

NO. 38
AVOIDANCE OF DISCRIMINATION ACT, 1957

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NO. 38
AVOIDANCE OF DISCRIMINATION ACT, 1957(1)

AN ACT to prohibit organisations using or engaging in ethnic, regional, racial or religious propaganda to the detriment of any other community, or securing the election of persons on account of their ethnic, regional, or religious affiliations and for related matters.

1. Power to restrict activities of an organisation

(1) An organisation, the membership of which is substantially restricted to any one community or religious faith, shall not have as one of its objectives the exposure of any other organisation however constituted or of any part of the community, to hatred, contempt or ridicule on account of their community or religion.

(2) An organisation whether or not incorporated or registered under the Political Parties Act, 2000 (Act 574) which contravenes subsection (1) commits an offence.

(3) Where an organisation is convicted of an offence under subsection (2), a person having the management or control or taking part in the management or control of that organisation, whether or not it is incorporated, is liable on summary conviction to a fine not exceeding seven hundred and fifty penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

(4) The fact that any other organisation or a part of the community has been exposed to hatred, contempt or ridicule is prima facie evidence of the object.

2. Power to declare organisation prohibited

Where a person is convicted of an offence under section 1, the Court shall certify the facts for consideration by the Electoral Commission, and the Commission may, by constitutional instrument, declare the organisation concerned to be a prohibited organisation.

3. Prohibition of organisations engaging in elections

(1) An organisation established substantially for the direct or indirect benefit or advancement of the interests of a particular community or religious faith shall not organise or operate for the purposes of engaging in an election.²⁽²⁾

(2) Where the Electoral Commission is satisfied that an organisation is organised or operates contrary to subsection (1), the Commission may, by constitutional instrument, declare the organisation to be an illegal organisation.

4. Restriction on use of certain symbols

(1) A political party shall not use or permit to be used a symbol or name which may be identified with a particular community or religious faith.

(2) Where the Electoral Commission is satisfied that a political party uses or permits the use of a symbol contrary to subsection (1), the Commission may, by constitutional instrument, prohibit the use of that symbol by that political party.

(3) On the publication of the constitutional instrument under subsection (2), the continued use of a prohibited symbol is an offence against this Act.

5. Restriction on use of name or symbol

(1) An organisation formed before or after the coming into operation of this Act for the primary benefit of a community or religious faith shall not, if it or a member of the organisation in any manner engages in politics otherwise than by voting, permit or allow the use of a name or symbol of, or associated with, that organisation for a political purpose.

(2) Subsection (1) does not apply to a political party.

(3) The Electoral Commission on being satisfied that a name or symbol is used contrary to subsection (1) shall, by constitutional instrument, prohibit the use of that name or symbol for a political purpose.

(4) On the publication of the constitutional instrument the continued use of the name or symbol for a political purpose is an offence against this Act.

(5) For the purposes of this section, the expression “**engages in politics**” means the doing of an act, a matter of thing, in any manner to procure or attempt to procure the election of a person, or a particular result of an election, and where a person is elected, includes the support in any way of that person or the political party to which that person belongs and the expression “**political purpose**” has a similar meaning.

6. Prohibition on use of variant, of name or symbol

(1) Where the use of a name or symbol is prohibited under this Act, a variant of that name or symbol or any other name or symbol which includes that name or symbol or is calculated to deceive, is prohibited

under this Act.

(2) The use of the variant or other name or symbol is an offence punishable in the same way as the use of the name or symbol prohibited by a legislative instrument is punishable under this Act.

7. Winding-up of organisation

(1) An organisation declared to be a prohibited organisation or an illegal organisation under this Act shall, whether or not it is incorporated or registered and to the extent to which it is affected by this Act, be wound up under the supervision of the High Court.

(2) The High Court shall have jurisdiction for that purpose, and the Rules of Court Committee may make Rules or may apply or adapt any Rules of Court to give effect to the winding-up.

(3) A person taking part in the management or control of an organisation affected by this section, other than for the purpose of subsection (1), commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment.

8. Power of Commission to require disclosure of rules

(1) The Electoral Commission may require an organisation which, in the opinion of the Commission, engages in politics within the meaning of subsection (3) of section 5 to disclose its rules to the Commission and whether or not it permits or allows the use of a particular name or symbol.

(2) Where the rules of an organisation are discriminatory as to membership by reason only of community or religion, the Commission may, and in addition to any other power conferred under this Act, give notice to the organisation requiring an amendment to its rules.

(3) An organisation which fails to comply with the requirements of the Commission within seven days after notice given under this section, is liable to a penalty of one hundred penalty units for every day that the failure continues, and the penalty may be recovered in a summary way in a court from the person who appears to have the control or management of the organisation.

9. No prosecution without leave

A prosecution shall not be instituted under this Act without the prior consent in writing of the Attorney-General.

10. Penalties

(1) Where the doing of an act, a matter or thing is declared to be an offence under this Act or an organisation is declared to be illegal and a penalty is not prescribed, the offender is liable upon conviction to a fine not exceeding seven hundred and fifty penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

(2) For the purposes of subsection (1), “**offender**” includes the organisation affected and any person concerned in the management or direction of the organisation.

11. Available defence

Where the person charged with an offence under this Act is the manager or the person in control of the organisation, it shall be a defence to plead that that person did not consent to, or connive at, the commission of that offence.

12. Regulations

(1) The Electoral Commission may, by constitutional instrument, make Regulations for giving effect to this Act.

(2) Regulations made under subsection (1) may provide for

- (a) regulating the use of names, flags and symbols of political parties;
- (b) regulating the registration of names, flags and symbols of political parties; and
- (c) prescribing fines not exceeding one thousand penalty units for the breach of a regulation.

(3) Regulations made under this section may apply generally throughout Ghana or to a specified part of the country.

13. Interpretation

In this Act, unless the context otherwise requires,

“**community**” includes a body or group of persons, having a common ethnic or racial origin or because of their birth or upbringing in a region, locality or place whether in the Republic or any other country, associated with the Republic;

“**court**” means a court of competent proportion;

“**election**” with its grammatical variations includes an election and a referendum conducted pursuant to paragraph (c) of article 45 of the Constitution;

“**organisation**” includes a club, an institution, a political party, or any other association of persons by whatever name called, and where there is a local or affiliated branch or section of an organisation that local or affiliated branch or section shall be regarded as a separate and distinct organisation;

“**symbol**” includes a slogan.

Endnotes

1 (Popup - Footnote)

1. This Act was issued as the Avoidance of Discrimination Ordinance, 1957 No. 38, assented to on 30th December, 1957. It came into force on 31st December, 1957.

2 (Popup - Footnote)

2. See also [articles 55](#) and [56](#) of [the Constitution](#).