

PUBLIC OFFICERS' PROTECTION ACT

Act 45 of 1957 – 30 December 1957

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PUBLIC OFFICERS' PROTECTION ACT

1. Short title

This Act may be cited as the Public Officers' Protection Act.

2. Interpretation

In this Act—

“public officer” means a Government servant and an officer of a Municipal City Council, Municipal Town Council or District Council.

[S. 2 amended by s. 165 (15) of Act 36 of 2011 w.e.f. 15 December 2011.]

3. Molesting public officers

(1) Any person who, by force or violence, resists, opposes, molests, hinders or obstructs a—

- (a) public officer in the performance of his duty;
- (b) person lawfully engaged, authorised or employed in the performance of a public duty; or
- (c) person lawfully acting in aid or assistance of the public officer or person mentioned in paragraphs (a) and (b),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) In the absence of force or violence, the penalty shall be a fine not exceeding 3,000 rupees and, in the case of a second or subsequent offence, the penalty shall be as provided in subsection (1).

[S. 3 amended by Act 29 of 1990; Act 5 of 1999; s. 3 of Act 17 of 2016 w.e.f. 3 September 2016.]

4. Limitations of actions

(1) Every civil or criminal action, suit, or proceeding, by a person, other than the State, for any fact, act or omission, against a—

- (a) public officer in the execution of his duty;
- (b) person engaged or employed in the performance of any public duty; or
- (c) person acting in aid or assistance of the public officer or person mentioned in paragraphs (a) and (b),

shall, under pain of nullity, be instituted within 2 years from the date of the fact, act, or omission which has given rise to the action, suit, or other proceeding.

(2) (a) No civil action, suit or proceeding shall be instituted, unless one month's previous written notice of the action, suit, proceeding and of the subject matter of the complaint, has been given to the defendant.

(b) No evidence shall be produced at the trial except of the cause of action as specified in the notice.

(c) In default of proof at the trial that the notice under paragraph (a) has been duly given, the defendant shall be entitled to judgment with costs.

(3) Where—

- (a) before the institution of any civil action, suit or proceeding, the defendant has offered to the complainant an indemnity which is determined to be sufficient by the Court before which the case is brought; or
- (b) after any civil action, suit or proceeding has been commenced, the defendant has paid into Court a sum of money which the Court determines to be sufficient as damages or indemnity to the complainant,

the case shall be dismissed, subject to such order as to costs as the Court thinks just.

(4) Where, in any civil action, suit or proceeding, the Court certifies on the record that the defendant acted upon reasonable or probable cause, the plaintiff shall not be entitled to more than nominal damages, or to any costs.

[S. 4 amended by Act 29 of 1992; Act 48 of 1991.]

5. Nominal penalty

(1) Where—

- (a) an information is filed against a public officer on account of a seizure; and
- (b) judgment is given against the defendant,

only a nominal penalty shall be imposed and the claimant shall not be entitled to any costs if the Court certifies on the record that there was reasonable or probable cause of seizure.

(2) In a civil action, suit or proceeding brought against the public officer in respect of the seizure, the plaintiff shall only be entitled to judgment for the things seized or their value, and not to damages or costs.

6. Action against Magistrate

(1) (a) Sections 4 and 5 shall apply to a civil or criminal action, suit or proceeding, brought against a Magistrate, or a clerk or officer of any district or other Court, for any act done by him, or for any omission, in the execution of his office.

(b) Subject to subsection (2), the plaintiff shall also expressly allege that the act was done, or omission made, maliciously and without reasonable or probable cause.

(c) Where the plaintiff fails to prove the allegation mentioned in paragraph (b), the defendant shall be entitled to judgment with treble costs.

(2) (a) Any person who has been injured by an act done—

- (i) by a Magistrate, clerk or officer in a matter in which he has no jurisdiction or in which he has exceeded his jurisdiction;
- (ii) under any conviction made or warrant issued in a matter mentioned in subparagraph (i),

may maintain an action without averring and proving that it was done maliciously.

(b) No action under paragraph (a) shall be brought for anything done under a conviction until the conviction has been quashed by a Court on appeal or otherwise.

