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GOVERNMENT GAZETTE

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STATE PRESIDENT'S OFFICE

No. 1338.

12 June 1991

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

No. 79 of 1991: Arms and Ammunition Amendment Act, 1991

KANTOOR VAN DIE STAATSPRESIDENT

No. 1338.

12 Junie 1991

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

No. 79 van 1991: Wysigingswet op Wapens en Ammunition, 1991

GENERAL EXPLANATORY NOTE:

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

To amend the Arms and Ammunition Act, 1969, so as to extend the definition of "arm" for the purpose of certain sections to include a machine gun or machine rifle; to prohibit the importation, supply or possession, except under an authority or on behalf of the State, of ammunition intended to be fired from a machine gun or machine rifle or similar armament; to extend the prohibition against the carrying of arms in public places to include all arms; to emend the provisions relating to offences and penalties; to exclude the provisions with respect to the declaration of persons as unfit to possess arms, as well as the provisions with respect to offences and penalties, from the savings of section 45; and to exclude certain persons from the prohibition contained in section 38A; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 5 June 1991.)*

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

Amendment of section 1 of Act 75 of 1969, as amended by section 1 of Act 16 of 1978, Government Notice No. R. 2407 of 8 December 1978, section 1 of Act 19 of 1983 and section 1 of Act 60 of 1988

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1. Section 1 of the Arms and Ammunition Act, 1969 (hereinafter referred to as the principal Act), is hereby amended by the substitution in the definition of "arm" for the words preceding paragraph (a) of the following words:
"means any firearm other than a cannon or, except for the purposes of Part II and sections 37, 38, 38A, **[and]** 39(1)(i) and 45(1), other than 10 a machine gun or machine rifle, and includes—".

Amendment of section 32 of Act 75 of 1969, as amended by section 18 of Act 60 of 1988

2. Section 32 of the principal Act is hereby amended—
(a) by the substitution for paragraph (d) of subsection (1) of the following 15 paragraph:
"(d) an imitation of any article referred to in paragraphs (b) and (c);
or";
(b) by the addition to subsection (1) of the following paragraph:
"(e) ammunition intended to be fired from a machine gun or machine 20 rifle or any similar armament.";
(c) by the substitution for subsection (5) of the following subsection:

ALGEMENE VERDUIDELIKENDE NOTA:

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

Tot wysiging van die Wet op Wapens en Ammunisie, 1969, ten einde die omskrywing van "wapen" vir die doel van sekere artikels uit te brei om 'n masjiengeweer in te sluit; die invoer, verskaffing of besit van ammunisie wat bestem is om uit 'n masjiengeweer of soortgelyke wapentuig afgeskiet te word, behalwe kragtens 'n permit of ten behoeve van die Staat, te verbied; die verbod teen die dra van wapens in openbare plekke behalwe in 'n houer, uit te brei om alle wapens in te sluit; die bepalings aangaande misdrywe en strawwe te emendeer; die bepalings ten opsigte van die verklaring van persone as onbevoeg om wapens te besit, asook die bepalings ten opsigte van misdrywe en strawwe, van die voorbehoud van artikel 45 uit te sluit; en sekere persone van die verbod in artikel 38A vervat, uit te sluit; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 5 Junie 1991.)*

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

Wysiging van artikel 1 van Wet 75 van 1969, soos gewysig deur artikel 1 van Wet 16 van 1978, Goewermentskennisgewing No. R.2407 van 8 Desember 1978,
5 artikel 1 van Wet 19 van 1983 en artikel 1 van Wet 60 van 1988

1. Artikel 1 van die Wet op Wapens en Ammunisie, 1969 (hieronder die Hoofwet genoem), word hierby gewysig deur in die omskrywing van "wapen" die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
10 " 'n ander vuurwapen as 'n kanon of, behalwe by die toepassing van Deel II en artikels 37, 38, 38A, en 39(1)(i) en 45(1), as 'n masjiengeweer, en ook—".

Wysiging van artikel 32 van Wet 75 van 1969, soos gewysig deur artikel 18 van Wet 60 van 1988

2. Artikel 32 van die Hoofwet word hierby gewysig—
15 (a) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:
 "(d) 'n namaaksel van enige artikel bedoel in paragrawe (b) en (c); of";
 20 (b) deur die volgende paragraaf by subartikel (1) te voeg:
 "(e) ammunisie wat bestem is om uit 'n masjiengeweer of soortgelyke wapentuig afgeskiet te word.>";
 25 (c) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) (a) Any person who has knowledge or suspects or has reason to suspect that a person has in his possession an article referred to in subsection (1)(a), (b) [or], (c) or (e) contrary to the provisions of this [Part] section, or that such an article is on or in any premises, including any building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle or any part thereof, shall, as soon as it comes to his knowledge, immediately report it or cause it to be reported to a policeman.

(b) Whenever in any prosecution in terms of [this section] paragraph (a) it is proved that the accused has been in contact with a person who has or had in his possession an article referred to in [paragraph] subsection (1) (a), (b) [or], (c) or (e) or that the accused has at any time been on or in any premises, including any building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle or any part thereof, on or in which such an article is found, it is *prima facie* proof that the accused—

- (i) knew that that person was in possession of such an article; or
- (ii) knew that such an article was on or in such premises; and
- (iii) failed to make the report contemplated in paragraph (a).”; and

(d) by the deletion of subsection (6).

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Substitution of section 38A of Act 75 of 1969, as inserted by section 6 of Act 19 of 1983 and amended by section 9 of Act 30 of 1990

3. The following section is hereby substituted for section 38A of the principal Act:

“Requirements as to arms in public place

38A. No person shall in a public place have with him any arm, unless—

(a) in the case of a pistol or revolver, he carries such arm in his pocket in such a way that it is completely covered, or carries it in a holster or similar holder designed, manufactured or adapted for the carrying of a pistol or revolver and attached to his person, or carries it in a handbag or attaché case, or in a rucksack or similar holder;

(b) in the case of any other arm, such arm is carried in a holder designed, manufactured or adapted for the carrying of such arm in such a way that it is completely covered, and in such a manner that he at all times has and can exercise effective control over such arm.”.

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Amendment of section 39 of Act 75 of 1969, as amended by section 6 of Act 16 of 1978, section 7 of Act 19 of 1983, section 23 of Act 60 of 1988 and section 10 of Act 30 of 1990

4. Section 39 of the principal Act is hereby amended—

(a) by the insertion after paragraph (a) of subsection (2) of the following paragraph:

“(aA) in the case of a contravention of or failure to comply with any provision of section 32, to imprisonment for a period not exceeding 25 years;”;

(b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) in the case of a contravention of or failure to comply with any provision of section 38A, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;”;

(c) by the substitution for paragraph (d) of subsection (2) of the following paragraph:

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- 5 “(5) (a) Iemand wat kennis dra of vermoed of rede het om te vermoed dat 'n persoon 'n artikel bedoel in subartikel (1)(a), (b) **[of]**, (c) of (e) strydig met die bepalings van hierdie **[Deel]** artikel in sy besit het, of dat so 'n artikel op of in 'n perseel, met inbegrip van 'n gebou, woning, woonstel, kamer, kantoor, winkel, bouwerk, vaartuig, vliegtuig of voertuig of 'n gedeelte daarvan, is, moet dit sodra dit tot sy kennis kom, onverwyld aan 'n polisieman rapporteer of laat rapporteer.
- 10 (b) Wanneer daar by 'n vervolging ingevalle **[subartikel (5)]** para-
graaf (a) bewys word dat die beskuldigde te eniger tyd in aanraking was met 'n persoon wat in besit is of was van 'n artikel bedoel in **[paragraaf]** subartikel (1) (a), (b) **[of]**, (c) of (e) of dat die beskuldigde te eniger tyd op of in 'n perseel, met inbegrip van 'n gebou, woning, woonstel, kamer, kantoor, winkel, bouwerk, vaartuig, vliegtuig of voertuig of gedeelte daarvan, was waarop of waarin so 'n artikel gevind is, is dit *prima facie*-bewys dat die beskuldigde—
- 15 (i) geweet het dat daardie persoon in besit was van sodanige artikel; of
 (ii) geweet het dat sodanige artikel op of in sodanige perseel was; en
 (iii) versuum het om die rapportering in paragraaf (a) beoog, te doen.”;
 en
- 20 (d) deur subartikel (6) te skrap.

Vervanging van artikel 38A van Wet 75 van 1969, soos ingevoeg deur artikel 6 van Wet 19 van 1983 en gewysig deur artikel 9 van Wet 30 van 1990

- 25 3. Artikel 38A van die Hoofwet word hierby deur die volgende artikel vervang:

“Vereistes betreffende wapens in openbare plek

- 30 38A. Niemand mag in 'n openbare plek 'n wapen by hom hê nie,
 tensy hy—
- 35 (a) in die geval van 'n pistool of rewolwer, sodanige wapen in sy sak dra op so 'n wyse dat dit volkome bedek is, of dit dra in 'n holster of soortgelyke houer wat vir die dra van 'n pistool of rewolwer ontwerp, vervaardig of aangepas is en aan sy persoon vasgeheg is, of dit dra in 'n handsak of aktetas, of in 'n rugsak of soortgelyke houer;
- 40 (b) in die geval van enige ander wapen, daardie wapen in 'n houer wat vir die dra van so 'n wapen ontwerp, vervaardig of aangepas is, dra, op so 'n wyse dat dit volkome bedek is,
 en op so 'n wyse dat hy te alle tye doeltreffende beheer het en kan uiteef oor daardie wapen.”.

Wysiging van artikel 39 van Wet 75 van 1969, soos gewysig deur artikel 6 van Wet 16 van 1978, artikel 7 van Wet 19 van 1983, artikel 23 van Wet 60 van 1988 en artikel 10 van Wet 30 van 1990

- 45 4. Artikel 39 van die Hoofwet word hierby gewysig—
- 46 (a) deur na paragraaf (a) van subartikel (2) die volgende paragraaf in te voeg:
 “(aA) in die geval van 'n oortreding van of versuum om te voldoen aan 'n bepaling van artikel 32, met gevengenisstraf vir 'n tydperk van hoogstens 25 jaar;”;
- 50 (b) deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:
 “(c) in die geval van 'n oortreding van of versuum om te voldoen aan 'n bepaling van artikel 38A, met 'n boete van hoogstens R2 000 of met gevengenisstraf vir 'n tydperk van hoogstens ses maande of met daardie boete sowel as daardie gevengenisstraf;”;
 en
- 55 (c) deur paragraaf (d) van subartikel (2) deur die volgende paragraaf te vervang:

"(d) in the case of an offence not mentioned in paragraph (a), (b) or (c) a contravention of any other provision of this Act, to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment."

Amendment of section 45 of Act 75 of 1969, as amended by section 8 of Act 19 of 1983, section 28 of Act 60 of 1988 and section 13 of Act 30 of 1990 5

5. Section 45 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The foregoing provisions of this Act, other than the provisions of Part II and section 39, shall not apply to the possession or supply of arms or ammunition—

- (a) by any person on behalf of the State;
(b) by any person in his capacity as a person in the service of the State;
(c) by any person for the purposes of the Defence Act, 1957 (Act No. 44 of 1957)."; and 15

(b) by the insertion after subsection (2) of the following subsection:

"(2A) The provisions of section 38A(b) shall not apply in respect of—

- (a) any person rendering a security service as defined in section 1 of the Security Officers Act, 1987 (Act No. 92 of 1987);
(b) any employee rendering services on behalf of his employer for the protection or safeguarding of persons or property.".
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Short title and commencement

6. This Act shall be called the Arms and Ammunition Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 25

- 5 "(d) in die geval van 'n oortreding [wat nie in paragrawe (a), (b) of (c) vermeld word nie] van enige ander bepaling van hierdie Wet, met 'n boete van hoogstens R4 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel daardie boete as daardie gevangenisstraf.".

Wysiging van artikel 45 van Wet 75 van 1969, soos gewysig deur artikel 8 van Wet 19 van 1983, artikel 28 van Wet 60 van 1988 en artikel 13 van Wet 30 van 1990

- 10 5. Artikel 45 van die Hoofwet word hierby gewysig—
 (a) deur subartikel (1) deur die volgende subartikel te vervang:
 "(1) Die voorafgaande bepalings van hierdie Wet, uitgesonderd die bepalings van Deel II en artikel 39, is nie van toepassing nie op die besit of verskaffing van wapens of ammunisie—
 (a) deur 'n persoon ten behoeve van die Staat;
 (b) deur 'n persoon in sy hoedanigheid as 'n persoon in diens van die Staat;
 (c) deur 'n persoon vir die doeleinades van die Verdedigingswet, 1957 (Wet No. 44 van 1957)."; en
 (b) deur die volgende subartikel na subartikel (2) in te voeg:
 "(2A) Die bepalings van artikel 38A(b) is nie van toepassing nie ten opsigte van—
 (a) iemand wat 'n sekuriteitsdiens lewer soos omskryf in artikel 1 van die Wet op Sekuriteitsbeampies, 1987 (Wet No. 92 van 1987);
 (b) 'n werknemer wat ten behoeve van sy werkgewer dienste lewer ter beskerming of beveiliging van persone of eiendom.".

25 **Kort titel en inwerkintreding**

6. Hierdie Wet heet die Wysigingswet op Wapens en Ammunisie, 1991, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

