

SCHEDULE

REPUBLIC OF SOUTH AFRICA

DEFENCE AMENDMENT BILL

(As introduced in the National Assembly (proposed section 75 Bill); prior notice of its introduction published in Government Gazette 36768 of 21 August 2013); (The English text is the official text of the Bill)

(Mr DJ Maynier MP)

[PMB8 - 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.

BILL

To amend the Defence Act, 2002, so as to ensure that the procurement of armaments is subject to parliamentary oversight.

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

Amendment of section 1 of Act 42 of 2002

1. Section 1 of the Defence Act 2002 (Act No. 42 of 2002) (hereinafter referred to as the principal Act), is hereby amended by the insertion before the definition of “auxiliary service” of the following definition:

“ ‘armaments procurement’ means the procurement of military equipment and associated parts that are not commercially available and are required exclusively for military use or purposes;”.

Amendment of section 80 of Act 42 of 2002

2. Section 80 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsections:

“(2A) The Minister must table quarterly reports of all armaments procurement before Parliament and must include in such reports—

- (a) the project name, if any;
- (b) a description of the armaments being procured;
- (c) the period envisaged for the procurement of the armaments described in paragraph (b);
- (d) the number of units to be procured; and
- (e) the budgeted expenditure per unit for the armaments procurement.

(2B) The Minister must table a further report before Parliament within 30 days of it coming to the knowledge of the Secretary for Defence that any procurement of armaments—

- (a) may result in expenditure which exceeds the initial budgeted expenditure per unit of the relevant armaments procurement by more than 15 per cent; or

(b) may be delayed by more than 6 months.

(2C) All reports which are made in terms of section 80(2B) of this Act must include the following information:

(a) the project name, if any;

(b) a description of the armaments procurement;

(c) the reasons for the excessive expenditure or delay in the schedule of the procurement; and

(d) steps taken to prevent or reduce such excessive expenditure or delay.

(2D) The requirements contemplated in subsections (2A), (2B) and (2C) apply to all armaments procurement agreements signed after the date of commencement of this Act.”

Short title

3. This Act is called the Defence Amendment Act, 2013.

MEMORANDUM ON THE OBJECTIVES OF THE DEFENCE AMENDMENT BILL, 2013

1. BACKGROUND

The procurement of armaments has been the subject of serious maladministration and malpractice. There is therefore a need to increase parliamentary scrutiny and oversight of armaments procurement.

2. OBJECTIVES OF THE BILL

The objectives of the Bill are -

- 2.1 to ensure that armaments procurement projects are subject to parliamentary oversight through quarterly reports;
- 2.2 to ensure that Parliament is notified if the initial expenditure of any armaments procurement project may exceed 15 per cent of the initial budgeted expenditure of the project; and
- 2.3 to ensure that Parliament is notified if the schedule of any armaments procurement project may be delayed by more than six months.

3. FINANCIAL IMPLICATIONS FOR THE STATE

None.

4. PARLIAMENTARY PROCEDURE

- 4.1 The Parliamentary Legal Advisers are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 4.2 The Parliamentary Legal Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.