THE PRESIDENCY

No. 4822 14 May 2024

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

Act No. 16 of 2023: Prevention and combating of Hate Crimes and Hate speech Act, 2023

BOPORESIDENTE

No. 4822 14 Mei 2024

Go itsisiwe gore Moporesidente o dumetse Molao o o latelang, o o phasaladiwang fano go itsisiwe botlhe:—

No. 16 ya 2023: Molao wa thibelo le twantsho ya bosenyi jo bo tlhotheletswang ke lethoo le puo ya lethoo, 2023
GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to on 06 May 2024)

ACT

To give effect to the Republic’s obligations in terms of the Constitution and international human rights instruments concerning racism, racial discrimination, xenophobia and related intolerance, in accordance with international law obligations; to provide for offences as hate crimes and the offence of hate speech and the prosecution of persons who commit those offences; to provide for appropriate sentences that may be imposed on persons who commit hate crime and hate speech offences; to provide for the prevention of hate crimes and hate speech; to provide for the reporting on the implementation, application and administration of this Act; to effect consequential amendments to certain Acts of Parliament; and to provide for matters connected therewith.

PREAMBLE

SINCE the Constitution of the Republic of South Africa, 1996, commits the Republic of South Africa and its people to establish a society that is based on democratic values of social justice, human dignity, equality and the advancement of human rights and freedoms, non-racialism and non-sexism;

AND MINDFUL THAT—

• section 9(1) of the Constitution provides that everyone is equal before the law and has the right to equal protection and benefit of the law;
• section 9(3) and (4) of the Constitution provides that neither the State nor any person may, directly or indirectly, discriminate unfairly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth, and that national legislation must be enacted to prevent or prohibit unfair discrimination;
• section 10 of the Constitution provides that everyone has inherent dignity and the right to have their dignity respected and protected;
• the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), prohibits unfair discrimination, hate speech and harassment and requires the State to promote the constitutional imperatives enshrined in section 9 of the Constitution; and
**STAATSKOERANT, 14 MEI 2024**

No. 50652

No. 16 ya 2023

Molao wa thibelo le twantsho ya bosenyi jo bo thotheleletswang ke lethoo le puo ya lethoo, 2023

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**NTLHATHALOSO YA KAKARETSO:**

Mafoko a a kwetsweng ka bontsho jo bo tseneletseng mo masakaneng a a sekwere a bontsha tse di tlogetsweng go tswa mo melaong e e leng teng.

Mafoko a a thaletseng ka mola o o kopaneng a bontsha tse di tsentsweng mo melaong e e leng teng.

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(English text signed by the President)
(Asstented to on 06 May 2024)

**MOLAO**

Go tsenya mo tirisong dipatelesego tsa Rephaboliki go ya ka Mola Theo le didiriswa tsa bodi ha ha ha ha tsa ditshwanelo tsa bo tho tse di mabapi le tlaolele, kgethololo ya semorafe, lethoo la batswantle le go se ithokelane le go go amanang, go tsamaelana le dipatelesego tsa molao wa bodi ha ha ha ha; go laela mabapi le ditlolomola tsa bosenyi jo bo thotheleletswang ke lethoo le go sekiswa ga batho ba ba dirang ditlolomolao tse tse di melaong tse di ka pateletswang batho ba ba dirang ditlolomolao tsa bosenyi jo bo thotheleletswang ke lethoo le puo ya lethoo; go laela mabapi le go begwa ga go tsengwga mo tirisong, tirisong le tsamaiso ya Molao ono; go dira ditlhobotlo tsa ditlamorago mo Melaong e e rileng ya Palamente; le go laela mabapi le merero e e amanang le ona.

**KETAPELE**

KA NTLHA YA FA Mola Theo wa Rephaboliki ya Aforika Borwa, 1996, o tlama Rephaboliki ya Aforika Borwa le batho ba yona go a ga setshaba se se thei lweng mo meonong ya temokerasi ya shiamiso ya loago, seriti sa botho, tekatekano le tseletse pel e ya ditshwanelo tsa botho le dikgololo tsego, le go se kgethololo go ya ka mmala le bong;

LE KA GO TSAYA TSIA GORE—

- karolo 9(1) ya Mola Theo e laela gore rothe re a lekana fa pele ga molao e bile re na le tshwanelo ya tshiretseto le go eno molo mo molaong ka tekatekano;
- karolo 9(3) le (4) ya Mola Theo e laela gore Puso kgotsa motho ope o ka se, ka tlhamalalo kgotsa e seng ka tlhamalalo, kgethololo ka tse tsa e e sa sianang motho yo mongwe ka nthla ya lebaka le e esi kgotsa go feta, go akaretsa le bomo ra, bong, boi mana, kemo ya lenyalo, lotso kgotsa lotso la morafe, mmala, shakamelo bong, dingwaga, bogole, bodumed, segakolodi, tsho, setso, puo le tsalo, le gore molao wa bositehaba o tshwane se go tenwewa mo tirisong go thibela kgotsa go kganela kgethololo e e sa lolamang;
- karolo 10 ya Mola Theo e laela gore mongwe le mongwe o na le seriti se a tsho tupeng ka sona le gore seriti sa bona se tlotwe le go sireletseta;
- Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Molao 4 wa 2000), o kganela kgethololo e e sa lolamang, puo yo lethoo le kgokgontsho le go thloka gore Puso o nshetse pele dita elo tsa mola Theo tse di mo karolong 9 ya Mola Theo; e bile
section 16 of the Constitution gives everybody the right to freedom of expression, including—
– freedom of the press and other media;
– freedom to receive or impart information or ideas;
– freedom of artistic creativity; and
– academic freedom and freedom of scientific research,
but that the right to freedom of expression does not extend to—
– propaganda for war;
– incitement of imminent violence; or
– advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm;

AND BEARING IN MIND THAT—

section 7(2) of the Constitution provides that the State must respect, protect, promote and fulfil all the rights enshrined in the Bill of Rights, which is the cornerstone of democracy in South Africa;
section 8(2) of the Constitution provides that a provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right;
the severity of the emotional and psychological impact of hate crimes and hate speech extends beyond the victim, to the group to which the victim belongs or is perceived to belong; and
South Africa has committed itself to uphold the Declaration adopted at the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban;

AND SINCE the International Convention on the Elimination of All Forms of Racial Discrimination, to which the Republic is a signatory, requires States Parties to declare, among others, an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin,

PARLIAMENT of the Republic of South Africa therefore enacts as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
   “characteristics” means any of the following characteristics:
   (a) Age;
   (b) albinism;
   (c) culture;
   (d) disability;
   (e) ethnic or social origin;
   (f) gender;
   (g) HIV or AIDS status;
   (h) language;
   (i) nationality, migrant, refugee or asylum seeker status;
   (j) occupation or trade;
   (k) political affiliation or conviction;
   (l) race;
   (m) religion;
   (n) sex;
   (o) sexual orientation, gender identity or expression or sex characteristics; or
   (p) skin colour;
karo lo 16 ya Molaetheo e naya mongwe le mongwe tshwanelo ya kgololosego ya go thagisa maikutlo, go akaretsa le—
– kgololosego ya bobegakgang le metsweditshedimosetso e mengwe;
– kgololosego ya go amogela kgotsa go aroagana tshedimosetso kgotsa megopolo;
– kgololosego ya boithlamedi jwa botaki; le
– kgololosego ya borutegi le kgololosego ya dipatlisiso tsa bonetetshi,
fela tshwanelo eo ya kgololosego ya go thagisa maikutlo ga e a atolosetswa go—
– kgasakgaso ya ntwa;
– tlhotheletso ya tirisodikgoka e e gautshwane; kgotsa
– tlhotheletso ya lethlou le le thelweng mo kgethololong ya mmala, mo lotsong,
mo bong kgotsa mo bodumeding, le le le tlhotheletsang kgobotso;

LE GO TSAYA TSA GORE—

karo lo 7(2) ya Molaetheo e laela gore Puso e tshwanetse go tlotla, go sireletsa, go tswelela pele le go diragatsa ditshwanelo tse di mo Molaothomong wa Ditshwanelo, o e leng motheo wa temokerasi mo Aforika Borwa;

karo lo 8(2) ya Molaetheo e laela gore Puso e tshwanetse go tlotla, go sireletsa, go tswelela pele le go diragatsa ditshwanelo tse di mo Molaothomong wa Ditshwanelo, o e leng motheo wa temokerasi mo Aforika Borwa;

bomasisi jwa kutlwalo ya maikutlo le monagano ya bosenyi jo bo tlhottheletsang ke lethlou ke le puo ya lethlou bo tselelela go feta motswasethabelo, setlhopho se motswasethabelo e leng karolo ya sona kgotsa se se tsewang gore karolo ya sona; e bile

Aforika Borwa e ineetsi mo go tshegetseng Thlomamiso e e amogetsweng kwa Khonfereseng ya Lefatshe ya Ditšhabakopano kgatlhanong le Bomorafe, Kgethololo ya Mmala, Letlhoo la Batswantle le Go se Itshokelan e e nge tshwaretswe kwa Durban;

E BILE KA NTLHA YA FA Tumalano ya Boditšhabatšhaba e e ka ga Phediso ya Mefuta Yotle ya Kgethololo ya Mmala, eo Rephaboliki e leng nngwe ya tse di e saenileng, e tlhoka Mekgatlho ya Puso go tlhomamisa, gareng ga tse dingwe, tlomolola e e othlaiwang ke molao phatlhalatso yotle ya dikakanyo tse di thelweng mo bogolong jwa mmala, kgotsa mo lethlhoong, mo tlhotheletsang ya kgethololo ya mmala, mmogo le ditiro tsatirisodikgoka kgotsa tlhotheletso ya ditiro tseo kgatlhanong le morafe ofe kgotsa setlhopho sese sa batho ba mmala o mongwe kgotsa thhago ya lotso le lengwe,

Dithaloso

1. Mo Molaang ono, ntle le fa maitshetlego a kaya ka mokgwa osele—
   “diponagalo” di kaya efe ya diponagalo tse di latelang:
   (a) Dingwaga;
   (b) boswafi;
   (c) setso;
   (d) bogole;
   (e) lotso kgotsa lotso la morafe;
   (f) ithagisobong;
   (g) kemo ya HIV kgotsa AIDS;
   (h) puo;
   (i) maemo a boagi, bojaki, bokopobotshabelo kgotsa bofaladi;
   (j) tiro kgotsa kgwebo;
   (k) tshekamelo kgotsa tumele ya sepolotiki;
   (l) bomorafe;
   (m) bodumededi;
   (n) bong;
   (o) tshekamelobong, itshupobong kgotsa thlagiso kgotsa diponagalo tseng bong; 20
   kgotsa
   (p) mmala wa letlalo;
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“communication” includes any—
(a) display;
(b) written, illustrated, visual or other descriptive matter;
(c) utterance;
(d) representation or reference; or
(e) electronic communication,
and “communicates” and “communicated” have a corresponding meaning;
“data” means electronic representations of information in any form;
“data message” means data generated, sent, received or stored by electronic means;
“electronic communication” means a communication by means of data messages;
“electronic communications system” means any electronic communications infrastructure or facility used for the conveyance of data;
“grounds” means any of the following grounds:
(a) Albinism;
(b) ethnic or social origin;
(c) gender;
(d) HIV or AIDS status;
(e) nationality, migrant, refugee or asylum seeker status;
(f) race;
(g) religion;
(h) sex;
(i) sexual orientation, gender identity or expression or sex characteristics; or
(j) skin colour;
“harm” means substantial emotional, psychological, physical, social or economic detriment that objectively and severely undermines the human dignity of the targeted individual or groups;
“hate crime” has the meaning assigned to it in terms of section 3(1);
“hate speech” has the meaning assigned to it in terms of section 4(1);
“prescribed” means prescribed by regulation;
“social detriment” means detriment that undermines the social cohesion amongst the people of South Africa;
“this Act” includes the regulations made in terms of the Act; and
“victim” means a person, including a juristic person, or group of persons, against whom an offence referred to in section 3 or 4 has been committed.

Objects of Act

2. The objects of this Act are to—
(a) give effect to the Republic’s obligations regarding prejudice and intolerance as contemplated in international instruments;
(b) provide for the prosecution of persons who commit offences referred to in this Act and provide for appropriate sentences;
(c) provide for the prevention of hate crimes and hate speech;
(d) provide for effective enforcement measures;
(e) provide for the co-ordinated implementation, application and administration of this Act;
(f) combat the commission of hate crimes and hate speech in a co-ordinated manner; and
(g) gather and record data on hate crimes and hate speech.
"tlhaeletsano" e akaretsa efe ya—
(a) pontsho;
(b) morero ofe o o kwetsweng, o o tshwantshitsweng, wa pono kgotsa o mongwe o o tlhalosang;
(c) se o buiwang;
(d) tlhagiso kgotsa tshupetso; kgotsa
e tlhaeletsano ya seileketeroniki,
le “tlhaeletsana” le “tlhaeletsanwe” di na le bokao jo bo tsamaelanang;
“datha” e kaya dithagiso tsa tshedimoseto ka mofuta ofe;
“molaetsa wa datha” o o yathshang, e e rometsweng, e e amogetsweng kgotsa e e beilweng ka mokgwa wa seileketeroniki;
“tlhaeletsano ya seileketeroniki” e kaya tlhaeletsano ka mokgwa wa melaetsa ya datha;
“thulaganyo ya tlhaeletsano ya seileketeroniki” e kaya mafarathatlha afe a dilthlaetsano tsa seileketeroniki kgotsa sediriswa se se diriswang mabapi le thomelo ya datha;
“mabaka” a kaya efe ya mabaka a a latelang:
(a) Boswafi;
(b) lotso kgotsa lotso la morafe;
(c) ithagisobong;
(d) kemo ya HIV kgotsa AIDS;
(e) maemo a boagi, bojake, bokopabotshabelo kgotsa bokaladi;
(f) bomorafe;
(g) bodumed;
(h) bong;
(i) tshemelobong, ithupobong kgotsa tlhagiso kgotsa diponagalo tsa bong kgotsa
(j) mmala wa letlalo;
“kgobatso” e kaya kutlobothilho e e tseleletseng ya maikutlo, monagano, mmale, loago kgotsa mabapi le tsita ditsho lethele le segolo ea neyenefatsang seriti sa botho sa motho ka e; kgotsa
5 le bokao jo bo neilweng go ya ka karolo 3(1);
“bosenyi jo bo tlhotleletswang ke letlhoo” bo na le bokao jo e bo neilweng go ya ka karolo 3(1);
“puo ya letlhoo” e na le bokao jo e bo neilweng go ya ka karolo 4(1);
“laetsweng” e kaya laetsweng ka molawanaatoa;
“kutlobothilho ya loago” e kaya kutlobothilho la loago kgotsa mabapi le tsita ditsho le segolo ea neyenefatsang a; kgotsa
10 le bokao jo bo neilweng go ya ka karolo 4(1);
“Molao ono” o akaretsa melawanataolo e e dirilweng go ya ka Molao; le
“motswatsetlhabelo” o kaya motho, go akaretsa le sebako sa mabaka kgotsa kagatsa sa batho, bo kgatlhanong nabo tlolomolao e e umakilweng mo karolong 3 kgotsa 4 e dirilweng.
Maitlhomo a Molao
2. Maitlhomo a Molao ono ke go—
(a) tseny a mo tirison dipatelesego tsa Rephaboliki mabapi le kgobelelo le go se itshokela jaaka go umakilwe mo didirisweng tsa boditsho a; kgotsa
(b) laela mabapi le go sekiswa ga batho ba ba tlolang melao e e kailweng mo Molaang ono le go laela mabapi le dikothlao tse di maleba;
(c) laela mabapi le thibelo ya bosenyi jo bo tlhotleletswang ke letlhoodi le puo ya letlhoodi;
(d) go laela mabapi le ditlsa tse kgatelelo tse di nonolifeng;
(e) laela mabapi le tshenyotirisong e e pulagang, tiriso le tshamaiso ya Molao ono;
(f) lwantsha go dirwa ga bosenyi jo bo tlhotleletswang ke letlhoodi ka mokgwa o o pulagantsweng; le
(g) kgobokanya la le go rekota datha e e ka ga bosenyi jo bo tlhotlleleditsweng ke letlhoodi le puo ya lethlhoodi.
Maithlomo a Molao
2. Maitlhomo a Molao ono ke go—
(a) tseny a mo tirison dipatelesego tsa Rephaboliki mabapi le kgobelelo le go se itshokela jaaka go umakilwe mo didirisweng tsa boditsho a; kgotsa
(b) laela mabapi le go sekiswa ga batho ba ba tlolang melao e e kailweng mo Molaang ono le go laela mabapi le dikothlao tse di maleba;
(c) laela mabapi le thibelo ya bosenyi jo bo tlhotleletswang ke letlhoodi le puo ya letlhoodi;
(d) go laela mabapi le ditlsa tse kgatelelo tse di nonolifeng;
(e) laela mabapi le tshenyotirisong e e pulagang, tiriso le tshamaiso ya Molao ono;
(f) lwantsha go dirwa ga bosenyi jo bo tlhotleletswang ke letlhoodi ka mokgwa o o pulagantsweng; le
(g) kgobokanya la le go rekota datha e e ka ga bosenyi jo bo tlhotlleleditsweng ke letlhoodi le puo ya lethlhoodi.
Act No. 16 of 2023
Prevention and combating of Hate Crimes and Hate speech, Act 2023

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Offence of hate crime

3. (1) A hate crime is—
   (a) an offence recognised under any law (hereinafter referred to as an “underlying offence”), excluding the common law offence of crimen injuria or an offence referred to in section 4(1); and
   (b) committed by a person who is motivated by their prejudice or intolerance—
        (i) towards the victim, the victim’s family member or the victim’s association with or support for a person with one or more characteristics or a group of persons who share one or more of the characteristics; and
        (ii) which was based on one or more of the actual or perceived characteristics.

(2) (a) Any person who commits an offence referred to in subsection (1), is guilty of the underlying offence as a hate crime and liable on conviction to a sentence as contemplated in section 6(1).

(3) Any prosecution in terms of this section must be authorised by the Director of Public Prosecutions having jurisdiction or a person delegated thereto by the Director concerned.

Offence of hate speech

4. (1) (a) Any person who intentionally publishes, propagates, advocates, makes available or communicates anything to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to—
        (i) be harmful or to incite harm; and
        (ii) promote or propagate hatred,

is guilty of the offence of hate speech.

(b) Any person who intentionally distributes or makes available an electronic communication which that person knows constitutes hate speech as contemplated in paragraph (a), through an electronic communications system which is—
        (i) accessible by any member of the public; or
        (ii) accessible by, or directed at, a specific person who can be considered to be a victim of hate speech,

is guilty of an offence.

(2) The provisions of subsection (1) do not apply in respect of anything done as contemplated in subsection (1) if it is done in good faith in the course of engagement in any bona fide—
        (a) artistic creativity, performance or expression;
        (b) academic or scientific inquiry;
        (c) fair and accurate reporting in the public interest or the publication of any information, commentary, advertisement or notice; or
        (d) interpretation and proselytising or espousing of any religious conviction, tenet, belief, teaching, doctrine or writings,

that does not advocate hatred that constitutes incitement to cause harm, based on one or more of the grounds.

(3) Any prosecution in terms of this section must be authorised by the Director of Public Prosecutions having jurisdiction or a person delegated thereto by the Director concerned.

Victim impact statement

5. (1) For purposes of this section, a victim impact statement means a sworn statement or affirmation by the victim or someone authorised by the victim to make such a statement on behalf of the victim, which contains the physical, psychological, social,
 Ditlolomolao tsa bosenyi jo bo tshotheleditsweng ke letlhoo

3. (1) Bosenyi jo bo tshotheleditsweng ke letlhoo ke—
   (a) tlolomolao e e tswang tsha ka fa tlase ga molao ofe (e fano e kaivang jaaka "tlolomolao ya motheo"), go sa akarete tlolomolao ya molao wa tlaeaelo kgotsa tlolomolao ya kgatako e e tselelelese ya seriti sa mothe kgotsa tlolomolao e e kaivang mo karolong 4(1); le
   (b) go dirwa ke motho yo o tshotheleditsweng ke kgobelelo kgotsa go se ithokelan—
      (i) go go lebisitsweng mo motswasetlhabelong, wa losika la motswasetlhabelo kgotsa boikamanyi jwa motswasetlhabelo kgotsa tsegetse ya motho yo o nang le diponagalo kgotsa sethophoa sa batho bao ba nang le diponagalo tse di tshwanang; le
      (ii) go go ne go theilwe mo go e le esi kgotsa go feta ya diponagalo tsa nnete kgotsa tse di tsewang jalo.

   (2) (a) Mothe ofe yo o tloang molao o o umakilweng mo karolotlaleletsong (1), o bonwa molato wa tlolomolao ya motheo jaaka bosenyi jo bo tshotheleditsweng ke letlhoo e bile o rwala maikarabelo molao fa a afarhotse a kaibitho e e kaivalweng mo karolong 6(1).
   (b) Rekoto ya bosenyi ya motho yo o bonweng molato wa tlolomolao e e umakilweng mo temaneng (a) e tshwanetse go gatisa ka botlalo tlolomolao ya motheo jaaka bosenyi jo bo tshotheleditsweng ke letlhoo.

   (3) Tsheko efe go ya ka karolo eno e tshwanetse go rebolwa ke Bokaedi jwa Bosekisi jwa Botlhe jo bo nang le taolo mo lefelong kgotsa mo mothong yo o rometsweng kwa go jona ke Mokaedi yo o amegang.

Tlolomolao ya puo ya letlhoo

4. (1) (a) Mothe ofe yo ka maikaelelo a phaslatsang, gasagasang, buelelang, kgontshang phitlhelelo kgotsa a thlaeletsang sengwe le sengwe kwa mothong a le epsi kgotsa kwa batho na le bantsi ka makgwa o o ka tsewang ka makaba o bontsha maikeismetsa a baphalagang a go—
   (i) gobatsa kgotsa go tshotheletsa kgobale; le
   (ii) tsweletsa pele kgotsa go gasagas leletlhoo, go ikageliwe mo lebakeng le le esi kgotsa go feta, o bonwa molato wa tlolomolao ya puo ya lethlou.

   (b) Mothe ofe yo ka maikaelelo a phatlhalatsang kgotsa a dirang gore tshwanetso ya selleketeroniki e fitlhelwe e motho yoo a ibetseng gore ke puo ya lethlou jaaka go umakilwe mo temaneng (a), ka thulaganyo ya ditlhelwana gratisa na selleketeroniki e e—
   (i) fitlhelwane ya maikaelelo kgotsa moagi ofe; kgotsa
   (ii) fitlhelwane ke, kgotsa e e lebisitsweng go, motho yo o rileng yo o ka tsewang jaaka mothong ke letlhoo.

   (2) Ditaelo tsa karolotlaleletsong (1) ga di diriswe mabapi le sengwe le sengwe se se dirilweng jaaka go umakilwe mo karolotlaleletsong (1) fa se dirilw e ka mowa o monto na ga ntse go tsengwa mo tirisong ka mowa o monto efe ya—
   (a) boithamedi jwa botakhi, tiratagotsa kgotsa tlhaegosi;
   (b) patlisiso ya borutegi kgotsa ya bonetershi;
   (c) go bega ka tshaismo le ka nepagalo mo dikagatlhelegelo tse setiabha kgotsa phaslatalo ya tshidimosetsa, tshwaelo, papatso kgotsa kitisele efe; kgotsa
   (d) thanolo, tshokololo kgotsa go tsegetse tsumelo, kgopolo, thuto, moo mo kgotsa dikwalwa dife,
   tse di sa nhetseng pele leletlhoo lelo le tsewang jaaka le le tshotheletsang kgobatso, go ikaegiwe mo lebakeng le le esi kgotsa a le mantsi.

   (3) Tsheko efe go ya ka karolo eno e tshwanetse go rebolwa ke Bokaedi jwa Bosekisi jwa Botlhe jo bo nang le taolo mo lefelong kgotsa mo mothong yo o rometsweng kwa go jona ke Mokaedi yo o amegang.

Polelo ya ditlamorago ya motswasetlhabelo

5. (1) Mabapi le maitlholo a karolo eno, polelo ya ditlamorago ya motswasetlhabelo e kaya polelo kgotsa netefatsa e e ikanetsweng ke motswasetlhabelo kgotsa motho mongwe yo o letleleletsang ke motswasetlhabelo go dira polelo eo mo boemong jwa
economic or any other consequences of the offence for the victim and the victim’s family member or a group of persons with whom the victim associates or supports.

(2) (a) The prosecutor must furnish the court with a victim impact statement provided for in subsection (1).

(b) Where it is not possible to obtain a victim impact statement provided for in subsection (1), the prosecutor must provide the court with reasons for the absence of such a statement: Provided that a prosecutor may obtain a victim impact statement from—

(i) someone, in the event of the victim’s death, authorised by a family member of the victim or a group of persons with whom the victim associated or supported; or

(ii) an organisation or institution with expert knowledge or experience of the group to which the victim belongs or is perceived to belong.

(3) The contents of a victim impact statement are admissible as evidence, unless the court, on good cause shown, decides otherwise.

Penalties or orders

6. (1) Subject to subsection (2), any person who is convicted of an offence referred to in section 3 is liable, on conviction, to any of the following forms of penalties which the court sentencing the person considers appropriate and which is within that court’s penal jurisdiction:

(a) imprisonment, periodical imprisonment, declaration as an habitual criminal, committal to any institution established by law, a fine, correctional supervision or imprisonment from which a person may be placed under correctional supervision, as contemplated in section 276 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or

(b) postponement or suspension of the sentence or a caution or reprimand, as contemplated in section 297 of the Criminal Procedure Act, 1977.

(2) If a person is convicted of an offence referred to in section 3, the court that imposes the sentence must—

(a) if section 51 of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), is not applicable; and

(b) in the case of—

(i) damage to, the loss of or the destruction of property or the loss of money;

(ii) physical or other injury; or

(iii) loss of income or support, suffered by the victim as a result of the commission of the offence,

regard the fact that the person has been convicted of an offence referred to in section 3 as an aggravating circumstance.

(3) Any person who is convicted of an offence referred to in section 4 is liable to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

National instructions and Directives

7. (1) (a) The National Commissioner of the South African Police Service must, after consultation with the Director-General: Justice and Constitutional Development and the National Director of Public Prosecutions, issue national instructions regarding all matters which are reasonably necessary or expedient to be provided for, and which must be complied with by all members of the South African Police Service who are tasked with investigating the alleged commission of hate crimes and hate speech in order to achieve the objects of this Act, including the manner in which—

(i) the reporting of an alleged hate crime or hate speech is to be dealt with by police officials; and

(ii) hate crimes and hate speech are to be investigated by police officials, including the circumstances in which an investigation in respect of a hate crime or hate speech may be discontinued.
motswasetlhabelo, eo e nang le ditlamorago tsa mo mmeleng, mo monaganong, mo loogong, mo ikonoming kgotsa dingwe le dingwe dife tsa tlolomolao mabapi le motswasetlhabelo le mongwe wa losika la motswasetlhabelo kgotsa wa batho ba motswasetlhabelo a amang nabo kgotsa a ba tshegetsang.

(2) (a) Mosekisi o tshwanetse, go neela kgotlatshkekelo polelo ya ditlamorago ya motswasetlhabelo e e laetsweng mo karolotlaleletsong (1).

(b) Fa go sa kgonagale go fitlhela polelo ya ditlamorago ya motswasetlhabelo e e laetsweng mo karolotlaleletsong (1), mosekisi o tshwanetse go neela kgotlatshkekelo mabaka a go se nne teng ga polelo eo: Fa fela mosekisi a ka bona polelo ya ditlamorago ya motswasetlhabelo go tswa mo—

(i) mongweng, mo lebakeng la fa tshebelelelela a tlokologotla ka tlokologotla kgotsa setlhoba sa batho ba motswasetlhabelo a ne a amana le bona kgotsa a ba tshegetsas; kgotsa

(ii) mo mokatgholog kgotsa mo setheong se se nang le kitso ya boitseanepe kgotsa maitemogelo a setlhoba se motswasetlhabelo e e le le kgotsa loa ka setlhopha se kgotsa go se go se tsewa gore ke karolo ya sona.

(3) Diteng tsa polelo ya ditlamorago ya motswasetlhabelo di amogetse nga jaaka bosupi, ntle le fa kgotlatshkekelo, ka lebaka le le tsewela le le bontshitsweng, e swetsa ka mokgwana osele.

**Dikotlhao kgotsa ditaelo**

6. (1) Go latela karolotlaleletso (2), motho ofe yo o bonweng molato wa tlolomolao e e umakilweng mo karolong 3 o rwa maikarabelo setlae, fa a athbotswe, a efe ya mefuta e e latelang ya dikotlhao tse kgotlatshkekelo e e a tshwanedi mo e bonang di le matshwaneli le eo e leng mo lefela la taoleng la go otlhaya:

(a) Kgolego, kgolegonakwana, tlhomamiso ya go nna sesinyi sa ka gale, thomel mono kwa setheong se se tshomilweng ka molao, tudiso, peoleitlhoko kgotsa kqogolo kgotsa kgoloqo le go tsawo mo go yona motho a ka bewang ka fa tsele ka peoleitlhoko ya kqogolo, jaaka go umakilwe mo karolong 297 ya Molao wa Tsamaiso ya Bosenyi.

(2) Fa motho a bonwe molato wa tlolomolao e e umakilweng mo karolong 3, kgotlatshkekelo e e pateletsang katholo e tshwanetse—

(a) fa karolo 51 ya *Criminal Law Amendment Act, 1997* (Molao 105 wa 1997), e sa diriso; le

(b) mo lebakeng la—

(i) tshenyego ya, tatlhegelo ya kgotsa tshenyo ya thotse kgotsa tatlhegelo ya madi;

(ii) kgobalo ya mmele kgotsa e tshenyo; kgotsa

(iii) tatlhegelo ya lotseno, e e bonweng ke motswasetlhabelo ka ntiha ya go dirwa ga tlolomolao, go tsaya tsia ntiha ya gore motho o bonwe molato wa tlolomolao e e umakilweng mo karolong 3 jaaka lebaka le le gakatsang maemo.

(3) Motho ofe yo o bonweng molato wa tlolomolao e e umakilweng mo karolong 4 o rwa maikarabelo setlae a tudiso kgotsa go gogele Ga sebaka sa paka e e sa feteng dingwaga tse thlano, kgotsa ka bobedi tudiso le go gogele Ga gooo.

**Ditaolo tsaa bosetθhaha le Ditaolo**

7. (1) (a) Khomiθhena wa Bosetθhaha wa Tirelo ya Sepodisi ya Aforika Borwa o tshwanetse, morago ga go risisana le Mokaedikakareto: Bosiamisi le Tlhobotolo ya Molaatheo le Bokaedi jwa Bosetθhaha jwa Bonekisi jwa Botlhge, go rebola ditaolo tsaa bosetθhaha mabapi le merero yothle e e tshokegane ka mabaka kgotsa e e potlakileng gore e laolwe, le eo e tshwane geng go obamela ka ditokololo toothe sa Tirelo ya Sepodisi ya Aforika Borwa tseo di neilweng tiro ya go batlisisa magatwe a go dirwa ga boseniyi wo bo tshothelelsweng le letlhoo gore go fitlhelo le mafihana moo a Molao ono, go akaretsa le mokgwa o—

(i) go begwe ga magatwe a boseniyi jo bo tshothelelsweng ke lelthoo kgotsa puo ya letlhoo go ka dirwang ke batlhelelela ba sepodisi; le

(ii) boseniyi jo bo tshothelelsweng ke lelthoo bo tshwane geng bo batlisisa ka ona ke batlhelelela ba sepodisi, go akaretsa le mabaka ao ka ona patlisiwo mabapi le boseniyi jo bo tshothelelsweng ke lelthoo kgotsa puo ya letlhoo e ka emiswang.
(b) The National Commissioner of the South African Police Service must develop training courses, which must—
   (i) include training on the national instructions referred to in paragraph (a);
   (ii) include social context training in respect of hate crimes and hate speech; and
   (iii) provide for and promote the use of uniform norms, standards and procedures, with the view to ensuring that as many police officials as possible are able to deal with hate crimes and hate speech cases in an appropriate, efficient and sensitive manner.

(2) (a) The National Director of Public Prosecutions must, after consultation with the Director-General: Justice and Constitutional Development and the National Commissioner of the South African Police Service, issue directives regarding all matters which are reasonably necessary or expedient to be provided for, and which must be complied with by all members of the prosecuting authority who are tasked with the institution and conduct of prosecutions in cases relating to hate crimes and hate speech, in order to achieve the objects of this Act, including the following:
   (i) The manner in which cases relating to hate crimes and hate speech are to be dealt with, including—
      (aa) the circumstances in which a charge in respect of such an offence may be withdrawn or a prosecution stopped; and
      (bb) the leading of relevant evidence indicating the presence of prejudice or intolerance towards the victim, in order to secure a conviction contemplated in section 3(2); and
   (ii) the collection and analysis of information contemplated in section 8.

(b) The National Director of Public Prosecutions must develop training courses, which must—
   (i) include training on the directives referred to in paragraph (a);
   (ii) include social context training in respect of hate crimes and hate speech; and
   (iii) provide for and promote the use of uniform norms, standards and procedures, with the view to ensuring that prosecutors are able to deal with hate crimes and hate speech cases in an appropriate, efficient and sensitive manner.

Reporting on implementation of Act

8. (1) The Cabinet member responsible for the administration of justice must—
   (a) after consultation with the Cabinet member responsible for policing, prescribe the information that must be collected and collated by the South African Police Service;
   (b) after consultation with the National Director of Public Prosecutions, prescribe the information that must be collected and collated by the National Prosecuting Authority; and
   (c) prescribe the information that must be collected and collated by the clerks of the court and Registrars of the High Court, in order to enable effective monitoring, analysis of trends and interventions in respect of the prevention and combating of hate crimes and hate speech.

(2) The information contemplated in subsection (1) must be made available in the prescribed manner and at the prescribed times to—
   (a) Parliament;
   (b) the Chairperson of the South African Human Rights Commission;
   (c) the Chairperson of the Commission for Gender Equality; and
   (d) the Chairperson of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.
(b) Khomišēnara wa Bosetšēhaba wa Tirelo ya Sepodisi ya Aforika Borwa o tshwanetse go tlhama dikhoso tsa katiso, tse di tshwanetseng go—
(i) akaretsa katiso mabapi le ditaelo tsa bosetšēhaba tse di umakilweng mo temaneng (a);
(ii) akaretsa le katiso e e ka ga maishhekêlego a loago malebana le bosenyi jo bo tlothlelelswang ke letlhoo le puo ya letlhoo; le
(iii) laela mabapi le, le go tshetsa pele tiriiso e e tshwanang ya ditlwaele, dipeelo le ditsamaiso, ka mogopolo wa go netefatsa gore bontsi jwa balthankedi ba sepodisi ba kgona go samagama le dikgetse tsa bosenyi jo bo tlothlelelswang ke letlhoo ka mokgwa o o maleba, o o onofileng e bile o le masisi.

(2) (a) Bokaedi jwa Bosetšēhaba jwa Bosekisi jwa Bothhe bo tshwanetse, morago ga go rerisana le Mokaedikakaretsö: Bosiamisi le Tshabololo ya Molaotheo le Khomišēnara wa Bosetšēhaba wa Tirelo ya Sepodisi ya Aforika Borwa, go rebola ditaelo mabapi le merero yothle e ka makaba e tshokegåntša kgotsa e potlakileng go laolo, le e e tshwanetseng go obamelwa e ditokololo tsa bothathi jwa bosekisi tse di neilweng tiro ya go tlhôngwa le tsamaiso ya ditšheko mo dikgetse tse di amanang le bosenyi jo bo tlothlelelswang ke letlhoo le puo ya letlhoo, gore go fitlhelelelelei maithlomo à Molao ono, go akaretsa le tse di latelang:
(i) Mokgwa o dikgetse tse di amanang le bosenyi jo bo tlothlelelswang ke letlhoo di sekasekwang ka ona, go akaretsa le—
   (aa) mabaka a ka ona papetlana ya tatofatso malebana le tlolomolao eo e ka gogelwang morago kgotsa tsheko e ka emiswang ka ona; le
   (bb) bosupi jo bo kaangel kgotsa jo bo maleba jo bo bontshang go ama teng ga kgbèbelelo kgotsa go se itshokelanle go se lebisitsweng motswaseitlholelo, gore go fitlhelelelelei nomonoloto e e umakilweng mo karolong 3(2); le
(ii) kgobokanyo le tshékatsheko ya tshedimosetso e e umakilweng mo karolong 8.
(b) Bokaedi jwa Bosetšēhaba jwa Bosekisi jwa Bothhe bo tshwanetse go tlhama dikhoso tsa katiso, tseo di tshwanetseng go—
(i) akaretsa katiso mabapi le ditaelo tsa bosetšēhaba tse di umakilweng mo temaneng (a);
(ii) akaretsa le katiso e e ka ga maishhekêlego a loago malebana le bosenyi jo bo tlothlelelswang ke letlhoo le puo ya letlhoo; le
(iii) laela mabapi le, le go tshetsa pele tiriiso e e tshwanang ya ditlwaele, dipeelo le ditsamaiso, ka mogopolo wa go samagama le dikgetse tsa bosenyi jo bo tlothlelelswang ke letlhoo ka mokgwa o o maleba, o o onofileng e bile o le masisi.

Go bèga ka go tsenngwa mo tirisong ga Molao

8. (1) Tokololo ya Kabinete e e rualang maikerabelo a tsamaiso ya bosiamisi o tshwanetse—
   (a) morago ga go rerisana le tokololo ya Kabinete e e rualang maikerabelo a sepodisi, laela na tshedimosetso e e tshwanetseng go kgobokanngwa le go kopangwga ke Tirelo ya Sepodisi ya Aforika Borwa;
   (b) morago ga go rerisana le Bokaedi jwa Bosetšēhaba jwa Bosekisi jwa Bothhe, go laela na tshedimosetso e e tshwanetseng go kgobokanngwa le go kopangwga ke Bothathi jwa Bosekisi jwa Bosetšēhaba, le
   (c) neela taelo ka tshedimosetso e e tshwanetseng go kgobokanngwa le go kopangwga ke ditlelelele tsa kgolatšhelo le Bakwadisi ba Kgolatšheloletšelope, le kgonths la sekelo tsa peoleitlhó e e nonofileng, tshedimosetso ya mekgwa le ditsereganyo malebana le thibele le twantsbo ya boseny jo bo tlothlelelswang ke letlhoo le puo ya letlhoo.

(2) Tshedimosetso e e umakilweng mo karololaleteletsong (1) e tshwanetse go kgona go fitlhelelelelei maikarabelo ka mokgwa o o laetsweng le ka dinako tse di neilweng ke—
   (a) Palamente;
   (b) Modulasetlulo Khomišēnene ya Ditshwanelo tsa Botho ya Aforika Borwa;
   (c) Modulasetlulo wa Khomišēnene ya Tekatekane ya Bong; le
   (d) Modulasetlulo wa Khomišēnene ya Tswelelelo ya Ditshwanelo tsa Merafe ya Setso, Sedumedi le Puo.
Prevention of hate crimes and hate speech

9. (1) The State, the South African Human Rights Commission, the Commission for Gender Equality and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities have a duty to promote awareness of the prohibition against hate crimes and hate speech, aimed at the prevention and combating of these offences.

(2) Without derogating from the general nature of the duty referred to in subsection (1), one or more Cabinet members, designated by the President, must cause programmes to be developed in order to—

(a) conduct education and information campaigns to inform the public about the prohibition against hate crimes and hate speech, aimed at the prevention and combating of these offences;

(b) provide assistance and advice to any person who wants to lodge a complaint of a hate crime or hate speech; and

(c) train public officials on the prohibition, prevention and combating of hate crimes and hate speech, which training must include social context training.

(3) The South African Judicial Education Institute established in terms of section 3 of the South African Judicial Education Institute Act, 2008 (Act No. 14 of 2008), must develop and implement training courses, including social context training courses, for judicial officers for purposes of presiding in court proceedings, for the purposes of this Act.

Regulations

10. (1) The Cabinet member responsible for the administration of justice may, where applicable, make regulations regarding any matter which is required or permitted by this Act to be prescribed by regulation or any other matter which is necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Regulations made under this section—

(a) must be submitted to Parliament for approval 60 days prior to the publication thereof in the Gazette;

(b) which are not approved within the 60-day period referred to in paragraph (a) are deemed to have been approved by Parliament; and

(c) which may result in expenditure for the State, must be made in consultation with the Cabinet member responsible for finance.

Laws amended

11. The laws referred to in the second column of the Schedule are hereby amended to the extent indicated in the third column of the Schedule.

Short title and commencement

12. This Act is called the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023, and comes into operation on a date fixed by the President by proclamation in the Gazette.
15

Thibelo ya bosenyi jo bo tlhottheletswang ke lelho le puo ya lelho

9. (1) Puso, Khomišene ya Ditshwanelo tsa Botho ya Aforika Borwa, Khomišene ya Tekatekano ya Bong le Khomišene ya Tsweletso ya Tshireletsyo ya Ditshwanelo tsa Merafe ya Setso, Sedumedi le Puo di na le tiro ya go ntshetsa pele temoso ya thibelo kgathanong le bosenyi jo bo tlhottheletswang ke lelho le puo ya lelho, e e lebisitsweng mo go thibeleng le mo go lwantsheng dilotolomolao tseo.

(2) Nle le go fapoga mo mofuteng ka kakaretso wa tiro e e umakilweng mo karolotlaleletsong (1), a le mongwe kgotsa ba le hantsi ba ditokololo tsa Kabinete, ba ba tlholiwe wa Moporesidente, ba tshwanetse go dira gore go thongwe manane gore go—

(a) thlongwe matsho a thu le tshedimosetsotse go itsise setšhaba ka ga thibelo kgathanong le bosenyi jo bo tlhottheletsang ke lelho le puo ya lelho, a a lebisitsweng mo go thibeleng le mo go lwantsheng dilotolomolao tseo;

(b) tlamela motho ofe yo o batlang go dira ngongorego ya bosenyi jo bo tlhottheletsang ke lelho kgotsa puo ya lelho thuso le kgakololo; le

(c) katisa badiredipuso malebana le kganela, thibelo le twangtho ya bosenyi jo bo tlhottheletsang ke lelho kgotsa puo ya lelho, katiso eo e tshwanetse go akaretsa le katiso ya maitsheitleng a loago.

(3) Setheo sa Thuto ya Boatlhodi sa Aforika Borwa se se thohilweng go ya ka karolo 3 ya South African Judicial Education Institute Act, 2008 (Molao 14 wa 2008), se tshwanetse go thibelo kgotsa puo le lelho, a go akaretsa le dikhooso a ke katiso ya maitshetlego a loago, tsa bathankedhi ba boatlhodi mabapi le maithlomo a go okama ditsamaia kwa dikgotlatshelkelelang, mabapi le maithlomo a Molao ono.

Melawanataolo

10. (1) Tokololo ya Kabinete e e rwalang maikarabelo a tsamaiso ya bosiamisi o ka, fa go le maleba, dira melawanataolo mabapi le morero ofe o o thokegang kgotsa o o rebotsweng ke Molao ono gore o laelwe ka melawanataolo kgotsa morero mongwe le mongwe ofe o o thokegang kgotsa o o bothokwa go laelwe gore go fithhelelwe maithlomo a Molao ono.

(2) Melawanataolo e e dirilweng ka fa tlase ga karolo eno—

(a) e tshwanetse go romelelwe Palamente mabapi le go rebolwa matsatsi a le 60 pele ga go phasalatswa ga yona mo Lokwalodikgannya la Puso;

(b) e e sa rebolweng mo pakeng ya matsatsi a le 60 e e umakilweng mo temaneng (a) e tsewa jaaka e e rebotsweng ke Palamente;

(c) e bile e ka baka ditshenyegelo tsu Puso, e tshwanetse go dirwa ka therisano le tokololo ya Kabinete e e rwalang maikarabelo a tsu matlole.

Melao e e thlabolotsweng

11. Melao e e umakilweng mo kholomong ya bobedi ya ejule e a thlabololwa fano ka bogolo jo bo thagisitsweng mo kholomong ya bororo ya ejule.

Setlhogokhutswe le tshimololo

12. Molao ono o bidiwa Molao wa Thibelo le Twangtho ya Boosenyi jo bo Tlhottheletswang ke Lelho le Puo ya Lelho, 2023, e bile o simolola go diriswa ka lelha le le biebeng ke Moporesidente ka kgoleto mo Lokwalodikgannya la Puso.
### AMENDMENTS

**AMENDMENTS**

*Section 11*

<table>
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<th>Number and year of law</th>
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| Act No. 51 of 1977    | Criminal Procedure Act, 1977 | 1. The amendment of section 18—
(a) by the substitution for paragraph (a) of the following paragraph:

>“(a) murder, including murder which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”;

(b) by the substitution for paragraph (c) of the following paragraph:

>“(c) robbery, if aggravating circumstances were present or if the victim of the robbery was also a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”;

(c) by the substitution for paragraph (f) of the following paragraph:

>“(f) any sexual offence in terms of the common law or statute including any such offence which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”.

2. The insertion after section 269A of the following section:

>“Hate crimes

269B. If the evidence on a charge for a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023, does not prove the commission of the offence so charged but proves the commission of the underlying offence on which the hate crime is based, the accused may be found guilty of the underlying offence in question so proved.”

3. The amendment of Schedule 5 by the insertion after the item 10 of the following item:

>“Arson, housebreaking, whether under the common law or a statutory provision, with the intention to commit an offence, or an offence referred to in section 1 of the Intimidation Act, 1982 (Act No. 72 of 1982), any of which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.”
### STAATSKOERANT, 14 MEI 2024
No. 50652

**Molao wa thibelo le twantsho ya bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo, 2023**
No. 16 ya 2023

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<tr>
<td>Wet No. 51 van 1977</td>
<td>Strafproseswet, 1977</td>
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1. Artikel 18 word gewysig—
   (a) deur paragraaf (a) deur die volgende paragraaf te vervang:
   "'(a) moord, met inbegrip van moord wat 'n haatmisdaad is soos beoog in artikel 3 van die 'Prevention and Combating of Hate Crimes and Hate Speech Act', 2023;'");
   (b) deur paragraaf (c) deur die volgende paragraaf te vervang:
   "'(b) roof, indien verswarende omstandighede teenwoordig was of as die slagoffer van die roof ook 'n slagoffer was van 'n haatmisdaad soos omskryf in artikel 1 van die 'Prevention and Combating of Hate Crimes and Hate Speech Act', 2023;'"); en
   (c) deur paragraaf (f) deur die volgende paragraaf te vervang:
   "'(f) enige seksuele misdryf ingevolge die gemenereg of 'n wetsbepaling, met inbegrip van enige sodanige misdryf wat 'n haatmisdaad uitmaak soos in artikel 3 van die 'Prevention and Combating of Hate Crimes and Hate Speech Act', 2023, beoog.'".

2. Die volgende artikel word ná artikel 269A ingevoeg:
   "Haatmisdaade
   269B. Indien die getuienis op 'n aanklag vir 'n haatmisdaad soos beoog in artikel 3 van die 'Prevention and Combating of Hate Crimes and Hate Speech Act', 2023, nie die pleging van die aldus ten laste gelegde misdryf bewys nie, maar die pleging van die onderliggende misdryf waarop die haatmisdaad gegrond is, bewys, kan die aangeklaagde skuldig bevind word aan die betrokke onderliggende misdryf.'.

3. Bylae 5 word gewysig deur die volgende item ná item 10 in te voeg:
   "'Brandstigting, huisbraak, hetsy kragters die gemenereg of 'n wetsbepaling, met die voorneme om 'n misdryf in artikel 1 van die Wet op Intimidasie, 1982 (Wet No. 72 van 1982), waarvan enige een 'n haatmisdaad uitmaak soos beoog in artikel 3 van die 'Prevention and Combating of Hate Crimes and Hate Speech Act', 2023.'."
4. The amendment of Schedule 6—

(a) by the deletion in item 1 of the word “or” at the end of paragraph (b)(i);

(b) by the insertion in item 1 of the word “or” at the end of paragraph (b)(ii);

(c) by the addition in paragraph (b) of item 1 of the following subparagraph:

“(iii) a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”;

(d) by the substitution in paragraph (c) of item 1 for subparagraphs (i) and (ii) of the following paragraphs:

“(i) Rape or compelled rape as contemplated in section 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively, including rape or compelled rape which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or

(ii) robbery with aggravating circumstances or if the victim of the robbery was also a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or”;

(e) by the deletion in item 2 of the word “or” at the end of paragraph (b)(ii);

(f) by the insertion in item 2 of the word “or” at the end of paragraph (b)(iii);

(g) by the addition in paragraph (b) of item 2 of the following subparagraph:

“(iv) is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or”;

(h) by the substitution for item 4 of the following item:

“Robbery[ involving]—

(a) involving the use by the accused or any co-perpetrators or participants of a firearm;

(b) involving the infliction of grievous bodily harm by the accused or any of the co-perpetrators or participants; [or]

(c) involving the taking of a motor vehicle; or

(d) where the victim is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.”;

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</table>
| 4.                     |             | The amendment of Schedule 6—
                         |             | (a) by the deletion in item 1 of the word “or” at the end of paragraph (b)(i);
                         |             | (b) by the insertion in item 1 of the word “or” at the end of paragraph (b)(ii);
                         |             | (c) by the addition in paragraph (b) of item 1 of the following subparagraph:
                         |             | “(iii) a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”;
                         |             | (d) by the substitution in paragraph (c) of item 1 for subparagraphs (i) and (ii) of the following paragraphs:
                         |             | “(i) Rape or compelled rape as contemplated in section 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively, including rape or compelled rape which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or
                         |             | (ii) robbery with aggravating circumstances or if the victim of the robbery was also a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or”;
                         |             | (e) by the deletion in item 2 of the word “or” at the end of paragraph (b)(ii);
                         |             | (f) by the insertion in item 2 of the word “or” at the end of paragraph (b)(iii);
                         |             | (g) by the addition in paragraph (b) of item 2 of the following subparagraph:
                         |             | “(iv) is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or”;
                         |             | (h) by the substitution for item 4 of the following item:
                         |             | “Robbery[ involving]—
                         |             | (a) involving the use by the accused or any co-perpetrators or participants of a firearm;
                         |             | (b) involving the infliction of grievous bodily harm by the accused or any of the co-perpetrators or participants; [or]
                         |             | (c) involving the taking of a motor vehicle; or
                         |             | (d) where the victim is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.”;
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<th>Bogolo jwa fihabololo</th>
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</thead>
<tbody>
<tr>
<td>4. Bylae 6 word gewysig—</td>
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</tr>
<tr>
<td>(a) deur in item 1 die woord “of” aan die einde van paragraaf (b)(i) te skrap;</td>
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<td></td>
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<tr>
<td>(b) deur die woord “of” aan die einde van paragraaf (b)(ii) in te voeg;</td>
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<tr>
<td>(c) deur in paragraaf (b) van item 1 die volgende subparagraaf by te voeg:</td>
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<tr>
<td>“(iii) ’n slagoffer van ’n haatmisdaad (hate crime) soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2018; of”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) deur in paragraaf (c) van item 1 subparagrafe (i) en (ii) deur die volgende paragrafe te vervang:</td>
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</tr>
<tr>
<td>“(i) Verkragting of gedwonge verkragting soos onderskeidelik beoog in artikel 3 of 4 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, met inbegrip van verkragting of gedwonge verkragting wat ’n haatmisdaad is soos beoog in artikel 3 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2018; of” en</td>
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<tr>
<td>(e) deur in item 2 die woord “of” aan die einde van paragraaf (b)(i) te skrap;</td>
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</tr>
<tr>
<td>(f) deur in item 2 die woord “of” aan die einde van paragraaf (b)(ii) in te voeg;</td>
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</tr>
<tr>
<td>(g) deur in paragraaf (b) van item 2 die volgende paragraaf by te voeg:</td>
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</tr>
<tr>
<td>“(iv) ’n slagoffer is van ’n haatmisdaad (hate crime) soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2018; of”</td>
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</tr>
<tr>
<td>(h) deur item 4 deur die volgende item te vervang:</td>
<td></td>
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</tr>
<tr>
<td>“Roof wat—</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) die gebruik van ’n vuurwapen deur die aangeklaagde of enige medeplegers of deelnemers behels;</td>
<td></td>
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</tr>
<tr>
<td>(b) wat die toediening van ernstige leed deur die aangeklaagde of enige van die medeplegers of deelnemers behels;</td>
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<tr>
<td>(c) wat die neem van ’n motorvoertuig behels; of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) waar die slagoffer ’n slagoffer van ’n haatmisdaad was soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2018; of”</td>
<td></td>
<td></td>
</tr>
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</table>
(a) by the substitution in item 1 for paragraph (b) of the following paragraph:

“(b) the victim was—
(i) a law enforcement officer performing his or her functions as such, whether on duty or not; or
(ii) a person who has given or was likely to give material evidence with reference to any offence referred to in Schedule 1 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), at criminal proceedings in any court; or
(iii) a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”;
(b) by the substitution in paragraph (c) of item 1 for subparagraphs (i) and (ii) of the following subparagraphs:

“(i) Rape or compelled rape as contemplated in section 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively, including rape or compelled rape which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or
(ii) robbery with aggravating circumstances as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) or if the victim of the robbery was a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023;”;
(c) by the substitution in paragraph (b) of item 2 for subparagraph (ii) of the following subparagraph:

“(ii) a physically disabled person who, due to his or her physical disability, is rendered particularly vulnerable; or”; |
<table>
<thead>
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</table>
| Wet No. 105 van 1997 | Strafregwy sigingswet, 1997 | 1. Deel I van Bylae 2 word gewysig—  
(a) deur in item 1 paragraaf (b) deur die volgende paragraaf te vervang:  
"(b) die slagoffer—  
(i) ’n wetstoepassingsbeampte was wat sy of haar werksaamhede as sodanig verrig het, hetsy aan diens al dan nie; of  
(ii) ’n persoon was wat getuenis afgelê het of waarskynlik wesentlike getuenis met betrekking tot ’n in Bylae 1 van die Strafproseswet, 1977 (Wet No. 51 van 1977), bedoelde misdryf by strafregtelike verrigtinge in ’n hof sou aflê; of  
(iii) ’n slagoffer was van ’n haatmisdaad soos omskryf in artikel 1 van die ’Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023;";  
(b) deur in paragraaf (c) van item 1 subparagrafe (i) en (ii) deur die volgende paragrafe te vervang:  
"(i) Verkragting of gedwonge verkragting soos onderskeidelik beoog in artikel 3 of 4 van die Wy sigingswet op die Strafreg (Seksuele Misdrywe en Vervante Aangeleenthede), 2007, met inbegrip van verkragting of gedwonge verkragting wat ’n haatmisdaad soos omskryf in artikel 3 van die ’Prevention and Combating of Hate Crimes and Hate Speech Act’, 2018; of  
(ii) rooí met verswarende omstandighede soos in artikel 1 van die Strafproseswet, 1977 (Wet No. 51 van 1977), omskryf, of indien die slagoffer van die rooí ’n slagoffer van ’n haatmisdaad was soos omskryf in artikel 1 van die ’Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023;";  
(c) deur in paragraaf (b) van item 2 subparagrafe (ii) deur die volgende subparagraaf te vervang:  
"(ii) ’n liggaamlik gestremde persoon is wat weens sy of haar liggaamlike gestremdheid veral treëkbaar is; [of]"; |
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<tbody>
<tr>
<td>Act No. 16 of 2023</td>
<td>Prevention and combating of Hate Crimes and Hate speech, Act 2023</td>
<td>(d) by the addition in paragraph (b) of item 2 of the following subparagraph: “(iv) is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or”; (e) by the deletion in paragraph (b) of item 3 of the word “or” at the end of subparagraph (ii); and (f) by the addition in paragraph (c) of item 3 of the following subparagraph: “(iv) is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; or”.</td>
</tr>
<tr>
<td>Act No. 75 of 2008</td>
<td>Child Justice Act, 2008</td>
<td>2. The amendment of Part II of Schedule 2— (a) by the substitution for item 2 of the following item: “Robbery— (a) when there are aggravating circumstances; [or] (b) involving the taking of a motor vehicle; or (c) where the victim is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023; and (b) by the addition of the following item: “Arson, housebreaking, whether under the common law or a statutory provision, with the intention to commit an offence or an offence referred to in section 1 of the Intimidation Act, 1982 (Act No. 72 of 1982), any of which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.”</td>
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<td>(d) deur in paragraaf (b) van item 2 die volgende subparagraaf by te voeg:</td>
<td>(iv) ’n slagoffer van ’n haatmisdaad was soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023; of”;</td>
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<tr>
<td>(e) deur in paragraaf (b) van item 3 die woord “of” aan die einde van subparagraaf (ii) te skrap; en</td>
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<tr>
<td>(f) deur in paragraaf (c) van item 3 die volgende subparagraaf by te voeg:</td>
<td>“(iv) ’n slagoffer van ’n haatmisdaad was soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023; of”.</td>
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</table>

2. Deel II van Bylae 2 word gewysig—
(a) deur item 2 deur die volgende item te vervang:
“Roof—
(a) wanneer daar verswarende omstandighede is; of
(b) van ’n motorvoertuig; of
(c) waar die slagoffer ’n slagoffer was van ’n haatmisdaad soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023.”; en
(b) deur die volgende item by te voeg:
“Brandstigting, huisbraak, hetsy kragtens die gemenereg of ’n wetsbepaling, met die bedoeling om ’n misdryf of ’n misdryf bedoel in artikel 1 van die Wet op Intimidase, 1982 (Wet No. 72 van 1982), te pleeg, waarvan enige een ’n haatmisdaad is soos beoog in artikel 3 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023.”.

Molao 75 wa 2008 Molao wa Bosiamisi wa Ngwana, 2008 Tlhabololo ya ejule 3—
(a) ka kemisetso ya nthla 3 ka nthla e e latelang:
“3. Polao, go akaretsa le polao e e leng karolo ya boseniyi jo bo tlhotlheletswang ke letho ho jaaka go umakilwe mo Molaong wa Thibelo le Twantsho ya Bose nyi jo bo Tlhotlheletswang ke Letlhoo le Puo ya Letlhoo, 2023.”;
(b) ka kemisetso ya dintlha 6 le 7 ka dintlha tse di latelang, ka tatelano:
“6. Thukhutho—
(a) fa go na le mabaka a a gakatsang; [kgotsa]
(b) e e ka ga go tseelwa sejanaga; kgotsa
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<tr>
<td>(c) where the victim is a victim of a hate crime as defined in section 1 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.</td>
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<tr>
<td>7. Rape or compelled rape referred to in sections 3 and 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No.32 of 2007), respectively, including rape or compelled rape which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.”; and</td>
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<tr>
<td>(c) by the addition of the following item:</td>
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<tr>
<td>“23. Arson, housebreaking, whether under the common law or a statutory provision, with the intention to commit an offence or an offence referred to in section 1 of the Intimidation Act, 1982 (Act No. 72 of 1982), any of which constitutes a hate crime as contemplated in section 3 of the Prevention and Combating of Hate Crimes and Hate Speech Act, 2023.”.</td>
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</table>
### Table: Setlhogokhutshwe Bogolo jwa tlhotlheletswang ke setlhlaya le puo ya letlhoo, 2023

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<thead>
<tr>
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<tbody>
<tr>
<td>(c) fa motswasatlhabelo e le motswasatlhabelo wa bosenyi jo bo tlhotlheletseng ke letlhoja jaaka go thalositswe mo karolong 1 ya Molao wa Thibelo le Twantsho ya Bosenyi jo bo Tlhotlheletswang ke Letlhojo le Puo ya Letlhojo, 2023.</td>
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<tr>
<td>(c) ka go tse ngwa ga ntla e e latelang item:</td>
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<tr>
<td><strong>23.</strong> Go tshuba, go thuba mo ntlong, ka fa lase ga molao wazilwa kgotsa taelo ya semolao, ka maikaelelo a go tlola molao kgotsa tloma mo karolong 1 ya Intimidation Act, 1982 (Molao 72 wa 1982), efe ya ona ke bosenyi jo bo tlhotlheletseng ke letlhoja jaaka go umakilwe mo karolong 3 ya Molao wa Thibelo le Twantsho ya Bosenyi jo bo Tlhotlheletseng ke Letlhojo le Puo ya Letlhojo, 2023.</td>
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