

NORTHERN CAPE PROVINCE

PROFENSI YA KAPA-BOKONE



NOORD-KAAP PROVINSIE

IPHONDO LOMNTLA KOLONI

EXTRAORDINARY • BUITENGEWONE

**Provincial Gazette
Kasete ya Profensi**

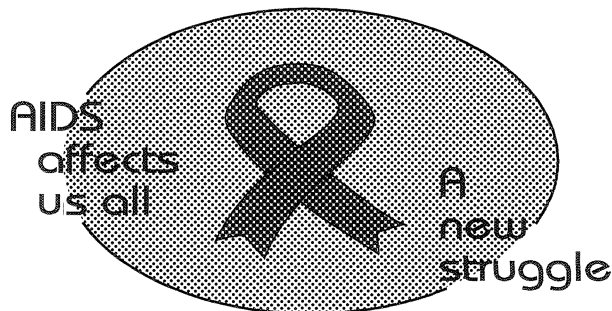
**iGazethi YePhondo
Provinsiale Koerant**

Vol. 20

KIMBERLEY, 26 NOVEMBER 2013

No. 1753

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**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

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PREMIER'S NOTICES

No. 11

26 November 2011

OFFICE OF THE PREMIER

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information.

No. 3 of 2013: Northern Cape Legislature Witness Act, 2013

The *English* text of this Act has been approved
to by me on *November 2013*
[Signature]

NORTHERN CAPE PROVINCE



NORTHERN CAPE LEGISLATURE WITNESS ACT, 2013

(ACT No. 3 OF 2013)

Certified correct as passed by the
Northern Cape Provincial Legislature
[Signature]
Secretary to the Legislature

ACT

To regulate the summoning, attendance and examination of a witness before the Legislature or a committee; to compel a witness to comply with the summons; to create offences relating to conduct of a person; and to provide for matters connected therewith.

Preamble

WHEREAS section 115 of the Constitution of the Republic of South Africa, 1996 provides for the Legislature to summon any person to appear before it to give evidence on oath or affirmation;

BE IT ENACTED by the Northern Cape Provincial Legislature as follows: -

Definitions

1. (1) In this Act, unless the context otherwise indicates -

“**committee**” means a committee in terms of the Standing Rules of the Legislature;

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

“**Legislature**” means the Northern Cape Provincial Legislature in terms of section 104 of the Constitution;

“**relevant Chairperson**” means the Chairperson of a Committee that subpoenas a witness for questioning in respect of any matter for investigation before the committee;

“**Standing Rules**” mean the Standing Rules of the Legislature made in terms of section 116 of the Constitution and adopted by the House;

“**this Act**” includes the Annexure to the Act and any regulations made in terms of the Act; and

“**witness**” means a person or provincial institution who gives evidence under oath or affirmation to a committee.

Object

2. The main object of this Act is to ensure attendance of witnesses before the Legislature or its committees and to create offences relating to witnesses and the act of witnessing.

Summons to attend

3. (1) The Legislature or a committee may subject to having complied with the Standing Rules and subsection (2), summons any person to appear before it to give evidence on oath or affirmation or to produce documents on any matter before the committee.
- (2) The relevant Chairperson must satisfy the Speaker that evidence of a witness is material.
- (3) The Secretary must issue a summons to appear before a committee on the written instruction of the Speaker.

Summons

4. (1) A summons must be issued on the writ of summons which is attached in the Annexure to this Act and must include at least –
 - (a) the time and place of attendance;
 - (b) an instruction to give evidence produce documents or other articles as specified;
 - (c) the reason for a person's attendance; and
 - (d) the consequences for failure to attend.
- (2) The summons must be served by the sheriff appointed in terms of section 2(1) of the Sheriff's Act, 1986 (Act 90 of 1986).
- (3) The summons must be served –
 - (a) on the person mentioned in the summons; or
 - (b) at the person's usual or last known place of residence or of employment or business to a person who is apparently over the age of 18 years and apparently residing or employed there.
- (4) A return by the sheriff is *prima facie* proof of service.

Examination of witness

5. (1) The relevant Chairperson or a person designated by him or her must –
- (a) call upon and administer an oath to or accept an affirmation from the witness;
 - (b) examine the witness;
 - (c) require the witness to produce any book, paper, record, document or object in his or her possession, custody or under his or her control which may have a bearing on the subject of the enquiry; and
 - (d) upon request of the witness avail an interpreter for the proceedings.
- (2) A witness must –
- (a) honestly answer all questions put to him or her; and
 - (b) produce any book, paper, record, document or object in his or her possession or custody or under his or her control.
- (3) A witness may not provide hearsay evidence in respect of a matter that is not within his or her direct and personal knowledge, except for hearsay evidence that is admissible in terms of Law of Evidence.

Witness privilege

6. (1) The law relating to privilege, as applicable to a witness before a court of law, applies.
- (2) A witness who answered all questions put to him or her fully and satisfactorily may, except for a charge of perjury or an offence that involves a fraudulent element, not be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything –
- (a) said by him or her in the cause of giving evidence; or
 - (b) said by him or her before and now revealed by his or her evidence.

Witness protection

7. The relevant Chairperson may assess the need to protect a witness and may direct that evidence be given in camera.

Attendance of witness detained in prison or other state institution

8. The relevant Chairperson may subject to section 3, order the person in charge of a prison or other state institution to bring a witness who is in his or her custody, for examination in terms of this Act.

Compensation for witness expense

9. The Speaker may subject to financial directives and availability of funds, pay to a witness who is not in government service, an amount for reasonable expenses incurred as a result of being summonsed by the Legislature.

Offences and penalties

10. (1) A person who –
- (a) has been summoned in terms of section (4)3 and who without sufficient cause fails to –
 - (i) attend at the time and place specified in the summons; or
 - (ii) remain in attendance until excused from further attendance by the relevant Chairperson;
 - (b) refuses to be sworn in or to make an affirmation as a witness; or
 - (c) fails, without sufficient cause to –
 - (i) answer fully and satisfactory a question lawfully put to him or her; or
 - (ii) produce a paper, book, record, document or object in his or her possession or custody or under his or her control when so required in terms of section 5(2),
- commits an offence and is on conviction liable to a fine or imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.
- (2) A person who -
- (a) threatens, obstructs or in any way unduly influences a witness required to give evidence or to produce any paper, book, record or document before the Legislature or a committee;
 - (b) with intent to deceive the Legislature or a committee, produce false, untrue, fabricated or falsifies paper, book, record or document;
 - (c) willfully furnishes the Legislature or a committee with information or make a statement before it, which is false or misleading;

- (d) willfully interrupts a meeting where a person is a witness in terms of this Act; or
- (e) defames the committee or a member thereof, commits an offence and is on conviction liable to a fine or to imprisonment for a period that does not exceed two years or to both such fine and imprisonment.

Regulations

11. The Speaker may make regulations which are not inconsistent with this Act or other law regarding generally any matter which he or she deems necessary or expedient to prescribe for the better administration of this Act.

Repeal of laws

12. The Northern Cape Powers and Privileges of the Provincial Legislature Act, 1994 (Act 6 of 1994) is hereby repealed.

Short title and commencement

13. This Act is called the Northern Cape Legislature Witness Act, 2013 and it comes into operation on date of publication in the *Provincial Gazette*.

ANNEXURE

Northern Cape Legislature

Writ of Summons

(Section 4)

Issued in terms of:

- (i) Section 115 of the Constitution of the Republic of South Africa, 1996; and
- (ii) Sec 4 of the Northern Cape Legislature Witness Act 3 of 2013.

To:

BY ORDER OF THE HONOURABLE SPEAKER OF THE NORTHERN CAPE PROVINCIAL LEGISLATURE, you are hereby in terms of the above legislation commanded to appear before

to give evidence on oath or affirmation regarding

and to produce any paper, book, record or document regarding the above and/or the following specified documentation:

TAKE NOTE THAT

_____ will commence its meeting/sitting at _____ on the _____ day of _____ 200__ or as soon

thereafter as the Honourable Chairperson of the Committee may determine.

FURTHER TAKE NOTE that your failure without sufficient cause –

- (i) to attend at the time and place specified in the summons;
- (ii) to remain in attendance until excused from further attendance by the person presiding at the enquiry;
- (iii) to be sworn in or to make an affirmation as a witness;
- (iv) to answer fully and satisfactorily any question lawfully put to you; or
- (v) to produce any paper, book, record or document in your possession or custody or under your control which you are required to produce,

SHALL RENDER YOU GUILTY of an offence in terms of **section 10 of the Northern Cape Legislature Witness Act 3 of 2013** and you will on conviction be liable to a fine or to imprisonment as stated in the Act.

THIS WRIT was issued under my hand _____

SIGNED _____
**SECRETARY TO THE NORTHERN CAPE
PROVINCIAL LEGISLATURE**

DATED this _____ day of _____ 20__ at _____

ENDORSEMENT AS TO SERVICE

THIS WRIT was served by me _____ at _____
(where)

on _____
(whom)

on this _____ day of _____ 20 __

SIGNED _____

DATED this _____ day of _____ 20 __ at _____

OR

SUBSTITUTED SERVICE

THIS WRIT was left by me _____ with _____ (whom) an
adult person at the usual or last known place or residence of the person(s)
summoned on this day _____ of _____ 20 __

SIGNED _____

DATED this _____ day of _____ 20 __ at _____

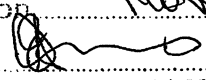
No. 12

26 November 2011

OFFICE OF THE PREMIER

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information.

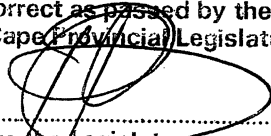
No. 4 of 2013: Northern Cape Repeal of Laws Act, 2013

The *English* text of this Act has been assented
to by me on *November 2013*

PREMIER: NORTHERN CAPE PROVINCE

NORTHERN CAPE PROVINCE

=====

NORTHERN CAPE REPEAL OF LAWS ACT, 2013
(ACT No. 4 OF 2013)

Certified correct as passed by the
Northern Cape Provincial Legislature

Secretary to the Legislature

ACT

To repeal the Provincial Acts as per the Schedule due to their becoming obsolete.

BE IT ENACTED by the Provincial Legislature of the Northern Cape Province as follows: -

Repeal of laws

1. The provincial acts listed in the Schedule are hereby repealed to the extent mentioned in the Schedule.

Short title and commencement

2. This Act is called the Northern Cape Repeal of Laws Act, 2013 and it comes into operation on date of publication in the *Provincial Gazette*.

SCHEDULE

(ACTS REPEALED)

ACT	EXTENT OF REPEAL	REPEAL EFFECTIVE AS FROM DATE
Northern Cape Payment of Members of the Provincial Legislature Act 5 of 1994.	Whole	Commencement date of Northern Cape Repeal of Laws Act 4 of 2013.
Disability Plan for Members of the Legislature Act 5 of 1995.	Whole	Commencement date of Northern Cape Repeal of Laws Act 4 of 2013.

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