

Combined Comments on the Dangerous Weapons Bill by
The Security Industry Alliance
Blade Tool and Sporting Goods Forum
The South African Gun Owners Association

The Security Industry Alliance is an employer body, representing the majority of registered security service providers and a large number of its employees throughout the Republic of South Africa.

The Security Industry Alliance has been recognised in past presentations by the Portfolio Committee as representing a broad spectrum of interests in the private security industry.

It's website is www.securityalliance.co.za where further information can be obtained concerning its activities.

The Blade Tool and Sporting Goods Forum comprises a body of importers and resellers of knives, airsoft airguns and airguns, that service the wholesale and retail markets.

The details of Blade, Tool and Sporting Goods Forum can be accessed at www.bladetool.co.za.

The South African Gun Owners Association is well known to the Portfolio Committee and the South African Police Services because it has a general mandate to represent firearm owners, in any matters where firearm ownership is concerned. It's website is www.saga.org.za.

General Comments:

The proposed legislation is potentially extremely problematic because it is premised upon the need to focus on the conduct and circumstances of an individual as opposed to the actual dangerous object. The proving of the state of mind and intent of anyone beyond a reasonable doubt in variable circumstances without proper policy guidelines is problematic.

Definition of a dangerous weapon:

The definition of a dangerous weapon is imprecise. The Class of objects that are defined as dangerous weapons or are deemed to be a dangerous weapon is restrictively limited by the definition.

For example as the definition currently stands a brick or rock is excluded from the definition although clearly, when thrown in anger and with the intent to cause injury, a rock is a dangerous weapon.

We would suggest that the definition of a dangerous weapon be amended to state "any object other than a firearm, designed as a weapon or intended to be used as a weapon and which is capable of producing death or serious bodily harm."

Imitation Firearm /Replica Firearms:

We align ourselves fully with the comments raised by the National Arms and Ammunitions Collectors Confederation of South Africa which highlights the conflict of definitions between the Firearms Control Act and this proposed legislation.

The creation of two meanings, one in terms of The Dangerous Weapons Bill and the Firearms Control Act on the other will lead not only to ambiguity but also to confusion. We fully support the proposed amendments by NAACCSA.

Ad Paragraph 2:

We fully understand what the purpose of this particular provision is.

The police require a discretion, taking into account prevailing circumstances, to deem the possession of an object that may be a dangerous weapon, unlawful and therefore constituting an offence.

A considered effort has been made to set out circumstances and facts that would assist the police in determining whether possession of an object is a dangerous weapon to determine if there is an intent to commit a crime.

The difficulty that exists with exercising a discretion and the application of a law that requires a consideration of specific circumstances is that this gives rise to a subjective consideration of circumstances applicable when exercising a discretion, i.e. different law enforcement officials may come to different conclusions.

This removes the element of objectivity from a consideration of the circumstances and may lead to a misapplication or even abuse of the legislation.

For this reason, not only does there need to be a written policy that underpins how the legislation is to be implemented, but efforts must be

made to define how a discretion is exercised and in what manner that discretion is to be exercised.

Registration must not create in the minds of police officers the perception that this legislation contains a presumption of guilt. The way that Section 2 is framed creates an implied presumption of guilt.

We would suggest a number of changes.

Firstly if this Section is to be retained in its present format, the word "may" should be removed and should be substituted with the word "does give rise to a reasonable suspicion". This will eliminate some subjectivity, and requires a greater degree of consideration of the circumstances.

Secondly, before sub section 2 we would suggest the insertion of the following"-

"No dangerous weapons may be carried at:-

1. Any illegal gathering.
2. Any gathering or protest action that takes place in a public place or in the immediate vicinity of the subject matter of the protest action such as an employer's premises or municipal or government buildings.
3. No dangerous weapons may be carried or transported in a march in a public place.
4. No dangerous weapons may be carried in protest action on private property where the land owner or legal occupier has indicated dangerous weapons are not allowed on that property.
5. No dangerous weapons are to be possessed, carried or displayed during any organised union or labour activity or protest."

We believe that this provides better guidance and direction to a member of any Law Enforcement Agency to determine whether dangerous weapons are present, and what the intended use is for such dangerous weapons.

Exemption: Security Industry:

Specific provision must be made to exempt registered security service providers and their employees who will carry firearms, as well as other dangerous weapons such as batons during the carrying out of their lawful duties.

Security officers are more frequently present during strike activity or labour unrest than members of law enforcement agencies, and they will travel to and from and through such areas on a frequent basis.

Recognition must be given to and a mechanism of exemption must be created to enable security officers to carry out their lawful activities without contravening the Dangerous Weapons Bill.

The exemption must be framed to accord with the Private Security Industry Regulatory Authority Act and Regulations (Act number 56 of 2001) and as read with Regulation 21 of the Firearms Control Act 60 of 2000.

For example, in order for a security officer to be exempt they must:-

1. Be on duty or about to go on duty.
2. They must be in uniform and/or in possession of an official identity card from their employer identifying them as a registered security officer.
3. Their identity card must contain the information as prescribed by the Private Security Industry Act and Regulations.
4. It should not be an offence for a security officer to possess a firearm or imitation firearm (JPX Projectors and Tasers are simple examples) whilst carrying out their lawful duties.

Amendment of Regulation of Gatherings Act 1993:

We oppose this proposed amendment.

We do not believe that there is any reason to provide an exemption for the carrying of dangerous weapons for cultural or religious purposes.

The exemption for historical enactments should remain, and there should be specific provision for exempting for the making of film productions intended for public or commercial use and the use of firearms for hunting and sporting purposes.

Memorandum on the object of the Dangerous Weapons Bill:

We take issue with certain aspects of the memorandum used in support of the Dangerous Weapons Bill.

Section 2 entitled "Objects of the Bill" states "The Bill furthermore seeks to prohibit the possession dangerous weapons, firearms or replicas or imitation firearms in public."

This is misleading and constitutes a policy ban on the carrying of firearms in public. This statement must be removed, so as not to create confusion.

The possession of a licensed firearm in public is both legal, and an imperative for individuals to provide protection and particularly for that of the security industry, to perform contractual mandates.

Ad Clause 3.3 (Clause 4):

We would suggest that the explanatory note be amended along with the bill to provide for exceptions in respect of historical enactments, film production, hunting and competitive shooting events.

The new legislation, in whatever form it ultimately becomes law, must be publicised, a policy must be drafted which is to be available in writing with the legislation that provides both guidance and direction to the public and law enforcement authorities.

We would like to make a verbal presentation to the Portfolio Committee on the contents of this document.

Yours faithfully

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