

Namibia

Protection of Fundamental Rights Act, 1988

Legislation as at 1989-06-08.

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Republic of Namibia
Annotated Statutes

Protection of Fundamental Rights Act, 1988

Act 16 of 1988

Published in [Official Gazette no. 5586](#) on 3 August 1988

Assented to on 2 August 1988

Commenced on 3 August 1988

[Up to date as at 14 October 2021]

[Amended by [First Law Amendment \(Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election\) Proclamation, 1989 \(Proclamation AG14 of 1989\)](#) on 8 June 1989]

ACT

To provide for the protection of certain fundamental rights of persons, and for matters incidental thereto.

(Afrikaans text signed by the Administrator-General on 2 August 1988)

BE IT ENACTED by the National Assembly, as follows:-

1. Definitions

In this Act, unless the context otherwise indicates -

“**educational institution**” means any school or institution established, registered or recognised by or under any law and at which education is provided to children or other persons, and includes any university, technicon or college established by or under any law; and

“**the State**” includes any representative authority established under the provisions of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980), and any board or body established or constituted by or under any law.

[AG 8 of 1980 was repealed by the Namibian Constitution.]

2. ***

[section 2 deleted by AG 14 of 1989]

3. Offences relating to violence, injury, damage, harm, loss or detriment

Any person who, by himself or by any other person, directly or indirectly, makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, upon or against, or does or threatens to do anything to the detriment of, any other person, or his next of kin, on account of such other person -

- (a) attending or having attended any class or lecture at any educational institution where he is admitted as a pupil or student or, participating or having participated in any other activity at such educational institution;
- (b) calling on or having called on any undertaking or industry to transact any business of whatever nature or for any other lawful purpose;
- (c) making use or having made use of any public service referred to in paragraph (c) of subsection (1) of section 2;
- (d) attending or having attended his place of employment in order to perform his ordinary duties; or
- (e) intending -
 - (i) to attend any class or lecture at any educational institution where he is admitted as a pupil or student or, to participate in any other activity at such educational institution;
 - (ii) to call on any undertaking or industry to transact any business of whatever nature or for any other purpose;
 - (iii) to make use of any public service referred to in paragraph (c) of subsection (1) of section 2; or
 - (iv) to attend his place of employment in order to perform his ordinary duties,

shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

[closing words of section 3 substituted by AG 14 of 1989]

4. Rights of police official, peace officer or member of the South African Defence Force in relation to searching and entering of premises and searching, arresting and detaining in custody of persons

- (1) For the purposes of this Act, any police official or any peace officer as defined in the Criminal Procedure Act, 1977 (Act 51 of 1977), and any member of the South African Defence Force, shall have the right, subject to the provisions of subsections (2) and (3) of this section, to enter and search any premises and to search, arrest and detain in custody any person.
- (2) The provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), in relation to the entering and searching of premises or the search, arrest and detention in custody of persons, shall mutatis mutandis apply to any entering or searching of premises and any search, arrest or detention in custody of persons under subsection (1) of this section.
- (3) In the application of the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), in accordance with subsection (2) of this section, any reference in the said Criminal Procedure Act, 1977, to a peace officer shall be construed as including a reference to any member of the South African Defence Force.

5. Short title

This Act shall be called the Protection of Fundamental Rights Act, 1988.