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Goewermentskennisgewing

Government Notice

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

N. J. DAVIN
Sekretaris van die Nasionale Vergadering van Suidwes-Afrika

Windhoek

The following Government Notice is published for general information.

N. J. DAVIN
Secretary of the National Assembly of South West Africa

Windhoek

No. AG 170 31 Oktober 1980

AFKONDIGING VAN WET VAN NASIONALE VERGADERING

Die volgende Wet, wat ingevolge die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979), deur die Nasionale Vergadering van Suidwes-Afrika aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 19 van daardie Proklamasie:-

No. 21 van 1980 Wet op die Bekamping van Onsedelike Praktjke, 1980

No. AG 170 31 October 1980

PROCLAMATION OF ACT OF NATIONAL ASSEMBLY

The following Act, which has been adopted by the National Assembly of South West Africa and signed by the Administrator-General in terms of the National Assembly Proclamation, 1979 (Proclamation AG. 21 of 1979) is hereby published in terms of section 19 of that Proclamation:-

No. 21 of 1980 Combating of Immoral Practices Act, 1980

**COMBATING OF IMMORAL PRACTICES ACT, Act. No. 21, 1980
1980**

*(Afrikaans text signed by the Administrator-General on 27
October 1980)*

ACT

To provide for the combating of brothels, prostitution and other immoral practices and for matters connected therewith.

BE IT ENACTED by the National Assembly of South West Africa, as follows:—

1. In this Act, unless the context indicates otherwise —

Definitions.

- (i) "brothel" includes any house or place kept or used for purposes of prostitution or for persons to visit for the purpose of having unlawful carnal intercourse or for any other lewd or immoral purpose; (i)
- (ii) "house" includes a dwelling-house, flat, building, room, out-house, shed or tent or any part thereof; (iii)
- (iii) "owner" includes any person who lets or sublets or permits the occupation of any house or place whether in his own right or that of another; (ii)
- (iv) "place" includes any premises, field, enclosure, space, vehicle or boat or any part thereof; (v)
- (v) "police officer" means any member of any police force established under any law; (vi)
- (vi) "sexual act" inserted by Act 7/2000/1
- (vi) "unlawful carnal intercourse" means carnal intercourse between persons who are not married or who are not partners in a customary union in terms of the traditional laws and customs applied by a particular population group referred to in section 3 of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980). (iv)

2. (1) Any person who keeps a brothel shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding three years or to such imprisonment and to a fine not exceeding three thousand rand.

Keeping of
brothel.

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(2) The following persons shall for the purposes of subsection (1) be deemed to keep a brothel, namely —

- (a) any person who lives in a brothel unless he proves that he was ignorant of the character of the house or place;
- (b) any person who manages or assists in the management of any brothel;
- (c) any person who knowingly receives all the money or any share of the money taken in a brothel;
- (d) any person who is the tenant or occupier of any house or place and who knowingly permits it to be kept or used as a brothel;
- (e) any person who is the owner of any house or place and who lets it or allows it to be let or to continue to be let, with the knowledge that such house or place is to be kept or used or is being kept or used as a brothel;
- (f) any woman found in a brothel who refuses to disclose the name and identity of the keeper or manager thereof;
- (g) ~~any person whose wife keeps or lives in or manages or assists in the management of a brothel, unless he proves that he was ignorant thereof or that he lives apart from her and did not receive all the money or any share of the money taken therein.~~

*Subst by
Act 1/96/35*

(3) When in any prosecution in terms of this Act it is proved —

- (a) that any house or place is kept or used as a brothel and that, having regard to the locality and accommodation thereof, the rent to be paid or paid or being paid for the house or place concerned is exorbitant, it shall be presumed, until the contrary is proved, that the accused knew that the house or place concerned was kept or used as a brothel;
- (b) that a notice in writing has been given to the accused by a police officer of or above the rank of sergeant or by two householders living in the vicinity of the house or place concerned, that the house or place concerned is kept or used as a brothel, it shall be deemed that the accused knew that the house or place concerned was kept or used as a brothel.

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3. (1) Any lease to let any house or place to be kept or used as a brothel shall be null and void.

Effect of lease in relation to house or place kept or used as brothel.

(2) Any lease to let any house or place which subsequently to the making of such lease becomes a brothel shall as from the date of such event be determined and become null and void: Provided that upon proof by the owner of his ignorance that the house or place was so kept or used he shall be entitled to recover the rent up to the date upon which he became aware that the house or place was being kept or used as a brothel.

(3) The owner of any house or place kept or used as a brothel shall be entitled to apply to the magistrate of the district in which such house or place is situated for the summary ejectment of any person who keeps or uses such house or place as a brothel and such magistrate shall be entitled after such enquiry as he may deem necessary or expedient to order the summary ejectment of such person.

4. (1) When an affidavit or affidavits, as the case may be, is submitted to a magistrate by any police officer of or above the rank of sergeant or by a social worker registered under section 33 of the National Welfare Act, 1965 Act 79 of 1965), or by not less than two persons of good repute being the occupiers of different houses in the vicinity concerned wherefrom it appears that a house or place is being kept or used or is presumable being kept or used as a brothel, such magistrate may —

Proceedings upon submission of statement that house or place is used as brothel.

- (a) issue a warrant for the arrest of the person alleged to be the keeper of such brothel; or
- (b) issue a warrant authorising a police officer of or above the rank of sergeant to enter, at any time within such period as shall be stated in such warrant, such house or place —
 - (i) to ascertain the name and identity of the keeper or user of such house or place;
 - (ii) to interrogate and demand the name and address of any person found in such house or upon such place;
 - (iii) to demand, to search for and to seize any account book, receipt, paper, document or thing likely to afford evidence of the commission by any person of an offence in terms of this Act; and
 - (iv) to make any further investigation as he may deem necessary in connection with the commission of an offence in terms of this Act.

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(2) Any person found in such house or upon such place who, when called upon to do so by the police referred to in subsection (1)(b), refuses or fails to furnish his name or address or furnishes a name or address which is false or misleading in any material respect, or refuses or fails to disclose the name or identity of the keeper or user of such house or place or to produce or hand over any account book, receipt, paper, document or thing which he has in his possession or custody or under his control or to render such police officer such other assistance as such police officer may demand from him in connection with any investigation referred to in subsection (1)(b)(iv), shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months.

(3) The issue of a warrant under paragraph (b) of subsection (1) shall not in any way affect the power of a magistrate to issue, at any time, a warrant under paragraph (a) of the said subsection (1) or under any other law.

5. Any person who —

Procurator

- (a) procure or attempts to procure any female to have unlawful carnal intercourse with any person other than the procurer or in any way assists in bringing about such unlawful carnal intercourse; or
- (b) inveigles or entices any female to a brothel for the purpose of unlawful carnal intercourse or prostitution or conceals any female so inveigled or enticed in a brothel; or
- (c) procures or attempts to procure any female to become a prostitute; or
- (d) procures or attempts to procure any female to become an inmate of a brothel; or
- (e) applies, administers to or causes to be taken by any female any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower her so as thereby to enable any person other than the procurer to have unlawful carnal intercourse with such female, shall be guilty of an offence

and liable on conviction to imprisonment for a period not exceeding five years.

6. Any person who, with intent that any male may have unlawful carnal intercourse with a female, whether a particular female or not, performs any act or does anything or furnishes any information which is calculated or likely to enable such male to communicate with or to establish the

Assistance for purposes of unlawful carnal intercourse.

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whereabouts of or to trace any such female, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years.

7. Any person who —

Enticing to commission of immoral acts.

- (a) in any public street or place entices, solicits or importunes or makes any proposals to any other person for immoral purposes;
- (b) wilfully and openly exhibits himself in an indecent dress or manner at any door or window or within view of any public street or place or in any place to which the public have access,

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

8. Any person who in public commits any immoral act with another person shall be guilty of an offence and liable on conviction to a fine not exceeding three thousand rand or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

Committing of immoral acts.

9. Any person who is the owner or occupier of any house or place or has or acts or assists in the management or control thereof, knowingly permits the use of such house or place for the purpose of committing any offence in terms of any provision of this Act, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding two years or to such imprisonment and to a fine not exceeding one thousand rand.

Permitting of offence in terms of this Act by owner or occupier of premises.

10. Any person who —

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in public or in private in any way assists in bringing about, or receives any consideration for, the commission by any person of any immoral act with another person,

Living on earnings of prostitution and assistance in relation to commission of immoral acts.

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

11. When it appears to any magistrate on sworn information that there is reason to suspect that any house is used by a female for purposes of prostitution and that any person residing in or frequenting the house is living wholly or in

Warrant to search house or place used for prostitution and to arrest persons living on earnings of prostitution.

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part on the earnings of prostitution, the magistrate may issue a warrant authorizing any police officer of or above the rank of sergeant to enter and search the house and to arrest that person.

12. (1) When in any prosecution in terms of this Act the question arises whether any carnal intercourse between a male and a female was unlawful, such intercourse shall be presumed, until the contrary is proved, to have been unlawful carnal intercourse. Presumptions.

(2) When in any prosecution in terms of this Act a person is proved to live in a brothel or to live with or to be habitually in the company of a prostitute and has no visible means of subsistence, it shall be presumed, until the contrary is proved, that such person lives wholly or in part on the earnings of prostitution.

(3) When in any prosecution in terms of section 6 it is proved that the accused has performed any act or has done anything or has furnished any information, which was calculated or likely to enable any male to communicate with or to establish the whereabouts of or to trace any female in respect of whom the accused had reason to suspect to be a prostitute, it shall be presumed, until the contrary is proved, that the accused have performed such act or have done such thing or have furnished such information, as the case may be, with intent to enable such male to have unlawful carnal intercourse with such female.

13. (1) Any person who —

(a) takes any female to any house or place or detains her there against her will so that any male, whether a particular male or not, may have unlawful carnal intercourse with her; or

(b) takes any female to a brothel or detains her there against her will,

Detention for purposes of unlawful carnal intercourse.

shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding seven years.

(2) When in any prosecution in terms of subsection (1) it is proved that a female was in any house or at any place so that any male, whether a particular male or not, could have unlawful carnal intercourse with her, or was in any brothel, it shall be deemed that she was taken or detained there against her will —

(a) if she is under the age of sixteen years; or

(b) if she is sixteen years or older but under the age of twenty-one years, and was taken thereto or is detained

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therein against her will or against the will of her father or mother or any person having the lawful care or charge of her.

14. (1) Any male who —

- (a) has or attempts to have unlawful carnal intercourse with a girl under the age of sixteen years; or
- (b) commits or attempts to commit with such a girl an immoral or indecent act; or
- (c) solicits or entices such a girl to the commission of an immoral or indecent act,

Sexual offences with girls under sixteen years.

Subst. by
Act 7/2000/2

shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six years with or without a fine not exceeding three thousand rand in addition to such imprisonment.

(2) It shall be a sufficient defence to any charge in terms of this section if it appears to the court —

- (a) that the girl at the time of the commission of the offence was a prostitute, that the person so charged was at the said time under the age of twenty-one years and that it is the first occasion on which he is so charged; or
- (b) that the person so charged was at the said time under the age of sixteen years; and
- (c) that the girl or person in whose charge she was, deceived the person so charged into believing that she was over the age of sixteen years at the said time.

15. Any person who —

- (a) has or attempts to have unlawful carnal intercourse with any female idiot or imbecile in circumstances which do not amount to rape; or
- (b) commits or attempts to commit with such a female any immoral or indecent act; or
- (c) solicits or entices such a female to the commission of any immoral or indecent act,

Sexual offences with female idiots or imbeciles.

shall, if it be proved that such person knew such female was an idiot or imbecile, be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six years with or without a fine not exceeding three thousand rand in addition to such imprisonment.

16. Any person who applies, administers to or causes to be taken by any female any drug, intoxicating liquor, matter

Use of certain means to stupefy or overpower female for immoral purposes.

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or thing with intent to stupefy or overpower her so as thereby to enable him to have unlawful carnal intercourse with her, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years.

17. (1) Any person who manufactures, sells or supplies any article which is intended to be used to perform an unnatural sexual act, shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Manufacture, sale or supply of article intended to be used to perform unnatural sexual act.

(2) For the purposes of subsection (1) "sell" includes to offer for sale, to keep for sale or to keep in a place where goods are sold or are offered or kept for sale.

18. The laws specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

Repeal of laws.

19. This Act shall be called the Combating of Immoral Practices Act, 1980.

Short title.

SCHEDULE

No. and year of law	Short title	Extent of repeal
Proclamation 27 of 1920	Police Offences Proclamation, 1920.....	Section 6
Proclamation 28 of 1921	Girls' and Mentally Defective Women's Protection Proclamation, 1921	The whole
Ordinance 15 of 1962	Police Offences Proclamation Amendment Ordinance, 1962 .	Section 4
Ordinance 18 of 1962	Girls' and Mentally Defective Women's Protection Proclamation Amendment Ordinance, 1962	The whole