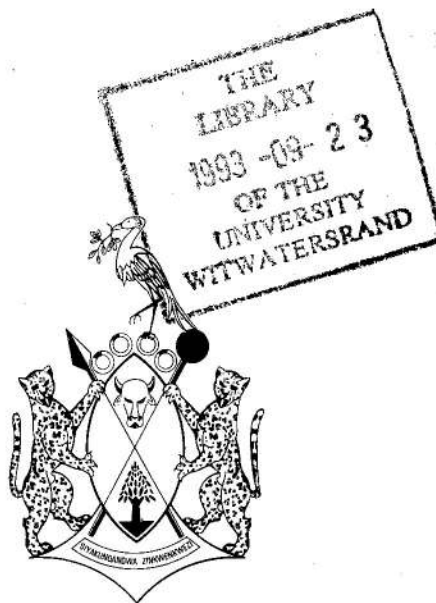


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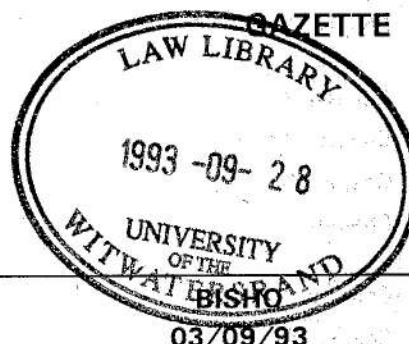
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DEPARTMENT OF THE COUNCIL OF STATE

GOVERNMENT NOTICE No. 73 OF 1993

It is hereby notified that the Chairman of the Council of State has assented to the following decree which is hereby published for general information:

NATIONAL SECURITY DECREE, 1993
Decree No. 19 of 1993

COUNCIL OF STATE — REPUBLIC OF CISKEI

NATIONAL SECURITY DECREE, 1993

DECREE

To provide for the security of the Republic of Ciskei, the maintenance of law and order and the promotion of democracy and to provide for matters incidental thereto.

[English text signed by the Chairman of the Council of State. Assented to on 1 September 1993.]

Arrangement of Decree

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BE IT DECREED by the Council of State of the Republic of Ciskei, as follows:-

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

"alien" means any person who is an alien as defined in section 1 of the Immigration, Emigration and Aliens Act, 1988 (Act 9 of 1988);

"chief" means a chief as defined in section 1 of the Administrative Authorities Act, 1984 (Act 37 of 1984) and includes a paramount chief as similarly defined;

"commissioned officer" means a commissioned officer as defined in section 1 of the Police Act, 1983 (Act 32 of 1983);

"Commissioner" means the Commissioner of the Ciskeian Police;

"Constitution" means the Republic of Ciskei Constitution Decree, 1990 (Decree 45 of 1990);

"detainee" means a person detained under section 13;

"document" includes any book, pamphlet, record, list, placard, poster, drawing, photograph, picture, or film as defined in section 47(1) of the Publications Act, 1974 (Act 42 of 1974) and also includes for the purposes of Chapter 7 -

- (a) any note or writing, whether produced by hand or by printing, typewriting or any other similar process;
- (b) any copy, plan, picture, sketch or photographic or other representation of any place or article;
- (c) any disc, tape, card, perforated roll or other device in or on which sound or any signal has been recorded for reproduction;

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"headman" means a headman as defined in section 1 of the Administrative Authorities Act, 1984;

"Minister" means the Minister of Police and Prisons;

"office bearer", in relation to any organisation, means a member of the governing or executive body of -

- (a) the organisation; or
- (b) any branch, section or committee of the organisation; or
- (c) any local, regional or subsidiary body forming part of the organisation;

"officer", in relation to any organisation, means any person working for the organisation or for any branch, section or committee, or for any local, regional or subsidiary body forming part, of the organisation;

"organisation" includes any association of persons, incorporated or unincorporated, and whether or not it has been established or registered in accordance with any law;

"place" means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, shop, structure, vessel, aircraft or vehicle and any part of a place;

"police" means the Ciskeian Police;

"police official" means any member of the police and includes any member of the defence force when used for the prevention or suppression of terrorism or of internal disorder;

"prohibited person" means any person who is a prohibited person within the meaning of section 18 of the Immigration, Emigration and Aliens Act, 1988;

"prohibited place" means -

- (a) any work of defence belonging to or occupied or used by or on behalf of the State including -
 - (i) any arsenal, military establishment or station, factory, dockyard, camp, ship, vessel or aircraft;
 - (ii) any telegraph, telephone, radio, or signal station or office, and
 - (iii) any place used for building, repairing, making, keeping or obtaining armaments or any model or document, film, photo, print, sketch, tape or disc relating thereto;
- (b) any place where armaments or any model or document, film, photo, print, sketch, tape or disc in relation thereto are or is being kept, built, repaired or obtained under contract with or on behalf of the State or of the government of any foreign state; or
- (c) any place or area declared under section 41 to be a prohibited place;

"public building" means any building which or part of which is occupied by the State or by a municipality or other authority, institution or body of a local nature established by or under any law and to which governmental or administrative functions have been assigned or entrusted;

"Republic" means the Republic of Ciskei;

"this decree" includes any regulation made and in force under any provisions of this decree;

"unlawful organisation" means an organisation which under section 8 is declared to be an unlawful organisation and includes any branch, section or committee of such an organisation and any local, regional or subsidiary body forming part of such organisation.

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CHAPTER 1

PROHIBITION OF TERRORISM, SUBVERSION AND SABOTAGE

2. Terrorism. — (1) Any person who in the Republic or elsewhere and with intent -

- (a) to overthrow or endanger the State authority in the Republic, or
- (b) to achieve, bring about or promote any constitutional, political, industrial, social or economic aim or change in the Republic, or
- (c) to induce the Government of the Republic to do or to abstain from doing any act or to adopt or to abandon a particular standpoint, or
- (d) to put in fear or demoralize the general public of any particular part of the population or the inhabitants of any particular area or to induce the said public or such part of the population or such inhabitants to do or to abstain from doing any act -
 - (i) commits an act of violence or threatens or attempts to do so,
 - (ii) performs any act which is aimed at causing, bringing about, promoting or contributing towards such act or threat or violence or attempts, consents or takes any steps to perform such act,
 - (iii) conspires with any other person to commit, bring about or perform an act or threat referred to in subparagraph (i) or an act referred to in subparagraph (ii) or to aid in the commission, bringing about or performance thereof, or
 - (iv) incites, instigates, commands, aids, advises, encourages or procures any other person to commit, bring about or perform such act or threat,

shall be guilty of the offence of terrorism and liable on conviction to the penalties which by law may be imposed for treason.

(2) For the purposes of subparagraph (i) of subsection (1) "violence" includes the inflicting of bodily harm on, or the killing of, or the endangering of the safety of, any person, or the damaging, destruction or endangering of property.

(3) For the purposes of subparagraph (ii) of subsection (1) and without limitation of the meaning generally of the word "act",

the undergoing of specific training or the possession of any substance or thing shall be deemed to constitute the performance of an act.

3. Subversion. — Any person who, with intent to achieve any object specified in paragraph (a), (b), (c) or (d) of subsection (1) of section 2 and at any place in the Republic -

- (a) causes or promotes general dislocation or disorder or attempts to do so, or
- (b) cripples, prejudices or interrupts any industry or undertakings, or industries or undertaking generally, or the production, supply or distribution of commodities or foodstuffs or attempts to do so, or
- (c) interrupts, impedes or endangers the manufacture, storage, generation, distribution, rendering or supply of fuel, petroleum products, energy, light, power or water or of sanitary, medical, health, educational, police, fire-fighting, ambulance, postal or telecommunication services or radio or television transmitting, broadcasting or receiving services or any other public service or attempts to do so, or
- (d) endangers, damages, destroys, renders useless or unserviceable, or puts out of action any installation for the rendering, supply of any service referred to in paragraph (c) or any prohibited place or any public building, or attempts to do so, or

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- (e) prevents or hampers, or deters any person from assisting in the maintenance of law and order or attempts to do so, or
- (f) impedes or endangers the free movement of any traffic on land, at sea or in the air, or attempts to do so, or
- (g) causes, encourages or foments feelings of hostility between different sections or parts of the population or attempts to do so, or
- (h) destroys, pollutes or contaminates any water supply which is intended for public use or attempts to do so, or
- (i) in the Republic or elsewhere performs any act or attempts or consents, or takes any steps, to perform any act which results in or promotes or could have promoted the commission of any acts or the bringing about of any of the results contemplated in the foregoing paragraphs, or
- (j) conspires with any other person to commit, bring about or perform any of the acts or results contemplated in paragraphs (a) to (h), or any act contemplated in paragraph (i), or to aid in the commission, bringing about or performance thereof, or
- (k) incites, instigates, commands, aids, advises, encourages or procures any other person to commit, bring about or perform such act or result,

shall be guilty of the offence of subversion and liable on conviction -

- (i) to imprisonment for a period not exceeding twenty years; or
- (ii) if the act with which the accused has been charged and in respect of which he has been convicted has resulted in the commission of violence and the court is of the opinion that, in performing the said Act, the accused should have foreseen the commission of such violence as a reasonable possibility, to imprisonment for a period not exceeding twenty-five years.

4. Sabotage. — Any person who, in the Republic or elsewhere and with intent -

- (a) to endanger the safety, health or interest of the public, or
- (b) to destroy, pollute, or contaminate any water supply which is intended for public use, or
- (c) to interrupt, impede or endanger the manufacture, storage, generation, distribution, rendering or supply of fuel, petroleum products, energy, light, power or water, or of any sanitary, medical, health, educational, police, fire-fighting, ambulance, postal or telecommunication service or radio or television transmitting, broadcasting or receiving service or any other public service, or
- (d) to endanger, damage, destroy, render useless or unserviceable or put out of action any installation for the rendering or supply of any service referred to in paragraph (c) or any prohibited place or any public building, or
- (e) to cripple, prejudice or interrupt any industry or undertaking or industries or undertakings generally or the production, supply or distribution of commodities or foodstuffs, or
- (f) to impede or endanger the free movement of any traffic on land, sea or in the air -
 - (i) commits any act,
 - (ii) attempts to commit such act,
 - (iii) conspires with any other person to commit such act or to bring about the commission thereof or to aid in the commission or the bringing about of the commission thereof, or
 - (iv) incites, instigates, commands, aids, advises, encourages or procures any other person to commit such act,

shall be guilty of the offence of sabotage and liable on conviction to imprisonment for a period not exceeding twenty years.

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5. Prohibition of rendering assistance to certain offenders. — Any person who has reason to suspect that any other person intends to commit or has committed any offence referred to in section 2, 3 or 4 and any person who is aware of the presence at any place or any other person who is so suspected of intending to commit or of having committed such an offence and who, as the case may be -

- (a) harbours or conceals that other person, or
- (b) directly or indirectly renders any assistance to that other person, or
- (c) fails to report or cause to be reported to any member of the police such presence of that other person at such place,

shall be guilty of an offence and liable on conviction to the penalty to which the person whom he so harboured or concealed or to whom he so rendered assistance or whose presence he so failed to report or to cause to be reported would have been liable on conviction of the offence which the last mentioned person intended to commit or committed, as the case may be.

6. Competent verdicts under this Chapter. — If the evidence in any prosecution -

- (a) for an offence under section 2 does not prove that offence but does prove an offence in terms of section 3, 4 or 5,
- (b) for an offence in terms of section 3 does not prove that offence but does prove an offence in terms of section 4 or 5, or
- (c) for an offence under section 4 does not prove that offence but does prove an offence in terms of section 5,

the accused may be found guilty of the offence so proved.

CHAPTER 2

PROHIBITION OF CERTAIN ORGANISATIONS AND PUBLICATIONS

7. Definitions. — In this Chapter, unless the context indicated otherwise -

“**liquidator**” means a person designated as such under section 9(1)(b) and includes any person acting under his written authority;

“**periodical publication**” means any publication appearing at intervals; and

“**publication**” means any newspaper, magazine, pamphlet, book, handbill or poster and, for the purposes of section 12(1)(b), includes any record, tape, or other object in or on which sound or speech has been recorded for reproduction.

8. Unlawful organisations. — (1) If the Minister has reason to believe -

- (a) that any organisation attempts or intends, in a violent manner or by the use of violent means or by the instigation or promotion of violence, disturbance, rioting or disorder -
 - (i) to overthrow the authority of the State,
 - (ii) to achieve, bring about or promote any constitutional, political, industrial, social or economic aim or change in the Republic, or
 - (iii) to induce the Government to do or to abstain from doing any act or to adopt or to abandon a particular standpoint, or
- (b) that any organisation threatens with violence or with instigation or promotion of violence, disturbance, rioting or disorder, or with steps which include violence, disturbance, rioting or disorder, in order to achieve any of the objects referred to in paragraphs (a)(i), (ii) or (iii), or
- (c) that any organisation propagates or encourages violence, disturbance, rioting or disorder, or conduct which includes violence, disturbance, rioting or disorder, as a means to achieve any of the objects referred to in paragraphs (a)(i), (ii) or (iii),

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he may, without notice to the organisation in question, by notice in the *Gazette* declare that organisation to be an unlawful organisation.

(2) Any notice issued under subsection (1) may be withdrawn by the Minister by like notice.

(3) A notice under subsection (1) shall not be invalid or ineffective by reason merely of the fact that the organisation in question was dissolved before the coming into operation of the notice.

9. Consequences where organisation is declared unlawful. — (1) As from a date on which an organisation becomes an unlawful organisation in terms of a notice under subsection (1) of section 8 -

(a) no person shall -

- (i) become, continue to be or perform any act as an office-bearer, officer or member of the unlawful organisation; or
- (ii) carry, be in possession of or display anything whatsoever indicating that he is or was at any time before or after the commencement of this decree an office-bearer, officer or member of or in any way associated with the unlawful organisation; or
- (iii) contribute or solicit anything as a subscription or otherwise, to be used directly or indirectly for the benefit of the unlawful organisation; or
- (iv) in any way take part in any activity of the unlawful organisation or carry on in the direct or indirect interest of the unlawful organisation any activity in which it was or could have been engaged at the said date; or
- (v) advocate, advise, defend or encourage the achievement of any of the objects of the unlawful organisation or objects similar to the objects of such organisation or perform any other act of whatever nature which is calculated to further the achievement of any such object;

(b) all property (including all rights and documents) held by the unlawful organisation or held by any person for the benefit of the unlawful organisation shall vest in a person to be designated by the Minister as the liquidator of the assets of the unlawful organisation; and

(c) the unlawful organisation shall, if it is registered in any office, cease to be so registered, and the officer in charge of the register shall remove its name therefrom.

(2) The designation of a liquidator under subsection (1)(b) shall not be invalid or ineffective by reason merely of the fact that the unlawful organisation concerned has been dissolved before the designation or before the date upon which it becomes an unlawful organisation in terms of a notice under section 8(1) or by reason of the fact that it has no assets.

(3) The liquidator shall be appointed on such conditions, and may be paid out of the assets of the unlawful organisation such remuneration for his services, as the Minister may determine.

(4) Notwithstanding anything to the contrary contained in any instrument, rule or agreement governing the relations between the unlawful organisation and its office-bearers, officers or members, any such office-bearer, officer or member may by resignation terminate his relationship with the unlawful organisation as from the date of the resignation.

10. Powers and duties of liquidator. — (1) The liquidator shall forthwith take possession of all property vested in him by section 9(1)(b) and satisfy himself as to the adequacy of the assets to pay the debts of the unlawful organisation.

(2) If the assets are adequate to pay the debts, he shall after the expiration of a period of at least six months from the date upon which the organisation became an unlawful organisation take all steps (including the institution of legal proceedings) necessary to liquidate them and to pay, out of the proceeds, the debts which have been proved to his satisfaction.

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(3) Any balance remaining after the debts have been paid and any property found after the distribution of the assets in terms of this section shall be distributed to one or more charitable or scientific organisations designated by the Head of State.

(4) If the assets are not adequate to pay the debts of the unlawful organisation, the liquidator shall liquidate and distribute the assets as if he were a trustee or a liquidator, as the case may be, administering and distributing the assets of an insolvent estate or company.

(5) For the purpose of such liquidation and distribution, the date upon which the organisation became an unlawful organisation in terms of a notice under section 8(1) shall be regarded as the date of sequestration or winding-up as the case may be.

(6) Any matter relating to such liquidation and distribution upon which a creditor would have been entitled to vote, if the estate of the unlawful organisation had been sequestrated or wound up, shall be determined by a majority of votes reckoned according to the number and value of claims proved to the satisfaction of the liquidator.

(7) The account of a liquidator liquidating and distributing assets under subsection (4) shall be advertised by him and confirmed by the Master in like manner and with like effect as an account framed by a trustee or liquidator, as the case may be, in an insolvent estate is advertised and confirmed.

(8) Any property of the unlawful organisation, which is not liquidated under subsection (2) of (4) or which is found after the distribution of the assets or the payment of the debts of the unlawful organisation in terms of this section, shall be disposed of in accordance with the directions of the Minister.

(9) The Minister may at any time by notice in the *Gazette* and subject to such modification as he may deem fit, apply in relation to the distribution of the assets or the payment of the debts of the unlawful organisation under this section such provision of the Companies Act, 1973 (Act 61 of 1973) or the Insolvency Act, 1936 (Act 24 of 1936) as are not inconsistent with this Decree as may be necessary in the particular case for the proper distribution of the assets or the payment of the debts of the unlawful organisation and may in like manner amend or withdraw any such notice.

(10) The liquidator shall have authority to retain any communication addressed to the unlawful organisation or officer thereof as such, and the Postmaster-General shall, if requested to do so by the liquidator, cause all postal articles so addressed to be delivered to the liquidator.

(11) Without derogation from the generality of the provisions of subsection (9), the liquidator may, for the performance of his functions under subsection (1) or (4) -

- (a) without previous notice at any time enter upon any premises whatsoever and make such investigation and inquiry as he deems necessary;
- (b) require of any person the production then and there or at a time and place fixed by the liquidator of any document which is on the premises;
- (c) at any time and at any place require of any person who has possession or custody or control of any document the production thereof then and there or at a time and place fixed by the liquidator;
- (d) seize any document referred to in paragraph (b) or (c) which in his opinion may afford proof in regard to any right in or the whereabouts of any property or the existence or, amount of any debt;
- (e) examine such document and make extracts therefrom or copies thereof and ask any person whom he considers to have the necessary information to give an explanation of any entry therein;
- (f) question either alone or in the presence of any other person, as he deems desirable, any person whom he finds on premises entered upon by him in terms of this section or whom he on reasonable grounds suspects to be in possession of information required by the liquidator; and
- (g) direct any person referred to in paragraph (b), (c), (e), or (f) to appear before the liquidator at a time and place specified by him and at such time and place question such person.

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(12) Every occupier of premises entered upon under subsection (11) shall at all times furnish such facilities as are required by the liquidator for the purpose of exercising his powers under the said subsection.

11. Furnishing of reasons by Minister. — (1) Whenever an organisation is in terms of section 8(1) declared by the Minister to be an unlawful organisation, any person who proves to the satisfaction of the Minister that he was an office-bearer or officer of the organisation in question on the date immediately preceding the date on which it was so declared unlawful, may in writing request the Minister to furnish him with the reasons for the Minister's action and, if such request is received by the Minister within thirty days after the date of publication in the *Gazette* of the notice declaring the organisation in question to be an unlawful organisation, the Minister shall furnish the office-bearer or officer with a written statement setting forth his reasons for the notice and the information which induced the Minister to issue the notice.

(2) If within the period specified in subsection (1) more than one request in terms of that subsection is received by the Minister, the Minister shall furnish only one of the office-bearers or officers concerned with reasons and information in terms of the said subsection and notify the other office-bearers or officers from whom requests are so received of the name and address of the office-bearer or officer who has been or will so be furnished with reasons and information.

12. Offences and penalties under this Chapter. — (1) Any person who -

- (a) contravenes any provision of sections 9(1)(a); or
- (b) without the consent of the Minister is in possession of any publication published or disseminated by or under the direction or guidance or on behalf of an unlawful organisation, or
- (c) knowingly permits any premises or any other property whatsoever, situated in the Republic, to be used for the purposes of or in connection with any offence in terms of paragraph (a) of this subsection, or
- (d) refuses or fails to answer to the best of his knowledge any question which a liquidator has put to him in the exercise of his powers in terms of this Decree, or
- (e) refuses or fails to comply to the best of his ability with any requirement or direction of a liquidator in terms of this Decree, or
- (f) hinders a liquidator of an unlawful organisation in the performance of his functions in terms of this Decree or without the consent of the liquidator destroys, alters or removes any property or document held by that organisation or held by any person for the benefit of that organisation, or
- (g) contravenes the provisions of section 10(12),

shall, subject to the provisions of subsection (2), be guilty of an offence and liable on conviction -

- (i) in the case of an offence referred to in paragraph (a), to imprisonment for a period not exceeding ten years;
- (ii) in the case of an offence referred to in paragraph (b) or (e), to imprisonment for a period not exceeding three years; and
- (iii) in the case of an offence referred to in paragraph (d), (e), (f) or (g), to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(2) No person shall be convicted of an offence referred to in subsection (1)(b) if he satisfies the court that, as soon as practicable after having become aware of being in possession of a publication referred to in that subsection, he took reasonable steps to report the fact of his possession of such publication to a police official or to deliver the publication in question to a police official.

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CHAPTER 3

DETENTION OF PERSONS

13. Detention of certain persons for interrogation. — (1) Notwithstanding anything to the contrary in any law or the common law contained but subject to the provisions of subsection (10) of this section, any commissioned officer of or above the rank of lieutenant-colonel may, if he has reason to believe that any person who happens to be at any place in the Republic -

- (a) has committed or intends or intended to commit an offence referred to in section 2, 3 or 4, excluding (in the case of an offence referred to in section 4) such offence which the suspect committed or intends or intended to commit in connection with a person suspected of having intended to commit or having committed the offence of sabotage, or
- (b) is withholding from the police any information relating to the commission of an offence referred to in paragraph (a) or relating to an intended commission of such offence or relating to any person who has committed or who intends to commit such offence.

without warrant arrest such person or cause him to be arrested and detain such person or cause him to be detained for interrogation, in accordance with such directions as the Commissioner may subject to the directions of the Minister from time to time issue, for a period not exceeding 72 hours and for such further period or periods not exceeding 10 days or not exceeding 10 days each, as the case may be, as a judge of the Supreme Court may, on application in accordance with subsection 3(a), determine or from time to time determine.

(2) The commissioned officer referred to in subsection (1) shall as soon as possible after an arrest in terms of that subsection -

- (a) notify the person arrested of the reasons for the arrest;
- (b) notify the Commissioner of the arrest and the Commissioner shall, after having been so notified, advise the Minister without delay of the person so arrested and the place where he is being detained;
- (c) notify a relative of the person arrested, or if no such relative is available, someone indicated by that person of his arrest and the place where he is being being detained, unless -
 - (i) the person arrested informs the commissioned officer that he does not wish anybody so to be notified; or
 - (ii) the Commissioner has reason to believe that it will hamper any investigation by the police.

(3) (a) An application referred to in subsection (1) for the further detention of a person arrested and detained in terms of that subsection shall be made in writing to a judge of the Supreme Court by the Commissioner or a commissioned officer of or above the rank of lieutenant-colonel before the expiry of the period of 72 hours referred to in subsection (1) or before the expiry of any of the further periods so referred to, as the case may be, and shall state -

- (i) the date and the grounds on which the person was arrested;
 - (ii) the reason why further detention of the person is considered necessary, and
 - (iii) the place where and the conditions subject to which the person is being or is to be detained.
- (b) (i) Before the application is heard, the Commissioner or the commissioned officer concerned shall notify the detainee and, if he so requests, his legal representative, of the application for his further detention and furnish the detainee with a copy of the written application referred to in paragraph (a).

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- (ii) Such legal representative shall have the right of access to the detainee but for a period not exceeding one hour in respect of each period of twelve hours for which the detainee has been detained.
- (c) Any person in respect of whom an application is made in terms of paragraph (a) shall be detained pending the final decision on the application.
- (d) The judge to whom an application under paragraph (a) is made -
 - (i) shall afford the detainee or his legal representative an opportunity of submitting reasons in writing why the detainee shall not be further detained and shall, if such reasons are submitted, afford the Commissioner or the commissioned officer, as the case may be, an opportunity of replying thereto;
 - (ii) may request either party to the application for such further information or submissions as the judge may deem necessary, having due regard to the dictates of the *audi alieram partem* rule.
- (4) If the judge is satisfied that public disclosure of any of the reasons or information furnished by either party may be prejudicial to any future proceedings or the police investigations, he may order the application to be heard in chambers or *in camera*, as the case may be, subject to such conditions as he deems necessary.
- (5) In the event of the judge refusing to grant the application for further detention of the detainee, he shall be released immediately.
- (6) The provisions of subsections (1), (2), (3) and (4) of this section shall not be construed as affecting the power of the Minister to order the release of any such detained person at any time.
- (7) The provisions of section 335 of the Criminal Procedure Act, 1977 (Act 51 of 1977) shall not apply in respect of any statement made during his detention by any person detained in terms of this section, provided that, if in the course of any subsequent criminal proceedings relating to a matter in connection with which the said person made that statement, the statement or any part thereof is put to him by the prosecutor, any person in possession of the statement shall at the request of such first-mentioned person furnish him with a copy of the said statement.
- (8) Nothing in this section or in any other provision of this Decree contained shall be construed as derogating from any provision of the Immigration, Emigration and Aliens Act, 1988.

CHAPTER 4

EMERGENCY SITUATIONS

14. Declaration of existence of a state of emergency. — (1) If in the opinion of the Head of State it at any time appears -

- (a) that any action or threatened action by any person or body of persons in the Republic or in any area within the Republic 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) that circumstances have arisen in the Republic or in any area within the Republic which seriously threatens the safety of the public, or the maintenance of public order, and
- (c) that 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 Republic or within such area, as the case may be.

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(2) No proclamation issued under subsection (1) shall remain in force for more than twelve months: Provided that nothing in this subsection contained shall be construed as prohibiting 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 Head of State may at any time and in like manner withdraw any proclamation issued under subsection (1).

15. Emergency regulations. — (1) (a) The Head of State may, in any area in which the existence of a state of emergency has been declared under section 14, 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 law and 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.

(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 Head of State, 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.

(2) Without prejudice to the generality of 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 Head of State is by this section authorised 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 14 been declared a state of emergency exists within the Republic or in 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 Republic and for different classes of persons in the Republic.

(3) Nothing in this section contained shall authorise the making of any regulations whereby there is imposed any liability to render compulsory military service other than that provided for in the Defence Act, 1981.

(4) Whenever any regulation made under subsection (1) provides for the summary arrest and detention of any person and any person is in pursuance thereof detained for longer than thirty days, the Minister shall within fourteen days after the expiration of such period of thirty days, lay the name and other particulars of such person on the Table of the Council of State.

(5) Whenever any regulation made under subsection (1) provides for the arrest and detention of any person, and any person has been arrested in pursuance of such a regulation, he may be detained under that regulation at any place within the Republic, whether such place is within or outside the area in which the existence of the state of emergency has been declared under section 14, and any regulation made under subsection (1) of this section and any order, rule or by-law made under such regulation and which relates to the detention of any person arrested in the said area or to the place of detention of such a person, shall, in relation to the detention of such a person at a place outside the aforesaid area, apply at and in relation to the place where such person is detained as if that place were within the aforesaid area.

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16. Powers of the Head of State may be exercised by the Minister in urgent cases. — (1) Whenever owing to special circumstances it is in the opinion of the Minister urgently necessary to do so, he may, in respect of any area within the Republic, in respect of which no proclamation issued under this Chapter is in force, by notice in the *Gazette*, exercise any of the powers which the Head of State may exercise by proclamation under this Chapter.

(2) A notice issued under subsections (1) shall have the same force and effect as a proclamation issued by the Head of State under this Chapter and shall remain in force until a proclamation is issued in its place but for not longer than ten days.

17. Declaration of area to be unrest area. — (1) Whenever the Minister is of the opinion that intimidation, public disturbance, disorder, unrest, riot or public violence is occurring or threatening in any area and that measures additional to the ordinary law of the land are required to enable the Government or any governmental institution to ensure the safety of the public, to maintain law and order or to combat or prevent any such intimidation, public disturbance, disorder, unrest, riot or public violence, he may, acting on the advice of the Council of State and by notice in the *Gazette*, declare such an area to be an unrest area.

(2) Any reference in any law or regulation or government notice to an "affected area" shall be construed as a reference to an unrest area declared in terms of subsection (1).

(3) The declaration of an area to be an unrest area shall remain in force for a period of three months, unless the Minister withdraws that declaration sooner by notice in the *Gazette*: Provided that the Minister, acting on the advice of the Council of State, may from time to time by like notice extend any period of validity of the declaration before its expiry.

(4) The Minister may, in relation to an unrest area and acting on the advice of the Council of State and by notice in the *Gazette*, make such regulations as to him appear to be necessary or expedient for ensuring the safety of the public or the maintenance or restoration of public order or for the combating or prevention of intimidation, public disturbance, disorder, unrest, riot or public violence, or for dealing with any circumstances which have arisen or are in his opinion likely to arise as a result of such intimidation, public disturbance, disorder, unrest, riot or public violence.

(5) Any regulation made under subsection (4) may, to such extent and subject to such modifications as may be specified in the relevant notice or in any subsequent notice, be declared also to apply outside the said unrest area in so far as the Minister may deem it necessary for dealing with that area.

(6) Without prejudice to the generality of the powers conferred by this section -

(a) such regulations may -

(i) empower persons or bodies specified therein to make orders, rules and by-laws for any of the purposes for which the Minister may make regulations, and may prescribe penalties for any contravention of or failure to comply with such orders, rules or by-laws; and

(ii) prescribe penalties for any contravention of or failure to comply with any regulation or any direction issued or condition prescribed by or under the regulations, which penalties may include the confiscation of goods, property or instrument by means of which or in connection with which the offence has been committed; and

(b) different regulations may be made for different unrest areas and for different classes of persons.

(7) (a) A regulation referred to in subsection (4) or any provision thereof or any order, rule or by-law made in terms of such regulation may be annulled by the Council of State by resolution and, if the regulation or provision thereof or order, rule or by-law made in terms thereof has been so annulled, it shall forthwith cease to be of any force or effect.

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- (b) Any annulment under paragraph (a) shall be without prejudice to the validity of any action taken in terms of the annulled provision up to the time when it ceased to be of force or effect or to any right, privilege, obligation or liability acquired, accrued or incurred up to that time under and by virtue of such provision.

CHAPTER 5

UNLAWFUL GATHERINGS

18. Definitions. — In this Chapter, unless the context otherwise indicates -

"demonstration" means a demonstration by one or more persons for or against any person, cause, action or failure to take action and which is connected or coincides with any court proceedings or the proceedings at any judicial inquest and "demonstrate" has a corresponding meaning;

"gathering" means any gathering, concourse or procession of any number of persons having a common purpose;

"unlawful gathering" means any gathering -

- (i) which is required to be made known in terms of section 18(1) and of which no notice or adequate notice has been given; or
- (ii) which has been prohibited under any provision of this Chapter; or
- (iii) which is held in a manner contrary to any condition contained in a direction given under section 19.

19. Control or prohibition of gatherings. — (1) (a) Any person who convenes or proposes to convene any gathering in any public place in any district in the Republic shall give prior notice thereof of not less than forty-eight (48) hours -

- (i) to the local authority, if any, whose permission is required for such gathering in terms of any law; and
 - (ii) to the commanding officer of the police in the district in which such public place is situated; and
 - (iii) if it is the intention that such gathering, being a procession or march, protest or like event, shall assemble outside the Republic and thereafter enter the Republic across an international border, to the Minister.
- (b) Such notice, which shall be in writing, shall mention that nature and purpose of the gathering, the date on which and place where it is to be held, the route which it will follow (in the case of any procession, march, protest or other like event) and the expected number of participants.
- (c) The Minister, local authority or police official, as the case may be, to whom a notice referred to in subsection (1) is delivered shall reply thereto not later than twenty-four hours after receiving it.

(2) The provisions of subsection (1) shall not apply to any gathering held -

- (a) for the purpose of a *bona fide* church service, funeral or social occasion;
- (b) for the purpose of the regulation of the tribal or domestic affairs of any kraal, tribal area or household;
- (c) by the members of any statutory body of persons for the exclusive purpose of transacting any business of that body;
- (d) for the purpose of instruction imparted under any law;
- (e) for a *bona fide* sports gathering, concert or entertainment; or
- (f) for official, administrative or judicial purposes.

(3) Whenever the Commissioner or the Minister, as the case may be, has reason to believe -

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- (a) that the persons expected to participate in any gathering will not do so peaceably and without carrying arms, that is to say weapons, instruments or objects whereby bodily or other harm may be done, or
- (b) that it is necessary, in the interest of national security, territorial integrity or public safety or for the prevention of disorder or crime or the protection of the fundamental rights of non-participants, to restrict the right of assembly of the persons about to take part in the proposed gathering, or
- (c) that the person who is or persons who are convening or who proposes or propose to convene the gathering is or are an alien or aliens or a prohibited person or persons, as the case may be, or that a significant number of the persons who intend to participate in such gathering are aliens or prohibited persons,

he may -

- (i) prohibit for a period not exceeding forty-eight hours every gathering in the district in question or that particular gathering or any gathering of a particular nature, class or kind at a particular place or in a particular area or everywhere in such district, except in such cases as he may expressly authorise when imposing the prohibition or at any time thereafter, or
- (ii) direct that particular gathering or any other gathering with the same purpose shall be held only in accordance with such conditions as he may specify including, in the case of any gathering which takes the form of a procession or march and without prejudice to the generality of the provisions of this paragraph, conditions -
 - (aa) prescribing the route to be followed by the procession or march;
 - (bb) prohibiting the procession or march or any person forming part thereof from entering any specified place; or
 - (cc) requiring the persons forming the procession to travel in vehicles.

(4) (a) The Commissioner or the Minister shall, when he imposes a prohibition under subsection (3), do so -

- (i) by notice in the *Gazette*; or
 - (ii) by notice in a newspaper circulating in the area where the prohibition is to apply; or
 - (iii) by causing it to be made known by means of radio or television; or
 - (iv) by causing notices to be distributed amongst the public and to be affixed in public or prominent places at or near the place where the prohibition is to apply; or
 - (v) by causing it to be announced orally at or near the place where the prohibition is to apply.
- (b) Where the Commissioner or the Minister issues a direction under subsection (3) he shall do so by notice in writing signed by him and addressed and delivered or tendered to the person desiring to convene or organise the gathering and he shall in addition publish that direction in a manner mentioned in paragraph (a): Provided that if the identity or whereabouts of the person desiring to convene or organise the gathering is unknown or if, in view of the urgency of the case it is not feasible to deliver or tender the said notice to him, publication of the direction in a manner mentioned in paragraph (a) shall be sufficient.

(5) The Minister may, if he deems it necessary or expedient in the interests of the security of the State or for the maintenance of the public peace, prohibit in a manner mentioned in subsection (4)(a) -

- (i) any gathering in any area; or
- (ii) any gathering which in his opinion will be in breach of any international non-aggression agreement to which the Republic is a party; or

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- (iii) any particular gathering or any gathering of a particular nature, class or kind at a particular place or in a particular area or wheresoever in the Republic,

during any period or on any day or during specified times or periods within any period, except in those cases specified in the prohibition by the Minister or which the Minister, or the Commissioner acting in pursuance of the Minister's general or special instructions, may at any time expressly authorise.

(6) The provisions of this section shall be in addition to and not in substitution of any other law whereunder the permission, approval or leave of a municipal council or other authority is required for the holding of any gathering in the municipality or other local authority area or public place concerned or which regulates the free and proper passage of traffic on any public road.

20. Prohibition of demonstrations in or near court buildings. — (1) Subject to the provisions of subsection (2) all demonstrations in any building in which a courtroom is situated or at any place in the open air within a radius of five hundred metres from such building are hereby prohibited on every day of the week except Saturdays, Sundays and public holidays.

(2) The provisions of subsection (1) shall not apply to any demonstration or gathering for which a judge of the Supreme Court or the magistrate of the district in which the demonstration or gathering is to take place has granted permission in writing subject to such conditions as he may deem fit.

21. Power to close places to prevent unlawful gathering. — (1) A police official of or above the rank of warrant officer may, if he has reason to believe that an unlawful gathering will take place, cause access to any place or area where he believes it will take place, and to any other place or area adjacent thereto, to be barred and to be kept closed or inaccessible to the public, for such time as may be necessary to prevent the gathering from taking place.

(2) The said police official shall notify the fact that a place or area is so closed or inaccessible to members of the public at the entrance thereto or in the vicinity of the place or area in one or other manner described in section 19(4)(a).

22. Power to disperse unlawful gathering. — (1) Whenever -

- (a) a gathering which has been prohibited in terms of section 19 takes place or proceeds, or
- (b) any of the persons attending a gathering (whether or not the gathering has been so prohibited) -
 - (i) kill or injure, or attempt to kill or injure, or show a manifest intention of killing or injuring, any person, or
 - (ii) destroy or do damage, or attempt to destroy or do damage, or show a manifest intention of destroying or doing damage to, any property whether movable or immovable,

a police official of or above the rank of warrant officer may call upon the persons attending the gathering to disperse and for that purpose he shall endeavour to obtain the attention of those persons by such lawful means as he deems most suitable and then in a loud voice order them to disperse and to depart from the place of the gathering within the time specified by him.

(2) If within the time so specified the persons assembled have not so dispersed and departed, a police official of or above the rank aforesaid may order the police under his command to disperse the gathering and may for that purpose order the use of force, including the use of firearms and other weapons, but the degree of force which may be so used shall not be greater than is necessary for dispersing the persons so assembled and the force used shall be moderate and proportionate to the circumstances of the case and the object to be attained.

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23. Power of arrest to prevent state of unrest. — (1) If a police official of or above the rank of warrant officer is of the opinion -

- (a) (i) that the actions of a particular person contribute towards the continuation of a state of public disturbance, disorder, riot or public violence which exists at any place within the Republic, and
- (ii) that the detention of that person will contribute towards the termination or combating of the state of public disturbance, disorder, riot or public violence, or
- (b) that the detention of a particular person will assist in the prevention of the resumption, at the same place or at any other place in the Republic, of such a state of public disturbance, disorder, riot or public violence,

he may without warrant arrest that person or cause him to be arrested and, subject to the provisions of this section, cause him to be detained in any prison or police cell or lock-up for a period of not more than forty-eight hours.

(2) (a) Any person arrested in terms of subsection (1) may at any time be released from detention but shall after the expiration of a period of forty-eight hours as from the time of his arrest be released from detention unless a warrant for his further detention has been issued by a judge of the Supreme Court in accordance with the provisions *mutatis mutandis* of section 13, before the expiration of such period: Provided that no such person shall on any particular occasion when he is being detained in terms of this section be so detained for a period exceeding ten days from the date of issue of the aforesaid warrant unless a judge has extended the period of his detention.

(3) Any person detained in terms of this section shall be so detained in accordance with the provisions of the Prisons Act, 1983 (Act 36 of 1983) which relate to unconvicted prisoners awaiting trial for an alleged offence.

(4) The Commissioner shall as soon as is reasonably possible after the arrest of any person in terms of subsection (1) notify the Minister of his name and the place where he is being detained unless such person has been released from detention before such notice could reasonably have been made.

24. Execution of orders. — The police are hereby authorised to render assistance to any judge, magistrate, chief, headman or other official of the State in connection with the exercise of any power or the performance of any duty or function conferred or imposed by this Chapter or the execution of any order made in terms of this Chapter and may in the rendering of such assistance or the execution of any such order take such steps as may be deemed necessary.

25. Saving of other laws as to dispersal of riotous gatherings. — Nothing in this Chapter contained shall be construed as affecting or derogating from any right conferred or duty imposed upon any member of the police force or any member of the public under any other statute or under the common law to assist in the dispersal of riotous gatherings or in the prevention and suppression of riotous and seditious acts.

26. Indemnity from civil action. — No civil action whatsoever may, in respect of any cause of action arising out of or in connection with this Chapter, be instituted against the State or any officer or employee of the State or any chief or headman or any person acting under the authority or by direction of any such officer, employee, chief or headman.

27. Indemnity from criminal action. — (1) No criminal action shall be capable of being instituted against any person or body referred to in section 26 by reason of any act in good faith advised, commanded or done by him in the execution of his powers or the performance of his duties in pursuance of any provision of this Chapter or for dealing with circumstances which have arisen or are likely to arise from the application of such provisions.

(2) If in any action brought against any person or body referred to in this section, the question arises whether any act advised, commanded or done by him was advised, commanded or done by him in good faith, it shall be presumed until the contrary is proved, that the act was advised, commanded or done by him in good faith.

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28. Offences and penalties under this Chapter. — (1) Any person who -

- (a) convenes, holds, presides at or addresses an unlawful gathering,
- (b) permits an unlawful gathering to be held in his house, hut or kraal or on other premises or land under his control,
- (c) fails to comply with any condition specified in any authority granted under section 19(3)(i) and (ii) or section 19(4)(b) while convening, holding, presiding at or addressing any gathering,
- (d) attends any unlawful gathering, or
- (e) fails to comply with any condition specified in any authority granted under section 19(3)(i) and (ii) or section 19(4)(b) while he attends a gathering,

shall be guilty of an offence and on conviction be liable -

- (i) in the case of an offence referred to in paragraph (a), (b) or (c) to a fine not exceeding R2 000 or to imprisonment for a period not exceeding two years and, in the case of a second or subsequent conviction, to a fine not exceeding R3 000 or to imprisonment for a period not exceeding three years; or
- (ii) in the case of an offence referred to in paragraph (d) or (e) to a fine not exceeding R500 or to imprisonment for a period not exceeding six months.

(2) Any person who fails or refuses to obey any order given under section 22 (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding one year.

(3) Any person who, without permission of the police on duty, enters or remains in any area closed or made inaccessible under section 21(1) and (2) while it is closed or inaccessible, shall be guilty of an offence and liable on conviction to a fine not exceeding R250 or to imprisonment for a period not exceeding three months.

CHAPTER 6

PROHIBITION OF CERTAIN FORMS OF INTIMIDATION, STRIKES AND INSUBORDINATION

29. Prohibition of intimidation of persons. — (1) Any person who -

- (a) without lawful reason or excuse and with intent to compel or induce any other person or persons of a particular nature, class or kind or persons in general to do or to abstain from doing any act or to assume or to abandon a particular standpoint -
 - (i) assaults, injures or causes damage to any person, or
 - (ii) in any manner threatens to kill, assault, injure or cause damage to any person or to persons of a particular nature, class or kind, or
- (b) acts or conducts himself in such a manner or utters or publishes such words that such act or conduct or such words has or have the effect, or that it might reasonably be expected that the natural and probable consequences thereof would be, that any person perceiving that act, conduct, utterance or publication fears for his own safety or the safety of his property or the security of his livelihood, or for the safety of any other person or the safety of the property of any other person or the security of the livelihood of any other person,

shall be guilty of an offence and liable on conviction to a fine not exceeding R40 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) In the prosecution for a contravention of any provision of subsection (1) the onus shall be on the accused to prove the existence of a lawful reason or excuse as contemplated in the subsection in respect of every act charged.

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30. Intimidation of general public, particular section of population or inhabitants of particular area. — (1) Any person who with intent to put in fear or to demoralize or to induce the general public, a particular section of the population or the inhabitants of a particular area in the Republic to do or to abstain from doing any act in the Republic or elsewhere -

- (a) commits an act of violence or threatens or attempts to do so,
- (b) performs any act which is aimed at causing, bringing about, promoting or contributing towards such act or threat of violence or attempts, consents, or takes any steps to perform such act,
- (c) conspires with any other person to commit, bring about or perform any act or threat referred to in paragraph (a) or an act referred to in paragraph (b), or to aid in the commission, bringing about or performance thereof, or
- (d) incites, instigates, commands, aids, advises, encourages or procures any other person to commit, bring about or perform such act or threat,

shall be guilty of an offence and liable on conviction to a fine which the court may at its discretion deem fit or to imprisonment for a period not exceeding 25 years or to both such fine and such imprisonment.

(2) If, in any prosecution for an offence in terms of subsection (1), it is proved that the accused has committed any act alleged in the charge and if such act resulted or was likely to have resulted in the achievement of any of the objects specified in subsection (1), it shall be presumed, unless the contrary is proved, that the accused has committed that act with intent to achieve such object.

(3) If, in any prosecution for an offence in terms of subsection (1), the act with which the accused is charged consists thereof, and it is proved, that he unlawfully had in his possession any automatic or semi-automatic rifle, machine gun, sub-machine gun, machine pistol, rocket launcher, recoilless gun or mortar or any ammunition for or component part of such weaponry, or any grenade, mine, bomb or explosive, it shall be presumed, unless the contrary is proved, that the accused had the said weaponry, ammunition, component part, grenade, mine, bomb or explosive in his possession with intent to commit therewith or in connection therewith in the Republic, in order to achieve any of the objects specified in subsection (1), any of the acts contemplated in paragraphs (a) to (d) inclusive of that subsection.

(4) For the purposes of this section "violence" includes the inflicting of bodily harm upon or killing of, or the endangering of the safety of, any person or the damaging, destruction or endangering of any property.

31. Breach of contract by persons employed in public utility services. — (1) If an employee of a local authority or company which, or of a person who supplies any community with light, power or water or sanitary or transportation services, wilfully and maliciously, either alone or by arrangement with any other employee or any other person, breaks a condition or contract of employment with his employer knowing or having reasonable cause to believe that the probable consequences of his so breaking such condition or contract will be to deprive the members of such community, or a large section thereof, wholly or to a great extent of their supply of light, power or water or of sanitary or transportation services, he shall be guilty of an offence and liable on conviction to a fine not exceeding three thousand rand or to imprisonment for a period not exceeding three years.

(2) Every employer referred to in subsection (1) shall cause to be posted up in a conspicuous place at the premises from which any such supply or service aforesaid is carried on, or in connection with which the condition or contract aforesaid is to be performed, a printed copy of this section and as often as such copy becomes defaced, obliterated, covered over, removed or destroyed, shall cause it immediately to be renewed and reposted in such a conspicuous place as aforesaid.

(3) If an employer makes default in complying with the provisions of subsection (2) he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or, in default of payment, to imprisonment for a period not exceeding fourteen days for every day during which the default continues.

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(4) Any person who defaces, obliterates, covers over, removes or destroys any copy of this section posted up in terms of subsection (2), without the permission of the employer concerned, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred and fifty rand or, in default of payment, to imprisonment for a period not exceeding three months.

32. Breach of contract involving danger or injury to persons or property. — If any employee of any employer whatsoever wilfully and maliciously, either alone or by arrangement with any other employee or any other person, breaks any contract of employment whatsoever, knowing or having reasonable cause to believe that the probable consequences of his so breaking such contract will be to endanger human life or cause serious bodily injury to, or serious injury to the health of any person or to expose valuable property, whether movable or immovable, to destruction or serious injury, he shall be guilty of an offence and liable on conviction to a fine not exceeding three thousand rand or to imprisonment for a period not exceeding three years.

33. Insubordinate or subversive statement or action. — (1) Any person who wilfully -

- (a) makes any statement verbally or in writing or performs any act which is intended or is likely to have the effect of subverting or interfering with the authority of the State or any officer in the service of the State or of any chief or headman, or
- (b) organises or takes part in any organised boycott of any meeting convened by an officer of the State or by any chief or headman, or
- (c) treats the chief or headman to whose authority he is subject with disrespect, contempt or ridicule, or fails or neglects to show that respect or obedience, and to render such service to such chief or headman as should be shown or rendered in accordance with tribal law and custom, or
- (d) in public treats any member of the Council of State or Minister of State with contempt or ridicule or commits any act which is calculated to violate the personal dignity or to injure the reputation of any member of the Council of State or a Minister, or
- (e) in public burns, destroys or otherwise damages or defaces or treats with contempt or ridicule any of the symbols of the Republic as defined in Chapter II of the Constitution or any symbol of similar appearance,

shall be guilty of an offence and liable on conviction -

- (i) in the case of an offence referred to in paragraph (a), (b), (c) or (d), to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years; or
- (ii) in the case of an offence referred to in paragraph (e), to a fine not exceeding ten thousand rand or to imprisonment for a period not exceeding ten years.

(2) The provisions of subsection (1) shall not be construed as derogating in any way from the fundamental rights entrenched in Schedule 6 of the Constitution or the right of free and fair political expression.

CHAPTER 7

OFFICIAL SECRETS

34. Definitions. — (1) In this Chapter unless the context indicates otherwise -

“agent” means any person who is or has been or is reasonably suspected of being or having been directly or indirectly employed by or in the name of or on behalf of any foreign State or any hostile organisation for the purpose of committing in the Republic or elsewhere an act prejudicial to the security or interests of the Republic or who has or is reasonably suspected of having committed or attempted to commit such an act in the Republic or elsewhere in the interest of any foreign State or any organisation;

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"armaments" means armaments as defined in section 1 of the Armaments Development and Production Act, 1968 (Act 57 of 1968);

"foreign state" means any state other than the Republic;

"hostile organisation" means -

- (a) any unlawful organisation; or
- (b) any association of persons or any movement or institution declared under section 41 to be a hostile organisation;

"military" includes army, air force and naval;

"model" includes any design, pattern or specimen;

"security matter" includes any matter dealt with by the security branch of the police or which relates to the functions of that branch or to the relationship existing between that branch and any person or between that branch and the Defence Force or any section of the Intelligence Services.

(2) In this Chapter -

- (a) any reference to the disclosing or receiving of anything includes a reference to the disclosing or receiving of any part or the substance, effect or description thereof;
- (b) any reference to the obtaining or retaining of anything includes a reference to the obtaining or retaining of any part or the copying or causing to be copied of the whole or part thereof, whether by photography or otherwise; and
- (c) any reference to the disclosing of anything includes a reference to the transmission or transfer thereof.

35. Prohibition of certain acts in relation to prohibited places. — Any person who approaches, inspects, passes over, is in the neighbourhood of or enters any prohibited place for any purposes prejudicial to the security of the Republic, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding twenty years.

36. Prohibition of obtaining and disclosure of certain information. — Any person who, for the purposes of disclosure thereof to any foreign State or to any agent or to any employee or inhabitant of, or any organisation, party, institution, body or movement in any foreign State, or to any hostile organisation or to any office-bearer, officer, member or active supporter of any hostile organisation -

- (a) obtains or receives any secret official code or password or any document, model, article or information used, kept, made or obtained in any prohibited place, or
- (b) prepares, compiles, makes, obtains or receives any document, model, article or information which relates -
 - (i) to any prohibited place or to anything in any prohibited place or to armaments, or
 - (ii) to the defence of the Republic, to any military matter, to any security matter or to the prevention or combating of terrorism, or
 - (iii) to any other matter or article, and which he knows or reasonably should know may directly or indirectly be of use to any foreign State or any hostile organisation and which, for considerations of the security or the security or the other interests of the Republic, should not be disclosed to any foreign State or hostile organisation.

shall be guilty of an offence and liable on conviction to the penalty prescribed in section 35.

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37. Prohibition of disclosure of certain information. — (1) Any person who has in his possession or at his control or at his disposal -

- (a) any secret official code or password, or
- (b) any document, model, article or information -
 - (i) which he knows or reasonably should know is kept, used, made or obtained in a prohibited place or relates to a prohibited place, anything in a prohibited place, armaments, the defence of the Republic, a military matter, a security matter or the prevention or combating of terrorism,
 - (ii) which has been made, obtained or received in contravention of any provision of this Chapter,
 - (iii) which has been entrusted in confidence to him by any person holding office under the Government,
 - (iv) which he has obtained or to which he has had access by virtue of his position as a person who holds or has held office under the Government, or as a person who holds or has held a contract made on behalf of the Government, or a contract the performance of which takes place entirely or partly in a prohibited place, or as a person who is or has been employed under a person who holds or has held such office or contract, and the secrecy of which document, model, article or information he knows or reasonably should know to be required by the security or other interests of the Republic; or
 - (v) of which he obtained possession in any manner and which document, model, article, or information he knows or reasonably should know has been obtained by any other person in any of the ways referred to in paragraph (iii) or (iv) and the unauthorised disclosure of such documents, model, article or information by such other person he knows or reasonably should know will be an offence under this Chapter and who -
 - (aa) discloses such code, password, document, model, article or information to any person other than a person to whom he is authorised to disclose it or to whom it may lawfully be disclosed or to whom, in the interests of the Republic, it is his duty to disclose it,
 - (bb) publishes or uses such code, password, document, model, article or information in any manner or for any purpose which is or may be prejudicial to the security or interests of the Republic,
 - (cc) retains such code, password, document, model, article or information when he has no right to retain it, or neglects or fails to comply with any directions issued by lawful authority with regard to the return or disposal thereof, or
 - (dd) neglects or fails to take proper care of such code, password, document, model, article or information or so to conduct himself as not to endanger the safety thereof,

shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand rand or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment or, if it is proved that the publication or disclosure of such secret official code or password or of such document, model, article or information took place for the purpose of its being disclosed to a foreign State or to a hostile organisation, to the penalty prescribed in section 35.

(2) Any person who receives any secret official code or password or any document, model, article or information, knowing or having reasonable grounds to believe, at the time when he receives it, that such code, password, document, model, article or information is being disclosed to him in contravention of the provisions of this decree, shall, unless he proves that the disclosure thereof to him was against his wish, be guilty of an offence and liable on conviction to a fine not exceeding ten thousand rand or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

NATIONAL SECURITY DECREE, 1993

38. Prohibition of certain acts prejudicial to security or interests of Republic. —

(1) Any person who, for the purpose of gaining or assisting any other person to gain admission to any prohibited place, or for any other purpose prejudicial to the security or interests of the Republic -

- (a) without lawful authority uses or wears any military, police or other official uniform of the Republic, or any uniform worn by a person employed at or in a prohibited place or any uniform so closely resembling any of the said uniforms as to be calculated to deceive or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform,
- (b) orally or in writing in any declaration or application or in any document signed by him or on his behalf, knowingly makes any false statement or omits any relevant fact,
- (c) forges, alters or tampers with any passport or any official pass, permit, certificate, licence or other similar document (hereinafter in this section referred to as an official document) or uses or has in his possession any forged, altered or irregular official document,
- (d) impersonates or falsely represents himself to be a person holding, or in the employment of a person holding, office under the Government or to be or not to be a person to whom an official document or a secret official code or password has been duly issued or disclosed or, with intent to obtain an official document or any secret official code or password, whether for himself or for any other person knowingly makes any false statement, or
- (e) uses or has in his possession or under his control without lawful authority any official die, seal or stamp of the Republic or any die, seal or stamp so closely resembling any such official die, seal or stamp as to be calculated to deceive or counterfeits any such official die, seal or stamp, or uses or has in his possession or under his control any such counterfeited die, seal or stamp,

shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand rand or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Any person who -

- (a) retains for any purpose prejudicial to the security or interests of the Republic any official document, whether or not completed or issued for use, when he has no right to retain it or when it is contrary to his duty to retain it, or neglects or fails to comply with any direction issued by lawful authority with regard to the return or disposal thereof,
- (b) allows any other person to have possession of any official document issued for his use alone, or without lawful authority or excuse has in his possession any official document or secret official code or password issued for the use of some person other than himself or, on obtaining possession of any official document, whether by finding or otherwise, neglects or fails to hand it over to the person or authority by whom or for whose use it was issued or to a member of the police, or
- (c) without lawful authority or excuse manufactures or sells, or has in his possession for sale, any die, seal or stamp referred to in paragraph (e) of subsection (1),

shall be guilty of an offence and liable on conviction to the penalties prescribed in subsection (1).

39. Obstructing person on guard at prohibited place. — Any person who obstructs, knowingly misleads or otherwise interferes with any person engaged on guard, sentry, patrol or other similar duty in relation to any prohibited place shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

NATIONAL SECURITY DECREE, 1993

40. Harbours or concealing certain persons. — Any person who -

- (a) knowingly harbours or conceals any person whom he knows or has reason to believe to be a person who is about to commit or who has committed an offence under this Chapter, or knowingly permits any such person to meet or assemble in any premises in his occupation or under his control,
- (b) having harboured or concealed any such person, or permitted such person to meet or assemble in any premises in his occupation or under his control, wilfully omits or refuses to disclose to any member of the police any information it is in his power to give in relation to any such person, or
- (c) knowing that any agent or any person who has been or is in communication with an agent, whether in the Republic or elsewhere, is in the Republic, fails forthwith to report to any police officer the presence or any information it is in his power to give in relation to any such agent or person,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

41. Prohibited places and hostile organisations. — The Minister may, for the purposes of this Chapter, by notice in the *Gazette* declare -

- (a) any place or area to be a prohibited place; or
- (b) any association of persons, movement or institution within or outside the Republic to be a hostile organisation,

and may in like manner at any time repeal or amend such notice.

CHAPTER 8

PROCEDURE AND EVIDENCE

42. Authority of Attorney-General necessary for certain trials. — No trial in respect of an offence under sections 2, 3, 4, 5, 28(1), (2) and (3), 29(1), 30(1), 33(1)(d) and (e), 35, 36, 37, 38, 40, 55(1) and (2) or 56(2) shall be commenced without the authority in writing of the Attorney-General.

43. Extra-territorial jurisdiction. — (1) Any act or omission amounting to an offence under section 2, 3, 4, 5, 29, 30, 35, 36, 37, 38, 40, 55(1) or (2) or 56(2) committed outside the Republic shall be deemed to have been committed at the place where it was actually committed and also at the place where the accused finds himself.

(2) Notwithstanding anything in any other law contained, the Supreme Court, a regional court or a magistrate's court and the Attorney-General shall have jurisdiction or authority in respect of any offence mentioned in subsection (1) as if it had been committed in the Republic.

(3) No person shall be convicted of any offence mentioned in subsection (1) if such person proves that he is not a Ciskeian citizen and has not at any time before or after the commencement of this Decree been resident in the Republic and that he has not at any time before or after the commencement of this Decree entered or been in the Republic and that he has not acted for or on behalf of or in association with a foreign State or a hostile organisation against the laws, security or interests of the Republic.

(4) Where the trial for an offence mentioned in subsection (1) committed outside the Republic takes place in the Republic, the laws relating to procedure and evidence of the Republic shall apply in respect of such trial.

44. Certain person may be charged jointly. — Notwithstanding anything to the contrary in any law contained, whenever two or more persons are in any indictment, summons or charge alleged to have committed -

- (a) whether jointly or severally, offences mentioned in section 42,

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- (b) at the same date and place, or at approximately the same date and at approximately the same place, offences under this decree, or offences under this decree and under any other law,

such person may be tried jointly for such offences on that indictment, summons or charge.

45. Certain applications to be heard behind closed doors. — Any application for a direction referred to in section 153(1) and (2) of the Criminal Procedure Act, 1977 shall, if the criminal proceedings in connection with which that application is made is a prosecution for an offence referred to in this decree, be heard behind closed doors if the prosecutor so requests.

46. Privilege arising out of State security. — (1) Notwithstanding anything to the contrary in any law or the common law contained, no person shall be compelled and no person shall be permitted or ordered to give evidence or to furnish any information in any proceedings in any court of law or before any body or institution established by or under any law or before any commission as contemplated in the Commissions Act, 1947 (Act 8 of 1947) as to any fact, matter or thing or as to any communication made to or by such person, and no book or document shall be produced in any such proceedings, if an affidavit purporting to have been signed by the Head of State is produced to the court of law, body, institution or commission concerned, to the effect that the Head of State has personally considered the said fact, matter, thing, communication, book or document, that, in his opinion, it affects the security of the State and that disclosure thereof will, in his opinion, prejudicially affect the security of the State.

(2) The provisions of subsection (1) shall not derogate from the provisions of any law or of the common law which do not compel or permit any person to give evidence or to furnish any information in any proceedings in any court of law before any body or institution established by or under any law or before any commission as contemplated in the Commissions Act, 1947, as to any fact, matter or thing or as to any communication made to or by such person or to produce any book or document, in connection with any matter other than a matter affecting the security of the State.

47. Provisions of this Chapter apply also in prosecutions for attempt, incitement or conspiracy. — Unless the context otherwise indicates, any reference in this Decree to any offence or prosecution under any provision of this Decree, includes a reference to an offence or prosecution for an attempt, conspiracy or incitement to commit an offence under this Decree.

48. Admissibility of certain documents. — In any prosecution under this decree any document, book, record, pamphlet or other publication or written instrument -

- (a) which is proved to have been found in or removed from the possession, custody or control of the accused or of any person who was at any time an officer-bearer or officer of the organisation of which the accused is alleged to be or to have been an office-bearer, officer, member or active supporter and which has been declared an unlawful organisation, or
- (b) which is proved to have been found in or removed from any office or other premises occupied or used at any time by the organisation of which the accused is alleged to be or to have been an office-bearer, officer, member or active supporter and which has been declared an unlawful organisation, or by a person who in his capacity as an office-bearer or officer of that organisation, or
- (c) which on the face thereof has been compiled, kept, maintained, used, issued or published by or on behalf of the organisation of which the accused is alleged to be or to have been an office-bearer, officer, member or active supporter and which has been declared an unlawful organisation,

shall itself or by any reproduction thereof be admissible in evidence against the accused as *prima facie* proof of its contents.

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49. Presumption of intention to achieve certain objects. — (1) If, in any prosecution for an offence in terms of section 2 or 3, it is proved that the accused has committed any act alleged in the charge and if such act resulted or was likely to have resulted in the achievement of any of the objects specified in section 2(1)(a) to (d), inclusive, it shall be presumed, unless the contrary is proved, that the accused has committed that act with intent to achieve such object.

(2) If, in any prosecution for an offence in terms of section 2(1), the act with which the accused is charged consists thereof and it is proved that he unlawfully had in his possession any automatic or semi-automatic rifle, machine gun, sub-machine gun, machine pistol, rocket launcher, recoilless gun or mortar, or any ammunition for or component part of such weaponry, or any grenade, mine, bomb or explosive, it shall be presumed, unless the contrary is proved, that the accused had the said weaponry, ammunition, component part of such weaponry, or any grenade, mine, bomb or explosive in his possession with intent to commit therewith or in connection therewith in the Republic, in order to achieve any of the objects specified in section 2(1)(a) to (d), inclusive, any of the acts contemplated in section 2(1)(i) to (iv), inclusive.

(3) If in any prosecution for an offence in terms of section 2(1) the act with which the accused is charged consists thereof, and it is proved, that he unlawfully had in his possession any firearm or ammunition other than any firearm or ammunition referred to in subsection (2), or unlawfully had in his possession more than one such other firearm and if, in the opinion of the court, the nature of that other firearm or firearms or of that ammunition or the circumstances in which the accused so had such other firearm, firearms or ammunition in his possession or the quantity thereof which the accused so had in his possession can justify the inference that the accused so had possession thereof with intent to commit therewith or in connection therewith in the Republic any of the acts contemplated in section 2(1)(i) to (iv), inclusive, it shall be presumed, unless the contrary is proved, that the accused had the said other firearm, firearms or ammunition in his possession with intent to commit therewith or in connection therewith in the Republic, in order to achieve any of the objects specified in section 2(1)(a) to (d), inclusive, any of the acts contemplated in section 2(1)(i) to (iv) inclusive.

50. Presumption of membership etc. of unlawful organisation. — If, in any prosecution for an offence under this decree in which it is alleged that any person is or was a member or active supporter of any organisation, it is proved -

- (a) that he attended any meeting of that organisation, or
- (b) that he has advocated, advised, defended or encouraged the promotion or the purposes of that organisation; or
- (c) that he has distributed or assisted in the distribution of or caused to be distributed any periodical or other publication or document -
 - (i) issued by the organisation, or
 - (ii) issued on behalf or at the instance of that organisation, or
 - (iii) which advocates, advises, defends or encourages the promotion of the purposes of that organisation,

such person shall be presumed, until the contrary is proved, to be or to have been a member or active supporter, as the case may be, of that organisation.

51. Presumption regarding gatherings. — (1) A person shall in any prosecution for an offence under section 28 be deemed to have convened a gathering in any place if he -

- (a) has himself or through another person caused written notice to be published, distributed or despatched inviting the public or any member of the public to assemble at a specified time and place or has encouraged or assisted in publication, distribution or despatch of such notice;
- (b) has himself or through another person, orally invited the public or any members of the public so to assemble; or

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- (c) has taken any active part in making arrangements for the publication, distribution or despatch of such notice or in organizing or making preparations for such an assembly.

(2) If in any prosecution for an offence under section 28 it is proved that any person was present at any gathering at any one time, it shall be presumed, until the contrary is proved, that such person participated voluntarily at such gathering and not as the result of circumstances beyond his control.

(3) If in any prosecution for an offence under section 28 involving the question whether a gathering was or was not an unlawful gathering it shall be presumed, unless the contrary is proved, that such gathering was an unlawful gathering.

52. Presumption regarding certain illegal strikes. — (1) If in any prosecution under section 31(1) or 32 it is proved that the accused broke his contract of employment with his employer, or any condition of such contract on the same date or approximately the same date on which other employees of that same employer similarly broke their contracts of employment or any condition of such contracts, it shall be presumed that the accused so broke his contract or condition thereof by arrangement with those other employees.

(2) If in any prosecution under section 31(1) or 32 it is proved that the accused broke his contract of employment with his employer, or any condition of such contract, and that such act or omission had or was likely to have had any of the results mentioned in section 31(1) or 32, it shall be presumed, until the contrary is proved, that the accused knew such to be the consequence of his act or omission in so breaking such contract or condition.

53. Presumption relating to official secrets. — (1) If in any prosecution on a charge under section 36 or on a charge under section 37(1) in connection with the publication or disclosure of a secret official code or password or a document, model, article or information as referred to in that section, it is proved that the accused -

- (a) has been in communication or has attempted to communicate with an agent in the Republic or elsewhere, or
- (b) is an agent or is being or has been or is reasonably suspected of being or having been directly or indirectly employed by a foreign or international body or institution or has entered or is within the Republic in contravention of any law,

it shall, unless the contrary is proved, be presumed that the document, model, article or information referred to in section 36 has been prepared, compiled, made, obtained or received or the secret official code or password or the model, article, document or information referred to in section 37(1) has been published or disclosed, as the case may be, for purposes of the disclosure thereof to a foreign State or to a hostile organisation.

(2) for the purposes of subsection (1) -

- (a) a person shall, unless he proves the contrary, be presumed to have been in communication with an agent if -
 - (i) he has, in the Republic or elsewhere, visited the address of an agent or associated with an agent; or
 - (ii) in the Republic or elsewhere, the name or address of or any other information regarding an agent has been found in his possession or under his control or has been supplied by him to any other person or has been obtained by him from any other person;
- (b) any address in the Republic or elsewhere, reasonably suspected to be an address used for the receipt of communications intended for an agent or at which an agent resides or to which he resorts for the purpose of giving or receiving communications or at which he carries on any business, shall be deemed to be the address of an agent and any person who addresses communications to such address shall be deemed to have been in communication with an agent.

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(3) If, in any prosecution against any person for an offence under section 36, it is proved that he is an agent or that he is or has been or is reasonably suspected of being or having been directly or indirectly employed by or on behalf of any foreign or international body or institution or that he has entered or is within the Republic in contravention of any law and that he has prepared, compiled, made, obtained or received any document, model, article or information other than that referred to in section 37(a), or any document, model, article or information relating to a place, article or matter other than that referred to in section 37(b)(i) or (ii) it shall, unless the contrary is proved, be presumed that such document, model, article or information may directly or indirectly be of use to a foreign State or a hostile organisation.

CHAPTER 9

GENERAL PROVISIONS

54. Act or conduct which constitutes incitement to public violence. — A person shall be deemed to have committed the common law offence of incitement to public violence if, in any place whatsoever, he has acted or conducted himself in such a manner, or has spoken or published such words, that it might reasonably be expected that the natural and probable consequences of his act, conduct, speech or publication would, under the circumstances, be the commission of public violence by members of the public generally or by persons in whose presence the act or conduct took place or to whom the speech or publication was addressed.

55. Attempt, conspiracy and inducing another person to commit offence. —

(1) Any person who attempts to commit any offence against a statute or a statutory regulation shall be guilty of an offence and, if no punishment is expressly provided thereby for such an attempt, be liable on conviction to the punishment to which the person convicted of actually committing that offence would be liable.

(2) Any person who -

- (a) conspires with any other person to aid or procure the commission of or to commit any offence, whether at common law or against a statute or statutory regulation, or
- (b) incites, instigates, commands or procures any other person to commit any such offence as aforesaid,

shall be guilty of an offence and liable on conviction to the punishment to which a person convicted of actually committing that offence would be liable.

56. Removal, possession and storage of explosives. — (1) Whenever the Minister deems it necessary to take special precautions to maintain public order so as to protect life and property he may, by notice in the *Gazette*, prohibit for such period as he may think fit, the transportation of explosives from any one place to any other place in the Republic, except under such safeguards and conditions as are prescribed by regulation, and may make regulations, to be in force for such limited period as he may think fit, as to the transportation of explosives to and from particular areas or as to the storage, removal, possession or use of explosives within any particular area by all persons or by persons of specified occupations or callings and may limit or vary the conditions of any licences or permits held or to be issued under the Explosives Act, 1956 (Act 26 of 1956) or the regulations made thereunder.

(2) Any person who contravenes or fails to comply with the provisions of any proclamation or regulation issued under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand rand or to imprisonment for a period not exceeding five years.

57. Removal from the Republic of certain undesirable inhabitants. — (1) Any person who is not a citizen of the Republic may be deemed by the Minister to be an undesirable inhabitant of the Republic if -

- (a) he has been convicted of any of the offences referred to under section 2, 3, 4, 5, 28, 29, 30, 33, 35, 36, 37, 38 or 40, 55(1) and (2) or 56(2); or

NATIONAL SECURITY DECREE, 1993

- (b) he has been convicted of any of the following serious common law crimes, to wit, murder, culpable homicide (excluding any death caused while driving a motor vehicle), rape, robbery, assault with intent to do grievous bodily harm, arson, malicious injury to property, fraud, theft, housebreaking with intent to commit theft or any other serious crime, extortion or corruption,

and such person may be removed from the Republic by order in writing of the Minister and, pending such removal, may be detained in custody in the manner provided for the detention pending removal from the Republic of persons who are prohibited persons and thereafter such person shall, while the order of the Minister remains in force, be deemed to be a prohibited person.

(2) The Minister may exercise the powers referred to in subsection (1) without prior notice to any person, but shall on written request furnish such reasons for the removal as may in his opinion be made public without prejudice to the interest of the State.

(3) The Minister may at any time at his discretion and on good cause shown revoke any order made under subsection (1) or any like order made by the Minister under any law repealed by section 60.

58. Service of documents by publication in the *Gazette*. — If the Minister is satisfied that in carrying out any of the provisions of this decree 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 such publication.

59. Regulations. — (1) The Head of State may make any regulation, not inconsistent with this decree, which he considers necessary or expedient for the achievement of the purposes of this decree.

(2) The Minister may make regulations, pertaining to the conditions of detention and matters incidental thereto, of persons detained under sections 26, 27 and 28.

60. Amendment or repeal of laws and savings. — (1) The laws mentioned in Schedule 1 are hereby amended as set out in that Schedule.

(2) Subject to the provisions of subsection (3), the laws specified in Schedule 2 are hereby repealed.

(3) Anything done or any action taken under any provision of a law repealed by subsection (2) and which has not been undone or brought to finality before the commencement of this decree shall continue to be of force and effect and shall be deemed to have been done under the corresponding provision of this decree.

61. Short title and commencement. — This decree shall be called the National Security Decree, 1993 and shall come into operation on a date to be fixed by the Head of State by proclamation in the *Gazette*.

SCHEDULE 1

Laws amended

The Republic of Ciskei Constitution Decree, 1990 (Decree 45 of 1990) amended as follows:

1. Section 26 amended by the substitution for subsections (2) and (3) of the following subsections:

“(2) When the Chairman or an aggrieved person has any doubt as to the question whether -

- (a) the application of any law or provision thereof, which continues to apply in Ciskei in terms of section 37, abolishes, diminishes or derogates from any fundamental right mentioned in Schedule 6, or

NATIONAL SECURITY DECREE, 1993

- (b) any draft decree which is to be considered by the Council of State in terms of section 22 would, if it were passed, abolish, diminish or derogate from any such fundamental right as aforesaid,

the Chairman or such person may cause such question to be submitted to the Supreme Court for a decision thereon.

- (3) If a court of a division of the Supreme Court decides -

- (a) that the application of a law referred to in paragraph (a) of subsection (2) has the effect of abolishing, diminishing or derogating from a fundamental right mentioned in Schedule 6, or
- (b) that any draft decree contemplated in paragraph (b) of subsection (2) would, if it were passed, abolish, diminish or derogate from such a fundamental right,

the Chairman shall cause that law or that draft decree, as the case may be, to be referred to the Council of State for consideration of the question whether that law should be repealed or amended or the draft decree reconsidered: Provided that no decision of the Supreme Court under this subsection shall affect the validity of any law mentioned in section 37 or any provision of any such law."

2. (1) Section 37 amended by the substitution for subsection (1) of the following subsection:

"(1) (a) All laws (other than the laws mentioned in section 40) which were in force in Ciskei immediately prior to the commencement of this decree shall remain in force until repealed or amended by competent authority.

(b) All rights, powers, authorities, duties, obligations and functions which were vested in or devolved upon a Minister or other authority under any law which continues to apply in Ciskei in terms of paragraph (a) shall vest in or devolve upon the corresponding Minister, authority or person exercising similar powers or performing similar duties or functions in Ciskei after the commencement of this decree."

(2) Subsection (1) of section 37 of the Republic of Ciskei Constitution Decree, as substituted herein shall be deemed to have come into operation on 5 February 1991.

SCHEDULE 2

Laws repealed

No. and year of law	Short title
Act 13 of 1982	National Security Act, 1982
Act 35 of 1983	National Security Amendment Act, 1983
Act 24 of 1985	National Security Amendment Act, 1985
Act 33 of 1985	National Security Second Amendment Act, 1985
Act 5 of 1988	National Security Amendment Act, 1988
Decree 13 of 1990	Police Amendment Decree, 1990
Decree 4 of 1991	National Security Amendment Decree, 1991
Decree 5 of 1992	Security Amendment Decree, 1992

COUNCIL OF STATE — REPUBLIC OF CISKEI

PROCLAMATION No. 10 OF 1993

by the Chairman of the Council of State of the Republic of Ciskei

NATIONAL SECURITY DECREE, 1993 (DECREE 19 OF 1993): COMMENCEMENT

Under and by virtue of the powers vested in me by section 61 of the National Security Decree, 1993, I declare that the said decree shall come into operation on 3 September 1993.

Given under my Hand and the Seal of the Republic of Ciskei on this first day of September One thousand Nine hundred and Ninety-three.

**O.J. GGOZO: BRIGADIER
CHAIRMAN OF THE COUNCIL OF STATE**

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