

(31 March 2005 – to date)

[This is the **current** version and applied as from **31 March 2005**, i.e. the date of commencement of the Judicial Matters Second Amendment Act 55 of 2003 – to date]

PREVENTION OF COUNTERFEITING OF CURRENCY ACT 16 OF 1965

(Government Gazette 1060, dated 17 March 1965. Commencement date: 17 November 1967
[Proc. No. R. 295, Gazette No. 1892])

(English text signed by the State President.)
(Assented to 10th March, 1965.)

As amended by:

(Criminal Procedure Act 51 of 1977 – Government Gazette No.5532, dated 6 May 1977.
Commencement date: 22 July 1977. [Proc. No.R. 148. Gazette No.5654])

(South African Reserve Bank Act 90 of 1989 – Government Gazette No.11942, dated 14 June 1989.
Commencement date: 1 August 1989. [Proc. No.128. Gazette No.12009])

(General Law Amendment Act 49 of 1996 – Government Gazette No.17477, dated 4 October 1996.
Commencement date: 4 October 1996])

(Justice Laws Rationalisation Act 18 of 1996 – Government Gazette No.17129, dated 19 April 1996.
Commencement date: 1 April 1997. [Proc. No. R.23. Gazette No.17849])

Editor's note: Act 16 of 1965 became applicable in the remainder of the national territory by Section 2 of Act 18 of 1996. Act 16 of 1965 was repealed by section 3 of Act 18 of 1996 in so far as it applied in Transkei, Bophuthatswana, Venda, Ciskei)

(Judicial Matters Amendment Act 34 of 1998 – Government Gazette No.19022, dated 3 July 1998.
Commencement date: 15 January 1999. [Proc. No. R.4. Gazette No.19691])

(Judicial Matters Second Amendment Act 55 of 2003 – Government Gazette No.26206, dated 31 March 2004. Commencement date: 31 March 2005. [Proc. No. R.13. Gazette No.27406])

ACT

To provide for the prevention of the counterfeiting of coin and the forging or altering of certain bank notes and for matters incidental thereto, to provide for certain persons being dealt with under the law relating to extradition, and to amend the Native Territories Penal Code (Act No. 24 of 1886 of the Cape of Good Hope), the Crimes Ordinance, 1904, of the Transvaal, the South African Reserve Bank Act, 1944, and the Criminal Procedure Act, 1955.

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

1. Definitions
2. Offences relating to current coin and bank notes
3. Certain offences in respect of currency extraditable offences in certain circumstances
4. Evidence and onus of proof
5. Repeal of sections 228, 229, and 230 of Act 24 of 1886 of the Cape of Good Hope
6. Amendment of section 3 of Ordinance 26 of 1904 of the Transvaal
7. Repeal of sections 18 to 28, inclusive, of Ordinance 26 of 1904 of the Transvaal
8.*repealed*
9.*repealed*
10.*repealed*
11.*repealed*
12. Short title and commencement

1. Definitions

In this Act, unless the context otherwise indicates -

"**bank note**" includes any paper money which is legal tender in the State or territory in which it is issued, irrespective of the name by which it is known, but does not include a bank note issued under section fourteen of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989);

(Definition of "bank note" amended by section 4 and Schedule III of Act 18 of 1996)

"**counterfeit coin**" means any coin, other than current coin, resembling or apparently intended to resemble or pass for current coin, and includes current coin prepared or altered so as to resemble or pass for coin of a higher denomination;

"**current coin**" means any coin the issue and circulation of which, in any State or territory, as money have been authorized by law;

"Republic"

(Definition of "Republic" deleted by section 1 and the Schedule of Act 49 of 1996)

2. Offences relating to current coin and bank notes

Any person who -

- (a) counterfeits or performs any part of the process of counterfeiting any current coin;
- (b) forges or alters a bank note;
- (c) utters, tenders or accepts any counterfeit coin, knowing it to be counterfeit, or a forged or altered bank note, knowing it to be forged or altered;
- (d) without lawful authority or excuse -
 - (i) has in his or her possession any counterfeit coin or any forged or altered bank note;
 - (ii) imports or receives into the Republic any counterfeit coin or any forged or altered bank note; or
 - (iii) exports from the Republic or puts or takes or causes to be put or taken on board any ship, vessel, boat, aircraft or vehicle for the purpose of being so exported, any counterfeit coin or any forged or altered bank note;

(Section 2(d) substituted by section 2 of Act 34 of 1998)
- (e) with intent to counterfeit current coin or to forge a bank note, makes, mends, obtains, has in his possession or disposes of any tool, instrument or machine -
 - (i) intended for making any counterfeit coin or forged bank note;
 - (ii) intended for the marking of coin round the edges with letters, grainings or other marks or figures resembling letters, grainings, marks or figures round the edges of any current coin; or
 - (iii) capable of being used for preparing any material for receiving any impression resembling that on any current coin;
- (f) gilds, silvers or colours any piece of metal of a size or figure fit to be coined, for the purpose of coining it into counterfeit coin;

- (g) makes any piece of metal into a size or figure fit to be coined, with intent to facilitate the coining therefrom of counterfeit coin or for the purpose of coining therefrom counterfeit coin;
- (h) buys, sells or is in possession of a piece of metal referred to in paragraph (f) or (g) for a purpose referred to therein;
- (i) impairs, diminishes or lightens any current coin with intent that such coin when so impaired, diminished or lightened may pass as current coin;
- (j) without lawful authority or excuse has in his possession or disposes of or in any way deals with any filing or clipping, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, produced or obtained by impairing, diminishing or lightening current coin, knowing that it has been so produced or obtained;
- (k) with intent to defraud, utters, tenders, disposes of or otherwise uses as current coin any medal or piece of metal which is not current coin;
- (l) without lawful authority or excuse defaces any current coin by stamping thereon any word, letter, device or mark,

shall be guilty of an offence and liable on conviction—

- (i) in the case of an offence referred to in paragraph (a), (b), (c), (e), (f), (g) or (i), to imprisonment for a period not exceeding fifteen years;
- (ii) in the case of an offence referred to in paragraph (d) or (h), to imprisonment for a period not exceeding five years;
- (iii) in the case of an offence referred to in paragraph (j), to imprisonment for a period not exceeding three years; and
- (iv) in the case of an offence referred to in paragraph (k) or (l), to imprisonment for a period not exceeding twelve months.

3. Certain offences in respect of currency extraditable offences in certain circumstances

(1) If -

- (a) the Republic has acceded to the Convention for the Suppression of Counterfeiting Currency drawn up at Geneva on the twentieth day of April, 1929; and

- (b) a person is accused or has been convicted within the jurisdiction of a foreign State as defined in section one of the Extradition Act, 1962 (Act No. 67 of 1962), of one or more of such offences as are mentioned in sub-section (2) of this section; and
- (c) an extradition agreement which has been or is deemed to have been entered into under the said Act with such State or a State under whose sovereignty or protection such first-mentioned State is, is in force; and
- (d) the State referred to in paragraph (b) or a State under whose sovereignty or protection such first-mentioned State is, has signed and ratified or acceded to the said Convention,

such person may, notwithstanding anything to the contrary contained in the said Extradition Act, 1962, or in the said agreement, but subject to the provisions of sub-section (3) of this section, be surrendered, to the State in respect of which such agreement is so in force, in the manner prescribed by any law relating to extradition and in force in the Republic.

(2) The offences referred to in paragraph (b) of sub-section (1) shall be the following, namely -

- (a) counterfeiting any current coin;
- (b) an offence referred to in paragraph (b) of section two;
- (c) an offence referred to in paragraph (c) of section two;
- (d) without lawful authority or excuse importing or receiving into the State or territory in question a counterfeit coin or a forged or altered bank note;
- (e) an offence referred to in paragraph (e) of section two; and
- (f) attempting to commit any offence referred to in paragraph (a), (b), (c) or (d) of this section.

(3) The provisions of sub-section (1) shall cease to apply -

- (a) if the Convention referred to in the said sub-section (1) is denounced on behalf of the Republic;
or
- (b) in respect of a State or territory, if the said Convention is denounced on behalf of that State or the State under whose sovereignty or protection that territory is, as the case may be,

and a period of at least one year has lapsed after such denunciation.

4. Evidence and onus of proof

Prepared by:

- (1) A certificate purporting to have been signed by the Director-General: Foreign Affairs, or a person designated thereto by him, to the effect that a State mentioned therein has signed and ratified or acceded to the Convention referred to in sub-section (1) of section three shall, upon its production by any person in any proceedings under any law relating to extradition, be admissible in evidence in such proceedings and be *prima facie* proof of the facts set forth therein.

(Section 4(1) amended by section 4 and Schedule III of Act 18 of 1996)

- (2) If in any prosecution for a contravention of paragraph (d), (j) or (l) of section 2 the question arises whether any person had lawful authority or excuse for possessing or doing any thing referred to in the said paragraphs, in the absence of evidence to the contrary which raises reasonable doubt, proof of possession or conduct contemplated in the said paragraphs (d), (j) and (l) shall be sufficient evidence of the absence of lawful authority or excuse.

(Section 4(2) substituted by section 3 of Act 55 of 2003)

5. Repeal of sections 228, 229, and 230 of Act 24 of 1886 of the Cape of Good Hope

Sections two hundred and twenty-eight to two hundred and thirty, inclusive, of the Native Territories Penal Code (Act No. 24 of 1886 of the Cape of Good Hope) are hereby repealed.

6. Amendment of section 3 of Ordinance 26 of 1904 of the Transvaal

Section three of the Crimes Ordinance, 1904 (Ordinance No. 26 of 1904 of the Transvaal), is hereby amended by the deletion of the definitions of "counterfeit coin" and "current coin".

7. Repeal of sections 18 to 28, inclusive, of Ordinance 26 of 1904 of the Transvaal

Sections eighteen to twenty-eight, inclusive, of the Crimes Ordinance, 1904 (Ordinance No. 26 of 1904 of the Transvaal), are hereby repealed.

8.repealed

(Section 8 repealed by section 40(1) of Act 90 of 1989)

9. repealed

(Section 9 repealed by section 40(1) of Act 90 of 1989)

10. repealed

(Section 10 repealed by section 344(1) of Act 51 of 1977)

11. repealed

(Section 11 repealed by section 1 and the Schedule of Act 49 of 1996)

12. Short title and commencement

This Act shall be called the Prevention of Counterfeiting of Currency Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.