



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

No. 1159.

2 July 1993

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

No. 87 of 1993: Non-Proliferation of Weapons of Mass Destruction Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1159.

2 Julie 1993

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

No. 87 van 1993: Wet op die Nie-proliferasie van Wapens van Grootsekaalse Vernietiging, 1993.

ACT

To provide for control over weapons of mass destruction; and the establishment of a Council to control and manage matters relating to the proliferation of such weapons in the Republic; to determine its objects and functions; to prescribe the manner in which it is to be managed and controlled; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 23 June 1993.)*

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

Definitions

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

- (i) “Armscor” means the Armaments Development and Production Corporation of South Africa, Limited, established in terms of the Armaments Development and Production Act, 1968 (Act No. 57 of 1968); (xviii) 5
- (ii) “Atomic Energy Corporation” means the Atomic Energy Corporation of South Africa, Limited, established in terms of the Nuclear Energy Act, 1982 (Act No. 92 of 1982); (ii) 10
- (iii) “biological warfare agent” means living organisms, including viruses or infectious material derived therefrom, which can be used to cause diseases or death in humans, animals or plants and which usually depend for their primary effects on their ability to multiply in the organism attacked; (iv) 15
- (iv) “board of inquiry” means a board of inquiry appointed under section 11; (xxii)
- (v) “chemical warfare agent” means any chemical, regardless of the origin or method of production thereof, which poses a real or potential risk of being used as a weapon of mass destruction, and which through the specific application of its chemical action on life processes can cause death, temporary incapacity or permanent harm to humans, animals or plants; (v) 20
- (vi) “controlled goods” means goods declared as such under section 13(1); (iii) 25
- (vii) “Council” means the South African Council for the Non-Proliferation of Weapons of Mass Destruction established under section 4; (xxvi)
- (viii) “data” includes any data or information of a technical or other nature as well as blueprints, diagrams, plans, models, formulae, engineering designs, specifications, manuals and instructions, whether written or recorded by means of any electronic, magnetic or optical process; (vi) 30
- (ix) “defensive capability” means the ability to research, develop, procure, produce, maintain or utilize countermeasures, specifically for protection against the effects of weapons of mass destruction, which do not in any way use the mechanisms, technologies, designs or effects associated with a nuclear explosion or the toxic or infective properties of a chemical or biological warfare agent, and also a related delivery system capable of delivering such weapons; (xxxiii) 40
- (x) “delivery system” means any rocket, ballistic missile system, space launch vehicle, sounding rocket or unmanned air vehicle, including

WET

Om voorsiening te maak vir beheer oor wapens van grootskaalse vernietiging; en die instelling van 'n Raad om aangeleenthede in die Republiek wat betrekking het op die proliferasie van sodanige wapens te bestuur en te beheer; sy oogmerke en werksaamhede te bepaal; die wyse waarop hy bestuur en beheer word, voor te skryf; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 23 Junie 1993.)*

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

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- 5 (i) “aflerwingstelsel” enige vuurpyl, ballistiese missielstelsel, ruimte-
lanseertuig, sondeervuurpyl of onbemande lugvaartuig, met inbe-
grip van 'n kruisermisiel, afstandbeheerde teikenvliegtuig of
afstandbeheerde verkenningsvliegtuig, wat in staat is om 'n loon-
vrag van minstens 500 kilogram oor 'n afstand van minstens 300
10 kilometer af te lewer; (x)
- (ii) “Atoomenergiekorporasie” die Atoomenergiekorporasie van
Suid-Afrika, Beperk, ingevolge die Wet op Kernenergie, 1982
(Wet No. 92 van 1982), ingestel; (ii)
- 15 (iii) “beheerde goedere” goedere as sodanig kragtens artikel 13(1)
verklaar; (vi)
- (iv) “biologiese oorlogvoering-reagens” lewende organismes, met in-
begrip van virusse of besmetlike materiaal wat daaruit voortkom,
wat aangewend kan word om siektes in of die dood van mense,
diere of plante te veroorsaak, en wat gewoonlik vir hulle primêre
20 effekte afhanklik is van hulle vermoë om in die organisme wat
aangeval word, te vermenigvuldig; (iii)
- (v) “chemiese oorlogvoering-reagens” enige chemiese stof, ongeag
die oorsprong of bereidingsmetode daarvan, wat 'n wesenlike of
potensiële risiko inhou om as 'n wapen van grootskaalse vernietig-
25 ging gebruik te word, en wat deur die spesifieke aanwending van
sy chemiese inwerking op lewensprosesse die dood of tydelike
ongeskiktheid van, of permanente skade aan, mense, diere of
plante kan veroorsaak; (v)
- 30 (vi) “data” ook enige gegewens of inligting van 'n tegniese of ander
aard asook bloudrukke, diagramme, planne, modelle, formules,
ingenieursontwerpe, spesifikasies, handleidings en instruksies,
hetsy in geskrewe vorm of opgeneem deur middel van enige
elektroniese, magnetiese of optiese proses; (viii)
- 35 (vii) “Departement” die Departement van Handel en Nywerheid; (xi)
- (viii) “deurvoer” die vervoer van goedere met oorsprong in 'n staat
buite die Republiek in 'n onveranderde, geprosesseerde of veran-
derde formaat, of as 'n deel van goedere of 'n stelsel wat in die
Republiek saamgestel of geprosesseer is, van een staat na 'n ander
40 deur of oor die grondgebied, territoriale waters of lugruim van die
Republiek; (xxxiv)
- (ix) “Direkteur-generaal” die Direkteur-generaal van die Departe-
ment; (xii)

- a cruise missile, target drone or reconnaissance drone, capable of delivering a payload of at least 500 kilogram over a distance of not less than 300 kilometres; (i)
- (xi) "Department" means the Department of Trade and Industry; (vii) 5
- (xii) "Director-General" means the Director-General of the Department; (ix)
- (xiii) "dual-purpose capabilities" means those capabilities relating to technology, expertise, service, material, equipment and facilities which can contribute to the proliferation of weapons of mass destruction, but which can also be used for other purposes, including conventional military, commercial or educational use; (x) 10
- (xiv) "export" means to take or send goods from the Republic to a state or territory outside the Republic or to cause goods to be so taken or sent out; (xxxii)
- (xv) "facility" means any place, premises, structure, installation or vehicle designed, adapted or equipped for the performance of any process or activity related to controlled goods; (xi) 15
- (xvi) "goods" includes any technology, data, technical assistance, services, software, processes, activities, facilities, substances, materials, items, equipment, components, assemblies or systems, whether produced in the Republic or imported into the Republic; (xiii) 20
- (xvii) "government institution" means any—
- (a) body, company or close corporation established by or under any law; or 25
- (b) other institution or body recognized by the Minister by notice in the *Gazette*; (xxiii)
- (xviii) "import" means to bring goods from outside the Republic into the Republic or to cause goods to be brought into the Republic; (xvii)
- (xix) "inspector" means any person appointed as an inspector under section 12; (xvi) 30
- (xx) "Minister" means the Minister of Trade and Industry; (xix)
- (xxi) "non-proliferation" means the non-proliferation of weapons of mass destruction; (xxi)
- (xxii) "permit" means any permit issued under section 13(2); (xxiv) 35
- (xxiii) "photograph" includes any slide, video, motion picture or X-ray photograph; (xii)
- (xxiv) "premises" includes any place, facility, structure, installation or vehicle; (xxxi)
- (xxv) "prescribed" means prescribed by regulation; (xxxv) 40
- (xxvi) "proliferation" means the proliferation of weapons of mass destruction; (xxv)
- (xxvii) "re-export" means to export imported goods or to cause imported goods to be exported to a state or territory other than that from which the goods were originally imported; (xiv) 45
- (xxviii) "regulation" means any regulation made in terms of this Act; (xxvii)
- (xxix) "sample" means the minimum quantity required to carry out the procedures necessary in order to obtain a reliable indication as to the nature or composition of the consignment, batch or whole from which the sample is extracted; (xx) 50
- (xxx) "system" means a composition of parts or components that fulfil a specific function or collection of functions; (xxviii)
- (xxxi) "technical assistance" includes the giving of instructions, teaching of skills, training, imparting working knowledge, consulting services or the transfer of data; (xxix) 55
- (xxxii) "technology" means any specific information, data or technical assistance required for the design, development, manufacture, deployment, maintenance or use of any weapon of mass destruction, or the execution of any activity related thereto; (xxx) 60

WET OP DIE NIE-PROLIFERASIE VAN
WAPENS VAN GROOTSKAALSE VERNIETIGING, 1993

Wet No. 87, 1993

- (x) "dubbeldoelige vermoëns" daardie vermoëns met betrekking tot tegnologie, kundigheid, diens, materiaal, toerusting en fasiliteite wat kan bydra tot die proliferasie van wapens van grootskaalse vernietiging, maar wat ook gebruik kan word vir ander doeleindes, met inbegrip van konvensionele militêre, kommersiële of opvoedkundige gebruik; (xiii)
- (xi) "fasiliteit" enige plek, terrein, struktuur, aanleg of voertuig wat ontwerp, aangepas of toegerus is vir die uitvoering van enige proses of aktiwiteit wat met beheerde goedere verband hou; (xv)
- (xii) "foto" ook enige skyfie, video, rolprent of X-straalfoto; (xxiii)
- (xiii) "goedere" ook enige tegnologie, data, tegniese bystand, dienste, programmatuur, prosesse, aktiwiteite, fasiliteite, stowwe, materiaal, items, toerusting, komponente, opstellings of stelsels, ongeag of dit in die Republiek geproduseer, of ingevoer is; (xvi)
- (xiv) "heruitvoer" om ingevoerde goedere uit te voer of te laat uitvoer na 'n ander staat of gebied as dié waarvandaan die goedere aanvanklik ingevoer is; (xxvii)
- (xv) "hierdie Wet" ook enige regulasie; (xxxiii)
- (xvi) "inspekteur" iemand wat kragtens artikel 12 as 'n inspekteur aangestel is; (xix)
- (xvii) "invoer" om goedere van buite die Republiek af in die Republiek in te bring of te laat inbring; (xviii)
- (xviii) "Krygkor" die Krygstuigkorporasie van Suid-Afrika, Beperk, ingevolge die Wet op Krygstuigontwikkeling en -vervaardiging, 1968 (Wet No. 57 van 1968), ingestel; (i)
- (xix) "Minister" die Minister van Handel en Nywerheid; (xx)
- (xx) "monster" die minimum hoeveelheid wat nodig is om die prosedures uit te voer ten einde 'n betroubare aanduiding van die aard of samestelling te verkry van die besending, versameling of groter geheel waarvan die monster geneem is; (xxix)
- (xxi) "nie-proliferasie" die nie-proliferasie van wapens van grootskaalse vernietiging; (xxi)
- (xxii) "ondersoekraad" 'n ondersoekraad wat kragtens artikel 11 aangestel is; (iv)
- (xxiii) "owerheidsinstelling" enige—
(a) by of kragtens wet ingestelde liggaam, maatskappy of beslote korporasie; of
(b) ander instelling of liggaam deur die Minister by kennisgewing in die *Staatskoerant* erken; (xvii)
- (xxiv) "permit" enige permit wat kragtens artikel 13(2) uitgereik is; (xxii)
- (xxv) "proliferasie" die proliferasie van wapens van grootskaalse vernietiging; (xxvi)
- (xxvi) "Raad" die Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Grootskaalse Vernietiging wat by artikel 4 ingestel is; (vii)
- (xxvii) "regulasie" 'n regulasie ingevolge hierdie Wet uitgevaardig; (xxviii)
- (xxviii) "stelsel" 'n samestelling van dele of komponente wat 'n spesifieke funksie of versameling van funksies verrig; (xxx)
- (xxix) "tegniese bystand" ook die gee van instruksies, leer van vaardighede, opleiding, meedeling van bedryfskennis, raadgewende dienste of die oordrag van data; (xxxi)
- (xxx) "tegnologie" enige spesifieke inligting, data of tegniese bystand wat nodig is vir die ontwerp, ontwikkeling, vervaardiging, ontplooiing, onderhoud of aanwending van enige wapen van grootskaalse vernietiging, of die verrigting van enige aktiwiteit wat daarmee verband hou; (xxxii)
- (xxxi) "terrein" ook 'n plek, fasiliteit, struktuur, aanleg of voertuig; (xxiv)
- (xxxii) "uitvoer" om goedere vanuit die Republiek na 'n staat of gebied buite die Republiek te neem of te stuur, of om goedere aldus te laat uitneem of uitstuur; (xiv)

- (xxxiii) "this Act" includes any regulation; (xv)
- (xxxiv) "transit" means the conveyance of goods originating in a state outside the Republic, in any unaltered, processed or altered form, or as a part of goods or a system compiled or produced in the Republic, from one state to another through or over the territory, territorial waters or airspace of the Republic; (viii) 5
- (xxxv) "vehicle" means any conveyance used on land, on the sea or in the air; (xxxiv)
- (xxxvi) "weapon of mass destruction" means any weapon designed to kill, harm or infect people, animals or plants through the effects of a nuclear explosion or the toxic properties of a chemical warfare agent or the infectious or toxic properties of a biological warfare agent, and includes a delivery system exclusively designed, adapted or intended to deliver such weapons. (xxxvi) 10

Determination of policy

15

2. (1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, determine the general policy to be followed with a view to—

- (a) the institution of measures and the taking of initiatives to prevent the proliferation and development of weapons of mass destruction;
- (b) the encouragement of bilateral and multilateral efforts to eliminate weapons of mass destruction; 20
- (c) the promotion of free trade with the international community and the minimization of government intervention therein;
- (d) the imposition of a prohibition, whether for offensive or defensive purposes, on the development, production, acquisition, stockpiling, maintenance or transit of any weapon of mass destruction; 25
- (e) control of the use, transit or export of dual-purpose capabilities;
- (f) the imposition of a prohibition on all nuclear explosions and tests;
- (g) the discouragement of other states to proceed with nuclear explosions and tests; 30
- (h) the retention of the right of the Republic to the development, maintenance and promotion of—
 - (i) defensive capabilities;
 - (ii) conventional military capabilities which are not dependent upon any toxic, infective or nuclear effects as a means of warfare; 35
 - (iii) capabilities necessary for domestic law enforcement and riot control;
 - (iv) capabilities in respect of industry, agriculture, research, medicine, pharmaceutical industry and other peaceful purposes.

(2) The policy contemplated in subsection (1) shall be determined by the Minister after consultation with the Council and with the concurrence of— 40

- (a) each Minister charged with the administration of any law which in the opinion of the Minister relates to non-proliferation; and
- (b) the Minister of State Expenditure.

(3) Subject to subsection (2), the Minister may at any time, by like notice substitute, withdraw or amend the policy determined in terms of subsection (1). 45

Compliance with policy

3. Each Minister upon whom, or government institution upon which, any power has been conferred or to whom or which any duty has been assigned in connection

- (xxxiii) "verdedigingsvermoë" die vermoë om teenmaatreëls, spesifiek vir beskerming teen die effekte van wapens van grootskaalse vernietiging na te vors, te ontwikkel, aan te skaf, te vervaardig, te onderhou of aan te wend, wat op geen wyse van die meganismes, tegnologieë, ontwerpe of effekte wat verband hou met 'n kernontploffing of die toksiese of besmettende eienskappe van 'n chemiese of biologiese oorlogvoering-reagens, en ook 'n verbandhoudende afleweringstelsel wat in staat is om sodanige wapens af te lewer, gebruik maak nie; (ix)
- (xxxiv) "voertuig" enige vervoermiddel wat op land, ter see of in die lug gebruik word; (xxxv)
- (xxxv) "voorgeskryf" by regulasie voorgeskryf; (xxv)
- (xxxvi) "wapen van grootskaalse vernietiging" enige wapen wat ontwerp is om deur die effekte van 'n kernontploffing of die toksiese eienskappe van 'n chemiese oorlogvoering-reagens of die besmetlike of toksiese eienskappe van 'n biologiese oorlogvoering-reagens, mense, diere of plante dood te maak, of te beseer, of te besmet, en ook 'n afleweringstelsel wat uitsluitlik ontwerp, aangepas of bedoel is om sodanige wapens af te lewer. (xxxvi)

20 Bepaling van beleid

2. (1) Behoudens subartikel (2) kan die Minister by kennisgewing in die *Staatskoerant* die algemene beleid bepaal wat gevolg moet word met die oog op—
- (a) die daarstelling van maatreëls en die neem van inisiatiewe om die proliferasie en ontwikkeling van wapens van grootskaalse vernietiging te voorkom;
- (b) die aanmoediging van bilaterale en multilaterale pogings om wapens van grootskaalse vernietiging te elimineer;
- (c) die bevordering van vrye handel met die internasionale gemeenskap en die vermindering van staatsinmenging daarmee;
- (d) die instelling van 'n verbod, hetsy vir aanvallende of verdedigende doeleindes, op die ontwikkeling, vervaardiging, verkryging, opberging, onderhoud of deurvoer van enige wapen van grootskaalse vernietiging;
- (e) beheer van die aanwending, deurvoer of uitvoer van dubbeldoelige vermoëns;
- (f) die instelling van 'n verbod op alle kernontploffings en kerntoetse;
- (g) die ontmoediging van ander state om voort te gaan met kernontploffings en kerntoetse;
- (h) die behoud van die Republiek se reg op die ontwikkeling, instandhouding en bevordering van—
- (i) verdedigingsvermoëns;
- (ii) konvensionele militêre vermoëns wat nie van enige toksiese, besmetlike of kerneffekte as wyse van oorlogvoering afhanklik is nie;
- (iii) vermoëns wat vir binnelandse wetstoepassing en oproerbeheer nodig is;
- (iv) vermoëns ten opsigte van die nywerheid, landbou, navorsing, medisyne, farmaseutiese bedryf en ander vreedsame toepassings.
- (2) Die beleid beoog in subartikel (1) word deur die Minister bepaal na oorleg met die Raad, en met die instemming van—
- (a) elke Minister wat belas is met die uitvoering van 'n wet wat na die oordeel van die Minister verband hou met nie-proliferasie; en
- (b) die Minister van Staatsbesteding.
- (3) Behoudens subartikel (2) kan die Minister die beleid wat ingevolge subartikel (1) bepaal is, te eniger tyd by dergelike kennisgewing vervang, intrek of wysig.

Nakoming van beleid

3. Elke Minister of owerheidsinstelling aan wie 'n bevoegdheid of plig in verband met nie-proliferasie by of kragtens 'n wet verleen of opgedra is, moet

with non-proliferation by or under any law, shall exercise such power and perform such duty in accordance with the policy determined in terms of section 2.

Establishment of South African Council for Non-Proliferation of Weapons of Mass Destruction

4. (1) There is hereby established a Council to be known as the South African Council for the Non-Proliferation of Weapons of Mass Destruction. 5
- (2) The Council shall consist of—
- (a) a chairman, who, in the opinion of the Minister, shall be a person with applicable knowledge or experience with regard to matters connected with the objects of the Council; 10
 - (b) an officer of the Department of Foreign Affairs designated by the Minister of Foreign Affairs;
 - (c) two persons designated by the Minister of Defence;
 - (d) a person from the chemical industry;
 - (e) a person from the biological industry; 15
 - (f) a person from the space industry;
 - (g) a person from the nuclear industry;
 - (h) an employee of or the holder of an office at the Atomic Energy Corporation designated by the Minister of Mineral and Energy Affairs; and 20
 - (i) such other members as the Minister may deem necessary and who shall have applicable knowledge or experience with regard to matters connected with the objects of the Council,
- who shall be appointed by the Minister.
- (3) A member of the Council shall hold office for such period, not exceeding five years, as the Minister may determine at the time of his appointment, and shall be eligible for reappointment at the termination of his term of office. 25
- (4) The Minister may at any time terminate the period of office of any member appointed under subsection (2) if there are good reasons for doing so.
- (5) The Minister shall fill a casual vacancy on the Council, in the case of— 30
- (a) the chairman, by the appointment of another person as chairman; and
 - (b) any other member appointed under subsection (2), by the appointment of another person as a member,
- for the unexpired portion of the period for which his predecessor was appointed.
- (6) A member of the Council who is not in the full-time employment of the State, shall be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of State Expenditure, may determine. 35
- (7) Such officers and employees as are required for the proper performance of the Council's functions shall be designated by the Director-General from the officers and employees of the Department. 40

Objects of Council

5. The objects of the Council are, subject to the Import and Export Control Act, 1963 (Act No. 45 of 1963), the Armaments Development and Production Act, 1968 (Act No. 57 of 1968), and the Nuclear Energy Act, 1982 (Act No. 92 of 1982), and in co-operation and consultation with Armscor and the Atomic Energy Corporation (acting as the national authority with regard to the implementation of the Safeguards Agreement between the Republic and the International Atomic Energy Agency for the application of the safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons), to control, register and inspect controlled goods, and to verify the import, export, re-export, transit and end-use of controlled goods. 45 50

Functions of Council

6. (1) The Council shall on behalf of the State protect the interests, carry out the responsibilities and fulfill the obligations of the Republic with regard to non-proliferation. 55

daardie bevoegdheid of plig uitoefen of verrig ooreenkomstig die beleid ingevolge artikel 2 bepaal.

Instelling van Suid-Afrikaanse Raad vir Nie-proliferasie van Wapens van Groot-skaalse Vernietiging

- 5 4. (1) Daar word hierby 'n Raad ingestel wat die Suid-Afrikaanse Raad vir die Nie-proliferasie van Wapens van Groot-skaalse Vernietiging heet.
- (2) Die Raad bestaan uit—
- 10 (a) 'n voorsitter wat na die oordeel van die Minister iemand is wat oor toepaslike kennis of ondervinding beskik met betrekking tot aangeleenthede wat met die oogmerke van die Raad in verband staan;
- (b) 'n beampte van die Departement van Buitelandse Sake, aangewys deur die Minister van Buitelandse Sake;
- (c) twee persone aangewys deur die Minister van Verdediging;
- 15 (d) 'n persoon uit die chemiese nywerheid;
- (e) 'n persoon uit die biologiese nywerheid;
- (f) 'n persoon uit die ruimtenywerheid;
- (g) 'n persoon uit die kernnywerheid;
- (h) 'n werknemer van of ampsbekleër by die Atoomenergiekorporasie, aangewys deur die Minister van Mineraal- en Energiesake; en
- 20 (i) die ander lede wat die Minister nodig ag en wat oor toepaslike kennis of ondervinding beskik met betrekking tot aangeleenthede wat met die oogmerke van die Raad in verband staan, wat deur die Minister aangestel word.
- (3) 'n Lid van die Raad bekleë sy amp vir die tydperk, maar hoogstens vyf 25 jaar, wat die Minister ten tyde van sy aanstelling bepaal, maar kan by die verstryking van sy ampstermyn weer aangestel word.
- (4) Die Minister kan te eniger tyd die ampstermyn van 'n lid wat kragtens subartikel (2) aangestel is, beëindig indien daar gegronde redes daarvoor bestaan.
- 30 (5) Die Minister vul 'n toevallige vakature in die Raad deur in die geval van—
- (a) die voorsitter, iemand anders as voorsitter; en
- (b) 'n ander lid wat kragtens subartikel (2) aangestel is, 'n ander persoon as lid, aan te stel vir die onverstreke gedeelte van die tydperk waarvoor sy voorganger 35 aangestel was.
- (6) Aan 'n lid van die Raad wat nie in die heeltidse diens van die Staat is nie, word die vergoeding en toelaes betaal wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.
- (7) Die beamptes en werknemers wat nodig is vir die behoorlike uitvoering 40 van die Raad se werksaamhede word deur die Direkteur-generaal aangewys uit die beamptes en werknemers van die Departement.

Oogmerke van Raad

- 5 Die oogmerke van die Raad is om, behoudens die Wet op In- en Uitvoerbeheer, 1963 (Wet No. 45 van 1963), die Wet op Krygstuigontwikkeling 45 en -vervaardiging, 1968 (Wet No. 57 van 1968), en die Wet op Kernenergie, 1982 (Wet No. 92 van 1982), en in samewerking en oorleg met Krygkor en die Atoomenergiekorporasie (wat optree as die nasionale gesagsliggaam met betrekking tot die implementering van die Waarborgooreenkoms tussen die Republiek en die Internasionale Atoomenergie-agentskap vir die toepassing van 50 die waarborge in verband met die Verdrag op die Nie-proliferasie van Kernwapens), beheerde goedere te beheer, te registreer en te inspekteer, en die invoer, uitvoer, heruitvoer, deurvoer en eindgebruik van beheerde goedere te verifieer.

Werksaamhede van Raad

- 55 6. (1) Die Raad sien namens die Staat om na die belange, en kom die verantwoordelikhede en verpligtinge na van die Republiek met betrekking tot nie-proliferasie.

(2) The Council shall advise the Minister with regard to any matter which it deems necessary and which falls within the purview of this Act.

(3) In order to achieve its objects the Council may—

- (a) control and manage all activities relating to non-proliferation, and provide guidance, instructions and information in connection therewith; 5
- (b) obtain the co-operation of, exchange information with, and give assistance to, governments of other states, as well as foreign and international bodies having objects similar to those of the Council, and obtain membership of international bodies with such objects;
- (c) supervise and implement matters arising from international conventions, treaties and agreements related to proliferation affairs entered into or ratified by the Government of the Republic; 10
- (d) obtain or promote the co-operation of departments of State, other government institutions, representatives of any branch of commerce and industry and other persons concerned; 15
- (e) designate knowledgeable persons from other government institutions and the industry as members of committees of the Council;
- (f) issue permits under section 13(2) or suspend or revoke them under section 13(5);
- (g) ensure that the conditions of permits and end-use requirements are met, and take the necessary regulatory steps in this regard; 20
- (h) administer the registration and making of declarations contemplated in section 13(3);
- (i) collect all data and samples it may deem necessary;
- (j) control the activities and means of transit or re-export, including those relating to goods in transit or in bond; 25
- (k) institute and co-ordinate investigations, carry out and coordinate inspections and verifications;
- (l) verify that controlled goods which are subject to end-use conditions and are imported, are delivered, retained and used in accordance with such conditions and for the intended purpose; 30
- (m) cause codes of conduct relating to non-proliferation to be framed and issued, and assist any person or department of State in the preparation and framing of codes of conduct aimed at non-proliferation;
- (n) give assistance to any person or authority so as to ensure that trade and commercial secrets are not compromised during the execution of activities related to non-proliferation; 35
- (o) subject to section 21, provide for the publication of information concerning the activities of the Council;
- (p) identify and indicate to the Minister goods to be declared controlled goods under section 13(1); 40
- (q) take the necessary steps to prevent the contravention of the provisions of this Act;
- (r) subject to the provisions of this Act, perform any other function with a view to the efficient achievement of the objects of the Council. 45

Codes of conduct

7. (1) The Council may issue codes of conduct stating the principles of non-proliferation, and describing procedures and methods to be followed during the execution of certain activities related to non-proliferation.

(2) The Council may at any time amend or withdraw any code of conduct. 50

(3) The Council shall make a code of conduct or any amendment or withdrawal of a code of conduct known by notice in the *Gazette*.

Exercise of powers outside Republic

8. (1) The Council may, on such terms and conditions as may be agreed upon, with the approval of the Minister, granted with the concurrence of the Minister of 55

(2) Die Raad dien die Minister van advies met betrekking tot enige aangeleentheid wat die Raad nodig ag en wat binne die bestek van hierdie Wet val.

(3) Die Raad kan ter bereiking van sy oogmerke—

- 5 (a) alle aktiwiteite betreffende nie-proliferasie bestuur en beheer, en leiding, instruksies en inligting wat daarmee verband hou, verskaf;
- (b) die samewerking verkry van, inligting uitruil met, en bystand verleen aan, regerings van ander state, asook buitelandse en internasionale
- 10 (c) toesig hou oor en uitvoering gee aan aangeleenthede wat spruit uit internasionale konvensies, verdrae en ooreenkomste wat met proliferasie-aangeleenthede verband hou, deur die Regering van die Republiek aangegaan of bekragtig;
- 15 (d) die samewerking van Staatsdepartemente, ander owerheidsinstellings, verteenwoordigers van enige vertakking van die handel en nywerheid en ander betrokke persone verkry of bevorder;
- (e) kundige persone uit ander owerheidsinstellings en die nywerheid as lede van komitees van die Raad aanwys;
- 20 (f) permitte kragtens artikel 13(2) uitreik of hulle kragtens artikel 13(5) opskort of intrek;
- (g) toesien dat die voorwaardes van permitte en eindgebruikvereistes nagekom word, en die nodige regulerende stappe in hierdie verband doen;
- 25 (h) die registrasie en doen van verklarings beoog in artikel 13(3) administreer;
- (i) alle data en monsters wat hy nodig ag, insamel;
- (j) beheer oor die aktiwiteite en wyses vir deurvoer of heruitvoer, met inbegrip van dié wat betrekking het op goedere in transito of in entrepot, uitoefen;
- 30 (k) ondersoek instel en koördineer, en inspeksies en verifikasies uitvoer en koördineer;
- (l) verifieer dat beheerde goedere wat aan eindgebruikerbeperkings onderworpe is en wat ingevoer word, ooreenkomstig sodanige beperkings en vir die beoogde doel gelewer, gehou en gebruik word;
- 35 (m) toesien dat gedragskodes wat verband hou met nie-proliferasie opgestel en uitgereik word, en enige persoon of Staatsdepartement met die voorbereiding en opstel van gedragskodes, gerig op nie-proliferasie, bystaan;
- 40 (n) bystand verleen aan enige persoon of instansie ten einde te verseker dat handels- en kommersiële vertroulikheid tydens die verrigting van aktiwiteite wat met nie-proliferasie verband hou, gehandhaaf word;
- (o) behoudens artikel 21, voorsiening maak vir die bekendmaking van inligting aangaande die Raad se aktiwiteite;
- 45 (p) goedere identifiseer en aan die Minister uitwys om tot beheerde goedere kragtens artikel 13(1) verklaar te word;
- (q) die nodige stappe doen om oortreding van die bepalings van hierdie Wet te voorkom;
- (r) behoudens die bepalings van hierdie Wet, enige ander werksaamheid verrig wat ten doel het om die Raad se oogmerke effektief te bereik.

50 Gedragskodes

7. (1) Die Raad kan gedragskodes uitreik wat die beginsels van nie-proliferasie verklaar, en die prosedures en metodes wat gevolg moet word tydens die verrigting van spesifieke aktiwiteite wat met nie-proliferasie verband hou, uiteengesit word.

55 (2) Die Raad kan enige gedragskode te eniger tyd wysig of intrek.

(3) Die Raad maak 'n gedragskode of enige wysiging of intrekking van 'n gedragskode bekend by kennisgewing in die *Staatskoerant*.

Uitoefening van bevoegdhede buite Republiek

8. (1) Die Raad kan op die voorwaardes waaromtrent ooreengekom word,
60 met die goedkeuring van die Minister, verleen met die instemming van die

Foreign Affairs, support the activities of any person or authority in any other state related to non-proliferation.

(2) The provisions of this Act shall, in so far as they can be applied, apply *mutatis mutandis* in connection with the exercise by the Council of its powers in terms of subsection (1) as if the state in which it so exercises its powers were within the Republic. 5

Meetings of Council

9. (1) Meetings of the Council shall be held on such dates and at such times and places as the chairman of the Council may determine.

(2) The chairman of the Council may at any time convene a special meeting of the Council by giving notice to the other members of the date, time and place thereof. 10

(3) If the chairman is absent from a meeting of the Council, the members present shall elect one of their number to preside at that meeting.

(4) The quorum for a meeting of the Council shall be the majority of the members of the Council. 15

(5) A decision of the Council shall be taken by a majority of the votes of the members present at a meeting of the Council, and in the event of an equality of votes on any matter, the person presiding at the meeting concerned shall have a casting vote in addition to his deliberative vote. 20

(6) No decision of the Council or act performed under the authority of the Council, shall be invalid merely by reason of a vacancy on the Council or of the fact that any person not entitled to sit as a member sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members present at the meeting and who were entitled to sit as members. 25

Committees of Council

10. (1) The Council may from time to time establish such committees as it may deem necessary, to assist it in the performance of its functions, and may appoint any person as a member of such a committee, even if such a person is not associated with the Council. 30

(2) The Council may at any time dissolve a committee established under subsection (1) or terminate the membership of any member of such a committee.

(3) A member of a committee established under subsection (1) who is not in the full-time employment of the State, shall be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of State Expenditure, may determine. 35

Boards of inquiry

11. (1) The Minister may from time to time appoint a board of inquiry to assist him in the adjudication of any matter or any appeal in terms of this Act. 40

(2) A board of inquiry shall consist of—

- (a) (i) a judge as defined in section 1(1) of the Judges' Remuneration Act, 1989 (Act No. 88 of 1989), or a judge who has been discharged from active service in terms of section 3 of the said Act;
- (ii) a magistrate or retired magistrate; 45
- (iii) a person admitted to practise as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964); or
- (iv) a person admitted to practise as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979), who has knowledge of matters relating to non-proliferation, and who shall be appointed by the Minister as chairman; and 50
- (b) as many other persons as the Minister may deem necessary and who shall have applicable knowledge regarding the matter to be investigated by the board of inquiry.

Minister van Buitelandse Sake, die aktiwiteite van enige persoon of instansie in enige ander staat wat verband hou met nie-proliferasie, ondersteun.

- (2) Die bepalinge van hierdie Wet is, vir sover dit toegepas kan word, *mutatis mutandis* van toepassing in verband met die uitoefening deur die Raad van sy bevoegdhede ingevolge subartikel (1), asof die staat waarin hy sy bevoegdhede aldus uitoefen, binne die Republiek is.

Vergaderings van Raad

9. (1) Vergaderings van die Raad word gehou op die datums, tye en plekke wat die voorsitter van die Raad bepaal.
- 10 (2) Die voorsitter van die Raad kan te eniger tyd 'n spesiale vergadering van die Raad belê deur kennis van die datum, tyd en plek daarvan aan die ander lede te gee.
- (3) Indien die voorsitter van 'n vergadering van die Raad afwesig is, kies die aanwesige lede uit hul midde iemand om by daardie vergadering voor te sit.
- 15 (4) Die kworum vir 'n vergadering van die Raad is die meerderheid van die lede van die Raad.
- (5) 'n Besluit van die Raad word geneem by meerderheid van stemme van die lede wat op 'n vergadering van die Raad aanwesig is, en by 'n staking van stemme oor enige aangeleentheid, het die persoon wat by die betrokke vergadering voorsit, benewens sy beraadslagende stem, 'n beslissende stem.
- 20 (6) Geen besluit van die Raad of handeling op gesag van die Raad verrig, is ongeldig bloot vanweë 'n vakature in die Raad of omdat 'n persoon wat nie geregtig was om as 'n lid sitting te neem nie, wel as 'n lid sitting geneem het toe die besluit geneem of die handeling gemagtig is, indien die besluit geneem of die
- 25 handeling gemagtig is deur die vereiste meerderheid van die lede wat op die vergadering aanwesig en geregtig was om as lede sitting te neem.

Komitees van Raad

10. (1) Die Raad kan van tyd tot tyd die komitees instel wat hy nodig ag om hom by die verrigting van sy werksaamhede behulpsaam te wees, en kan
- 30 enigiemand as lid van so 'n komitee aanstel, al is so iemand nie verbonde aan die Raad nie.
- (2) Die Raad kan te eniger tyd 'n komitee wat kragtens subartikel (1) ingestel is, ontbind of die lidmaatskap van 'n lid van so 'n komitee beëindig.
- (3) Aan 'n lid van 'n komitee kragtens subartikel (1) ingestel wat nie in die
- 35 heeltydse diens van die Staat is nie, word die vergoeding en toelaes betaal wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.

Ondersoekrade

11. (1) Die Minister kan van tyd tot tyd 'n ondersoekraad aanstel om hom behulpsaam te wees met die beoordeling van 'n aangeleentheid of 'n appèl
- 40 ingevolge hierdie Wet.
- (2) 'n Ondersoekraad bestaan uit—
- (a) (i) 'n regter soos omskryf in artikel 1(1) van die Wet op Besoldiging en Diensvoorwaardes van Regters, 1989 (Wet No. 88 van 1989), of 'n regter wat ingevolge artikel 3 van genoemde Wet van aktiewe diens onthef is;
- 45 (ii) 'n landdros of afgetrede landdros;
- (iii) iemand wat ingevolge die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), toegelaat is om as advokaat te praktiseer; of
- 50 (iv) iemand wat ingevolge die Wet op Prokureurs, 1979 (Wet No. 53 van 1979), toegelaat is om as prokureur te praktiseer, wat kennis het van aangeleenthede wat verband hou met nie-proliferasie, en wat deur die Minister as voorsitter aangestel word; en
- (b) soveel ander persone as wat die Minister nodig ag en wat oor toepaslike
- 55 kennis beskik oor die aangeleentheid wat die ondersoekraad moet oorweeg.

(3) A session of the board of inquiry shall be held on such date and at such time and place as the chairman may determine, and he shall inform the Minister and the parties concerned in writing thereof.

(4) A board of inquiry may, for the purposes of its inquiry—

(a) summon any person who in its opinion may be able to give material information concerning the subject of the inquiry or who is believed to have in his possession or custody or under his control any book, document, data or thing which has any bearing on the subject of the inquiry, to appear before the board of inquiry on a date and at a time and place specified in the summons, to be interrogated or to produce that book, document, data or thing to the board of inquiry, and retain for examination any book, document, data or thing so produced;

(b) call and by its chairman administer an oath to, or accept an affirmation from, any person present at the inquiry who was or could have been summoned under paragraph (a), and interrogate him and require him to produce any book, document, data or thing in his possession or custody or under his control.

(5) A summons referred to in subsection (4)(a) shall—

(a) be in the prescribed form;

(b) be signed by the chairman of the board of inquiry;

(c) be issued and served in the prescribed manner.

(6) A session of a board of inquiry shall be held in public, unless the Minister directs otherwise.

(7) The findings of a board of inquiry and the reasons therefor shall not be disclosed by the board of inquiry, but shall be conveyed to the Minister in writing.

(8) A member of a board of inquiry who is not in the full-time employment of the State shall be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of State Expenditure, may determine.

(9) The Director-General shall designate such number of officers and employees of the Department as may be necessary to assist the board of inquiry with the administrative work relating to its inquiry.

Inspectors

12. (1) The chairman of the Council may from time to time in writing appoint as many inspectors as he may deem necessary to ensure that the provisions of this Act are complied with.

(2) No person shall be appointed under subsection (1) as an inspector unless he is suitably qualified and possesses the necessary expertise to enable him to perform the functions of an inspector in an efficient manner.

(3) An inspector shall be furnished with a document, signed by the chairman of the Council, confirming his appointment as an inspector for the purposes of this Act, and such document shall be produced by the inspector at the request of any person who has a material interest in the functions of that inspector.

(4) An inspector may at any reasonable time—

(a) with the necessary equipment enter any premises in or upon which controlled goods are kept or are reasonably suspected to be kept, or in or upon which any activity related thereto is executed or is reasonably suspected to be executed;

(b) investigate any such premises or any object or substance which may be found therein or thereupon, or any service or activity being performed or executed therein or thereupon.

(5) An inspector may at any reasonable time with the necessary equipment enter any premises in or upon which controlled goods are developed, manufactured, stored or kept under a permit, and in relation to those premises, carry out such inspection as he may deem necessary to ascertain whether the conditions of the said permit have been or are being complied with.

(6) For the purposes of an investigation in terms of subsection (4) or (5), the inspector may be accompanied by such other person or persons as may be indicated in the document confirming his authority.

(7) If an inspector has in general or in a particular case been instructed thereto

- (3) 'n Sitting van die ondersoekraad vind plaas op die datum, tyd en plek wat die voorsitter bepaal, en hy stel die Minister en die betrokke partye skriftelik daarvan in kennis.
- (4) 'n Onderzoekraad kan vir die doeleindes van sy ondersoek—
- 5 (a) iemand wat na sy oordeel wesenlike inligting kan verstrek aangaande die onderwerp van die ondersoek of wat vermoed word enige boek, stuk, data of saak wat op die onderwerp van die ondersoek betrekking het, in sy besit of bewaring of onder sy beheer te hê, dagvaar om voor die ondersoekraad te verskyn op 'n datum, tyd en plek wat in die
- 10 dagvaarding gespesifiseer word, om ondervra te word of om genoemde boek, stuk, data of saak aan die ondersoekraad oor te lê, en kan 'n boek, stuk, data of saak wat aldus oorgelê is vir ondersoek behou;
- (b) iemand wat by die ondersoek aanwesig is en wat kragtens paragraaf (a) gedagvaar is of kon gewees het, oproep en by monde van die voorsitter van die ondersoekraad hom 'n eed oplê of van hom 'n bevestiging aanneem, en hom ondervra en hom aansê om enige boek, stuk, data of
- 15 saak in sy besit of bewaring of onder sy beheer, oor te lê.
- (5) 'n Dagvaarding bedoel in subartikel (4)(a) moet—
- (a) in die voorgeskrewe formaat wees;
- 20 (b) deur die voorsitter van die ondersoekraad onderteken wees;
- (c) op die voorgeskrewe wyse uitgereik en beteken word.
- (6) 'n Sitting van 'n ondersoekraad word in die openbaar gehou, tensy die Minister anders gelas.
- (7) Die bevindings van 'n ondersoekraad en die redes daarvoor word nie deur
- 25 die ondersoekraad bekend gemaak nie, maar word skriftelik aan die Minister meegedeel.
- (8) Aan 'n lid van 'n ondersoekraad wat nie in die heeltidse diens van die Staat is nie, word die vergoeding en toelaes betaal wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.
- 30 (9) Die Direkteur-generaal wys soveel beamptes en werknemers van die Departement aan as wat nodig is om die ondersoekraad met die administratiewe werk verbonde aan sy ondersoek by te staan.

Inspekteurs

12. (1) Die voorsitter van die Raad kan van tyd tot tyd soveel inspekteurs as
- 35 wat hy nodig ag, skriftelik aanstel om toe te sien dat die bepalings van hierdie Wet nagekom word.
- (2) Niemand word kragtens subartikel (1) as 'n inspekteur aangestel nie tensy hy paslik gekwalifiseer is en oor die nodige kundigheid beskik om hom in staat te stel om die werksaamhede van 'n inspekteur op 'n doelmatige wyse te verrig.
- 40 (3) 'n Inspekteur word voorsien van 'n dokument, onderteken deur die voorsitter van die Raad, wat sy aanstelling as inspekteur vir die doeleindes van hierdie Wet bevestig, en sodanige dokument moet deur die inspekteur getoon word op versoek van enige persoon wat 'n wesenlike belang by die werksaamhede van daardie inspekteur het.
- 45 (4) 'n Inspekteur kan te alle redelike tye—
- (a) met die nodige toerusting enige terrein betree waarop of waarin beheerde goedere gehou of redelikerwys vermoed word gehou te word, of waarop of waarin enige aktiwiteit wat daarmee verband hou, verrig of redelikerwys vermoed word verrig te word;
- 50 (b) enige sodanige terrein of enige voorwerp of stof wat hy daarop of daarin vind, of enige diens of aktiwiteit wat daarop of daarin gelewer of verrig word, ondersoek.
- (5) 'n Inspekteur kan te alle redelike tye met die nodige toerusting enige terrein betree waarop of waarin beheerde goedere kragtens 'n permit ontwikkel,
- 55 vervaardig, geberg of bewaar word, en ten opsigte van daardie terrein sodanige inspeksie uitvoer as wat hy nodig ag ten einde vas te stel of die voorwaardes van genoemde permit nagekom is of word.
- (6) Vir die doeleindes van 'n ondersoek ingevolge subartikel (4) of (5), kan die inspekteur vergesel word van enige ander persoon of persone soos in die
- 60 dokument wat aan hom magtiging verleen, aangedui word.
- (7) Indien 'n inspekteur in die algemeen of in 'n besondere geval deur die

by the chairman of the Council in writing, he may, with the necessary equipment, enter any premises as referred to in subsection (4) or (5), and for the purposes of this Act in relation to such premises—

- (a) conduct an examination, take measurements, cause samples to be taken, take photographs or remove any other evidence of the existence or former existence of controlled goods used or suspected to be intended for use in the manufacture of weapons of mass destruction, and open any package or container which contains or is suspected to contain controlled goods; 5
- (b) examine any activity, operation or process executed or carried on in or upon the said premises; 10
- (c) at any time demand from any person that he immediately, or at a time and place fixed by the said inspector, produce to him any book, document, data or thing which is in the possession or custody or under the control of that person or any other person on his behalf; 15
- (d) examine such book, document, data or thing, and make copies thereof or extracts therefrom if it relates to any controlled goods or activity in respect thereof, or to any permit, and require from any person referred to in paragraph (c) an explanation of any record or entry therein, and seize such book, document, data or thing if in his opinion it may afford evidence of any offence in terms of this Act; 20
- (e) with regard to any matter which he is investigating, question, either alone or in the presence of any other person, as he may deem fit, any person whom he finds in or upon the said premises or whom he on reasonable grounds suspects to be or to have been employed in or upon such premises or to have possession or custody of or control over anything referred to in this subsection; and 25
- (f) order any person referred to in paragraph (c) or (e) to appear before him at a date, time and place fixed by him, and at that date, time and place question that person with regard to any matter which is being investigated by him. 30

(8) Subject to section 21, an inspector and a person accompanying an inspector in terms of subsection (6), shall strictly abide by the provisions set forth in any authorization and code of conduct and fully respect the procedures designed to protect sensitive installations and to prevent the disclosure of confidential information. 35

(9) Any person subject to an inquiry, inspection or verification in terms of this Act, may designate any person to accompany an inspector during the execution of an inquiry, inspection or verification.

(10) No inspector or person accompanying an inspector in terms of subsection (6), shall handle any equipment belonging to a person subject to inspection or shall in person take samples. 40

Controlled goods, permits and registration

13. (1) The Minister may, on the recommendation of the Council, whenever he deems it necessary or expedient in the public interest, by notice in the *Gazette* declare goods which may contribute to the design, development, production, deployment, maintenance or use of weapons of mass destruction, to be controlled goods. 45

(2) The Minister may in such notice—

- (a) prohibit the import, export, re-export or transit of such goods; 50
- (b) limit or control the import, export, re-export or transit of such goods, and determine that the import, export, re-export or transit of such goods may only take place under a permit issued by the Council;
- (c) make the import, export, re-export or transit of such goods subject to end-use requirements; 55
- (d) require a declaration to the Council in accordance with the provisions of an international convention, treaty or agreement contemplated in section 27 with regard to the manufacture, procurement in any manner,

voorsitter van die Raad skriftelik daartoe opdrag gegee is, kan hy met die nodige toerusting enige terrein waarna in subartikel (4) of (5) verwys word, betree en vir die doeleindes van hierdie Wet ten opsigte van sodanige terrein—

- 5 (a) 'n ondersoek uitvoer, metings doen, monsters laat neem, foto's of enige ander bewys neem van die aanwesigheid of vroeëre aanwesigheid van beheerde goedere wat gebruik word of vermoedelik bestem is vir gebruik by die vervaardiging van wapens van grootskaalse vernietiging, en enige pakket of houer oopmaak wat beheerde goedere bevat of vermoedelik beheerde goedere bevat;
- 10 (b) enige aktiwiteit, bewerking of proses wat op of in genoemde terrein verrig of uitgevoer word, ondersoek;
- (c) te eniger tyd van enige persoon eis dat hy onverwyld, of op 'n tyd en plek deur genoemde inspekteur bepaal, aan hom enige boek, stuk, data of saak voorlê wat in die besit of bewaring of onder die beheer is van daardie persoon of 'n ander persoon ten behoeve van hom;
- 15 (d) sodanige boek, stuk, data of saak ondersoek en afskrifte daarvan of uittreksels daaruit maak indien dit betrekking het op enige beheerde goedere of aktiwiteit ten opsigte daarvan, of op 'n permit, en van enige persoon in paragraaf (c) bedoel 'n verduideliking vra betreffende enige
- 20 inskrywing of inligting daarin, en op genoemde boek, stuk, data of saak beslag lê indien dit na sy oordeel bewys kan lewer van 'n misdryf ingevolge hierdie Wet;
- (e) met betrekking tot 'n aangeleentheid wat hy ondersoek, óf alleen óf in die teenwoordigheid van iemand anders, na sy goeddunke, enige
- 25 persoon ondervra wat hy vind in of op genoemde terrein of wat hy op redelike gronde vermoed in of op so 'n terrein in diens is óf was óf die besit of bewaring van of die beheer het oor enigiets in hierdie subartikel vermeld; en
- (f) enige persoon bedoel in paragraaf (c) of (e) beveel om voor hom te
- 30 verskyn op 'n datum, tyd en plek deur hom bepaal, en op daardie datum, tyd en plek daardie persoon ondervra met betrekking tot enige aangeleentheid wat hy besig is om te ondersoek.
- (8) Behoudens artikel 21, moet 'n inspekteur en 'n persoon wat 'n inspekteur ingevolge subartikel (6) vergesel, hulle streng by die voorskrifte van enige
- 35 magtiging en gedragskode hou en prosedures wat daarop gerig is om sensitiewe installasies te beskerm en die bekendmaking van vertroulike inligting te voorkom, getrou nakom.
- (9) Enige persoon onderworpe aan 'n ondersoek, inspeksie of verifikasie ingevolge hierdie Wet, mag iemand aanwys om 'n inspekteur tydens die
- 40 uitvoering van 'n ondersoek, inspeksie of verifikasie te vergesel.
- (10) Geen inspekteur, of enige persoon wat 'n inspekteur ingevolge subartikel (6) vergesel, mag enige uitrusting wat behoort aan 'n persoon onderworpe aan 'n inspeksie hanteer, of self monsters neem nie.

Beheerde goedere, permitte en registrasie

- 45 13. (1) Die Minister kan, op die aanbeveling van die Raad, te eniger tyd wanneer hy dit in die openbare belang nodig of dienstig ag, by kennisgewing in die *Staatskoerant*, goedere wat kan bydra tot die ontwerp, ontwikkeling, vervaardiging, ontplooiing, instandhouding of aanwending van wapens van grootskaalse vernietiging, tot beheerde goedere verklaar.
- 50 (2) Die Minister kan in sodanige kennisgewing—
 - (a) die invoer, uitvoer, heruitvoer of deurvoer van sodanige goedere verbied;
 - (b) die invoer, uitvoer, heruitvoer of deurvoer van sodanige goedere beperk of beheer, en bepaal dat die invoer, uitvoer, heruitvoer of
 - 55 deurvoer van sodanige goedere slegs mag plaasvind kragtens 'n permit wat deur die Raad uitgereik is;
 - (c) die invoer, uitvoer, heruitvoer of deurvoer van sodanige goedere aan eindgebruikvereistes onderworpe stel;
 - (d) 'n verklaring aan die Raad, ooreenkomstig die bepalinge van 'n
 - 60 internasionale konvensie, verdrag of ooreenkoms soos beoog in artikel 27, vereis met betrekking tot die vervaardiging, verkryging op enige

- use, operation, stockpiling, maintenance, transport, import, export,
transit or re-export of such goods;
- (e) prohibit the manufacture, procurement in any manner, use, operation,
stockpiling, maintenance, transport or disposal by any means of such
goods; 5
- (f) make the manufacture, procurement in any manner, use, operation,
stockpiling, maintenance, transport or disposal by any means of such
goods, subject to a permit issued by the Council.
- (3) Any person who is in control of any activity with regard to controlled goods
or who has in his possession or custody or under his control controlled goods, 10
shall—
- (a) register with the Council in the prescribed manner; and
- (b) if the Council so requests, make a declaration furnishing all information
requested by the Council.
- (4) A permit contemplated in subsection (2) may lay down conditions with 15
regard to—
- (a) the quantities of controlled goods provided for by the permit;
- (b) the end-use requirements and the verification of such end-use require-
ments of controlled goods;
- (c) the states or territories to which controlled goods may be exported or 20
from which controlled goods may be imported;
- (d) the re-export from a state to which controlled goods originating in the
Republic, are destined for export;
- (e) the period for which the permit is valid;
- (f) the ports, airports or border posts which may be used for the import, 25
export, re-export or transit of controlled goods.
- (5) The Council may at any time, if it has reason to believe that the holder of
a permit has contravened or failed to comply with any condition under which the
permit was issued, suspend or revoke such permit summarily, and notify the 30
holder of the permit within 30 days in writing of the reasons for such suspension
or revocation.
- (6) A suspension under subsection (5) shall remain in force until the holder of
the permit has taken measures to the satisfaction of the Council to remove the
reasons for the suspension, in which case the Council may cancel the suspension.
- (7) The Minister may at any time suspend or revoke a permit if he deems the 35
activity authorized by the permit to be in conflict with public interests.
- (8) The holder of any permit which has been revoked or has lapsed due to the
expiry of the period of validity thereof, shall at the written request of the Council
forthwith return that permit to the Council.
- (9) The Minister may, on the recommendation of the Council, whenever he 40
deems it necessary or expedient, by notice in the *Gazette*—
- (a) for a specified time or indefinitely, prohibit the trade in controlled goods
with a specific state or territory or with a specific person domiciled in the
Republic or in any other state or territory outside the Republic;
- (b) for a specified time or indefinitely, prohibit the performance of any act 45
specified in the notice, by a person in the Republic, or by such person in
co-operation with a specific person, state or territory outside the
Republic;
- (c) for a specified time or indefinitely, prohibit or limit the export of 50
controlled goods.

Furnishing of information and reports

14. (1) The Council or any person authorized by the Council may in writing
direct any person who designs, develops, manufactures, maintains, markets,
imports, exports, re-exports, transits, supplies or stores controlled goods in the
course of his business, or trades in or otherwise handles or disposes of any 55
controlled goods, or in any other way exercises control over controlled goods, to
furnish the Council within a specified period, or at specified intervals, with any

- wyse, gebruik, bedryf, opberging, onderhoud, vervoer, invoer, uitvoer, deurvoer of heruitvoer van sodanige goedere;
- (e) die vervaardiging, verkryging op enige wyse, gebruik, bedryf, opberging, onderhoud, vervoer van, of enige wyse van beskikking oor, sodanige goedere, verbied;
- (f) die vervaardiging, verkryging op enige wyse, gebruik, bedryf, opberging, onderhoud, vervoer van, of enige wyse van beskikking oor, sodanige goedere onderworpe stel aan 'n permit wat deur die Raad uitgereik word.
- (3) Enige persoon wat in beheer is van enige aktiwiteit wat verband hou met beheerde goedere of wat beheerde goedere in sy besit of bewaring of onder sy beheer het, moet—
- (a) by die Raad op die voorgeskrewe wyse registreer; en
- (b) indien die Raad dit versoek 'n verklaring doen, met verstrekking van alle inligting deur die Raad verlang.
- (4) 'n Permit beoog in subartikel (2) kan voorwaardes neerlê met betrekking tot—
- (a) die hoeveelhede van beheerde goedere waarvoor die permit voorsiening maak;
- (b) die eindgebruikvereistes en die verifikasie van sodanige eindgebruikvereistes van beheerde goedere;
- (c) die state of gebiede waarheen beheerde goedere uitgevoer of waarvandaan beheerde goedere ingevoer mag word;
- (d) die heruitvoer vanuit 'n staat waarheen beheerde goedere met oorsprong in die Republiek, vir uitvoer bestem is;
- (e) die tydperk waarvoor die permit geldig is;
- (f) die hawens, lughawens of grensposte wat vir die invoer, uitvoer, heruitvoer of deurvoer van beheerde goedere gebruik kan word.
- (5) Die Raad kan te eniger tyd, wanneer hy 'n redelike vermoede het dat die houder van 'n permit enige voorwaarde waaronder die permit uitgereik is, verbreek het of versuim het om daaraan te voldoen, die permit summier intrek of opskort, en binne 30 dae skriftelik aan die permithouder die redes vir die opskorting of intrekking verstrek.
- (6) 'n Opskorting kragtens subartikel (5) bly van krag totdat die permithouder na die oordeel van die Raad voldoende stappe gedoen het om die redes wat tot die opskorting gelei het, uit die weg te ruim, in welke geval die Raad die opskorting kan ophef.
- (7) Die Minister kan te eniger tyd 'n permit opskort of intrek indien hy van mening is dat die aktiwiteit wat deur die permit gemagtig is, strydig met die openbare belang is.
- (8) Die houder van 'n permit wat ingetrek is of verval het weens die verstryking van die geldigheidstydperk daarvan, moet op die skriftelike versoek van die Raad daardie permit onverwyld aan die Raad terug besorg.
- (9) Die Minister kan op aanbeveling van die Raad wanneer hy dit nodig of dienstig ag, by kennisgewing in die *Staatskoerant*—
- (a) vir 'n bepaalde tyd of onbepaald, die handel in beheerde goedere met 'n bepaalde staat of gebied of met 'n bepaalde persoon in die Republiek of in enige staat of gebied buite die Republiek woonagtig, verbied;
- (b) vir 'n bepaalde tyd of onbepaald, die verrigting van 'n handeling vermeld in die kennisgewing, deur 'n persoon in die Republiek, of deur so 'n persoon in samewerking met 'n bepaalde persoon, staat of gebied buite die Republiek, verbied;
- (c) vir 'n bepaalde tyd of onbepaald die uitvoer van beheerde goedere verbied of beperk.

55 Verstrekking van inligting en verslae

14. (1) Die Raad of enige persoon deur die Raad daartoe gemagtig kan enige persoon wat in die loop van sy besigheid beheerde goedere ontwerp, ontwikkel, vervaardig, onderhou, bemark, invoer, uitvoer, heruitvoer, deurvoer, voorsien of opberg, of wat in beheerde goedere handel dryf of daaroor beskik, of op enige ander wyse beheer oor beheerde goedere uitoefen, skriftelik gelas om aan die Raad binne 'n bepaalde tydperk, of by gespesifiseerde tussenposes, enige

information at his disposal, accompanied by the relevant data and other documents, as indicated in the direction, relating to the design, development, manufacture, maintenance, marketing, import, export, re-export, transit, supply or storage of the said controlled goods.

(2) The Council shall, upon completion of any investigation, inspection or verification executed under section 12, submit a written report to the Minister containing particulars and recommendations regarding the contravention, or risk of contravention, of any provision of this Act. 5

(3) A report in terms of subsection (2) shall only contain facts relating to compliance with the provisions of this Act and, if necessary in order to protect commercial confidentiality, the information therein shall be processed into a less sensitive format before being distributed outside the Council. 10

(4) Any person subject to an inspection or verification under section 12, shall be entitled to request an inspection report, setting out the results and findings of such an inspection or verification, from the Council. 15

Submission of samples

15. (1) Any person who is required to obtain a permit under section 13(2), or is required to be registered under section 13(3), shall at the written request of the Council, within the period stated in the request—

- (a) transmit to the Council such samples of the goods as may be specified in the request, for examination, testing or analysis; or 20
- (b) furnish to the Council such information as may be so specified with regard to controlled goods or the design, development and manufacture thereof.

(2) The Council may cause a sample obtained in terms of subsection (1)(a) or taken under section 12(7) to be examined, tested or analyzed in a laboratory contracted or appointed by the Department in order to ascertain whether or not— 25

- (a) the person concerned has to obtain a permit under section 13(2) or has to register under section 13(3);
- (b) the goods comply with the conditions of the permit issued in respect thereof; 30
- (c) the goods are prohibited or limited under section 13(2).

(3) The result of any examination, test or analysis of any sample, shall, until the contrary is proved, for all purposes be deemed to be valid for the whole consignment, batch or entity of goods from which the sample was obtained or taken. 35

(4) The Council shall not be under any obligation to return any sample received under subsection (1)(a) or taken under section 12(7) to the owner thereof, or to the place where sampling took place, or to compensate the owner thereof.

(5) If it is necessary to repeat an examination contemplated in subsection (2), the Department shall bear the cost associated with the taking of the further sample. 40

Seizure of goods

16. (1) The Council may direct an inspector to seize or cause to be seized—

- (a) all controlled goods for which a permit is needed, but in respect of which no application for a permit has been received by the Council; 45
- (b) all controlled goods which do not comply with the conditions of a permit;
- (c) all controlled goods prohibited under section 13;
- (d) all controlled goods limited under section 13 or the quantity thereof that exceeds the set limit; 50
- (e) any book, document, data or thing which may afford evidence of any offence in terms of this Act,

and to remove from the premises concerned any such controlled goods, book, document, data or thing, or any quantity thereof, or if he considers it necessary to leave it there, to affix any identification mark or seal which is considered necessary on such goods, book, document, data or thing or the container thereof. 55

inligting tot sy beskikking, vergesel van die toepaslike data en ander dokumente wat betrekking het op die ontwerp, ontwikkeling, vervaardiging, onderhoud, bemaking, invoer, uitvoer, heruitvoer, deurvoer, voorsiening of opberging van genoemde beheerde goedere, soos in die lasgewing aangedui, te voorsien.

5 (2) Die Raad moet na afhandeling van enige ondersoek, inspeksie of verifikasie wat kragtens artikel 12 uitgevoer is, 'n skriftelike verslag aan die Minister voorlê wat besonderhede en aanbevelings bevat betreffende die oortreding van, of enige risiko van oortreding van, enige bepaling van hierdie Wet.

(3) 'n Verslag ingevolge subartikel (2) bevat slegs feite wat betrekking het op 10 die nakoming van die bepaling van hierdie Wet en, indien dit nodig is om kommersiële vertroulikheid te beskerm, word die inligting daarin tot 'n minder sensitiewe formaat verwerk voordat dit buite die Raad versprei word.

(4) Enige persoon wat aan 'n inspeksie of verifikasie kragtens artikel 12 onderworpe is, mag 'n inspeksieverslag van die Raad aanvra wat die resultate en 15 bevindings van so 'n inspeksie of verifikasie aandui.

Voorlegging van monsters

15. (1) Enige persoon wat 'n permit kragtens artikel 13(2) moet verkry, of kragtens artikel 13(3) geregistreer moet word, moet op die skriftelike versoek van die Raad, binne die tydperk in die versoek vermeld, aan die Raad—

20 (a) die monsters van die goedere in die versoek gespesifiseer, vir ondersoek, toets of ontleding stuur; of

(b) die inligting aldus gespesifiseer, met betrekking tot beheerde goedere of die ontwerp, ontwikkeling en vervaardiging daarvan verstrek.

(2) Die Raad kan 'n monster wat ingevolge subartikel (1)(a) verkry is of 25 kragtens artikel 12(7) geneem is, in 'n laboratorium deur die Departement gekontrakteer of aangestel, laat ondersoek, toets of ontleed ten einde te bepaal of—

(a) die betrokke persoon 'n permit kragtens artikel 13(2) moet verkry of kragtens artikel 13(3) geregistreer moet word;

30 (b) die goedere voldoen aan die voorwaardes van die permit wat ten opsigte daarvan uitgereik is;

(c) die goedere kragtens artikel 13(2) verbode of beperk is.

(3) Die resultaat van 'n ondersoek, toets of ontleding van 'n monster word, totdat die teendeel bewys is, vir alle doeleindes geag vir die hele besending, 35 versameling of geheel van die goedere waaruit die monster verkry of geneem is, te geld.

(4) Die Raad is nie verplig om 'n monster wat kragtens subartikel (1)(a) ontvang of kragtens artikel 12(7) geneem is, aan die eienaar daarvan terug te besorg, of na die plek waar die monsters geneem is, terug te neem, of die eienaar 40 daarvan te vergoed, nie.

(5) Indien dit nodig is om 'n ondersoek wat in subartikel (2) beoog word, te herhaal, moet die Departement die koste verbonde aan die neem van die verdere monster dra.

Beslaglegging op goedere

45 16. (1) Die Raad kan 'n inspekteur gelas om beslag te lê, of te laat beslag lê op—

(a) alle beheerde goedere waarvoor 'n permit nodig is, en ten opsigte waarvan daar nie 'n aansoek om 'n permit deur die Raad ontvang is nie;

50 (b) alle beheerde goedere wat nie voldoen aan die voorwaardes van 'n permit nie;

(c) alle beheerde goedere wat kragtens artikel 13 verbode is;

(d) alle beheerde goedere wat kragtens artikel 13 beperk is, of hoeveelheid daarvan wat die vasgestelde perk te bowe gaan;

55 (e) enige boek, stuk, data of saak wat bewys kan lewer van 'n misdryf ingevolge hierdie Wet,

en om enige sodanige beheerde goedere, boek, stuk, data of saak, of enige hoeveelheid daarvan, van die betrokke terrein te verwyder, of indien hy dit goedgevind om dit daar te laat, enige identifikasiemerk of seël wat nodig geag word, op daardie goedere, boek, stuk, data of saak of die houer daarvan, aan te bring.

(2) Pending a decision regarding the disposal of any controlled goods under section 17, an inspector may remove or cause to be removed such goods, book, document, data or thing seized under subsection (1) to a place of safekeeping designated by the Council.

(3) An inspector shall furnish the owner or person in control of, or who has in his custody, anything seized in terms of subsection (1), with a receipt. 5

Disposal of goods

17. (1) Subject to section 23 and the Hazardous Substances Act, 1973 (Act No. 15 of 1973), the Council may, after 30 days from the date of a notice to this effect in the *Gazette*, cause to be disposed of or destroyed in the prescribed manner any controlled goods, book, document, data or thing seized in accordance with the provisions of an international convention, treaty or agreement with regard to non-proliferation, or seized under section 16 or 26(2). 10

(2) Any disposal or destruction contemplated under subsection (1) shall, in the case of an appeal noted under section 18, be suspended and shall not take place or resume until the result of such an appeal has determined that such disposal or destruction may take place or resume. 15

(3) The Department may recover costs incurred in the seizure, safekeeping or disposal of any controlled goods, book, document, data or thing from any person who has been found guilty of an offence under this Act with regard to such goods, book, document, data or thing. 20

Appeal

18. (1) Any person aggrieved at any decision of the Council under this Act may appeal to the Minister, who may confirm, amend or set aside the decision of the Council. 25

(2) A decision of the Council to suspend or revoke a permit shall not be suspended pending the result of an appeal under subsection (1) against that decision.

(3) A decision by the Minister with regard to an appeal shall for all purposes be deemed to be a decision of the Council. 30

Revision by court of law

19. (1) Notwithstanding the provisions of section 18, any person whose interests are affected by a decision of the Council may, within 30 days after he became aware of such decision, request the Council in writing to furnish in writing reasons for that decision within 30 days after receiving such a request. 35

(2) Within 30 days after having been furnished with reasons in terms of subsection (1), or after the expiration of the period within which reasons should have been furnished by the Council, the person concerned may apply to a division of the Supreme Court having jurisdiction, to review the decision.

Delegation

20. (1) The Minister may, subject to such conditions as he may impose in writing, delegate or assign to the chairman of the Council, a member of the Council, a member of any committee established under section 10, or any officer or employee of the Department, any power or duty conferred or imposed upon the Minister by or under this Act. 40 45

(2) The Director-General may, subject to such conditions as he may determine, in writing delegate or assign to any officer or employee of the Department any power or duty—

(a) conferred or imposed upon him by this Act; or

(b) delegated or assigned to him under subsection (1), unless the Minister has in his delegation or assignment determined otherwise. 50

(3) The chairman of the Council may, subject to such conditions as he may determine, in writing delegate or assign to any member of the Council or any officer or employee designated in terms of section 4(7) any power or duty—

- (2) In afwagting van 'n besluit betreffende die wegdoening van enige beheerde goedere kragtens artikel 17, kan 'n inspekteur sodanige goedere, boek, stuk, data of saak waarop kragtens subartikel (1) beslag gelê is, verwyder of laat verwyder na 'n plek van veilige bewaring wat deur die Raad aangewys is.
- 5 (3) 'n Inspekteur reik 'n ontvangsbewys uit aan die eienaar of aan die persoon in beheer van, of aan die persoon in wie se sorg enigiets was waarop ingevolge subartikel (1) beslag gelê is.

Wegdoening van goedere

17. (1) Behoudens artikel 23 en die Wet op Gevaarhoudende Stowwe, 1973
10 (Wet No. 15 van 1973), kan die Raad, na 30 dae vanaf die datum van 'n kennisgewing te dien effekte in die *Staatskoerant*, enige beheerde goedere, boek, stuk, data of saak waarop ooreenkomstig die bepalings van 'n internasionale konvensie, verdrag of ooreenkoms met betrekking tot nie-proliferasie beslag gelê is, of waarop kragtens artikel 16 of 26(2) beslag gelê is, op die
15 voorgeskrewe wyse laat wegdoen of vernietig.
- (2) Enige wegdoening of vernietiging kragtens subartikel (1) beoog, word in die geval van 'n appèl wat kragtens artikel 18 aangeteken word, opgeskort en nie uitgevoer of hervat voordat die uitslag van sodanige appèl bepaal dat daarmee begin of voortgegaan mag word nie.
- 20 (3) Die Departement kan koste aangegaan by die beslaglegging op, of bewaring of wegdoening van enige beheerde goedere, boek, stuk, data of saak, van 'n persoon wat met betrekking tot daardie goedere, boek, stuk, data of saak aan die pleging van 'n misdryf kragtens hierdie Wet skuldig bevind is, verhaal.

Appèl

- 25 18. (1) Iemand wat hom veronreg voel deur 'n besluit van die Raad kragtens hierdie Wet, kan na die Minister appelleer, wat die besluit van die Raad kan bekragtig, wysig of tersyde stel.
- (2) 'n Besluit van die Raad om 'n permit op te skort of in te trek, word nie opgeskort hangende die uitslag van 'n appèl kragtens subartikel (1) teen daardie
30 besluit nie.
- (3) 'n Besluit van die Minister ten opsigte van 'n appèl word vir alle doeleindes geag 'n besluit van die Raad te wees.

Hersiening deur hof

19. (1) Ondanks die bepalings van artikel 18, kan iemand wie se belange
35 geraak word deur 'n besluit van die Raad, binne 30 dae nadat hy van so 'n besluit bewus geword het, die Raad skriftelik versoek om binne 30 dae vanaf ontvangs van die versoek skriftelik redes vir die besluit te verstrek.
- (2) Binne 30 dae nadat redes ingevolge subartikel (1) verstrek is, of na verstryking van die tydperk waarbinne redes deur die Raad verstrek moes word,
40 kan die betrokke persoon by 'n bevoegde afdeling van die Hooggeregshof aansoek doen om hersiening van die besluit.

Delegering

20. (1) Die Minister kan aan die voorsitter van die Raad, 'n lid van die Raad, 'n lid van enige komitee wat kragtens artikel 10 ingestel is, of aan enige beampte
45 of werknemer van die Departement enige bevoegdheid of plig wat by of kragtens hierdie Wet aan die Minister verleen of opgedra is, deleger of opdra, onderhewig aan sodanige skriftelike voorwaardes as wat die Minister bepaal.
- (2) Die Direkteur-generaal kan, onderhewig aan die voorwaardes wat hy bepaal, aan enige beampte of werknemer van die Departement enige bevoegd-
50 heid of plig skriftelik deleger of opdra wat—
- (a) by hierdie Wet aan hom verleen of opgedra is; of
- (b) kragtens subartikel (1) aan hom gedelegeer of opgedra is, tensy die Minister in sy delegering of opdrag anders bepaal het.
- (3) Die voorsitter van die Raad kan, onderhewig aan die voorwaardes wat hy
55 bepaal, aan enige lid van die Raad of enige beampte of werknemer wat

- (a) conferred or imposed upon him by this Act; or
- (b) delegated or assigned to him under subsection (1), unless the Minister or the Director-General has in his delegation or assignment determined otherwise.

(4) The Minister, Director-General and chairman of the Council shall not be divested of any power or exempted from any duty delegated or assigned by him, and may amend or set aside any decision taken by a person in the exercise or performance of such power or duty delegated or assigned to him. 5

Confidentiality

21. (1) A member of the Council, a member of any committee of the Council, any officer or employee of the Department, an inspector or any other person who is or was concerned in the performance of any function in terms of this Act, shall not disclose, transmit or make known to any person, whether within or outside the Republic, any information which he obtained in the performance of such a function or cause such information to be disclosed, transmitted or made known, except— 10 15

- (a) to the Minister;
- (b) to any person who of necessity requires it for the performance of his functions in terms of this Act or any other law;
- (c) where he of necessity supplies it in the performance of his functions in terms of this Act; 20
- (d) where it is required in terms of any law or as evidence in any court of law;
- (e) to any competent authority within the Republic, or, with the written consent of the Council, to any authority outside the Republic which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution; 25
- (f) by or on the authority of the Minister or the Council.

(2) (a) If the Minister is of opinion that the disclosure of certain information may compromise the functions of the Council, or the interests of the industry, he may direct that any proceedings, excluding court proceedings, be held *in camera*.

(b) If any court is of opinion that the disclosure of certain information may compromise the functions of the Council, or the interests of the industry, it may direct that any proceedings before it be held *in camera*. 30

Certain acts not construed as assurances or guarantees

22. The fact that anything has been done under this Act by the Minister, any member of the Council, any member of a committee of the Council or any person in the employment of the State with regard to any activity or matter, shall not be construed as an assurance or a guarantee of any nature in respect of any such activity or matter. 35

Limitation of liability

23. The State or any person in the employment of the State, the Minister or the Council shall not be liable in respect of anything done under this Act in good faith and without negligence. 40

Regulations

24. (1) The Minister may make regulations regarding—

- (a) the manner in which the functions of the Council shall be performed; 45
- (b) the appointment of a person to act for an absent member of the Council;
- (c) the procedure to be followed when applying for a permit and the disclosure of information related thereto;
- (d) the conditions under which a permit shall be issued and the disclosure of information related thereto; 50
- (e) the issue and application of a code of conduct or any category of codes of conduct;
- (f) the disclosure of information under section 21(1);

ingevolge artikel 4(7) aangewys is enige bevoegdheid of plig skriftelik delegeer of opdra wat—

- (a) by hierdie Wet aan hom verleen of opgedra is; of
 - (b) kragtens subartikel (1) aan hom gedelegeer of opgedra is, tensy die Minister of Direkteur-generaal in sy delegering of opdrag anders bepaal het.
- (4) Die Minister, Direkteur-generaal en voorsitter van die Raad is nie ontdoen van enige bevoegdheid of onthef van enige plig wat hy gedelegeer of opgedra het nie, en kan enige beslissing van 'n persoon wat geneem word in die uitoefening van 'n bevoegdheid of die verrigting van 'n plig aan hom gedelegeer of opgedra, wysig of herroep.

Vertroulikheid

21. (1) 'n Lid van die Raad, 'n lid van enige komitee van die Raad, enige beampte of werknemer van die Departement, 'n inspekteur of iemand anders wat by die verrigting van 'n werksaamheid ingevolge hierdie Wet betrokke is of was, mag nie enige inligting wat hy by die verrigting van so 'n werksaamheid verkry het aan enige persoon hetsy binne of buite die Republiek openbaar, versend of bekend maak of laat openbaar, versend of bekend maak nie, behalwe—
- (a) aan die Minister;
 - (b) aan enige persoon wat dit noodsaaklikerwys vir die verrigting van sy werksaamhede ingevolge hierdie Wet of 'n ander wet nodig het;
 - (c) waar hy dit noodsaaklikerwys by die verrigting van sy werksaamhede ingevolge hierdie Wet verstrekk;
 - (d) waar dit ingevolge enige wet of as getuie in 'n geregshof vereis word;
 - (e) aan enige bevoegde gesag binne die Republiek, of met die skriftelike goedkeuring van die Raad, aan enige gesagspersoon buite die Republiek, wat dit vir die instelling, of 'n ondersoek met die oog op die instelling, van 'n strafregtelike vervolging nodig het;
 - (f) deur of op gesag van die Minister of die Raad.
- (2) (a) Indien die Minister van oordeel is dat die openbaarmaking van sekere inligting die werksaamhede van die Raad, of die belange van die nywerheid, mag kompromitteer, kan hy gelas dat enige verrigtinge, met uitsluiting van hofverrigtinge, *in camera* gehou word.
- (b) Indien 'n hof van oordeel is dat die openbaarmaking van sekere inligting die werksaamhede van die Raad, of die belange van die nywerheid, mag kompromitteer, kan hy gelas dat enige verrigtinge voor hom *in camera* gehou word.

Sekere handelinge word nie as versekerings of waarborge vertolk

22. Die feit dat enigiets kragtens hierdie Wet deur die Minister, enige lid van die Raad, enige lid van 'n komitee van die Raad of enige persoon in diens van die Staat gedoen is met betrekking tot enige aktiwiteit of aangeleentheid, word nie vertolk as 'n versekering of waarborg van enige aard ten opsigte van so 'n aktiwiteit of aangeleentheid nie.

Beperking van aanspreeklikheid

23. Die Staat of enige persoon in diens van die Staat, die Minister of die Raad is nie aanspreeklik ten opsigte van enigiets wat te goeder trou en sonder nalatigheid kragtens hierdie Wet gedoen is nie.

Regulasies

24. (1) Die Minister kan regulasies uitvaardig betreffende—
- (a) die wyse waarop die werksaamhede van die Raad verrig moet word;
 - (b) die aanstelling van 'n persoon om namens 'n afwesige lid van die Raad op te tree;
 - (c) die prosedure wat gevolg moet word wanneer om 'n permit aansoek gedoen word en die openbaarmaking van inligting in verband daarmee;
 - (d) die voorwaardes waaronder 'n permit uitgereik word en die openbaarmaking van inligting in verband daarmee;
 - (e) die uitreiking en toepassing van 'n gedragskode of enige kategorie gedragskodes;
 - (f) die openbaarmaking van inligting kragtens artikel 21(1);

- (g) the making of a declaration under section 13(3);
- (h) the keeping of records, registers, minutes and financial statements by any person subject to registration, a declaration or a permit under this Act;
- (i) the format of reports to be furnished to the Minister under this Act; 5
- (j) the conditions on which and circumstances under which inspections or investigations shall be executed and the procedure to be followed in connection therewith;
- (k) the procedure to be followed when goods are seized under section 16 or 26(2); 10
- (l) the application of the provisions of international conventions, treaties and agreements with regard to non-proliferation entered into or ratified by the Government of the Republic;
- (m) the procedure to be followed in connection with an appeal to the Minister under section 18, and the period within which such an appeal shall be noted; 15
- (n) in general, any matter which shall or may be prescribed by or under this Act and which is aimed at achieving the objects of this Act.

(2) Different regulations may be made under subsection (1) in respect of different categories of goods or persons. 20

(3) Any regulation made under subsection (1) may provide that any person contravening a provision thereof or failing to comply therewith, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding ten years.

Annual report by Council 25

25. (1) The Council shall annually submit to the Minister a report on its functions in terms of this Act.

(2) The report referred to in subsection (1) shall be laid upon the Table in Parliament by the Minister as soon as possible after receipt thereof.

Offences and penalties 30

26. (1) Any person who—

- (a) contravenes or fails to comply with the provisions of a code of conduct issued under section 7;
- (b) contravenes or fails to comply with the provisions of section 11(4), 12(7), 12(8), 12(10), 13(8), 14(1) or 21; 35
- (c) contravenes or fails to comply with the provisions of section 13(3), 13(4), 13(9) or 15(1);
- (d) falsely represents that any goods or activities fall outside the purview of this Act;
- (e) makes any statement regarding a matter with which this Act is concerned to an officer or employee of the Department, an inspector or a person authorized by the Council which statement is false in any material respect, knowing it to be false; 40
- (f) falsely holds himself out to be an officer or employee of the Department, an inspector or a person authorized by the Council; 45
- (g) refuses or fails to answer to the best of his knowledge any question regarding a matter with which this Act is concerned which an officer or employee of the Department, an inspector or a person authorized by the Council has in the exercise of his powers put to him;
- (h) refuses or fails to comply to the best of his ability with any lawful requirement, request or order of an officer or employee of the Department, an inspector or a person authorized by the Council; or 50
- (i) hinders or obstructs an officer or employee of the Department, an inspector or a person authorized by the Council in the exercise of his functions under this Act, 55

shall be guilty of an offence, and liable on conviction—

- (g) die doen van 'n verklaring kragtens artikel 13(3);
- (h) die byhou van aantekeninge, registers, notules en finansiële state deur enige persoon wat aan registrasie, 'n verklaring of 'n permit kragtens hierdie Wet onderworpe is;
- 5 (i) die formaat van verslae wat kragtens hierdie Wet aan die Minister voorgelê moet word;
- (j) die voorwaardes waarop en omstandighede waaronder inspeksies of ondersoeke uitgevoer moet word en die prosedure wat in verband daarmee gevolg moet word;
- 10 (k) die prosedure wat gevolg moet word wanneer op goedere kragtens artikel 16 of 26(2) beslag gelê word;
- (l) die toepassing van die bepalings van internasionale konvensies, verdrae en ooreenkomste met betrekking tot nie-proliferasie wat deur die Regering van die Republiek aangegaan of bekragtig is;
- 15 (m) die prosedure wat in verband met 'n appèl na die Minister kragtens artikel 18 gevolg moet word, en die tydperk waarbinne so 'n appèl ingedien moet word;
- (n) in die algemeen, enige aangeleentheid wat kragtens hierdie Wet voorgeskryf moet of kan word en wat ten doel het om die oogmerke van hierdie Wet te verwesenlik.
- 20 (2) Verskillende regulasies kan kragtens subartikel (1) uitgevaardig word ten opsigte van verskillende kategorieë van goedere of persone.
- (3) 'n Regulasie kragtens subartikel (1) uitgevaardig, kan voorsiening maak dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen,
- 25 skuldig is aan 'n misdryf en by skuldigbevinding strafbaar is met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens tien jaar.

Jaarlikse verslag deur Raad

- 25. (1) Die Raad lê jaarliks aan die Minister 'n verslag voor aangaande sy werksaamhede ingevolge hierdie Wet.
- 30 (2) Die verslag in subartikel (1) bedoel, word so gou doenlik na ontvangs daarvan deur die Minister in die Parlement ter Tafel gelê.

Misdrywe en strawwe

- 26. (1) Iemand wat—
 - 35 (a) die bepalings van 'n gedragskode uitgereik kragtens artikel 7 oortree of versuim om daaraan te voldoen;
 - (b) die bepalings van artikel 11(4), 12(7), 12(8), 12(10), 13(8), 14(1) of 21 oortree of versuim om daaraan te voldoen;
 - (c) die bepalings van artikel 13(3), 13(4), 13(9) of 15(1) oortree of versuim om daaraan te voldoen;
 - 40 (d) valslik voorgee dat enige goedere of aktiwiteite buite die bestek van hierdie Wet val;
 - (e) 'n verklaring aan 'n beampte of werknemer van die Departement, 'n inspekteur of 'n gemagtigde van die Raad doen met betrekking tot enige aangeleentheid betreffende hierdie Wet wat in enige wesenlike opsig vals is, terwyl hy weet dat dit vals is;
 - 45 (f) hom valslik voordoen as 'n beampte of werknemer van die Departement, 'n inspekteur of 'n gemagtigde van die Raad;
 - (g) weier of in gebreke bly om na sy beste wete enige vraag met betrekking tot enige aangeleentheid betreffende hierdie Wet wat 'n beampte of werknemer van die Departement, 'n inspekteur of 'n gemagtigde van die Raad by die uitoefening van sy bevoegdhede aan hom gestel het, te beantwoord;
 - 50 (h) weier of in gebreke bly om na sy beste vermoë te voldoen aan 'n wettige vordering, versoek of bevel van 'n beampte of werknemer van die Departement, 'n inspekteur of 'n gemagtigde van die Raad; of
 - 55 (i) 'n beampte of werknemer van die Departement, 'n inspekteur of 'n gemagtigde van die Raad by die uitvoering van sy werksaamhede kragtens hierdie Wet hinder of belemmer,
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar—

- (i) in the case of an offence referred to in paragraph (a) to a fine, or to imprisonment for a period not exceeding five years;
 - (ii) in the case of an offence referred to in paragraph (b) to a fine, or to imprisonment for a period not exceeding ten years;
 - (iii) in the case of an offence referred to in paragraphs (c) to (e) inclusive to a fine, or to imprisonment for a period not exceeding fifteen years; and
 - (iv) in the case of an offence referred to in paragraphs (f) to (i) inclusive to a fine, or imprisonment for a period not exceeding two years.
- (2) A court convicting any person of an offence referred to in paragraph (b) or (d) may, in addition to any other penalty which it may impose, seize any goods or any consignment or batch of goods, or any other article, or any material or substance, in respect of which the offence was committed, and goods so seized shall be disposed of as the Minister may either generally or in any particular case order.
- (3) A magistrate's court shall, notwithstanding anything to the contrary in any law contained, be competent to impose any penalty provided for in this Act.

Entering into and ratification of conventions, treaties and agreements

27. (1) The State President may, by proclamation in the *Gazette*, add to this Act any Schedule in which the provisions of an international convention, treaty or agreement with regard to non-proliferation entered into or ratified by the Government of the Republic, are included.

(2) (a) The State President may, by proclamation in the *Gazette*, amend the Schedule—

- (i) to give effect to any amendment of or addition to a convention, treaty or agreement referred to in subsection (1) which may be made from time to time and which has been ratified by the Government of the Republic;
- (ii) by the substitution for any convention, treaty or agreement appearing therein of a new convention, treaty or agreement entered into or ratified by the Government of the Republic under subsection (1).

(b) A proclamation in terms of paragraph (a) may be made with retrospective effect as from the date on which the amendment or addition or the new convention, treaty or agreement was ratified by the Government of the Republic.

(3) On the date of commencement of a proclamation in terms of subsection (1) or (2), the convention, treaty or agreement or the amendment thereof or the addition thereto, as the case may be, shall have the force of law and apply in the Republic.

(4) The Minister shall lay a copy of every proclamation issued under subsection (1) or (2) upon the Table in Parliament within 14 days after publication thereof in the *Gazette* if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

Agreements with self-governing territories

28. The Minister may enter into an agreement with the government of a self-governing territory as defined in section 38 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), in order to promote the objects of this Act.

State bound

29. This Act binds the State, except in so far as criminal liability is concerned.

Short title and commencement

30. This Act shall be called the Non-Proliferation of Weapons of Mass Destruction Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

- (i) in die geval van 'n misdryf in paragraaf (a) vermeld, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar;
- (ii) in die geval van 'n misdryf in paragraaf (b) vermeld, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens tien jaar;
- 5 (iii) in die geval van 'n misdryf in paragrawe (c) tot en met (e) vermeld, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens vyftien jaar; en
- (iv) in die geval van 'n misdryf in paragrawe (f) tot en met (i) vermeld, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar.
- 10 (2) 'n Hof wat iemand skuldig bevind aan 'n misdryf in paragraaf (b) of (d) vermeld, kan, benewens enige ander straf wat hy oplê, op enige goedere of besending of versameling goedere, of ander artikel, of enige materiaal of stof, ten opsigte waarvan die misdryf gepleeg is, beslag lê, en oor sodanige goedere word beskik soos die Minister hetsy in die algemeen of in 'n bepaalde geval
- 15 beveel.
- (3) 'n Landdroshof is, ondanks andersluidende bepalings van enige ander wet, bevoeg om enige straf op te lê waarvoor hierdie Wet voorsiening maak.

Aangaan en bekragtiging van konvensies, verdrae en ooreenkomste

- 20 27. (1) Die Staatspresident kan by proklamasie in die *Staatskoerant* by hierdie Wet enige Bylae voeg waarin die bepalings van 'n internasionale konvensie, verdrag of ooreenkoms met betrekking tot nie-proliferasie wat deur die Regering van die Republiek aangegaan of bekragtig is, opgeneem word.

- (2) (a) Die Staatspresident kan by proklamasie in die *Staatskoerant* die Bylae wysig—

- 25 (i) om gevolg te gee aan enige wysiging van of byvoeging by 'n konvensie, verdrag of ooreenkoms in subartikel (1) bedoel wat van tyd tot tyd aangebring mag word en deur die Regering van die Republiek bekragtig is;
- 30 (ii) deur 'n konvensie, verdrag of ooreenkoms daarin vervat, deur 'n nuwe konvensie, verdrag of ooreenkoms wat deur die Regering van die Republiek ingevolge subartikel (1) aangegaan of bekragtig is, te vervang.

- (b) 'n Proklamasie ingevolge paragraaf (a) kan terugwerkend van krag gemaak word vanaf die datum waarop die wysiging of byvoeging of die nuwe
- 35 konvensie, verdrag of ooreenkoms deur die Regering van die Republiek bekragtig is.

- (3) Op die datum van inwerkingtreding van 'n proklamasie ingevolge subartikel (1) of (2) het die konvensie, verdrag of ooreenkoms of die wysiging daarvan of byvoeging daarby, na gelang van die geval, regsrag en is van toepassing in
- 40 die Republiek.

- (4) Die Minister moet 'n afskrif van elke proklamasie wat kragtens subartikel (1) of (2) uitgevaardig word, in die Parlement ter Tafel lê binne 14 dae na publikasie daarvan in die *Staatskoerant* as die Parlement dan in gewone sessie is of, as die Parlement dan nie in gewone sessie is nie, binne 14 dae na die aanvang
- 45 van sy eersvolgende gewone sessie.

Ooreenkomste met selfregerende gebiede

- 28. Die Minister kan 'n ooreenkoms met die regering van 'n selfregerende gebied soos omskryf in artikel 38 van die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971), aangaan ten einde die oogmerke van
- 50 hierdie Wet te bevorder.

Staat gebonde

- 29. Hierdie Wet bind die Staat, behalwe vir sover dit strafregtelike aanspreeklikheid betref.

Kort titel en inwerkingtreding

- 55 30. Hierdie Wet heet die Wet op die Nie-proliferasie van Wapens van Grootsekaalse Vernietiging, 1993, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

