

No. 37, 1963.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To amend the Magistrates' Courts Act, 1944, the Suppression of Communism Act, 1950, the Criminal Procedure Act, 1955, the Post Office Act, 1958, and the Unlawful Organizations Act, 1960, and to provide for the detention of certain persons for interrogation, for declaring certain places or areas to be protected places or areas, and for other incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 1st May, 1963.)

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

Substitution of section 101 of Act 32 of 1944.

1. The following section is hereby substituted for section *one hundred and one* of the Magistrates' Courts Act, 1944:

"Execution of sentence not suspended unless bail granted. 101. (1) Subject to the provisions of section *one hundred and two*, the execution of any sentence shall not be suspended by the transmission of, or the obligation to transmit, the record for review unless a magistrate of the court which imposed the sentence thinks fit to order that the convicted person be released on bail: Provided that bail may be refused in respect of a sentence of a fine or in default of payment imprisonment, for the sole reason that the magistrate has reason to believe that the convicted person is able to pay the fine.

(2) The recognizance which shall be taken on the release on bail of the convicted person shall be taken by the magistrate from the convicted person alone or from him and one or more sureties in the discretion of the magistrate according to the nature and circumstances of the case.

(3) A condition of the recognizance shall be that the convicted person shall, at such time and place as may be specified in the recognizance, upon service in the manner prescribed by the rules of a written request upon him or at a place mentioned in the recognizance, pay any fine or surrender himself to undergo any imprisonment he may be required to pay or undergo at the conclusion of the proceedings on review.

(4) The magistrate may add to the recognizance any condition he may deem necessary or advisable in the interests of justice, *inter alia*, as to—

- (a) times and places at which and persons to whom the convicted person shall personally present himself;
- (b) places where he is forbidden to be;
- (c) any other matter relating to his conduct.

(5) The magistrate of the district where the convicted person is in custody may, notwithstanding anything to the contrary in any law contained, *mero motu* release him on bail as aforesaid if it appears that the judge to whom the record aforesaid has been submitted, has not endorsed his certificate thereon in terms of sub-section (1) of section *ninety-eight*.

(6) The provisions of sections *ninety-six to one hundred and one*, inclusive, and *one hundred and three to one hundred and seven*, inclusive, of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), shall *mutatis mutandis* apply with reference to the granting of bail pending review."

Amendment of section 102 of Act 32 of 1944, as amended by section 7 of Act 16 of 1959.

2. Section *one hundred and two* of the Magistrates' Courts Act, 1944, is hereby amended by the substitution in sub-section (2) for the words "shall not give sufficient bail to appear after being served at some place to be mentioned in the bail bond or recognizance with a written notice signed by the clerk of the court requiring him so to do" of the words "has not been released on bail".

Amendment of section 1 of Act 44 of 1950, as amended by section 1 of Act 50 of 1951 and section 1 of Act 76 of 1962.

3. Section *one* of the Suppression of Communism Act, 1950 (hereinafter referred to as the principal Act), is hereby amended with effect from the twenty-seventh day of June, 1962, by the insertion in sub-section (1) after the definition of "periodical publication" of the following definition:

"'place' means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle, and any part of a place;"

Amendment of section 10 of Act 44 of 1950, as amended by section 7 of Act 15 of 1954 and section 8 of Act 76 of 1962.

4. Section *ten* of the principal Act is hereby amended—

(a) by the insertion after paragraph (a) of sub-section (1) of the following paragraphs:

"(a)*bis* Notwithstanding anything to the contrary in any law contained, the Minister may, if he is satisfied that any person serving any sentence of imprisonment imposed under the provisions of this Act or this Act as applied by any other law or the Public Safety Act, 1953 (Act No. 3 of 1953), or the Criminal Law Amendment Act, 1953 (Act No. 8 of 1953), or the Riotous Assemblies Act, 1956 (Act No. 17 of 1956), or section *twenty-one* of the General Law Amendment Act, 1962 (Act No. 76 of 1962), is likely to advocate, advise, defend or encourage the achievement of any of the objects of communism, by notice under paragraph (a) prohibit such person from absenting himself, after serving such sentence, from any place or area which is or is within a prison as defined in section *one* of the Prisons Act, 1959 (Act No. 8 of 1959), and a copy of the notice certified by the Secretary for Justice or any officer acting under his authority to be a true copy shall be deemed to be a warrant referred to in paragraph (e) of sub-section (2) of section *twenty-seven* of the Prisons Act, 1959, and the person to whom the notice applies shall, subject to such conditions as the Minister may from time to time determine, be detained in custody in such place or area for such period as the notice may be in force.

(a)*ter* Subject to the provisions of paragraph (a)*quat* the provisions of paragraph (a)*bis* shall lapse on the 30th June, 1964.

(a)*quat* The operation of the provisions of paragraph (a)*bis* may from time to time by resolution of the Senate and the House of Assembly be extended for a period not exceeding twelve months at a time.

(a)*quin* A telegram purporting to be from the Secretary for Justice or any officer acting under his authority, stating that a notice has been issued under this section prohibiting a specified person from absenting himself for a specified period from a specified place or area which is or is within a prison, shall have the effect of such notice or a copy thereof certified by the said Secretary or officer to be a true copy: Provided that if any such telegram is used in lieu of the notice or copy thereof concerned, the said Secretary or officer shall as soon as may be forward the notice or copy, as the case may be, to the officer in charge of the prison where the person to whom the notice applies is to be detained under such notice, and the last-mentioned officer shall hand over any such notice received by him to such person at his request.";

(b) by the substitution for sub-section (3) of the following sub-sections:

"(3) Any person who has by notice under this section been prohibited from being within or absenting himself from any place or area may, if, at the time the notice is delivered or tendered to him or at any time thereafter, he is at or in or, as the case may be, elsewhere than at or in that place or area, be arrested

without warrant by any member of the South African Police and be removed from or to such place or area by that member or any other such member and may pending his removal be detained in custody.

(4) Any person who has by notice under this section been prohibited from absenting himself from any place or area, shall be deemed to have absented himself from such place or area, if, at any time after the notice has been delivered or tendered to him, he is elsewhere than at such place or in such area."

Amendment of section 11 of Act 44 of 1950, as amended by section 8 of Act 15 of 1954 and section 10 of Act 76 of 1962.

5. Section *eleven* of the principal Act is hereby amended—

(a) by the insertion after paragraph (b) of the following paragraphs:

"(b)*bis* is or was resident in the Republic and has, at any place outside the Republic and at any time after the commencement of this Act, advocated, advised, defended or encouraged the achievement by violent or forcible means of any object directed at bringing about any political, industrial, social or economic change within the Republic by the intervention of or in accordance with the directions or under the guidance of or in co-operation with or with the assistance of any foreign government or any foreign or international body or institution, or the achievement of any of the objects referred to in paragraphs (a) to (d), inclusive, of the definition of 'communism';

(b)*ter* is or was resident in the Republic and has, at any time after the commencement of this Act, undergone any training outside the Republic or obtained any information from a source outside the Republic which could be of use in furthering the achievement of any of the objects of communism or of any body or organization which has been declared to be an unlawful organization under the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), and who fails to prove beyond a reasonable doubt that he did not undergo any such training or obtain any such information for the purpose of using it or causing it to be used in furthering the achievement of any such object;"

(b) by the insertion after paragraph (i) of the following paragraph:

"(i)*bis* in the case of an offence referred to in paragraph (b)*bis* or (b)*ter*, to the penalties provided by law for the offence of treason: Provided that, except where the death penalty is imposed, the imposition of a sentence of imprisonment for a period of not less than five years shall be compulsory, whether or not any other penalty is also imposed and that no person shall on conviction of any such offence be dealt with under section *three hundred and forty-two, three hundred and forty-five* or *three hundred and fifty-two* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955)."

Amendment of section 12 of Act 44 of 1950, as amended by section 8 of Act 50 of 1951, section 9 of Act 15 of 1954 and section 11 of Act 76 of 1962.

6. Section *twelve* of the principal Act is hereby amended by the addition of the following sub-section:

"(6) Notwithstanding anything to the contrary in any law or the common law contained—

(a) whenever two or more persons are in any indictment, summons or charge alleged to have committed at the same time and place, or at the same place and at approximately the same time, offences under this Act or under this Act as applied by any other law, such persons may be tried jointly for such offences on that indictment, summons or charge;

(b) any offence under this Act or under this Act as applied by any other law shall, for the purposes of determining the jurisdiction of a court to try the offence, be deemed to have been committed at the place where it actually was committed and also at any place where the accused happens to be."

Amendment of long title of Act 44 of 1950.

7. The long title of the principal Act is hereby amended by the insertion after the words "certain communistic" of the words "or other undesirable".

Amendment of section 54 of Act 56 of 1955.

8. Section *fifty-four* of the Criminal Procedure Act, 1955, is hereby amended by the substitution for the words "No person" of the words "Except when the attorney-general otherwise directs in terms of section *one hundred and fifty-two bis*, no person".

Amendment of section 108*bis* of Act 56 of 1955, as inserted by section 4 of Act 39 of 1961, and amended by section 17 of Act 76 of 1962.

9. Section *one hundred and eight bis* of the Criminal Procedure Act, 1955, is hereby amended with effect from the first day of June, 1963, by the substitution in sub-section (5) for the expression "1963" of the expression "1964".

Amendment of section 109 of Act 56 of 1955, as amended by section 2 of Act 9 of 1958 and section 5 of Act 75 of 1959.

10. Section *one hundred and nine* of the Criminal Procedure Act, 1955, is hereby amended—

(a) by the addition to paragraph (b) of sub-section (1) of the word "or";

(b) by the insertion after the said paragraph (b) of the following paragraph:

"(c) in which the attorney-general has in terms of section *one hundred and fifty-two bis* directed that the accused shall be tried summarily,".

Insertion of section 152*bis* in Act 56 of 1955.

11. The following section is hereby inserted after section *one hundred and fifty-two* of the Criminal Procedure Act, 1955:

"Summary trial in superior court. 152 *bis*. (1) Whenever in the opinion of the attorney-general any danger of interference with or intimidation of witnesses exists or whenever he deems it to be in the interest of the safety of the State or in the public interest, he may direct that any person accused of having committed any offence shall be tried summarily in a superior court without a preparatory examination having been instituted against him.

(2) A summary trial in a superior court may be held at any time determined by the attorney-general and at any place so determined within the area of jurisdiction of the division of the Supreme Court concerned.

(3) At any such summary trial before plea, the procedure prescribed by law in respect of a criminal trial in a magistrate's court shall *mutatis mutandis* apply.

(4) The provisions of this section shall apply in respect of any offence committed before or after the commencement of this Act."

Amendment of section 263*ter* of Act 56 of 1955, as inserted by section 13 of Act 76 of 1962.

12. Section *two hundred and sixty-three ter* of the Criminal Procedure Act, 1955, is hereby amended by the insertion in sub-section (1) after the words "time been" of the words "or made any statement" and after the words "such time" of the words "or, as the case may be, made such statement outside the Republic at such time".

Substitution of section 118 of Act 44 of 1958.

13. The following section is hereby substituted for section *one hundred and eighteen* of the Post Office Act, 1958:

"Detention of postal articles and telegrams suspected of being concerned with offences and action to be taken in connection therewith. 118. Notwithstanding anything to the contrary in any law contained any postal article or telegram which is reasonably suspected of containing anything which will afford evidence of the commission of any offence or is reasonably suspected of being sent in order to further the commission of any offence or to prevent the detection of any offence, shall be detained by the officer in charge of any post office or telegraph office in which it is or through which it passes, and the Postmaster-General may bring the detention of any such postal article or telegram to the notice of an attorney-general or, at the request of an attorney-general, cause any such postal article or telegram to be handed over to any public prosecutor."

Amendment of section 1 of Act 34 of 1960.

14. Section *one* of the Unlawful Organizations Act, 1960, is hereby amended with effect from the commencement of that Act—

(a) by the substitution for sub-section (3) of the following sub-section:

"(3) (a) The State President may by proclamation in the *Gazette* declare that any body, organization, group or association of persons, institution,

society or movement described or known by a name specified in the proclamation, which in his opinion is in existence or was in existence at any time after the seventh day of April, 1960—

- (i) is in fact a body or organization mentioned in the proclamation which in terms of a proclamation under sub-section (1) or (2) or in terms of the Suppression of Communism Act, 1950 (Act No. 44 of 1950), is an unlawful organization;
 - (ii) was in fact at all times subsequent to a date specified in the proclamation, not being earlier than the eighth day of April, 1960, a body or organization so mentioned which in terms of a proclamation under sub-section (1) or (2) or in terms of the Suppression of Communism Act, 1950, is an unlawful organization,
- and thereupon the said body, organization, group or association of persons, institution, society or movement shall in any criminal proceedings be deemed to exist or, as the case may be, to have existed at all such times and to be or, as the case may be, to have been at all such times the said unlawful organization.
- (b) In any criminal proceedings any act or omission proved with reference to any body, organization, group or association of persons, institution, society or movement corresponding to the description or known by a name corresponding to the name of a body, organization, group or association of persons, institution, society or movement in respect of which a proclamation has been issued under this sub-section, shall be deemed to have been proved with reference to the unlawful organization referred to in the proclamation.
 - (c) Whenever in any proclamation under this sub-section a date is specified in terms of sub-paragraph (ii) of paragraph (a), any person who at any time during the period between the date so specified and the date of publication of such proclamation was an office-bearer, officer or member of any body, organization, group or association of persons, institution, society or movement corresponding to the description or known by a name corresponding to the name of any body, organization, group or association of persons, institution, society or movement in respect of which the proclamation has been issued, shall, for the purposes of any criminal proceedings, be deemed to have become an office-bearer, officer or member of the unlawful organization referred to in the proclamation, on the day immediately following upon the date so specified.
 - (d) No court shall have jurisdiction to pronounce upon the validity of any proclamation issued under this sub-section.”;
 - (b) by the substitution in sub-section (4) for the expression “or (2)” of the expression “(2) or (3)”.

Amendment of section 2 of Act 34 of 1960, as amended by section 20 of Act 76 of 1962.

15. Section two of the Unlawful Organizations Act, 1960, is hereby amended by the insertion in paragraph (d) after the words “this Act” of the words “or to objects similar to the objects of any such organization”.

Amendment of long title of Act 34 of 1960.

16. The long title of the Unlawful Organizations Act, 1960, is hereby amended by the insertion after the word “provide” of the words “for matters relating to organizations which are unlawful organizations in terms of the Suppression of Communism Act, 1950, and”.

Detention of certain persons for interrogation.

17. (1) Notwithstanding anything to the contrary in any law contained, any commissioned officer as defined in section one of the Police Act, 1958 (Act No. 7 of 1958), may from time to time without warrant arrest or cause to be arrested any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act

No. 44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), or the offence of sabotage, or who in his opinion is in possession of any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connection with the commission of or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested.

(2) No person shall, except with the consent of the Minister of Justice or a commissioned officer as aforesaid, have access to any person detained under sub-section (1): Provided that not less than once during each week such person shall be visited in private by the magistrate or an additional or assistant magistrate of the district in which he is detained.

(3) No court shall have jurisdiction to order the release from custody of any person so detained, but the said Minister may at any time direct that any such person be released from custody.

(4) (a) Subject to the provisions of paragraphs (b) and (c), sub-sections (1) to (3), inclusive, shall be in operation until the thirtieth day of June, 1964, and for such periods thereafter not exceeding twelve months at a time as the State President may from time to time by proclamation in the *Gazette* determine.

(b) Any proclamation under paragraph (a) may be issued at any time whether or not the said sub-sections have then ceased to be in operation.

(c) The State President may at any time by like proclamation suspend the operation of the said sub-sections or withdraw any proclamation issued under paragraph (a).

Protected places
or areas.

18. (1) Whenever the Minister of Justice considers it to be in the public interest or in the interest of the safety of the State to prevent unauthorized persons from being within any place or area, he may by notice published in the *Gazette* or made known in any other manner which he considers sufficient in the circumstances declare such place or area to be a protected place or area.

(2) Any person who without the consent of any person in charge of any place or area which has in terms of sub-section (1) been declared to be a protected place or area or of any person acting under the authority of any person so in charge, enters or is within such place or area, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding fifteen years.

(3) The said Minister may by notice in writing order the owner or occupier of any place or area which has so been declared to be a protected place or area, at his own expense and within such period as may be specified in the notice, to take such precautionary measures (including the erection of fencing works) for safeguarding such place or area and to erect such warning notices as may be so specified.

(4) Upon refusal or failure by any owner or occupier to comply with an order under sub-section (3), the Minister may cause the said precautionary measures to be taken and the said notices to be erected and may recover from the owner or occupier the cost of taking such precautionary measures and erecting such notices.

(5) The Minister may by notice in writing order the person in charge of any place or area which has been declared to be a protected place or area as aforesaid, to ensure at all times that whenever consent is granted to any person to enter or be within such place or area or any part of such place or area specified by the Minister, such consent shall be in writing or shall be granted by way of a permit containing such particulars as the Minister may specify in such notice.

(6) Any person who fails to comply with an order under sub-section (5) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months.

(7) The Minister may, whenever he considers it necessary to take special precautionary measures for safeguarding any place or area which has been declared to be a protected place or area as aforesaid, without prior notice to any person, designate any person in the service of the State as the person in charge of such place or area for the purposes of this section, and thereupon the person so designated—

(a) shall, for such period as the Minister may direct, be deemed to be the only person so in charge;

(b) may, during such period, enter or be within such place or area together with such other persons as he may require to assist him in order to safeguard such place or area and take or cause to be taken such measures as he may consider necessary for safeguarding such place or area or anything therein.

(8) The Government or any person in the service of the State shall not be liable for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or in connection with any measures taken under sub-section (4) or (7).

(9) The Minister may at any time withdraw any notice issued under this section.

Short title.

19. This Act shall be called the General Law Amendment Act, 1963.