



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 707

Cape Town
Kaapstad

14 May 2024

No. 50652

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 tlhotlheletswang ke letlhoo le puo ya letlhoo, 2023

ISSN 1682-5845



9 771682 584003



5 0 6 5 2



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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

3

NTLHATLHALOSO 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 thaletsweng ka mola o o kopaneng a bontsha tse di tsentsweng mo melaong e e leng teng.

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

MOLAO

Go tsenya mo tirisong dipateleso tsa Rephaboliki go ya ka Molaotheo le didiriswa tsa boditšhabatšhaba tsa ditshwanelo tsa botho tse di mabapi le tlhaolele, kgetholole ya semorafe, letlhoo la batswantle le go se itshokelane go go amanang, go tsamaelana le dipateleso tsa molao wa boditšhabatšhaba; go laela mabapi le ditlolomolao jaaka bosenyi jo bo tlhotlheletswang ke letlhoo le go sekiswa ga batho ba ba dirang ditlolomolao tseo; go laela mabapi le dikattholo tse di maleba tse di ka pateletswang batho ba ba dirang ditlolomolao tsa bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo; go laela mabapi le go begwa ga go tsennngwa mo tirisong, tiriso le tsamaiso ya Molao ono; go dira ditlhabololo 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 Molaotheo wa Rephaboliki ya Aforika Borwa, 1996, o tlama Rephaboliki ya Aforika Borwa le batho ba yona go aga setšhaba se se theilweng mo meonong ya temokerasi ya tshiamiso ya loago, seriti sa botho, tekatekano le tsweletso pele ya ditshwanelo tsa botho le dikgolosego, go se kgetholole go ya ka mmala le bong;

LE KA GO TSAYA TSIA GORE—

- karolo 9(1) ya Molaotheo e laela gore rotlhe re a lekana fa pele ga molao e bile re na le tshwanelo ya tshireletso le go una molemo mo molaong ka tekatekano;
- karolo 9(3) le (4) ya Molaotheo e laela gore Puso kgotsa motho ope o ka se, ka tlhamalalo kgotsa e seng ka tlhamalalo, kgetholole ka tsela e e sa siamang motho yo mongwe ka ntlha ya lebaka le le esi kgotsa go feta, go akaretsa le bomorafe, bong, boimana, kemo ya lenyalo, lotso kgotsa lotso la morafe, mmala, tshakamelobong, dingwaga, bogole, bodumedi, segakolodi, tumelo, setso, puo le tsalo, le gore molao wa bosetšhaba o tshwanetse go tsennngwa mo tirisong go thibela kgotsa go kganela kgetholole e e sa lolamang;
- karolo 10 ya Molaotheo e laela gore mongwe le mongwe o na le seriti se a tshotsweng ka sona le gore seriti sa bona se tlotlwe le go sireletswa;
- *Promotion of Equality and Prevention of Unfair Discrimination Act, 2000* (Molao 4 wa 2000), o kganela kgetholole e e sa lolamang, puo ya letlhoo le kgokgontsho le go tlhoka gore Puso o ntshetse pele ditaello tsa molaotheo tse di mo karolong 9 ya Molaotheo; e bile

4

- 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: 5
- (a) Age;
 - (b) albinism;
 - (c) culture;
 - (d) disability;
 - (e) ethnic or social origin; 10
 - (f) gender;
 - (g) HIV or AIDS status;
 - (h) language;
 - (i) nationality, migrant, refugee or asylum seeker status;
 - (j) occupation or trade; 15
 - (k) political affiliation or conviction;
 - (l) race;
 - (m) religion;
 - (n) sex;
 - (o) sexual orientation, gender identity or expression or sex characteristics; or 20
 - (p) skin colour;

- karolo 16 ya Molaotseo e naya mongwe le mongwe tshwanelo ya kgololosego ya go tlhagisa maikutlo, go akaretsa le—
 - kgololosego ya bobegakgang le metsweditshedimosetso e mengwe;
 - kgololosego ya go amogela kgotsa go arogana tshedimosetso kgotsa megopolo;
 - kgololosego ya boithlamedi jwa botaki; le
 - kgololosego ya borutegi le kgololosego ya dipatlisiso tsa bonetetsi, fela tshwanelo eo ya kgololosego ya go tlhagisa maikutlo ga e a atolosetswa go—
 - kgasakgaso ya ntwa;
 - tlhotlheletso ya tirisodikgoka e e gautshwane; kgotsa
 - tlhotlheletso ya lethloo le le theilweng mo kgethololong ya mmala, mo lotsong, mo bong kgotsa mo bodumeding, le le tlhotlheletsang kgobatso;

- karolo 7(2) ya Molaotseo e laela gore Puso e tshwanetse go tlolla, go sireletsa, go tsweletsa pele le go diragatsa ditshwanelo tse di mo Molaotlhomong wa Ditshwanelo, o e leng motheo wa temokerasi mo Aforika Borwa;
- karolo 8(2) ya Molaotseo e laela gore taelo ya Molaotlomo wa Ditshwanelo e tlama motheo wa tlholego kgotsa ditheo fa, le ka bogolo jo, o diriswang ka jona, ka go tsaya tsia mofuta wa tshwanelo le mofuta wa tiro efe e e pateletswang ke tshwanelo;
- bomasisi jwa kutlwalo ya maikutlo le monagano ya bosenyi jo bo tlhotlheletswang ke lethoo le puo ya lethoo bo tsenelela go feta motswasetlhabelo, setlhopha se motswasetlhabelo e leng karolo ya sona kgotsa se se tsewang gore ke karolo ya sona; e bile
- Aforika Borwa e ineetse mo go tshegetseng Tlhomamiso e e amogetsweng kwa Khonfereseng ya Lefatshe ya Ditšhabakopano kgatlhanong le Bomorafe, Kgethololo ya Mmala, Lethoo la Batswantle le Go se Itshokelane e e neng e tshwaretse kwa Durban:

E BILE KA NTLHA YA FA Tumalano ya Boditšhabatšhaba e e ka ga Phediso ya Mefuta Yotlhe 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, tlolomolao e e othhaiwang ke molao phatlhalatso yotlhe ya dikakanyo tse di theilweng mo bogolong jwa mmala, kgotsa mo letlhoong, mo tlhothleletsong ya kgethololo ya mmala, mmogo le ditiro tsa tirisodikgoka kgotsa tlhothleletso ya ditiro tseo kgathanong le morafe ofe kgotsa sethlopha sefe sa batho ba mmala o mongwe kgotsa tlhago ya lotso le lengwe,

PALAMENTE ya Rephaboliki ya Aforika Borwa e dira molao fano jaana:—

Ditlhaloso

1. Mo Molaong ono, ntle le fa maitshetlego a kaya ka mokgwa osele—
“diponagalo” di kaya efe ya diponagalo tse di latelang:
- | | |
|---|----|
| (a) Dingwaga; | 5 |
| (b) boswafi; | |
| (c) setso; | |
| (d) bogole; | |
| (e) lotso kgotsa lotso la morafe; | 10 |
| (f) itlthagisobong; | |
| (g) kemo ya HIV kgotsa AIDS; | |
| (h) puo; | |
| (i) maemo a boagi, bojaki, bokopabotshabelo kgotsa bofaladi; | |
| (j) tiro kgotsa kgwebo; | 15 |
| (k) tshekamelo kgotsa tumelo ya sepolotiki; | |
| (l) bomorafe; | |
| (m) bodumedi; | |
| (n) bong; | |
| (o) tshekamelobong, itshupobong kgotsa tlhagiso kgotsa diponagalo tsa bong; | 20 |
| kgotsa | |
| (p) mmala wa letlalo; | |

6

“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.

7

“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) seo se buiwang; 5
 - (d) tlhagiso kgotsa tshupetso; kgotsa
 - (e) tlhaeletsano ya seileketeroniki,
- le **“tlhaeletsana”** le **“tlhaeletsanwe”** di na le bokao jo bo tsamaelanang;
- “datha”** e kaya ditlhagiso tsa tshedimoseiso ka mofuta ofe;
- “molaetsa wa datha”** o kaya datha e e kgobokantsweng, e e rometsweng, e e amogetseng kgotsa e e beilweng ka mokgwa wa seileketeroniki; 10
- “tlhaeletsano ya seileketeroniki”** e kaya tlhaeletsano ka mokgwa wa melaetsa ya datha;
- “thulaganyo ya tlhaeletsano ya seileketeroniki”** e kaya mafaratlhatlha afe a ditlhagiso tsa seileketeroniki kgotsa sediriswa se se diriswang mabapi le thomelo ya datha; 15
- “mabaka”** a kaya efe ya mabaka a a latelang:
- (a) Boswafi;
 - (b) lotso kgotsa lotso la morafe;
 - (c) itlhagisobong; 20
 - (d) kemo ya HIV kgotsa AIDS;
 - (e) maemo a boagi, bojaki, bokopabotshabelo kgotsa bofaladi;
 - (f) bomorafe;
 - (g) bodumedi;
 - (h) bong; 25
 - (i) tshakamelobong, itshupobong kgotsa tlhagiso kgotsa diponagalo tsa bong; kgotsa
 - (j) mmala wa letlalo;
- “kgobatso”** e kaya kutlobotlhoko e e tseneletseng ya maikutlo, monagano, mmele, loago kgotsa mabapi le tsa ditšhelete e ka maikaelelo le segolo e nyenyefatsang seriti sa botho sa motho ka esi kgotsa ditlhopha tse di totilweng; 30
- “bosenyi jo bo tlhotlheletswang 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 molawanataolo; 35
- “kutlobotlhoko ya loago”** e kaya kutlobotlhoko e e nyenyefatsang kitlano ya loago gareng ga batho ba Aforika Borwa;
- “Molao ono”** o akaretsa melawanataolo e e dirilweng go ya ka Molao; le
- “motswasetlhabelo”** o kaya motho, go akaretsa le setheo sa molao, kgotsa setlhopha sa batho, bao kgatlhanong nabo tlolomolao e e umakilweng mo karolong 3 kgotsa 4 e dirilweng. 40

Maitlomo a Molao

2. Maitlomo a Molao ono ke go—

- (a) tsenya mo tirisong dipateleso tsa Rephaboliki mabapi le kgobelelo le go se itshokelane jaaka go umakilwe mo didirisweng tsa boditšhabatšhaba; 45
- (b) laela mabapi le go sekiswa ga batho ba ba tlolang melao e e kailweng mo Molaong ono le go laela mabapi le dikotlhaio tse di maleba;
- (c) laela mabapi le thibelo ya bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo;
- (d) go laela mabapi le ditsela tsa kgatelelo tse di nonofileng; 50
- (e) laela mabapi le tsenyotirisong e e rulaganeng, tiriso le tsamaiso ya Molao ono;
- (f) lwantsha go dirwa ga bosenyi jo bo tlhotlheletswang ke letlhoo ka mokgwa o o rulagantsweng; le
- (g) kgobokanya le go rekota datha e e ka ga bosenyi jo bo tlhotlheleditsweng ke letlhoo le puo ya letlhoo. 55

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 5
- (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. 10

(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).

(b) The criminal record of a person who has been convicted of an offence referred to in paragraph (a) must explicitly record the underlying offence as a hate crime. 15

(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

20

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, 25

based on one or more of the grounds, 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 30
- (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*— 35

- (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 40
- (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. 45

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, 50

Ditlolomolao tsa bosenyi jo bo tlhotlheletswang ke letlhoo**3. (1) Bosenyi jo bo tlhotlheletswang ke letlhoo ke—**

- (a) tlolomolao e e tsewang tsia ka fa tlase ga molao ofe (e fano e kaiwang jaaka “tlolomolao ya motheo”), go sa akaretse tlolomolao ya molao wa tlwaelo kgotsa tlolomolao ya kgatako e e tseneletseng ya seriti sa motho kgotsa tlolomolao e e kailweng mo karolong 4(1); le 5
- (b) go dirwa ke motho yo o tlhotlheletswang ke kgobelelo kgotsa go se itshokelane—
 - (i) go go lebisitsweng mo motswasetlhabelong, wa losika la motswasetlhabelo kgotsa boikamanyi jwa motswasetlhabelo kgotsa tshegetso ya motho yo o nang le diponagalo kgotsa setlhopho sa batho bao ba nang le diponagalo tse di tshwanang; le 10
 - (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) Motho ofe yo o tloang molao o o umakilweng mo karotlaleletsong (1), o bonwa molato wa tlolomolao ya motheo jaaka bosenyi jo bo tlhotlheletswang ke letlhoo e bile o rwala maikarabelosemolao fa a atlhotswe a katlholo e e umakilweng mo karolong 6(1). 15

(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 tlhotlheletswang ke letlhoo. 20

(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

25

4. (1) (a) Motho ofe yo ka maikaelelo a phasalatsang, gasagasang, buelatang, kgontshang phitlhelelo kgotsa a tlhaeletsang sengwe le sengwe kwa mothong a le esi kgotsa kwa bathong ba le bantsi ka mokgwa o o ka tsewang ka mabaka o bontsha maikemisetso a a bonagalang a go—

- (i) gobatsa kgotsa go tlhotlheletsa kgobalo; le 30
- (ii) tsweletsa pele kgotsa go gasagasa letlhoo,

go ikaegilwe mo lebakeng le le esi kgotsa go feta, o bonwa molato wa tlolomolao ya puo ya letlhoo.

(b) Motho ofe yo ka maikaelelo a phatthalatsang kgotsa a dirang gore tlhaeletsano ya seileketeroniki e fitlhelege e motho yoo a itseng gore ke puo ya letlhoo jaaka go umakilwe mo temaneng (a), ka thulaganyo ya ditlhaeletsano tsa seileketeroniki eo e— 35

- (i) fitlhelwang ke moagi ofe; kgotsa
- (ii) fitlhelwang ke, kgotsa e e lebisitsweng go, motho yo o rileng yo o ka tsewang jaaka motswasetlhabelo wa puo ya letlhoo,

o bonwa molato wa tlolomolao. 40

(2) Ditaalo tsa karotlaleletso (1) ga di diriswe mabapi le sengwe le sengwe se se dirilweng jaaka go umakilwe mo karotlaleletsong (1) fa se dirilwe ka mowa o montle fa go ntse go tsenngwa mo tirisong ka mowa o montle efe ya—

- (a) boithamedu jwa botaki, tiragatso kgotsa tlhagiso; 45
- (b) patlisiso ya borutegi kgotsa ya bonetetshi;
- (c) go bega ka tshiamo le ka nepagalo mo dikgatlhegelong tsa setšhaba kgotsa phasalatso ya tshedimoseto, tshwaelo, papatso kgotsa kitsiso efe; kgotsa
- (d) thanolo, tshokololo kgotsa go tshegetsa tumelo, kgopolo, thuto, moonoo kgotsa dikwalwa dife,

tse di sa ntshetseng pele letlhoo leo le tsewang jaaka le le tlhotlheletsang kgobato, go ikaegilwe mo lebakeng le le esi kgotsa a le mantsi. 50

(3) Tshekiso efe go ya ka karolo eno e tshwanetse go rebolwa ke Bokaedi jwa Bosekisi jwa Bosetšhaba 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

55

5. (1) Mabapi le maitlomo a karolo eno, polelo ya ditlamorago ya motswasetlhabelo e kaya polelo kgotsa netefatso e e ikanetsweng ke motswasetlhabelo kgotsa motho mongwe yo o letleletsweng ke motswasetlhabelo go dira polelo eo mo boemong jwa

10

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.

11

motswasetlhabelo, eo e nang le ditlamorago tsa mo mmeleng, mo monaganong, mo loagong, mo ikonoming kgotsa dingwe le dingwe dife tsa tlolomolao mabapi le motswasetlhabelo le mongwe wa losika la motswasetlhabelo kgotsa wa batho ba motswasetlhabelo a amanang nabo kgotsa a ba tshegetsang.

(2) (a) Mosekisi o tshwanetse, go neela kgotlatshekelo polelo ya ditlamorago ya motswasetlhabelo e e laetsweng mo karotlaleletsong (1). 5

(b) Fa go sa kgonagale go fitlhelela polelo ya ditlamorago ya motswasetlhabelo e e laetsweng mo karotlaleletsong (1), mosekisi o tshwanetse go neela kgotlatshekelo mabaka a go se nne teng ga polelo eo: Fa fela mosekisi a ka bona polelo ya ditlamorago ya motswasetlhabelo go tswa mo— 10

- (i) mongweng, mo lebakeng la fa motswasetlhabelo a tlhokofetse, yo o letleletsweng ke mongwe wa losika la motswasetlhabelo kgotsa setlhopho sa batho ba motswasetlhabelo a ne a amana le bona kgotsa a ba tshegetsang; kgotsa
- (ii) mo mokgatlhong kgotsa mo setheong se se nang le kitso ya boitseanape kgotsa maitemogelo a setlhopho se motswasetlhabelo e ne e le karolo ya sona kgotsa se go ne go tsewa gore ke karolo ya sona. 15

(3) Diteng tsa polelo ya ditlamorago ya motswasetlhabelo di amogelesega jaaka bosupi, ntle le fa kgotlatshekelo, ka lebaka le le utlwalang le le bontshitsweng, e swetsa ka mokgwa osele.

Dikotlhao kgotsa ditaelo

20

6. (1) Go latela karotlaleletso (2), motho ofe yo o bonweng molato wa tlolomolao e e umakilweng mo karolong 3 o rwala maikarabelosemolao, fa a athlotswe, a efe ya mefuta e e latelang ya dikotlhao tse kgotlatshekelo e e atholang motho e bonang di le matshwanedi le eo e leng mo lefelong la taolo la go otlhaya:

- (a) Kgolego, kgolegonakwana, tlhomamiso ya go nna sesinyi sa ka gale, thomelo kwa setheong se se tlhomilweng ka molao, tuediso, peoleitlho ya kgopololo kgotsa kgolego e go tswa mo go yona motho a ka bewang ka fa tlase ga peoleitlho ya kgopololo, jaaka go umakilwe mo karolong 297 ya Molao wa Tsamaiso ya Bosenyi. 25

(2) Fa motho a bonwe molato wa tlolomolao e e umakilweng mo karolong 3, kgotlatshekelo e e pateletsang katlhoho e tshwanetse— 30

- (a) fa karolo 51 ya *Criminal Law Amendment Act, 1997* (Molao 105 wa 1997), e sa diriswe; le
- (b) mo lebakeng la—
 - (i) tshenyego ya, tatlhegelo ya kgotsa tshenyo ya thoto kgotsa tatlhegelo ya madi; 35
 - (ii) kgobalo ya mmele kgotsa e nngwe; kgotsa
 - (iii) tatlhegelo ya lotseno,

e e bonweng ke motswasetlhabelo ka ntlha ya go dirwa ga tlolomolao, go tsaya tsia ntlha ya gore motho o bonwe molato wa tlolomolao e e umakilweng mo karolong 3 jaaka lebaka le le gakatsang maemo. 40

(3) Motho ofe yo o bonweng molato wa tlolomolao e e umakilweng mo karolong 4 o rwala maikarabelosemolao a tuediso kgotsa go golegwa sebaka sa paka e e sa feteng dingwaga tse tlhano, kgotsa ka bobedi tuediso le go golegwa goo.

Ditaelo tsa bosetšhaba le Ditaolo

45

7. (1) (a) Khomišenara wa Bosetšhaba wa Tirelo ya Sepodisi ya Aforika Borwa o tshwanetse, morago ga go rerisana le Mokaedikakaretso: Bosiamisi le Tlhabololo ya Molaotheo le Bokaedi jwa Bosetšhaba jwa Bosekisi jwa Botlhe, go rebola ditaelo tsa bosetšhaba mabapi le merero yotlhe e e tlhokegang ka mabaka kgotsa e e potlakileng gore e laolwe, le eo e tshwanetseng go obamelwa ke ditokololo tsotlhe tsa Tirelo ya Sepodisi ya Aforika Borwa tseo di neilweng tiro ya go batlisisa magatwe a go dirwa ga bosenyi jo bo tlhotlheletswang ke letlhoo gore go fitlhelelwe maitlhommo a Molao ono, go akaretse le mokgwa o— 50

- (i) go begwa ga magatwe a bosenyi jo bo tlhotlheleditsweng ke letlhoo kgotsa puo ya letlhoo go ka dirwang ke batlhankedi ba sepodisi; le 55
- (ii) bosenyi jo bo tlhotlheletswang ke letlhoo bo tshwanetseng go batlisiswa ka ona ke batlhankedi ba sepodisi, go akaretse le mabaka ao ka ona patlisiso mabapi le bosenyi jo bo tlhotlheleditsweng ke letlhoo kgotsa puo ya letlhoo e ka emiswang.

12

(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, 5
- 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: 10

- (i) The manner in which cases relating to hate crimes and hate speech are to be dealt with, including— 15
 - (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 20 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); 25
- (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

30

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 35 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 40 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; 45
- (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.

13

(b) Khomišenara wa Bosetšhaba wa Tirelo ya Sepodisi ya Aforika Borwa o tshwanetse go tlhama dikhoso tsa katiso, tse di tshwanetseng go—

(i) akaretsa katiso mabapi le ditaello tsa bosetšhaba tse di umakilweng mo temaneng (a);

(ii) akaretsa le katiso e e ka ga maitshetlego a loago malebana le bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo; le 5

(iii) laela mabapi le, le go ntshetsa pele tiriso e e tshwanang ya ditlwaelo, dipeelo le ditsamaiso, ka mogopolo wa go netefatsa gore bontsi jwa batlhankedi ba sepodisi bo kgona go samagana le dikgetse tsa bosenyi jo bo tlhotlheletswang ke letlhoo ka mokgwa o o maleba, o o nonofileng e bile o le masisi. 10

(2) (a) Bokaedi jwa Bosetšhaba jwa Bosekisi jwa Botlhe bo tshwanetse, morago ga go rerisana le Mokaedikakaretso: Bosiamisi le Tlhabololo ya Molaotheo le Khomišenara wa Bosetšhaba wa Tirelo ya Sepodisi ya Aforika Borwa, go rebola ditaello mabapi le merero yotlhe e ka mabaka e tlhokegang kgotsa e potlakileng go laolwa, le eo e tshwanetseng go obamelwa ke ditokololo tsa bothati jwa bosekisi tse di neilweng tiro ya go tlhongwa le tsamaiso ya ditsheko mo dikgetseng tse di amanang le bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo, gore go fitlhelwe maitlomo a Molao ono, go akaretsa le tse di latelang: 15

(i) Mokgwa o dikgetse tse di amanang le bosenyi jo bo tlhotlheletswang ke letlhoo di sekasekwang ka ona, go akaretsa le— 20

(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 kaelang kgotsa jo bo maleba jo bo bontshang go nna teng ga kgobelelo kgotsa go se itshokelane go go lebisitsweng motswasetlhabelo, gore go fitlhelwe ponamolato e e umakilweng mo karolong 3(2); le 25

(ii) kgobokanyo le tshedimosetso e e umakilweng mo karolong 8.

(b) Bokaedi jwa Bosetšhaba jwa Bosekisi jwa Botlhe bo tshwanetse go tlhama dikhoso tsa katiso, tseo di tshwanetseng go—

(i) akaretsa katiso mabapi le ditaello tsa bosetšhaba tse di umakilweng mo temaneng (a); 30

(ii) akaretsa le katiso e e ka ga maitshetlego a loago malebana le bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo; le

(iii) laela mabapi le, le go ntshetsa pele tiriso e e tshwanang ya ditlwaelo, dipeelo le ditsamaiso, 35

ka mogopolo wa go netefatsa gore bontsi jwa batlhankedi ba sepodisi bo kgona go samagana le dikgetse tsa bosenyi jo bo tlhotlheletswang ke letlhoo ka mokgwa o o maleba, o o nonofileng e bile o le masisi.

Go bega ka go tsenngwa mo tirisong ga Molao

8. (1) Tokololo ya Kabinete e e rwalang maikarabelo a tsamaiso ya bosiamisi o tshwanetse— 40

(a) morago ga go rerisana le tokololo ya Kabinete e e rwalang maikarabelo a sepodisi, laelana ka tshedimosetso e e tshwanetseng go kgobokanngwa le go kopanngwa ke Tirelo ya Sepodisi ya Aforika Borwa;

(b) morago ga go rerisana le Bokaedi jwa Bosetšhaba jwa Bosekisi jwa Botlhe, go laelana ka tshedimosetso e e tshwanetseng go kgobokanngwa le go kopanngwa ke Bothati jwa Bosekisi jwa Bosetšhaba, le 45

(c) neela taelo ka tshedimosetso e e tshwanetseng go kgobokanngwa le go kopanngwa ke ditlhelereke tsa kgotlatshelo le Bakwadisi ba Kgotlatshelokgolo, 50

go kgontsha peoleitlho e e nonofileng, tshekatsheko ya mekgwa le ditsereganyo malebana le thibelo le twants'ho ya bosenyi jo bo tlhotlheletswang ke letlhoo le puo ya letlhoo.

(2) Tshedimosetso e e umakilweng mo karolotlaleletsong (1) e tshwanetse go kgona go fitlhelwa ka mokgwa o o laetsweng le ka dinako tse di beilweng ke— 55

(a) Palamente;

(b) Modulasetulo Khomišene ya Ditshwanelo tsa Botho ya Aforika Borwa;

(c) Modulasetulo wa Khomišene ya Tekatekano ya Bong; le

(d) Modulasetulo wa Khomišene ya Tsweletso le Tshireletso ya Ditshwanelo tsa Merafe ya Setso, Sedumedi le Puo. 60

14

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. 5

(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; 10
- (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. 15

(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. 20

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. 25

(2) Regulations made under this section—

- (a) must be submitted to Parliament for approval 60 days prior to the publication thereof in the *Gazette*; 30
- (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. 35

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*. 40

Thibelo ya bosenyi jo bo tlotltheletswang ke letlhoo le puo ya letlhoo

9. (1) Puso, Khomišene ya Ditshwanelo tsa Botho ya Aforika Borwa, Khomišene ya Tekatekano ya Bong le Khomišene ya Tsweletso le Tshireletso ya Ditshwanelo tsa Merafe ya Setso, Sedumedi le Puo di na le tiro ya go ntshetsa pele temoso ya thibelo kgatthanong le bosenyi jo bo tlotltheletswang ke letlhoo le puo ya letlhoo, e e lebisitsweng mo go thibeleng le mo go lwantsheng ditlolomolao tseno. 5

(2) Ntle le go fapoga mo mofuteng ka kakaretso wa tiro e e umakilweng mo karolotlaleletsong (1), a le mongwe kgotsa ba le bantsi ba ditokololo tsa Kabinete, ba ba tlhomilweng ke Moporesidente, ba tshwanetse go dira gore go tlhongwe mananeo gore go— 10

- (a) tlhongwe matsholo a thuto le tshedimotsetso go itsise setšhaba ka ga thibelo kgatthanong le bosenyi jo bo tlotltheletswang ke letlhoo le puo ya letlhoo, a a lebisitsweng mo go thibeleng le mo go lwantsheng ditlolomolao tseno;
- (b) tlamela motho ofe yo o batlang go dira ngongorego ya bosenyi jo bo tlotltheletswang ke letlhoo kgotsa puo ya letlhoo thuso le kgakololo; le 15
- (c) katisa badiredipuso malebana le kganelo, thibelo le twantsho ya bosenyi jo bo tlotltheletswang ke letlhoo kgotsa puo ya letlhoo, katiso eo e tshwanetseng go akaretsa le katiso ya maitshetlego a loago.

(3) Setheo sa Thuto ya Boatlhodi sa Aforika Borwa se se tlhomilweng go ya ka karolo 3 ya *South African Judicial Education Institute Act, 2008* (Molao 14 wa 2008), se tshwanetse go tlhoma le go tsenya mo tirisong dikhoso tsa katiso, go akaretsa le dikhoso tsa katiso ya maitshetlego a loago, tsa batlhankedi ba boatlhodi mabapi le maitlthomo a go okama ditsamaiso kwa dikgotlatshekelong, mabapi le maitlthomo a Molao ono. 20

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 tlhokegang kgotsa o o rebotsweng ke Molao ono gore o laelwe ka molawanataolo kgotsa morero mongwe le mongwe ofe o o tlhokegang kgotsa o o botlhokwa go laelwa gore go fitlhelwe maitlthomo a Molao ono. 25

(2) Melawanataolo e e dirilweng ka fa tlase ga karolo eno— 30

- (a) e tshwanetse go romelelwa Palamente mabapi le go rebolwa matsatsi a le 60 pele ga go phasalatswa ga yona mo Lokwalodikgannyeng la Puso;
- (b) e e sa rebolwang 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 tsa Puso, e tshwanetse go dirwa ka therisano le tokololo ya Kabinete e e rwalang maikarabelo a tsa matlole. 35

Melao e e tlabolotsweng

11. Melao e e umakilweng mo kholomong ya bobedi ya ejule e a tlabololwa fano ka bogolo jo bo tlagisitsweng mo kholomong ya boraro ya ejule.

Setlhogokhutshwe le tshimololo

40

12. Molao ono o bidiwa Molao wa Thibelo le Twantsho ya Bosenyi jo bo Tlotltheletswang ke Letlhoo le Puo ya Letlhoo, 2023, e bile o simolola go diriswa ka letlha le le beilweng ke Moporesidente ka kgoeletso mo Lokwalodikgannyeng la Puso.

16

SCHEDULE

AMENDMENTS

(Section 11)

Number and year of law	Short title	Extent of amendment
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.”.

17

EJULE

DITLHABOLOLO

(Karolo 11)

Nomoro le ngwaga wa molao	Setlhogokhutshwe	Bogolo jwa tlhabololo
Wet No. 51 van 1977	Strafproseswet, 1977	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 gemenerereg 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: “Haatmisdade 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 kragtens die gemenerereg 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.”.

Number and year of law	Short title	Extent of amendment
		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, <u>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</u> (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”; and (h) by the substitution for item 4 of the following item: “Robbery[, involving]— (a) <u>involving</u> the use by the accused or any co-perpetrators or participants of a firearm; (b) <u>involving</u> the infliction of grievous bodily harm by the accused or any of the co-perpetrators or participants; [or] (c) <u>involving</u> the taking of a motor vehicle; or (d) <u>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.”</u>

Nomoro le ngwaga wa molao	Setlhogokhutshwe	Bogolo jwa tlhabololo
		4. Bylae 6 word gewysig— (a) deur in item 1 die woord “of” aan die einde van paragraaf (b)(i) te skrap; (b) deur die woord “of” aan die einde van paragraaf (b)(ii) in te voeg; (c) deur in paragraaf (b) van item 1 die volgende subparagraaf by te voeg: “(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’, 2023;”; (d) 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 Wysigingswet op die Strafbreg (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’, 2023; of (ii) roof met verswarende omstandighede of indien die slagoffer van die roof ’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”; en (e) deur in item 2 die woord “of” aan die einde van paragraaf (b)(ii) te skrap; (f) deur in item 2 die woord “of” aan die einde van paragraaf (b)(iii) in te voeg; (g) deur in paragraaf (b) van item 2 die volgende paragraaf by te voeg: “(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”;; (h) deur item 4 deur die volgende item te vervang: “Roof wat— (a) die gebruik van ’n vuurwapen deur die aangeklaagde of enige medeplegers of deelnemers behels; (b) wat die toediening van ernstige leed deur die aangeklaagde of enige van die medeplegers of deelnemers behels; (c) wat die neem van ’n motorvoertuig behels; of (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”;;

Number and year of law	Short title	Extent of amendment
Act No. 105 of 1997	Criminal Law Amendment Act, 1997	1. The amendment of Part I of Schedule 2— (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 <u>Prevention and Combating of Hate Crimes and Hate Speech Act, 2023</u>;”; (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, <u>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</u>; or (ii) robbery with aggravating circumstances as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) <u>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</u>;”; (c) by the substitution in paragraph (b) of item 2 for subparagraph (ii) of the following subparagraph: “(ii) is a physically disabled person who, due to his or her physical disability, is rendered particularly vulnerable; [or]”;

Nomoro le ngwaga wa molao	Setlhogokhutshwe	Bogolo jwa tlhabololo
Wet No. 105 van 1997	Strafregwysigingswet, 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 getuienis afgelê het of waarskynlik wesenlike getuienis 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 <u>haatmisdaad soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023;</u>”; (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 Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, met inbegrip van <u>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;</u> of (ii) roof met verswarende omstandighede soos in artikel 1 van die Strafproseswet, 1977 (Wet No. 51 van 1977), omskryf, of indien die slagoffer van die roof ’n slagoffer van ’n <u>haatmisdaad was soos omskryf in artikel 1 van die ‘Prevention and Combating of Hate Crimes and Hate Speech Act’, 2023;</u>”; (c) deur in paragraaf (b) van item 2 subparagraaf (ii) deur die volgende subparagraaf te vervang: “(ii) ’n liggaamlik gestremde persoon is wat weens sy of haar liggaamlike gestremdheid veral trefbaar is; [of]”;

Number and year of law	Short title	Extent of amendment
		(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 <u>Prevention and Combating of Hate Crimes and Hate Speech Act, 2023</u>; 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 <u>Prevention and Combating of Hate Crimes and Hate Speech Act, 2023</u>; or”. 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 <u>Prevention and Combating of Hate Crimes and Hate Speech Act, 2023</u>.”; 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 <u>Prevention and Combating of Hate Crimes and Hate Speech Act, 2023</u>.”.
Act No. 75 of 2008	Child Justice Act, 2008	The amendment of Schedule 3— (a) by the substitution for item 3 of the following item: “3. Murder, including murder which constitutes part of a hate crime as contemplated in section 3 of the <u>Prevention and Combating of Hate Crimes and Hate Speech Act, 2023</u>.”; (b) by the substitution for items 6 and 7 of the following items, respectively: “6. Robbery— (a) where there are aggravating circumstances; [or] (b) involving the taking of a motor vehicle; or

Nomoro le ngwaga wa molao	Setlhogokhutshwe	Bogolo jwa tlhabololo
		(d) deur in paragraaf (b) van item 2 die volgende subparagraaf by te voeg: “(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”; (e) deur in paragraaf (b) van item 3 die woord “of” aan die einde van subparagraaf (ii) te skrap; en (f) deur in paragraaf (c) van item 3 die volgende subparagraaf by te voeg: “(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”. 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 gemenerereg of ’n wetsbepaling, met die bedoeling om ’n misdryf of ’n misdryf bedoel in artikel 1 van die Wet op Intimidasie, 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 ntlha 3 ka ntlha e e latelang: “3. Polao, go akaretsa le polao e e leng karolo ya bosenyi jo bo tlhotlheletswang ke letlhoo jaaka go umakilwe mo Molaong wa Thibelo le Twantsho ya Bosenyi 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

Number and year of law	Short title	Extent of amendment
		(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. 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 (c) by the addition of the following item: “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.”.

Nomoro le ngwaga wa molao	Setlhogokhutshwe	Bogolo jwa tlhabololo
		(c) fa motswasetlhabelo e le motswasetlhabelo wa bosenyi jo bo tlhotlheletswang ke letlhoo jaaka go tthalositswe mo karolong 1 ya Molao wa Thibelo le Twantsho ya Bosenyi jo bo Tlhotlheletswang ke Letlhoo le Puo ya Letlhoo, 2023. 7. Petelelo kgotsa pateletso petelelo e e umakilweng mo dikarolong 3 le 4 tsa <i>Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</i> (Molao 32 wa 2007), ka tatelano, go akaretsa le petelelo kgotsa pateletso petelelo eo e leng bosenyi jo bo tlhotlheletswang ke letlhoo jaaka go umakilwe mo karolong 3 ya Molao wa Thibelo le Twantsho ya Bosenyi jo bo Tlhotlheletswang ke Letlhoo le Puo ya Letlhoo, 2023.”; le (c) ka go tsenngwa ga ntlha e e latelang item: “23. Go tshuba, go thuba mo ntlong, ka fa tlase ga molao wa tlwaelo kgotsa taelo ya semolao, ka maikaelelo a go tlola molao kgotsa tlolomolao e e umakilweng mo karolong 1 ya Intimidation Act, 1982 (Molao 72 wa 1982), efe ya ona ke bosenyi jo bo tlhotlheletswang ke letlhoo jaaka go umakilwe mo karolong 3 ya Molao wa Thibelo le Twantsho ya Bosenyi jo bo Tlhotlheletswang ke Letlhoo le Puo ya Letlhoo, 2023.”.