

(2 January 2014 – to date)

[This is the **current** version and applies as from **2 January 2014**, i.e. the date of commencement of the Dangerous Weapons Act 15 of 2013 – to date]

DANGEROUS WEAPONS ACT 15 OF 2013

*(Government Notice 531 in Government Gazette 36704 dated 24 July 2013. Commencement date:
2 January 2014 [Proc. No. 45, Gazette No. 36949 dated 21 October 2013])*

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:—

ARRANGEMENT OF SECTIONS

1. Definitions
2. Application of Act

Prepared by:



In partnership with:



3. Prohibition of possession of dangerous weapons
4. Repeal of laws
5. Amendment of Regulation of Gatherings Act, 1993
6. Amendment of section 120 of Firearms Control Act, 2000
7. Short title and commencement

SCHEDULE: Laws repealed

1. Definitions

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.

2. Application of Act

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.

3. Prohibition of possession of dangerous weapons

- (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.

4. Repeal of laws

The laws specified in the Schedule are hereby repealed to the extent indicated in the third column thereof.

5. Amendment of Regulation of Gatherings Act, 1993

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”.

6. Amendment of section 120 of Firearms Control Act, 2000

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.”.

7. Short title and commencement

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*.

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 |