

EXTRAORDINARY OF SOUTH WEST AFRICA

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GOVERNMENT NOTICE

No. 134 Promulgation of Protection of Fundamental Rights Act, 1988 (Act 16 of 1988), of the National Assembly. 1

Government Notice

DEPARTMENT OF
GOVERNMENTAL AFFAIRS

No. 134 1988

PROMULGATION OF ACT OF NATIONAL ASSEMBLY

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation: —

No. 16 of 1988: Protection of Fundamental Rights Act, 1988.

PROTECTION OF FUNDAMENTAL RIGHTS ACT, Act No. 16, 1988
1988**ACT**

To provide for the protection of certain fundamental rights of persons, and for matters incidental thereto.

*(Afrikaans text signed by the Administrator-General
on 2 August 1988)*

BE IT ENACTED by the National Assembly, as follows:-

1. In this Act, unless the context otherwise indicates — Definitions.

“educational institution” means any school or institution established, registered or recognised by or under any law and at which education is provided to children or other persons, and includes any university, technicon or college established by or under any law; and

“the State” includes any representative authority established under the provisions of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980), and any board or body established or constituted by or under any law.

2. (1) Any person who, without any lawful reason, in any manner whatsoever, uses or publishes any language or does any act or thing with intent to induce or to persuade any other person or persons in general —

Offences relating to certain fundamental rights.

(a) (i) to impede, interrupt or stop in any manner the functions or activities of or at any educational institution;

(ii) to abstain, temporarily or permanently, from attending any class or lecture at any educational institution where such person is admitted as a pupil or student or, from participating in any other lawful activity at such educational institution;

(iii) to obstruct or to attempt to obstruct, in any manner, any other person admitted as a pupil or student to any educational institution from attending any class or lecture at such educa-

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tional institution or, from participating in any other lawful activity at such educational institution;

(b) (i) to stay away, temporarily or permanently, from his place of employment, or to refuse to perform or refrain from performing his duties;

(ii) to obstruct or to attempt to obstruct, in any manner, any other person from attending his place of employment or from performing his duties;

(c) (i) to abstain from making use of or receiving any public service, of whatever nature, rendered by the State or any person, whether to him in particular or persons generally, and which he normally makes use of or receives or may make use of or receive;

(ii) to obstruct or abstain any other person from making use of or from receiving any of the public services referred to in subparagraph (i);

(d) to boycott any undertaking or industry or undertakings or industries generally or to impede or interrupt in any manner the business ordinarily carried on by any undertaking or industry, or not to make use thereof,

shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) The provisions of subsection (1)(b) and (d) shall not apply in relation to anything that any employers' organization or trade union registered under the Wage and Industrial Conciliation Ordinance, 1952 (Ordinance 35 of 1952), may lawfully do or not do under that Ordinance, as the case may be.

(3) If in any prosecution in terms of subsection (1), it is proved that any person has done any act or acts constituting an offence in accordance with the provisions of that subsection, it shall be deemed to have been done by him without lawful reason, unless the contrary is proved.

3. Any person who, by himself or by any other person, directly or indirectly, makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, upon or

Offences relating to violence, injury, damage, harm, loss or detriment.

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against, or does or threatens to do anything to the detriment of, any other person, or his next of kin, on account of such other person —

- (a) attending or having attended any class or lecture at any educational institution where he is admitted as a pupil or student or, participating or having participated in any other activity at such educational institution;
- (b) calling on or having called on any undertaking or industry to transact any business of whatever nature or for any other lawful purpose;
- (c) making use or having made use of any public service referred to in paragraph (c) of subsection (1) of section 2;
- (d) attending or having attended his place of employment in order to perform his ordinary duties; or
- (e) intending —
 - (i) to attend any class or lecture at any educational institution where he is admitted as a pupil or student or, to participate in any other activity at such educational institution;
 - (ii) to call on any undertaking or industry to transact any business of whatever nature or for any other purpose;
 - (iii) to make use of any public service referred to in paragraph (c) of subsection (1) of section 2; or
 - (iv) to attend his place of employment in order to perform his ordinary duties,

shall be guilty of an offence and be liable on conviction to the penalties provided by subsection (1) of section 2 of this Act.

4. (1) For the purposes of this Act, any police official or any peace officer as defined in the Criminal Procedure Act, 1977 (Act 51 of 1977), and any member of the South African Defence Force, shall have the right, subject to the provisions of subsections (2) and (3) of this section, to enter and search any premises and to search, arrest and detain in custody any person.

Rights of police official, peace officer or member of the South African Defence Force in relation to searching and entering of premises and searching, arresting and detaining in custody of persons.

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(2) The provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), in relation to the entering and searching of premises or the search, arrest and detention in custody of persons, shall *mutatis mutandis* apply to any entering or searching of premises and any search, arrest or detention in custody of persons under subsection (1) of this section.

(3) In the application of the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), in accordance with subsection (2) of this section, any reference in the said Criminal Procedure Act, 1977, to a peace officer shall be construed as including a reference to any member of the South African Defence Force.

5. This Act shall be called the Protection of Fundamental Rights Act, 1988. Short title.