production Amendment Act, 1980.

No. 1310.

25 Junie 1980.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 86 van 1980: Wysigingswet op Krygstuigontwikkeling en -vervaardiging, 1980.

Wet No. 86, 1980

WYSIGINGSWET OP KRYGSTUIGONTWIKKELING EN
-VERVAARDIGING, 1980

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeninge aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

WET

Tot wysiging van die bepalings van die Wet op Krygstuigontwikkeling en -vervaardiging, 1968, ten einde voorsiening te maak vir beheer deur die Minister van Verdediging oor die uitvoer of bemarking van sekere krygstuig en oor die openbaarmaking van sekere inligting; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Junie 1980.)

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

Wysiging van
artikel 1 van
Wet 57 van 1968,
soos gewysig deur
artikel 1 van
Wet 65 van 1972
en artikel 1 van
Wet 20 van 1977.

1. Artikel 1 van die Wet op Krygstuigontwikkeling en -vervaardiging, 1968 (hieronder die Hoofwet genoem), word 5 hierby gewysig—

- (a) deur voor die omskrywing van „Blanke” die volgende omskrywing in te voeg:
„bemarking’ ook enige onderhandelinge, aanbod, tender, reklame of mededeling in verband met krygs- 10
tuig en die verskaffing van handelsinligting; en het
„bemark’ ’n ooreenstemmende betekenis;”;”
- (b) deur die omskrywing van „krygstuig” deur die volgende omskrywing te vervang:
„krygstuig’ ook enige vaartuig, voertuig, vliegtuig, 15
bom, ammunisie of wapen, of enige stof, materiaal,
grondstof, onderdeel, toerustingstelsel [of], arti-
kel of tegniek van watter aard ook al wat by die
ontwikkeling, vervaardiging of instandhouding
[daarvan] van krygstuig of vir weermagsdoel- 20
eindes of ander deur die Minister met die instemming
van die Minister van Ekonomiese Sake bepaalde
doeleindes gebruik kan word;”; en
- (c) deur na die omskrywing van „staking” die volgende omskrywing in te voeg: 25
„„tegniek’ ook enige kundigheid of kennis, hoe dit ook
al uitgebeeld of vasgelê is;”.”

Wysiging van
artikel 3 van
Wet 57 van 1968,
soos vervang deur
artikel 2 van
Wet 65 van 1972
en gewysig deur
artikel 4 van
Wet 20 van 1977.

2. Artikel 3 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (l) van subartikel (2) deur die volgende paragraaf te vervang: 30
„(l) om krygstuig, met inbegrip van krygstuig wat vir uitvoer nodig is en vuurwapens, ammunisie of pirotegniese produkte wat vir verskaffing aan lede van die publiek nodig is, te ontwikkel, te vervaardig, te versien, te herstel, in stand te hou, vir eie 35
rekening of as verteenwoordiger van ’n ander

ARMAMENTS DEVELOPMENT AND PRODUCTION AMENDMENT
ACT, 1980

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GENERAL EXPLANATORY NOTE:

- [** **]** Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Armaments Development and Production Act, 1968, so as to provide for the control by the Minister of Defence of the export or marketing of certain armaments, and of the disclosure of certain information; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 12 June 1980.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Armaments Development and Production Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—
 - (a) by the substitution for the definition of “armaments” of the following definition:

“‘armaments’ **[means]** includes any vessels, vehicles, aircraft, bombs, ammunition or weapons, or any substance, material, raw material, components, equipment system **[or]**, articles or technique of whatever nature capable of being used in the development, manufacture or maintenance **[thereof]** of armaments or for defence purposes or other purposes determined by the Minister with the concurrence of the Minister of Economic Affairs;”;
 - (b) by the insertion after the definition of “employer” of the following definition:

“‘marketing’ includes any negotiations, offer, tender, advertising or giving of information relating to armaments and the providing of trade information; and ‘market’ when used as a verb shall be construed accordingly;”;
 - (c) by the insertion after the definition of “subsidiary company” of the following definition:

“‘technique’ includes any expertise or knowledge, however depicted or recorded;”.
2. Section 3 of the principal Act is hereby amended—
 - (a) by the substitution for paragraph (1) of subsection (2) of the following paragraph:

“(1) to develop, manufacture, service, repair and maintain, on its own account or as the representative of any other person to buy, sell, import or export and, through advertising or otherwise, to promote the **[sales]** sale of, armaments, including armaments

Amendment of section 1 of Act 57 of 1968, as amended by section 1 of Act 65 of 1972 and section 1 of Act 20 of 1977.

Amendment of section 3 of Act 57 of 1968, as substituted by section 2 of Act 65 of 1972 and amended by section 4 of Act 20 of 1977.

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- persoon te koop, te verkoop, in te voer of uit te voer en die **verkope** verkoop daarvan te bevorder deur reklame of andersins;"; en
- (b) deur paragraaf (1A) van subartikel (2) deur die volgende paragraaf te vervang:
- „(1A) om beheer uit te oefen oor die ontwikkeling, vervaardiging, verkryging **of**, verskaffing, uitvoer of bemarking van krygstuig;”.

Invoeging van
artikels 4C,
4D en 4E in
Wet 57 van 1968.

3. Die volgende artikels word hierby in die Hoofwet na artikel 4B ingevoeg:

„Bevoegd-
hede van
Minister
met betrek-
king tot
uitvoer
en bemark-
ing van
krygstuig.

- 4C.** (1) Die Minister kan, wanneer hy dit vir die veiligheid van die Republiek of in die openbare belang nodig of dienstig ag—
- (a) by kennisgewing in die *Staatskoerant* of by skriftelike kennisgewing aan 'n bepaalde persoon, voorskryf dat geen krygstuig van 'n bepaalde klas of soort of geen krygstuig behalwe krygstuig van 'n bepaalde klas of soort—
- (i) uit die Republiek uitgevoer mag word nie;
- (ii) uit die Republiek uitgevoer mag word nie, behalwe uit hoofde van en ooreenkomstig die voorwaardes gestel in 'n permit uitgereik deur hom of deur iemand wat hy daartoe gemagtig het;
- (iii) binne of buite die Republiek bemark mag word nie; of
- (iv) binne of buite die Republiek bemark mag word nie, behalwe uit hoofde van en ooreenkomstig die voorwaardes gestel in 'n permit uitgereik deur hom of deur iemand wat hy daartoe gemagtig het;
- (b) die eienaar van krygstuig wat vir uitvoer of bemarking bestem is maar waarvan die uitvoer of bemarking ingevolge paragraaf (a) verbied is, of by kennisgewing in die *Staatskoerant* of by skriftelike kennisgewing aan daardie eienaar, gelas om op die voorwaardes wat die Minister goedgevind bedoelde krygstuig—
- (i) aan die Minister of aan iemand deur hom aangewys, te lewer; of
- (ii) deur bemiddeling van die Minister of van iemand deur hom aangewys, te bemark, en die Minister kan na goeë dunnke beskik oor krygstuig wat ingevolge subparagraaf (i) gelewer is.
- (2) Die klassifikasie van krygstuig kan by die toepassing van subartikel (1) ook geskied volgens die herkoms of oorsprong of die intermediêre of eindbestemming van krygstuig of volgens die kanale waarlangs of wyse waarop krygstuig uitgevoer of bemark word of volgens die doeleindes waarvoor krygstuig bestem is om gebruik te word.
- (3) 'n Permit kragtens subartikel (1) uitgereik, kan die hoeveelheid of waarde van krygstuig wat uit hoofde daarvan uitgevoer of bemark kan word, die prys waarteen, die tydperk waarbinne, die hawe waardeur of waaruit, die land of gebied waaruit of waarheen en die wyse waarop die betrokke krygstuig uitgevoer of bemark kan word, en die ander voorwaardes, van watter aard ook al, wat die Minister gelas, voorskryf.
- (4) Die Minister kan 'n permit kragtens subartikel (1) uitgereik, intrek, wysig of opskort indien hy oortuig is dat 'n voorwaarde van die permit nie nagekom is nie, of indien die houer van die permit aan 'n misdryf kragtens hierdie Wet skuldig bevind is, of indien die Minister dit vir die veiligheid van die

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required for export and firearms, ammunition or pyrotechnical products required for supply to members of the public;"; and

- (b) by the substitution for paragraph (1A) of subsection (2) of the following paragraph:

"(1A) to exercise control over the development, manufacture, acquisition [or], supply, export or marketing of armaments;".

3. The following sections are hereby inserted in the principal Act after section 4B:

Insertion of sections 4C, 4D and 4E in Act 57 of 1968.

- "Powers of Minister in relation to export and marketing of armaments.
- 15 4C. (1) The Minister may, whenever he deems it necessary or expedient for the security of the Republic or in the public interest—
- 20 (a) by notice in the *Gazette* or by notice in writing to a particular person prescribe that no armaments of a specified class or kind or no armaments other than armaments of a specified class or kind—
- 25 (i) shall be exported from the Republic;
- (ii) shall be exported from the Republic, except under the authority of and in accordance with the conditions stated in a permit issued by him or by a person authorized by him;
- 30 (iii) shall be marketed within or outside the Republic; or
- (iv) shall be marketed within or outside the Republic, except under the authority of and in accordance with the conditions stated in a permit issued by him or by a person authorized by him;
- 35 (b) by notice in the *Gazette* or by notice in writing to the owner of armaments intended for export or marketing but the export or marketing of which is prohibited in terms of paragraph (a), direct such owner—
- 40 (i) to deliver such armaments to the Minister or to a person designated by him; or
- (ii) to market such armaments through the agency of the Minister or of a person designated by him,
- on such conditions as the Minister may deem fit, and the Minister may in his discretion dispose of armaments delivered in terms of subparagraph (i).
- 45 (2) For the purposes of subsection (1) armaments may be classified also according to the source or origin or the intermediate or final destination of armaments or according to the channels along which or manner in which armaments are exported or marketed or according to the purposes for which armaments are intended to be used.
- 50 (3) A permit issued under subsection (1) may prescribe the quantity or value of armaments which may be exported or marketed thereunder, the price at which, the period within which, the port through or from which, the country or territory from or to which and the manner in which the armaments in question may be exported or marketed, and such other conditions, of whatever nature, as the Minister may direct.
- 55 (4) The Minister may cancel, amend or suspend any permit issued under subsection (1) if he is satisfied that any condition of the permit has not been complied with, or if the holder of the permit has been convicted of an offence under this Act, or if the
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Republiek of in die openbare belang nodig of dienstig ag.

(5) Die Minister kan 'n kennisgewing kragtens subartikel (1) uitgereik, by dergelike kennisgewing intrek of wysig.

Verstreking van inligting aan Minister.

4D. Die Minister of iemand deur hom daartoe gemagtig, kan enige persoon wat krygstuig uitvoer, bemark, ontwikkel of vervaardig of in krygstuig handel dryf of krygstuig in die loop van sy besigheid of handel of andersins hanteer of daarvoor beskik, skriftelik gelas om binne 'n bepaalde tydperk enige inligting waaroor hy beskik met betrekking tot die uitvoer, bemarking, ontwikkeling, vervaardiging, verskaffing of berging van die betrokke krygstuig aan die Minister te verstrek.

Misdrywe in verband met uitvoer of bemarking van krygstuig en strawwe daarvoor.

4E. (1) Iemand wat in stryd met die bepalings van 'n kennisgewing kragtens artikel 4C (1) (a) uitgevaardig, krygstuig uitvoer of bemark, of wat versuim om te voldoen aan 'n voorwaarde gestel in 'n permit kragtens daardie artikel uitgereik, of wat versuim om te voldoen aan 'n lasgewing kragtens artikel 4C (1) (b) of 4D uitgereik, of wat valse inligting by die nakoming van 'n lasgewing bedoel in artikel 4D verstrek, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfduisend rand of gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met daardie boete sowel as daardie gevangenisstraf.

(2) Die hof wat iemand skuldig bevind aan die uitvoer of bemarking of 'n poging tot die uitvoer of bemarking van krygstuig in stryd met die bepalings van 'n kennisgewing kragtens artikel 4C (1) (a) uitgevaardig of aan 'n versuim om te voldoen aan 'n voorwaarde gestel in 'n permit kragtens daardie artikel uitgereik, kan die betrokke krygstuig of die veroordeelde persoon se regte daarop of op die opbrengs daarvan aan die Staat verbeurd verklaar. Met dien verstande dat so 'n verbeurdverklaring geen regte raak wat iemand anders as die veroordeelde persoon op die betrokke krygstuig het nie, indien bewys word dat hy nie geweet het dat daar met die krygstuig in stryd met genoemde bepalings of bedoelde voorwaarde gehandel is nie.

(3) Die hof wat die saak verhoor of verhoor het, kan te eniger tyd na so 'n verbeurdverklaring na enigeen se regte op die betrokke krygstuig ondersoek instel en dit bepaal, en indien so 'n bepaling vir enigeen ongunstig is, kan hy daarteen appelleer asof dit 'n skuldigbevinding was deur die hof wat die bepaling gedoen het, en so 'n appèl kan of afsonderlik van of saam met 'n appèl teen die skuldigbevinding as gevolg waarvan die verbeurdverklaring geskied het of teen 'n vonnis wat ten gevolge van so 'n skuldigbevinding opgelê is, verhoor word.

(4) Indien so 'n verbeurdverklaringsbevel tersyde gestel of gewysig word nadat die krygstuig of regte wat verbeurd verklaar is, ten behoewe van die Staat verkoop is, kan die persoon wie se regte deur die tersydestelling of wysiging van die verbeurdverklaringsbevel gehandhaaf is, na eie keuse daardie regte teenoor enigeen in wie se besit of bewaring die betrokke krygstuig is, afdwing, of 'n bedrag gelyk aan die waarde van daardie regte maar wat die opbrengs van die betrokke verkoping nie oorskry nie, van die Staat vorder.

(5) Ondanks andersluidende bepalings van die een of ander wet is 'n landdroshof bevoeg om enige straf op te lê wat by hierdie artikel voorgeskryf word."

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Minister deems it necessary or expedient for the security of the Republic or in the public interest.

(5) The Minister may by like notice withdraw or amend any notice issued under subsection (1).

5 Furnishing
of infor-
mation to
Minister.

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4D. The Minister or any person authorized by him may in writing direct any person who exports, markets, develops or manufactures armaments or trades in any armaments or in the course of his business or trade or otherwise handles or disposes of any armaments, to furnish the Minister within a specified period with any information at his disposal in relation to the export, marketing, development, manufacture, supply or storage of the armaments in question.

15 Offences in
connection
with export
or market-
ing of arma-
ments and
20 penalties
therefor.

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4E. (1) Any person who exports or markets any armaments in contravention of the provisions of any notice issued under section 4C (1) (a), or who fails to comply with any condition stated in a permit issued under that section, or who fails to comply with a direction issued under section 4C (1) (b) or 4D, or who furnishes any false information in complying with a direction referred to in section 4D, shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

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(2) The court convicting any person of exporting or marketing or attempting to export or market any armaments in contravention of the provisions of any notice issued under section 4C (1) (a), or of failing to comply with any condition stated in a permit issued under that section, may declare the armaments in question or the convicted person's rights thereto or to the proceeds thereof, to be forfeited to the State: Provided that such declaration shall not affect any rights which any person other than the convicted person may have to the armaments in question, if it is proved that he did not know that the armaments were being dealt with in contravention of the said provisions or such condition.

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(3) The court which is holding or which held the trial may at any time after the making of such declaration inquire into and determine any person's rights to the armaments in question, and if such determination is adverse to any person, he may appeal therefrom as if it were a conviction by the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the forfeiture was declared, or against a sentence imposed as a result of such conviction.

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(4) If any such declaration is set aside or amended after the sale, on behalf of the State, of the armaments or rights declared to be forfeited, the person whose rights were upheld by the setting aside or amendment of the declaration may, in his discretion, enforce those rights against any person in possession or custody of the armaments in question, or claim from the State an amount equal to the value of those rights but not exceeding the proceeds of the sale in question.

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(5) Notwithstanding anything to the contrary in any law contained a magistrate's court shall have jurisdiction to impose any penalty prescribed by this section."

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Invoeging van
artikel 11A in
Wet 57 van 1968.

4. Die volgende artikel word hierby in die Hoofwet na artikel 11 ingevoeg:

„Verbod op
openbaar-
making van
sekere
inligting.

11A. (1) Niemand mag inligting met betrekking tot die verkryging, verskaffing, bemaking, invoer, uitvoer, ontwikkeling, vervaardiging, instandhouding of herstel van of navorsing in verband met krygstuig deur, vir, namens of ten behoeve van die korporasie of 'n filiaalmaatskappy aan iemand openbaar nie, behalwe kragtens die skriftelike magtiging van die Minister of van iemand wat deur die Minister daartoe gemagtig is. 5

(2) Die bepalings van subartikel (1) belet nie die openbaarmaking nie van inligting— 10

(a) deur iemand vir sover dit nodig is vir die verrigting van sy werksaamhede in verband met die verkryging, verskaffing, bemaking, invoer, uitvoer, ontwikkeling, vervaardiging, instandhouding of herstel van of navorsing in verband met krygstuig deur, vir, namens of ten behoeve van die korporasie of 'n filiaalmaatskappy; 15

(b) vir openbaarmaking vrygestel deur die Minister of deur iemand wat deur die Minister daartoe gemagtig is. 20

(3) Iemand wat die bepalings van subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyftien-duisend rand of met gevangenisstraf vir 'n tydperk van hoogstens agt jaar of met daardie boete sowel as daardie gevangenisstraf.” 25

Invoeging van
artikel 5A in
Wet 45 van 1963.

5. Die volgende artikel word hierby in die Wet op In- en Uitvoerbeheer, 1963, na artikel 5 ingevoeg: 30

„Uitsluiting van uitvoer van krygstuig van toepassing van bepalings van Wet.

5A. (1) Die bepalings van hierdie Wet is nie van toepassing nie met betrekking tot die uitvoer van goedere waarvan— 35

(a) die uitvoer, of

(b) die uitvoer behalwe uit hoofde van en ooreenkomstig die voorwaardes gestel in 'n permit bedoel in artikel 4C (1) (a) (ii) van die Wet op Krygstuigontwikkeling en -vervaardiging, 1968 (Wet No. 57 van 1968), 40

deur die Minister van Verdediging verbied is by wyse van 'n kennisgewing bedoel in artikel 4C (1) (a) van daardie Wet.

(2) Wanneer die Minister van Verdediging 'n kennisgewing bedoel in subartikel (1) ten opsigte van goedere uitreik, word 'n verbod of permit wat uit hoofde van die bepalings van artikel 2 (1) van hierdie Wet met betrekking tot die uitvoer van daardie goedere van krag is, geag met ingang van die datum van bedoelde kennisgewing opgehef te wees of te verval, na gelang van die geval.” 45 50

Kort titel en
inwerkingtreding.

6. Hierdie Wet heet die Wysigingswet op Krygstuigontwikkeling en -vervaardiging, 1980, en die bepalings daarvan tree in werking op 'n datum wat die Staatspresident by proklamasie in die Staatskoerant bepaal.

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Act No. 86, 1980

4. The following section is hereby inserted in the principal Act after section 11:

Insertion of
section 11A in
Act 57 of 1968.

“Prohibition
of disclosure
of certain
5 information.

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11A. (1) No person shall disclose to any person any information in relation to the acquisition, supply, marketing, importation, export, development, manufacture, maintenance or repair of or research in connection with armaments by, for, on behalf of or for the benefit of the corporation or a subsidiary company, except on the written authority of the Minister or of a person authorized thereto by the Minister.

(2) The provisions of subsection (1) shall not prohibit the disclosure of information—

(a) by any person in so far as it is necessary for the performance of his functions in connection with the acquisition, supply, marketing, importation, export, development, manufacture, maintenance or repair of or research in connection with armaments by, for, on behalf of or for the benefit of the corporation or a subsidiary company;

(b) released for publication by the Minister or by a person authorized thereto by the Minister.

(3) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand rand or to imprisonment for a period not exceeding eight years or to both such fine and such imprisonment.”

5. The following section is hereby inserted in the Import and Export Control Act, 1963, after section 5:

Insertion of
section 5A in
Act 45 of 1963.

30 “Exclusion
of export
of arma-
ments from
application
of provisions
35 of Act.

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5A. (1) The provisions of this Act shall not apply with reference to the export of goods—

(a) the export of which, or

(b) the export of which except under the authority of and in accordance with the conditions stated in a permit referred to in section 4C (1) (a) (ii) of the Armaments Development and Production Act, 1968 (Act No. 57 of 1968),

has been prohibited by the Minister of Defence by means of a notice referred to in section 4C (1) (a) of that Act.

(2) Whenever the Minister of Defence issues a notice referred to in subsection (1) in respect of goods, any prohibition or permit which by virtue of the provisions of section 2 (1) of this Act is in force with reference to the export of such goods, shall be deemed to be revoked or to lapse, as the case may be, with effect from the date of the said notice.”

6. This Act shall be called the Armaments Development and Production Amendment Act, 1980, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and
commencement.

