Government Gazette

REPUBLIC OF SOUTH AFRICA
REPHABOLIKI YA AFORIKA BORWA

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THE PRESIDENCY

No. 531 24 July 2013

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

Act No. 15 of 2013: Dangerous Weapons Act, 2013

INHOVISI LIKAMONGAMELI

Ino. 531 24 July 2013

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 15 Ka 2013: Umthetho weziKhali eziyiNgozi, 2013

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GENERAL EXPLANATORY NOTE:

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

(English text signed by the President)
(Assented to 24 July 2013)

ACT

To provide for certain prohibitions in respect of the possession of dangerous weapons; to repeal the Dangerous Weapons Acts in operation in the areas of the erstwhile South Africa, Transkei, Bophuthatswana, Venda and Ciskei, as those areas were constituted immediately before 27 April 1994; to amend the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), and the Firearms Control Act, 2000 (Act No. 60 of 2000); and to provide for matters connected therewith.

Preamble

WHEREAS the Constitution of the Republic of South Africa, 1996, entrenches the right to security of persons and the right to be free from all forms of violence;

AND WHEREAS the Constitution of the Republic of South Africa, 1996, guarantees the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—
"dangerous weapon" means any object, other than a firearm, capable of causing death or inflicting serious bodily harm, if it were used for an unlawful purpose.

Application of Act

2. This Act does not apply to the following activities:
(a) Possession of dangerous weapons in pursuit of any lawful employment, duty or activity;
(b) possession of dangerous weapons during the participation in any religious or cultural activities, or lawful sport, recreation, or entertainment; or
(c) legitimate collection, display or exhibition of weapons.

INCAZELO EJWAYELEKILE:

[ ]	Amagama acaciswe ngombhalo ogqamile akubakaki bayisikwele abonisa okukhishwayo emthethweni osebenzayo.
________	Amagama adwetshelwe ngomugqa ogqamile akhombisa okufakelwayo emthethweni osebenzayo.

(English text signed by the President)
(Assented to 24 July 2013)

UMTHETHO

Ukuhlinzekela ngezithibo ezithile ekuphathweni kwezikhali eziyingozi; ukuchitha ukusebenza koMthetho weziKhali eziyiNgozi ezindaweni okwakungezase-Ningizimu Afrika, iTranskei, Bophuthatswana, Venda neCiskei, njengoba lezo zindawo zasungulwa ngaphambi komhlaka 27 Epreli 1994; ukuchibiyela i-*Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), ne-Firearms Control Act, 2000 (Act No. 60 of 2000)*; nokuhlinzekela izindaba ezihambisana nawo.

Isendlalelo

NJENGOBA uMthethosisekelo waseRiphabhuliki yaseNingizimu Afrika, 1996 ugcizelela ilungelo lokuvikeleka kwabantu nelungelo lokukhululeka kuzona zonke izinhlobo zodlame;

FUTHI NJENGOBA uMthethosisekelo waseRiphabhuliki yaseNingizimu Afrika, 1996 uqinisekisa ilungelo, ukuthula nokungahlomi, ukuhlangana, ukubhikisha, ukuteleka nokwethula izikhalazo,

NGAKHO-KE UZOMISWA iPhalamende laseRiphabhuliki yaseNingizimu Afrika, ngale ndlela elandelayo:—

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi ibeka ngenye indlela—
"isikhali esiyingozi" sichaza noma yini, engesona isibhamu, engabulala noma ilimaze, uma ingasetshenziswa ngendlela engafanele.

Ukusebenza koMthetho

2. Lo Mthetho awusebenzi uma kwenziwa lokhu okulandelayo:
(a) Ukuphatha izikhali eziyingozi uma kwenziwa into esemthethweni, umsebenzi noma okwenziwayo;
(b) ukuphatha izikhali eizyingozi uma kwenziwa izinto ezihambisana nenkolo noma namasiko, noma ezemidlalo ezisemthethweni, ezemidlalo, noma ezokungcebeleka; noma
(c) ukuqoqa ngokusemthethweni, ukukhangisa noma umbukiso wezikhali.

Prohibition of possession of dangerous weapons

3. (1) Any person who is in possession of any dangerous weapon under circumstances which may raise a reasonable suspicion that the person intends to use the dangerous weapon for an unlawful purpose, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three years.

(2) In determining whether a person intends to use the object as a dangerous weapon for an unlawful purpose, all relevant factors, including but not limited to, the following must be taken into account:

(a) The place and time where the person is found;
(b) the behaviour of the person, including the making of any threat or the display of intimidatory behaviour;
(c) the manner in which the object is carried or displayed;
(d) whether the possession of the object was within the context of drug dealing, gang association or any organised crime or any other criminal activity; or
(e) any other relevant factors, including any explanation the person may wish to provide for his or her possession of the object: Provided that this paragraph shall not be interpreted as an obligation on the person to explain his or her possession of the object.

Repeal of laws

4. The laws specified in the Schedule are hereby repealed to the extent indicated in the third column thereof.

Amendment of Regulation of Gatherings Act, 1993

5. The Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), is hereby amended—

(a) by the substitution in section 8 for subsection (4) of the following subsection:
‘‘(4) **[Participants]** No participant at a gathering or demonstration **[shall abide by any law in respect of the carrying of dangerous weapons,]** may have in his or her possession—
(a) any airgun, firearm, imitation firearm or any muzzle loading firearm, as defined in section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000), or any object which resembles a firearm and that is likely to be mistaken for a firearm; or
(b) any dangerous weapon, as defined in the Dangerous Weapons Act, 2013 and the convener and marshals, if any, shall take all reasonable steps to ensure that **[the said laws are]** this section is complied with.’’;

(b) by the addition in section 12(1) of the following paragraph:
‘‘*(k)* who is in possession of or carrying any object referred to in section 8(4) in contravention of that section,’’;

(c) by the substitution in section 12(1) for the words following paragraph *(j)* of the following words:
‘‘shall be guilty of an offence and on conviction liable—
(i) in the case of a contravention referred to in paragraphs *(a)* to *(j)*, to a fine or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; and
(ii) in the case of a contravention referred to in paragraph *(k)*, to a fine or to imprisonment for a period not exceeding three years.’’; and

(d) by the substitution in section 13(1)*(a)* for subparagraph (ii) of the following subparagraph:
‘‘(ii) **[Dangerous Weapons Act, 1968 (Act No. 71 of 1968)]** Dangerous Weapons Act, 2013; or’’.

Ukunqanda ukuphathwa kwezikhali eziyingozi

3. (1) Noma ubani onesikhali esiyingozi ezimweni ezingenza kusolakale ukuthi lowo muntu uhlose ukusebenzisa isikhali esiyingozi ngokungekho emthethweni, unencala futhi uma elahlwa icala uzobhekana nenhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emithathu.

(2) Uma kunqunywa ukuthi ngabe umuntu uhlose ukusebenzisa isikhali esiyingozi ngokungekho emthethweni, konke okusemqoka, okubandakanya lokhu okulandelayo, kufanele kubhekwe:

(a) Indawo nesikhathi lapho umuntu etholakale khona;
(b) ukuziphatha kwalowo muntu, kubandakanya ukusongela noma ukusabisa ;
(c) indlela okuphethwe ngayo noma okubonakala ngayo;
(d) ngabe ukuphatha lokho kuhambisana nokudayisa izidakamizwa, kuxhumene nobulelesi noma nezinye izenzo zobulelesi ezihleliwe; noma nezinye izenzo zobulelesi; noma
(e) nokunye okusemqoka, kubandakanya incazelo umuntu angafisa ukuyinikeza mayelana nokuphatha kwakhe lokho akuphethe: Inqobo nje uma le ndima ingeke ihunyushwe njengesibophezelo kumuntu sokuchaza ukuthi ukuphatheleni lokhu akuphethe.

Ukuchithwa kwemithetho

4. Ngakho-ke imithetho evezwe esiThasiselweni iyachithwa ngendlela evezwe kuleyo kholamu yesithathu.

Ukuchibiyela i-*Regulation of Gatherings Act, 1993*

5. Ngakho-ke i-*Regulation of Gatherings Act, 1993 (Act No. 205 of 1993)*, ichibiyelwe—

(a) ngokufaka endaweni yesigaba sesi-8 yesigatshana sesi-(4) lesi sigatshana esilandelayo:

“(4) **[Oyingxenye]** Akekho umuntu oyingxenye embuthanweni noma uma kubhikishwa **[kufanele alandele noma omuphi umthetho ophathelene nokuphatha izikhali eziyingozi,]** okufanele aphathe—

(a) Isibhamu esinezinhlamvu eziqhutshwa ngomoya, isibhamu, umfanekiso wesibhamu noma isibhamu esihlohlwa izinhlamvu ngomlomo, njengoba kuchaziwe esigabeni soku-1 se-*Firearms Control Act, 2000 (Act No. 60 of 2000)*, noma okunye okufana nesibhamu okungase kubonakale njengesibhamu; noma
(b) Isikhali esiyingozi, esichazwe eMthethweni weziKhali eziyiNgozi, wezi-2013 futhi owengamele noma induna, uma bekhona, kufanele bathathe izinyathelo ezifanele ukuqikelela ukuthi **[le mithetho]** lesi sigaba siyalandelwa.”;

(b) ngokwengeza esigabeni se-12(1) le ndima elandelayo:

“*(k)* ophethe into evezwe esigabeni sesi-8(4) ukushayisana naleso sigaba,”;

(c) ngokufaka endaweni yesigaba se-12(1) amagama alandela indima *(j)* lawa magama alandelayo: ‘

‘unecala futhi uma elahlwa icala—

(i) uma kuyicala lokuphula okuvezwe endimeni *(a)* ukuya ku-*(j)*, uzobhekana nenhlawulo noma aboshwe isikhathi esingadlulile onyakeni owodwa noma abhekana nakho kokubili inhlawulo futhi aboshwe; futhi
(ii) uma kuyicala lokuphula okuvezwe endimeni *(k)*, uzobhekana nenhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emithathu.”; futhi

(d) ngokufaka endaweni yesigaba 13(1)*(a)* yendimana (ii) le ndimana elandelayo:

“(ii) **[UMthetho weziKhali eziyiNgozi, we-1968 (uMthetho Wama-71 we-1968)]** uMthetho weziKhali eziyiNgozi, wezi-2013; noma”.

Amendment of section 120 of Firearms Control Act, 2000

6. Section 120 of the Firearms Control Act, 2000 (Act No. 60 of 2000), is hereby amended—

(a) by the substitution in subsection (10) for paragraph *(b)* of the following paragraph:

"*(b)* be in possession of any firearm, airgun, deactivated firearm, muzzle loading firearm, or imitation firearm **[or ammunition]**, with intent to commit an offence or to use the firearm, airgun, deactivated firearm, muzzle loading firearm, or **[an]** imitation firearm to resist arrest or prevent the arrest of another person."; and

(b) by the insertion of the following subsections after subsection (10):

"(10A) In determining whether a person intends to use the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm to commit an offence, all relevant factors, including, but not limited to, the following must be taken into account:

(a) The place and time where the person is found;
(b) the behavior of the person, including the making of any threat or the display of intimidatory behavior;
(c) the manner in which the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm is carried or displayed;
(d) whether the possession of the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm was within the context of drug dealing, gang association, organised crime or any other criminal activity; or
(e) any other relevant factors, including any explanation the person may wish to provide for his or her possession of the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm: Provided that this paragraph shall not be interpreted as an obligation on the person to explain his or her possession of the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm.

(10B) The provisions of subsection (10)*(b)* do not apply to the following activities:

(a) The pursuit of any lawful employment, duty or activity;
(b) the participation in any cultural or religious activities, or lawful sport, recreation, or entertainment; or
(c) the legitimate collection, display or exhibition of a firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm.".

Short title and commencement

7. This Act is called the Dangerous Weapons Act, 2013, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

Ukuchibiyela isigaba 120 se-*Firearms Control Act, 2000*

6. Isigaba se-120 se-*Fireamrs Control Act, 2000 (Act No. 60 of 2000)*, ngakho-ke sichitshiyelwe—

(a) ngokufaka endaweni yesigatshana se-(10) sendima *(b)* le ndima elandelayo:

"*(b)* ophethe isibhamu, isibhamu esinezinhlamvu eziqhutshwa ngomoya, isibhamu esingahlohliwe, isibhamu esihlohlwa izinhlamvu ngomlomo noma umfanekiso wesibhamu **[noma izinhlamvu]**, ngenjongo yokwenza icala noma yokusebenzisa isibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo, noma umfanekiso wesibhamu onqaba ukuboshwa noma ovimba ukuba omunye umuntu aboshwe."; futhi

(b) ngokushutheka lezi zigatshana ezilandelayo ngemuva kwesigatshana se-(10):

"(10A) Uma kunqunywa ukuthi ngabe umuntu uhlose ukusebenzisa isibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo noma umfanekiso wesibhamu ukwenza icala, konke okusemqoka, kubandakanya, lokhu okulandelayo kufanele kubhekwe:

(a) Indawo nesikhathi lapho umuntu etholakale khona;

(b) ukuziphatha kwalowo muntu, kubandakanya ukusongela noma ukusabisa;

(c) indlela okuphethwe ngayo noma okubonakala ngayo isibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo noma umfanekiso wesibhamu;

(d) ngabe ukuphatha isibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo noma umfanekiso wesibhamu kuhambisana nokudayisa izidakamizwa, iqembu lezilelesi, ubulelesi obuhleliwe nezinye izenzo zobulelesi; noma

(e) nokunye okusemqoka, kubandakanya incazelo umuntu angafisa ukuyinikeza mayelana nokuphatha kwakhe sibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo noma umfanekiso wesibhamu: Inqobo nje uma le ndima ingeke ihunyushwe njengesibophezelo kumuntu sokuchaza ukuthi usiphatheleni isibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo noma umfanekiso wesibhamu.

(10B) Imibandela yesigatshana (10)*(b)* ayisebenzi kulokhu okulandelayo:

(a) Uma kwenziwa into esemthethweni, umsebenzi noma okwenziwayo;

(b) ukwenziwa kokuhambisana nenkolo noma namasiko, noma ezemidlalo ezisemthethweni, ezemidlalo, noma ezokungcebeleka; noma

(c) ukuqoqa ngokusemthethweni, ukukhangisa noma umbukiso wesibhamu, isibhamu somoya, isibhamu esingahlohliwe, isibhamu esihlohlwa ngomlomo noma umfanekiso wesibhamu.".

Isihloko esifingqiwe nokuqala kwawo ukusebenza

7. Lo Mthetho ubizwa ngokuthi uMthetho weziKhali eziyiNgozi, wezi-2013 futhi uzoqala ukusebenza ngosuku oluzonqunywa uMongameli ngesimemezelo kuSomqulu.

SCHEDULE

Laws repealed

(Section 5)

No. and year of law	**Short title**	**Extent of repeal**
Act No. 71 of 1968	Dangerous Weapons Act, 1968	The whole
Act No. 71 of 1968 (Transkei)	Dangerous Weapons Act, 1968	The whole
Act No. 71 of 1968 (Venda)	Dangerous Weapons Act, 1968	The whole
Act No. 71 of 1968 (Ciskei)	Dangerous Weapons Act, 1968	The whole
Act No. 71 of 1982 (Bophuthatswana)	Dangerous Weapons Act, 1982	The whole

ISITHASISELO

Imithetho echithiwe

(Isigaba 5)

Inombolo nonyaka womthetho ochithwe ngayo	**Isihloko esifingqiwe**	**Indlela**
Act No. 71 of 1968	*Dangerous Weapons Act, 1968*	Wonke
Act. No.71 of 1968 (Transkei)	*Dangerous Weapons Act, 1968*	Wonke
Act. No.71 of 1968 (Venda)	*Dangerous Weapons Act, 1968*	Wonke
Act. No.71 of 1968 (Ciskei)	*Dangerous Weapons Act, 1968*	Wonke
Act. No. 71 of 1982 (Bophuthatswana)	*Dangerous Weapons Act, 1982*	Wonke