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27 September 2023

No. 49371

THE PRESIDENCY

No. 3743 **27 September 2023**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 04 of 2023: The Repeal of the Transkeian Penal Code Act, 2023

OFISI KAMONGAMELI

No. 3743 **27 September 2023**

Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nonikezelwa kuluntu jikelele kolu xwebhu:—

Ino 04 ye 2023: uMthetho wokurhoxiswa kwekhowudi yezohlwayo yaseTranskei

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(English text signed by the President)
(Assented to 16 September 2023)
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ACT

To repeal the Transkeian Penal Code, 1983; to extend the application of certain laws to the area formerly known as the Republic of Transkei; to provide for transitional arrangements; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise, “**Code**” means the Transkeian Penal Code, 1983 (Act No. 9 of 1983), of the Republic of Transkei. 5

Repeal of Code

2. The Code is hereby repealed.

Reinstatement of common law

3. The common law and rules which by virtue of the Code did not apply in the area formerly known as the Republic of Transkei, must, from the date of commencement of this Act, also apply in the area formerly known as the Republic of Transkei. 10

Transitional provisions

4. (1) Any proceedings which prior to the commencement of this Act were instituted in terms of the provisions of the Code and which proceedings have not been concluded before the commencement of this Act, must continue and be concluded in every respect as if this Act had not been passed. 15

(2) An investigation, prosecution or other legal proceedings, in respect of conduct which would have constituted an offence in terms of the Code, and which occurred after the commencement of the Code but before the commencement of this Act, may be concluded, instituted and continued as if this Act had not been passed. 20

(3) Notwithstanding the repeal or amendment of any provision of any law by this Act, such provision must, for the purpose of the disposal of any investigation, prosecution or any proceedings contemplated in subsection (1) or (2), remain in force as if such provision had not been repealed or amended.

(English text signed by the President)
(Assented to 16 September 2023)

UMTHETHO

Ukurhoxisa iKhowudi yezoHlwayo yaseTranskei, 1983; ukwandisa ukusetyenziswa kwemithetho ethile kummandla waleyo yayisakwaziwa njengeRiphabliki yaseTranskei; ukubonelela ngolungiselelo lotshintsho; kunye nokubonelela ngeemeko ezinxulumene nawo apha.

UYAWISWA KE NGOKO yiPalamente yeRiphabliki yoMzantsi Afrika, njengoku kulandelayo:—

Inkcazelo

1. Kulo mThetho, ngaphandle kokuba umxholo ukhombisa ngenye indlela, “**iKhowudi**” ithetha iKhowudi yezoHlwayo yaseTranskei, 1983 (umThetho we-9 ka-1983), weRiphabliki yaseTranskei. 5

UkuRhoxiswa kweKhowudi

2. Ngale ndlela iKhowudi iyarhoxiswa.

Ukubuyiselwa komthetho osekelwe kwizigqibo zenkundla

3. Umthetho osekelwe kwizigqibo zenkundla lowo ngokobulunga beKhowudi ubungasebenzi kummandla obusakwaziwa njengeRiphabliki yaseTranskei, kufuneka, ukusukela kumhla wokuqala kokusebenza kwalo mThetho, usebenze kananjalo kummandla owawusakwaziwa njengeRiphabliki yaseTranskei. 10

Amagatya atshintshayo

4. (1) Naziphi na iinkqubo ezo phambi kokuqala kokusebenza kwalo mThetho bezimiselwe ngokwamagatya eKhowudi kwaye nkqubo ezo zingakhange zigqitywe phambi kokuqala kokusebenza kwalo mThetho, kufuneka ziqhube kwaye zigqityezelwe kumba ngamnye kuba ngokungathi lo mThetho awuphunyezwa. 15

(2) Uphando, utshutshiso okanye ezinye iinkqubo zomthetho, ngokunxulumene nokuziphatha ezinokuba zenze ityala ngokweKhowudi, kwaye ezenzeke emva kokuqala kokusebenza kweKhowudi kodwa phambi kokuqala kokusebenza kwalo mThetho, zinokugqityezelwa, zimiselwe kwaye ziqhutywe ngokungathi lo mThetho awuphunyezwa. 20

(3) Nangokuphi na ukurhoxiswa okanye ukutshintshwa kwalo naliphi igatya lawo nawuphi umthetho ngulo mThetho igatya elinjalo kufuneka, ngenjongo yokuyekwa kwalo naluphi uphando, utshutshiso okanye naziphi na iinkqubo ezixelwe kwicandelo elinganeno (1) okanye (2), lihlala lisebenza ukuba ukunyanzeliswa akurhoxiswanga okanye kutshintshwe. 25

Savings

5. (1) Nothing in this Act affects—
- (a) the exercise of any power in terms of the Code or any right, privilege, obligation or liability acquired, accrued or incurred in terms of the Code;
 - (b) any penalty, forfeiture or punishment incurred in respect of any offence committed in terms of the provisions of the Code; and 5
 - (c) any appointment to any office made in terms of the Code, if a corresponding law in operation in the rest of the Republic of South Africa also provides for such appointment, and anything done in connection with or by virtue of any such appointment, is deemed to have been done in terms of such corresponding law. 10

(2) As from the commencement of this Act, any provision of the Code which confers a power, jurisdiction or right, imposes a duty or entrusts a function to the holder of an office, a body, an institution or any other authority appointed or established in terms of the Code, such power, jurisdiction or right must be exercised and such duty or function must be performed by the holder of a corresponding office, or a corresponding body, institution or authority appointed or established for the purpose of exercising a corresponding power, jurisdiction or right, or performing a corresponding duty or function, in terms of a corresponding law in operation in the Republic of South Africa. 15

(3) Any reference in a law in operation in the area formerly known as the Republic of Transkei to a duty, function, power, procedure, process, provision or any other act in terms of the Code which, when the operation of the Code is repealed by this Act, must be construed as a reference to a duty, function, power, procedure, process, provision or act in terms of a corresponding law in operation in the Republic of South Africa. 20

Short title

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6. This Act is called the Repeal of the Transkeian Penal Code Act, 2023, and takes effect on a date fixed by the President by proclamation in the *Gazette*.

Okugcinwayo

5. (1) Ayikho into kulo mThetho echaphazela—
- (a) ukusetyenziswa kwalo naliphi na igunya ngokweKhowudi okanye naliphi ilungelo, ilungelo elilodwa, isibophelelo okanye uxanduva olufunyenweyo, olwenziweyo ngokweKhowudi; 5
 - (b) nasiphi na isohlwayo, ukuncama, okanye isohlwayo esenziwe ngokunxulumene nalo naliphi ityala elenziweyo ngokwamagatya eKhowudi; kunye
 - (c) nakuphi na ukonyulelwa kuyo nayiphi na iofisi okwenziwe ngokweKhowudi, ukuba umthetho ongqinelanayo osebenzayo kuyo yonke iRiphabliki yaseMzantsi Afrika ubonelela kananjalo ulonyulo olunjalo kunye nantoni na eyenziwe ngokudibene okanye ngokobulunga bako nakuphi na ukonyulwa okunjalo, ekucingwa ukuba kwenziwe ngokomthetho ongqinelanayo. 10
- (2) Ukususela ekuqaleni kokusebenza kwalo mThetho, naliphi na igatya leKhowudi elinikela amagunya, ulawulo okanye ilungelo, libeka umsebenzi okanye linika umsebenzi kumbambi weofisi, iqumrhu, iziko okanye nawuphi na omnye ugunyaziwe owonyulwe okanye osekwe ngokweKhowudi, igunya elinjalo, ulawulo okanye ilungelo kufuneka lisetyenziswe kwaye umsebenzi onjalo kufuneka wenziwe ngumbambi weofisi ongqinelanayo, okanye iqumrhu elingqinelanayo, iziko okanye ugunyaziwe owonyulwe okanye osekwe ngenjongo yokusebenzisa amagunya angqinelanayo, ulawulo okanye ilungelo, okanye ukwenza umsebenzi ongqinelanayo ngokomthetho ongqinelanayo osebenzayo kwiRiphabliki yoMzantsi Afrika. 15 20
- (3) Naluphi na ungqinisiso kumthetho osebenzayo kummandla owawusaziwa njengeRiphabliki yaseTranskei kumsebenzi, amagunya, inkqubo, igatya okanye nasiphi na esinye isenzo ngokweKhowudi eso, xa ukusebenza kwekhowudi kurhoxiswa ngulo mThetho, kufuneka kuthathwe njengesingqinisiso emsebenzini, kumagunya, inkqubo, igatya okanye isenzo ngokomthetho ongqinelanayo osebenzayo kwiRiphabliki yaseMzantsi Afrika. 25

Isihloko esifutshane

6. Lo mThetho kuthiwa ngumThetho wokuRhoxiswa kweKhowudi yezoHlwayo yaseTranskei, 2023, kwaye uqala ukusebenza ngomhla obekwe nguMongameli ngesibhengezo kwiGazethi. 30