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## GENERAL NOTICE

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### NOTICE 870 OF 2012

#### DEPARTMENT OF POLICE

#### PUBLICATION OF EXPLANATORY SUMMARY OF THE DANGEROUS WEAPONS BILL, 2012

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

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 The said notice was consequently repealed.

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

The Bill, as it will be introduced, is available on the Internet from 23 October 2012 at the following websites: [www.policesecretariat.gov.za](http://www.policesecretariat.gov.za) and [www.saps.gov.za](http://www.saps.gov.za).

**EXPLANATORY SUMMARY**  
**DANGEROUS WEAPONS BILL, 2012**

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

Clause 2(1) of the Bill prohibits the possession of dangerous weapons, firearms or replicas or imitation firearms and provides that any person who is in possession of any dangerous weapon or any firearm, replica or imitation firearm under circumstances which may raise a reasonable suspicion that the person intends to use the dangerous weapon, firearm, replica or imitation firearm for unlawful purposes is guilty of an offence. The penalty provided for is a fine or imprisonment for a period not exceeding three years.

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

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

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

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

**KENNISGEWING 870 VAN 2012****DEPARTEMENT VAN POLISIE****PUBLIKASIE VAN VERDUIDELIKENDE OPSOMMING VAN DIE  
WETSONTWERP OP GEVAARLIKE WAPENS, 2012**

Die Minister van Polisie beoog om die Wetsontwerp op Gevaarlike Wapens, 2012, so spoedig moontlik by die Nasionale Vergadering in te dien. Die verduidelikende opsomming van die Wetsontwerp word hiermee ooreenkomstig Reël 241(c) van die Gesamentlike Reëls van die Parlement Vergadering gepubliseer.

Die Wetsontwerp word ingedien ten einde die Wette op Gevaarlike Wapens wat steeds in die onderskeie gebiede van die Republiek en die TBVC gebiede soos dit voor 27 April 1994 saamgestel was, van toepassing is, te hersien, op te dateer en te vervang met eenvormige wetgewing wat in die hele Republiek van toepassing is. Dit volg op die uitspraak van KW Thunzi en S Mlonzi v die Staat, (Oos-Kaapse Afdeling Afdeling van die Hoë Hof, Mthatha, Saakno. 213749) bevestig deur die Konstitusionele Hof in die Staat v KW Thunzi and S Mlonzi, deur die verklaring van Goewermentskennisgewing No. 4601 van 7 Maart 1975, oor minimum vonnisse, as onbestaanbaar met die Grondwet van die Republiek van Suid-Afrika, 1996, en daarom ongeldig.

Die Grondwetlike Hof het gevolglik die Goewermentskennisgewing tersyde gestel. Die genoemde kennisgewing is gevolglik herroep.

Die uitspraak van die Konstitusionele Hof het ook die hersiening en rasionalisasie van die betrokke wetgewing vereis en die Wetsontwerp gee uitvoering aan die relevante gedeelte van die uitspraak.

Die Wetsontwerp, soos dit ingedien sal word, is vanaf 23 Oktober 2012 beskikbaar op die Internet op die volgende webwerwe: [www.policeseecretariat.gov.za](http://www.policeseecretariat.gov.za) and [www.saps.gov.za](http://www.saps.gov.za).

## VERDUIDELIKENDE OPSOMMING WETSONTWERP OP GEVAARLIKE WAPENS, 2012

Die Wetsontwerp beoog om alle bestaande wetgewing met betrekking tot die regulering van gevaarlike wapens in die Republiek en die gebiede wat voor 27 April 1994 die TBVC state uitgemaak het, te herroep en te vervang met eenvormige wetgewing wat in die hele Republiek van toepassing sal wees. Die Wetsontwerp beoog om die besit van gevaarlike wapens, vuurwapens en replika's of namaaksels van vuurwapens in die openbaar te verbied. "Gevaarlike wapen" word omskryf as "enige voorwerp, behalwe 'n vuurwapen, wat ontwerp is as 'n wapen en waardeur die dood of ernstige liggaamlike leed berokken kan word.

Klousule 2 van die Wetsontwerp verbied die besit van gevaarlike wapens, vuurwapens of replika's of namaaksels van vuurwapens en bepaal dat enige persoon wat in besit is van 'n gevaarlike wapen, of enige vuurwapen, replika of namaaksel van 'n vuurwapen onder omstandighede wat 'n redelike vermoed mag wek dat die persoon die opset het om die gevaarlike wapen, vuurwapen of replika of namaakel van 'n vuurwapen vir 'n onregmatige doel te gebruik, aan 'n misdryf skuldig is. Die strafbepaling wat in die verband voorsien word is 'n boete of gevangenisstraf van nie meer as drie jaar nie of beide 'n boete en sodanige gevangenisstraf.

Klousule 29(2) van die Wetsontwerp maak voorsiening vir faktore wat in ag geneem moet word ten einde te bepaal of 'n persoon die opset het om die gevaarlike wapen, vuurwapen replika of namaaksel van 'n vuurwapen vir 'n onregmatige doel te gebruik.

Klousule 3(1) van die Wetsontwerp herroep, in die geheel, al die Wette op Gevaarlike Wapens wat tans in werking is in die Republiek en die gebied wat voorheen as die TBVC state bekend was.

Klousule 4 van die Wetsontwerp wysig die Wet op Regulering van Byeenkomste, 1993 (Wet No. 205 van 1993), ten einde voorsiening te maak vir 'n verbod op die besit van-

(a) Windbukse, vuurwapens, replika van vuurwapens voorlaaiers of enige nammaksel van 'n vuurwapen wat waarskynlik met 'n vuurwapen verwar kan word; en

(b) gevaarlike wapens, gedurende byeenkomste en demonstrasies. Uitsonderings wat onder sekere ovoorwaardes toegelaat mag word hou verband met kulturele of godsdienstige doeleindes en historiese herdenkings.

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