

eSwatini

Sedition and Subversive Activities Act, 1938

Act 46 of 1938

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1938/46/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 17:55.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Sedition and Subversive Activities Act, 1938

Contents

- 1. Short title 1
- 2. Interpretation 1
- 3. Seditious intention 1
- 4. Offences 2
- 5. Subversive activities 2
- 6. Evidence 3
- 7. Appointment of Special Tribunal 3
- 8. Proceedings in camera 4

eSwatini

Sedition and Subversive Activities Act, 1938

Act 46 of 1938

Commenced on 30 September 1938

[This is the version of this document at 1 December 1998.]

An Act to make provision for the suppression of sedition and seditious and subversive publications and for the punishment of subversive and seditious offences.

1. Short title

This Act may be cited as the Sedition and Subversive Activities Act, 1938.

2. Interpretation

In this Act, unless the context otherwise requires—

“**publication**” includes all written or printed matter and everything, whether or not of a nature similar to written or printed matter, containing any visible representation or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

“**public officer**” means any person in the service of or holding office under the government, whether such service be permanent or temporary or paid or unpaid;

“**seditious intention**” has the meaning assigned to it by [section 3](#);

“**seditious publication**” means any publication containing any word, sign or visible presentation expressive of a seditious intention;

“**seditious words**” means words having a seditious intention;

“**unlawful society**” means any society declared to be unlawful in terms of any law.

[Amended P.18/1963; L.4/1967]

3. Seditious intention

(1) A “seditious intention” is an intention to—

- (a) bring into hatred or contempt or to excite disaffection against the person of His Majesty the King, His Heirs or successors, or the Government of Swaziland as by law established; or
- (b) excite His Majesty’s subjects or inhabitants of Swaziland to attempt to procure the alteration, otherwise than by lawful means, of any matter in Swaziland as by law established; or
- (c) bring into hatred or contempt or to excite disaffection against the administration of justice in Swaziland; or
- (d) raise discontent or disaffection amongst His Majesty’s subjects or the inhabitants of Swaziland; or
- (e) promote feelings of ill-will and hostility between different classes of the population of Swaziland.

- (2) Notwithstanding subsection (1), an act, speech or publication shall not be seditious by reason only that it intends to—
- (a) show that His Majesty has been misled or mistaken in any of His measures; or
 - (b) point out errors or defects in the government or constitution of Swaziland as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
 - (c) persuade His Majesty's subjects or the inhabitants of Swaziland to attempt to procure by lawful means the alteration of any matter in Swaziland as by law established; or
 - (d) point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of Swaziland.

[Amended L.4/1967]

- (3) In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

4. Offences

Any person who—

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or,
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious;
- (e) without lawful excuse has in his possession any seditious publication;

shall be guilty of an offence and liable on conviction to imprisonment not exceeding twenty years or to a fine not exceeding E20,000 and any seditious publication relating to an offence under this section shall be forfeited to the Government.

[Added A.8/1983]

- (2) *[Repealed A.8/1983]*

5. Subversive activities

- (1) A person who does or attempts to do or makes any preparation to do an act with a subversive intention or who utters any words with a subversive intention shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding twenty years without the option of a fine.

[Amended A.8/1983]

- (2) For the purposes of this section, "subversive" means—
- (a) supporting, propagating or advocating any act or thing prejudicial to—
 - (i) public order;
 - (ii) the security of Swaziland; or

- (iii) the administration of justice:

Provided that this paragraph shall not extend to any act or thing done in good faith with intent only to point out errors or defects in the government or constitution of Swaziland as by law established or in legislation or in the administration of justice with a view to remedying such errors or defects;

- (b) inciting to violence or other disorder or crime, or counselling defiance of or disobedience to any law or lawful authority;
- (c) intended or likely to support or assist or benefit, in or in relation to such acts or intended acts as are hereinafter described, persons who act, intend to act or have acted in a manner prejudicial to public order, the security of Swaziland or the administration of justice, or who incite, intend to incite, or have incited to violence or other disorder or crime, or who counsel, intend to counsel or have counselled defiance of or disobedience to any law or lawful authority;
- (d) indicating, expressly or by implication, any connection, association or affiliation with or support for an unlawful society;
- (e) intended or likely to promote feelings of hatred or enmity between different races or communities in Swaziland:

Provided that this paragraph shall not extend to comments or criticisms made in good faith and with a view to the removal of any causes of hatred or enmity between races or communities;

- (f) intended or likely to bring into hatred or contempt or to excite disaffection against any public officer or any class of public officers in the execution of his or their duties, or any of His Majesty's armed forces, or any officer or other member of such a force in the execution of his duties:
- Provided that this paragraph shall not extend to comments or criticisms made in good faith and with a view to remedying or correcting errors, defects or misconduct on the part of such public officer, force or officer or other member thereof and without attempting to bring into hatred or contempt or to excite disaffection against such a person or force;
- (g) intended or likely to seduce from his allegiance or duty any public officer or any officer or other member of any of His Majesty's armed forces.

[Amended L.4/1967]

[Original section 6 repealed D.5/1987]

6. Evidence

No person shall be convicted of an offence under [section 4](#) on the uncorroborated testimony of one witness.

[Amended LN.4/1967]

7. Appointment of Special Tribunal

- (1) Where the Prime Minister is of the opinion that an offence with which a person is charged involves the security of Swaziland, he may, in writing issue a certificate to that effect and all proceedings shall then be held before the Special Tribunal provided for in subsection (2).
- (2) The King may, with the advice of the Prime Minister, appoint a Special Tribunal to hear and determine any charge or charges against any person under this Act and, subject to the provisions of subsection (1) being complied with, such Tribunal shall have exclusive jurisdiction in the conduct

and determination of all the proceedings in the matter and no appeal shall lie from the decision of the Tribunal to any Court.

- (3) The Tribunal appointed under subsection (2) shall consist of a Chairman having such legal qualifications as the King may determine and not less than four other members appointed by the King on such terms and conditions as he may determine.
- (4) In the performance of its functions, the Tribunal shall apply the law applicable to criminal matters in the High Court except in so far as such other rules relating to procedure as may be made by the Tribunal apply.
- (5) The Tribunal and every member or officer thereof shall have the same powers, privileges and immunities as the High Court or a judge or officer of the High Court, respectively.

[Added A.8/1983]

8. Proceedings *in camera*

All proceedings or part thereof relating to an offence under this Act shall be held *in camera* if the prosecution, at any time, so requests; and the Court or the Tribunal shall comply with any such request.

[Added A.8/1983]