
CHAPTER 396

THE SEDITION AND UNDESIRABLE PUBLICATIONS ACT

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SEDITION AND UNDESIRABLE PUBLICATIONS

(14th December, 1938.)

11/1938.
1011941.
S.R.O. 2211956.

1. This Act may be cited as the Sedition and Undesirable Publications Act. Short title.

2. In this Act—

Interpretation.

“import” includes—

(a) to bring into Antigua and Barbuda, and

(b) to bring within the internal waters of Antigua and Barbuda whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore;

“publication” includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, 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;

“periodical publication” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

“prohibited publication” means any publication the importation of which has been prohibited by Order under section 7:

“seditious publication” means a publication having a seditious intention;

“seditious words” means words having a seditious intention.

Meaning of seditious intention.

3. A “seditious intention” is an intention—

- (i) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her heirs or successors, or the Government as by law established; or
- (ii) to excite Her Majesty's subjects or inhabitants of Antigua and Barbuda to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Antigua and Barbuda as by law established; or

- (iii) to bring into hatred or contempt or to excite disaffection against the administration of justice in Antigua and Barbuda; or
- (iv) to raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of Antigua and Barbuda; or
- (v) to promote feelings of ill-will and hostility between different classes of the population of Antigua and Barbuda.

But an act, speech or publication is not seditious by reason only that it intends—

(a) to show that Her Majesty has been misled or mistaken in any of her measures; or

(b) to point out errors or defects in the Government or Constitution 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) to persuade Her Majesty's subjects or inhabitants of Antigua and Barbuda to attempt to procure by lawful means the alteration of any matter in Antigua and Barbuda as by law established; or

(d) to 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 Antigua and Barbuda.

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. (1) 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;

(6) utters any seditious words;

**Offences in
respect of
sedition.**

(c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;

(d) imports any seditious publication, unless he has no reason to believe that it is seditious,

shall be guilty of an offence and shall be liable for a first offence to imprisonment with or without hard labour for a term not exceeding two years or to a fine not exceeding five thousand dollars or to both such imprisonment and such fine, and for a subsequent offence to imprisonment with or without hard labour for a term not exceeding three years.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and shall be liable for a first offence to imprisonment with or without hard labour for a term not exceeding one year or to a fine not exceeding three thousand dollars or to both such imprisonment and such fine, and for a subsequent offence to imprisonment with or without hard labour for a term not exceeding two years.

Limitation of proceedings under section 4.

5. (1) No prosecution for an offence under section 4 shall be begun except within six months after the offence is committed.

(2) A person shall not be prosecuted for an offence under section 4 without the written consent of the Attorney-General.

Corroborative evidence required.

6. No person shall be convicted of an offence under section 4 on the uncorroborated testimony of one witness.

Power to prohibit the importation of undesirable publications.

7. The Governor-General, if satisfied that the importation of any publication would be contrary to the public interest, may, in his absolute discretion, by order prohibit the importation of such publication, and in the case of a periodical publication may, by the same or a subsequent order, prohibit the importation of any past or future issue thereof.

Offences in respect of prohibited publications.

8. (1) Any person who imports, publishes, sells, offers for sale, distributes, or reproduces any prohibited publication, or any extract therefrom, shall be guilty of an offence and shall be liable for a first offence to imprisonment with or without hard labour for a term not exceeding two years

or to a fine not exceeding five thousand dollars or to both such imprisonment and such fine, and for a subsequent offence to imprisonment for a term not exceeding three years.

(2) Any person who without lawful excuse has in his possession any prohibited publication, or any extract therefrom, shall be guilty of an offence and shall be liable for a first offence to imprisonment for a term not exceeding one year or to a fine not exceeding three thousand dollars or to both such imprisonment and such fine, and for a subsequent offence to imprisonment with or without hard labour for a term not exceeding two years.

9. (1) No prosecution for an offence under section 8 shall be begun except within six months after the offence is committed. **Limitation of proceedings under section 8.**

(2) A person shall not be prosecuted for an offence under section 8 without the written consent of the Attorney-General.

10. (1) Any person to whom any prohibited publication, or any extract therefrom, is sent without his knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith if or as soon as the nature of its contents have become known to him, or in the case of a publication or extract therefrom coming into the possession of such person before an order prohibiting its importation has been made forthwith upon the coming into effect of an order prohibiting the importation of such publication, deliver such publication or extract therefrom to the officer in charge of the nearest Police Station, and in default thereof shall be liable on summary conviction to imprisonment for a term not exceeding twelve months, or to a fine not exceeding three thousand dollars, or to both such imprisonment and fine. **Innocent possession of prohibited publication.**

(2) A person who complies with the provisions of subsection (1) or is convicted of an offence under that subsection shall not be liable to be convicted for having imported or having in his possession the same publication or extract therefrom.

Power to examine suspected packages.

11. (1) Any Government Officer authorized in that behalf by the Governor-General, may detain, open and examine any package or article which he suspects to contain any prohibited publication or extract therefrom, and during such examination may detain any person importing, distributing or posting such package or article or in whose possession such package or article is found.

(2) If any such prohibited publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer, and the person importing, distributing, or posting it, or in whose possession it is found, may forthwith be arrested and proceeded against for the commission of an offence under section 8 or section 10 as the case may be.

Power to grant search warrants.

12. If a Magistrate is satisfied by information on oath that there is reasonable cause to believe that any publication in respect of which any conviction under this Act has been recorded, or any prohibited publication, is in any place or places, he may grant a warrant authorizing any police officer not below the rank of sergeant to search such place or places and to seize and detain any such publication found therein.

Obstruction, etc.

13. Any person who hinders or obstructs any other person acting in the execution of his duty under the provisions of this Act shall be liable on summary conviction to imprisonment with or without hard labour for a term not exceeding six months or to a fine not exceeding three thousand dollars, or to both such imprisonment and fine.

Seditious and prohibited publications forfeited.

14. Any seditious or prohibited publication seized or detained in pursuance of the provisions of this Act or in respect of which any conviction has been recorded shall be forfeited to Her Majesty and shall be destroyed or otherwise disposed of in accordance with the directions of the Governor-General.

Summary trial.

15. Notwithstanding anything contained in this Act any person charged with an offence under section 4 or section 8 may, if the Magistrate hearing the case is of opinion that it is a proper case for summary trial, elect to be tried summarily and thereupon shall be liable on conviction to imprisonment with or without hard labour for a term not

exceeding twelve months or to a fine not exceeding three thousand dollars or to both such imprisonment and such fine, but so that a person shall not be punished twice for the same offence.
