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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1025.

16 June 1976.

No. 1025.

16 Junie 1976.

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

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

No. 79 of 1976: Internal Security Amendment Act, 1976.

No. 79 van 1976: Wysigingswet op Binnelandse Veiligheid, 1976.

INTERNAL SECURITY AMENDMENT ACT, 1976 Act No. 79, 1976

ACT

To amend the Suppression of Communism Act, 1950, so as to make provision for declaring organizations promoting activities endangering the security of the State or the maintenance of public order to be unlawful and for prohibiting certain publications accordingly; and applying certain restrictions imposed by that Act, to persons engaging in such activities; to regulate the release on bail or otherwise of persons arrested for certain offences; and to provide for the detention of certain witnesses; to amend the Public Safety Act, 1953, so as to extend the power to make regulations; to amend the Criminal Procedure Act, 1955, in regard to the release of arrested persons on bail or otherwise, and the detention of witnesses; to apply the Riotous Assemblies Act, 1956, to the territory of South West Africa; and to amend the Terrorism Act, 1967, so as to delete the provisions as to the release on bail or otherwise of any person detained in custody on a charge of having committed an offence under that Act; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 7 June 1976.)

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

1. Section 2 of the Suppression of Communism Act, 1950 (hereinafter referred to as the principal Act), is hereby amended—

Amendment of section 2 of Act 44 of 1950, as amended by section 2 of Act 76 of 1962.

(a) by the insertion after paragraph (c) of subsection (2) of the following paragraph:

“(cA) that any organization engages in activities which endanger or are calculated to endanger the security of the State or the maintenance of public order; or”;

(b) by the substitution for paragraph (d) of the said subsection of the following paragraph:

“(d) that any organization is controlled, directly or indirectly, by an organization referred to in subsection (1) or paragraph (a), (b), (c) or (cA) of this subsection; or”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) The provisions of subsection (2) (b), (c), (cA), (d) and (e) shall not apply in relation to an employers' organization or trade union registered under the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), or to any employers' organization or trade union whose registration under the said Act has been cancelled in terms of section 14 of the said Act, until such organiza-

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tion or trade union or any office-bearer, officer or member thereof has had a reasonable opportunity of exhausting, in respect of such cancellation, the remedies provided in section 16 or 27 of the said Act.”

2. Section 6 of the principal Act is hereby amended by the insertion after paragraph (d) of the following paragraph:

Amendment of section 6 of Act 44 of 1950, as amended by section 5 of Act 50 of 1951 and section 2 of Act 97 of 1965.

“(dA) serves *inter alia* as a means for expressing views or conveying information the publication of which is calculated to endanger the security of the State or the maintenance of public order; or”

3. Section 9 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

Amendment of section 9 of Act 44 of 1950, as amended by section 6 of Act 15 of 1954 and section 7 of Act 76 of 1962.

“(1) Whenever the Minister is satisfied that any person engages in activities which are furthering or are calculated to further the achievement of any of the objects of communism or which endanger or are calculated to endanger the security of the State or the maintenance of public order, he may by notice under his hand addressed and delivered or tendered to that person, prohibit him from attending, except in such cases as may be specified in the notice or as the Minister or magistrate acting in pursuance of his general or special instructions may at any time expressly authorize—”

4. Section 10 of the principal Act is hereby amended—

Amendment of section 10 of Act 44 of 1950, as amended by section 7 of Act 15 of 1954, section 8 of Act 76 of 1962, section 4 of Act 37 of 1963, section 14 of Act 80 of 1964, section 3 of Act 97 of 1965, section 1 of Act 8 of 1966, section 6 of Act 102 of 1967 and section 36 of Act 70 of 1968.

(a) by the addition of the word “or” at the end of subparagraph (iii) of paragraph (a) of subsection (1); and

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

“(iv) engages in activities which endanger or are calculated to endanger the security of the State or the maintenance of public order;”

(c) by the substitution for paragraph (a)*bis* of subsection (1) of the following paragraph:

“(a)*bis* Notwithstanding anything to the contrary in any law contained, the Minister may, if he is satisfied that any person engages in activities which endanger or are calculated to endanger the security of the State or the maintenance of public order, by notice under paragraph (a) prohibit such person from absenting himself from any place or area which is or is within a prison as defined in section 1 of the Prisons Act, 1959 (Act No. 8 of 1959), and a copy of the notice signed by the Minister or certified by any officer acting under his authority to be a true copy shall be deemed to be a warrant referred to in section 27 (2) (e) 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 in general or in a particular case, be detained in custody in such place or area for such period as the notice may be in force.”

(d) by the substitution for paragraph (a)*ter* of the said subsection (1) of the following paragraph:

“(a)*ter* Any member of the South African Police who has received information that a notice referred to in paragraph (a)*bis* has been issued in respect of any person, may, before the notice has been delivered or tendered to such person, without the

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required warrant arrest him and keep him in custody until the notice has been delivered or tendered to him, but for not more than seven days.”;

(e) by the deletion of paragraph (a)quat of the said subsection (1); and

(f) by the insertion after paragraph (b) of the said subsection (1) of the following paragraph:

“(bA) The provisions of paragraphs (a)bis, (a)ter and (a)quin shall be in force only during such period not exceeding twelve months at a time and in such part of the Republic as the State President may from time to time determine by proclamation in the *Gazette*: Provided that any person who has by notice under paragraph (a)bis been prohibited from absenting himself from any place or area therein referred to, shall, if the Minister so directs, be removed in custody from such place or area and be detained in custody, for such period as the notice may be in force, in any other place or area referred to in that paragraph, in any other part of the Republic, as if the said notice applied in respect of such other place or area.”

5. The following section is hereby inserted in the principal Act after section 10quin:

“Review committee.

10sex. (1) The State President shall appoint for such period and such part of the Republic as may be determined in any proclamation referred to in section 10 (1) (bA), a review committee consisting of a judge of the Supreme Court of South Africa or a magistrate or a person who has held office as such judge or magistrate, as chairman and two other persons as members, and the State President may for good reason from time to time withdraw the appointment of such a chairman or member and appoint a substitute.

(2) As soon as may be, but not later than two months after the commencement of any person's custody in terms of section 10 (1) (a)bis the review committee shall investigate the Minister's action in terms of that section in respect of such person, and thereafter the review committee shall investigate his custody in terms of that section at intervals of not more than six months.

(3) At an investigation in terms of subsection (2) the review committee shall consider all facts and representations submitted to it in writing and may in its discretion also hear oral evidence or representations from any person.

(4) Any person desiring to make written representations to the review committee, shall deliver them to the Secretary for Justice, and any person desiring to submit oral evidence or representations, shall notify the Secretary for Justice thereof.

(5) After an investigation in terms of subsection (2) the review committee shall make such recommendation as it may think fit to the Minister, who shall notify the person concerned as soon as possible of the contents of such recommendation.

(6) The Minister need not give effect to any recommendation of the review committee.

(7) If the Minister does not give effect to a recommendation of the review committee that a notice issued under section 10 (1) (a)bis be withdrawn, he shall within one month after the recommendation has come to his notice, or if Parliament is not then

Insertion of section 10sex in Act 44 of 1950.

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in session, within one month after the commencement of Parliament's first ensuing session, lay upon the Tables of the Senate and the House of Assembly a report stating the recommendation made by the review committee, the name of the person detained in custody concerned and the fact that the Minister has not given effect to the recommendation.

(8) No person shall attend the proceedings of the review committee, except a person engaged in submitting oral evidence or representations in terms of subsection (3) and persons in the service of the State whose presence is considered necessary by the chairman.

(9) The review committee's deliberations and recommendations shall not be disclosed, except to a person whose duty it is to deal with the subject matter of the disclosure.

(10) No person, other than a person in the service of the State while performing his official functions, shall have the right to inspect any records of the review committee.

(11) No court of law shall have jurisdiction to pronounce upon the functions or recommendations of the review committee.

(12) (a) The regulations made under section 4 (b) of the Judges' Remuneration and Pensions Act, 1975 (Act No. 14 of 1975), shall apply *mutatis mutandis* to a member of the review committee who is a judge of the Supreme Court of South Africa.

(b) A member of the review committee who is not a judge or who is not subject to the provisions of the Public Service Act, 1957 (Act No. 54 of 1957), shall be entitled to such remuneration, including reimbursement for travelling and subsistence expenses incurred by him in the performance of his duties under this Act, as the Minister in consultation with the Minister of Finance may determine."

6. The following sections are hereby inserted in the principal Act after section 12:

Insertion of sections 12A, 12B and 12C in Act 44 of 1950.

"Powers of attorney-general to prohibit release on bail or otherwise.

12A. (1) Whenever any person has been arrested on a charge of having committed any offence referred to in the Schedule, the attorney-general may, if he considers it necessary in the interest of the safety of the State or the maintenance of public order, issue an order that such person shall not be released on bail or otherwise before sentence has been passed or he has been discharged.

(2) (a) Notwithstanding the provisions of any other law, but subject to the provisions of subsection (3), no person shall be released on bail or otherwise contrary to the terms of an order issued under subsection (1).

(b) Whenever any person arrested for an offence referred to in subsection (1) applies to be released on bail or otherwise and the public prosecutor informs the judge, court or magistrate to whom or to which the application is made that the matter has been referred to the attorney-general concerned with a view to the issuing of an order under subsection (1), such person shall, pending the decision of the attorney-

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ney-general, not be released on bail or otherwise: Provided that if no such order is issued within the period of fourteen days immediately following upon the date on which such judge, court or magistrate is so informed, such person may again apply to be released on bail or otherwise and may, subject to the provisions of any law, be so released.

(3) The attorney-general may, at any time before its expiration rescind any order issued under subsection (1).

(4) Any telegraphic copy purporting to be a copy of an order under subsection (1) transmitted by telegraph, shall for all purposes be *prima facie* proof of the facts set forth in such copy.

Detention
of witnesses
under
warrant
issued by
attorney-
general.

12B. (1) Whenever in the opinion of the attorney-general there is any danger of tampering with or intimidation of any person likely to give material evidence for the State in any criminal proceedings in connection with facts which may serve as a basis for a charge relating to an offence referred to in the Schedule or that any such person may abscond, or whenever he deems it to be in the interests of such person or of the administration of justice, he may issue a warrant for the arrest and detention of such person.

(2) Notwithstanding the provisions of any other law, any person arrested by virtue of a warrant under subsection (1) shall, as soon as may be, be taken to the place mentioned in the warrant and detained there or at any other place determined by the attorney-general from time to time, in accordance with regulations which the Minister is hereby authorized to make.

(3) Unless the attorney-general orders that a person detained under subsection (1) be released earlier, such person shall be detained for the period terminating on the day on which the criminal proceedings concerned are concluded or for a period of six months after his arrest by virtue of a warrant under subsection (1), whichever may be the shorter period.

(4) No person, other than an officer in the service of the State acting in the performance of his official duties, shall have access to a person detained under subsection (1), except with the consent of and subject to the conditions determined by the attorney-general or an officer in the service of the State delegated thereto by him.

(5) Any person detained under subsection (1) shall be visited in private at least once during each week by the magistrate or an additional or assistant magistrate of the district in which he is detained.

(6) For the purposes of section 218 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), any person detained under subsection (1) shall be deemed to have attended the criminal proceedings in question as a witness for the State during the whole of the period of his detention.

(7) No court shall have jurisdiction to order the release from custody of any person detained under subsection (1) or to pronounce upon the validity of any regulation made under subsection (2) or the refusal of the consent required in terms of subsection (4) or any condition referred to in subsection (4).

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Amend-
ment of
Schedule.

12C. The State President may from time to time by proclamation in the *Gazette* remove from or add to the Schedule any offence mentioned in the proclamation."

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

Substitution of long title of Act 44 of 1950, as amended by section 7 of Act 37 of 1963.

"ACT

To declare the Communist Party of South Africa to be an unlawful organization; to make provision for declaring other organizations promoting communistic activities or activities endangering the security of the State or the maintenance of public order to be unlawful and for prohibiting certain periodical or other publications; to prohibit certain communistic or other undesirable activities; to regulate the release on bail or otherwise of persons arrested for certain offences; to provide for the detention of certain witnesses; and to make provision for other incidental matters."

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

Substitution of section 19 of Act 44 of 1950.

"Short title. 19. This Act shall be called the Internal Security Act, 1950."

9. The following Schedule is hereby added to the principal Act:

Addition of Schedule to Act 44 of 1950.

"Schedule

OFFENCES IN RESPECT OF WHICH THE ATTORNEY-GENERAL MAY UNDER SECTION 12A ORDER THAT THE ACCUSED SHALL NOT BE RELEASED ON BAIL OR UNDER SECTION 12B ISSUE A WARRANT FOR THE ARREST AND DETENTION OF A WITNESS.

Sedition.

Contravention of the provisions of paragraph (a), (b), (b)bis, (b)ter, (c), (d), (d)bis or (d)ter of section 11 of this Act or this Act as applied by any other law.

Contravention of section 21 of the General Law Amendment Act, 1962 (Act No. 76 of 1962).

Contravention of section 2 or 3 of the Terrorism Act, 1967 (Act No. 83 of 1967).

Any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

Treason."

10. Section 3 of the Public Safety Act, 1953, is hereby amended by the deletion of paragraph (b) of subsection (3).

Amendment of section 3 of Act 3 of 1953, as amended by section 31 of Act 62 of 1955 and section 16 of Act 76 of 1962.

11. The Second Schedule to the Criminal Procedure Act, 1955, is hereby amended by the substitution for Part IIbis of the following Part:

Amendment of Second Schedule to Act 56 of 1955, as amended by Proclamation 207 of 1955, section 15 of Act 93 of 1963 and section 16 of Act 96 of 1965.

"PART IIbis

OFFENCES IN RESPECT OF WHICH THE ATTORNEY-GENERAL MAY UNDER SECTION 108bis ORDER THAT THE ACCUSED SHALL NOT BE RELEASED ON BAIL OR UNDER SECTION 215bis ISSUE A WARRANT FOR THE ARREST AND DETENTION OF A WITNESS.

Murder.

Arson.

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Kidnapping.

Childstealing.

Any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

Robbery (including an attempt to commit robbery), where the attorney-general is satisfied that aggravating circumstances were present.

Any offence, either at common law or under any statute, of housebreaking or attempted housebreaking with intent to commit an offence, where the attorney-general is satisfied that aggravating circumstances were present."

12. Section 1 of the Riotous Assemblies Act, 1956, is hereby amended by the addition of the following definition:

"'Republic' includes the territory of South West Africa."

Amendment of section 1 of Act 17 of 1956, as amended by section 1 of Act 30 of 1974.

13. The following section is hereby inserted in the Riotous Assemblies Act, 1956, after section 19:

"19A. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel."

Insertion of section 19A in Act 17 of 1956.

14. The Riotous Assemblies and Criminal Law Amendment Ordinance 1930, of the territory of South West Africa, is hereby repealed.

Repeal of Ordinance 9 of 1930 of South West Africa.

15. Section 5 of the Terrorism Act, 1967, is hereby amended by the deletion of paragraph (f).

Amendment of section 5 of Act 83 of 1967, as amended by section 34 of Act 34 of 1969.

16. This Act shall be called the Internal Security Amendment Act, 1976.

Short title.