

B I L L .

To declare the Communist Party of South Africa to be an unlawful organization; to make provision for declaring other organizations promoting communistic activities to be unlawful and for prohibiting certain periodical or other publications; to prohibit certain communistic activities; and to make provision for other incidental matters.

=====
(SELECT COMMITTEE.)
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BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:-

Definitions.

1. In this Act, unless the context otherwise indicates -
 - (i) "authorized officer" means a person designated as such under sub-section (1) of section seven, and includes any person acting under his written authority; (vii)
 - (ii) "communism" means the doctrine of Marxian socialism as expounded by Lenin or Trotsky, the Third Communist International (the Comintern) or the Communist Information Bureau (the Cominform) or any related form of that doctrine expounded or advocated in the Union for the promotion of the fundamental principles of that doctrine and includes, in particular, any doctrine or scheme -
 - (a) which aims at the establishment of a despotic system of government based on the dictatorship of the proletariat under which one political organization only is recognized and all other political organizations are suppressed or eliminated; or
 - (b) which aims at bringing about any political, industrial, social or economic change within the Union by the promotion of disturbance or disorder, by unlawful acts or omissions or by the threat of such acts or omissions or by means which include the promotion of disturbance or disorder, or such acts or omissions or threat; or
 - (c) which aims at bringing about any political, industrial, social or economic change within the Union in accordance with the directions or under the guidance of or in co-operation with any foreign government or any foreign or international institution whose purpose or one of whose purposes (professed or otherwise) is to promote the establishment within the Union of any political, industrial, social or economic system identical with or similar to any system in operation in any foreign country; or
 - (d) which aims at the encouragement of feelings of hostility between the European and non-European races of the Union the consequences of which are calculated to further the achievement of any object referred to in paragraph (a) or (b); (ix)
 - (iii) "communist" means a person who professes to be a communist or who, after having been given a reasonable opportunity of making such representations as he may consider necessary, is deemed by the Governor-General or, in the case of an inhabitant of the territory of South-West Africa, by the Administrator of the said Territory, to be a communist on the ground that he is advocating, advising, defending or encouraging or has at any time after the date of commencement of this Act advocated, advised, defended or encouraged the achievement of any of the objects of communism

/or any.....

- or any act or omission which is calculated to further the achievement of any such object; (viii)
- (iv) "document" includes any book, pamphlet, record, list, placard, poster, drawing, photograph or picture; (vi)
 - (v) "gathering" means any gathering, concourse, or procession in, through or along any place, of any number of persons having a common purpose, whether such purpose be lawful or unlawful; (iv)
 - (vi) "liquidator" means a person designated as such under paragraph (b) of sub-section (1) of section three, and includes any person acting under his written authority; (iii)
 - (vii) "Minister" means the Minister of Justice; (x)
 - (viii) "office-bearer", in relation to any organization, means a member of the governing or executive body of -
 - (a) the organization; or
 - (b) any branch, section or committee of the organization; or
 - (c) any local, regional or subsidiary body forming part of the organization; (i)
 - (ix) "officer", in relation to any organization, means any person working for the organization or for any branch, section or committee, or for any local, regional or subsidiary body forming part of the organization; (ii)
 - (x) "organization" means any association of persons, incorporated or unincorporated, and whether or not it has been established or registered in accordance with any statute; (xiv)
 - (xi) "periodical publication" means any publication appearing at intervals; (xv)
 - (xii) "publication" means any newspaper, magazine, pamphlet, book, hand-bill or poster; (xvi)
 - (xiii) "public body" means any institution or body contemplated in paragraph (vi) of section eighty-five of the South Africa Act, 1909 and includes any institution or body established by law; (xiii)
 - (xiv) "public office" means any office or post in the service of the State (including the Railway Administration, a provincial administration or the Administration of the territory of South-West Africa) or a public body, and includes any office or post in the Defence Forces of the Union; (xii)
 - (xv) "the Communist Party of South Africa" means the organization known by that name on the fifth day of May, 1950, notwithstanding any change in the name of that organization after the said date; (v)
 - (xvi) "Union" includes the territory of South-West Africa; (xvii) and
 - (xvii) "unlawful organization" means an organization which is an unlawful organization in terms of sub-section (1) of section two or a proclamation under sub-section (2) of the said section and includes any branch, section or committee of any such organization and any local, regional or subsidiary body forming part of any such organization. (xi)

Unlawful Organizations.

2. (1) The Communist Party of South Africa, including every branch, section or committee thereof and every local, regional or subsidiary body forming part thereof, is hereby declared to be an unlawful organization.

(2) If the Governor-General is satisfied -

- (a) that any other organization professes or has on or after the fifth day of May, 1950, and before the commencement of this Act, professed by its name or otherwise, to be an organization for propagating the principles or promoting the spread of communism; or
- (b) that the purpose or one of the purposes of any organization is to propagate the principles or promote the spread of communism or to further the achievement of any of the objects of communism; or
- (c) that any organization engages in activities which are calculated to further the achievement of any of the objects referred to in paragraph (a), (b), (c) or (d) of the definition of "communism" in section one; or
- (d) that any organization is controlled, directly or indirectly, by an organization referred to in sub-section (1) or paragraph (a), (b) or (c) of this sub-section,

Could be calculated to encourage feelings of hostility

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he may without notice to the organization concerned by proclamation in the Gazette declare that organization to be an unlawful organization, and the Governor-General may in like manner withdraw any such proclamation.

(3) The provisions of paragraphs (b), (c) and (d) of sub-section (2) shall not apply in relation to an employers' organization or trade union registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937).

Consequences where organization declared to be unlawful.

3. (1) As from the date upon which an organization becomes an unlawful organization in terms of sub-section (1) of section two or a proclamation under sub-section (2) of the said section -
 - (a) no person shall -
 - (i) become, continue to be or perform any act as an office-bearer, officer or member of the unlawful organization; or
 - (ii) carry or display anything whatsoever indicating that he is or was an office-bearer, officer or member of or in any way associated with the unlawful organization; or
 - (iii) contribute or solicit anything as a subscription or otherwise, to be used directly or indirectly for the benefit of the unlawful organization; or
 - (iv) in any way take part in any activity of the unlawful organization, or carry on in the direct or indirect interest of the unlawful organization, any activity in which it was or could have engaged at the said date;
 - (b) all property (including all rights and documents) held by the unlawful organization or held by any person for the benefit of the unlawful organization, shall vest in a person to be designated by the Minister as the liquidator of the assets of the unlawful organization; and
 - (c) the unlawful organization shall, if it is registered in any office, cease to be registered, and the officer in charge of the register shall remove its name therefrom.

(2) No court shall after the expiration of a period of three months from the date of a proclamation under sub-section (2) of section two, have jurisdiction to pronounce upon the validity of that proclamation.

(3) The liquidator shall be appointed on such conditions, and may be paid out of the assets of the unlawful organization 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 organization and its office-bearers, officers or members, any such office-bearer, officer or member may by resignation terminate his relationship with the unlawful organization as from the date of the resignation.

4. (1) The liquidator shall forthwith take possession of all the property vested in him under paragraph (b) of sub-section (1) of section three and satisfy himself as to the adequacy of the assets to pay the debts of the unlawful organization.

(2) If the assets are adequate to pay the debts, he shall after the expiration of a period of at least three months from the date of the proclamation 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.

(3) Any balance remaining after the debts have been paid shall be distributed to one or more charitable or scientific organizations designated by the Minister.

(4) If the assets are not adequate to pay the debts of the unlawful organization 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 organization became an unlawful organization in terms of sub-section (1) of section two or a proclamation under sub-section (2) of the said section shall be regarded as the date of sequestration or winding-up as the case may be.

Section three into only to prove shouldn't be declared unlawful.

Powers and duties of liquidator.

(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 organization 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 sub-section (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 organization which is not liquidated under sub-section (1) or (4), shall be disposed of as the Minister may direct.

(9) The Minister may at any time by notice in the Gazette and subject to such modifications as he may deem fit, apply in relation to the distribution of the assets or the payment of the debts of the unlawful organization under this section, such provisions of the Companies Act, 1926 (Act No. 46 of 1926), or the Insolvency Act, 1936 (Act No. 24 of 1936), as are not inconsistent with this Act, as may be necessary in a particular case for the proper distribution of the assets or the payment of the debts of the unlawful organization, and may in like manner amend or withdraw any such notice.

(10) If directed by the Minister to do so, the liquidator shall compile a list of persons who are or have been office-bearers, officers, members or active supporters of the organization which has been declared an unlawful organization: Provided that the name of a person shall not be included in any such list or in any category mentioned in such list, unless he has been afforded a reasonable opportunity of showing that his name should not be included therein.

(11) The liquidator shall have authority to receive and retain any communication addressed to the unlawful organization or to any office-bearer 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.

(12) The provisions of sub-sections (3) and (4) of section seven shall mutatis mutandis apply in respect of any investigation by the liquidator, which he may consider necessary in connection with the performance of his functions under sub-section (1), (4) or (10): Provided that in its application under this sub-section, paragraph (d) of sub-section (3) of the said section shall be read as referring also to any document which, in the opinion of the liquidator, may afford evidence in regard to any right in or the whereabouts of any property or the existence or amount of any debt.

Restrictions which Minister may impose on Communists or office-bearers, officers, members or active supporters of unlawful organizations.

5. (1) The Minister may by notice in writing require any person whose name appears on any list in the custody of the officer referred to in section eight, or who has been convicted of any offence under section eleven or is a communist -

- (a) to comply, while he is an office-bearer, officer or member of any organization specified in the notice, with such condition as may be prescribed therein;
- (b) to resign as an office-bearer, officer or member of an organization specified in the notice within a period so specified, not again to become an office-bearer, officer or member of that organization and not to take part in its activities;
- (c) not to become an office-bearer, officer or member and not to take any part in the activities of any organization specified in the notice or of any kind of organization so specified;
- (d) not to become a member of either House of Parliament or a provincial council or the Legislative Assembly of the territory of South-West Africa or any public body specified in the notice or to hold any public office so specified or, if he is such a member or holds such an office, to resign within a period so specified, as such member or from such office and not again to become such a member or hold such office.

(2) The Minister may at any time in like manner withdraw or vary any notice under sub-section (1).

(3) Notwithstanding anything contained in any instrument, rule or agreement governing the relations between any organization and any office-bearer, officer or member thereof who has under sub-section (1) been required to resign, such office-bearer, officer or member may by resignation terminate his relationship with such organization as from the date of the resignation.

Prohibition of certain publications

6. If the Governor-General is satisfied that any periodical or other publication-
- (a) professes, by its name or otherwise, to be a publication for propagating the principles or promoting the spread of communism; or
 - (b) is published or disseminated by or under the direction or guidance of an organization which has been declared an unlawful organization by or under section two, or was published or disseminated by or under the direction or guidance of any such organization immediately prior to the date upon which it became an unlawful organization; or
 - (c) serves mainly as a means for expressing views propagated by any such organization, or did so serve immediately prior to the said date; or
 - (d) serves mainly as a means for expressing views or conveying information, the publication of which is calculated to further the achievement of any of the objects of communism,

he may, without notice to any person concerned, by proclamation in the Gazette prohibit the printing, publication or dissemination of such periodical publication or the dissemination of such other publication; and the Governor-General may in like manner withdraw any such proclamation.

Investigation concerning suspected organizations or publications.

7. (1) If the Minister has reason to suspect -

- (a) that the purposes, activities or control of any organization are such that it ought to be declared an unlawful organization under sub-section (2) of section two; or
- (b) that the circumstances connected with any periodical or other publication are such that the printing, publication or dissemination thereof ought to be prohibited under section six,

he may in writing under his hand designate any person as an authorized officer to investigate the purposes or activities of the organization or the manner in which it is controlled, or the circumstances connected with that periodical or other publication, as the case may be.

(2) If directed by the Minister to do so in any case referred to in paragraph (a) of sub-section (1), an authorized officer shall compile a list of persons who are or have been office-bearers, officers, members or active supporters of the organization concerned: Provided that the name of a person shall not be included in any such list or in any category mentioned in such list unless he has been afforded a reasonable opportunity of showing that his name should not be included therein.

(3) An authorized officer may, for the purposes of exercising his functions under sub-section (1) or (2) -

- (a) without previous notice at any time enter upon any premises whatsoever and make such investigation and enquiry as he deems necessary;
- (b) require from any person the production then and there or at a time and place fixed by the authorized officer, of any document or of any copy of any periodical or other publication which is on the premises;
- (c) at any time and at any place require from any person who has the possession or custody or control of any document or any copy of any periodical or other publication, the production thereof then and there or at a time and place fixed by the authorized officer;
- (d) seize any document or copy referred to in paragraph (b) or (c), which in his opinion may afford evidence in regard to any matter referred to in sub-section (2) of section two or section six in regard to the persons who are or have been office-bearers, officers, members or active supporters of the organization concerned;
- (e) examine and make extracts from and copies of any such document, and require from any person an explanation of any entries therein,

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or of any matter published in any such periodical or other publication;

- (f) question either alone or in the presence of any other person, as he thinks fit, with respect to any matter referred to in sub-section (2) of section two or section six or in order to ascertain which persons are or have been office-bearers, officers, members or active supporters of the organization concerned, any person whom he finds on any premises entered in terms of this section, or whom he has reasonable grounds for believing to be or to have been an office-bearer, officer, member or active supporter of the organization concerned or to be in possession of any information required by him;
- (g) require any person referred to in paragraph (b), (c), (e) or (f) to appear before him at any time and place fixed by him and then and there question that person.

(4) Every occupier of any premises entered under sub-section (3) shall at all times furnish such facilities as are required by an authorized officer for the purpose of exercising his powers under the said sub-section.

Custo-
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8. (1) Every list compiled under sub-section (10) of section four shall, and every list compiled under sub-section (2) of section seven shall if the organization concerned is under sub-section (2) of section two declared to be an unlawful organization, be kept in the custody of an officer designated from time to time by the Minister, until the relevant proclamation under sub-section (2) of section two has been withdrawn.

(2) If any person whose name appears on any such list proves that his name should not appear on it or is incorrectly included in any category mentioned in the list, the said officer shall remove his name or correct the list accordingly.

Prohibi-
tion of
certain
gather-
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9. Whenever in the opinion of the Minister there is reason to believe that the achievement of any of the objects of communism would be furthered -

- (a) by the assembly of a particular gathering in any place; or
- (b) if a particular person were to attend any gathering in any place,

the Minister may, in the manner provided in sub-section (1) of section one of the Riotous Assemblies and Criminal Law Amendment Act, 1914 (Act No. 27 of 1914), prohibit the assembly of that gathering in any place within the Union, or he may by notice under his hand addressed and delivered or tendered to that particular person, prohibit him from attending any gathering in any place within an area and during a period specified in such notice.

Certain
persons
may be
prohibi-
ted from
being
within
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areas.

10. (1) Whenever the Minister is satisfied that any person is in any area advocating, advising, defending or encouraging the achievement of any of the objects of communism or any act or omission which is calculated to further the achievement of any such object, or is likely in any area to advocate, advise, defend or encourage the achievement of any such object or any such act or omission, he may by notice under his hand, addressed and delivered or tendered to such person, prohibit him, after a period stated in such notice being not less than seven days from the date of such delivery or tender, and during a period likewise stated therein, from being within any area defined in such notice: Provided that the Minister may at any time withdraw or modify any such notice or grant such person permission in writing to visit temporarily any place where he is not permitted to be in terms of such notice.

(2) Whenever any person who has received a notice in terms of sub-section (1) is necessarily put to any expense in order to comply with such notice, the Minister may in his discretion cause such expense, or any part thereof, to be defrayed out of moneys appropriated by Parliament for the purpose and may further in his discretion, cause to be

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paid out of such moneys to such person a reasonable subsistence allowance during any period whilst such notice applies to him.

(3) Subject to the proviso to sub-section (1) any person who contravenes or fails to comply with any notice delivered or tendered to him in terms of sub-section (1) may at any time after the expiration of the period of not less than seven days stated in such notice, in addition to any penalty that may be imposed upon him, be removed by any member of the police force duly authorized thereto in writing by any commissioned police officer from any area wherein he is prohibited to be in terms of such notice.

11. Any person who -

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ties.
- (a) performs any act which is calculated to further the achievement of any of the objects of communism;
 - (b) advocates, advises, defends or encourages the achievement of any such object or any act or omission which is calculated to further the achievement of any such object;
 - (c) contravenes any provision of paragraph (a) of sub-section (1) of section three;
 - (d) prints, publishes or disseminates any periodical publication or disseminates any other publication in contravention of a proclamation under section six;
 - (e) knowingly allows any premises or any other property whatsoever to be used for the purposes of or in connection with any offence under paragraph (a), (b), (c) or (d);
 - (f) fails to comply with any requirement of a notice under section five;
 - (g) after a prohibition referred to in section nine and in contravention thereof, convenes a gathering in any place, or presides at or addresses a gathering the assembly whereof in any place has been prohibited under section nine;
 - (h) in contravention of a notice delivered or tendered to him in terms of section nine attends any gathering;
 - (i) subject to the proviso to sub-section (1) of section ten, contravenes or fails to comply with any notice delivered or tendered to him in terms of sub-section (1) of section ten;
 - (j) refuses or fails to answer to the best of his knowledge any question which an authorized officer or a liquidator has put to him in the exercise of his functions under this Act;
 - (k) refuses or fails to comply to the best of his power with any requirement made by an authorized officer or liquidator under this Act;
 - (l) hinders an authorized officer or a liquidator in the performance of his functions under this Act, or, without the consent of the liquidator of an unlawful organization, destroys, alters or removes any property or document held by that organization or held by any person for the benefit of that organization; or
 - (m) contravenes the provisions of sub-section (4) of section seven,

shall be guilty of an offence, and liable -

- (i) in the case of an offence referred to in paragraph (a), (b), (c) or (d) to imprisonment for a period not exceeding ten years;
- (ii) in the case of an offence referred to in paragraph (e), (f), (g), (h) or (i) to imprisonment for a period not exceeding three years; and
- (iii) in the case of an offence referred to in paragraph (j), (k), (l) or (m) to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

12. (1) If any prosecution under this Act, or in any civil proceedings

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arising from the application of the provisions of this Act, in which it is alleged that any person is or was a member or active supporter of any organization, it is proved that he attended any meeting of that organization, or has publicly advocated, advised, defended or encouraged the promotion of its purposes, or has distributed any periodical or other publication or document issued by, on behalf or at the instance of that organization, he 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 organization.

(2) A person shall in any prosecution for an offence under paragraph (g) of section eleven be deemed to have convened a gathering in any place if he -

(a) has caused written notice to be published, distributed or despatched, inviting the public, or any members of the public, to assemble at a specified time and place; [^]

(b) has himself, or through another person, orally invited the public or any members of the public so to assemble;
or

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

(3) No person shall be convicted of an offence under paragraph (g) of section eleven if he satisfies the court that he had no knowledge of the prohibition of the gathering concerned.

Forfeiture.

13. (1) The court convicting any person of an offence under paragraph (e) of section eleven, may declare the property in respect of which the offence was committed, or the rights of the convicted person to such property, to be forfeited to the State: Provided that such declaration shall not affect any rights which any person other than the convicted person may have to such property, if it is proved that he did not know that it was being or would be used in contravention of the said paragraph.

(2) Sub-sections (4) and (5) of section three hundred and sixty-six of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), shall mutatis mutandis apply in respect of any such forfeiture.

Removal from Union of certain undesirable inhabitants.

14. Any person who is not a South African citizen and who is deemed by the Governor-General, or in the case of an inhabitant of the Territory of South-West Africa, by the Administrator of the said territory, to be an undesirable inhabitant of the Union or of the said territory, as the case may be, because he is a communist or has been convicted of any offence under paragraph (a), (b), (c), (d), (e), (g), (h) or (i) of section eleven, may be removed from the Union or from the said territory, and pending removal, may be detained in custody in the manner provided for the detention, pending removal from the Union or from the said territory, of persons who are prohibited immigrants within the meaning of the relevant law relating to the regulation of immigration; and thereafter such person shall, for the purposes of such law, be deemed to be a prohibited immigrant.

Reports to Houses of Parliament.

15. Whenever any action has been taken under section two, five, six, nine, ten or fourteen, the Minister shall report the circumstances to both Houses of Parliament within fourteen days if Parliament be then in session or, if Parliament be not then in session, within fourteen days after the commencement of its next ensuing session.

Application of certain provisions of Act 27 of 1914 and Ordinance 9 of 1930 (S.W.A.)

16. Sections two, three, four and five of the Riotous Assemblies and Criminal Law Amendment Act, 1914 (Act No. 27 of 1914) and sections two, three, four and five of the Riotous Assemblies and Criminal Law Amendment Ordinance, 1930 (Ordinance No. 9 of 1930) of the Territory of South-West Africa shall mutatis mutandis apply in relation to any gathering which has under section nine of this Act been prohibited respectively in the Union or the said Territory.

in relation to gatherings prohibited under this Act.

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

18. This Act shall be called the Suppression of Communism Act, 1950. (Short title.)

Application to S.W.A. of this Act.

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