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UNLAWFUL ORGANIZATIONS ACT

Acts 55/1971, 27/1975 (s. 9), 22/1992 (s. 4), 19/1998 (s.11),
22/2001; Ord. 10/1980,

ARRANGEMENT OF SECTIONS

Section

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AN ACT to make provision, in the interests of defence, public safety or public order, for certain organizations to be unlawful organizations and for the circumstances in which organizations may be declared to be unlawful organizations; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 15th October, 1971.]

1 Short title

This Act may be cited as the Unlawful Organizations Act [Chapter 11:13].

2 Interpretation

In this Act—

“document” includes any book, pamphlet, record, list, placard, poster, drawing, photograph or picture or any sound recording or other contrivance for the reproduction of sound;

“liquidator” means a person appointed in terms of subsection (1) of section seven to be the liquidator of an unlawful organization;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“office-bearer”, in relation to any organization, means a member of the governing 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;

“officer”, in relation to any organization, means any person working for—

- (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;

“organization” means—

(a) any association of persons, whether incorporated or unincorporated, and whether it has been established or registered under any enactment;

(b) any branch, group, section or committee of an association or any local, regional or subsidiary body forming part of such an association;

“place” means any place, whether or not it is a public place, and includes any premises, building, flat, room or office;

“public order” includes public security, the maintenance of law and order and the maintenance of any service essential to the life or well-being of the community;

“unlawful organization” means any organization which is declared under section three to be an unlawful organization .

3 Declaration of organization to be unlawful

(1) The President may, by proclamation, declare any organization to be an unlawful organization if it appears to the President that the activities of that organization or of any of the members of that organization are likely to endanger, disturb or interfere with defence, public safety or public order in Zimbabwe.

(1a) The President may, by proclamation, declare any organization to be an unlawful organization if the President is satisfied on reasonable grounds that the activities of the organization are aimed at promoting, inciting or propagating discrimination against any person or class of persons on the grounds of race, place of origin, national or ethnic origin, colour, creed or gender of any person or class of persons.

(2) If the President is of the opinion that an organization—

(a) is the parent organization of an unlawful organization; or

(b) is derived from the same parent organization as an unlawful organization;

or

(c) is the successor to an unlawful organization; or

(d) is composed substantially though not necessarily predominantly of, or directed or controlled, directly or indirectly by, persons who have been or are office-bearers or officers of an unlawful organization;

and that it is necessary in the interests of defence, public safety or public order in Zimbabwe, he may, by proclamation declare such first-mentioned organization to be an unlawful organization.

(3) A proclamation made in terms of subsection (1) or (2) shall not be open to question in any court of law, but shall be laid before Parliament as soon as may be after it has been published in the Gazette, and every such proclamation shall, unless confirmed by resolution of Parliament within twenty-one days of the date upon which it is so laid before it, lapse and cease to have effect from the date of the expiry of such period of twenty-one days.

(4) The President may repeal any proclamation made in terms of subsection (1), (1a) or (2).

4 Organization deemed to continue

For the purposes of subsections (1) and (2) of section three, an organization shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change

of title, but shall be deemed to continue so long as any of its members are associated together in any of the activities mentioned in subsection (1) of section three.

5 President may impose restriction on office-bearers and officers of unlawful organizations

(1) The President may, by notice in writing addressed and delivered or tendered to the person concerned, order any person who was an office-bearer, officer or member of an unlawful organization—

(a) to resign, within such period as may be specified in the notice, as an office-bearer, officer or member of any organization or class of organization specified in the notice; or

(b) not to become an office-bearer, officer or member of, or to take any other part whatever in the activities of, any organization or class of organization specified in the notice during such period, not exceeding three years, as may be specified in the notice;

if he is satisfied that the activities of such person in such organization or class of organization are or would be likely to endanger, disturb or interfere with defence, public safety or public order in Zimbabwe.

(2) Any person who contravenes the terms of any notice given under subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(3) The President may at any time, by notice in writing, withdraw or vary any notice given under subsection (1).

6 Information to be furnished

Any police officer may call upon any person who is or has been, or is believed by him upon reasonable grounds to be or to have been, an office-bearer or officer of an organization which has been declared to be an unlawful organization, to furnish him with a list of members of the organization and of all office-bearers or officers of such organization and in complying with such request the person so called upon shall not be guilty of contravening any provision of section ten.

7 Winding up of unlawful organization

(1) Where an organization is declared under section three to be an unlawful organization, the President shall appoint a person to be the liquidator of that unlawful organization and all the assets and property, including rights and documents, belonging to that unlawful organization or used by any person for or in connection with the purposes or activities of that unlawful organization shall vest in that liquidator.

(2) The liquidator shall proceed forthwith to recover and obtain possession of all the assets and property, movable or immovable, which have vested in him in terms of subsection (1).

(3) Subject to any directions given by the Minister, the liquidator shall take such measures and have such powers as are necessary or expedient for the winding up of the unlawful organization and, without derogation from the generality of the foregoing, the liquidator shall have the power specified in subsection (1) of section 221 of the Companies Act [Chapter 24:03] and, with the leave of the Minister, the powers specified in paragraphs (a) to (h) of subsection (2) of that section.

(4) The liquidator shall ensure that any creditors of the unlawful organization and any persons having a right in respect of any assets or property which have vested in the liquidator in terms of subsection (1) are given an opportunity to prove their claims within a reasonable time.

(5) The liquidator shall be entitled to such remuneration as may be fixed by the Minister which shall be payable from the assets which have vested in him in terms of subsection (1).

(6) If, after all the liabilities of the unlawful organization and the costs of winding up have been satisfied, there are any surplus assets, the liquidator shall prepare and submit to the President a scheme for the application of such surplus assets, which scheme may provide for the forfeiture to the State of any weapons, arms or ammunition, articles of uniform or clothing, documents or other property whatever.

(7) A scheme submitted to the President under subsection (6) may be amended by the President in such manner as he may think proper in the circumstances of the case, and upon the signification by the President of his approval of the scheme or of the scheme as amended, the surplus assets which are the subject of the scheme shall be dealt with by the liquidator in the manner set out in the scheme as so approved.

(8) When the unlawful organization has been finally wound up the President shall release the liquidator and subsections (2) and (3) of section 225 of the Companies Act [Chapter 24:03] shall apply, *mutatis mutandis*.

8 Powers of entry and search

(1) If a magistrate or justice of the peace is satisfied by information on oath that there is reason to believe that—

(a) a meeting of an unlawful organization or of persons who are members of an unlawful organization is being held upon or at any place; or

(b) a member of an unlawful organization resides or is at any place; or

(c) documents or other information relating to an unlawful organization may be found upon or at any place or in or upon any vehicle; or

(d) there is upon or at any place any vehicle or other article belonging to or used in any way by or on behalf of an unlawful organization, whether before or after it was declared to be an unlawful organization; or

(e) there is upon or at any place or in or upon any vehicle any property whatever, including any funds or moneys, belonging to or used in any way by or on behalf of an unlawful organization, whether before or after it was declared to be an unlawful organization, including funds to be used for the purposes of the payment of fines imposed on any member of that organization;

such magistrate or justice of the peace, as the case may be, may, by warrant under his hand directed to all and each or one or more police officers, empower such police officers or police officer to enter upon such place or such vehicle as is mentioned in paragraph (c) or (e) and to search—

(i) any such person as is mentioned in paragraph (a) or (b) or any person who is in or upon such vehicle; or

(ii) any such place or vehicle;

and to seize or cause to be seized any such documents or other information, vehicle as is mentioned in paragraph (d), article, property, funds, moneys or thing whatever.

(2) If a magistrate or justice of the peace is satisfied by information on oath that there is reason to believe that documents or other information relating to an unlawful organization may be found upon any person, such magistrate or justice of the peace, as the case may be, may, by warrant under his hand directed to all and each or one or more police officers, empower such police officers or police officer to enter upon any place upon or in which such person resides or is and to search such person and such place and to seize or cause to be seized any such documents or other article, property or thing whatever containing or affording such information.

(3) If a police officer believes on reasonable grounds that delay in obtaining a warrant under this section would defeat the object of the search, he may do all such things as are authorized by subsection (1) or (2) without a warrant.

(4) When it is desired to search the body of any woman in terms of this section, such search, unless made by a medical practitioner, shall be made only by a woman and shall be conducted with strict regard to decency, and if there is no woman available for such search who is a police officer, the search may be made by any woman specially named for the purpose by the police officer concerned.

9 Confiscation of articles seized

(1) The Commissioner of Police shall furnish to the Minister full details of any vehicle, article, moneys or thing seized under section eight and the grounds of such seizure and, if a liquidator has been appointed, the Commissioner of Police shall, unless otherwise directed by the Minister, deliver the property to the liquidator.

(2) Where there is no liquidator—

(a) any person affected by the seizure may, in regard to any vehicle, article, moneys or thing seized, make representations to the Minister who may, in his discretion and after such inquiry as he may think fit, make such order regarding the disposal of all or any of the vehicles, articles, moneys or things as may to him seem just;

(b) if, after the lapse of three months from the date of the seizure of any vehicle, article, moneys or thing, no person has satisfied the Minister that such vehicle, article, moneys or thing does not belong to the organization or has not been used in any way by or on behalf of the unlawful organization, whether before or after it was declared to be an unlawful organization, the Minister shall order that such vehicle, article, moneys or thing be confiscated, destroyed or disposed of in such other manner as he may specify:

Provided that in the case of any vehicle, article, moneys or thing which, in the opinion of the Minister, does not belong to the unlawful organization, the Minister may direct that such vehicle, article, moneys or thing be returned to the owner.

10 Offences

(1) Any person who—

(a) becomes, continues to be or performs any act as an office-bearer, officer or member of an unlawful organization; or

(b) carries or displays anything whatever or shouts or utters any slogan or makes any statement or sign indicating that he is or was an office-bearer, officer or member of, or in any way associated with, an unlawful organization; or

(c) writes, draws, makes, paints or uses any word, sign, symbol or slogan indicating that he is or was an office-bearer or officer or member of an unlawful organization or is associated with or supports such an organization; or

(d) without lawful excuse, the proof whereof lies on him, has in his possession or under his control any card, publication, document, banner or insignia relating to an unlawful organization or which is likely to further the interests of such an organization, whether or not such organization has ceased to exist; or

(e) contributes or solicits anything as a subscription or otherwise to be used directly or indirectly for the benefit of an unlawful organization; or

(f) without the permission of the Minister, contributes or solicits anything as a subscription or otherwise to be used directly or indirectly for the benefit of any person who was, at the date an organization was declared an unlawful organization, a member of such organization; or

(g) in any way takes part in any activity of an unlawful organization or carries on any activity in the direct or indirect interests of an unlawful organization in which it was or could have engaged prior to becoming, or on the date upon which it became, an unlawful organization; or

(h) knowingly allows a meeting of an unlawful organization or of members of an unlawful organization to be held on or in any place belonging to or occupied by him or over which he has control; or

(i) when called upon by a police officer to furnish any information in terms of section seven, refuses to furnish such information;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(2) In any prosecution for a contravention of paragraph (d) of subsection (1), it shall be a sufficient defence if the person accused proves to the satisfaction of the court that such card, publication, document, banner or insignia came into and remained in his possession or under his control without his knowledge.

11 Presumptions

(1) Any person who attends a meeting of an unlawful organization or of persons who are members of an unlawful organization or takes any other part whatever in the activities of such an organization shall be presumed, unless the contrary is proved, to be a member of that organization.

(2) If—

(a) any books, accounts, writings, documents, cards, banners or insignia of, or relating to, an unlawful organization are found in the possession or under the control of any person; or

(b) any person wears the insignia of, or is marked with any mark of, an unlawful organization;

it shall be presumed, unless the contrary is proved, that such person is a member of the unlawful organization.

(3) In any prosecution for an offence in terms of paragraph (a) of subsection (1) of section ten, if it is proved that the accused was in possession of or had under his control any card, publication, document, banner or insignia relating to an unlawful organization which purports or is proved to have been issued after the date upon which that unlawful organization was declared to be an unlawful organization—

(a) the accused shall be presumed to have become or continued to be a member of that unlawful organization; and

(b) the unlawful organization shall be presumed to have continued in existence.

12 Extra-territorial application of section 10

(1) Section ten shall apply also in respect of any act which constitutes an offence in terms of that section and is committed outside Zimbabwe by a person who is a citizen or resident of Zimbabwe.

(2) A person shall not be deemed to have ceased to be a resident of Zimbabwe for the purposes of subsection (1) by reason only of his absence therefrom, if—

(a) he retains a home in Zimbabwe; or

(b) he is absent from Zimbabwe for a temporary purpose; or

(c) he is domiciled in Zimbabwe.

(3) In any proceedings for an offence referred to in subsection (1), it shall be presumed, unless the contrary is proved, that the person accused was at all times a citizen or resident of Zimbabwe.

13 Jurisdiction of magistrates courts

In respect of offences under this Act, courts of regional, provincial or senior magistrates shall have special jurisdiction to impose on summary trial the penalties provided by this Act.

14 Holding of proceedings in camera

(1) If the Minister, by writing under his hand, has certified that he considers, in the interests of defence, public security or public order, that any proceedings in any court of law in respect of any matter arising under this Act should be held behind closed doors, the court may direct that such proceedings shall be so held and that every person whose presence is not necessary in connection with such proceedings shall not be present thereat.

(2) If any court has given a direction in terms of subsection (1), no person shall at any time communicate to any other person any information which is likely to reveal—

(a) the identity of any person who gave evidence during the course of the proceedings or gave any information at or before the commencement of such proceedings; or

(b) the nature or substance of any evidence or information referred to in paragraph (a).

(3) Notwithstanding anything in any law, the record of any proceedings in respect of which a direction has been given in terms of subsection (1) shall not be open to inspection by any person save upon the order of the court which gave the direction.

(4) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

15 Indemnity

(1) No action, indictment or other legal proceedings whatever shall be brought or instituted in any court of law in Zimbabwe against—

(a) the President;

(b) the State;

(c) a Vice President, any Minister or any Deputy Minister;

(d) any person employed by the State, whether in the Public Service, the Police, the Defence Forces, the Prison Service or otherwise;

(e) any person acting under or by the direction or with the approval of any person or authority mentioned in paragraph (a), (b), (c) or (d);

for or on account of or in respect of any act or thing whatever, in good faith advised, commanded, ordered, directed or done under this Act.

(2) Every person or authority described in subsection (1) by whom any such act or thing has been in good faith advised, commanded, ordered, directed or done under this Act shall in respect thereof be freed, acquitted, discharged, released and indemnified against all persons whomsoever.

16 Authority required for prosecutions

Where any person is brought before a court on a charge of—

(a) committing an offence in terms of this Act; or

(b) attempting to commit or inciting another person or conspiring with another person to commit an offence in terms of this Act; or

(c) being an accessory after the fact to the commission of an offence in terms of this Act;

no further proceedings in respect thereof shall be taken against him without the authority of the Attorney-General or the Director of Public Prosecutions except such as the court may think necessary by way of remand to secure the due appearance of the person charged.