



Legislation updated to: 30 April 2010

DANGEROUS WEAPONS ACT 71 OF 1968

[ASSENTED TO 20 JUNE 1968]

[DATE OF COMMENCEMENT: 3 JULY 1968]

(Afrikaans text signed by the State President)

as amended by

General Law Amendment Act 102 of 1972
Dangerous Weapons Amendment Act 29 of 1990
Dangerous Weapons Amendment Act 156 of 1993
Abolition of Corporal Punishment Act 33 of 1997
Child Justice Act 75 of 2008

ACT

To provide for certain prohibitions and restrictions in respect of the possession, manufacture, sale or supply of certain objects; to provide for the imposition of prescribed sentences where dangerous weapons or firearms have been used in the commission of offences involving violence; to repeal sections 10 and 10bis of the General Law Amendment Act, 1949; and to provide for incidental matters.

1 Definitions

In this Act, unless the context otherwise indicates-

'dangerous weapon' means any object, other than a firearm, which is likely to cause serious bodily injury if it were used to commit an assault;

'firearm' means an arm as defined in section 1 of the Arms and Ammunition Act, 1969 (Act 75 of 1969);

[Definition of 'firearm' substituted by s. 1 (a) of Act 29 of 1990.]

'gathering' includes any assembly, concourse or procession of any number of persons;

[Definition of 'gathering' inserted by s. 1 of Act 156 of 1993.]

'Minister' means the Minister of Law and Order.

[Definition of 'Minister' substituted by s. 1 (b) of Act 29 of 1990.]

2 Prohibition of the possession of dangerous weapons, firearms and certain other objects

(1) Any person who is in possession of any dangerous weapon, or of any object which so resembles a firearm that, under circumstances such as those under which such person is in possession thereof, it is likely to be mistaken for a real

firearm, shall be guilty of an offence, unless he is able to prove that he at no time had any intention of using such weapon or object for any unlawful purpose, and shall on conviction be liable to a fine or to imprisonment for a period not exceeding two years.

[Sub-s. (1) substituted by s. 2 of Act 156 of 1993.]

(2) The Minister may from time to time by notice in the *Gazette* and subject to such terms, conditions, restrictions, directions or exemptions as may be specified in such notice or as may be provided for therein, prohibit any person or any person belonging to any class of persons specified in such notice, from being in possession at any time or during any period so specified and either generally or at or in any place or area so specified or at a specified gathering or at any gathering belonging to any class specified in such notice, of any object belonging to a class, type, kind or category of object which, in the opinion of the Minister, is a dangerous weapon and which is specified in such notice.

(3) The Minister may, notwithstanding anything to the contrary in any law contained, from time to time by notice in the *Gazette* and subject to such terms, conditions, restrictions, directions or exemptions as may be specified in such notice or as may be provided for therein, prohibit any person or any person belonging to any class of persons specified in such notice, from being in possession at any time or during any period so specified and either generally or at or in any place or area so specified or at a specified gathering or at any gathering belonging to any class specified in such notice, of any firearm, or a replica thereof, in general or any firearm, or a replica thereof, belonging to a class, type, kind or category specified in such notice.

(4) Any person who is in possession of any object, firearm or replica of a firearm in contravention of the provisions of any notice issued in terms of subsection (2) or (3), shall be guilty of an offence and liable on conviction to the penalties prescribed in subsection (1).

(5) The Minister may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of subsection (2) or (3).

[S. 2 substituted by s. 2 of Act 29 of 1990.]

3 Prohibition of the manufacture, sale or supply of dangerous weapons

(1) The Minister may from time to time by notice in the *Gazette* prohibit the manufacture, sale or supply of any object belonging to a class or kind of object which, in his opinion, is a dangerous weapon, and which is specified in such notice.

(2) The Minister may by notice in the *Gazette* and subject to such conditions as he may determine, exempt any person or class of persons specified in such notice, or any person or class of persons other than any person or class of persons so specified, either generally or under such circumstances as may be so specified and either indefinitely or for such period as may be so specified, from the operation of any or all of the provisions of any notice issued in terms of subsection (1).

(3) Any person who manufactures, sells or supplies any object in contravention of the provisions of any notice issued in terms of subsection (1), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three years.

[Sub-s. (3) amended by s. 3 of Act 29 of 1990 and substituted by s. 3 of Act 156 of 1993.]

(4) For the purposes of subsections (1) and (3), 'sell' includes to offer for

sale, to keep for sale or to keep in a place where goods are sold, offered or kept for sale.

(5) The Minister may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of this section.

4 Penalties when dangerous weapons or firearms are used in the commission of offences involving violence

(1) Whenever any person above the age of eighteen years is convicted of an offence involving violence to any other person and it has been proved that he killed or injured such other person by using a dangerous weapon or a firearm, he or she shall, except when he or she is in terms of section 286 of the Criminal Procedure Act, 1977 (Act 51 of 1977), declared an habitual criminal, notwithstanding anything to the contrary in any law contained, be sentenced to imprisonment for a period of not less than two years and, if he or she is so convicted by a magistrate's court, not exceeding eight years: Provided that if the court is of the opinion that there are circumstances which justify the imposition of a lighter sentence than the punishment prescribed by this section, it shall enter those circumstances on the record of the proceedings and may thereupon impose such lighter sentence on the person so convicted: Provided further that in the case of a magistrate's court, such lighter sentence shall not exceed a fine of R40 000 or imprisonment for a period of two years.

[Sub-s. (1) substituted by s. 2 of Act 33 of 1997.]

(2) Notwithstanding anything to the contrary in any law contained, no person in respect of whom the imposition of a sentence of imprisonment is compulsory in terms of subsection (1), shall be dealt with under section 297 of the Criminal Procedure Act, 1977.

[Sub-s. (2) substituted by s. 2 of Act 33 of 1997 and by s. 99 (1) of Act 75 of 2008.]

(3) (a) The provisions of subsections (1) and (2) shall apply only in respect of an offence referred to in subsection (1) which is committed in an area to which the Minister of Justice has, by notice in the *Gazette*, declared such provisions to be applicable.

(b) The Minister of Justice may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of paragraph (a).

[S. 4 amended by s. 23 (1) of Act 102 of 1972 and substituted by s. 4 of Act 29 of 1990.]

5 Jurisdiction of magistrate's courts

Notwithstanding anything to the contrary in any law contained, but subject to the provisions of section 4 (1), a magistrate's court shall have jurisdiction to impose any sentence provided for by this Act.

6 Repeals sections 10 and 10bis of the General Law Amendment Act 54 of 1949.

7 Short title

This Act shall be called the Dangerous Weapons Act, 1968.

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