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DEPARTEMENT VAN OWERHEIDSAKE

DEPARTMENT OF
GOVERNMENTAL AFFAIRS

No. 144

1986

1986

AFKONDIGING VAN WET VAN
NASIONALE VERGADERING

PROMULGATION OF ACT OF
NATIONAL ASSEMBLY

Die volgende Wet, wat ingevolge die Proklamasie op die Instelling van Wetgewende en Jitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), deur die Nasionale Vergadering aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 18 van daardie Proklamasie: —

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation: —

No. 16 van 1986: Wysigingswet op Ontplofbare Stowwe, 1986.

No. 16 of 1986: Explosives Amendment Act, 1986.

**WYSIGINGSWET OP ONTPLOFBARE STOWWE,
1986**

VERDUIDELIKENDE NOTA:

— Woorde met 'n volstreep daaronder dui aan invoegings voorgestel.

[] Woorde in vet druk tussen vierkantige hake dui aan skrappings voorgestel.

WET

Tot wysiging van die Wet op Ontplofbare Stowwe, 1956, ten einde die Kommissaris van die Suidwes-Afrikaanse Polisie of 'n lid van die Suidwes-Afrikaanse Polisie deur hom aangewys die bevoegdheid te verleen om ander persone te magtig om as inspekteurs op te tree; sekere strawwe te verhoog; sekere strafbepalings uit te brei; sekere uitdrukksels te omskryf; die besit van petrobomme en soortgelyke toestelle onder sekere omstandighede te verbied; streekhewe die bevoegdheid te verleen om sekere strawwe op te lê; die bevoegdheid van die Kabinet om vrystelling van die bepalings van genoemde Wet te verleen, uit te brei; en om voorseeing te maak vir bykomstige aangeleenthede.

*(Afrikaanse teks deur die Administrateur-generaal
onderteken op 9 Julie 1986)*

DAAR WORD BEPAAL deur die Nasionale Vergadering, soos volg:-

Wysiging van artikel 2 van Wet 26 van 1956, soos vervang deur artikel 2 van Wet 35 van 1975.

1. Artikel 2 van die Wet op Ontplofbare Stowwe, 1956 (hieronder die Hoofwet genoem), word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Die [Sekretaris van Handel of 'n beampte in sy Departement] Kommissaris van die Suidwes-Afrikaanse Polisie of 'n lid van die Suidwes-Afrikaanse Polisie deur hom aangewys, kan ander persone magtig om in sekere plekke en vir sekere doeleindes as inspekteurs op te tree, en in soverre so 'n persoon gemagtig is om as sodanig op te tree, besit hy dieselfde magte en is hy onderhewig aan dieselfde verpligte as wat kragtens hierdie Wet en die regulasies aan inspekteurs toegeken en opgelê word, maar hy is nie regsbevoeg om iemand weens oortredings van regulasies of spesiale reëls te verhoor nie. "

EXPLOSIVES AMENDMENT ACT, 1986

Act No. 16, 1986

EXPLANATORY NOTE:

 Words underlined with solid line indicate insertions proposed.

[] Words in bold typing in square brackets indicate omissions proposed.

ACT

To amend the Explosives Act, 1956, so as to empower the Commissioner of the South West African Police or a member of the South West African Police designated by him to depute other persons to act as inspectors; to increase certain penalties; to extend certain penal provisions; to define certain expressions; to prohibit the possession of petrol bombs and similar devices under certain circumstances; to empower regional courts to impose certain penalties; to extend the power of the Cabinet to grant exemption from the provisions of the said Act; and to provide for incidental matters.

(Afrikaans text signed by the Administrator-General on
9 July 1986)

BE IT ENACTED by the National Assembly, as follows:-

1. Section 2 of the Explosives Act, 1956 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) The [Secretary for Commerce or an officer in his Department] Commissioner of the South West African Police or any member of the South West African Police designated by him, may depute other persons to act as inspectors in certain localities and for certain purposes, and in so far as any such person is authorized so to act, he shall have the same powers and be subject to the same duties as are conferred and imposed upon inspectors by this act and the regulations, but he shall have no jurisdiction to try any persons for breaches of regulations or special rules."

Amendment of section 2 of Act 26 of 1956, as substituted by section 2 of Act 35 of 1975.

Wet No. 16, 1986

WYSIGINGSWET OP ONTPLOFBARE STOWWE, 1986

Wysiging van artikel 3
van Wet 26 van 1956,
soos gewysig deur artikel
1 van Wet 21 van 1963.

2. Artikel 3 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Iemand wat die bepalings van hierdie artikel of 'n uit hoofde daarvan voorgeskrewe voorwaarde oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [vyfhonderd rand] R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met sowel sodanige boete as sodanige gevangenisstraf, en die ontplofbare stof ten aansien waarvan die oortreding plaasgevind het, word 10 verbeurd verklaar.”

Wysiging van artikel 4
van Wet 26 van 1956,
soos gewysig deur artikel
2 van Wet 21 van 1963,
artikel 1 van Wet 12 van
1967 en artikel 3 van
Wet 35 van 1975.

3. Artikel 4 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Iemand wat die bepalings van hierdie artikel oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [vyfhonderd rand] R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met sowel sodanige boete as sodanige gevangenisstraf, en die ontplofbare stof ten aansien waarvan bedoelde oortreding plaasgevind het, word 15 verbeurd verklaar.”

Wysiging van artikel 6
van Wet 26 van 1956,
soos gewysig deur artikel
3 van Wet 21 van 1963
en artikel 1 van Wet 74
van 1972.

4. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Iemand wat die bepalings van hierdie artikel of 'n uit hoofde daarvan voorgeskrewe of 'n daarin bedoelde voorwaarde oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [vyfhonderd rand] R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met sowel sodanige boete as sodanige gevangenisstraf, en die ontplofbare stof ten aansien waarvan die oortreding plaasgevind het, word 25 verbeurd verklaar.”

Vervanging van artikel
10 van Wet 26 van 1956,
soos gewysig deur artikel
5 van Wet 21 van 1963.

5. Artikel 10 van die Hoofwet word hierby deur die volgende artikel vervang:

“Strawwe. 10. Iemand wat 'n bepaling van artikel 7, 8 of 9 oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [vyfhonderd rand] R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met sowel sodanige boete as sodanige gevangenisstraf.”

EXPLOSIVES AMENDMENT ACT, 1986

Act No. 16, 1986

2. Section 3 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 3 of Act 26 of 1956, as amended by section 1 of Act 21 of 1963.

5 "2(2) Any person who contravenes the provisions of this section or any condition prescribed thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding [five hundred rand] R1 000 or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment, and the explosive in respect of which the contravention has
10 taken place shall be forfeited."

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 4 of Act 26 of 1956, as amended by section 2 of Act 21 of 1963, section 1 of Act 12 of 1967 and section 3 of Act 35 of 1975.

15 "2(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding [five hundred rand] R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment, and the explosive in respect of which such contravention has taken place shall be forfeited."

20 4. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 6 of Act 26 of 1956, as amended by section 3 of Act 21 of 1963 and section 1 of Act 74 of 1972.

25 "2(2) Any person who contravenes the provisions of this section or any condition prescribed thereunder or referred to therein, shall be guilty of an offence and liable on conviction to a fine not exceeding [five hundred rand] R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment, and the explosive in respect of which the contravention has taken place shall be forfeited."

30 5. The following section is hereby substituted for section 10 of the principal Act:

Substitution of section 10 of Act 26 of 1956, as amended by section 5 of Act 21 of 1963.

35 "Penalties.
40 10. Any person who contravenes any provision of section 7, 8 or 9 shall be guilty of an offence and liable on conviction to a fine not exceeding [five hundred rand] R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment."

Wet No. 16, 1986

WYSIGINGSWET OP ONTPLOFBARE STOWWE,
1986

Wysiging van artikel 22 van Wet 26 van 1956, soos vervang deur artikel 5 van Wet 35 van 1975.

6. Artikel 22 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Iemand wat 'n voorwaarde van 'n lisensie kragtens hierdie artikel uitgereik, oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [R600] R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens 2 jaar of met sowel [daardie] sodanige boete as [daardie] sodanige gevangenisstraf.”

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Vervanging van artikel 24 van Wet 26 van 1956, soos vervang deur artikel 1 van Wet 101 van 1977.

7. Artikel 24 van die Hoofwet word hierby deur die volgende artikel vervang:

“Strawwe vir belemmering van inspekteur, weiering om navrae te beantwoord, verstrekking van valse inligting of valslik voorgee 'n inspekteur te wees.

24. Iemand wat 'n inspekteur opsetlik belemmer of hinder in die uitoefening van die bevoegdhede of pligte kragtens hierdie Wet of die regulasies aan hom verleen of hom opgelê, of 'n wettige bevel van 'n inspekteur verontgaam, of wat in gebreke bly om, vir sover hy daartoe in staat is, 'n wettige vraag deur 'n inspekteur gestel, te beantwoord, of wat valse inligting, hetsy in antwoord op so 'n vraag al dan nie, aan 'n inspekteur verstrek, of wat valslik voorgee dat hy 'n inspekteur is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [tweehonderd-en-vyftig rand] R1 000 of [by wanbetaling] met gevangenisstraf vir 'n tydperk van hoogstens [ses] 12 maande of sowel sodanige boete as sodanige gevangenisstraf.”

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Wysiging van artikel 27 van Wet 26 van 1956, soos gewysig deur artikel 13 van Wet 21 van 1963 en artikel 2 van Wet 101 van 1977.

8. Artikel 27 van die Hoofwet word hierby gewysig -

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) indien die ontploffing weens nalatigheid veroorsaak is en eiendom in gevaar gestel is, is hy strafbaar met 'n boete van hoogstens [duisend rand] R2 000 of, by wanbetaling, met gevangenisstraf vir 'n tydperk van hoogstens 2 jaar, of met bedoelde gevangenisstraf sonder die keuse van 'n boete;”

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(b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

EXPLOSIVES AMENDMENT ACT, 1986

Act No. 16, 1986

6. Section 22 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 22 of Act 26 of 1956, as substituted by section 5 of Act 35 of 1975.

5 "(2) Any person who contravenes any condition of a licence issued under this section shall be guilty of an offence and liable on conviction to a fine not exceeding [R600] R2 000 or to imprisonment for a period not exceeding 2 years or to both such fine and such imprisonment."

10 7. The following section is hereby substituted for section 24 of the principal Act:

Substitution of section 24 of Act 26 of 1956, as substituted by section 1 of Act 101 of 1977.

15 "Penalties for obstructing inspector, refusing to answer inquiries, giving false information or falsely holding out to be an inspector.

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24. Any person who wilfully obstructs or hinders any inspector in the exercise of the powers or duties conferred or imposed upon him by this Act or the regulations, or disobeys any lawful order of an inspector, or who upon demand fails to answer as far as he may be able any question lawfully put by an inspector, or who gives false information to an inspector, whether in answer to any such question or not, or who falsely holds himself out to be an inspector, shall be guilty of an offence and liable on conviction to a fine not exceeding [two hundred and fifty rand] R1 000 or [in default of payment] to imprisonment for a period not exceeding [six] 12 months or to both such fine and such imprisonment."

30 8. Section 27 of the principal Act is hereby amended -

Amendment of section 27 of Act 26 of 1956, as amended by section 13 of Act 21 of 1963 and section 2 of Act 101 of 1977.

35 (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) if the explosion is negligently caused and property is endangered, he shall be liable to a fine not exceeding [one thousand rand] R2 000 or, in default of payment, to imprisonment for a period not exceeding 2 years, or to such imprisonment without the option of a fine;"

40 (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

**WYSIGINGSWET OP ONTPLOFBARE STOWWE,
1986**

“(b) Indien die ontploffing weens nalatigheid veroorsaak is en lewe in gevaar gestel is, is hy strafbaar met ’n boete van hoogstens [tweeduiseend rand] R3 000 of, by wanbetaling, met gevangenisstraf vir ’n tydperk van hoogstens [twee] 3 jaar, of met bedoelde gevangenisstraf sonder die keuse van ’n boete;”;

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(c) deur subartikel (1A) deur die volgende subartikel te vervang:

“(1A) Iemand wat met die opset om, iemand anders bevrees te maak of ongerief te veroorsaak, of te dwing of te beweeg om enigets te doen of nie te doen nie -

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(a) dreig om by, op of in enige perseel ’n ontplofbare stof te plaas of ’n ontploffing te veroorsaak waardeur lewe of eiendom in gevaar gestel word of kan word;

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(b) valslik beweer, wel wetende dat dit vals is, dat iemand anders voornemens is om ’n ontplofbare stof aldus te plaas of ’n ontploffing aldus te veroorsaak; of

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(c) valse inligting oorbring wel wetende dat dit vals is, dat ’n ontplofbare stof aldus geplaas is of dat ’n ontploffing plaasgevind het of na bewering gaan plaasvind,

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is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met gevangenisstraf sonder die keuse van ’n boete vir ’n tydperk van minstens 3 jaar en hoogstens 15 jaar.”; en

(d) deur subartikel (3) deur die volgende subartikel te vervang:

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“(3) By die toepassing van hierdie artikel beteken -

“ontplofbare stof” ook ’n granaat, bom of dergelike toestel wat ’n ontploffing kan veroorsaak, of ’n ontplofbare stof soos in artikel 28(2) beoog;

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“ontploffing” ook ’n brand deur ’n ontplofbare stof veroorsaak.”.

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Act No. 16, 1986

5 “(b) if the explosion is negligently caused and life is endangered he shall be liable to a fine not exceeding [two thousand rand] R3 000 or, in default of payment, to imprisonment for a period not exceeding [two] 3 years, or to such imprisonment without the option of a fine;”;

(c) by the substitution for subsection (1A) of the following subsection:

10 “(1A) Any person who with intent to put in fear or cause inconvenience to, any other person, or to compel or to induce, such other person, to do or to abstain from doing any act, -

15 (a) threatens to place at, on or in any premises any explosive, or to cause an explosion whereby life or property is or may be endangered;

20 (b) falsely alleges, knowing it to be false, that any other person intends so to place an explosive, or so to cause an explosion; or

25 (c) communicates false information, knowing it to be false, that an explosive has so been placed, or that an explosion has taken place or is allegedly about to take place,

30 shall be guilty of an offence and liable on conviction to imprisonment, without the option of a fine, for a period of not less than 3 years and not more than 15 years.”; and

35 (d) by the substitution for subsection (3) of the following subsection:

“(3) For the purposes of this section -

“explosion” includes a fire caused by an explosive;

“explosive” includes any grenade, bomb or similar device that can cause an explosion, or an explosive contemplated in section 28(2).”.

WYSIGINGSWET OP ONTPLOFBARE STOWWE, 1986

Wysiging van artikel 28 van Wet 26 van 1956, soos gewysig deur artikel 14 van Wet 21 van 1963.

9. Artikel 28 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

"(2) By die toepassing van subartikel (1) beteken "ontplofbare stof" ook -

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(a) 'n petrolbom;

(b) enige houer, apparaat, instrument of artikel wat -

(i) enige ontvlambare stof bevat en gebruik kan word, of aangepas kan word sodat dit gebruik kan word om 'n ontploffing of 'n brand te veroorsaak; of

(ii) gemaak is, of aangepas kan word, om in verbinding met of deur middel van enige ontvlambare stof 'n ontploffing of 'n brand te veroorsaak. "

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Vervanging van artikel 29 van Wet 26 van 1956, soos vervang deur artikel 15 van Wet 21 van 1963.

10. Artikel 29 van die Hoofwet word hierby deur die volgende artikel vervang:

"Bevoegdheid van streekhewe om sekere strawwe op te lê.

komstig die bedoeling van die Wet op Landdroshowe, 1944 (Wet 32 van 1944), is ondanks andersluidende wetsbepalings bevoeg om 'n straf vermeld in artikel 27(1)(c) of (1A) op te lê. "

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Wysiging van artikel 31 van Wet 26 van 1956, soos gewysig deur artikel 1 van Wet 79 van 1962 en artikel 12 van Wet 46 van 1964.

11. Artikel 31 van die Hoofwet word hierby gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

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"(a) op die invoer, opberging, gebruik, vervaardiging of vervoer van 'n ontplofbare stof deur die Suid-Afrikaanse Weermag of 'n kragtens wet ingestelde polisiemag of deur die weermag van 'n land wat die **[Minister] Kabinet, na oorlegpleging met die Minister van Verdediging, by kennisgewing in die **[Staatskoerant]** Offisiële Koerant van die bepalings van hierdie Wet met betrekking tot sodanige invoer, opberging, gebruik, vervaardiging of vervoer vrystel: Met dien verstande dat die **[Minister]** Kabinet 'n vrystelling aldus verleen op dieselfde wyse kan intrek of opskort;".**

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EXPLOSIVES AMENDMENT ACT, 1986

Act No. 16, 1986

9. Section 28 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

Amendment of section 28 of Act 26 of 1956, as amended by section 14 of Act 21 of 1963.

- 5** “(2) For the purposes of subsection (1) “explosive” includes -
- (a) a petrol bomb;
 - (b) any container, apparatus, instrument or article which -
 - (i) contains any inflammable substance and can be used, or can be adapted so that it can be used to cause an explosion or a fire; or
 - (ii) was made, or can be adapted, to cause, in combination with or by means of any inflammable substance, an explosion or a fire.”.
- 10**
- 15**

10. The following section is hereby substituted for section 29 of the principal Act;

Substitution of section 29 of Act 26 of 1956, as substituted by section 15 of Act 21 of 1963.

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“Power of regional courts to impose certain penalties.

29. A court of a regional division within the meaning of the Magistrates’ Courts Act, 1944 (Act 32 of 1944), shall, notwithstanding anything to the contrary contained in any law, have power to impose a penalty mentioned in section 27(1)(c) or (1A).”.

- 25** **11.** Section 31 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

Amendment of section 31 of Act 26 of 1956, as amended by section 1 of Act 79 of 1962 and section 12 of Act 46 of 1964.

- 30**
- 35**
- “(a) to the importation, storage, use, manufacture or transport of any explosive by the South African Defence Force or any police force constituted under any law or by the defence force of any country which the [Minister] Cabinet, after consultation with the Minister of Defence, by notice in the *Official Gazette* exempts from the provisions of this Act relating to such importation, storage, use, manufacture or transport: Provided that the [Minister] Cabinet may in the same manner cancel or suspend any exemption thus granted.”.

- 12.** This Act shall be called the Explosives Amendment Act, 1986.

Short title.