

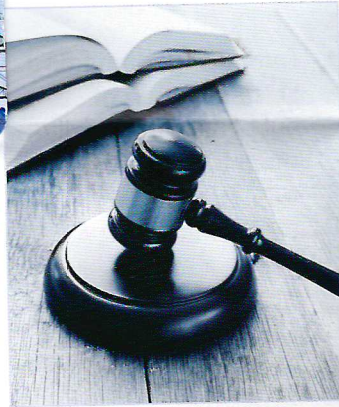
**CRIMINAL MATTERS
AMENDMENT ACT, 2015**
(ACT NO.18 OF 2015)



CRIMINAL MATTERS AMENDMENT ACT, 2015
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ADDRESSING ESSENTIAL INFRASTRUCTURE RELATED CRIMES

- Regulates minimum sentences in the case of essential infrastructure related offences.



The CMA Act clearly recognises the importance of essential infrastructure in providing basic services. It also takes notice of the unacceptably high incidence of crime relating to essential infrastructure which poses a risk to, inter alia, public safety, electricity supply, communications and transportation.

CREATION OF A NEW OFFENCE

Section 3(1) of the CMA Act created two new offences where a person shall be guilty of an offence, if he or she unlawfully and intentionally:

- **Tampers with, damages or destroys essential infrastructure;** or
- **Colludes with or assist another person** in the commission, performance or carrying out of such an activity; if such person **knew or ought reasonably to have known or suspected** that it is essential infrastructure.

PENALTIES

Upon conviction of any offences related to Section 3(1) of the CMA Act, the penalties are:

- A maximum of 30 years imprisonment; or
- In the case of a corporate body, a fine not exceeding R100 million.

IMPORTANT DEFINITIONS:

“basic service” means a service, provided by the public or private sector, relating to energy, transport, water, sanitation and communication, the

interference with which may prejudice the livelihood, well-being, daily operations or economic activity of the public;

“essential infrastructure” means any installation, structure, facility or system, whether publicly or privately owned, the loss or damage of, or the tampering with, which may interfere with the provision or distribution of a basic service to the public;

“tamper” includes to alter, cut, disturb, interfere with, interrupt, manipulate, obstruct, remove or uproot by any means, method or device, and

“tampering” shall be construed accordingly.

BACKGROUND

The Criminal Matters Amendment Act, 2015 (Act No.18 of 2015), hereafter referred to as the “CMA Act”, came into operation on 1 June 2016. The proclamation was published in Government Gazette Notice 40010, dated 24 May 2016.

The purpose of the CMA Act is to address the rise in crimes affecting service delivery to the public, such as theft of copper cables, by creating a new dispensation for essential infrastructure related offences.

The CMA Act -

- Creates a new offence relating to essential infrastructure;
- Regulates bail in respect of essential infrastructure related offences; and



REPORT ACTS OF ESSENTIAL INFRASTRUCTURE THEFT ANONYMOUSLY ON:

CRIME STOP:
08600 10111

or on:



MySAPS App:
Download MySAPS App
Dial *134*10111# and
follow prompts

GRANTING OF BAIL

Where an accused was arrested for offences related to Section 3(1) of the CMA Act, neither a police official nor a prosecutor has the authority to grant bail to such a suspect. The accused must be taken to court and appear for a formal bail application where he/she must satisfy the court that his/her release is in the interest of justice.

“The Theft Of Ferrous And Non-Ferrous Metal Are A Global Economic Threat Which Require Immediate Intervention By All Stakeholders Concerned In An Integrated And Coherent Manner”

CHARGING AN ACCUSED IN TERMS OF THE CMA ACT

Examples of charges in terms of the CMA Act may include the following:

- Theft of ferrous or non-ferrous metal(s) forming part of essential

infrastructure in terms of Sections 155 (2) and 264 of the Criminal Procedure Act 51 of 1977, further read with Part II of Schedule 2 to the Criminal Law Amendment Act 105 of 1997 and further read with sections 1, 6 and 8 of the CMA Act 18 of 2015.

- **Receiving suspected stolen property** (ferrous or non-ferrous metal) in terms of Section 37(1) (a) read with Section 37(1)(b) and 37(2) of the General Law Amendment Act 62 of 1955 read with section 265 of the Criminal Procedure Act 51 of 1977 further read with section 1 and 8 of the CMA Act 18 of 2015 and Part V of Schedule II of Act 105 of 1997.
- **Possession of suspected stolen property** (ferrous or non-ferrous metal) in terms of Section 36 of the General Law Amendment Act

62 of 1955 (Possession of suspected stolen property), read with sections 1 and 8 of the CMA Act 18 of 2015 and further read with Part V of Schedule 2 to the Criminal Law Amendment Act 105 of 1997 further read with Section 265 of the Criminal Procedure Act 51 of 1977.

- **Tampering, damaging or destroying of essential infrastructure** in terms of Section 3(1) read with Section 3(2) and 6 of the CMA Act, Act 18 of 2015 further read with Part II of Schedule 2 to the Criminal Law Amendment Act 105 of 1997.

POLICE STATEMENT IN RELATION TO CMA ACT OFFENCES

Police members must ensure that the bail opposing statement contains all relevant elements of the offence to strengthen the opposing of the bail application presented in court, such as:

- That the offence is related to essential infrastructure;
- How the suspect tampered with, damaged or destroyed the essential infrastructure in question;
- What basic service the essential infrastructure in question renders to

the public (for example energy, transport water, sanitation and/or communication);

- What the effect of the tampering, damage or destruction has or could have on the rendering of basic services by that essential infrastructure;
- Why the suspect knew or should reasonably have known that the essential infrastructure in question is, in fact, essential infrastructure;
- What the actual value of the items stolen, destroyed, tampered with or damaged is, and
- What the cost of replacement of the items will be (including all incidental costs to the complainant).

REGISTRATION OF A CASE DOCKET ON THE CAS SYSTEM

Police members at Station level (Visible Policing and Detective Service) must ensure that all ferrous and non-ferrous related crimes, associated with essential infrastructure, must be registered on the CAS system under the CMA Act by means of Crime Code 3200.

