

CHAPTER 47

THE NATIONAL SECURITY ACT

An Act to make better provisions relating to state security; to deal with espionage, sabotage and other activities prejudicial to the interests of the United Republic and for other related purposes.

[30th March, 1970]

Acts Nos.

3 of 1970

17 of 1989

32 of 1994

9 of 1996

12 of 1998

[PCh47s1]1. Short title

This Act may be cited as the National Security Act.

[PCh47s2]2. Interpretation Acts Nos. 9 of 1996 Sch.; 12 of 1998 Sch.

(1) In this Act, unless the context otherwise requires—

"authorised officer", in relation to any provision of this Act, means a person authorised by the Minister 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, examination papers prepared and administered by the National

Examination Council or other institution duly authorised to prepare, distribute and conduct examinations;

"Defence Forces" has the meaning assigned to it in section 10 of the National Defence Act *;

"disaffected person" includes any person carrying on a seditious activity, that is to say, an activity constituting an offence under section 56 of the Penal Code *;

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

"Minister" means the Minister for the time being responsible for national security;

"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 United 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, pipeline for the supply of water or fuel, airfield, harbour or dock;
- (k) any other service or facility, whether or not of a kind similar to the foregoing, declared by the President, by notice published in the Gazette, to be a necessary service for the purposes of this Act;

"offensive weapon" means any article made or adapted for use for causing or threatening injury to the person, or intended by the person in question for such use, and includes any knife, spear, arrow, stone, axe handle, stick or similar article;

"officer in charge of police" means a police officer in charge of a police station;

"official document" includes a passport, any pass of the Defence Forces, any police or other official pass, permit, certificate, licence examination papers prepared and administered by the National Examination Council or other institution duly authorised to prepare, distribute and conduct examination or other similar document;

"protected place" means—

(a) any place or area declared by the President by order published in the Gazette to be a protected place for the purposes of this Act;

(b) any area or premises declared to be a "protected area" or "protected place" under the Protected Places and Areas Act *;

"public office" means an office in the service of the United Republic or any office in the service of any specified authority; and the term "a person holding a public office" includes—

- (a) a member of the National Assembly;
- (b) a member of a local government authority;
- (c) an employee, officer or member (whether or not such officer or member is an employee) of a specified authority;

"safety or interests of the United Republic" includes safety or interests of a specified authority;

"sketch" includes any photographic or other copy or representation of any place or thing;

"specified authority" means—

- (a) a local government authority;
- (b) a body corporate established by or under any written law other than the Companies Act *;
- (c) a trade union registered under the Trade Unions Act *;

(d) any company registered under the Companies Act *, having not less than fifty-one per centum of the issued share capital of which is owned by the Government or by a specified authority or, where the company is limited by guarantee, a company in respect of which the amount that the Government or the specified authority which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members have undertaken to contributed; and references in this paragraph to a specified authority include references to any such company;

"telegram" means any communication transmitted or intended to be transmitted by telegraph or delivered or intended to be delivered from any post office or telegraph office as a communication transmitted either wholly or partially by telegraph, and includes a communication transmitted or intended to be transmitted by means or a radio-communication service which is reduced to writing, or by means of other apparatus for transmitting messages by electric signals, whether or not a wire is used in such transmission.

(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;

(c) expressions referring to the communication of any sketch, plan, model, note or other document or article include the transfer or transmission thereof.

[PCh47s3]3. Espionage and sabotage

Any person who, for any purpose prejudicial to the safety or interests of the United Republic—

(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;

(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 life.

[PCh47s4]4. Communication of certain information

(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 a public office, 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 specified authority or a contract the performance of which in whole or in part is carried out in or in relation to 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—

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

(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 United Republic his duty to communicate it; or

(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 not exceeding twenty 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 United Republic shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twenty 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 imprisonment for a term not exceeding twenty years.

(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 United Republic his duty to communicate it, any information relating to the defence or security of the United Republic shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twenty years.

(5) For the purposes of subsection (4) "information relating to the defence or security of the United Republic" includes information relating to the movements or locations of the Defence Forces or the Police Force, the steps taken to protect any vital installations or protected places, and the acquisition or disposal of munitions of war.

[PCh47s5]5. Protection of classified information Act No. 12 of 1998 Sch.

(1) Any person who communicates any classified matter or causes the leakage of such 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 United Republic his duty to

communicate it shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twenty years.

(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.

[PCh47s6]6. Unauthorised use of uniforms, passes, etc.

(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 United Republic—

(a) without lawful authority uses or wears any uniform of the Defence Forces or of the Police Force or any other official uniform of the United Republic or any uniform 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; or

(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; or

(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; or

(d) forges, alters or tampers with any official document or uses or has in his possession any forged, altered or irregular official document; or

(e) personates or falsely represents himself to be a person holding, or in the employ of a person holding, a public office, 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, a specified authority or 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 not exceeding twenty years.

(2) Any person who—

(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; or

(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 die, seal or stamp referred to in paragraph (f) of subsection (1), shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twenty years.

[PCh47s7]7. Interfering with persons on guard at protected places

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 not exceeding ten years.

[PCh47s8]8. Possession of offensive weapons or materials

(1) Any person who, without lawful authority or excuse, the burden of proof whereof shall lie upon him, has in his possession in or upon any premises occupied by him any offensive weapon or any offensive material shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding ten years.

(2) In this section, "offensive material" means any substance, material or article made or adapted for use for causing or threatening injury to the person or property, or intended by the person in question for such use, and includes—

(a) any explosive as defined in the Explosives Act *,

- (b) any ammunition as defined in the Arms and Ammunition Act *;
- (c) any inflammable liquid or substance, and any acid or gas.

[PCh47s9]9. Repealed

[Repealed by Act No. 32 of 1994 Sch.]

[PCh47s10]10. Harbours

Any person who—

(a) knowingly harbours or conceals any person whom he knows or has reasonable grounds for believing 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 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 not exceeding twenty years.

[PCh47s11]11. Attempts, etc.

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.

(1) If in any prosecution against any person for an offence under section 3 it is proved that he has been in communication with, or attempted to communicate with, a foreign agent in the United 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 United 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 United Republic, visited or addressed any communication to the address of, or associated with, a foreign agent; or

(b) whether within or outside the United 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 United 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 United 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 anything was made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the United 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 for a purpose prejudicial to the safety or interests of the United Republic.

(6) Where the lack of lawful authority or excuse is an element of an offence under this Act, the burden of proving such authority or excuse shall be on the accused and in the absence of such proof such lack shall be presumed.

[PCh47s13]13. Search warrants

(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 authorising any police officer named therein of or above the rank of assistant 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 as the case may be, named or described in the warrant, if necessary by force, and to search the same and every person, or receptacle 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.

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

(3) Notwithstanding any written law to the contrary 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 or on behalf of the Director of Public Prosecutions for any property or article seized in the course of a search conducted in terms of a warrant or authority issued or given under this section to be forfeited to the Government on the ground that the return of such property or article would be prejudicial to the safety or interests of the United Republic, the court shall order that such property or article be forfeited to the United Republic notwithstanding that the accused may have been acquitted of the offence charged.

[PCh47s14]14. Arrest without warrant

(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.

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

[PCh47s15]15. Duty to give information as to commission of offences

(1) Where the Director of Public Prosecutions 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 may be able to furnish information with regard thereto, he may, by writing under his hand, authorise a named officer to require that person to give such police officer any information in his power relating to such suspected or anticipated offence and, further, to require such person, upon tender to him of his reasonable expenses to attend at such reasonable time and place as may be specified by such police officer.

(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 and shall be liable, on conviction, to imprisonment for a term not exceeding five years.

[PCh47s16]16. Authority of Director of Public Prosecutions required for prosecution

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 consent in writing of

the Director of Public Prosecutions, save such as may be necessary by remand to secure the due appearance of the person charged.

[PCh47s17]17. Power to exclude public from court proceedings

Upon application in that behalf made by the prosecutor—

(a) to the court conducting a preliminary inquiry or hearing a charge of an offence under this Act; or

(b) to the court hearing an appeal from the decision of the court which heard such a charge,

on the ground that the publication of any evidence given or to be given or any statement made or to be made at such inquiry or hearing would be prejudicial to the interests of the United Republic, such court shall order that all or any portion of the public shall be excluded from the court during the whole or any part of the hearing.

[PCh47s18]18. Production of telegrams

(1) Where it appears to the Minister 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 United 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, and to allow the person so named to take copies or abstracts from all or any such originals, transcripts or papers.

(2) Any person who is required under subsection (1) to produce to the person named in the warrant any of the documents referred to in that subsection, or to allow such person to take copies of or abstracts from any such document, fails or refuses to produce to such person such document or, as the case may be, to allow such person to take a copy or abstract from such document, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years.

[PCh47s19]19. Bail Act No. 17 of 1989 Sch.

(1) Notwithstanding anything in this section contained, no police officer, after a person is arrested and while he is awaiting trial or appeal may admit that person to bail if the Director of Public Prosecutions certifies in writing that it is likely that the safety or interests of the Republic would thereby be prejudiced.

(2) The certificate issued by the Director of Public Prosecutions under this section shall take effect from the date it is filed in court or notified to the officer in charge of a police station and shall remain in effect until the proceedings concerned are concluded or the Director of Public Prosecutions withdraws it.

[PCh47s20]20. Extraterritorial application of Act, and place of trial

(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 United Republic.

(2) Where an offence under this Act has been committed outside Tanzania—

(a) if the offence is triable by the High Court, the High Court shall have jurisdiction to try the person charged;

(b) in any other case, the person charged may be tried either by the High Court or by such court of a resident magistrate as the Chief Justice may direct.

[PCh47s21]21. Liability of officers

Where any offence under this Act is committed by a body corporate, then, as well as the body corporate, any person who, at the time of the commission of the offence, was concerned, as a director or officer, with the management of the affairs of such body corporate shall be guilty of the offence and be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

[PCh47s22]22. Repeal of R.L. Cap. 45

[Repeals the Official Secrets Ordinance.]