

BUITENGEWONE  
**OFFISIËLE KOERANT**  
VAN SUIDWES-AFRIKA.



**OFFICIAL GAZETTE**  
EXTRAORDINARY  
OF SOUTH WEST AFRICA.

UITGAWE OP GESAG.

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No. 3, 1953.]

# ACT

**To make provision for the safety of the public and the maintenance of public order in cases of emergency and for matters incidental thereto.**

*(Afrikaans text signed by the Governor-General.)  
(Assented to 24th February, 1953.)*

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

## Definitions.

### 1. In this Act—

“the Territory” means the territory of South-West Africa;  
“Union” includes the Territory.

The Governor-General may declare the existence of a state of emergency in any area.

### 2. (1) If in the opinion of the Governor-General it at any time appears that—

- (a) any action or threatened action by any persons or body of persons in the Union or any area within the Union is of such a nature and of such an extent that the safety of the public, or the maintenance of public order is seriously threatened thereby; or
- (b) circumstances have arisen in the Union or any area within the Union which seriously threaten the safety of the public, or the maintenance of public order; and
- (c) the ordinary law of the land is inadequate to enable the Government to ensure the safety of the public, or to maintain public order,

he may, by proclamation in the *Gazette*, declare that as from a date mentioned in the proclamation, which date may be a date not more than four days earlier than the date of the proclamation, a state of emergency exists within the Union or within such area, as the case may be.

(2) No proclamation issued under sub-section (1) shall remain in force for more than twelve months: Provided that nothing in this sub-section contained shall be construed as precluding the issue of another proclamation in respect of the same area at or before the expiration of the said period of twelve months.

(3) The Governor-General may at any time and in like manner withdraw any proclamation issued under sub-section (1).

## Emergency Regulations.

3. (1) The Governor-General may in any area in which the existence of a state of emergency has been declared under section two, and for as long as the proclamation declaring the existence of such emergency remains in force, by proclamation in the *Gazette*, make such regulations as appear to him to be necessary or expedient for providing for the safety of the public, or the maintenance of public order and for making adequate provision for terminating such emergency or for dealing with any circumstances which in his opinion have arisen or are likely to arise as a result of such emergency.

(2) Without prejudice to the generality of the powers conferred by this section—

(a) such regulations may provide for—

- (i) the empowering of such persons or bodies as may be specified therein to make orders, rules and by-laws for any of the purposes for which the Governor-General is by this section authorized to make regulations, and to prescribe penalties for any contravention of or failure to comply with the provisions of such orders, rules or by-laws;
- (ii) the imposition of penalties specified therein for any contravention of or failure to comply with any provisions of the regulations or any directions issued or conditions prescribed by or under the regulations, which penalties may include the confiscation of any goods, property or instruments by means of which or in connection with which the offence has been committed;

- (b) such regulations may be made with retrospective effect from the date from which it has under section *two* been declared that a state of emergency exists within the Union or the area concerned, as the case may be: Provided that no such regulation shall make punishable any act or omission which was not punishable at the time when it was committed; and
- (c) different regulations may be made for different areas in the Union and for different classes of persons in the Union.

(3) Nothing in this section contained shall authorize the making of any regulations whereby—

- (a) is imposed any liability to render compulsory military service other than that provided for in the South Africa Defence Act, 1912 (Act No. 13 of 1912); or
- (b) provision is made for the imposition of a fine exceeding five hundred pounds or imprisonment for a period exceeding five years; or
- (c) any law relating to the qualifications, nomination, election or tenure of office of members of the Senate or the House of Assembly or a provincial Council or the Legislative Assembly of the Territory, or to the holding of sessions of Parliament or a provincial Council or the said Assembly, or to the powers, privileges or immunities of Parliament or a provincial Council or the said Assembly or of the members or committees thereof, is altered or suspended; or
- (d) any action relating to a matter dealt with under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), or section *twenty-five* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), which may, at the date when such regulations are promulgated, be lawfully taken, is rendered unlawful:

Provided that—

- (i) for the purposes of section *seventy-nine* of the South Africa Defence Act, 1912 (Act No. 13 of 1912), the Territory shall be deemed to be a part of the Union;
- (ii) in regard to any matter dealt with under the Industrial Conciliation Act, 1937, the provisions of the said Act, or such portions of the said provisions as may in the opinion of the Governor-General be necessary or adequate, may be applied to the Territory by regulation with such modifications as may be required for the purposes of such application;
- (iii) no regulation may be applied to the Territory which could, in terms of paragraph (c), not be applied to the Union, exclusive of the Territory.

(4) Whenever any regulation made under sub-section (1) provides for the summary arrest and detention of any person, and any person is, in pursuance of such a regulation detained for a period of longer than thirty days, the Minister shall, within fourteen days of the expiration of such period of thirty days, if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session, lay the name of such person on the Tables of both Houses of Parliament.

(5) Any regulation made under sub-section (1) shall be laid on the Tables of both Houses of Parliament within fourteen days after promulgation thereof if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session, and shall remain on the said Tables for at least twenty-eight consecutive days, and if Parliament is prorogued before the necessary twenty-eight days have elapsed, such regulation shall again be laid on the said Tables as aforesaid within fourteen days after the commencement of its next ensuing ordinary session.

- (6) (a) If such regulation is not approved in both Houses of Parliament by resolution passed in the same session (being a session during which such regulation has been laid on the Tables of both Houses of Parliament in terms of sub-section (5)) such regulation shall cease to be of force and effect—

- (i) as from the date of any resolution of either House of Parliament disapproving thereof to the extent of such disapproval, or
- (ii) as from the date on which Parliament is prorogued at the end of any session during which such regulation has been on the Tables of both Houses of Parliament for at least twenty-eight days;

whichever is the earlier date.

- (b) The provisions of paragraph (a) are without prejudice to the validity of anything done in terms of such regulation or any provision thereof up to the date upon which it so ceased to be of force and effect, or to any right, privilege, obligation or liability acquired, accrued or incurred as at the said date under and by virtue of such regulation or such provision thereof.

Powers of the Governor-General may be exercised by the Minister of Justice in urgent cases.

4. (1) Whenever owing to special circumstances it is in the opinion of the Minister of Justice urgently necessary to do so, he may, in respect of any area within the Union (other than the Territory) in respect of which no proclamation issued under this Act is in force, by notice in the *Gazette* exercise any of the powers which the Governor-General may exercise by proclamation under this Act.

(2) A notice issued under sub-section (1) shall have the same force and effect as a proclamation issued by the Governor-General under this Act and shall remain in force until a proclamation is issued in respect of the area in respect of which the notice has been issued, but in no case for more than ten days.

Application of Act to South-West Africa.

5. (1) This Act shall apply also in the Territory, including for all purposes the portion of the Territory, known as the "Rehoboth Gebiet", and defined in the First Schedule to Proclamation by the Administrator of the Territory No. 28 of 1923.

(2) The Administrator of the Territory shall, in respect of the Territory, have and exercise *mutatis mutandis* the powers conferred under section *four* on the Minister of Justice in respect of the Union (exclusive of the Territory).

(3) The provisions of sub-section (2) of section *four* shall apply also in respect of any notice issued by the Administrator of the Territory under sub-section (2) of this section.

(4) Notwithstanding anything to the contrary in any other law contained, any proclamation, regulation, notice, order, rule or by-law, issued under this Act, which relates only to the Territory, or any portion of the Territory, shall be sufficiently promulgated if published in the *Official Gazette* of the Territory.

Short title.

6. This Act shall be called the Public Safety Act, 1953.

No. 7, 1953.]

# ACT

To consolidate and amend the law relating to the execution of wills.

(English text signed by the Governor-General.)  
(Assented to 25th February, 1953.)

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

## Definitions.

1. In this Act, unless the context otherwise indicates—
  - (i) "competent witness" means a person of the age of fourteen years or over who at the time he witnesses a will is not incompetent to give evidence in a court of law; (i)
  - (ii) "Court" means a provincial or local division of the Supreme Court of South Africa or the High Court of South-West Africa or any judge thereof; (ii)
  - (iii) "Master" means a Master of the Supreme Court of South Africa, the Assistant Master at Kimberley or the Master of the High Court of South-West Africa; (iii)
  - (iv) "sign" includes in the case of a testator the making of a mark but does not include the making of a mark in the case of a witness, and "signature" has a corresponding meaning; (iv)
  - (v) "will" includes a codicil and any other testamentary writing. (v)

## Formalities required in the execution of a will.

2. (1) Subject to the provisions of section *three*—
  - (a) no will executed on or after the first day of January, 1954, shall be valid unless—
    - (i) the will is signed at the end thereof by the testator or by some other person in his presence and by his direction; and
    - (ii) such signature is made by the testator or by such other person or is acknowledged by the testator and, if made by such other person, also by such other person, in the presence of two or more competent witnesses present at the same time; and
    - (iii) such witnesses attest and sign the will in the presence of the testator and of each other and, if the will is signed by such other person, in the presence also of such other person; and
    - (iv) if the will consists of more than one page, each page is so signed by the testator or by such other person and by such witnesses; and
    - (v) if the will is signed by the testator by the making of a mark or by some other person in the presence and by direction of the testator, a magistrate, justice of the peace, commissioner of oaths or notary public certifies at the end thereof that the testator is known to him and that he has satisfied himself that the will so signed is the will of the testator, and if the will consists of more than one page, each page is signed by the magistrate, justice of the peace, commissioner of oaths or notary public who so certifies;
  - (b) no deletion, addition, alteration or interlineation made in a will executed on or after the said date and made after the execution thereof shall be valid unless—
    - (i) the deletion, addition, alteration or interlineation is identified by the signature of the testator or by the signature of some other person made in his presence and by his direction; and

- (ii) such signature is made by the testator or by such other person or is acknowledged by the testator and, if made by such other person, also by such other person, in the presence of two or more competent witnesses present at the same time; and
- (iii) the deletion, addition, alteration or interlineation is further identified by the signatures of such witnesses made in the presence of the testator and of each other and, if the deletion, addition, alteration or interlineation has been identified by the signature of such other person, in the presence also of such other person; and
- (iv) if the deletion, addition, alteration or interlineation is identified by the mark of the testator or the signature of some other person made in his presence and by his direction, a magistrate, justice of the peace, commissioner of oaths or notary public certifies on the will that the testator is known to him and that he has satisfied himself that the deletion, addition, alteration or interlineation has been made by or at the request of the testator.

(2) Any deletion, addition, alteration or interlineation made in a will executed after the said date shall for the purposes of sub-section (1) be presumed, unless the contrary is proved, to have been made after the will was executed.

#### **Soldiers' wills.**

3. (1) Any person while on active service with any of the land, air or naval forces of the Union or of any other country allied to or associated with the Union in any war, may make a will without complying with the formalities prescribed by section two or with any formalities whatsoever, except that it shall be made in writing.

(2) Such a will, hereinafter called a soldier's will, shall be valid if the maker thereof dies while he is, or within one year after he has ceased to be, on active service with such forces.

(3) A soldier's will, signed by the maker thereof, may on application to the Master having jurisdiction, be accepted by that Master without an order of court, provided he is satisfied by evidence on affidavit that it is a valid will in terms of sub-sections (1) and (2).

(4) Any person aggrieved by the Master's acceptance of the will may, within thirty days after the date of such acceptance, or within such further period as the Court may on good cause allow, and after service of notice upon any person affected by such acceptance, make application to the Court having jurisdiction for an order setting aside such acceptance and the Court may confirm or set aside such acceptance or make such other order as it may deem fit.

(5) If a soldier's will is not signed by the maker thereof or if a soldier's will is signed by the maker thereof but the Master has refused to accept it, the Court having jurisdiction may on application, if the Court is satisfied that the will is a valid will in terms of sub-sections (1) and (2), direct the Master to accept the will and may make such further or such other order as to it seems fit.

(6) Notice of any application under sub-section (3) or (5) shall, unless the Court otherwise directs, be served on the spouse and intestate heirs of the deceased and also on any person who may be entitled to claim under any previous will made by the deceased, if such previous will is known to exist.

#### **Competency to make a will.**

4. Every person of the age of sixteen years or more may make a will unless at the time of making the will he is mentally incapable of appreciating the nature and effect of his act, and the burden of proof that he was mentally incapable at that time shall rest on the person alleging the same.

Witnesses cannot benefit under a will.

5. A person who attests the execution of any will or who signs a will in the presence and by direction of the testator or the person who is the spouse of such person at the time of attestation or signing of the will or any person claiming under such person or his spouse, shall be incapable of taking any benefit whatsoever under that will.

Witness cannot be nominated as executor, etc.

6. If any person attests the execution of a will or signs a will in the presence and by direction of the testator under which that person or his spouse is nominated as executor, administrator, trustee or guardian, such nomination shall be null and void.

Repeal of laws.

7. The laws specified in the Schedule are hereby repealed to the extent set forth in the fourth column of the Schedule: Provided that the laws so repealed shall continue to apply in respect of any will executed before the first day of January, 1954.

Application to South-West Africa.

8. This Act shall apply also in the Territory of South-West Africa.

Short title and date of commencement.

9. This Act shall be called the Wills Act, 1953, and shall come into operation on the first day of January, 1954.

#### Schedule.

##### LAWS REPEALED.

Province or Union.	No. and Year of Law.	Title or Subject of Law.	Extent of Repeal.
Cape of Good Hope.	Ordinance No. 15 of 1845.	Execution of Wills ..	So much as is unrepealed.
Do.	Act No. 22 of 1876	Attesting Witnesses Act, 1876.	The whole, excepting section <i>two</i> insofar as it applies to powers of attorney.
Do.	Act No. 3 of 1878	Wills Attestation Amendment Act, 1878.	The whole.
Natal ..	Ordinance No. 1 of 1856.	Testamentary dispositions of Natal-born subjects of Great Britain and Ireland.	The whole.
Do.	Law No. 2 of 1868	Execution of Wills and Codicils.	The whole.
Orange Free State.	Ordinance No. 11 of 1904.	Execution of Wills and other Testamentary Instruments Ordinance, 1904.	Sections <i>one</i> to <i>five</i> inclusive and sections <i>seven</i> and <i>ten</i> insofar as the two last mentioned sections apply to wills.
South - West Africa.	Proclamation No. 23 of 1920.	Wills Proclamation, 1920	The whole.
Transvaal ..	Ordinance No. 14 of 1903.	Wills Ordinance, 1903 ..	The whole.
Union ..	Act No. 14 of 1920	Wills Ordinance, 1903 (Transvaal) Amendment Act, 1920.	The whole.

No. 8, 1953.]

**ACT**

To provide for increased penalties for offences committed under certain circumstances; to prohibit the offer or acceptance of financial or other assistance for any organized resistance against the laws of the Union; and to provide for matters incidental thereto.

(Afrikaans text signed by the Governor-General.)  
(Assented to 26th February, 1953.)

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Increased penalties  
for offences com-  
mitted in certain  
circumstances.

1. Whenever any person is convicted of an offence which is proved to have been committed by way of protest or in support of any campaign against any law or in support of any campaign for the repeal or modification of any law or the variation or limitation of the application or administration of any law, the court convicting him may, notwithstanding anything to the contrary in any other law contained, sentence him to—

- (a) a fine not exceeding three hundred pounds; or
- (b) imprisonment for a period not exceeding three years; or
- (c) a whipping not exceeding ten strokes; or
- (d) both such fine and such imprisonment; or
- (e) both such fine and such a whipping; or
- (f) both such imprisonment and such a whipping.

Incitement, etc. to  
commit offence  
with certain  
objects.

2. Any person who—

- (a) in any manner whatsoever advises, encourages, incites, commands, aids or procures any other person or persons in general; or
- (b) uses any language or does any act or thing calculated to cause any person or persons in general,

to commit an offence by way of protest against a law or in support of any campaign against any law, or in support of any campaign for the repeal or modification of any law or the variation or limitation of the application or administration of any law, shall be guilty of an offence and liable upon conviction to—

- (i) a fine not exceeding five hundred pounds; or
- (ii) imprisonment for a period not exceeding five years; or
- (iii) a whipping not exceeding ten strokes; or
- (iv) both such fine and such imprisonment; or
- (v) both such fine and such a whipping; or
- (vi) both such imprisonment and such a whipping:

Provided that in the case of a second or subsequent conviction, it shall not be competent to impose a fine except in conjunction with a whipping or imprisonment.

Offer or acceptance  
of financial or  
other assistance  
for organized  
resistance against  
laws of the Union  
prohibited.

3. (1) Any person who solicits, accepts or receives from any person or body of persons, whether within or outside the Union, or who offers or gives to any person or body of persons any money or other article for the purpose of—

- (a) assisting any campaign (conducted by means of unlawful acts or omissions or the threat of such acts or omissions or by means which include or necessitate such acts or omissions or such threats) against any law, or against the application or administration of any law; or
- (b) enabling or assisting any person to commit any offence by way of protest against a law or in support of any campaign against any law or in support of any campaign for the repeal or modification of any law or the variation or limitation of the application or administration of any law; or



- (c) assisting any person who has committed any offence referred to in paragraph (b),

shall be guilty of an offence and liable upon conviction to the penalties prescribed in section *two*.

(2) The court convicting any person for receiving or accepting any money or other article for any purpose referred to in sub-section (1) shall, in addition to any penalty which it may lawfully impose, order the confiscation to the State of that money or that article, if such money or article is found in the possession or under the control of the person convicted, or so much of that money or article as was found in possession or under the control of the said person.

#### Presumptions.

4. If in any prosecution against any person in which it is alleged that the offence charged was committed by way of protest against a law or in support of any campaign against any law, or in support of any campaign for the repeal or modification of any law or the variation or limitation of the application or administration of any law, it is proved that the offence was committed in the company of two or more other persons who have been or are being charged with having committed similar offences at the place where the offence which forms the subject of the prosecution was committed, and at the same time, or approximately the same time as such offence was committed, it shall be presumed, unless the contrary is proved, that the offence was committed as alleged.

#### Joint trial of persons alleged to have committed similar offences at same time and place under certain circumstances.

5. Whenever two or more persons are in any indictment, summons or charge alleged to have committed, at the same time and place, or at the same place and at approximately the same time, similar offences by way of protest against any law or in support of any campaign against any law or in support of any campaign for the repeal or modification of any law or the variation or limitation of the application or administration of any law, such persons may, notwithstanding anything to the contrary contained in any other law, or the common law, be tried jointly for such offences on that indictment, summons or charge.

#### Recovery of fines imposed under this Act.

6. (1) Whenever an offender has been sentenced under this Act to pay a fine, the court which passed the sentence shall, unless the fine be paid within forty-eight hours of the fine becoming payable, and unless the court is satisfied that the offender does not possess any movable or immovable property, issue a warrant addressed to the sheriff or messenger of the court authorizing him to levy the amount by attachment and sale of any movable property belonging to the offender, although the sentence directs that, in default of payment of the fine the offender shall be imprisoned. The amount which may be levied shall be sufficient to cover, in addition to the fine, the costs and expenses of the warrant and of the attachment and sale thereunder.

(2) The provisions of sub-sections (2), (3) and (7) of section *three hundred and forty-six* of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), shall apply to any warrant issued under sub-section (1) of this section.

(3) If the proceeds of sale of the movable property of the offender are insufficient to satisfy the amount of the fine and the costs and expenses aforesaid, the court shall issue a warrant for the levy against the immovable property of the offender, of the amount unpaid.

#### Jurisdiction of magistrates' courts.

7. A magistrate's court shall, notwithstanding anything to the contrary in any other law contained, have jurisdiction to impose any sentence or make any order provided for by this Act: Provided that no magistrate's court shall have jurisdiction to impose a sentence of a fine exceeding three hundred pounds or imprisonment for a period exceeding three years.

#### Removal from Union of certain persons.

8. Any person who is not a South African citizen by birth or descent, and who has been convicted of an offence under section *two* or *three* or of an offence for which he has been sentenced under section *one*, and who has been deemed by the Governor-General or, in the case of an inhabitant of the Territory of South-West Africa, by the Administrator of the said Territory, to be an undesirable inhabitant of the Union or of the said Territory, as the case may be, may, having regard to the circumstances connected with the offence, be removed from the

Union or from the said Territory, and pending removal, may be detained in custody in the manner provided for the detention, pending removal from the Union or from the said Territory, of persons who are prohibited immigrants within the meaning of the relevant law relating to the regulation of immigration; and thereafter such person shall, for the purpose of such law, be deemed to be a prohibited immigrant.

Persons convicted under this Act may be prohibited from being within defined areas.

9. (1) The Minister of Justice may by notice under his hand, addressed and delivered or tendered to any person who has been convicted of any offence under section *two* or *three* or of any offence for which he has been sentenced under section *one*, prohibit such a person after a period stated in such notice, being not less than seven days from the date of such delivery or tender, and during a period likewise stated therein, from being within any area defined in such notice or from being in any other area than the area defined in such notice: Provided that the Minister may at any time withdraw or modify any such notice or grant such person permission in writing to visit temporarily any place where he is not permitted to be in terms of such notice.

(2) Any person who, subject to the proviso to sub-section (1), contravenes or fails to comply with any notice delivered or tendered to him in terms of sub-section (1), shall be guilty of an offence and liable upon conviction to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment, and may at any time after the expiration of the period of not less than seven days stated in such notice, be removed by any member of the police force duly authorized thereto in writing by any commissioned police officer from any area wherein he is prohibited to be in terms of such notice.

(3) Whenever any person who has received a notice in terms of sub-section (1) is necessarily put to any expense in order to comply with such notice, the Minister may in his discretion cause such expense, or any part thereof, to be defrayed out of moneys appropriated by Parliament for the purpose and may further in his discretion, cause to be paid out of such moneys to such person a reasonable subsistence allowance during any period whilst such notice applies to him.

Seizure of money or other articles transmitted through the post for certain purposes.

10. (1) Any postal article containing or suspected of containing any money or other article intended for any of the purposes referred to in section *three* may be detained by any officer employed in the Department of Posts and Telegraphs and forwarded to the Postmaster-General for disposal as hereinafter provided.

(2) The Postmaster-General may open for examination any postal article received by him in pursuance of the provisions of sub-section (1).

(3) If a postal article opened in terms of sub-section (2) contains any money or other article which the Postmaster-General has reason to believe is intended for any of the purposes referred to in section *three*, he shall forward it to the Minister of Posts and Telegraphs for disposal as hereinafter provided.

(4) The said Minister may, if he has reason to believe that the money or other article contained in a postal article forwarded to him in terms of sub-section (3) is intended for any of the purposes referred to in section *three*, cause that money or other article to be seized and shall cause the sender thereof, if his name and address be known, and the person to whom the postal article is addressed, to be informed forthwith of the seizure and of the reasons therefor.

(5) Any money or other article seized in terms of sub-section (4) shall be forfeited to the State unless the sender or the person to whom it was addressed proves within ninety days of the seizure to the satisfaction of the said Minister that the said money or other article was not intended for any of the purposes referred to in section *three*.

(6) A postal article detained under sub-section (1) and not dealt with as provided in sub-section (3), (4) or (5) shall be forwarded without delay to the person to whom it is addressed.

(7) For the purposes of this section "postal article" means a postal article as defined by section *two* of the Post Office Administration and Shipping Combinations Discouragement Act, 1911 (Act No. 10 of 1911).

Short title.

11. This Act shall be called the Criminal Law Amendment Act, 1953.