

Act No. 7 of 1953.

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LAWS REPEALED.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.

Act No. 8
of 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 committed 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

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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

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(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.

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(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

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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.