

POWERS CONFERED UPON A PRIVATE PERSON

1. SEARCH AND SEIZURE (CRIMINAL PROCEDURE ACT 51 OF 1977)

S.20 State may seize certain articles

The State may, in accordance with the provisions of this Chapter, seize anything (in this Chapter referred to as an article)-

- (a) which is concerned in or is on reasonable grounds believed to be concerned in the commission or suspected commission of an offence, whether within the Republic or elsewhere.
- (b) which may afford evidence of the commission or suspected commission of an offence, whether within the Republic or elsewhere; or
- (c) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence.

S.23 Search of arrested person and seizure of article

- (1) On the arrest of any person, the person making the arrest may-
 - (a) if they are a peace officer, search the person arrested and seize any article referred to in section 20 which is found in the possession of or in the custody or under the control of the person arrested, and where such peace officer is not a police official, they shall forthwith deliver any such article to a police official; or
 - (b) if they are not a peace officer, seize any article referred to in section 20 which is in the possession of or in the custody or under the control of the person arrested and shall forthwith deliver any such article to a police official.
- (2) On the arrest of any person, the person making the arrest may place in safe custody any object found on the person arrested and which may be used to cause bodily harm to himself or others.

[Sub-s. (2) added by s. 1 of Act 33 of 1986.]

S.24 Search of premises

Any person who is lawfully in charge or occupation of any premises and who reasonably suspects that stolen stock or produce, as defined in any law relating to the theft of stock or produce, is on or in the premises concerned, or that any article has been placed thereon or therein or is in the custody or possession of any person upon or in such premises in contravention of any law relating to intoxicating liquor, dependence-producing drugs, arms and ammunition or explosives, may at any time, if a police official is not readily available, enter such premises for the purpose of searching such premises and any person thereon or therein, and if any such stock, produce or article is found, they shall take possession thereof and forthwith deliver it to a police official.

[S. 24 substituted by s. 12 of Act 59 of 1983.]

S.42 Arrest by private person without warrant

Any private person may without warrant arrest any person-

who commits or attempts to commit in his presence or whom they reasonably suspect of having committed an offence referred to in Schedule 1.

(b) whom they reasonably believe to have committed any offence and to be escaping from and to be freshly pursued by a person whom such private person reasonably believes to have authority to arrest that person for that offence.

(c) whom they are by any law authorised to arrest without warrant in respect of any offence specified in that law.

(d) whom they see engaged in an affray.

(2) Any private person who may without warrant arrest any person under subsection (1) (a) may forthwith pursue that person, and any other private person to whom the purpose of the pursuit has been made known, may join and assist therein.

(3) The owner, lawful occupier or person in charge of property on or in respect of which any person is found committing any offence, and any person authorised thereto by such owner, occupier or person in charge, may without warrant arrest the person so found.

[Sub-s. (3) substituted by s. 13 of Act 59 of 1983.]

ACCESS CONTROL (CONTROL OF ACCESS TO PUBLIC PREMISES AND VEHICLES ACT 53 OF 1985)

Interpretation

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

- (i) "authorised officer" means any person authorised by the owner of any public premises or any public vehicle to act in terms of the provisions of section 2; (ii)
- (ii) "dangerous object" means any explosive or incendiary material, any explosive or incendiary device, any firearm, and any gas, material, weapon or other article, object or instrument which may be employed to cause bodily harm to a person, or to render a person tempo-rarily paralysed or unconscious, or to cause damage to property, as well as anything which the Minister may by notice in the Gazette declare to be a dangerous object for the purposes of this Act;
- (iv) "Minister" means the Minister of Police; (iv)
- (v) "owner of any public premises or any public vehicle" means the head of the department of State, division, office or other body which occupies or uses those prem-ises or that vehicle or is in charge thereof, as the case maybe; (i)
- (vi) "public premises" means any building, structure, hall, room, office, convenience, land, enclosure or water surface, which is the property of, or is occupied or used by, or is under the

control of, the State or a statutory body, and to which a member of the public has a right of access or is usually admitted or to which they may be admitted.

- (vii) "public vehicle" means any vehicle, conveyance, ship, boat, craft or aircraft which is the property or under the control of the State or a statutory body, and which is used for the transport, for profit or otherwise, of members of the public; (vi)

Access Control

2. (1) Notwithstanding any rights or obligations to the contrary and irrespective of how those rights or obligations arose or were granted or imposed, the owner of any public premises or any public vehicle may-
- (a) take such steps as they may consider necessary for the safe-guarding of those premises or that vehicle and the contents thereof, as well as for the protection of the people therein or thereon.
 - (b) direct that those premises or that vehicle may only be entered or entered upon in accordance with the provisions of subsection (2).
- (2) No person shall without the permission of an authorised officer enter or enter upon any public premises or any public vehicle in respect of which a direction has been issued under sub-section (1) (b), and for the purpose of the granting of that permission an authorised officer may require of the person concerned that they-
- (a) furnish his name, address and any other relevant information required by the authorised officer.
 - (b) produce proof of his identity to the satisfaction of the authorised officer.
 - (c) declare whether they have any dangerous object in his possession or custody or under his control.
 - (d) declare what the contents are of any vehicle, suitcase, attaché case, bag, handbag, folder, envelope, parcel or container of any nature which they have in his possession or custody or under his control, and show those contents
 - (e) subject himself and anything which they have in his possession or custody or under his control to an examination by an electronic or other apparatus in order to determine the presence of any dangerous object.
 - (f) hand to an authorised officer anything which they have in his possession or custody or under his control for examination or custody until they leave the premises or vehicle.
 - (g) in the case of premises or a vehicle or a class of premises or vehicles determined by the Minister by notice in the Gazette, be searched by an authorised officer.
- (3) (a) Where an authorised officer grants permission in terms of subsection (2), they may do so subject to conditions regarding the carrying or displaying of some form of proof that the necessary permission has been granted, the persons on or in the premises or vehicle with whom they may not come into contact, the part of the premises or vehicle which they may not

enter upon, the duration of his presence on or in the premises or vehicle, the escorting of the person concerned while they is on or in the premises or vehicle, and such other requirements as they may consider necessary.

(b) Without prejudice to the provisions of the Trespass Act, 5 1959 (Act No. 6 of 1959), an authorised officer may at any time remove any person from any public premises or public vehicle if-

(i) that person enters or enters upon the premises or vehicle concerned without the permission contemplated in subsection (2).

(ii) that person refuses or fails to observe a condition contemplated in paragraph (a).

(iii) the authorised officer considers it necessary for the safeguarding of the premises or vehicle concerned 15 or the contents thereof or for the protection of the people therein or thereon.

(4) If it is not practicable to examine or keep in custody on or in the premises or vehicle concerned anything which may be examined or kept in custody under subsection (2), it may be removed to a suitable place for that purpose.

(5) The search of a woman under subsection (2) (g) may be carried out only by a woman.

Exemption of certain persons

3. The provisions of section 2 (2) do not apply in respect of any member of a police force established by or under any law or a member of the South African Defence Force who is required in the performance of his functions to enter or enter upon any public premises or public vehicle and who produces proof of his identity to the satisfaction of the authorised officer concerned.

Offences

4. Any person who-
 - (a) contravenes the provisions of section 2 (2).
 - (b) for the purposes of this Act makes a statement or furnishes information which is false in a material, knowing it to be false.
 - (c) refuses or fails to observe any condition contemplated in section 2 (3) (a).
 - (d) holds himself out to be an authorised officer.
 - (e) obstructs, hinders, resists or interferes with an authorised officer in the performance of his functions,

is guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding two years or to both that fine and that imprisonment.

5. The Minister may by notice in the Gazette delegate any of his powers under this Act to the incumbent of any post.

6. (1) The provisions of this Act apply in addition to, and not in substitution for, the provisions of any other law relating to the protection of people or property.

(2) The provisions of this Act do not exempt any person from complying with any obligation in terms of which they are required to enter or enter upon any public premises or any public vehicle.