

**SEXUAL OFFENCES ACT
NO. 23 OF 1957**

[ASSENTED TO 3 APRIL, 1957]
[DATE OF COMMENCEMENT: 12 APRIL, 1957]
(English text signed by the Governor-General)

This Act has been updated to *Government Gazette* 30599 dated 14 December, 2007.

as amended by

Immorality Amendment Act, No. 68 of 1967

Immorality Amendment Act, No. 57 of 1969

Immorality and Prohibition of Mixed Marriages Amendment Act, No. 72 of 1985

Immorality Amendment Act, No. 2 of 1988

Criminal Law Amendment Act, No. 4 of 1992

General Law Amendment Act, No. 139 of 1992
[with effect from 7 August, 1992]

General Law Fourth Amendment Act, No. 132 of 1993
[with effect from 1 December, 1993]

Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of 2007

ACT

To consolidate and amend the laws relating to brothels and unlawful carnal intercourse and other acts in relation thereto.

ARRANGEMENT OF SECTIONS

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

“**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 indecent purpose;

“**coloured person**”

[Definition of “coloured person” deleted by s. 1 (a) of Act No. 72 of 1985.]

“**court**” means the court before which the charge is brought;

[Definition of “court” substituted by s. 1 of Act No. 2 of 1988.]

“**female**” means a female person 18 years or older;

[Definition of “female” inserted by s. 68 of Act No. 32 of 2007.]

“**house**” includes a dwelling-house, building, room, out-house, shed or tent or any part thereof;

“**owner**” includes any person who lets or sub-lets or permits the occupation of any house or place whether in his own right or that of another;

“**place**” includes any field, enclosure, space, vehicle, or boat or any part thereof;

“**police officer**” means any member of any police force established under the authority of any law;

“**unlawful carnal intercourse**” means carnal intercourse otherwise than between husband and wife.

“**white person**”

[Definition of “white person” deleted by s. 1 (b) of Act No. 72 of 1985.]

2. Keeping a brothel.—Any person who keeps a brothel shall be guilty of an offence.

3. Certain persons deemed to keep a brothel.—The following persons shall for the purposes of section two be deemed to keep a brothel:

- (a) any person who resides in a brothel unless he or she proves that he or she 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 the whole or any share of any moneys taken in a brothel;
- (d) any person who, being the tenant or occupier of any house or place, knowingly permits the same to be used as a brothel;
- (e) any person who, being the owner of any house or place, lets the same, or allows the same 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 person found in a brothel who refuses to disclose the name and identity of the keeper or manager thereof;

[Para. (f) amended by s. 5 of Act No. 139 of 1992.]

- (g) any person whose spouse keeps or resides in or manages or assists in the management of a brothel unless such person proves that he or she was ignorant thereof or that he or she lives apart from the said spouse and did not receive the whole or any share of the moneys taken therein.

[Para. (g) substituted by s. 11 of Act No. 132 of 1993.]

4. Onus of proof.—In prosecutions under this Act the onus of proving that a house or place is to be kept or used or is being kept or used as a brothel to the knowledge of the owner shall be on the prosecution: Provided that—

- (a) if it is established to the satisfaction of the court that, having regard to the locality and accommodation, the rent to be paid or paid for the house or place is exorbitant, the onus shall be on the accused to prove that he was ignorant that such house or place is to be kept or used or was kept or used as a brothel;
- (b) proof of written notice having been given to the owner by a police officer not below the rank of sergeant or by two householders living in the vicinity of the house or place that any house or place is being kept or used as a brothel, shall be conclusive proof of knowledge on his part.

5. Contract to let house or place for a brothel void.—Any contract to let any house or place to be kept or used as a brothel shall be null and void.

6. Use of house or place as a brothel voids contract of letting.—Any contract of letting and hiring of any

house or place which subsequently to the making of such contract 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.

7. Summary ejectment when a house or place is used as a brothel.—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 may be keeping or using such house or place as a brothel and such magistrate shall be entitled after enquiry to order the summary ejectment of such person.

8. Proceedings upon complaint by householders or police that a house or place is used as a brothel.—(1) If it appears to any magistrate on sworn information laid before him by not less than two householders of good repute that any house or place in the vicinity of the dwellings of such householders is being kept or used as a brothel or on similar information upon oath laid before him by any police officer not below the rank of sergeant, or by a welfare officer employed by a department of State responsible for Health and Welfare, a local authority or a welfare organization registered under the National Welfare Act, 1978 (Act No. 100 of 1978), the magistrate may—

- (a) issue a warrant for the arrest of the person alleged to be the keeper of such brothel; or
- (b) issue a warrant authorizing any police officer not below the rank of sergeant—
 - (i) to enter at any time and within such period as shall be stated in such warrant, such house or place for the purpose of ascertaining the name and identity of the keeper of such house or place;
 - (ii) to interrogate, and to demand the name and address of any person found in or upon such house or place; and
 - (iii) to demand, search for, and seize any account book, receipt, paper, document or thing likely to afford evidence of the commission by any person of an offence under this Act.

[Sub-s. (1) amended by s. 2 (a) of Act No. 2 of 1988.]

(2) Any person found in or upon such house or place who, when called upon to do so by the police officer conducting the search, refuses to furnish his name and address or furnishes a name or address which is false in any material particular or refuses to disclose the name or identity of the keeper of such house or place or to produce any book, receipt, paper, document or thing which he has in his possession or custody or under his control, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R1 000 and in default of payment to imprisonment for a period not exceeding six months.

[Sub-s. (2) substituted by s. 1 of Act No. 68 of 1967 and by s. 2 (b) of Act No. 2 of 1988.]

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

9.

[S. 9 amended by s. 3 of Act No. 2 of 1988 and repealed by s. 68 of Act No. 32 of 2007.]

10. Procuration.—Any person who—

- (a) procures 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 intercourse; or
- (b) inveigles or entices any female to a brothel for the purpose of unlawful carnal intercourse or prostitution or conceals in any such house or place any female so inveigled or enticed; or
- (c) procures or attempts to procure any female to become a common 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.

11.

[S. 11 repealed by s. 68 of Act No. 32 of 2007.]

12. Detention for purposes of unlawful carnal intercourse.—(1) Any person who takes or detains any female against her will—

- (a) to or in or upon any house or place with intent that she may be unlawfully carnally known by any male, whether a particular male or not; or
- (b) to or in a brothel,

shall be guilty of an offence.

(2)

[Sub-s. (2) repealed by s. 68 of Act No. 32 of 2007.]

(3) Any person shall be deemed to detain a female in or upon any house or place or in a brothel if, with intent to compel or induce her to remain in or upon such house or place or in such brothel, such person withholds from her any wearing apparel or other property to the possession of which she is entitled or which has been lent or supplied to her by such person or for the purposes of prostitution; and any such female shall be justified in taking away such wearing apparel as is necessary to enable her to leave such house or place or brothel.

12A. Assistance for purposes of unlawful carnal intercourse.—(1) Any person who, with intent or while he reasonably ought to have foreseen the possibility that any person, who is 18 years or older, may have unlawful carnal intercourse, or commit an act of indecency, with any other person for reward, performs for reward any act which is calculated to enable such other person to communicate with any such person, who is 18 years or older, shall be guilty of an offence.

[Sub-s. (1) substituted by s. 4 (a) of Act No. 2 of 1988 and by s. 68 of Act No. 32 of 2007.]

(2)

[S. 12A inserted by s. 2 of Act No. 68 of 1967. Sub-s. (2) deleted by s. 4 (b) of Act No. 2 of 1988.]

13.

[S. 13 repealed by s. 68 of Act No. 32 of 2007.]

14.

[S. 14 substituted by s. 1 of Act No. 57 of 1969 and by s. 5 of Act No. 2 of 1988 and repealed by s. 68 of Act No. 32 of 2007.]

15.

[S. 15 substituted by s. 6 of Act No. 2 of 1988 and repealed by s. 68 of Act No. 32 of 2007.]

16.

[S. 16 repealed by s. 2 of Act No. 72 of 1985.]

17. Owner or occupier permitting on his premises the defilement of a female or any offence against this Act.—Any person who being the owner or occupier of any house or place or having or acting or assisting in the management or control thereof knowingly permits the use of such house or place for the purpose of any offence against any provision of this Act, shall be guilty of an offence.

18.

[S. 18 repealed by s. 68 of Act No. 32 of 2007.]

18A.

[S. 18A inserted by s. 2 of Act No. 57 of 1969 and repealed by s. 68 of Act No. 32 of 2007.]

19. Enticing to commission of immoral acts.—(1) Any person who entices, solicits, or importunes in any public place for immoral purposes, shall be guilty of an offence.

(2) Any person 18 years or older who wilfully and openly exhibits himself or herself 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.

[S. 19 substituted by s. 68 of Act No. 32 of 2007.]

20. Persons living on earnings of prostitution or committing or assisting in commission of indecent acts.—

(1) Any person who—

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

shall be guilty of an offence.

[Sub-s. (1) amended by s. 7 (a) of Act No. 2 of 1988 and substituted by s. 68 of Act No. 32 of 2007.]

(1A) Any person 18 years or older who—

- (a) has unlawful carnal intercourse, or commits an act of indecency, with any other person for reward; or
- (b) in public commits any act of indecency with another person,

shall be guilty of an offence.

[Sub-s. (1A) inserted by s. 68 of Act No. 32 of 2007.]

(2) If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house is used for purposes of prostitution and that any person residing in or frequenting the house is living wholly or in part on the earnings of prostitution, the magistrate may issue a warrant authorizing any police officer not below the rank of sergeant to enter and search the house and to arrest that person.

[Sub-s. (2) substituted by s. 7 (b) of Act No. 2 of 1988.]

20A.

[S. 20A inserted by s. 3 of Act No. 57 of 1969 and repealed by s. 68 of Act No. 32 of 2007.]

[Editorial Note: S. 20A has been declared inconsistent with the Constitution and invalid to the extent set out in the Constitutional Court Order published under Government Notice No. 1354 in *Government Gazette* 19349 of 23 October, 1998 and Government Notice No. R.588 in *Government Gazette* 21266 of 15 June, 2000.]

21. Presumptions.—(1) Whenever in any prosecution under this Act the question is in issue whether any carnal intercourse between a male and a female was unlawful, such male and female shall be deemed to have been unmarried at the time of such intercourse unless the accused proves the contrary.

(2)

[Sub-s. (2) deleted by s. 3 of Act No. 72 of 1985.]

(3) Whenever in any prosecution under this Act a person is proved to reside in a brothel or to live with or to be habitually in the company of a prostitute and has no visible means of subsistence, such person shall, unless he or she satisfies the court to the contrary, be deemed to be knowingly living wholly or in part on the earnings of prostitution.

(4) Whenever in any prosecution for an offence under section 12A it is proved—

- (a) that the accused has performed any act for reward which was calculated to enable any person to communicate with any other person who is a prostitute; or
- (b) that the other person with whom communication was made as a result of such act has had unlawful carnal intercourse, or has committed an act of indecency, with such person for reward,

the accused shall be presumed to have performed such act with intent or while he reasonably ought to have foreseen the possibility that such other person may have unlawful carnal intercourse, or commit an act of indecency, with such person for reward unless the contrary is proved beyond reasonable doubt.

[Sub-s. (4) added by s. 3 of Act No. 68 of 1967 and substituted by s. 8 of Act No. 2 of 1988.]

22. Penalties.—Any person who is convicted of an offence under the provisions of this Act for which no special penalty is prescribed, shall be liable—

- (a) in the case of an offence referred to in section 2 or 20 (1) (a) or (1A) (a), to imprisonment for a period not exceeding three years with or without a fine not exceeding R6 000 in addition to such imprisonment;
- (c)
- (d) in the case of an offence referred to in section 12A, with a fine, or imprisonment for a period not exceeding five years;
- (e) in the case of an offence referred to in section 10 or 12 (1), to imprisonment for a period not exceeding seven years;
- (f) in the case of an offence referred to in section 17, to imprisonment for a period not exceeding six years with or without a fine not exceeding R12 000 in addition to such imprisonment;
- (g) in the case of an offence referred to in section 19 or 20 (1) (c) or (1A) (b) to a fine not exceeding R4 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[S. 22 substituted by s. 4 of Act No. 68 of 1967, amended by s. 4 of Act No. 57 of 1969, by s. 4 of Act No. 72 of 1985, by s. 9 of Act No. 2 of 1988 and by s. 2 of Act No. 4 of 1992 and substituted by s. 68 of Act No. 32 of 2007.]

23. Repeal of laws.—The laws specified in the Schedule are hereby repealed to the extent set out in the fourth column of that Schedule.

24.

[S. 24 repealed by s. 6 of Act No. 139 of 1992.]

25. Short title.—This Act shall be called the Sexual Offences Act, 1957.

[S. 25 substituted by s. 10 of Act No. 2 of 1988.]

Schedule
(SECTION 23)

<i>Province or Union</i>	<i>No. and Year of Law</i>	<i>Short title or subject of law</i>	<i>Extent of Repeal</i>
Cape	Act No. 25 of 1893	The Criminal Law Amendment Act, 1893	So much as is unrepealed
„	Act No. 36 of 1902	The Betting Houses, Gaming Houses and Brothels Suppression Act, 1902	Sections 22 to 36 inclusive
Transvaal	Ordinance No. 46 of 1903	The Immorality Ordinance, 1903	So much as is unrepealed
Orange Free State	Ordinance No. 11 of 1903	The Suppression of Brothels and Immorality Ordinance, 1903	So much as is unrepealed
„	Act No. 19 of 1908	The Suppression of Brothels and Immorality Amendment Act, 1908	The whole
Natal	Act No. 31 of 1903	The Criminal Law Amendment Act, 1903	The whole
Union	Act No. 3 of 1916	The Girls' and Mentally Defective Women Protection Act, 1916	The whole
„	Act No. 5 of 1927	The Immorality Act, 1927	The whole
„	Act No. 21 of 1950	The Immorality Amendment Act, 1950	The whole
„	Act No. 62 of 1955	The General Law Amendment Act, 1955	Section 15

