

REPUBLIC OF SOUTH AFRICA

ARMAMENTS CORPORATION OF SOUTH AFRICA, LIMITED AMENDMENT BILL

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 27590 of 17 May 2005)
(The English text is the official text of the Bill)*

(MINISTER OF DEFENCE)

[B 14—2005]

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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 Armaments Corporation of South Africa, Limited Act, 2003, so as to remove the Chief of the South African National Defence Force as a member of the Board of Directors of the Armaments Corporation of South Africa, Limited; and to provide for matters connected therewith.

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

Amendment of section 6 of Act 51 of 2003

1. Section 6 of the Armaments Corporation of South Africa, Limited Act, 2003, is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph: 5

“(c) the Secretary for Defence **[and the Chief of the South African National Defence Force,]** who **[serve]** serves as an *ex officio* **[members]** member.”.

Short title and commencement

2. This Act is called the Armaments Corporation of South Africa, Limited Amendment Act, 2005, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*. 10

**MEMORANDUM ON THE OBJECTS OF THE
ARMAMENTS CORPORATION OF SOUTH AFRICA, LIMITED
AMENDMENT BILL, 2005**

1. DISCUSSION

- 1.1 Parliament passed the Armaments Corporation of South Africa, Limited Act, 2003 (Act No. 51 of 2003) ("the Act"), in 2003. The Act will come into operation on a date to be determined by the President by proclamation in the *Government Gazette*. The Act provides for the continued existence of the Armaments Corporation of South Africa, Limited ("the Corporation"). It also provides for the functions, accountability and finances of the Corporation.
- 1.2 When Cabinet approved the introduction of the Armaments Corporation of South Africa, Limited Bill into Parliament in 2003, Cabinet indicated that the Chief of the South African National Defence Force should not sit on the Board of Directors of the Corporation. The reason for such indication was that membership on the Board by the Chief of the South African National Defence Force would constitute a potential conflict of interest. Such a conflict would arise in the fact that the Chief would have been part of the decision to determine the requirements of the South African National Defence Force as well as being part of the decision to determine which supplier should provide the requirements.
- 1.3 The 2003 Bill was, however, passed with the Chief of the South African National Defence Force as a member of the Board of Directors. The 2005 Bill now seeks to amend the Act by removing the Chief of the South African National Defence Force from the Board, in order to address the concern of the potential conflict of interest.

2. CONSULTATION

Armcor was informed of the proposed amendment to the Act.

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

None.

4. FINANCIAL IMPLICATIONS FOR STATE

None.

5. COMMUNICATION IMPLICATIONS

None.

6. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Defence 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.

The State Law 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.