

Act No. 83
of 1967.

ACT

To prohibit terroristic activities and to amend the law relating to criminal procedure;
and to provide for other incidental matters.

*(English text signed by the Acting State President.)
(Assented to 12th June, 1967.)*

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

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) "Commissioner" means the Commissioner of the South African Police; (iii)
 - (ii) "detainee" means a person detained under section 6; (i)
 - (iii) "Minister" means the Minister of Justice; (iv)
 - (iv) "organization" includes any association of persons, incorporated or unincorporated and whether or not it has been established or registered in accordance with any law; (v)
 - (v) "Republic", includes the territory, except in sections 4 (3) and 7; (vi)
 - (vi) "terrorist" means any person who has committed an offence under section 2 or an act which had or was likely to have had any of the results referred to in section 2 (2); (vii)
 - (vii) "the territory" means the territory of South-West Africa. (ii)

Terrorism.

2. (1) Subject to the provisions of subsection (4), any person who —
 - (a) with intent to endanger the maintenance of law and order in the Republic or any portion thereof, in the Republic or elsewhere commits any act or attempts to commit, or conspires with any other person to aid or procure the commission of or to commit, or incites, instigates, commands, aids, advises, encourages or procures any other person to commit, any act; or
 - (b) in the Republic or elsewhere undergoes, or attempts, consents or takes any steps to undergo, or incites, instigates, commands, aids, advises, encourages or procures any other person to undergo any training which could be of use to any person intending to endanger the maintenance of law and order, and who fails to prove beyond a reasonable doubt that he did not undergo or attempt, consent or take any steps to undergo, or incite, instigate, command, aid, advise, encourage or procure such other person to undergo

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such training for the purpose of using it or causing it to be used to commit any act likely to have any of the results referred to in subsection (2) in the Republic or any portion thereof; or

- (c) possesses any explosives, ammunition, fire-arm or weapon and who fails to prove beyond a reasonable doubt that he did not intend using such explosives, ammunition, fire-arm or weapon to commit any act likely to have any of the results referred to in subsection (2) in the Republic or any portion thereof,

shall be guilty of the offence of participation in terroristic activities and liable on conviction to the penalties provided for 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.

(2) If in any prosecution for an offence contemplated in subsection (1) (a) it is proved that the accused has committed or attempted to commit, or conspired with any other person to aid or procure the commission of or to commit, or incited, instigated, commanded, aided, advised, encouraged or procured any other person to commit the act alleged in the charge, and that the commission of such act, had or was likely to have had any of the following results in the Republic or any portion thereof, namely—

- (a) to hamper or to deter any person from assisting in the maintenance of law and order;
- (b) to promote, by intimidation, the achievement of any object;
- (c) to cause or promote general dislocation, disturbance or disorder;
- (d) to cripple or prejudice any industry or undertaking or industries or undertakings generally or the production or distribution of commodities or foodstuffs at any place;
- (e) to cause, encourage or further an insurrection or forcible resistance to the Government or the Administration of the territory;
- (f) to further or encourage the achievement of any political aim, including the bringing about of any social or economic change, by violence or forcible means or by the intervention of or in accordance with the direction 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;
- (g) to cause serious bodily injury to or endanger the safety of any person;
- (h) to cause substantial financial loss to any person or the State;

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- (i) to cause, encourage or further feelings of hostility between the White and other inhabitants of the Republic;
- (j) to damage, destroy, endanger, interrupt, render useless or unserviceable or put out of action the supply or distribution at any place of light, power, fuel, food-stuffs or water, or of sanitary, medical, fire extinguishing, postal, telephone or telegraph services or installations, or radio transmitting, broadcasting or receiving services or installations;
- (k) to obstruct or endanger the free movement of any traffic on land, at sea or in the air;
- (l) to embarrass the administration of the affairs of the State,

the accused shall be presumed to have committed or attempted to commit, or conspired with such other person to aid or procure the commission of or to commit, or incited, instigated, commanded, aided, advised, encouraged or procured such other person to commit, such act with intent to endanger the maintenance of law and order in the Republic, unless it is proved beyond a reasonable doubt that he did not intend any of the results aforesaid.

(3) In any prosecution for an offence under this section, any document, book, record, pamphlet, publication or written instrument—

- (a) which has been found in or removed from the possession, custody or control of the accused or of any person who was at any time before or after the commencement of this Act an office-bearer, officer, member or active supporter of an organization of which the accused is or was an office-bearer, officer, member or active supporter;
- (b) which has been found in or removed from any office or other premises occupied or used at any time before or after the commencement of this Act by an organization of which the accused is or was an office-bearer, officer, member or active supporter or by any person in his capacity as office-bearer or officer of such organization; or
- (c) which on the face thereof has been compiled, kept, maintained, used, issued or published by or on behalf of an organization of which the accused is or was an office-bearer, officer, member or active supporter or by or on behalf of any person having a name corresponding substantially to that of the accused,

and any photostatic copy of any such document, book, record, pamphlet, publication or written instrument, shall be admissible in evidence against the accused as *prima facie* proof of the contents thereof.

(4) No person shall be convicted of an offence under subsection (1) committed at any place outside the Republic, if such person proves that he is not a South African citizen and has not at any time before or after the commencement of this

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Harbouring or concealing of or rendering assistance to terrorists.	3. Any person who harbours or conceals or directly or indirectly renders any assistance to any other person whom he has reason to believe to be a terrorist, shall be guilty of an offence and liable on conviction 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 imposed.
Jurisdiction and venue.	4. (1) Notwithstanding anything to the contrary in any law or the common law contained any superior court or attorney-general in the Republic shall have jurisdiction in respect of any offence under this Act committed outside the area of jurisdiction of such court or attorney-general, as if it had been committed within such area. (2) If the Minister so directs the trial of any person for an offence under this Act, shall take place at such place in the Republic as the Minister may determine. (3) Whenever the trial for an offence under this Act committed in the territory or elsewhere outside the Republic, takes place in the Republic, whether or not on the instructions of the Minister, the laws relating to procedure and evidence of the Republic shall apply in respect of such trial and whenever the trial for such an offence committed in the Republic or elsewhere outside the territory so takes place in the territory, the laws relating to procedure and evidence of the territory shall so apply.
Procedure at the trial of persons for offences under this Act.	5. Notwithstanding anything to the contrary in any law or the common law contained— (a) any person charged in the Republic, excluding the territory, with having committed an offence under this Act, shall be tried by a judge without a jury as if the provisions of sections 109 and 110 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), applied in respect of his trial; (b) the trial of any person accused of having committed any offence under this Act may, subject to the provisions of section 4, be held at any time and at any place within the area of jurisdiction of the division of the Supreme Court of South Africa concerned; (c) whenever two or more persons are in any indictment, summons or charge alleged to have committed, whether jointly or severally, offences under this Act, such persons may be tried jointly for such offences on that indictment, summons or charge;

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- (d) any person accused of having committed an offence under this Act shall be tried summarily without a preparatory examination having been instituted against him;
- (e) the procedure prescribed by law in respect of a criminal trial in a magistrate's court shall *mutatis mutandis* apply in respect of the trial of any such person before plea;
- (f) no person detained in custody on a charge of having committed an offence under this Act, shall be released on bail or otherwise, before sentence has been passed or he has been discharged, unless the attorney-general consents to his release;
- (g) no person shall on trial for or conviction of an offence under this Act be dealt with under section 159, 342, 345 or 352 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), or the corresponding provisions of the Criminal Procedure Ordinance, 1963 (Ordinance No. 34 of 1963), of the territory;
- (h) acquittal on a charge of having committed an offence under section 2 shall not preclude the arraignment of the person acquitted on any other charge arising out of the acts alleged in respect of the charge of such offence.

Detention of
terrorists and
certain other
persons for
interrogation.

6. (1) Notwithstanding anything to the contrary in any law contained, any commissioned officer as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958), of or above the rank of Lieutenant-Colonel may, if he has reason to believe that any person who happens to be at any place in the Republic, is a terrorist or is withholding from the South African Police any information relating to terrorists or to offences under this Act, arrest such person or cause him to be arrested, without warrant and detain or cause such person to be detained for interrogation at such place in the Republic and subject to such conditions as the Commissioner may, subject to the directions of the Minister, from time to time determine, until the Commissioner orders his release when satisfied that he has satisfactorily replied to all questions at the said interrogation or that no useful purpose will be served by his further detention, or until his release is ordered in terms of subsection (4).

(2) The commissioner shall, as soon as possible after the arrest of any detainee, advise the Minister of his name and the place where he is being detained, and shall furnish the Minister once a month with the reasons why any detainee shall not be released.

(3) Any detainee may at any time make representations in writing to the Minister relating to his detention or release.

(4) The Minister may at any time order the release of any detainee.

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(5) No court of law shall pronounce upon the validity of any action taken under this section, or order the release of any detainee.

(6) No person, other than the Minister or an officer in the service of the State acting in the performance of his official duties, shall have access to any detainee, or shall be entitled to any official information relating to or obtained from any detainee.

(7) If circumstances so permit, a detainee shall be visited in private by a magistrate at least once a fortnight.

Legal force
of
process in
criminal
proceedings in the
Republic and
South-West Africa.

7. (1) Notwithstanding anything to the contrary in any law contained, any warrant, summons, subpoena or other process issued under any law of the Republic or of the territory in connection with any criminal proceedings, shall be of force and effect throughout the Republic and the territory.

(2) Whenever any person has been arrested in the territory under any warrant aforesaid issued in the Republic, or has been arrested in the Republic under any such warrant issued in the territory, he shall, as soon as possible, be taken to the place mentioned in such warrant or, if no such place is mentioned in the warrant, to the place where the warrant was issued, and if such person has escaped or has been rescued from custody, he may be arrested without warrant at any place in the Republic or the territory by any person.

Trial only at the
instance of the
attorney-general or
acting attorney-
general.

8. No trial for an offence under this Act shall be instituted without the written authority given personally by an attorney-general or acting attorney-general.

Commencement
and application
of this Act.

9. (1) This Act, except sections 3, 6 and 7, shall be deemed to have come into operation on the twenty-seventh day of June, 1962, and shall, notwithstanding anything to the contrary in any law or the common law contained, apply also in respect of or with reference to any act committed (including the undergoing of any training or the possession of anything) at any time on or after the said date.

(2) This Act and any amendment thereof which may be made from time to time, shall apply also in the territory, including the Eastern Caprivi Zipfel referred to in section 3 of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of the territory.

Short title.

10. This Act shall be called the Terrorism Act, 1967.