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EXTRACT FROM CRIMINAL LAW CODE

Act No. 23 of 2004

Date of commencement: 1st July 2006

Note: Before 1st July 2006 the law on witchcraft offences was contained in the Witchcraft Suppression Act. That Act was repealed by section 283 of the Criminal Law Code.

CHAPTER V

CRIMES AGAINST THE PERSON

PART VI

WITCHCRAFT, WITCH-FINDING AND CRIMES RELATED THERETO

97 Interpretation in Part VI of Chapter V

In this Part—

“accuse a person of witchcraft” means to indicate that the person—

- (a) has used, is using or is likely or able to use non-natural means to cause—
 - (i) death or injury to or disease or disability in any person; or
 - (ii) destruction or loss of or damage to property of any description;or
- (b) is possessed by a spirit which has caused, is causing or is likely or able to cause—
 - (i) death or injury to or disease or disability in any person; or
 - (ii) destruction or loss of or damage to property of any description;

“non-natural means” includes the practice of witch-finding.

98 Engaging in practices commonly associated with witchcraft

(1) Any person who engages in any practice knowing that it is commonly associated with witchcraft shall be guilty of engaging in a practice commonly associated with witchcraft if, having intended thereby to cause harm to any person, such practice inspires in the person against whom it was directed a real fear or belief that harm will occur to that person or any member of his or her family, and be liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both.

(2) Spoken or written words shall not in themselves constitute a practice commonly associated with witchcraft for the purpose of this section, unless accompanied by or used in connection with other conduct commonly associated with witchcraft.

(3) For the avoidance of doubt it is declared that any person who assists another person to commit the crime of engaging in a practice commonly associated with witchcraft by giving

advice or providing any substance or article to enable that person to commit the crime shall be liable to be charged as an accomplice to the crime.

(4) A court shall not take judicial notice of any practice that is said to be commonly associated with witchcraft, but any person who, in the opinion of the court, is suitably qualified to do so on account of his or her knowledge, shall be competent to give expert evidence as to whether the practice that forms the subject of a charge under this section is a practice that is commonly associated with witchcraft, whether generally or in the particular area where the practice is alleged to have taken place.

99 Indicating witches and wizards

(1) Subject to this section, any person who groundlessly or by the purported use of non-natural means accuses another person of witchcraft shall be guilty of indicating a witch or wizard and liable—

- (a) in a case of any purported use of any non-natural means, to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both;
- (b) in any other case, to a fine not exceeding level six or imprisonment for a period not exceeding one year or both.

(2) For the avoidance of doubt it is declared that no crime is committed by a person who, without the purported use of non-natural means and having reasonable grounds for suspecting another person of committing an offence referred to in section *ninety-eight*, accuses that person of committing that offence.

(3) It shall not be a defence to a contravention of subsection (1) involving the purported use of any non-natural means for the person charged to prove that the person he or she accused actually engaged in any practice commonly associated with witchcraft, but the court may regard such circumstance as mitigatory when assessing the sentence to be imposed.

100 Employing non-natural means to resolve crimes or delicts

(1) Any person who—

- (a) by the purported use of non-natural means, intentionally indicates another person as the perpetrator of a crime or delict; or
- (b) in the purported investigation by non-natural means of any crime or delict, requires, advises or incites another person to undergo any test or consume any substance;

shall be guilty of employing non-natural means to resolve a crime or delict and liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both.

(2) For the avoidance of doubt it is declared that any person who procures the services of another person to do any act referred to in paragraph (a) or (b) of subsection (1) shall be liable to be charged as an accomplice to the crime of employing non-natural means to resolve a crime or delict.

(3) It shall not be a defence to a contravention of subparagraph (a) of subsection (1) for the person charged to prove that the person he or she indicated actually perpetrated a crime or delict, but the court may regard such circumstance as mitigatory when assessing the sentence to be imposed.

101 Belief in witchcraft to operate in mitigation and not as defence to crimes

It shall not be a defence to murder, assault or any other crime that the accused was actuated by a genuine belief that the victim was a witch or wizard, but a court convicting such person may take such belief into account when imposing sentence upon him or her for the crime.

102 Charges alternative to or concurrent with charges under Part VI of Chapter V

A person accused of engaging in a practice commonly associated with witchcraft, indicating a witch or wizard or employing non-natural means to resolve a crime or delict, involving conduct that is in itself otherwise unlawful—

- (a) may be charged in the alternative with the crime constituted by that conduct if the punishment to which the person is liable for that crime is the same or less than that provided for under section *ninety-eight, ninety-nine* or *one hundred*, as the case may be; or
- (b) shall be charged with the crime constituted by that conduct, whether or not concurrently with the crime of engaging in a practice commonly associated with witchcraft, indicating a witch or wizard or employing non-natural means to resolve a crime or delict, if the punishment to which the person is liable for that crime is greater than that provided for under section *ninety-eight, ninety-nine* or *one hundred*, as the case may be.