

Act No. 23
of 1957.

ACT

To consolidate and amend the laws relating to brothels and unlawful carnal intercourse and other acts in relation thereto.

(English text signed by the Governor-General.)
(Assented to 3rd April, 1957.)

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) "brothel" includes any house or place kept or used for purposes of prostitution or for persons to visit for the purpose of having unlawful carnal intercourse or for any other lewd or indecent purpose; (ii)
 - (ii) "coloured person" means any person other than a white person; (vi)
 - (iii) "court" means the court or jury before whom the charge is brought; (iv)
 - (iv) "house" includes a dwelling-house, building, room, out-house, shed or tent or any part thereof; (v)
 - (v) "owner" includes any person who lets or sub-lets or permits the occupation of any house or place whether in his own right or that of another; (iii)
 - (vi) "place" includes any field, enclosure, space, vehicle, or boat or any part thereof; (viii)
 - (vii) "police officer" means any member of any police force established under the authority of any law; (ix)
 - (viii) "unlawful carnal intercourse" means carnal intercourse otherwise than between husband and wife; (vii)
 - (ix) "white person" means any person who in appearance obviously is or who by general acceptance and repute is a white person. (i)

Keeping a brothel.

2. Any person who keeps a brothel shall be guilty of an offence.

Certain persons deemed to keep a brothel.

3. The following persons shall for the purposes of section two be deemed to keep a brothel:
 - (a) any person who resides in a brothel unless he or she proves that he or she was ignorant of the character of the house or place;
 - (b) any person who manages or assists in the management of any brothel;
 - (c) any person who knowingly receives the whole or any share of any moneys taken in a brothel;
 - (d) any person who, being the tenant or occupier of any house or place, knowingly permits the same to be used as a brothel;

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- (e) any person who, being the owner of any house or place, lets the same, or allows the same to be let, or to continue to be let, with the knowledge that such house or place is to be kept or used or is being kept or used as a brothel;
- (f) any woman found in a brothel who refuses to disclose the name and identity of the keeper or manager thereof;
- (g) any person whose wife keeps or resides in or manages or assists in the management of a brothel unless he proves that he was ignorant thereof or that he lives apart from her and did not receive the whole or any share of the moneys taken therein.

Onus of proof.

4. In prosecutions under this Act the onus of proving that a house or place is to be kept or used or is being kept or used as a brothel to the knowledge of the owner shall be on the prosecution: Provided that—

- (a) if it is established to the satisfaction of the court that, having regard to the locality and accommodation, the rent to be paid or paid for the house or place is exorbitant, the onus shall be on the accused to prove that he was ignorant that such house or place is to be kept or used or was kept or used as a brothel;
- (b) proof of written notice having been given to the owner by a police officer not below the rank of sergeant or by two householders living in the vicinity of the house or place that any house or place is being kept or used as a brothel, shall be conclusive proof of knowledge on his part.

**Contract to let
house or place for
a brothel void.**

5. Any contract to let any house or place to be kept or used as a brothel shall be null and void.

**Use of house or
place as a brothel
avoids contract of
letting.**

6. Any contract of letting and hiring of any house or place which subsequently to the making of such contract becomes a brothel shall as from the date of such event be determined and become null and void: Provided that upon proof by the owner of his ignorance that the house or place was so kept or used he shall be entitled to recover the rent up to the date upon which he became aware that the house or place was being kept or used as a brothel.

**Summary eject-
ment when a house
or place is used
as a brothel.**

7. The owner of any house or place kept or used as a brothel shall be entitled to apply to the magistrate of the district in which such house or place is situated for the summary ejectment of any person who may be keeping or using such house or place as a brothel and such magistrate shall be entitled after enquiry to order the summary ejectment of such person.

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Proceedings upon
complaint by
householders or
police that a
house or place is
used as a brothel.

8. (1) If it appears to any magistrate on sworn information laid before him by not less than two householders of good repute that any house or place in the vicinity of the dwellings of such householders is being kept or used as a brothel or on similar information upon oath laid before him by any police officer not below the rank of sergeant, or by a welfare officer employed by the Department of Social Welfare, a local authority or a welfare organization registered under the Welfare Organizations Act, 1947 (Act No. 40 of 1947), the magistrate may—

- (a) issue a warrant for the arrest of the person alleged to be the keeper of such brothel; or
- (b) issue a warrant authorizing any police officer not below the rank of sergeant—
 - (i) to enter at any time and within such period as shall be stated in such warrant, such house or place for the purpose of ascertaining the name and identity of the keeper of such house or place;
 - (ii) to interrogate, and to demand the name and address of any person found in or upon such house or place; and
 - (iii) to demand, search for, and seize any account book, receipt, paper, document or thing likely to afford evidence of the commission by any person of an offence under this Act.

(2) Any person found in or upon such house or place who, when called upon to do so by the police officer conducting the search, refuses to furnish his name and address or furnishes a name or address which is false in any material particular or refuses to disclose the name or identity of the keeper of such house or place or to produce any book, receipt, paper, document or thing which he has in his possession or custody or under his control, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with compulsory labour for a period not exceeding six months.

(3) The issue of a warrant under paragraph (b) of sub-section (1) shall not in any way affect the power of the magistrate to issue at any time a warrant under paragraph (a) of sub-section (1) or under any other law.

Parent or guardian
procuring defile-
ment of child or
ward.

9. (1) Any person who being a parent or guardian of any female—

- (a) procures or attempts to procure such female to have unlawful carnal intercourse with any person other than the procurer; or
- (b) orders, permits, or in any way assists in bringing about, or receives any consideration for, the defilement, seduction, or prostitution of such female,

shall be guilty of an offence.

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- (2) The term "guardian" in this section includes any person who has in law or in fact the custody or control of the female.
- Procuration.**
- 10.** Any person who—
- (a) procures or attempts to procure any female to have unlawful carnal intercourse with any person other than the procurer or in any way assists in bringing about such intercourse; or
 - (b) inveigles or entices any female to a brothel for the purpose of unlawful carnal intercourse or prostitution or conceals in any such house or place any female so inveigled or enticed; or
 - (c) procures or attempts to procure any female to become a common prostitute; or
 - (d) procures or attempts to procure any female to become an inmate of a brothel; or
 - (e) applies, administers to or causes to be taken by any female any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower her so as thereby to enable any person other than the procurer to have unlawful carnal intercourse with such female,
- shall be guilty of an offence.
- Conspiracy to defile.**
- 11.** Any person who conspires with any other person to induce any female by any false pretence or other fraudulent means to allow any male to have unlawful carnal intercourse with her, shall be guilty of an offence.
- Detention for purposes of unlawful carnal intercourse.**
- 12.** (1) Any person who takes or detains any female against her will—
- (a) to or in or upon any house or place with intent that she may be unlawfully carnally known by any male, whether a particular male or not; or
 - (b) to or in a brothel,
- shall be guilty of an offence.
- (2) Where a female is in or upon any house or place for the purpose that she may be unlawfully carnally known by any male, whether a particular male or not, or is in any brothel, she shall for the purposes of this section be deemed to have been taken thereto or to be detained therein or thereon against her will—
- (a) if she is under the age of sixteen years; or
 - (b) if she, being of or above the age of sixteen years and under the age of twenty-one years, was taken or is detained against her will or against the will of her father or mother, or any person having the lawful care or charge of her.
- (3) Any person shall be deemed to detain a female in or upon any house or place or in a brothel if, with intent to compel or induce her to remain in or upon such house or place or in such brothel, such person withholds from her any wearing apparel or other property to the possession of which she is entitled or which has been lent or supplied to her by such person or for

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the purposes of prostitution; and any such female shall be justified in taking away such wearing apparel as is necessary to enable her to leave such house or place or brothel.

Abduction.

13. (1) Any person who takes or detains or causes to be taken or detained any unmarried male or female under the age of twenty-one years out of the custody and against the will of his or her father or mother or guardian, with intent that such person or any other person, whether a particular person or not, may have unlawful carnal intercourse with such unmarried male or female, shall be guilty of an offence.

(2) The term "guardian" in this section includes any person who has in law or in fact the custody or control of the unmarried male or female.

**Sexual offences
with girls or boys
under sixteen.**

14. (1) Any male person who—

- (a) has or attempts to have unlawful carnal intercourse with a girl under the age of sixteen years; or
- (b) commits or attempts to commit with such a girl or with a boy under the age of sixteen years an immoral or indecent act; or
- (c) solicits or entices such a girl or boy to the commission of an immoral or indecent act,

shall be guilty of an offence.

(2) It shall be a sufficient defence to any charge under this section if it shall be made to appear to the court—

- (a) that the girl at the time of the commission of the offence was a prostitute, that the person so charged was at the said time under the age of twenty-one years and that it is the first occasion on which he is so charged; or
- (b) that the person so charged was at the said time under the age of sixteen years; or
- (c) that the girl or person in whose charge she was, deceived the person so charged into believing that she was over the age of sixteen years at the said time.

**Sexual offences
with female idiots
or imbeciles.**

15. Any person who—

- (a) has or attempts to have unlawful carnal intercourse with any female idiot or imbecile in circumstances which do not amount to rape; or
- (b) commits or attempts to commit with such a female any immoral or indecent act; or
- (c) solicits or entices such a female to the commission of any immoral or indecent act,

shall if it be proved that such person knew that such female was an idiot or imbecile, be guilty of an offence.

**Sexual offences
between white
persons and
coloured persons.**

16. (1) (a) Any white female person who—

- (i) has or attempts to have unlawful carnal intercourse with a coloured male person; or

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- (ii) commits or attempts to commit with a coloured male person any immoral or indecent act; or
 - (iii) entices, solicits, or importunes any coloured male person to have unlawful carnal intercourse with her; or
 - (iv) entices, solicits or importunes any coloured male person to the commission of any immoral or indecent act; and
- (b) any coloured female person who—
- (i) has or attempts to have unlawful carnal intercourse with a white male person; or
 - (ii) commits or attempts to commit with a white male person any immoral or indecent act; or
 - (iii) entices, solicits, or importunes any white male person to have unlawful carnal intercourse with her; or
 - (iv) entices, solicits, or importunes any white male person to the commission of any immoral or indecent act,
- shall be guilty of an offence.

(2) (a) Any white male person who—

- (i) has or attempts to have unlawful carnal intercourse with a coloured female person; or
- (ii) commits or attempts to commit with a coloured female person any immoral or indecent act; or
- (iii) entices, solicits, or importunes any coloured female person to have unlawful carnal intercourse with him; or
- (iv) entices, solicits or importunes any coloured female person to the commission of any immoral or indecent act; and

(b) any coloured male person who—

- (i) has or attempts to have unlawful carnal intercourse with a white female person; or
- (ii) commits or attempts to commit with a white female person any immoral or indecent act; or
- (iii) entices, solicits, or importunes any white female person to have unlawful carnal intercourse with him; or
- (iv) entices, solicits, or importunes any white female person to the commission of any immoral or indecent act,

shall be guilty of an offence.

(3) It shall be a sufficient defence to any charge under this section if it is proved to the satisfaction of the court that the person charged at the time of the commission of the offence had reasonable cause to believe that the person with whom he or she committed the offence was a white person if the person charged is a white person, or a coloured person if the person charged is a coloured person.

Owner or occupier permitting on his premises the defilement of a female or any offence against this Act.

17. Any person who being the owner or occupier of any house or place or having or acting or assisting in the management or control thereof knowingly permits the use of such house or place for the purpose of any offence against any provision of this Act, shall be guilty of an offence.

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Use of drugs, etc.,
for purposes of
defilement of
females.

Enticing to com-
mission of im-
moral acts.

Persons living on
earnings of pros-
titution or com-
mitting or assist-
ing in commission
of indecent acts.

Presumptions.

18. Any person who applies, administers to or causes to be taken by any female any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower her so as thereby to enable him to have unlawful carnal intercourse with her, shall be guilty of an offence.

19. Any person who—

- (a) entices, solicits, or importunes in any public place for immoral purposes; or
- (b) wilfully and openly exhibits himself or herself in an indecent dress or manner at any door or window or within view of any public street or place or in any place to which the public have access,

shall be guilty of an offence.

20. (1) Any person who—

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in public commits any act of indecency with another person; or
- (c) in public or in private in any way assists in bringing about, or receives any consideration for, the commission by any person of any act of indecency with another person,

shall be guilty of an offence.

(2) If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house is used by a female for purposes of prostitution and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, the magistrate may issue a warrant authorizing any police officer not below the rank of sergeant to enter and search the house and to arrest that person.

21. (1) Whenever in any prosecution under this Act the question is in issue whether any carnal intercourse between a male and a female was unlawful, such male and female shall be deemed to have been unmarried at the time of such intercourse unless the accused proves the contrary.

(2) Any person who seems in appearance obviously to be a white person or a coloured person, as the case may be, shall for the purpose of this Act be deemed to be such unless the contrary is proved.

(3) Whenever in any prosecution under this Act a person is proved to reside in a brothel or to live with or to be habitually in the company of a prostitute and has no visible means of subsistence, such person shall, unless he or she satisfies the court to the contrary, be deemed to be knowingly living wholly or in part on the earnings of prostitution.

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Penalties.

22. Any person who is convicted of an offence under the provisions of this Act for which no special penalty is prescribed, shall be liable—

- (a) in the case of an offence referred to in section *two* or paragraph (a) of sub-section (1) of section *twenty* to imprisonment with compulsory labour for a period not exceeding three years with or without a fine not exceeding three hundred pounds in addition to such imprisonment, or where it is proved that the person convicted kept a brothel and that unlawful carnal intercourse took place in such brothel to his knowledge between a white female and a coloured male or between a coloured female and a white male, for a period not exceeding seven years with or without a fine not exceeding five hundred pounds in addition to such imprisonment; or
- (b) in the case of an offence referred to in sub-section (1) of section *nine* to imprisonment with compulsory labour for a period not exceeding five years, or, if the female concerned is under the age of twelve years, for life; or
- (c) in the case of an offence referred to in section *ten*, to imprisonment with compulsory labour for a period not exceeding five years, or, where it is proved that the person convicted procured or attempted to procure any white female for the purpose of having unlawful carnal intercourse with a coloured male, or any coloured female for the purpose of having unlawful carnal intercourse with a white male, for a period not exceeding seven years; or
- (d) in the case of an offence referred to in section *eleven* or section *eighteen*, to imprisonment with compulsory labour for a period not exceeding five years; or
- (e) in the case of an offence referred to in sub-section (1) of section *twelve*, sub-section (1) of section *thirteen*, or section *sixteen*, to imprisonment with compulsory labour for a period not exceeding seven years; or
- (f) in the case of an offence referred to in sub-section (1) of section *fourteen*, or section *fifteen*, or section *seventeen* to imprisonment with compulsory labour for a period not exceeding six years with or without a fine not exceeding five hundred pounds in addition to such imprisonment; or
- (g) in the case of an offence referred to in section *nineteen* or paragraph (b) or (c) of sub-section (1) of section *twenty* to a fine not exceeding two hundred pounds or to imprisonment with compulsory labour for a period not exceeding two years or to both such fine and such imprisonment; and
- (h) where the person convicted is a male person under the age of fifty years, to a whipping not exceeding ten strokes in addition to such imprisonment and fine.

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23. The laws specified in the Schedule are hereby repealed to the extent set out in the fourth column of that Schedule.

Repeal of laws.

Application of Act to the territory of South-West Africa.

24. The Governor-General may by proclamation in the *Gazette* and in the *Official Gazette* of the territory of South-West Africa, declare this Act to be in force in the said territory.

Short title.

25. This Act shall be called the Immorality Act, 1957.

Schedule.

(SECTION 23.)

Province or Union.	No. and Year of Law.	Short Title or Subject of Law.	Extent of Repeal.
Cape ..	Act No. 25 of 1893.	The Criminal Law Amendment Act, 1893.	So much as is un-repealed.
..	Act No. 36 of 1902.	The Betting Houses, Gaming Houses and Brothels Suppression Act, 1902.	Sections 22 to 36 inclusive.
Transvaal	Ordinance No. 46 of 1903.	The Immorality Ordinance, 1903.	So much as is un-repealed.
Orange Free State.	Ordinance No. 11 of 1903.	The Suppression of Brothels and Immorality Ordinance, 1903.	So much as is un-repealed.
..	Act No. 19 of 1908.	The Suppression of Brothels and Immorality Amendment Act, 1908.	The whole.
Natal. ..	Act No. 31 of 1903.	The Criminal Law Amendment Act, 1903.	The whole.
Union ..	Act No. 3 of 1916.	The Girls' and Mentally Defective Women Protection Act, 1916.	The whole.
..	Act No. 5 of 1927.	The Immorality Act, 1927.	The whole.
..	Act No. 21 of 1950.	The Immorality Amendment Act, 1950.	The whole.
..	Act No. 62 of 1955.	The General Law Amendment Act, 1955.	Section 15.