

**Extracts from
CRIMINAL PROCEDURE ACT NO. 51 OF 1977
Relevant to Citizen's Arrest
CHAPTER 5
ARREST**

39. Manner and effect of arrest.—(1) An arrest shall be effected with or without a warrant and, unless the person to be arrested submits to custody, by actually touching his body or, if the circumstances so require, by forcibly confining his body.
(2) The person effecting an arrest shall, at the time of effecting the arrest or immediately after effecting the arrest, inform the arrested person of the cause of the arrest or,

42. Arrest by private person without warrant.—(1) Any private person may without warrant arrest any person—

- (a) who commits or attempts to commit in his presence or whom he reasonably suspects of having committed an offence referred to in Schedule 1;
- (b) whom he reasonably believes to have committed any offence and to be escaping from and to be freshly pursued by a person whom such private person reasonably believes to have authority to arrest that person for that offence;
- (c) whom he is by any law authorized to arrest without warrant in respect of any offence specified in that law;
- (d) whom he sees engaged in an affray.

(2) Any private person who may without warrant arrest any person under subsection (1) (a) may forthwith pursue that person, and any other private person to whom the purpose of the pursuit has been made known, may join and assist therein.

(3) The owner, lawful occupier or person in charge of property on or in respect of which any person is found committing any offence, and any person authorized thereto by such owner, occupier or person in charge, may without warrant arrest the person so found.

[Sub-s. (3) substituted by s. 13 of Act No. 59 of 1983.]

47. Private persons to assist in arrest when called upon.—(1) Every male inhabitant of the Republic of an age not below sixteen and not exceeding sixty years shall, when called upon by any police official to do so, assist such police official—

- (a) in arresting any person;
- (b) in detaining any person so arrested.

(2) Any person who, without sufficient cause, fails to assist a police official as provided in subsection (1), shall be guilty of an offence and liable on conviction to a fine not exceeding R300 or to imprisonment for a period not exceeding three months.

[Sub-s. (2) substituted by s. 4 of Act No. 33 of 1986.]

48. Breaking open premises for purpose of arrest.—Any person who may lawfully arrest another in respect of any offence and who knows or reasonably suspects such other person to be on any premises, may, if he first audibly demands entry into such premises and notifies the purpose for which he seeks entry and fails to gain entry, break open, enter and search such premises for the purpose of effecting the arrest.

49. Use of force in effecting arrest.—(1) For the purposes of this section—

- (a) "arrestor" means any person authorised under this Act to arrest or to assist in arresting a suspect; and
 - (b) "suspect" means any person in respect of whom an arrestor has or had a reasonable suspicion that such person is committing or has committed an offence.
- (2) If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use such force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to

prevent the suspect from fleeing: Provided that the arrestor is justified in terms of this section in using deadly force that is intended or is likely to cause death or grievous bodily harm to a suspect, only if he or she believes on reasonable grounds—

(a) that the force is immediately necessary for the purposes of protecting the arrestor, any person lawfully assisting the arrestor or any other person from imminent or future death or grievous bodily harm;

(b) that there is a substantial risk that the suspect will cause imminent or future death or grievous bodily harm if the arrest is delayed; or

(c) that the offence for which the arrest is sought is in progress and is of a forcible and serious nature and involves the use of life threatening violence or a strong likelihood that it will cause grievous bodily harm.

[S. 49 substituted by s. 7 of Act No. 122 of 1998.]

50. Procedure after arrest.—(1) (a) Any person who is arrested with or without warrant for allegedly committing an offence, or for any other reason, shall as soon as possible be brought to a police station

Schedule 1

(Sections 40 and 42)

[Schedule 1 substituted by s. 17 of Act No. 26 of 1987. Heading substituted by s. 8 of Act No. 122 of 1998.]

- o Treason.
- o Sedition.
- o Public violence.
- o Murder.
- o Culpable homicide.
- o Rape.
- o Indecent assault.
- o Bestiality.
- o Robbery.
- o Kidnapping.
- o Childstealing.
- o Assault, when a dangerous wound is inflicted.
- o Arson.
- o Malicious injury to property.
- o Breaking or entering any premises, whether under the common law or a statutory provision, with intent to commit an offence.
- o Theft, whether under the common law or a statutory provision.
- o Receiving stolen property knowing it to have been stolen.
- o Fraud.
- o Forgery or uttering a forged document knowing it to have been forged. Offences relating to the coinage.
- o Any offence, except the offence of escaping from lawful custody in circumstances other than the circumstances referred to immediately hereunder, the punishment wherefore may be a period of imprisonment exceeding six months without the option of a fine.
- o Escaping from lawful custody, where the person concerned is in such custody in respect of any offence referred to in this Schedule or is in such custody in respect of the offence of escaping from lawful custody.
- o Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule