

REPUBLIC OF ZAMBIA

THE STATE SECURITY ACT

CHAPTER 111 OF THE LAWS OF ZAMBIA

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CHAPTER 111

STATE SECURITY

36 of 1969

17 of 1973

27 of 1985

An Act to make better provision relating to State security; to deal with espionage, sabotage and other activities prejudicial to the interests of the State; and to provide for purposes incidental to or connected therewith.

[23rd October, 1969]

1. This Act may be cited as the State Security Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation
Cap. 106
Cap. 87
Cap. 125
Cap. 125

"authorised officer", in relation to any provision of this Act, means a person authorised by the person responsible for the administration of this Act to exercise the powers or perform the duties conferred or imposed by such provision;

"classified matter" means any information or thing declared to be classified by an authorised officer;

"Defence Force" has the meaning assigned to it in section *two* of the Defence Act;

"Director" means the Director of Public Prosecutions;

"disaffected person" includes any person carrying on a seditious activity, that is to say, an activity constituting an offence under section *fifty-seven* of the Penal Code;

"foreign agent" includes any person who is or has been reasonably suspected of being or having been directly or indirectly employed by a state other than the Republic for the purpose of doing in the Republic or elsewhere any act prejudicial to the safety or interests of the Republic, or who has or is reasonably suspected of having done or attempted to do such an act in the Republic or elsewhere in the interests of a state other than the Republic;

"model" includes a design, pattern or specimen;

"munitions of war" means any article, material, or device, including military stores, or any part thereof, whether actual or proposed, intended or adapted for use in war or the defence of the Republic or capable of being adapted for such use, or any article used, or capable of being used or converted or adapted for use, in the production thereof;

"necessary service" includes-

- (a) any service relating to the generation, supply or distribution of electricity;
- (b) any fire brigade or fire service;
- (c) any sewerage, rubbish disposal or other sanitation service;
- (d) any health, hospital or ambulance service;
- (e) any service relating to the supply or distribution of water;
- (f) any service relating to the production, supply, delivery or distribution of food or fuel;
- (g) mining;
- (h) any communications service;
- (i) any transport service;
- (j) any road, railway, bridge, ferry, pontoon, airfield, harbour or dock; or
- (k) any other service or facility, whether or not of a kind similar to the foregoing, declared by the President to be a necessary service for the purposes of this Act;

"officer in charge of police" means the officer, not below the rank of Sub-Inspector, appointed by the Inspector-General of Police to be in charge of any police station, and includes, when the officer in charge of the police station is absent therefrom or unable, from illness or other cause, to perform his duties, the police officer present at the police station who is next in rank to such officer;

"official document" includes a passport, any pass of the Defence Force, any police or other official pass, permit, certificate, licence or other similar document;

"protected place" means-

(2) For the purposes of this Act-

- (a) expressions referring to communicating or receiving include the communicating or receiving of part of the sketch, plan, model, note or other document, article or information, or of the substance, effect or description thereof;
- (b) expressions referring to obtaining or retaining any sketch, plan, model, note or other document or article include the copying or causing to be copied the whole or any part thereof; and
- (c) expressions referring to the communication of any sketch, plan, model, note or other document or article include the transfer or transmission thereof.

(As amended by Act No. 27 of 1985)

3. Any person who, for any purpose prejudicial to the safety or interests of the Republic- Espionage

- (a) approaches, inspects, passes over, is in the vicinity of or enters any protected place;
- (b) makes any sketch, plan, model or note or in any manner whatsoever makes a record of or relating to any thing which might be or is intended to be directly or indirectly useful to a foreign power or disaffected person;
- (c) obtains, collects, records, publishes or communicates to any person any code, password, sketch, plan, model, note or other document, article or information which might be or is intended to be directly or indirectly useful to a foreign power or disaffected person; or
- (d) without lawful excuse damages, hinders or interferes with, or does any act which is likely to damage, hinder or interfere with, any necessary service or the carrying on thereof;

shall be guilty of an offence and liable on conviction to imprisonment for a period of not less than twenty years but not exceeding thirty years.

(As amended by Act No. 17 of 1973)

4. (1) Any person who has in his possession or under his control any code, password, sketch, plan, model, note or other document, article or information, which relates to or is used in a protected place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under the Government, or which he has obtained or to which he has had access owing to his position as a person who holds or has held such office or as a person who is or was a party to a contract with the Government or a contract the performance of which in whole or in part is carried out in a protected place, or as a person who is or has been employed by or under a person who holds or has held such an office or is or was a party to such a contract, and who- Communication of certain information

- (a) uses the same in any manner or for any purpose prejudicial to the safety or interests of the Republic;

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- (b) communicates the same to any person other than a person to whom he is authorised to communicate it or to whom it is in the interests of the Republic his duty to communicate it;
- (c) fails to take proper care of, or so conducts himself as to endanger the safety of, the same; or
- (d) retains the sketch, plan, model, note, document or article in his possession or under his control when he has no right or when it is contrary to his duty so to do, or fails to comply with any lawful directions with regard to the return or disposal thereof;

shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty-five years.

(2) Any person who has in his possession or under his control any sketch, plan, model, note or other document, article or information, relating to munitions of war and who communicates it directly or indirectly to any person in any manner for any purpose prejudicial to the safety or interests of the Republic shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty-five years.

(3) Any person who receives any code, password, sketch, plan, model, note or other document, article or information, knowing or having reasonable grounds to believe at the time when he receives it that the same is communicated to him in contravention of the provisions of this Act, shall, unless he proves that the communication thereof to him was against his wish, be guilty of an offence and liable on conviction to the penalty prescribed in subsection (1).

(4) Any person who communicates to any person, other than a person to whom he is authorised by an authorised officer to communicate it or to whom it is in the interests of the Republic his duty to communicate it, any information relating to the defence or security of the Republic shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty-five years.

(5) For the purposes of subsection (4), "information relating to the defence or security of the Republic" includes (but without derogating from the generality or the ordinary meaning of that expression) information relating to the movements or locations of the Defence Force or the Police Force, the steps taken to protect any vital installations or protected places, and the acquisition or disposal of munitions of war.

(As amended by Act No. 17 of 1973)

5. (1) Any person who communicates any classified matter to any person other than a person to whom he is authorised to communicate it or to whom it is in the interests of the Republic his duty to communicate it shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty-five years.

Protection of classified information

(2) In a prosecution for a contravention of subsection (1) it shall be no defence for the accused person to prove that when he communicated the matter he did not know and could not reasonably have known that it was classified matter.

(As amended by Act No. 17 of 1973)

6. (1) Any person who, for the purpose of gaining or assisting any other person to gain admission to a protected place or for any other purpose prejudicial to the safety or interests of the Republic-

Unauthorised use of uniforms, passes, etc.

- (a) without lawful authority uses wears, has in his possession, imports or manufactures any uniform of the Defence Force or of the Police Force or any other official uniform of the Republic, or any uniform or dress so closely resembling the same as to be likely to deceive, or falsely represents himself to be a person who is or has been entitled to wear or use any such uniform;
- (b) without lawful authority uses any vehicle belonging to the Government or any branch thereof, or any vehicle which because of false number-plates or other reason so closely resembles such a vehicle as to be likely to deceive, or falsely represents himself to be a person who is entitled to use such a vehicle;
- (c) orally or in writing in any declaration or application or in any document signed by him or on his behalf, omits any material fact or makes any statement which in any particular he knows to be false or does not believe to be true;
- (d) forges, alters or tampers with any official document or uses or has in his possession any forged, altered or irregular official document;
- (e) personates or falsely represents himself to be a person holding, or in the employ 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 communicated, or, with intent to obtain, whether for himself or for any other person, an official document or any secret official code or password, makes any statement which in any particular he knows to be false or does not believe to be true; or
- (f) without lawful authority uses or has in his possession or under his control any die, seal or stamp of or belonging to or used, made or provided by any Government department or by any diplomatic, naval, army or air force authority appointed by or acting under the authority of the Government, or any die, seal or stamp so closely resembling any such die, seal or stamp as aforesaid as to be likely to deceive, or counterfeits any such die, seal or stamp or uses or has in his possession or under his control any such counterfeit die, seal or stamp;

shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty-five years.

(2) Any person who-

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- (a) retains any official document, whether or not completed or issued for use, when he has no right or when it is contrary to his duty so to do, or fails to comply with any lawful directions 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 communicates to any person any secret official code or password so issued, 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 police officer; or
- (c) without lawful authority or excuse manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

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

(As amended by No. 54 of 1970 and Act 17 of 1973)

7. Any person who, in the vicinity of any protected place, knowingly obstructs, misleads or otherwise interferes with any person engaged on guard, sentry, patrol or other similar duty in relation to the protected place shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty five years.

Interfering with persons on guard at protected places

(As amended by Act No. 17 of 1973)

8. Any person who-

Harbouring

- (a) knowingly harbours or conceals any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or has committed an offence under this Act, or knowingly permits any such persons to meet or assemble in any premises in his occupation or under his control; or
- (b) having harboured or concealed any such person or permitted any such persons to meet or assemble in any premises in his occupation or under his control, wilfully omits or refuses to disclose to a police officer of or above the rank of Inspector any information that it is in his power to give in relation to any such person;

shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than fifteen years but not exceeding twenty-five years.

(As amended by Act No. 17 of 1973)

9. Any person who attempts to commit any offence under this Act, or solicits or incites or endeavours to persuade another person to commit any such offence, or aids or abets or does any act preparatory to the commission of such an offence, shall be guilty of an offence and liable on conviction to the same penalties as if he had been convicted of that offence.

Attempts, etc

10. (1) If in any prosecution against any person for an offence under section *three* it is proved that he has been in communication with, or attempted to communicate with, a foreign agent in the Republic or elsewhere it shall, unless the contrary is proved, be presumed that he has, for a purpose prejudicial to the safety or interests of the Republic, obtained or attempted to obtain information which might be or is intended to be directly or indirectly useful to a foreign power.

(2) For the purposes of subsection (1), but without derogating from the generality of that subsection, a person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent if-

- (a) he has, whether within or outside the Republic, visited or addressed any communication to the address of, or associated with, a foreign agent; or
- (b) whether within or outside the Republic, the name or address of, or any other information regarding, a foreign 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.

(3) Any address, whether within or outside the Republic, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or at which a foreign agent resides or to which he resorts or at which he carries on business, shall be deemed to be the address of a foreign agent.

(4) If in a prosecution under this Act it is alleged that the accused acted for a purpose prejudicial to the safety or interests of the Republic he shall, unless the contrary is proved, be deemed so to have acted if, from the circumstances of the case or his character or general conduct as proved, it appears that he acted for such a purpose.

(5) If in a prosecution under this Act it is alleged that the accused made, obtained, collected, recorded, published or communicated anything for a purpose prejudicial to the safety or interests of the Republic and it is proved that the making, obtaining, collecting, recording, publishing or communicating was by any person other than a person acting under lawful authority it shall, unless the contrary is proved, be presumed that the purpose of the act or conduct in question was a purpose prejudicial to the safety or interests of the Republic.

(6) Where the lack of lawful authority or excuse is an ingredient of an offence under this Act, the burden of proving such authority or excuse shall lie on the accused and the burden shall not be on the prosecution to prove such lack.

11. (1) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed he may grant a search warrant in the form set out in the Schedule authorising any police officer named therein of or above the rank of Sub Inspector, together with such other police officers and other persons who may be authorised by such named police officer, at any time to enter any premises, place, aircraft, ship, boat, train or other vehicle, or receptacle, as the case may be, named or described in the warrant, if necessary by force, and to search the same and every person or vehicle found thereon or therein or in the vicinity thereof, and to seize anything which he may find in the course of such search which is or may be evidence of an offence under this Act having been or being about to be committed or with regard to or in connection with which he has reasonable grounds for suspecting that an offence has been or is about to be committed.

Search warrants

(2) Where it appears to a police officer of or above the rank of Chief Inspector or to an officer in charge of police that the matter is one of such urgency that in the interests of the Republic immediate action is necessary, he may by written order under his hand give to any police officer of or above the rank of Sub Inspector the like authority as may be given by the warrant of a magistrate under this section.

(3) Notwithstanding anything contained in any other law, it shall not be necessary for anything found in the course of any search conducted in terms of a warrant or authority issued or given under this section to be brought before any court.

(4) If at the conclusion of any proceedings, including proceedings on appeal, before any court against any person for an offence under this Act application is made by the prosecution, on the ground that the return of such article would be prejudicial to the safety or interests of the Republic, that any article seized in the course of a search conducted in terms of a warrant or authority issued or given under this section shall become the property of the Republic, the court shall make an order to that effect.

12. (1) Any person who is found committing an offence under this Act or who is reasonably suspected of having committed or having attempted to commit or being about to commit such an offence may be arrested by any police officer and detained.

Arrest without warrant

(2) Any person arrested under the provisions of this section shall, whether or not the police inquiries are completed, be brought before a magistrate as soon as practicable.

13. (1) Where the Attorney-General is satisfied that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed and for believing that some person is able to furnish information with regard thereto, he may by writing under his hand authorise a named police officer to require that person to give any information in his power relating to such suspected offence or anticipated offence and, if so required and on tender of his reasonable expenses, to attend at such reasonable time and place as may be specified by such police officer.

Duty to give information as to commission of offences

(2) Any person who, having been required in terms of subsection (1) to give information or to attend at a specified time and place, wilfully fails to comply with such requirement or knowingly gives false information shall be guilty of an offence.

14. Where any person is brought before a court on a charge under this Act no further proceedings in respect thereof shall be taken against him without the authority in writing of the Director, save such as may be necessary by remand to secure the due appearance of the person charged.

Authority of Director of Public Prosecutions required for prosecution

15. (1) If in the course of any proceedings, including proceedings on appeal, before any court against any person for an offence under this Act application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of such proceedings would be prejudicial to the interests of the Republic, that all or any portion of the public be excluded during the whole or any part of the hearing, the court shall make an order to that effect:

Power to exclude public from court proceedings

Provided that the passing of sentence shall take place in public.

(2) The powers of the court under this section shall be in addition to any other powers such court may have to exclude the public from any proceedings.

16. Any person convicted of an offence under this Act for which no penalty is provided shall be liable on conviction to imprisonment for a term of not less than five years but not exceeding ten years.

General penalty

(As amended by Act No. 17 of 1973)

17. (1) Where it appears to the President that it is expedient in the public interest so to do he may by warrant under his hand require any person who owns or controls any apparatus within the Republic used for the sending or receipt of telegrams to produce to the person named in the warrant the originals and transcripts of all telegrams or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, and all other papers relating to any such telegram.

Production of telegrams

(2) Any person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so shall be guilty of an offence.

18. (1) Any act, omission or other conduct constituting an offence under this Act shall constitute such offence wherever such conduct took place, whether within or outside the Republic.

Extra-territorial application of Act, and place of trial

(2) An offence under this Act, for the purpose of determining the jurisdiction of a court to try the offence, shall be deemed to have been committed either at the place in which it was actually committed or at any place in the Republic in which the accused may be found.

19. The Official Secrets Act, 1967, is repealed:

Repeal and saving of Act No. 12 of 1967

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Provided that any person may after the commencement of this Act be prosecuted under the said Official Secrets Act in respect of any act, omission or other conduct taking place prior to the commencement of this Act as if this Act had not come into operation.

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SCHEDULE

(Section 11)

REPUBLIC OF ZAMBIA

STATE SECURITY ACT

SEARCH WARRANT

IN THE SUBORDINATE COURT of the

class for the

District

holden at

To:

Police Officer

WHEREAS

of

has this day made information on oath that there is reasonable ground for suspecting that an offence under the State Security Act has been or is about to be committed;

NOW THEREFORE you are hereby authorised and commanded in the name of the President to enter at any time, with such other police officers and other persons as may be authorised by you,

and search the same and any person or vehicle found therein or thereon or in the vicinity thereof and to seize anything which may be found on such search which is or may be evidence of an offence under the said Act having been or being about to be committed or with regard to or in connection with which you have reasonable grounds for suspecting that an offence under the said Act has been or is about to be committed.

ISSUED AT
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Magistrate