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MPUMALANGA WITCHCRAFT SUPPRESSION BILL 2007

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To provide for the suppression of witchcraft in the province, to set the code of Conduct for Traditional Healers, to provide for the responsibilities of Traditional leaders and to provide for matters incidental thereto.

PREAMBLE

WHEREAS Chapter 2 of the Constitution recognizes Human rights for all.,

WHEREAS the Traditional Customs must be transformed to be in line with Constitution.

WHEREAS the Traditional Leaders must promote goodwill, Democratic Governance within their Communities.

AND WHEREAS traditional leaders must strive to enhance tradition and culture in a way that is consistent with applicable laws of the Republic of South Africa.

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of Mpumalanga, as follows:

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CHAPTER 1

DEFINITIONS

Definitions

“**Constitution**” means the Constitution of the Republic of South Africa, 1996.

”**Igedla**” means a person who knows and uses muti either to cure, protect from evil spirits, etc or to cause damage, suffering, harm etc. without ukuthwasa and does not foretell the future as an inyanga

“**Inkosi**” means a traditional leader-

- (a) under whose authority, or within whose area of jurisdiction Traditional leaders exercise authority in accordance with Customary law, and
- (b) recognized as such in terms of the Traditional Leadership and Governance Framework Act 2003 (Act.No. 41 of 2003).

“**Inyanga**” means a person who uses muti to cause harm, damage, suffering, bad luck, cure diseases, protect from evil spirits and uses mixtures shells, coins, bones, etc. to foretell the future of people, identify witches, perform spells for good and or evil purposes.

“**Kuthwasa**” means a special training undergone by Inyanga which teaches the inyanga about muti, ukuphengula (foretelling) and sometimes to train other new inyanga. This training can be done through disappearance under water (river/sea) for a long time or by attending the residence of the Inyanga that trains other inyangas.

“**Muti**” means any mixture of herbs, water, wollen cuffs etc, used by wizards, igedla, inyanga, African Churches, Foreign traditional Healers, etc for the purposes of curing diseases, helping others who come to consult to them for whatever purposes and including causing harm to others or their properties.

“**Province**” means the Province of Mpumalanga.

“**Spells**” means a form of words used as magical charm or incantation used by Wizards.

“**Traditional leader**” means any person who, in terms of customary law of the traditional community concerned, holds a traditional leadership position, and is recognized in terms of the Traditional Leadership and Governance Framework Act, 2003.

“**Umhlahlo**” means a gathering of families or persons with the approval of the Traditional Leader or King at the place of an Inyanga with the purpose of identifying another as witch by the Inyanga, irrespective of whether the gathering is voluntary or involuntary “**Umkhaya**” has a corresponding meaning.

“**Witchcraft**” means the secret use of muti, zombies, spells, spirits, magic powders, water, mixtures, etc, by any person with the purpose of causing harm, damage, sickness to others or their property.

“**Wizard**” means any person who secretly solicit or uses muti, zombies, spells, spirits, magic powders, water, mixtures, baboons, etc. for the purposes of causing harm, damage or suffering to another.

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CHAPTER 2

PROMOTION OF GOOD RELATIONS AMONGST COMMUNITY MEMBERS

2(1) No person shall point, imply or direct that any body practices witchcraft or has been bewitched by anybody.

(2) The King or Traditional Leader shall promote good neighbourhood amongst his or her subjects,

(3) The King or Traditional Leader shall in promoting good neighborhood amongst subjects, advise:

- (a) any person who is of the opinion that his or rights are being violated to:
 - (i) report the matter to the King or Traditional leader of the offence by the other person,
 - (ii) Call upon all parties involved to give evidence of the nature of the allegations by the other party and the plaintiff to defend her/himself in a form of a trial,
 - (iii) be available on the request by the King or Traditional Leader when trying the case.
- (b) If for any other reason the aggrieved party is not satisfied by the ruling of the king or Traditional Leader, he or she may:
 - (i) open a case with the SAPS on the alleged violation of his or her rights, or
 - (ii) seek recourse from a Court of law of the Republic of south Africa under whose jurisdiction he or she falls.

CHAPTER 3

RESPONSIBILITIES OF TRADITIONAL LEADERS

3 It shall be the responsibility of any traditional leader to:

- (1) Issue permits of practice to traditional healers who are registered with the Traditional Healers Association.
- (2) keep a register of all practicing traditional Healers under his jurisdiction.
- (3) Prohibit, in consultation with the Association, any person from practicing, who is found to be breaking the code of conduct of traditional healers or any laws applicable to the Republic of South Africa.
- (4) Discourage any members of the community from obtaining permission to conduct umhlahlo.
- (5) Prohibit the holding of Umhlahlo within his area of jurisdiction.
- (6) Prohibit and not entertain any group of people alleging witchcraft and who request the chasing away of any person or family from the community who is alleged to be practicing witchcraft.
- (7) Report to authorities, any person known to be breaking the provisions of this Bill.

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CHAPTER 4

REGISTRATION OF TRADITIONAL HEALERS

4 Any person who is currently practicing or wishes to practice as a traditional healer shall:-

- (1) Register with the Traditional Healers Association within his area of operation;
- (2) Ensure that his or her name is kept in the register of the Traditional leader for people practicing as Traditional healers in his area of jurisdiction; and
- (3) On the registration form must indicate at least three areas of specialty of his or her practice.

CHAPTER 5

CODE OF CONDUCT OF TRADITIONAL HEALERS

5 Traditional Healers shall in abiding by the Code of Conduct:

- (1) Promote the harmonious living environment for their clients.
- (2) Co-operate in the open and in a manner that indicates professionalism through:-
 - (a) abiding by the rules and regulations of the Association;
 - (b) keeping a register or inventory of all medicines or muti he/she uses;
 - (c) clearly marking the muti and its purpose;
 - (d) permitting unscheduled and scheduled searches by authorities through the Association to inspect and verify the muti so kept and any other related matters';
 - (e) signing a code of conduct with the Association not to use any prohibited substances and or any human tissue as defined in the Human Tissues Act;
 - (f) prescribing muti for curing purposes and not for killing purposes, causing damage or harm to another nor help any person with regard to the killing, causing damage or harm others;
 - (g) reporting anyone soliciting human tissues or selling them; and
 - (h) co-operate with Police on any investigation.
- (3) If the traditional healer is also an Inyanga, he or she shall not:-
 - (a) Point any person as a witch;
 - (b) Involve himself or herself in or prophesy any need for ritual killing;
 - (c) Provide help to anyone bringing or soliciting the use of human tissue for muti purposes; and
 - (d) Perform umhlahlo with the purpose of identifying any person as a witch or wizard

CHAPTER 6

OFFENCES

6 Any person who conducts himself in the manner below shall be guilty of an offence:-

- 1 (a) Imputes to any other person the causing, by supernatural means, of any disease in or injury or damage to any person or thing, or who names or indicates any other person as a wizard;

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- (b) In circumstances indicating that he professes or pretends to use any supernatural power, witchcraft, sorcery, enchantment or disappointment of any person or thing to any other person;
- (c) Employs or solicits any witchdoctor, witch-finder or any other person to name or indicate any person as a wizard;
- (d) Professes a knowledge of witchcraft, or the use of charms, advises any person how to bewitch, injure or damage any person or thing, or supplies any person with any pretended means of witchcraft;
- (e) On the advice of any inyanga, witch-finder or other person or on the ground of any pretended knowledge of witchcraft, uses or causes to be put into operational any means or process which, in accordance with such advice or his own belief, is calculated to injure or damage any person or thing; and
- (f) For gain pretends to exercise or use any supernatural powers, witchcraft, sorcery or enchantment.

SHORT TITLE AND COMMENCEMENT

9 (1) This Act is called The Mpumalanga Witchcraft suppression Act and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*