

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

FINAL REPORT ON THE REGULATION OF GATHERINGS

GOLDSTONE REPORT; GK - 21

86320968 GOL

NOT TO BE ISSUED

The State President

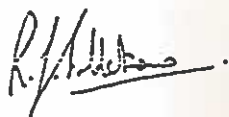
~~6620~~
GK-21

The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation has the honour to present its final report on the regulation of gatherings..

The committee investigating violence and intimidation in regard to gatherings, marches and picketing has submitted its final report to the Commission.

The Commission supports the proposal of the committee that the draft bill in its present form be submitted for consideration to be embodied in and promulgated as legislation.

Should the proposal be accepted, it may prove to be desirable to make the necessary arrangements in order that the act may apply in the self-governing states.



R.J. GOLDSTONE
CHAIRMAN OF THE COMMISSION ;

28 APRIL 1993 .

LIBRARY OF PARLIAMENT



030385

THE COMMISSION

FINAL REPORT TO THE COMMISSION OF INQUIRY REGARDING THE
PREVENTION OF PUBLIC VIOLENCE AND INTIMIDATION BY THE COMMITTEE
ESTABLISHED TO INQUIRE INTO PUBLIC VIOLENCE AND INTIMIDATION AT
MASS DEMONSTRATIONS, MARCHES AND PICKETING

R.J. Goldstone

R.J. GOLDSTONE
CHAIRMAN OF THE COMMITTEE

D.J. Rossouw

D.J. ROSSOUW
MEMBER OF THE COMMITTEE

FINAL REPORT TO THE COMMISSION BY THE COMMITTEE APPOINTED TO
INQUIRE INTO THE ORGANISATION AND CONDUCT OF MASS DEMONSTRATIONS

1. The committee expresses its appreciation that, as requested in its previous report, the draft bill was published for general information and comment under notice 153 of 1993 on 12 February 1993 in Government Gazette No 14590. It is gratifying that the draft bill elicited wide public interest, judging by the comments received from a number of different bodies and a variety of sources.
2. A number of the comments and suggestions were founded upon the assumption that the proposed legislation was designed specifically to cater for the current political climate and constitutional structures of South Africa. That is a misconception. The inquiry by the Commission was directed at the rules and procedures which should apply to public marches and demonstrations now and in the future. With no variations of substance, the draft bill reflects the broad consensus which emerged at the public hearings held in Cape Town in July 1992. This draft legislation was formulated after consultation with political parties which represent a substantial number if not the majority of South African citizens.
3. The committee does not believe that the draft bill contains no errors or that it cannot materially be improved. Indeed, appropriate amendments may be considered necessary by a future legislature and, in a more perfect world, it would have been pre-

ferable to await the election of such a body. However, the Commission considered that mass marches and demonstrations are matters of such urgency that the subject could not be deferred and that legislation is desirable even before the completion of the present period of transition.

4. The almost universal adherence to the Interim Agreement on Mass Marches and Demonstrations which the Commission made public in July 1992 is an illustration of the manner in which people honour the terms of an agreement to which they are parties. The committee hopes that this draft bill will be regarded in a similar light by the majority of South Africans.

5. The committee has accepted as many of the comments and suggestions received as were compatible with the purpose and intention of the committee. Each was given due attention and careful consideration. Those comments are available for perusal at the offices of the Commission.

6. The redrafted bill is attached and submitted for consideration to be promulgated as legislation.

B I L L

To consolidate legislation pertaining to public gatherings; to provide for general measures, setting out procedures, requirements, powers and responsibilities of local and State authorities, the police and organisers of gatherings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS every person has the right to express his view on any matter freely in public and enjoy the protection of the State while doing so;

AND WHEREAS the exercise of this right shall take place peacefully and with due regard to the rights of others;

BE IT THEREFORE ENACTED by the State President and the Parliament of the Republic of South Africa as follows: -

Definitions

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

- (i) "authorised member" means a member of the police authorised in terms of section 2(2).
- (ii) "branch" in relation to an organisation, includes-
 - (a) any section or committee of the organisation;
 - (b) any local, regional or subsidiary body forming part of the organisation;

(iii) "commissioner" means the Commissioner of the South African Police appointed in terms of section 3 of the Police Act, 1958 (Act No. 7 of 1958) and includes a regional commissioner as defined in the said Act;

(iv) "convener" means any person who of his own accord, or for or on behalf of or under the auspices of any one or more organisations, as contemplated by section 2(1) convenes a gathering and includes a person referred to in subsection (2);

(v) "demonstration" in Chapter 2 includes any demonstration by one or more persons for or against any person, cause, action or failure to take action;

(vi) "gathering" means any assembly, concourse or procession of more than fifteen persons with a common purpose in or on any public road as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989), or any public place or premises which is wholly or partly open to the air and includes, in the case of a procession, the vehicles used in such procession.

(vii) "local authority" means any local authority as defined in section 1 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983) within whose area of jurisdiction a gathering takes place or is to take place: Provided that "local authority" only includes a regional services council in the case where no other local authority has jurisdiction;

(viii) "magistrate" means a magistrate appointed

in terms of the Magistrate's Court Act, 1944 (Act No. 32 of 1944), and referred to in section 3(4);

(ix) "marshal" means any person appointed by a convener to control the persons attending a gathering and to ensure that the terms and conditions regarding the conduct of the gathering are complied with and includes a person appointed in terms of section 5(1)(a);

(x) "office-bearer" in relation to -

(a) an organisation, means a member of the governing or executive body of the organisation; or

(b) a branch of such organisation, means a member of the governing or executive body of that branch;

(xi) "officer" in relation to -

(a) an organisation, means any person working, whether for valuable consideration or not, for the organisation; or

(b) a branch of such organisation, means any person working, whether for valuable consideration or not, for that branch;

(xii) "organisation" means any association, group or body of persons, irrespective of whether any such association, group or body of persons has been incorporated and whether it has been established or registered in accordance with any law or not;

(xiii) "police" includes:

(a) the South African Police as defined in section of the Police Act, 1958 (Act No. 7 of 1958); c

(b) any body of person established or enrolled under any law and exercising or carrying out the powers, duties and functions of a police force;

(xiv) "police official" means any member of the police forces included in the definition of police in subparagraph (xiii);

(xv) "responsible official" means the chief executive officer of a local authority or a member of the staff of the local authority delegated in terms of section 2(3)(b);

(xvi) "riot damage" means any loss suffered as a result of any injury to or death of a human being, or any damage to or destruction of property, which arises or results from or is attributable to a gathering;

(2) For the purpose of this Act, a person shall be deemed to have convened a gathering -

(a) if he has taken an active part in planning, organizing or making preparations for that gathering; or

(b) if he has himself or through another person or body either verbally or in writing invited the public or an section of the public so to assemble.

CHAPTER 1

Appointment of conveners, authorized members and responsible officials

2. (1) (a) The organisation or any branch of the

organisation under whose auspices or sponsorship a gathering is to take place shall appoint one of its office-bearers, as the case may be, or a person authorized to act on its or their behalf, who is in charge of the arrangements for that gathering and who will be present thereat, to sign the notice referred to in section 3 and ensure timeous delivery thereof as described in that section and to act on its behalf at any consultations or negotiations as envisaged by section 4 or any other procedure envisaged by this Act.

(b) If, after the delivery of the notice, the convener appointed in terms of subsection (a) is unable to carry out or to continue to carry out his functions described in paragraph (a), the organisation or branch, as the case may be, shall forthwith appoint another office-bearer who has knowledge of the arrangements for that gathering and who will be present thereat to carry out or to continue to carry out the functions described in that paragraph, and that office-bearer shall forthwith notify the responsible official and the authorized member of his name and address: Provided that no further substitution may take place except with the agreement of the responsible official.

(c) If a convener, whether in terms of paragraph (a) or (b), is not appointed in order to deliver the notice referred to in section 3, such responsible official may allow consultations or negotiations or any other procedure envisaged by this Act to continue in the absence of a convener and the organisation or branch, as the case may be, shall be bound by the result of such consultations, negotiations or procedures as if it or they had agreed to it.

(2) (a) A police official shall be authorised by Commissioner in general or in a particular case to act as the authorised member to represent the police at consultations or negotiations as envisaged by section 4 and at the gathering or any other procedure envisaged by this Act.

(b) If the authorised member appointed in terms of paragraph (a) is unable to carry out or to continue to carry out his functions described in that paragraph, another member of the police shall forthwith be authorised to carry out or to continue to carry out the functions described in paragraph (a) and the police shall forthwith notify the responsible official and the convener of the rank, name and station of that member of the police: Provided that no further substitution may take place except with the agreement of the responsible official, as the case may be.

(c) If an authorised member, whether in terms of paragraph (a) or (b), is not appointed or notice of such appointment is not received by the responsible official within a reasonable time in the view of that responsible official, such responsible official may allow consultations or negotiations or any other procedure envisaged by this Act to continue in the absence of an authorised member and the police shall be bound by the result of such consultations, negotiations or procedures as if it had agreed to it.

(3) (a) The chief executive officer of a local authority shall be responsible for fulfilling the functions and discharging the duties envisaged by this Act on behalf of the local authority concerned.

(b) Such chief executive officer may in regard to gatherings in general or a specific gathering delegate a competent member of the staff of the local authority: Provided that such delegation is approved by the local authority concerned so to act: Provided further that if such member is so delegated in respect of a specific gathering such chief executive officer shall ensure that the convener and the authorized member is informed of such delegation.

Notice of gatherings

3. (1) The convener of a gathering shall give notice of the intended gathering in accordance with the provisions of this section.

(2) The convener shall not later than ten days before the date on which a gathering will be held, give notice of the gathering to the responsible official concerned: Provided that the responsible official may, on good cause shown, agree to a shorter period.

(3) The notice referred to in subsection (1) shall contain at least the following information: -

- (a) The name, address and telephone and/or fax number of the convener;
- (b) the name of the organisation or branch under whose auspices or sponsorship the gathering is convened;
- (c) the purpose of the gathering;
- (d) the time, duration and date of the gathering;
- (e) the place of the gathering;

(f) the anticipated number of participants;

(g) the proposed number and, where possible, the names of the marshals who will be appointed by the convener from the membership of the organization or branch referred to in paragraph (b) to control the participants at the gathering and how the marshals will be distinguished from the other participants in the gathering;

(h) in the case of a gathering in the form of a procession -

(i) the exact and complete route of the procession;

(ii) in the case of a procession which will proceed through the area of jurisdiction of any other local authority, an indication of such other local authorities;

(iii) the time and place at which participants in the procession will assemble and from which the procession will commence;

(iv) the time and place where the procession will end and the participants will disperse;

(v) the manner in which the participants will be transported to the place of assembly and from the point of departure and dispersal;

(vi) where applicable, the number and types of vehicles which will form part of the procession.

(4) If a local authority is not functioning in the area where a gathering will be held, the convener shall give notice contemplated in this section to the magistrate of the district

within which that gathering will be held or commence and that magistrate shall thereafter fulfil the functions and discharge the duties conferred by this Act on a responsible official in respect of such gathering.

(5) Without derogating from the duty imposed on a convener by subsection (1), a police official, whenever he receives information regarding a gathering and has reason to believe that notice in terms of subsection (1) has at that stage not been given to a responsible official, shall forthwith submit such information to the responsible official concerned.

Consultations and Negotiations

4. (1) On receipt of a notice referred to in section 3(1), or as soon as information regarding a proposed gathering comes to the attention of a responsible official, that responsible official shall forthwith consult with the authorised member regarding the necessity for negotiations on any aspect of the conduct of, or any condition with regard to the proposed gathering.

(2) If, after such consultation, the responsible official is of the opinion that -

(a) negotiations are not necessary and that the gathering may take place as specified in the notice or with such amendment as may readily have been agreed upon by the convener, he shall notify the convener accordingly;

(b) negotiations are necessary, he shall notify, th

convener and forthwith call a meeting with -

- (i) the convener;
- (ii) the authorised member;
- (iii) where applicable, persons representing every local authority of the areas affected by the gathering; and
- (iv) representatives of such other public bodies, including peace committees, as in the opinion of the responsible official ought to be present at such meeting,

in order to discuss any amendment of the terms of the notice and such conditions regarding the conduct of the gathering as he may deem necessary.

(3) (a) If a convener has been notified in terms of subsection (2)(a), or has not within 24 hours after giving notice in terms of section 3(2) received notification in terms of subsection (2)(b), the gathering shall take place in accordance with the terms of the notice and in accordance with the provisions of section 5(1);

(b) After negotiations, in good faith at the meeting contemplated in subsection (2)(b) the gathering shall take place in accordance with the provisions of section 5(1) and any amendment to the terms of the notice on which agreement was reached at the meeting or, where agreement was not reached, in accordance with the conditions stipulated by the responsible official or a court, as the case may be, in terms of sections 5(2)(a) or 5(3).

(4) The responsible official shall ensure that a written copy

of the notice, including amendments and/or conditions, if any, be handed to the convener and the authorised member and to every party attending the meeting referred to in subsection (3)(b) and the convener and the authorised member shall respectively ensure that every marshal and police official at the gathering knows the content of the notice or amendment or conditions thereto, if any.

Conduct of a gathering

5. (1) The following provisions shall apply to the conduct of all gatherings:

(a) The convener shall appoint the marshals mentioned in the notice, whether it was amended or not, or shall appoint an adequate number of persons which number shall be negotiated with the responsible official concerned to control the participants in the gathering and such persons, who shall be members of any organisation or branch on whose behalf or under whose auspices or sponsorship the gathering is convened, shall be clearly distinguishable.

(b) The gathering shall proceed as expeditiously as possible and shall, within reasonable limits, take place at the locality or on the route and in the manner, and during the times specified in the notice, including amendments and conditions in terms of section 4(3)(b), if any.

(c) The convener shall, in cases where conditions were laid down in terms of subsection (3), take

reasonable steps to ensure that all marshals and participants are informed timely and properly of the said conditions in respect of the gathering.

(d) The convener and marshals shall take all reasonable steps to ensure that participants at a gathering abide by any law in respect of the carrying of dangerous weapons.

(e) No person present at or participating in a gathering shall by way of a banner, placard, speech or singing or in any other way incite hatred of other groups based on differences in culture, race, gender, language or religion.

(f) No person present at or participating in a gathering shall perform any act or utter any words which are calculated and likely to cause or encourage violence against any person or group.

(g) No person shall at any gathering, except a race procession, church fête or other charitable gathering or procession wear a disguise or mask or any other apparel or item which obscures his facial features calculated to prevent his identification.

(h) The marshals at a gathering shall ensure that -

(i) no entrance to any building or premises shall be barred by participants so as to deny reasonable access and working conditions to the said building or premises.

(ii) no entrance to a building or premises in or near which is situated any hospital, fire or ambulance station shall be barred by participants so as to deny reasonable access and working conditions to the said building or premises.

station or any other emergency services, is barred by the participants.

- (1) No person shall, in any manner whatsoever, either before or during the gathering, coerce or attempt to coerce any person to attend, join or participate in the gathering, and the convener and marshals shall take all reasonable steps to prevent such coercion.
- (2) (a) A responsible official may on reasonable grounds by way of conditions restrict a gathering to times and places that -

- (i) will least impede motor vehicle or pedestrian traffic especially during traffic rush hours; or
- (ii) will ensure an appropriate distance between participants at the gathering and rival gatherings; or
- (iii) will ensure access to property and workplaces; or
- (iv) is calculated to prevent damage to property.

(b) Irrespective of the provisions of section 91 of the Constitution of the Republic of South Africa Act, 1983 (Act No 110 of 1983), a responsible official who stipulates any condition in terms of paragraph (a) shall publish it by a written notice signed by the responsible official and delivered or tendered to the person desiring to convene the gathering in question. Provided that if the identity or whereabouts of the person desiring to convene the gathering in question is unknown, or in the view of the urgency of the case it is not feasible to deliver or tender the said written notice to him, publication of the notice in the following manner shall be sufficient -

(i) by notice in a newspaper circulating where the gathering is planned; or

(ii) by causing it to be made known by means of radio or television; or

(iii) by causing notices to be distributed amongst the public and to be affixed in public or prominent places where the gathering is planned; or

(iv) by causing it to be announced orally where the gathering is planned or held;

(3) Any person whose right may be affected by the holding of a gathering or by any term in a notice or any condition imposed may by means of an urgent application as referred to in the Uniform Rules of the Supreme Court of South Africa, request the striking or amendment of any such term or condition or the imposition of any other condition or the prohibition of the gathering and the court may strike or amend any such term or condition or impose any other condition or prohibit the gathering as it deems fit.

CHAPTER 2

Demonstrations in the vicinity of courts, buildings of Parliament and the Union Buildings

6. (1) Subject to the provisions of subsection (2) all demonstrations -

(a) in any building in which a courtroom is situated, or at any place in the open air within a radius of five

hundred metres from such buildings, on every day of the week, except Saturdays, Sundays and public holidays; and

(b) in the areas defined in

(i) Schedule 1, and

(ii) Schedule 2,

to this Act are hereby prohibited.

(2) The provisions of subsection (1) shall not apply-

(a) to any demonstration or gathering referred to in subsection (1)(a) for which permission is sought within a reasonable time and granted in writing by the magistrate of the district concerned; or

(b) within the area contemplated in subsection (1)(b)(i) to -

(i) any *bona fide* divine service;

(ii) any funeral ceremony or funeral procession;

(iii) any official function or procession;

(iv) any gathering or concourse of any number of persons who come together to view any ceremony, function or procession referred to in subparagraph (ii) or (iii); or

(v) any gathering for which permission is sought within a reasonable time and granted in writing by the Chief Magistrate of Cape Town; or

(c) within the area contemplated in subsection (1)(b)(ii) to-

(i) an official ceremony or procession;

(ii) any assembly or concourse of any number of

persons who come together to view a ceremony or procession referred to in subparagraph (i); or

(iii) a demonstration for which permission is sought within a reasonable time and granted in writing by the Director-General, Office of the State President.

(3) (a) The persons who grant permission in terms of subsection (2) may, in respect of any demonstration referred to in this section, stipulate conditions in order to ensure reasonable access and working conditions.

(b) Whenever such conditions are stipulated the person doing so shall give notice thereof as envisaged in section 5(2)(b).

(4) Notwithstanding the provisions of subsection (1) and (2) the provisions of Chapters 1, 3 and 4 shall *mutatis mutandis* apply to this Chapter.

CHAPTER 3

Prevention and prohibition of a gathering

7. (1) Whenever credible information is brought to the attention of the responsible official that -

(a) there is a serious threat to the safety of the participants in a gathering and that the police will not be able to contain this threat; and

(b) the gathering will result in disruption, injury to persons or damage to property,

he shall meet forthwith or, if time does not allow it, consul

with the convener, the authorised member and any other party which he believes necessary, including peace committees, in order to consider the prohibition of the gathering.

(2) If, after the meeting or consultation referred to in subsection (1), the responsible official is on reasonable grounds convinced that no amendment referred to in section 4(3)(b) or no condition stipulated in terms of section 5(2)(a) would prevent the realization of the threat and results referred to in subsection (1), he may prohibit the gathering.

(3) If the responsible official decides to prohibit the gathering, he shall notify everyone with whom he has so met or consulted, in the manner set out in section 5(2)(b).

(4) A convener of a gathering in regard to which the police has given notice as contemplated in terms of section 8(1)(e) or which has been prohibited in terms of subsection (2) may by means of an urgent application as referred to in the Uniform Rules of the Supreme Court of South Africa, request that the notification or prohibition, as the case may be, be lifted and the court may grant or refuse the request as it deems fit.

(5) If a responsible official or a court, in an application in terms of the common law, has prohibited a gathering, or if a court has refused a request in terms of subsection (4) or granted an application in terms of section 8(1)(b)(iii); the authorised member shall cause access to any place or area adjacent thereto, to be barred and such place or area shall be kept closed or inaccessible to the public, for such time as may be necessary to prevent the gathering from taking place.

(6) The authorised member shall, at the entrance thereto or

in the vicinity of the place or area or in a manner described in section 5(2)(b), give notice that that place or area is so closed or inaccessible to members of the public.

Powers of the police

8. (1) The police may -

(a) if they have reason to believe that a gathering will take place in less than ten days and if no notice, as set out in section 3, has been received in respect thereof, and if they are unable to provide adequate protection for participants in such a gathering, notify the convener of that fact;

(b) urgently apply to a judge in terms of the Uniform Rules of the Supreme Court of South Africa for -

(i) the striking or amendment of any condition laid down by a responsible official if they have reason to believe that the conditions are not suited to the circumstances applying to the gathering;

(ii) the imposition of additional conditions if they have reason to believe that such conditions are necessary to ensure that the gathering will take place in a peaceful manner with due regard to the rights of others; and

(iii) the prohibition of the gathering on the ground referred to in section 7(1)(a) and (b).

(c) prevent participants in a gathering from proceeding to different location or deviating from the route specified

in the notice or any amendment or condition thereto or as ordered in terms of section 5(2)(a);

~~(d)~~ order any person or group interfering or attempting to interfere with a gathering to remain at a suitable distance from such gathering;

(e) when an incident caused or may cause persons to collect at any public place by order establish an area or zone considered necessary for the purpose of affording a clearing for -

(i) the operation of emergency personnel and vehicles; or

(ii) the passage of a gathering; or

(iii) the movement of traffic; or

(iv) the exclusion of the public from the vicinity;

or

(v) the protection of property;

(f) take such steps as are in the circumstances reasonable, appropriate and minimal to protect property and persons, whether or nor they are participating in the gathering.

(2) (a) (i) Only when a police officer of or above the rank of sergeant has reasonable grounds to fear that a threat of continuing danger to life and property as a result of the gathering cannot be averted by the steps referred to in subsection (1) as long as the gathering proceeds, may he call upon the persons participating in the gathering to disperse, and for that purpose he shall endeavour to obtain the attention of those persons by such lawful means as he deems most suitable, and then in a loud voice order them in each of the official languages

to disperse and to depart from the place of the gathering within a reasonable time specified by him.

(ii) If within the time so specified the persons gathered have not made preparations to disperse or have not so dispersed a police officer of or above the rank of sergeant may order the police under his command to disperse the gathering and may for that purpose order the use of force, excluding firearms or other weapons likely to cause serious bodily injury or death, and the degree of force which may be so used shall not be greater than is necessary for dispersing the persons gathered and proportionate to the circumstances of the case and the object to be attained.

(b) Wherever any person who participates in a gathering or any person who hinders, obstructs, impedes or interferes with those who participate in a gathering -

(i) kills or seriously injures, or attempts to kill or seriously injure, or shows a manifest intention of killing or seriously injuring any person; or

(ii) destroys or does serious damage to, or attempts to destroy or to do serious damage to, or shows a manifest intention of destroying or doing serious damage to, any valuable property whether movable or immovable;

a police officer of or above the rank of sergeant, may order the police under his command to take the necessary steps to prevent the action contemplated in subparagraphs (i) and (ii) and may for that purpose, if other methods are ineffective or inappropriate order the use of force, including the use of firearms and other weapons, but the degree of force which may be so used shall not

be greater than is necessary for the prevention of the actions contemplated in subparagraphs (i) and (ii) and the force shall be moderated and proportionate to the circumstances of the case and the object to be attained.

(3) No common law principles regarding self-defence, necessity and protection of property shall be abrogated by this Act.

(4) Section 49(2) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall only apply during the course of a gathering once the circumstances referred to in subsection (2)(b)(i) have actually occurred.

Regulations

9. The Minister of Law and Order may, subject to the provisions of section 8(2), issue regulations in regard to -

(a) the procedures to be followed when a gathering is dispersed; and

(b) the use of and procedures to be followed before the use of force against participants in a gathering.

CHAPTER 4

Civil liability of organisers of gatherings

10. (1) If any riot damage takes place immediately before, during or directly after a gathering, as a direct or indirect result of a non-compliance with any term of the

notice or any amendment or condition thereto or any provision of section 5(1) or any condition laid down in section 5(2)(a) -

(a) each person who has convened that gathering;

(b) each marshal at that gathering;

(c) each person who presided at that gathering;

(d) each office-bearer and each officer of any organisation or of a branch of the organisation on behalf of or under the auspices of which that gathering took place,

shall, subject to subsection (4), be jointly and severally liable for all riot damage caused at any time immediately before, during or directly after that gathering.

(2) It shall be a defence in a claim in terms of subsection (1) for a person to prove that -

(a) he did not permit or connive at such act; and

(b) an act, whether legal or illegal, of the character of the act in question did not fall within the scope of the purpose of that demonstration; and

(c) he took all reasonable steps to prevent an act of the kind in question:

Provided that proof that he forbade an act of the kind in question may not necessarily by itself be regarded as sufficient proof that he took all reasonable steps to prevent such an act.

(3) Notwithstanding any rule of the law or anything to the contrary contained in the Apportionment of Damages Act, 1956 (Act No. 34 of 1956), or subsection (4), proof that any person is to blame shall not be a defence to any claim for compensation or account of riot damage and such proof shall not affect the amount

of compensation which may be recovered by virtue of the provisions of subsection (1) or (2).

(4) No person shall by virtue of the provisions of subsection (1) or (2) be liable for any riot damage to any other person, or the dependant of such other person, who deliberately caused or deliberately contributed to the cause for such damage.

(5) For the purpose of. -

(a) recourse against or contribution by any person who deliberately caused or deliberately contributed to the cause of any riot damage; or

(b) contribution by any person who is jointly liable for any riot damage by virtue of the provisions of subsection (1) or (2),

any person held liable for such damage by virtue of the provisions of subsection (1) or (2) shall notwithstanding the said provisions, be deemed to have been liable in default therefor.

Offences and penalties

11. (1) Any person who -

(i) convenes a demonstration or gathering in respect of which no notice was given in terms of section 3(1) read with section 3(4) or for which no agreement was reached in terms of section 3(2) that shorter notice was accepted by the responsible official; or

(ii) after giving notice in terms of section 3(1) or 3(4) of the intention to hold a demonstration or gathering

and who fails to attend the negotiations referred to in section 4(2)(b); or

- (iii) does not comply with any of the provisions for the conduct of a demonstration or gathering as prescribed in section 5(1); or
 - (iv) knowingly contravenes a term of a notice, amendment to a notice or a condition laid down in terms of this Act; or
 - (v) convenes or attends a demonstration or gathering prohibited in terms of this Act; or
 - (vi) knowingly breaks a condition stipulated in terms of section 6(3)(a); or
 - (vii) fails to comply with an order issued in terms of sections 8(1)(c), (d), (e) or (f) or 2(a) or (b);
- shall be guilty of an offence.

(2) It shall be a defence to a charge of contravening subsection (1)(i) for a person to prove that the gathering concerned took place spontaneously.

(3) Any person who is convicted of an offence under this Act shall be liable to a fine or to imprisonment not exceeding one year, or to both a fine and such imprisonment.

Interpretation

12. (1) No provision of this Act shall be so construed as to detract from the provisions of the -

- (a) Control of Access to Public Premises and Vehicle Act, 1985 (Act No. 53 of 1985); or

25

(b) Dangerous Weapons Act, 1968 (Act No. 71 of 1968) ;or
(c) Arms and Ammunition Act, 1969 (Act No. 75 of 1969);

OR

(d) Trespass Act, 1959 (Act No. 6 of 1959); or

(e) property or owner's rights of any person.

(2) The provisions of section 111 of the Road Traffic Act, 1989 (Act No. 29 of 1989), shall not apply in respect of a gathering or demonstration held under this Act.

Amendment of provisions

13. All laws applicable within the area of jurisdiction of any local authority in so far as they pertain to gatherings, processions or demonstrations shall be deemed to be amended and replaced by this Act. The laws specified in Schedule 3 are hereby repealed to the extent set out in the third column of that Schedule.

Short title and commencement

14. This Act shall be called the Regulation of Gathering Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

Schedule 1

The area bounded by the following streets in the City of Cape Town, namely, Queen Victoria Street from the point where Queen Victoria Street and Museum Avenue meet, up to the point where Queen Victoria Street and Wale Street meet, up to the point where Wale Street and St. George's Street meet, up to the point where St. George's Street and Longmarket Street meet, up to the point where Longmarket Street and Corporation Street meet, up to the point where Corporation Street and Barrack Street meet, up to the point where Barrack Street and Copper Street meet, up to the point where Copper Street and Commercial Street meet, up to the point where Commercial Street and Reumeester Street meet, up to a point where Reumeester Street and Hope Street meet, up to the point where Hope Street and Tuinplein Street meet, up to the point where Tuinplein Street and Vrede Street meet, up to the point where Vrede Street and St. John's Street meet, up to the point where St. John's Street and Gallery Avenue meet, up to the point where Gallery Avenue and Government Avenue meet, up to the point where Government Avenue and Museum Avenue meet, up to the point again where Museum Avenue and Queen Victoria Street meet, including the surface of the said streets and the pavement on either side thereof.

Schedule 2

The area bounded by the following:

- (a) To the south, the line 100 metres throughout south of the south side of the tar road which is situated south of the Union buildings and which connects Edmond Street and Government Avenue with one another.
- (b) To the west, from the junction of Edmond Street and the tar road referred to in paragraph (a), the line extending due north up to the crest of Meintjieskop and the line extending due south from the said junction up to where it intersects the line referred to in paragraph (a).
- (c) To the east, from the junction of Government Avenue and the tar road referred to in paragraph (a), the line extending due north up to the crest of Meintjieskop and the line extending due south from the said junction up to where it intersects the line referred to in paragraph (a).
- (d) To the north, the line on the crest of Meintjieskop extending between the northern points of the first-mentioned lines referred to in paragraphs (b) and (c).

Schedule 3

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act No. 52 of 1973	Gatherings and Demonstrations in the Vicinity of Parliament Act, 1973	The whole
Act No. 71 of 1982	Demonstrations in or near Court Buildings Prohibition Act, 1982	The whole
Act No. 74 of 1982	Internal Security Act, 1982	Sections 46, 49, 51, 53, 57 & 62
Act No. 103 of 1992	Gatherings and Demonstrations at or near the Union Buildings Act, 1992	The whole