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STAATSKOERANT

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 379. 15 Maart 1974

No. 379. 15 March 1974

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

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

— 30 van 1974: Wysigingswet op Oproerige Byeenkomste, 1974.

No. 30 of 1974: Riotous Assemblies Amendment Act, 1974.

RIOTOUS ASSEMBLIES AMENDMENT ACT, 1974. Act No. 30, 1974

ACT

To amend the Riotous Assemblies Act, 1956, so as to delete the definitions of certain expressions and to define or further define certain expressions; to further regulate the power to prohibit gatherings in certain instances and the manner of publication of such a prohibition; to amend certain penalty clauses; to transfer the power of a magistrate to close places to certain police officers; and to substitute the words "State President" and "Republic" for the words "Governor-General" and "Union"; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 1 March 1974.)*

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

1. Section 1 of the Riotous Assemblies Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

Amendment of section 1 of Act 17 of 1956.

(a) by the insertion after the definition of "documentary information" of the following definition:

"'gathering' means, for the purposes of sections 2 (1) (b), (3) (b) and (4) (a) (ii) and 7 (1) (b), any gathering, concourse or procession of any number of persons and, for the purposes of any other provision of this Act, a gathering, concourse or procession of any number of persons having a common purpose, whether such purpose is lawful or unlawful;";

(b) by the substitution for the definition of "police" of the following definition:

"'police' means any body of men established or enrolled under any law and exercising or carrying out the powers, duties and functions of a police force, and includes any portion of the South African Defence Force when used for the prevention or suppression of internal disorder;";

(c) by the deletion of the definition of "public gathering"; and

(d) by the deletion of the definition of "public place".

2. The following section is hereby substituted for section 2 of the principal Act:

Substitution of section 2 of Act 17 of 1956, as amended by section 6 of Act 39 of 1961 and section 19 of Act 76 of 1962.

"Power to prohibit gatherings or the attendance thereof in certain cases.

2. (1) Whenever a magistrate has reason to apprehend that the public peace would be seriously endangered—

(a) by any gathering in his district; or

(b) by a particular gathering or any kind of gathering at a particular place or in a particular area or wheresoever in his district,

he may prohibit for a period not exceeding forty-

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eight hours every gathering in his district or that particular gathering or kind of gathering at a particular place or in a particular area or everywhere in his district, as the case may be, except in those cases which he expressly authorizes in the prohibition or at any time thereafter.

(2) A magistrate who under subsection (1) imposes a prohibition shall do so—

- (a) by notice in the *Gazette*; or
- (b) by notice in a newspaper circulating where the prohibition is to apply; or
- (c) by causing it to be made known by means of the radio; or
- (d) by causing notices to be distributed amongst the public and to be affixed upon public buildings or in prominent places where the prohibition is to apply; or
- (e) by causing it to be announced orally where the prohibition is to apply.

(3) The Minister may, if he deems it necessary or expedient for the maintenance of the public peace, prohibit in a manner provided in subsection (2)—

- (a) any gathering in any area during any period or on any day or during specified times or periods within any period; or
- (b) a specified gathering or any kind of gathering at a specified place or in a specified area or everywhere in the Republic during any period or on any day or during specified times or periods within any period,

except in those cases specified in the prohibition by the Minister or which the Minister or a magistrate acting in pursuance of his general or special instructions may at any time expressly authorize.

(4) Whenever in the opinion of the Minister there is reason to apprehend that feelings of hostility would be engendered between the European inhabitants of the Republic on the one hand and any other section of the inhabitants of the Republic on the other hand—

- (a) (i) by any gathering in any area during any period or on any day or during specified times or periods within any period; or
- (ii) by a specified gathering or any kind of gathering at a specified place or in a specified area or wheresoever in the Republic during any period or on any day or during specified times or periods within any period; or
- (b) if a particular person were to attend any such gathering,

the Minister may, in a manner provided in subsection (2), prohibit any gathering referred to in paragraph (a) (i) or a specified gathering or kind of gathering referred to in paragraph (a) (ii), as the case may be, except in those cases specified by the Minister in the prohibition or which the Minister or a magistrate acting in pursuance of his general or special instructions may at any time authorize, or may, by notice under his hand addressed and delivered or tendered to that particular person, prohibit him from attending such a gathering.

(5) (a) If the Minister is satisfied that reasonable but unsuccessful attempts have been made to deliver or tender to any person a notice issued

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under subsection (4), and that a copy of such notice has been affixed to the main entrance of the last-known residence of such person, he may cause such notice to be published in the *Gazette*, whereupon it shall be deemed to have been delivered or tendered to such person on the date of publication.

(b) The Minister may cause particulars of any notice addressed to any person under subsection (4) to be published in the *Gazette*.

(6) (a) Any person who, after the prohibition, in terms of this section, of a gathering—

(i) convenes it or encourages, promotes or by means of threats causes the attendance thereof, or presides thereat or addresses it; or

(ii) prints, publishes, distributes or, in any manner whatever, circulates a notice convening it, or advertises it or in any other manner makes it known; or

(iii) attends it,
shall be guilty of an offence unless, if the prohibition has not been published in the *Gazette*, he satisfies the court that he had no knowledge of the prohibition, and shall, in the case of an offence referred to in subparagraph (i), be liable on conviction to imprisonment for a period not exceeding one year, and on a second or subsequent conviction to imprisonment for a period not exceeding two years, and, in the case of an offence referred to in subparagraph (ii) or (iii), be liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding six months.

(b) Any person who, in contravention of a notice delivered or tendered to him in terms of subsection (4), or deemed to have been delivered or tendered to him, attends any gathering, shall be guilty of an offence and liable on conviction to the penalties prescribed for a contravention of subparagraph (i) of paragraph (a).

(c) For the purposes of this subsection a person shall be deemed to have convened a gathering—

(i) if he has caused a written notice to be published or distributed, inviting the public, or any section of the public, to assemble at a specified time and place;

(ii) if he has himself, or through another person, orally invited the public, or any section of the public, so to assemble; or

(iii) if he has taken active part in making arrangements for the publication or distribution of such a notice, or in organizing or making preparations for such a meeting.

(7) (a) Any person who without the consent of the Minister or except for purposes of any proceedings in any court of law records or reproduces by mechanical or other means or prints, publishes or disseminates any speech, utterance, writing or statement or any extract from or recording or reproduction of any speech, utterance, writing or statement made or produced or purporting to have been made or

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produced anywhere at any time by any person prohibited under subsection (4) from attending any gathering, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding one year and on a second or subsequent conviction to imprisonment for a period not exceeding two years.

- (b) No person shall be convicted of an offence under paragraph (a) if he satisfies the court that at the time of the alleged offence he had no knowledge of the prohibition concerned, unless at the said time the prohibition or particulars thereof had been notified in the *Gazette*."

3. Section 3 of the principal Act is hereby amended by the substitution in subsections (4) and (8) for the expression "sub-paragraph (i) of paragraph (a) of sub-section (4) of section two" of the expression "section 2 (6) (a) (i)". Amendment of section 3 of Act 17 of 1956.

4. Section 4 of the principal Act is hereby amended by the substitution for the expression "sub-section (3) of section two, or sub-section (5) of section three" of the expression "section 2 (4) or section 3 (5)". Amendment of section 4 of Act 17 of 1956.

5. The following section is hereby substituted for section 5 of the principal Act: Substitution of section 5 of Act 17 of 1956.

"Removal of convicted persons from Republic.

5. Any person convicted of any offence under the provisions of section 2 or 3, who was born outside the Republic and who is deemed by the State President to be an undesirable inhabitant of the Republic may be removed from the Republic and, pending removal, may be detained in custody in the manner provided for the detention, pending removal from the Republic, of persons who are prohibited persons within the meaning of the Admission of Persons to the Republic Regulation Act, 1972 (Act No. 59 of 1972), and thereafter such person shall, for the purposes of that Act, be deemed to be a prohibited person."

6. The following section is hereby substituted for section 6 of the principal Act: Substitution of section 6 of Act 17 of 1956.

"Power to close places to prevent prohibited gatherings.

6. (1) A police officer of or above the rank of warrant officer may, if he has reason to believe that a gathering prohibited under section 2 will take place, cause access to any place or area where he believes it will take place, and to any other place or area adjacent thereto, to be barred and to be kept closed or inaccessible to the public, for such time as may be necessary to prevent the gathering from taking place.

(2) The said police officer shall notify the fact that a place or area is so closed or inaccessible to the members of the public, at the entrance thereto or in the vicinity of the place or area in a manner described in section 2 (2) (d) or (e).

(3) Any person who, without the permission of the police on duty, enters or remains in any place or area closed or made inaccessible under this section, while it is closed or inaccessible, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand or to imprisonment for a period not exceeding three months."

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

Substitution of section 7 of Act 17 of 1956, as amended by section 7 of Act 39 of 1961.

“Dispersal of prohibited or riotous gatherings, and manner of dispersal.”

7. (1) Whenever—

(a) a gathering which has been prohibited under section 2 takes place or is proceeded with; or

(b) the persons attending a gathering (whether or not the gathering has been so prohibited)—

(i) kill or seriously injure, or attempt to kill or seriously injure, or show a manifest intention of killing or seriously injuring, any person; or

(ii) destroy or do serious damage to, or attempt to destroy or do serious damage to, or show a manifest intention of destroying or doing serious damage to, any valuable property, whether movable or immovable,

a police officer of or above the rank of warrant officer may call upon the persons attending the gathering to disperse, and for that purpose he shall endeavour to obtain the attention of those persons by such lawful means as he deems most suitable, and then in a loud voice order them in each of the official languages to disperse and to depart from the place of the gathering within the time specified by him.

(2) Any person who fails so to depart after an order has been so given shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand or to imprisonment for a period not exceeding one year.

(3) If within the time so specified the persons assembled have not so dispersed and departed, a police officer of or above the rank aforesaid may order the police under his command to disperse the gathering and may for that purpose order the use of force, including, subject to the provisions of section 8, the use of firearms and other weapons therein mentioned, but the degree of force which may be so used shall not be greater than is necessary for dispersing the persons assembled, and shall be moderated and proportionate to the circumstances of the case and the object to be attained.”.

8. The following section is hereby substituted for section 8 of the principal Act:

Substitution of section 8 of Act 17 of 1956.

“Restriction as to use of firearms or other lethal weapons to disperse a gathering.”

8. (1) Firearms or other weapons likely to cause serious bodily injury or death shall not, under the authority of section 7, be used to disperse a gathering until weapons less likely to cause such injury or death have been used and the gathering has not been dispersed, or unless or until any of the persons attending the gathering—

(a) kill or seriously injure, or attempt to kill or seriously injure, or show a manifest intention of killing or seriously injuring, any person; or

(b) destroy or do serious damage to, or attempt to destroy or do serious damage to, or show a manifest intention of destroying or doing serious damage to, any valuable property, whether movable or immovable.

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(2) Firearms or other weapons likely to cause serious bodily injury or death shall be used for the purposes aforesaid with all reasonable caution, without recklessness or negligence, and so as to produce no further injury to any person than is necessary for the attainment of the object aforesaid.”.

9. Section 14 of the principal Act is hereby amended—

Amendment of section 14 of Act 17 of 1956.

- (a) by the substitution for subsection (4) of the following subsection:

“(4) If an employer makes default in complying with subsection (3) he shall be guilty of an offence and liable on conviction to a fine not exceeding ten rand or, in default of payment, to imprisonment for a period not exceeding fourteen days, for every day during which the default continues.”; and

- (b) by the substitution for subsection (5) of the following subsection:

“(5) Any person who defaces, obliterates, covers over, removes or destroys any copy of this section posted up in terms of subsection (3), without the permission of the employer concerned, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand or, in default of payment, to imprisonment for a period not exceeding three months.”.

10. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 16 of Act 17 of 1956.

“(1) Whenever the State President deems it necessary to take special precautions to maintain public order or to protect life and property he may, by proclamation in the *Gazette*, prohibit for such period as he may think fit the transportation of explosives from any one place to any other place in the Republic, except under such safeguards and conditions as are prescribed by regulation, and may make regulations, to be in force for such limited period as he may think fit, as to the transportation of explosives to and from particular areas, or as to the storage, removal, possession or use of explosives within any particular area by all persons or by persons of specified occupations or callings, and may limit or vary the conditions of any licences or permits held or to be issued under the Explosives Act, 1956 (Act No. 26 of 1956), or the regulations made thereunder.”.

11. The following section is hereby substituted for section 19 of the principal Act:

Substitution of section 19 of Act 17 of 1956.

“Ministers to report to Parliament certain steps taken under provisions of Act.

19. Whenever under the provisions of this Act—

- (a) any gathering has been prohibited;
 (b) any person has been prohibited from attending a gathering or from being within any area or has been dealt with as a prohibited person;
 (c) the publication of any documentary information has been prohibited; or
 (d) a police officer has called upon the persons attending a gathering to disperse,

the Minister, in the case of paragraphs (a), (b) and (c), and the Minister of Police, in the case of paragraph (d), shall report the circumstances to both

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Houses of Parliament within fourteen days if Parliament be in session and otherwise within fourteen days after the commencement of its next ensuing session.”.

12. The principal Act is hereby amended by the substitution for the words “Governor-General” and “Union”, wherever they occur, of the words “State President” and “Republic”, respectively. Substitution in Act 17 of 1956 of “Governor-General” and “Union”.

13. This Act shall be called the Riotous Assemblies Amendment Act, 1974. Short title.