

No. 76, 1962.]

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 Suppression of Communism Act, 1950, the Public Safety Act, 1953, the Criminal Procedure Act, 1955, the Riotous Assemblies Act, 1956, and the Unlawful Organizations Act, 1960, to define and prohibit sabotage and to provide for other incidental matters.

(English text signed by the State President.)
(Assented to 22nd June, 1962.)

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

1. Section *one* of the Suppression of Communism Act, 1950 (hereinafter referred to as the principal Act), is hereby amended by the insertion in sub-section (1) in the definition of "gathering" after the word "having" of the expression "except in the case of any gathering contemplated in sub-paragraph (ii) of paragraph (e) of sub-section (1) of section *five* or paragraph (b) of sub-section (1) or (3) of section *nine*,". Amendment of section 1 of Act 44 of 1950, as amended by section 1 of Act 50 of 1951.
2. Section *two* of the principal Act is hereby amended— Amendment of section 2 of Act 44 of 1950.
 - (a) by the addition to paragraph (d) of sub-section (2) of the word "or";
 - (b) by the insertion after the said paragraph of the following paragraph:
“(e) that any organization carries on or has been established for the purpose of carrying on directly or indirectly any of the activities of an unlawful organization,”;
 - (c) by the substitution in sub-section (3) for the expression “and (d)” of the expression “(d) and (e)”.
3. Section *five* of the principal Act is hereby amended by the substitution for paragraph (e) of sub-section (1) of the following paragraph: Amendment of section 5 of Act 44 of 1950, as amended by section 4 of Act 50 of 1951 and section 3 of Act 15 of 1954.

“(e) not to attend—

 - (i) any gathering; or
 - (ii) any particular gathering or any gathering of a particular nature, class or kind,

at any place or in any area during any period or on any day or during specified times or periods within any period, except in such cases as may be specified in the notice or as the Minister or a magistrate acting in pursuance of his general or special instructions may at any time expressly authorize.”.
4. The following section is hereby inserted after section *five bis* of the principal Act: Insertion of section 5ter in Act 44 of 1950.

“Certain persons not to become office-bearers, officers or members of certain organizations without consent of Minister or magistrate.

5ter. (1) The Minister may by notice in the *Gazette* prohibit all persons whose names appear on any list in the custody of the officer referred to in section *eight* or who were office-bearers, officers or members of any organization which has under sub-section (2) of section *two* been declared to be an unlawful organization or in respect of whom any prohibition under this Act by way of notices addressed and delivered or tendered to them is in force, from being or becoming office-bearers, officers or members of any particular organization or any organization of a nature, class or kind specified in such notice, except with the written consent of the Minister or a magistrate acting in pursuance of his general or special instructions: Provided that the Minister shall not issue any such notice in relation to any employers' organization or trade union registered under the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), except after consultation with the Minister of Labour.

(2) The Minister may at any time by like notice withdraw or vary any notice under sub-section (1).”.

5. The following section is hereby inserted after section *six* of the principal Act:

"Restriction on registration of newspapers.

Insertion of section 6bis in Act 44 of 1950.

6bis. (1) No certificate of registration shall be issued under the Newspaper and Imprint Act, 1934 (Act No. 14 of 1934), in respect of any newspaper unless the proprietor of such newspaper deposits with the Minister of the Interior such amount not exceeding twenty thousand rand as the Minister may determine or unless the Minister certifies that he has no reason to believe that a prohibition under section *six* will at any time become necessary in respect of such newspaper.

(2) Any amount deposited in terms of sub-section (1) shall be regarded as a deposit for the purposes of the Public Debt Commissioners Act, 1911 (Act No. 18 of 1911): Provided that no interest earned on any such deposit shall be paid to the proprietor concerned except in accordance with the provisions of sub-section (3).

(3) Subject to the provisions of sub-section (4), interest earned on any amount so deposited shall be paid to the proprietor concerned at the expiration of each full period of five years from the date of deposit and whenever such amount may be refunded to the depositor.

(4) If a prohibition is imposed under section *six* in respect of any newspaper, any amount deposited in respect of such newspaper together with any interest not paid to the proprietor concerned, shall be forfeited to the State: Provided that the Minister may direct that such portion of such amount as he may determine shall be refunded to such proprietor.

(5) Unless the Minister of the Interior in consultation with the Minister at any time otherwise directs, the registration of a newspaper under the Newspaper and Imprint Act, 1934, shall lapse—

(a) if printing and publishing of such newspaper is not commenced—

(i) in the case of a newspaper registered before the date of commencement of the General Law Amendment Act, 1962, within one month after such date;

(ii) in the case of a newspaper registered on or after the said date, within one month after registration;

(b) if the newspaper is at any time not printed and published during a period exceeding one month.

(6) The Minister of the Interior shall refund to the depositor any amount deposited in respect of any newspaper—

(a) on production of a certificate by the Minister as contemplated in sub-section (1); or

(b) if the registration of such newspaper has lapsed in terms of sub-section (5)."

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

"(3) The Minister may upon good cause being shown direct that the name of any person appearing on any such list be removed therefrom.

(4) The Minister may cause any such list or any extract from any such list to be published in the *Gazette* and shall cause notice to be given in the *Gazette* of the removal of any name from any list so published or the removal from any list of any name appearing in any extract from such list so published."

Amendment of section 8 of Act 44 of 1950, as amended by section 7 of Act 50 of 1951.

7. Section *nine* of the principal Act is hereby amended—

(a) by the substitution for sub-section (1) of the following sub-section:

"(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, he may by notice under his hand addressed and delivered or tendered to that person, prohibit him from attending, except in such

Amendment of section 9 of Act 44 of 1950 as amended by section 6 of Act 15 of 1954.

cases as may be specified in the notice or as the Minister or a magistrate acting in pursuance of his general or special instructions may at any time expressly authorize—

- (a) any gathering; or
- (b) any particular gathering or any gathering of a particular nature, class or kind,

at any place or in any area during any period or on any day or during specified times or periods within any period.”;

- (b) by the addition of the following sub-sections:

“(3) The Minister may in the manner provided in sub-section (2) of section *two* of the Riotous Assemblies Act, 1956 (Act No. 17 of 1956), prohibit the assembly, except in such cases as he may specify when imposing the prohibition or as may thereafter be expressly authorized by him or a magistrate acting in pursuance of his general or special instructions—

- (a) of any gathering; or
- (b) of any particular gathering or any gathering of a particular nature, class or kind,

at any place or in any area during any period or on any day or during specified times or periods within any period, if he deems it to be necessary in order to combat the achievement of any of the objects of communism.

(4) The Minister may, in the manner in which any prohibition under this section was imposed, at any time withdraw or vary such prohibition.”.

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

- (a) by the substitution for sub-section (1) of the following sub-section:

Amendment of section 10 of Act 44 of 1950, as amended by section 7 of Act 15 of 1954.

“(1) (a) If the name of any person appears on any list in the custody of the officer referred to in section *eight* or the Minister is satisfied that any person—

- (i) advocates, advises, defends or encourages the achievement of any of the objects of communism or any act or omission which is calculated to further the achievement of any such object; or
- (ii) is likely to advocate, advise, defend or encourage the achievement of any such object or any such act or omission; or
- (iii) engages in activities which are furthering or may further the achievement of any such object,

the Minister may by notice under his hand addressed and delivered or tendered to any such person and subject to such exceptions as may be specified in the notice or as the Minister or a magistrate acting in pursuance of his general or special instructions may at any time authorize in writing, prohibit him, during a period so specified, from being within or absenting himself from any place or area mentioned in such notice or, while the prohibition is in force, communicating with any person or receiving any visitor or performing any act so specified: Provided that no such prohibition shall debar any person from communicating with or receiving as a visitor any advocate or attorney managing his affairs whose name does not appear on any list in the custody of the officer referred to in section *eight* and in respect of whom no prohibition under this Act by way of a notice addressed and delivered or tendered to him is in force.

- (b) The Minister may at any time by like notice withdraw or vary any such notice.”;

- (b) by the insertion after sub-section (1)*bis* of the following sub-section:

“(1)*ter* Without prejudice to the provisions of sub-section (1) the Minister may, before deciding to impose any prohibition on any person under the said sub-section, require any magistrate to administer to such person a warning to refrain from engaging in any activities calculated to further the achievement of any of the objects of communism.”

- (c) by the deletion in sub-section (3) of the words “Subject to the proviso to sub-section (1)” and the words “after the expiration of the period of not less than seven days stated in such notice”.

9. The following sections are hereby inserted after section *ten* of the principal Act:

Insertion of sections 10*bis*, 10*ter* and 10*quat* in Act 44 of 1950.

“Service of documents by publication in the *Gazette*.”

10*bis*. If the Minister is satisfied that in carrying out any of the provisions of this Act reasonable but unsuccessful attempts have been made to serve, deliver or tender any order, notice or document on or to any person, and that a copy of such order, notice or document has been affixed to the main entrance of the last-known residence of such person, he may cause such order, notice or document to be published in the *Gazette*, whereupon it shall be deemed to have been served, delivered or tendered on or to such person on the date of publication.

Publication in the *Gazette* of particulars of prohibition of certain persons from attending gatherings.

10*ter*. The Minister may cause particulars of any notice issued under paragraph (e) of sub-section (1) of section *five* or sub-section (1) of section *nine*, to be published in the *Gazette*.

Minister may order certain persons to report periodically at police station.

10*quat*. (1) The Minister may at any time by notice under his hand addressed and delivered or tendered to any person whose name appears on any list in the custody of the officer referred to in section *eight* or in respect of whom any prohibition under this Act by way of a notice addressed and delivered or tendered to him is in force, order such person to report to the officer in charge of such police station and at such times and during such period as may be specified in the notice concerned.

(2) The Minister may at any time in like manner withdraw or vary any notice issued under sub-section (1).”

10. (1) Section *eleven* of the principal Act is hereby amended—

Amendment of section 11 of Act 44 of 1950, as amended by section 8 of Act 15 of 1954.

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

“(d)*bis* while his name appears on any list in the custody of the officer referred to in section *eight* or while any prohibition under this Act by way of a notice addressed and delivered or tendered to him is in force, changes the place of his residence or employment and fails forthwith to give notice thereof in person to an officer in charge of a police station;

(d)*ter* while his name so appears or while any such prohibition is in force, when called upon by a peace officer as defined in the Criminal Procedure Act, 1955 (Act No. 56 of 1955), to furnish him with his full name and address, fails to do so or furnishes a false or incorrect name and address;

(d)*quat* fails to comply with a notice addressed and delivered or tendered to him in terms of sub-section (1) of section *ten quat*.”;

- (b) by the insertion after paragraph (e) of the following paragraph:

“(e)*bis* without the consent of the Minister, is in possession of any periodical or other publication which is subject to a prohibition imposed under section *six*.”;

- (c) by the insertion after paragraph (f)bis of the following paragraph:
“(f)ter in contravention of a notice under section five ter is or becomes an office-bearer, officer or member of any organization;”;
- (d) by the insertion in paragraph (g) after the word “addresses” of the words “or prints, publishes, distributes or in any manner whatsoever circulates a notice convening”;
- (e) by the substitution for paragraph (g)bis of the following paragraph:
“(g)bis without the consent of the Minister or except for the 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 produced anywhere at any time by any person prohibited under section five or nine from attending any gathering;”;
- (f) by the deletion in paragraph (i) of the expression “subject to the proviso to sub-section (1) of section ten,”;
- (g) by the substitution in paragraph (i) for the expression “or (d)” of the expression “(d), (d)bis, (d)ter or (d)quat” and by the insertion in the said paragraph after the word “period” of the words “of not less than one year and”;
- (h) by the insertion in paragraph (ii) after the expression “(e)” of the expression “(e)bis,” and after the expression “(f)bis” of the expression “(f)ter,”.
- (2) Paragraph (b) of sub-section (1) shall come into operation six months after the date of promulgation of this Act.

11. Section twelve of the principal Act is hereby amended—

- (a) by the insertion after sub-section (1) of the following sub-section:
“(1)bis If in any prosecution for an offence under paragraph (d)bis of section eleven it is proved that the accused person has changed the place of his residence or employment he shall be deemed to have failed to give notice thereof as required by the said paragraph unless the contrary is proved.”;
- (b) by the substitution for sub-section (3) of the following sub-section:
“(3) No person shall be convicted of an offence under paragraph (g) or (g)bis of section eleven, if he satisfies the court that at the time the offence was committed he had no knowledge of the prohibition concerned, unless at the said time the prohibition or particulars thereof had been notified in the *Gazette*.”.

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

12. Section sixteen of the principal Act is hereby amended by the substitution for all the words before the word “three” where it occurs for the second time of the words “Sections six, seven and eight of the Riotous Assemblies Act, 1956 (Act No. 17 of 1956), and sections”.

Amendment of section 16 of Act 44 of 1950.

13. Section seventeen of the principal Act is hereby amended by the substitution for the expression “and the powers conferred upon the Minister by sub-section (1) of section ten of this Act, except” of the expression “except the power conferred under sub-section (2) of section two in respect of an organization contemplated in paragraph (e) of the said sub-section and”.

Amendment of section 17 of Act 44 of 1950.

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

Substitution for “Governor-General” and “Union” of “State President” and “Republic” respectively, in Act 44 of 1950.

15. Any proclamation, notice, prohibition or list compiled or issued under the principal Act shall be deemed to have been compiled or issued under that Act as amended by this Act.

Acts under principal Act deemed to be acts under that Act, as amended by this Act.

16. Section *three* of the Public Safety Act, 1953, is hereby amended by the addition to sub-section (1) of the following paragraph, the existing sub-section becoming paragraph (a):
- “(b) Any such regulation may, to such extent and subject to such modifications as may be specified in the relevant proclamation or in any subsequent proclamation by the State President in the *Gazette*, be declared to apply also outside the said area in so far as he may deem it to be necessary in order to deal with the state of emergency.”.
- Amendment of section 3 of Act 3 of 1953, as amended by section 31 of Act 62 of 1955.
17. Section *one hundred and eight bis* of the Criminal Procedure Act, 1955, is hereby amended with effect from 1st June, 1962, by the substitution in sub-section (5) for the expression “1962” of the expression “1963”.
- Amendment of section 108*bis* of Act 56 of 1955, as inserted by section 4 of Act 39 of 1961.
18. The following section is hereby inserted after section *two hundred and sixty-three bis* of the Criminal Procedure Act, 1955:
- “Presumptions relating to absence from Republic of any person. 263*ter*. (1) Any document (including any newspaper, periodical, book, pamphlet, letter, circular letter, list, record, placard or poster) on the face whereof it appears that a person of a name corresponding to that of an accused person has at any particular time been outside the Republic, shall on its mere production by the public prosecutor in any criminal proceedings be *prima facie* proof that the accused was outside the Republic at such time, if such document is accompanied by a certificate purporting to have been signed by the Secretary for Foreign Affairs to the effect that he is satisfied that such document is of foreign origin.
- (2) The provisions of sub-section (1) shall apply to any criminal proceedings in respect of any offence committed before or after the commencement of the General Law Amendment Act, 1962.”.
- Insertion of section 263*ter* in Act 56 of 1955.
19. Section *two* of the Riotous Assemblies Act, 1956, is hereby amended—
- (a) by the insertion after sub-section (3) of the following sub-sections:
- “(3)*bis* (a) If the Minister is satisfied that reasonable but unsuccessful attempts have been made to deliver or tender to any person a notice issued under sub-section (3), 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 sub-section (3) to be published in the *Gazette*.
- (3)*ter* The Minister may, if he deems it necessary or expedient for the maintenance of the public peace, by notice in the *Gazette* prohibit the assembly, except in such cases as may be specified in the notice or as the Minister or a magistrate acting in pursuance of his general or special instructions may at any time expressly authorize, of any public gathering in any public place in any area during any period or on any day or during specified times or periods within any period.”;
- (b) by the addition of the following sub-section:
- “(5) (a) Any person who without the consent of the Minister or except for the 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 produced anywhere at any time by any person prohibited under sub-section (3) from attending any public gathering, shall be guilty of an offence and liable
- Amendment of section 2 of Act 17 of 1956, as amended by section 6 of Act 39 of 1961.

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*."

20. Section two of the Unlawful Organizations Act, 1960, is hereby amended—

Amendment of section 2 of Act 34 of 1960.

- (a) by the substitution for the expression "and sections three to fifteen," of the expression "sections three to five *ter*, inclusive, and sections seven to fifteen,";
- (b) by the substitution for the expression "sections five bis and six" of the expression "section five bis";
- (c) by the substitution in paragraph (e) for the expression "or (d)" of the expression "(d) or (e)".

21. (1) Subject to the provisions of sub-section (2), any person who commits any wrongful and wilful act whereby he injures, damages, destroys, renders useless or unserviceable, puts out of action, obstructs, tampers with, pollutes, contaminates or endangers—

Sabotage.

- (a) the health or safety of the public;
- (b) the maintenance of law and order;
- (c) any water supply;
- (d) the supply or distribution at any place of light, power, fuel, foodstuffs or water, or of sanitary, medical or fire extinguishing services;
- (e) any postal, telephone or telegraph services or installations, or radio transmitting, broadcasting or receiving services or installations;
- (f) the free movement of any traffic on land, at sea or in the air;
- (g) any property, whether movable or immovable, of any other person or of the State,

or who 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 such act, or who in contravention of any law possesses any explosives, fire-arm or weapon or enters or is upon any land or building or part of a building, shall be guilty of the offence of sabotage 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) No person shall be convicted of an offence under sub-section (1) if he proves that the commission of the alleged offence, objectively regarded, was not calculated and that such offence was not committed with intent to produce any of the following effects, namely—

- (a) to cause or promote general dislocation, disturbance or disorder;
- (b) to cripple or seriously prejudice any industry or undertaking or industries or undertakings generally or the production or distribution of commodities or foodstuffs at any place;
- (c) to seriously hamper or to deter any person from assisting in the maintenance of law and order;
- (d) to cause, encourage or further an insurrection or forcible resistance to the Government;
- (e) to further or encourage the achievement of any political aim, including the bringing about of any social or economic change in the Republic;
- (f) to cause serious bodily injury to or seriously endanger the safety of any person;
- (g) to cause substantial financial loss to any person or to the State;
- (h) to cause, encourage or further feelings of hostility between different sections of the population of the Republic;

- (i) to seriously interrupt the supply or distribution at any place of light, power, fuel or water, or of sanitary, medical or fire extinguishing services;
 - (j) to embarrass the administration of the affairs of the State.
- (3) No trial for the offence of sabotage shall be instituted without the written authority given personally by the attorney-general or acting attorney-general having jurisdiction in the area concerned.
- (4) Notwithstanding anything to the contrary in any law or the common law contained—
- (a) any person accused of having committed the offence of sabotage shall be tried by a judge of the Supreme Court without a jury as if the provisions of sections *one hundred and nine* and *one hundred and ten* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), applied in respect of his trial;
 - (b) the trial of any such person may be held at any time and at any place within the area of jurisdiction of the division of the Supreme Court concerned;
 - (c) whenever two or more persons are in any indictment, summons or charge alleged to have committed offences of sabotage at the same time and place, or at the same place and at approximately the same time, such persons may be tried jointly for such offences on that indictment, summons or charge;
 - (d) any person accused of having committed the offence of sabotage shall, if the attorney-general so directs, be tried summarily without a preparatory examination having been instituted against him;
 - (e) if no preparatory examination is to be held, 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 shall on conviction of the offence of sabotage be dealt with under section *three hundred and forty-two*, *three hundred and forty-five* or *three hundred and fifty-two* of the said Act;
 - (g) acquittal on a charge of having committed the offence of sabotage 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 the offence of sabotage.
- (5) Nothing in this section contained shall render unlawful any action relating to a matter dealt with under the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), or section *twenty-eight* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), which could immediately prior to the commencement of the General Law Amendment Act, 1962, have been lawfully taken.

22. This Act shall be called the General Law Amendment Act, 1962. Short title.