

eSwatini

Homicide Act, 1959

Act 44 of 1959

Legislation as at 1 December 1998

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Homicide Act, 1959

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Homicide Act, 1959

Act 44 of 1959

Commenced on 1 September 1959

[This is the version of this document at 1 December 1998.]

An Act to amend the law relating to homicide.

1. Short title

This Act may be cited as the Homicide Act, 1959.

2. Killing on provocation

- (1) A person who—
 - (a) unlawfully kills another under circumstances which but for this section would constitute murder; and
 - (b) does the act which causes death in the heat of passion caused by sudden provocation as defined in [section 3](#) and before there is time for his passion to cool;shall only be guilty of culpable homicide.
- (2) This section shall not apply unless the court is satisfied that the act which causes death bears a reasonable relationship to the provocation.

3. Provocation defined

- (1) Subject to this section “provocation” means and includes any wrongful act or insult of such nature as to be likely, when done or offered to an ordinary person or in the presence of an ordinary person to another who is under his immediate care or to whom he stands in a conjugal, parental, filial or fraternal relation or in the relation of master or servant, to deprive him of the power of self-control and to induce him to assault the person by whom such act or insult is done or offered.
- (2) In this section “an ordinary person” means an ordinary person of the class of the community to which the accused person belongs.
- (3) If such act or insult is done or offered by one person to another or, in the presence of another, to a person who is under the immediate care of such other or to whom the latter stands in any relation referred to in subsection (1), the former is said to give the latter provocation for an assault.
- (4) A lawful act shall not be provocation to any person for an assault.
- (5) An act done by a person in consequence of incitement given by another in order to induce him to do such act and thereby to furnish an excuse for committing an assault shall not be provocation to such other for an assault.
- (6) An arrest which is unlawful is not necessarily provocation for an assault but it may be evidence of provocation to a person who knows of the illegality.

4. Suicide pacts

- (1) It shall be culpable homicide, and not murder, for a person acting in pursuance of a suicide pact between him and another to kill such other or to be a party to such other being killed by a third person.

- (2) If it is shown that a person charged with the murder of another killed such other or was a party to his being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and such other.
- (3) In this section “suicide pact” means a common agreement between two or more persons having for its object the death of both or all of them, whether or not each is to take his own life:

Provided that nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of such pact unless it is done while he has the settled intention of dying in pursuance of such pact.