

**IN THE HIGH COURT OF SOUTH AFRICA
DURBAN AND COAST LOCAL DIVISION**

Case Number:

In the matter between:

ELIZABETH GUMEDE (born SHANGE)

Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH
AFRICA**

First Respondent

**MINISTER OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT**

Second Respondent

PREMIER OF KWAZULU-NATAL

Third Respondent

**KWAZULU-NATAL MEC FOR TRADITIONAL
AND LOCAL GOVERNMENT AFFAIRS**

Fourth Respondent

AMOS GUMEDE

Fifth Respondent

NOTICE OF MOTION

PLEASE TAKE NOTICE that the applicant in this matter intends applying to the above Honourable Court for an order in the following terms:

1. declaring that section 7(1) of the Recognition of Customary Marriages Act No. 120 of 1998 (“the Recognition Act”) is inconsistent with the Constitution and invalid;
2. declaring that the inclusion of the words “entered into after the commencement of this Act” in section 7(2) of the Recognition Act is inconsistent with the Constitution and invalid;
3. declaring that the inclusion of the words “entered into after the commencement of this Act” in section 7(5) of the Recognition Act is inconsistent with the Constitution and invalid;
4. declaring that section 20 of the KwaZulu Act on the Code of Zulu Law No. 16 of 1985 is inconsistent with the Constitution and invalid;
5. declaring that section 20 of the Natal Code of KwaZulu Law Proclamation R151 of 1987 is inconsistent with the Constitution and invalid;

6. declaring section 22 of the Natal Code of KwaZulu Law Proclamation R151 of 1987 is inconsistent with the Constitution and invalid.
7. declaring that a customary marriage in which a spouse is not a partner in any other existing customary marriage, produces the legal consequences of a marriage in community of property.
8. declaring that a spouse in a customary marriage is entitled, on divorce, to claim maintenance from the other spouse.
9. ordering those respondents who oppose this application to pay the costs, jointly and severally, the one paying, the other to be absolved
10. referring this order to the Constitutional Court for confirmation

TAKE FURTHER NOTICE THAT if you intend opposing this application you are required:

- (a) to notify the applicant's attorney in writing on or before the day of April 2006; and further you are required to appoint in such notification an address referred to in Rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings; and

TO: The Registrar of the High Court
Masonic Grove
DURBAN

AND TO: **PRESIDENT OF THE REPUBLIC
OF SOUTH AFRICA**
First Respondent
C/O The State Attorney
Smith Street
DURBAN

AND TO: **MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**
Fourth Respondent
C/O The State Attorney
Smith Street
DURBAN

AND TO: **PREMIER OF KWAZULU-NATAL**
Third Respondent
C/O The State Attorney
Smith Street
DURBAN

AND TO: **KWAZULU-NATAL MEC FOR TRADITIONAL
AND LOCAL GOVERNMENT AFFAIRS**
Fourth Respondent
C/O The State Attorney
Smith Street
DURBAN

AND TO: **AMOS GUMEDE**
Fifth Respondent
Adams Mission
KWAZULU-NATAL