

EXTRAORDINARY



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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1072.] [19TH June, 1968.

No. 1072.] [19 Junie 1968.

It is hereby notified that the State President has assented to the following Acts which are hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wette wat hierby ter algemene inligting gepubliseer word:—

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No. 57, 1968.]

ACT

To establish a corporation for the development and production of armaments; to amend the provisions of the Armaments Act, 1964, relating to officers and employees; and to provide for other incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 10th June, 1968.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates— Definitions.

- (i) "armaments" means armaments as defined in the Armaments Act, 1964 (Act No. 87 of 1964); (iv)
- (ii) "Armaments Board" means the Armaments Board established under the Armaments Act, 1964; (v)
- (iii) "board" means the board of directors referred to in section 5; (viii)
- (iv) "company" means any association of persons, whether incorporated or unincorporated; (vi)
- (v) "corporation" means the Armaments Development and Production Corporation of South Africa, Limited, established under section 2; (iii)
- (vi) "director" means a director appointed under section 5; (i)
- (vii) "Minister" means the Minister of Defence; (vii)
- (viii) "regulations" means regulations made under this Act; (ix)
- (ix) "Republic" includes the territory of South-West Africa; (x)
- (x) "this Act" includes the regulations. (ii)

2. (1) As from a date to be fixed by the State President by proclamation in the *Gazette*, there shall be established a body to be known as the Armaments Development and Production Corporation of South Africa, Limited, which shall be a body corporate, capable of suing and being sued in its corporate name and of performing, subject to the provisions of this Act, all such acts as are necessary for or incidental to the carrying out of its objects, the exercise of its powers and the performance of its functions. Establishment of Armaments Development and Production Corporation of South Africa, Limited.

(2) The Registrar of Companies shall enter the name of the corporation in his registers on the date so fixed.

3. The objects of the corporation shall be to meet as effectively and economically as may be feasible the armaments requirements of the Republic, including armaments required for export and firearms or ammunition required for supply to members of the public— Objects and general powers of corporation.

- (a) by taking over and, if necessary, expanding any undertaking of the Armaments Board for the manufacture of armaments;
- (b) by taking over any direct or indirect financial interests of the Armaments Board in any undertaking connected with the manufacture of armaments;

- (c) by establishing, with the approval of the Minister granted in consultation with the Minister of Economic Affairs, new undertakings for the development or production of armaments;
 - (d) by facilitating, promoting, guiding or assisting in the financing, with the approval of the Minister granted in consultation with the Minister of Economic Affairs, of new undertakings for the development or production of armaments or of schemes for the expansion, better organization, modernization or more efficient functioning of such undertakings already in existence;
 - (e) by performing such functions as the Minister in consultation with the Minister of Economic Affairs may from time to time determine,
- and to that end the corporation shall, in addition to any other powers vested in it by this Act, have power—

- (i) to promote or assist in the promotion of companies for the development or production of armaments in the Republic;
- (ii) to lend or advance money to, to acquire an interest in, or to provide, or by underwriting or otherwise to assist in the subscription of, capital for, any company engaged in or proposing to establish or to expand or modernize any undertaking for the development or production of armaments;
- (iii) to hold, manage, develop, let or hire, or buy, subscribe for or otherwise acquire, or sell or otherwise dispose of, or hypothecate or otherwise deal in, immovable or movable property of whatever kind, including stocks, shares, bonds, debentures and securities of, and any interest in, any company, and where necessary, to act as trustee for debenture holders;
- (iv) to make, draw, accept or endorse negotiable instruments;
- (v) to guarantee any undertaking given in relation to the financing of any company or the performance of any contract by any company;
- (vi) to act as the manager or secretary of any company, and to appoint any person to act on behalf of the corporation as a director of or in any other capacity in relation to any company, and to act as the agent or representative of other companies, whether carrying on business in the Republic or elsewhere;
- (vii) to procure the registration of the corporation in any country or territory,

and, generally, to enter into any contract or perform any act, whether in the Republic or elsewhere, which may be necessary for or incidental or conducive to the attainment of any of the objects of the corporation, or which is calculated directly or indirectly to enhance the value of the services which the corporation may render towards the development or production of armaments in the Republic, or which the Minister may from time to time determine.

4. In exercising its powers the corporation shall—

- (a) deal with any application, proposal or other matter with a view to meeting the armaments requirements of the Republic as effectively and economically as may be feasible, having regard to the strategic value of particular armaments;
- (b) carefully review all matters relating to raw materials necessary for the development or production of armaments, to the labour supply available for such development or production, to the rates of wages proposed to be paid and to the armaments requirements of the Republic, including armaments required

Manner in which corporation shall exercise its powers.

for export and firearms or ammunition required for supply to members of the public, having regard to the markets available for the disposal of armaments.

5. (1) The affairs of the corporation shall be managed and controlled by a board of directors, which may exercise all the powers of the corporation subject to the provisions of this Act. Board of directors.

(2) The board shall consist of not less than seven and not more than nine directors to be appointed by the State President.

(3) No decision taken by the board or act performed under the authority of the board shall be invalid merely by reason of a vacancy on the board or of the fact that any person not entitled to sit as a director sat as a director at the time the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the required majority of directors present at the time, who were entitled to sit as directors.

(4) The directors shall hold office for such period, not exceeding three years, as the State President may determine at the time of appointment, but shall be eligible for re-appointment: Provided that if in his opinion there are good reasons for doing so, the State President may at any time terminate the period of office of any director.

(5) A director designated by the State President as chairman, or, in his absence, a director so designated as deputy chairman, shall preside at any meeting of the board: Provided that if both the chairman and the deputy chairman are absent from any meeting of the board, a chairman elected by the directors present from among themselves, shall preside at such meeting.

(6) No member of the Senate or the House of Assembly or a provincial council or the Legislative Assembly of the territory of South-West Africa may be appointed as a director and any director shall, on becoming such a member, vacate his office.

(7) Subject to the provisions of subsection (8), the corporation shall out of its funds pay to a director such remuneration and allowances, and afford him such transport facilities in respect of his services as a director, as the Minister in consultation with the Minister of Finance may determine.

(8) In respect of his services as a director any person in the full-time service of the State shall receive no remuneration and shall not be paid any allowances exceeding those payable to him in respect of his work in the service of the State.

(9) A director shall not be personally liable for any loss or damage arising out of or in connection with the execution of his duties, unless the loss or damage is due to anything done in bad faith or to gross negligence or to failure to comply with any provision of this Act.

6. (1) The share capital of the corporation shall be one hundred million rand or such larger amount as the Minister may in consultation with the Minister of Finance from time to time on the recommendation of the board determine, and shall be divided into ordinary shares of one rand each. Share capital.

(2) Shares in the corporation may be taken up by the State only and shall not be transferable.

(3) The State shall take up shares in the corporation to such extent and subject to such conditions as the Minister may in consultation with the Minister of Finance from time to time determine.

(4) Subject to the provisions of subsection (5), shares in the corporation shall be paid for out of moneys appropriated by Parliament for the purpose.

(5) Shares in the corporation, equal in value to the value of any undertakings or other financial interests of the Armaments Board taken over by the corporation in terms of this Act, shall be issued to the State free of charge, and no charge shall be made by the Armaments Board for the transfer of such undertakings or financial interests to the corporation.

(6) The value of the undertakings or financial interests referred to in subsection (5) shall be such value as the Minister may in consultation with the Minister of Finance determine.

7. The liability of the State as holder of the shares in the corporation shall be limited to the amount unpaid on shares held by it. Limitation of liability of State.

8. (1) The corporation shall, except in so far as this Act may otherwise provide, utilize all its assets solely for the attainment of its objects and matters incidental thereto, but may with the approval of the State President declare an annual dividend not exceeding eight per cent. Finances of corporation.

(2) The board shall cause proper records to be kept of all the financial transactions, assets and liabilities of the corporation.

(3) The accounts of the corporation shall be audited annually by a person registered as an accountant and auditor under the provisions of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), and nominated annually by the Minister.

(4) As soon as may be after the completion of every audit the board shall furnish the Minister with the report of the auditor containing such particulars as may be prescribed by the regulations, together with a report on the activities of the corporation containing particulars so prescribed, and the Minister shall lay each report and any statements of account accompanying such report on the Table of the Senate and of the House of Assembly within one month after receipt thereof by him, if Parliament is in ordinary session, or if Parliament is not in ordinary session, within one month after the commencement of the next ensuing ordinary session, unless disclosure of any such report may in the opinion of the Minister jeopardize the safety of the State.

(5) The board shall furnish the Minister with such information as he may call for from time to time in respect of the activities or financial position of the corporation.

9. The State President may make regulations in regard to— Regulations.

- (a) the place where the head office of the corporation shall be situated;
- (b) conditions or restrictions subject to which the board shall exercise the powers of the corporation, including the circumstances in which the board shall exercise such powers subject to the approval of the State President or the Minister or the Minister acting in consultation with any other Minister of State and the manner in which such powers shall be exercised in particular circumstances or in relation to companies promoted by the corporation;
- (c) the calling of and procedure and quorum at meetings of the board, including the manner of voting and the number of votes required for a decision of the board;
- (d) the preservation of secrecy in regard to the affairs of the corporation;
- (e) the keeping of records, minutes and books of account;
- (f) the contents of auditors' or other reports to be furnished to the Minister by the board;
- (g) the date on which the financial year of the corporation shall terminate;
- (h) the manner of calculating the price at which and the circumstances in which armaments shall be supplied by the corporation to the State, whether in general or in particular cases;
- (i) generally, all matters for which he deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

10. The corporation shall not be wound up except by or under the authority of an Act of Parliament. Winding up of corporation.

11. No person shall carry on business and no company shall be registered under the Companies Act, 1926 (Act No. 46 of 1926), under or by a name in which the expression "Arm Scor" or "Krygkor" appears or which is identical with the name of the corporation or which so nearly resembles such name as to be cal- Use of name of corporation.

culated to deceive: Provided that this section shall not prohibit any person from carrying on business or remaining registered under or by a name under or by which such person carried on business or was registered at the commencement of this Act.

12. (1) Subject to the provisions of subsection (2), the provisions of the Companies Act, 1926 (Act No. 46 of 1926), or of any other law relating to companies, shall not apply with reference to the corporation. Exemption of corporation from provisions of certain laws.

(2) The State President may by proclamation in the *Gazette* apply to the corporation any provision of the said Act or other law, not inconsistent with the provisions of this Act, with such modifications as may be specified in the proclamation.

(3) The State President may by like proclamation exempt the corporation from the provisions of such laws as may be specified in the proclamation, to the extent so specified.

(4) The State President may from time to time in like manner repeal or amend any proclamation issued under this section.

13. Section 13 of the Armaments Act, 1964, is hereby amended by the addition of the following subsection— Amendment of section 13 of Act 87 of 1964.

“(7) An officer or employee of the board may with his consent be seconded by the board, either for a particular service or for a period of time, to the service of the Armaments Development and Production Corporation of South Africa, Limited, or of any company promoted by the said corporation, on such conditions as the board may determine, and such officer or employee shall for the purposes of section 14 be deemed to have remained in the service of the board while so seconded.”.

14. This Act shall be called the Armaments Development Short title. and Production Act, 1968.