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No. 30178

THE PRESIDENCY

No. 737

16 August 2007

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

No. 10 of 2007: South African Red Cross Society and Legal Protection of Certain Emblems Act, 2007.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President.)
(Assented to 9 August 2007.)

ACT

To provide statutory recognition for the South African Red Cross Society; and to provide statutory protection for certain emblems; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

PART 1

Definitions

Definitions

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1. In this Act, unless the context indicates otherwise—
 - “**Conventions**” means the four Geneva Conventions and the Protocols additional to those Conventions, listed in the Schedule;
 - “**emblem**” means the red cross and the red crescent;
 - “**International Red Cross and Red Crescent Movement**” means the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies and the various national Red Cross or Red Crescent societies;
 - “**Minister**” means the Minister of Health;
 - “**red crescent**”, when used to signify an heraldic emblem, means an emblem depicting a red crescent moon, on white ground;
 - “**red cross**”, when used to signify an heraldic emblem, means an emblem depicting a red cross with branches of equal length, on white ground, formed by reversing the colours of the Swiss Confederation;
 - “**the Society**” means the South African Red Cross Society referred to in section 2;
 - “**this Act**” includes any regulation made thereunder.

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PART 2

South African Red Cross Society

Statutory recognition of South African Red Cross Society

2. The South African Red Cross Society which existed when this Act took effect and which is a member of the International Federation of Red Cross and Red Crescent Societies, is hereby recognised as the national Red Cross society for the Republic.

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Objects of Society

3. The objects of the Society are to prevent and alleviate human suffering and to foster human dignity in all communities.

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Functions of Society

4. In order to achieve its objects, the Society must perform such functions as may be required or permitted by—

- (a) the Conventions;
- (b) any rule or prescription made by virtue of the Conventions; 5
- (c) any international agreement which is binding on the Republic; and
- (d) subject to paragraphs (a), (b) and (c), its constitution.

Use of medical personnel and resources of Society

5. (1) If so requested, the Society may place its medical personnel and resources at the disposal of the State. 10

(2) Medical personnel and resources which are utilised in the manner contemplated in subsection (1) are subject to the laws applicable to similar personnel and resources of the State.

PART 3

Emblems 15

Protected emblems

6. The emblems of a red cross and a red crescent moon are protected in the manner provided for in this Act and in the Conventions.

Use of emblems

7. An emblem may only be used— 20
- (a) as a sign that persons or equipment fall under the protection of the Conventions;
 - (b) to show that persons or equipment are connected to the International Red Cross and Red Crescent Movement;
 - (c) with the authorisation of the Minister or, in respect of personnel and equipment of the South African National Defence Force, the Minister of Defence; or 25
 - (d) as otherwise authorised by the Conventions.

Compliance with prescriptions regarding use of emblems

8. (1) (a) Subject to subsection (2), the Minister must— 30
- (i) ensure strict compliance with any prescription contained in, or made by virtue of, the Conventions regarding the use of an emblem; and
 - (ii) take appropriate steps to prevent any misuse of an emblem, in particular by disseminating the prescriptions referred to in subparagraph (i) as widely as possible among organs of state and the general public. 35
- (b) In respect of the South African National Defence Force, the Minister of Defence performs the functions referred to in paragraph (a).
- (2) The Society must—
- (a) cooperate with the Ministers referred to in subsection (1) in the performance of their functions mentioned in that subsection; 40
 - (b) inform such Ministers of any misuse of an emblem which has come to its knowledge; and
 - (c) whenever necessary, or whenever so requested by the relevant Minister, assist the Minister in criminal, civil or administrative proceedings relating to the use or misuse of an emblem. 45

Offences and penalties

9. (1) No person may make use of an emblem or an imitation thereof, or words describing an emblem, unless that person—
- (a) falls under the protection of the Conventions;
 - (b) is connected with the International Red Cross and Red Crescent Movement or any body forming part of that movement; 50

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- (c) is authorised by the Minister or, in respect of the South African National Defence Force, the Minister of Defence to make use of an emblem;
- (d) is otherwise authorised by the Conventions to make use of an emblem; or
- (e) uses the emblem, imitation or words for the purposes of *bona fide* research at a recognised educational or research institution or for the purposes of *bona fide* reporting in the news media. 5

(2) Any person who contravenes subsection (1) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

(3) (a) When an offence contemplated in subsection (2) has been committed for which any corporate body is or was liable to prosecution, any person who was, at the time of the commission of the offence, a director or member of the management the corporate body and who knew of or could have prevented the commission of the offence, is guilty of the said offence, either jointly with the corporate body or apart therefrom, and on conviction liable to the punishment provided for in that subsection. 10 15

(b) Section 332 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), with the exception of subsections (2)(c), (5), (7), (8) and (9) thereof, applies with the necessary changes in respect of any prosecution of a corporate body or director or member of the management thereof for an offence contemplated in this section.

Seizure of certain article or thing

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10. The State may seize any article or thing used in contravention of this Act, and Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes in respect of any such article or thing.

PART 4***General provisions***

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Delegations and assignments

11. (1) (a) Subject to subsection (2), the Minister and the Minister of Defence may delegate any power and assign any duty conferred or imposed upon them in terms of this Act to officers in their respective Departments.

(b) The Minister and the Minister of Defence are not divested of any power or relieved of any duty so delegated or assigned. 30

(2) The power to make regulations under section 12 may not be delegated.

Regulations

12. The Minister may make regulations that are not in conflict with this Act or the Conventions regarding— 35

- (a) civilian persons authorised to employ an emblem during a time of armed conflict;
- (b) civilian persons authorised to employ an emblem during times of peace;
- (c) generally any ancillary or administrative matter regarding an emblem necessary or expedient to prescribe in order to give effect to this Act and the Conventions. 40

Effect of Act on Implementation of the Rome Statute of the International Criminal Court Act, 2002

13. The provisions of this Act must not be construed as limiting, amending, repealing or otherwise altering any provision of the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002), or as exempting any person from any duty or obligation imposed by that Act or prohibiting any person from complying with any provision of that Act. 45

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14. (1) Any person who used the emblem for a continuous period of not less than one year prior to the commencement of this Act, which use constitutes an offence in terms of section 9, may apply to the Minister for authorisation to use the emblem.

(2) Notwithstanding section 9, an applicant contemplated in subsection (1) may continue using the emblem until the Minister has considered the application. 5

(3) The Minister may, on the recommendation of the Society, approve the application if the continued use would not constitute a misuse of the emblem within the ambit of the objects of this Act and the Conventions.

(4) Approval of the application may be made subject to such conditions regarding the use of the emblem as may be appropriate in the circumstances. 10

(5) Any application contemplated in subsection (1) must be made within six months after the commencement of this Act.

Repeal of laws

15. Government Notice No. 937 of 30 August 1915, published in *Government Gazette* No 678 of 3 September 1915, is hereby repealed. 15

Short title

16. This Act is called the South African Red Cross Society and Legal Protection of Certain Emblems Act, 2007.

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SCHEDULE

(Section 1, definition of "Conventions")

Conventions

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in
Armed Forces in the Field of 12 August 1949 5

Geneva Convention for the Amelioration of the Condition of Wounded, Sick and
Shipwrecked Members of Armed Forces at Sea of 12 August 1949

Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949

Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12
August 1949 10

Protocols

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the
Protection of Victims of International Armed Conflicts (Protocol I)

Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the
Protection of Victims of Non-International Armed Conflicts (Protocol II) 15