Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 653 | Cape Town Kaapstad | 28 November 2019 | No. 42865

PART 1 OF 2

THE PRESIDENCY

No. 1550 28 November 2019

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

Act No. 3 of 2019: Traditional and Khoi-San Leadership Act, 2019

DIE PRESIDENSIE

No. 1550 28 November 2019

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 3 van 2019: Wet op Tradisionele en Khoi-San-Leierskap, 2019

ISSN 1682-5843

42865

9 771682 584003

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

(English text signed by the President)
(Assented to 20 November 2019)

ACT

To provide for the recognition of traditional and Khoi-San communities, leadership positions and for the withdrawal of such recognition; to provide for the functions and roles of traditional and Khoi-San leaders; to provide for the recognition, establishment, functions, roles and administration of kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils, as well as the support to such councils; to provide for the establishment, composition and functioning of the National House of Traditional and Khoi-San Leaders; to provide for the establishment of provincial houses of traditional and Khoi-San leaders; to provide for the establishment and composition of local houses of traditional and Khoi-San leaders; to provide for the establishment and operation of the Commission on Khoi-San Matters; to provide for a code of conduct for members of the National House, provincial houses, local houses and all traditional and Khoi-San councils; to provide for regulatory powers of the Minister and Premiers; to provide for transitional arrangements; to amend certain Acts; to provide for the repeal of legislation; and to provide for matters connected therewith.

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

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, APPLICATION AND PRINCIPLES

1. Definitions and application
2. Guiding principles

CHAPTER 2

LEADERSHIP AND GOVERNANCE

Part 1

Traditional and Khoi-San communities

3. Recognition of kingship or queenship, traditional community, headmanship or headwomanship
4. Withdrawal of recognition of kingship or queenship, principal traditional community, traditional community, headmanship or headwomanship
5. Recognition of Khoi-San community and branch

(Engelse teks deur die President geteken)
(Goedgekeur op 20 November 2019)

WET

Om voorsiening te maak vir die erkenning van tradisionele en Khoi-San-gemeenskappe, vir leierskapsposisies en vir die intrekking van sodanige erkenning; om voorsiening te maak vir die funksies en rolle van tradisionele en Khoi-San-leiers; om voorsiening te maak vir die erkenning, instelling, funksies, rolle en administrasie van koningskaps- en koninginskapsrade, hoof- tradisionele rade, tradisionele rade, Khoi-San-rade en tradisionele subrade, asook vir ondersteuning vir sodanige rade; om voorsiening te maak vir die instelling, samestelling en funksionering van die Nasionale Huis van Tradisionele en Khoi-San-leiers; om voorsiening te maak vir die instelling van provinsiale huise van tradisionele en Khoi-San-leiers; om voorsiening te maak vir die instelling en samestelling van plaaslike huise van tradisionele en Khoi-San-leiers; om voorsiening te maak vir die instelling en bedryf van die Kommissie oor Khoi-San-aangeleenthede; om voorsiening te maak vir 'n gedragskode vir lede van die Nasionale Huis, provinsiale huise, plaaslike huise en alle tradisionele en Khoi-San-rade; om voorsiening te maak vir reguleringsbevoegdhede van die Minister en Premiers; om voorsiening te maak vir oorgangsbepalings; om sekere Wette te wysig; om voorsiening te maak vir die herroeping van wetgewing; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD DERHALWE BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

INDELING VAN ARTIKELS

HOOFSTUK 1

UITLEG, TOEPASSING EN BEGINSELS

1. Woordomskrywing en toepassing
2. Leidende beginsels

HOOFSTUK 2

LEIERSKAP EN BEHEER

Deel 1

Tradisionele en Khoi-San-gemeenskappe

3. Erkenning van koningskap of koninginskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap
4. Intrekking van erkenning van koningskap of koninginskap, hoof- tradisionele gemeenskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap
5. Erkenning van Khoi-San-gemeenskap en -tak

6. Withdrawal of recognition of Khoi-San community and branch

Part 2

Traditional and Khoi-San leaders

7. Recognition of leadership positions
8. Recognition of king or queen, principal traditional leader, senior traditional leader, headman or headwoman
9. Withdrawal of recognition of king or queen, principal traditional leader, senior traditional leader, headman or headwoman
10. Recognition of senior Khoi-San leader or branch head
11. Withdrawal of recognition of senior Khoi-San leader or branch head
12. Recognition of regent
13. Recognition of acting traditional and Khoi-San leaders
14. Recognition of deputy traditional and Khoi-San leaders
15. Functions and resources of traditional and Khoi-San leaders

Part 3

Traditional and Khoi-San councils

16. Establishment of kingship or queenship council, principal traditional council or traditional council
17. Establishment of traditional sub-council
18. Establishment of Khoi-San council
19. Functions of kingship or queenship council and principal traditional council
20. Functions of traditional council, traditional sub-council, Khoi-San council and branch
21. Election of members of traditional council, traditional sub-council and Khoi-San council and filling of vacancies
22. Administration of kingship or queenship council, principal traditional council, traditional council, Khoi-San council and traditional sub-council
23. Support to kingship or queenship council, principal traditional council, traditional council, Khoi-San council and traditional sub-council
24. Partnerships and agreements
25. Allocation of roles to kingship or queenship council, principal traditional council, traditional council, Khoi-San council, traditional sub-council and traditional and Khoi-San leaders

CHAPTER 3

HOUSES OF TRADITIONAL AND KHOI-SAN LEADERS

Part 1

Houses of traditional and Khoi-San leaders

26. Houses of traditional and Khoi-San leaders

Part 2

National House of Traditional and Khoi-San Leaders

27. Establishment and term of office of National House
28. Composition of National House
29. Election and designation of members to National House
30. Disqualification for membership of National House
31. Vacation of seats
32. Filling of vacancies
33. Seat and meetings of National House

6. Intrekking van erkenning van Khoi-San-gemeenskap en -tak

Deel 2

Tradisionele en Khoi-San-leiers

7. Erkenning van leierskapsposisies
8. Erkenning van koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou
9. Intrekking van erkenning van koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou
10. Erkenning van senior- Khoi-San-leier of -takhoof
11. Intrekking van erkenning van senior- Khoi-San-leier of -takhoof
12. Erkenning van regent
13. Erkenning van waarnemende tradisionele en Khoi-San-leiers
14. Erkenning van adjunk- tradisionele en Khoi-San-leiers
15. Werksaamhede en hulpbronne van tradisionele en Khoi-San-leiers

Deel 3

Tradisionele en Khoi-San-rade

16. Instelling van koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad
17. Instelling van tradisionele subraad
18. Instelling van Khoi-San-raad
19. Werksaamhede van koningskaps- of koninginskapsraad en hoof- tradisionele raad
20. Werksaamhede van tradisionele raad, tradisionele subraad, Khoi-San-raad en -tak
21. Verkiesing van lede van tradisionele raad, tradisionele subraad en Khoi-San-raad en vul van vakatures
22. Administrasie van koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad en tradisionele subraad
23. Ondersteuning aan koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad en tradisionele subraad
24. Vennootskappe en ooreenkomste
25. Toekenning van rolle aan koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad, tradisionele subraad en tradisionele en Khoi-San-leiers

HOOFSTUK 3

HUISE VAN TRADISIONELE EN KHOI-SAN-LEIERS

Deel 1

Huise van tradisionele en Khoi-San-leiers

26. Huise van tradisionele en Khoi-San-leiers

Deel 2

Nasionale Huis van Tradisionele en Khoi-San-leiers

27. Instelling en ampstermyn van Nasionale Huis
28. Samestelling van Nasionale Huis
29. Verkiesing en aanwysing van lede tot Nasionale Huis
30. Onbevoegdheid vir lidmaatskap van Nasionale Huis
31. Ontruiming van setels
32. Vul van vakatures
33. Setel en vergaderings van Nasionale Huis

34. Chairperson and deputy chairperson of National House
35. Status of members of National House
36. Duties of National House
37. Administration of National House
38. Responsibilities of National House
39. Referral of Bills to National House
40. Relationship between National House and kings and queens
41. Relationship between National House and provincial houses
42. Support to National House
43. Annual report of National House
44. Privileges and immunities of members of National House
45. Remuneration and benefits of members of National House
46. Rules, orders and committees of National House
47. Dissolution of National House
48. Oath or affirmation by members of National House

Part 3

Provincial and local houses of traditional and Khoi-San leaders

49. Provincial houses of traditional and Khoi-San leaders
50. Local houses of traditional and Khoi-San leaders

CHAPTER 4

COMMISSION ON KHOI-SAN MATTERS

51. Establishment of Commission
52. Appointment of members of Commission
53. Vacancies
54. Conditions of appointment of members of Commission
55. Support to and reports by Commission
56. Application for recognition of Khoi-San communities, branches, senior Khoi-San leaders and branch heads
57. Functions of Commission
58. Recommendations and decisions

CHAPTER 5

GENERAL PROVISIONS

59. Disputes
60. Regulations
61. Delegation of powers and duties by Premier
62. Monitoring
63. Transitional arrangements
64. Amendment of legislation
65. Repeal of legislation and savings
66. Short title and commencement

SCHEDULE 1

Code of conduct for members of houses and councils

SCHEDULE 2

Oath or affirmation by members of the National House, Provincial Houses and Local Houses

SCHEDULE 3

Amendment of legislation

SCHEDULE 4

Repeal of legislation

This gazette is also available free online at www.gpwonline.co.za

34. Voorsitter en ondervoorsitter van Nasionale Huis
35. Status van lede van Nasionale Huis
36. Pligte van Nasionale Huis
37. Administrasie van Nasionale Huis
38. Verantwoordelikhede van Nasionale Huis
39. Verwysing van Wetsontwerpe na Nasionale Huis
40. Verhouding tussen Nasionale Huis en konings en koninginne
41. Verhouding tussen Nasionale Huis en provinsiale huise
42. Ondersteuning aan Nasionale Huis
43. Jaarverslag van Nasionale Huis
44. Voorregte en immuniteite van lede van Nasionale Huis
45. Besoldiging en voordele van lede van Nasionale Huis
46. Reëls, orders en komitees van Nasionale Huis
47. Ontbinding van Nasionale Huis
48. Eed of bevestiging deur lede van Nasionale Huis

Deel 3

Provinsiale en plaaslike huise van tradisionele en Khoi-San-leiers

49. Provinsiale huise van tradisionele en Khoi-San-leiers
50. Plaaslike huise van tradisionele en Khoi-San-leiers

HOOFSTUK 4

KOMMISSIE OOR KHOI-SAN-AANGELEENTHEDE

51. Instelling van Kommissie
52. Aanstelling van lede van Kommissie
53. Vakatures
54. Aanstellingsvoorwaardes van lede van Kommissie
55. Ondersteuning aan en verslae deur Kommissie
56. Aansoek om erkenning van Khoi-San-gemeenskappe, -takke, senior- Khoi-San-leiers en -takhoofde
57. Werksaamhede van Kommissie
58. Aanbevelings en besluite

HOOFSTUK 5

ALGEMENE BEPALINGS

59. Geskille
60. Regulasies
61. Delegering van bevoegdhede en pligte deur Premier
62. Monitering
63. Oorgangsbepalings
64. Wysiging van wetgewing
65. Herroeping van wetgewing en voorbehoud
66. Kort titel en inwerkingtreding

BYLAE 1

Gedragskode vir lede van huise en rade

BYLAE 2

Beëdigde of plegtige verklaring deur lede van die Nasionale Huis, Provinsiale Huise en Plaaslike Huise

BYLAE 3

Wysiging van wetgewing

BYLAE 4

Herroeping van wetgewing

CHAPTER 1

INTERPRETATION, APPLICATION AND PRINCIPLES

Definitions and application

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

"area of jurisdiction" means the area of jurisdiction defined for a kingship or queenship council, principal traditional council, traditional council and traditional sub-council;

"branch" means a branch recognised as such in terms of section 5(5);

"branch head" means a Khoi-San leader who is the head of a branch and who has been recognised as a branch head in terms of section 10;

"code of conduct" means the code of conduct provided for in Schedule 1;

"Commission" means the Commission on Khoi-San Matters established in terms of section 51;

"Department" means the national department responsible for traditional and Khoi-San leadership and governance matters;

"district municipality" means a district municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"headman or headwoman" means a traditional leadership position contemplated in section 7 which—

(a) is under the authority of, or exercises authority within the area of jurisdiction of, a senior traditional leader in accordance with customary law and customs; and

(b) has been recognised as such in terms of section 8;

"headmanship or headwomanship" means a headmanship or headwomanship recognised in terms of section 3;

"Khoi-San" means any person who lives in accordance with the customs and customary law of the Cape-Khoi, Griqua, Koranna, Nama or San people, or any subgrouping thereof, and is consequentially a member of a particular Khoi-San community as contemplated in section 5;

"Khoi-San community" means a Khoi-San community recognised as such in terms of section 5;

"Khoi-San council" means a council established in terms of section 18;

"Khoi-San leader" means a person recognised as a senior Khoi-San leader or a branch head in terms of section 10 and includes a regent, acting Khoi-San leader and deputy Khoi-San leader;

"king or queen" means a person recognised as a king or queen in terms of section 8;

"kingship or queenship" means a kingship or queenship recognised in terms of section 3;

"kingship or queenship council" means a kingship or queenship council contemplated in section 16;

"local house" means a local house of traditional and Khoi-San leaders contemplated in section 50;

"local municipality" means a local municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"metropolitan municipality" means a metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Minister" means the national Minister responsible for traditional and Khoi-San leadership and governance matters;

"National House" means the National House of Traditional and Khoi-San Leaders established in terms of section 27;

"prescribe" means prescribed by regulation in terms of section 60;

"principal traditional community" means a community deemed to be a principal traditional community in terms of section 28(9)*(c)* of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), prior to the repeal of that Act, or as contemplated in section 63(8)*(c)* of this Act;

"principal traditional council" means a council established and recognised in terms of section 16;

HOOFSTUK 1

UITLEG, TOEPASSING EN BEGINSELS

Woordomskrywing en toepassing

1. (1) In hierdie Wet, tensy die samehang anders aandui, beteken—

"Departement" die nasionale departement verantwoordelik vir tradisionele en Khoi-San-leierskaps- en -beheersake;

"distriksmunisipaliteit" 'n distriksmunisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

"gedragskode" die gedragskode in Bylae 1 voorsien;

"hierdie Wet" ook enige regulasies ingevolge enige tersaaklike bepalings van hierdie Wet uitgevaardig;

"hoofman of hoofvrou" 'n tradisionele leierskapsposisie in artikel 7 beoog wat—

(a) onder die gesag is, of gesag uitoefen binne die regsgebied van 'n senior-tradisionele leier ooreenkomstig gewoontereg en gebruike; en

(b) ingevolge artikel 8 erken is;

"hoofmanskap of hoofvrouskap" 'n hoofmanskap of hoofvrouskap ingevolge artikel 3 erken;

"hoof- tradisionele gemeenskap" 'n gemeenskap ingevolge artikel 28(9)*(c)* van die "Traditional Leadership and Governance Framework Act, 2003" (Wet No. 41 van 2003), geag 'n tradisionele gemeenskap te wees, voor die herroeping van daardie Wet, of soos in artikel 63(8)*(c)* van hierdie Wet beoog;

"hoof- tradisionele leier" 'n persoon geag 'n hoof- tradisionele leier te wees ingevolge artikel 28(9)*(c)* van die "Traditional Leadership and Governance Framework Act, 2003", voor die herroeping van daardie Wet, of soos in artikel 63(8)*(c)* van hierdie Wet beoog, of 'n opvolger van sodanige persoon soos beoog in artikel 8;

"hoof- tradisionele raad" 'n raad ingevolge artikel 16 ingestel en erken;

"Khoi-San" iemand wat ooreenkomstig die gewoontereg en gebruiksreg van die Kaapse Khoi, Griekwa, Koranna, Nama of San, of enige ondergroepering daarvan, leef en gevolglik 'n lid van 'n bepaalde Khoi-San-gemeenskap is soos in artikel 5 beoog;

"Khoi-San-gemeenskap" 'n Khoi-San-gemeenskap ingevolge artikel 5 as sodanig erken;

"Khoi-San-leier" 'n persoon ingevolge artikel 10 as 'n senior- Khoi-San-leier of -takhoof erken en ook 'n regent, waarnemende Khoi-San-leier en adjunk-Khoi-San-leier;

"Khoi-San-raad" 'n raad ingevolge artikel 18 ingestel;

"Kommissie" die Kommissie oor Khoi-San-aangeleenthede ingevolge artikel 51 ingestel;

"koning of koningin" 'n persoon ingevolge artikel 8 as koning of koningin erken;

"koningskap of koninginskap" 'n koningskap of koninginskap ingevolge artikel 3 erken;

"koningskaps- of koninginskapsraad" 'n koningskapsraad of koninginskapsraad in artikel 16 beoog;

"koninklike familie" die kern-gewoonte-instelling of -struktuur bestaande uit nabye familielede van die koninklike familie binne 'n tradisionele Khoi-San-gemeenskap, wat ingevolge gewoontereg of -gebruike geïdentifiseer is, en sluit in, waar van toepassing, ander familielede wat nabye familielede van die koninklike familie is;

"metropolitaanse munisipaliteit" 'n metropolitaanse munisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

"Minister" die nasionale Minister verantwoordelik vir tradisionele en Khoi-San-leierskapsaangeleenthede;

"Nasionale Huis" die Nasionale Huis van Tradisionele en Khoi-San-leiers ingevolge artikel 27 ingestel;

"plaaslike huis" 'n plaaslike huis van tradisionele en Khoi-San-leiers in artikel 50 beoog;

"principal traditional leader" means a person deemed to be a principal traditional leader in terms of section 28(9)*(c)* of the Traditional Leadership and Governance Framework Act, 2003, prior to the repeal of that Act, or as contemplated in section 63(8)*(c)* of this Act, or a successor to such person as contemplated in section 8;

"provincial house" means a provincial house of traditional and Khoi-San leaders as contemplated in section 49;

"regent" means any person who, in terms of section 12, holds a traditional or Khoi-San leadership position in a temporary capacity until the identified or elected leader to such position who is a minor, becomes a major as contemplated in section 17 of the Children's Act, 2005 (Act No. 38 of 2005) and is recognised in terms of this Act;

"royal family" means the core customary institution or structure consisting of immediate relatives of the ruling family within a traditional or Khoi-San community, who have been identified in terms of customary law or customs, and includes, where applicable, other family members who are close relatives of the ruling family;

"rules and orders" means rules and orders of the National House as contemplated in section 46;

"Secretary" means the Secretary of the National House appointed in terms of section 37;

"senior Khoi-San leader" means a person recognised as a senior Khoi-San leader in terms of section 10;

"senior traditional leader" means a person recognised as a senior traditional leader in terms of section 8;

"this Act" includes any regulations made in terms of any relevant provision of this Act;

"traditional community" means a traditional community recognised as such in terms of section 3;

"traditional council" means a traditional council contemplated in section 16 and includes a traditional sub-council contemplated in section 17;

"traditional leader" means a person who has been recognised as a king or queen, principal traditional leader, senior traditional leader or headman or headwoman in terms of section 8 and includes regents, acting traditional leaders and deputy traditional leaders;

"traditional leadership" means the institutions or structures established in terms of customary law or customs, or customary systems or procedures of governance, recognised, utilised or practiced by traditional communities; and

"traditional sub-council" means a traditional sub-council contemplated in section 17.

(2) Nothing contained in this Act may be construed as precluding members of a traditional or Khoi-San community from addressing a traditional or Khoi-San leader by the customary designation accorded to him or her by custom, but such customary designation does not derogate from or add anything to the status, role and functions of a traditional or Khoi-San leader as provided for in this Act.

(3) Traditional and Khoi-San leaders may acknowledge or recognise the different levels of seniority among themselves in accordance with customs, and none of the definitions contained in subsection (1) must be construed as conferring or detracting from such seniority.

(4) Any provision of this Act that requires the consultation of a provincial or local house of traditional and Khoi-San leaders has to be complied with only in instances where such a house has been established: Provided that in instances where such a house has not been established, such requirement does not apply and will have no effect on any action or decision taken in terms of the relevant provision.

(5) The provisions of this Act relating to the recognition of a traditional or Khoi-San community or leader shall not be construed as bestowing upon such a community or leader any special indigenous, first nation or any other similar status.

Guiding principles

2. (1) A kingship or queenship, principal traditional community, traditional community, headmanship, headwomanship and Khoi-San community must transform and adapt customary law and customs relevant to the application of this Act so as to

“plaaslike munisipaliteit” ’n plaaslike munisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

“provinsiale huis” ’n provinsiale huis van tradisionele en Khoi-San-leiers soos in artikel 49 beoog;

“reëls en orders” reëls en orders van die Nasionale Huis soos in artikel 46 beoog;

“regent” ’n persoon wat, ingevolge artikel 12, ’n tradisionele Khoi-San-leierskapsposisie tydelik beklee totdat die leier vir sodanige posisie geïdentifiseer of daartoe verkies, wat minderjarig is, ’n meerderjarige word soos beoog in artikel 17 van die ‘‘Children’s Act’’, 2005 (Wet No. 38 van 2005), en ingevolge hierdie Wet erken word;

“regsgebied” die regsgebied vir ’n koningskaps- of koninginskapsraad, hoof-tradisionele raad, tradisionele raad en tradisionele subraad;

“Sekretaris” die Sekretaris van die Nasionale Huis ingevolge artikel 37 aangestel;

“senior- Khoi-San-leier” ’n persoon ingevolge artikel 10 as ’n senior- Khoi-San-leier erken;

“senior- tradisionele leier” ’n persoon ingevolge artikel 8 as ’n senior-tradisionele leier erken;

“tak” ’n tak ingevolge artikel 5(5) aldus erken;

“takhoof” ’n Khoi-San-leier wat die hoof van ’n tak is en wat ingevolge artikel 10 as ’n takhoof erken is;

“tradisionele gemeenskap” ’n tradisionele gemeenskap ingevolge artikel 3 as sodanig erken;

“tradisionele leier” ’n persoon wat as ’n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier of hoofman of hoofvrou ingevolge artikel 8 erken is en sluit regente, waarnemende tradisionele leiers en adjunk tradisionele leiers in;

“tradisionele leierskap” die instellings of strukture ingevolge gewoontereg of gebruike, of gewoontestelsels of prosedures van beheer, wat deur tradisionele gemeenskappe erken, gebruik of beoefen word;

“tradisionele raad” ’n tradisionele raad in artikel 16 beoog en ook ’n tradisionele subraad in artikel 17 beoog;

“tradisionele subraad” ’n tradisionele subraad in artikel 17 beoog; en

“voorskryf” ingevolge artikel 52 by regulasie voorgeskryf.

(2) Geen bepaling van hierdie Wet kan uitgelê word as dat dit lede van ’n tradisionele of Khoi-San-gemeenskap daarvan belet om ’n tradisionele of Khoi-San-leier aan te spreek met die gebruiksbenaming deur gebruike aan hom of haar toegeken nie, maar sodanige gebruiksbenaming ontneem niks of voeg niks by tot die status, rol en funksies van ’n tradisionele Khoi-San-leier soos in hierdie Wet voor voorsiening gemaak nie.

(3) Tradisionele en Khoi-San-leiers kan die verskillende vlakke van senioriteit in eie geledere ooreenkomstig gebruike erken, en geeneen van die omskrywings in subartikel (1) moet uitgelê word as dat dit sodanige senioriteit verleen of daaraan afbreuk doen nie.

(4) Enige bepaling van hierdie Wet wat vereis dat ’n provinsiale of plaaslike huis van tradisionele en Khoi-San-leiers geraadpleeg word, moet slegs nagekom word in gevalle waar so ’n huis ingestel is: Met dien verstande dat in gevalle waar so ’n huis nie ingestel is nie, sodanige vereiste nie van toepassing is nie en geen uitwerking sal hê op enige handeling uitgevoer of besluit geneem ingevolge die tersaaklike bepaling nie.

(5) Die bepalings van hierdie Wet wat verband hou met die erkenning van ’n tradisionele of Khoi-San-gemeenskap of leier word nie uitgelê dat dit enige spesiale inheemse, eerstenasie- of enige ander soortgelyke status aan so ’n gemeenskap verleen nie.

Leidende beginsels

2. (1) ’n Koningskap of koninginskap, hoof- tradisionele gemeenskap, tradisionele gemeenskap, hoofmanskap, hoofvrouskap en Khoi-San-gemeenskap moet gewoontereg en gebruike transformeer en aanpas wat tersaaklik is tot die toepassing van hierdie Wet

comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by—

(a) preventing unfair discrimination;

(b) promoting equality; and

(c) seeking to progressively advance gender representation in the succession to traditional and Khoi-San leadership positions.

(2) The resources of any community, leader, council, house, Commission or committee recognised or established in accordance with a provision of this Act—

(a) must not be used to promote or prejudice the interest of any political party or any grouping of such party, or to promote or prejudice any candidate in any election, irrespective whether such election is an internal election within the relevant party or an external election; and

(b) may only be used for purposes of the functions, duties and responsibilities allocated by this Act to such community, leader, council, house, Commission or committee.

CHAPTER 2

LEADERSHIP AND GOVERNANCE

Part 1

Traditional and Khoi-San communities

Recognition of kingship or queenship, traditional community, headmanship or headwomanship

3. (1) Traditional communities that are grouped together may be recognised as a kingship or queenship if—

(a) they are recognised as traditional communities in terms of subsection (4);

(b) each has a recognised traditional council with a defined area of jurisdiction as contemplated in section 16;

(c) each has a recognised senior traditional leader as contemplated in section 8;

(d) they recognise as their king or queen, a specific recognised senior traditional leader who, in terms of custom and customary law, is of a higher status than the other senior traditional leaders;

(e) they recognise themselves as a distinct group of traditional communities with a proven history of existence, from a particular point in time up to the present, distinct from principal traditional communities and other traditional communities;

(f) they have a system of traditional leadership at a kingship or queenship level; and

(g) they have an existence of distinctive cultural heritage manifestations.

(2) *(a)* Traditional communities that meet the criteria set out in subsection (1), may apply to the President for recognition as a kingship or queenship which application must be accompanied by a resolution of each traditional council referred to in subsection (1)*(b)*, indicating that such council forms part of the kingship or queenship being applied for.

(b) An application in terms of paragraph *(a)* must be accompanied by an application for the recognition of the position of a king or queen of those communities as contemplated in section 8.

(3) *(a)* The President may, after consultation with the Minister, by notice in the *Gazette* recognise the traditional communities contemplated in subsections (1) and (2) as a kingship or queenship.

(b) The President may, before recognising a kingship or queenship as contemplated in paragraph *(a)*—

(i) cause an investigation to be conducted by the Minister to determine whether the relevant traditional communities comply with the criteria set out in subsection (1);

(ii) direct the Minister to conduct consultations with the relevant Premier, the provincial house in the relevant province, the National House and the senior traditional leaders of traditional communities who fall under the kingship or queenship being applied for; and

ten einde aan die tersaaklike beginsels vervat in die Handves van Regte in die Grondwet, te voldoen, in die besonder deur—

(a) onregverdige diskriminasie te voorkom;

(b) gelykheid te bevorder; en

(c) daarna te streef om geslagsverteenwoordiging in die opvolging tot tradisionele en Khoi-San-leierskapsposisies toenemend te bevorder.

(2) Die hulpbronne van enige gemeenskap, leier, raad, huis, Kommissie of komitee erken of ingestel ooreenkomstig 'n bepaling van hierdie Wet—

(a) moet nie gebruik word om die belange van enige politieke party of enige groep van sodanige party te bevorder of te benadeel nie of om enige kandidaat in enige verkiesing te bevorder of te benadeel nie, ongeag of daardie verkiesing 'n interne verkiesing binne die tersaaklike party of 'n eksterne verkiesing is; en

(b) mag slegs gebruik word vir die doeleindes van die werksaamhede, pligte en verantwoordelikhede deur hierdie Wet aan sodanige gemeenskap, leier, raad, huis, Kommissie of komitee toegewys.

HOOFSTUK 2

LEIERSKAP EN BEHEER

Deel 1

Tradisionele en Khoi-San-gemeenskappe

Erkenning van koningskap of koninginskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap

3. (1) Tradisionele gemeenskappe wat saam gegroepeer is kan as 'n koningskap of koninginskap erken word indien—

(a) hulle ingevolge subartikel (4) as tradisionele gemeenskappe erken word;

(b) hulle 'n erkende tradisionele raad met 'n omskrewe regsgebied het soos in artikel 16 beoog;

(c) elkeen 'n erkende senior- tradisionele leier het soos in artikel 8 beoog;

(d) hulle 'n bepaalde erkende senior- tradisionele leier as hulle koning of koningin erken wat, ingevolge gebruike en gewoontereg 'n hoër status het as die ander senior- tradisionele leiers;

(e) hulle hulself erken as 'n afsonderlike groep tradisionele gemeenskappe met 'n bewese bestaansgeskiedenis, van 'n bepaalde tydstip tot op hede, afsonderlik van hoof- tradisionele gemeenskappe en ander tradisionele gemeenskappe;

(f) hulle 'n stelsel van tradisionele leierskap op koningskaps- of koninginskapsvlak het; en

(g) hulle 'n voorkoms van onderskeidende kultuurerfenisverskynsels het.

(2) *(a)* Tradisionele gemeenskappe wat voldoen aan die maatstawwe in subartikel (1) uiteengesit, kan by die President aansoek doen om erkenning as 'n koningskap of koninginskap, welke aansoek vergesel moet gaan van 'n resolusie van elke tradisionele raad in subartikel (1)*(b)* bedoel, wat aandui dat sodanige raad deel uitmaak van die koningskap of koninginskap waarom aansoek gedoen word.

(b) 'n Aansoek ingevolge paragraaf *(a)* moet vergesel gaan van 'n aansoek om erkenning van die posisie van 'n koning of koningin van die gemeenskappe in artikel 8 beoog.

(3) *(a)* Die President kan, na oorleg met die Minister, die tradisionele gemeenskappe in subartikels (1) en (2) beoog by kennisgewing in die *Staatskoerant* as 'n koningskap of koninginskap erken.

(b) Die President kan, alvorens 'n koningskap of koninginskap soos in paragraaf *(a)* beoog, erken word—

(i) die Minister 'n ondersoek laat doen om te bepaal of die tersaaklike tradisionele gemeenskappe aan die maatstawwe in subartikel (1) uiteengesit, voldoen;

(ii) die Minister gelas om oorleg te pleeg met die tersaaklike Premier, die provinsiale huis in die tersaaklike provinsie, die Nasionale Huis en die senior- tradisionele leiers van tradisionele gemeenskappe wat onder die koningskap of koninginskap waarom aansoek gedoen word, val; en

(iii) determine a period within which the Minister must finalise the investigation or consultations contemplated in subparagraphs (i) and (ii).

(4) A community may be recognised as a traditional community if it—

(a) has a system of traditional leadership at a senior traditional leadership level recognised by other traditional communities;

(b) observes a system of customary law;

(c) recognises itself as a distinct traditional community with a proven history of existence, from a particular point in time up to the present, distinct and separate from other traditional communities;

(d) occupies a specific geographical area;

(e) has an existence of distinctive cultural heritage manifestations; and

(f) where applicable, has a number of headmenship or headwomenship.

(5) *(a)* A community that meets the criteria set out in subsection (4), may apply to the Premier concerned for recognition as a traditional community.

(b) An application in terms of paragraph *(a)* must be accompanied by an application for the recognition of the position of a senior traditional leader of that community as contemplated in section 8.

(6) The Premier concerned may, after consultation with the relevant provincial house and by notice in the relevant Provincial *Gazette* recognise the community contemplated in subsection (4) as a traditional community.

(7) A headmanship or headwomanship may be recognised as such if it—

(a) has a system of traditional leadership at a headmanship or headwomanship level and is recognised as such by the relevant traditional community;

(b) consists of an area within the area of jurisdiction of the traditional council of the relevant traditional community; and

(c) will contribute to the more effective and efficient administration of the relevant traditional council.

(8) *(a)* A portion of a traditional community that meets the criteria set out in subsection (7), may request the relevant traditional council to apply to the Premier concerned for the recognition of such portion of the community as a headmanship or headwomanship.

(b) If the traditional council is of the view that the portion of the traditional community referred to in paragraph *(a)* does not meet the criteria set out in subsection (7), the traditional council must inform the community and the Premier accordingly and provide reasons for such view.

(9) The Premier concerned may, after consultation with the relevant traditional council and by notice in the Provincial *Gazette,* recognise the headmanship or headwomanship contemplated in subsection (7).

(10) The Minister may, in accordance with the provisions of section 60, make regulations in respect of—

(a) a process that will allow for sufficient consultations as envisaged in subsections (6) and (9); and

(b) the period within which a Premier must reach a decision regarding the recognition of communities as envisaged in subsections (6) and (9).

(11) The Premier concerned may cause an investigation to be conducted by the member of the Executive Council responsible for traditional affairs of the relevant province to determine whether a traditional community or portion of a traditional community, as the case may be, complies with the criteria set out in subsections (4) and (7) respectively, and with the guiding principles set out in section 2.

Withdrawal of recognition of kingship or queenship, principal traditional community, traditional community, headmanship or headwomanship

4. (1) The withdrawal of the recognition of a kingship or queenship or principal traditional community, as the case may be, may, subject to subsection (12), only be considered where the majority of traditional communities under the jurisdiction of the kingship or queenship or principal traditional community concerned request the President, in the case of a kingship or queenship, or the relevant Premier, in the case of a principal traditional community, to withdraw the recognition of their kingship or queenship or principal traditional community: Provided that such request must be accompanied by a resolution of each traditional council of such traditional communities and the grounds on which the request is based.

(iii) 'n tydperk bepaal waarbinne die Minister die ondersoek of oorlegplegings in subparagrawe (i) en (ii) beoog, moet afhandel.

(4) 'n Gemeenskap kan as 'n tradisionele gemeenskap erken word indien dit—
(a) 'n tradisionele leierskapstelsel op senior- tradisionele leierskapsvlak het wat deur ander tradisionele gemeenskappe erken word;
(b) 'n gewoonteregstelsel handhaaf;
(c) hulself erken as 'n afsonderlike tradisionele gemeenskap met 'n bewese bestaansgeskiedenis, vanaf 'n bepaalde tydstip tot op hede, afsonderlik en apart van ander tradisionele gemeenskappe;
(d) 'n bepaalde geografiese gebied okkupeer;
(e) 'n voorkoms van onderskeidende kultuurerfenisverskynsels het; en
(f) waar van toepassing, 'n aantal hoofmanskappe of hoofvrouskappe het.

(5) *(a)* 'n Gemeenskap wat voldoen aan die maatstawwe in subartikel (4) uiteengesit, kan by die betrokke Premier aansoek doen om erkenning as 'n tradisionele gemeenskap.

(b) 'n Aansoek ingevolge paragraaf *(a)* moet vergesel gaan van 'n aansoek om die erkenning van die posisie van 'n senior- tradisionele leier van daardie gemeenskap soos in artikel 8 beoog.

(6) Die betrokke Premier kan, na oorleg met die tersaaklike provinsiale huis en by kennisgewing in die tersaaklike *Provinsiale Koerant*, die gemeenskap in subartikel (4) beoog as 'n tradisionele gemeenskap erken.

(7) 'n Hoofmanskap of hoofvrouskap kan as sodanig erken word indien dit—
(a) 'n tradisionele leierskapstelsel op 'n hoofmanskap- of hoofvrouskapvlak het en deur die tersaaklike tradisionele gemeenskap as sodanig erken word;
(b) bestaan uit 'n gebied binne die regsgebied van die tradisionele raad van die tersaaklike tradisionele gemeenskap; en
(c) sal bydra tot die meer doeltreffende en doelmatige administrasie van die tersaaklike tradisionele raad.

(8) *(a)* 'n Gedeelte van 'n tradisionele gemeenskap wat voldoen aan die maatstawwe in subartikel (7) uiteengesit, kan die tersaaklike tradisionele raad vra om by die tersaaklike Premier aansoek te doen om die erkenning van sodanige gedeelte van die gemeenskap as 'n hoofmanskap of hoofvrouskap.

(b) Indien die tradisionele gemeenskap van mening is dat die gedeelte van die tradisionele gemeenskap in paragraaf *(a)* bedoel nie aan die maatstawwe in subartikel (7) uiteengesit, voldoen nie, moet die tradisionele raad die gemeenskap en die Premier dienooreenkomstig verwittig en redes vir sodanige mening verstrek.

(9) Die betrokke Premier kan, na oorleg met die tersaaklike tradisionele raad en by kennisgewing in die *Provinsiale Koerant*, die hoofmanskap of hoofvrouskap in subartikel (7) bedoel, erken.

(10) Die Minister kan, ooreenkomstig die bepalings van artikel 60, regulasies uitvaardig ten opsigte van—
(a) 'n proses wat voldoende oorlegplegings soos in subartikel (6) en (9) in aanmerking neem, moontlik sal maak; en
(b) die tydperk waarbinne 'n Premier 'n besluit moet neem ten opsigte van die erkenning van gemeenskappe soos in subartikels (6) en (9) beoog.

(11) Die betrokke Premier kan 'n ondersoek deur die lid van die Uitvoerende Raad verantwoordelik vir tradisionele sake van die tersaaklike provinsie laat doen om te bepaal of 'n tradisionele gemeenskap of gedeelte van 'n tradisionele gemeenskap, na gelang van die geval, voldoen aan die maatstawwe in onderskeidelik artikels (4) en (7), bedoel en aan die leidende beginsels in artikel 2 uiteengesit.

Intrekking van erkenning van koningskap of koninginskap, hoof- tradisionele gemeenskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap

4. (1) Die intrekking van die erkenning van 'n koningskap of koninginskap of hoof- tradisionele gemeenskap, na gelang van die geval, kan, behoudens subartikel (12), slegs oorweeg word waar die meerderheid van die tradisionele gemeenskappe onder die regsbevoegdheid van die betrokke koningskap of koninginskap of hoof- tradisionele gemeenskap versoek dat die President, in die geval van 'n koningskap of koninginskap, of die tersaaklike Premier, in die geval van 'n hoof- tradisionele gemeenskap, die erkenning van hul koningskap of koninginskap of hoof- tradisionele gemeenskap intrek: Met dien verstande dat sodanige versoek vergesel moet gaan van 'n besluit van elke tradisionele raad van daardie tradisionele gemeenskappe en die gronde vir die versoek.

(2) The President or relevant Premier, as the case may be, must before taking a decision in terms of subsection (1), cause an investigation to be conducted by the Minister or member of the Executive Council responsible for traditional affairs of the province concerned, as the case may be, in order to establish whether there is sufficient cause for the withdrawal of the recognition of the kingship or queenship or principal traditional community.

(3) *(a)* The withdrawal of the recognition of a kingship or queenship must be done by the President by notice in the *Gazette* after consultation with the kingship or queenship council, the National House, the Minister, the relevant Premier and the provincial house concerned.

(b) The President may direct the Minister to conduct the consultations referred to in paragraph *(a)* and determine a period within which such consultations must be finalised.

(4) *(a)* The withdrawal of the recognition of a principal traditional community must be done by the Premier concerned by notice in the Provincial *Gazette*.

(b) Before the withdrawal of a recognition contemplated in paragraph *(a)*, the Premier concerned must consult the relevant provincial house, any community that may be affected and the senior traditional leaders who form part of the principal traditional community.

(c) The Premier concerned may direct the member of the Executive Council responsible for traditional affairs of the relevant province to conduct the consultations referred to in paragraph *(b)* and determine a period within which such consultations must be finalised.

(5) The withdrawal of the recognition of a community as a traditional community may, subject to subsection (12), only be considered where—

(a) the community concerned requests the relevant Premier to withdraw its recognition as a traditional community: Provided that if such traditional community forms part of a kingship or a queenship or a principal traditional community, such request may only be submitted after the traditional community has consulted the kingship or queenship council or principal traditional council;

(b) a kingship or a queenship council or a principal traditional council requests the relevant Premier to withdraw the recognition of a traditional community which forms part of such kingship, queenship or principal traditional community: Provided that such request may only be submitted after the kingship or queenship council or principal traditional council has consulted the relevant traditional community;

(c) the Premier concerned is requested by any affected community or communities to review the position of such a community or communities that was or were divided or merged prior to 1994 in terms of applicable legislation; or

(d) two or more recognised communities request the Premier concerned to merge such communities into a single traditional community:

Provided that any request for the withdrawal of the recognition of a traditional community must be accompanied by the grounds on which the request is based: Provided further that any such request must be accompanied by information setting out the details of the consultation contemplated in this subsection.

(6) *(a)* The withdrawal of the recognition of a community as a traditional community must be done by the Premier concerned by notice in the relevant Provincial *Gazette*.

(b) Before the withdrawal of a recognition contemplated in paragraph *(a)*, the Premier concerned must consult the relevant provincial house, any community that may be affected and, if applicable, the kingship or queenship council or principal traditional council referred to in subsection (5)*(a)* and *(b)*, before the withdrawal of the recognition of a traditional community may be effected by way of a notice in the Provincial *Gazette*.

(7) *(a)* The Premier concerned must, by notice in the Provincial *Gazette,* recognise a merged traditional community contemplated in subsection (5)*(d)* and disestablish the individual traditional communities that requested to be merged.

(b) The notice referred to in paragraph *(a)* must stipulate the legal, practical and other consequences of the merger and disestablishment, including—

(i) if applicable, the transfer of assets, liabilities and administrative and other records of the disestablished traditional community; and

(2) Die President of tersaaklike Premier, na gelang van die geval, moet 'n ondersoek deur die Minister of lid van die Uitvoerende Raad verantwoordelik vir Tradisionele Sake van die betrokke provinsie, na gelang van die geval, laat doen voordat 'n besluit ingevolge subartikel (1) geneem word, ten einde vas te stel of daar voldoende rede is vir die intrekking van die erkenning van die koningskap of koninginskap of hoof- tradisionele gemeenskap.

(3) *(a)* Die intrekking van die erkenning van 'n koningskap of koninginskap moet by kennisgewing in die *Staatskoerant* deur die President gedoen word, na oorleg met die koningskap of koninginskap, die Nasionale Huis, die Minister, die tersaaklike Premier en die betrokke provinsiale huis.

(b) Die President kan gelas dat die Minister die oorlegplegings in paragraaf *(a)* bedoel hou en 'n tydperk bepaal waarin sodanige oorlegplegings afgehandel moet word.

(4) *(a)* Die intrekking van die erkenning van 'n hoof- tradisionele gemeenskap moet by kennisgewing in die *Provinsiale Koerant* deur die betrokke Premier gedoen word.

(b) Voor die intrekking van 'n erkenning in paragraaf *(a)* beoog, moet die betrokke Premier oorleg pleeg met die tersaaklike provinsiale huis, enige gemeenskap wat geraak kan word en die senior- tradisionele leiers wat deel uitmaak van die hoof- tradisionele gemeenskap.

(c) Die betrokke Premier kan gelas dat die lid van die Uitvoerende Raad wat verantwoordelik is vir Tradisionele Sake van die tersaaklike provinsie, die oorlegplegings bedoel in paragraaf *(b)* doen en 'n tydperk bepaal waarbinne sodanige oorlegplegings afgehandel moet word.

(5) Die intrekking van 'n gemeenskap se erkenning as 'n tradisionele gemeenskap kan, behoudens subartikel (12), slegs oorweeg word waar—

(a) die betrokke gemeenskap versoek dat die tersaaklike Premier sy erkenning as 'n tradisionele gemeenskap intrek: Met dien verstande dat indien sodanige tradisionele gemeenskap deel uitmaak van 'n koningskap of koninginskap of 'n hoof- tradisionele gemeenskap, sodanige versoek slegs ingedien kan word nadat die tradisionele gemeenskap die tersaaklike koningskaps- of koninginskapsraad of hoof- tradisionele raad geraadpleeg het;

(b) 'n koningskaps- of koninginskapsraad of 'n hoof- tradisionele raad versoek dat die betrokke Premier die erkenning intrek van 'n tradisionele gemeenskap wat deel uitmaak van sodanige koningskap, koninginskap of hoof- tradisionele gemeenskap: Met dien verstande dat sodanige versoek slegs ingedien kan word nadat die koningskaps- of koninginskapsraad of hoof- tradisionele raad die tersaaklike tradisionele gemeenskap geraadpleeg het;

(c) die betrokke Premier deur enige geraakte gemeenskap of gemeenskappe versoek word om die posisie te hersien van sodanige gemeenskap of gemeenskappe wat voor 1994 ingevolge toepaslike wetgewing verdeel of saamgesmelt is; of

(d) twee of meer erkende gemeenskappe versoek dat die betrokke Premier sodanige gemeenskappe tot 'n enkele tradisionele gemeenskap saamsmelt:

Met dien verstande dat enige versoek om die intrekking van die erkenning van 'n tradisionele gemeenskap vergesel moet gaan van die gronde vir die versoek: Met dien verstande verder dat enige sodanige versoek vergesel moet gaan van inligting wat die besonderhede van die raadpleging in hierdie subartikel beoog, uiteensit.

(6) *(a)* Die intrekking van erkenning van 'n gemeenskap as 'n tradisionele gemeenskap moet by kennisgewing in die *Provinsiale Koerant* deur die betrokke Premier gedoen word.

(b) Voor die intrekking van 'n erkenning in paragraaf *(a)* bedoel, moet die betrokke Premier oorleg pleeg met die betrokke provinsiale huis, enige gemeenskap wat geraak kan word en, indien van toepassing, die koningskaps- of koninginskapsraad of hoof- tradisionele raad in subartikel (5)*(a)* en *(b)* bedoel, voordat die intrekking van die erkenning van 'n tradisionele gemeenskap by wyse van 'n kennisgewing in die *Provinsiale Koerant*, bewerkstellig kan word.

(7) *(a)* Die betrokke Premier moet, by kennisgewing in die *Provinsiale Koerant*, 'n saamgesmelte tradisionele gemeenskap in subartikel (5)*(d)* beoog erken en die individuele tradisionele gemeenskappe wat versoek het om saamgesmelt te word, afstig.

(b) Die kennisgewing in paragraaf *(a)* bedoel moet die regs- praktiese en ander gevolge van die samesmelting en afstigting bepaal, met inbegrip van—

(i) indien van toepassing, die oordrag van bates, laste en administratiewe en ander rekords van die afgestigte tradisionele gemeenskap; en

(ii) the leadership position of the merged traditional community and the vacation of office of any office bearer of the disestablished traditional community.

(8) *(a)* The withdrawal of the recognition of a headmanship or headwomanship may, subject to subsection (12), only be considered where the relevant traditional council requests the Premier concerned to withdraw such recognition.

(b) A request referred to in paragraph *(a)* must be accompanied by the grounds on which the request is based.

(9) The Premier concerned may, after consultation with the relevant traditional council and by notice in the Provincial *Gazette,* withdraw the recognition of the headmanship or headwomanship as contemplated in subsection (8).

(10) The Premier concerned may, before withdrawing the recognition of a traditional community, a headmanship or headwomanship, cause an investigation to be conducted in order to establish whether there is sufficient cause for the withdrawal of such recognition.

(11) The Minister may, in accordance with the provisions of section 60, make regulations in respect of—

(a) a process that will allow for sufficient consultations as envisaged in subsections (4), (5), (6) and (9); and

(b) the period within which a Premier must reach a decision regarding the withdrawal of the recognition of communities as envisaged in this section.

(12) *(a)* The recognition of a kingship or queenship, principal traditional community, traditional community, headmanship or headwomanship must be withdrawn if so ordered by a court.

(b) The President, in the case of a kingship or a queenship, and the relevant Premier, in the case of a principal traditional community, traditional community, headmanship or headwomanship, must give notice in the *Gazette* or Provincial *Gazette,* as the case may be, of any withdrawal of recognition in accordance with a court order.

(c) The notice contemplated in paragraph *(b)* must stipulate the legal, practical and other consequences of the withdrawal of recognition.

Recognition of Khoi-San community and branch

5. (1) *(a)* A community may, subject to paragraph *(b)*, apply to the Premier concerned to be recognised as a Khoi-San community if it—

(i) has a history of self-identification by members of the community concerned, as belonging to a unique community distinct from all other communities;

(ii) observes distinctive established Khoi-San customary law and customs;

(iii) is subject to a system of hereditary or elected Khoi-San leadership with structures exercising authority in terms of customary law and customs of that community;

(iv) has an existence of distinctive cultural heritage manifestations;

(v) has a proven history of existence of the community from a particular point in time up to the present; and

(vi) occupies a specific geographical area or various geographical areas together with other non-community members:

Provided that all applications for recognition as contemplated in this section must be lodged with the Commission and dealt with in accordance with the procedures set out in section 58 until such time as the period referred to in section 57(2)*(a)* has expired, whereafter all applications for recognition must be lodged with the Premier in terms of this section.

(b) An application in terms of paragraph *(a)* must be accompanied by—

(i) an application for the recognition of the position of a senior Khoi-San leader of that community as contemplated in section 10; and

(ii) a list of all community members: Provided that such a list must in respect of each community member contain his or her—

(aa) full names and surname;

(bb) identification number and a certified copy of his or her valid identification document or passport, or in the case of a community member who is younger than 16 years, a certified copy of his or her birth certificate;

(ii) die leierskapsposisie van die saamgesmelte tradisionele gemeenskap en die ontruiming van die amp van enige ampsdraer van die ontbinde tradisionele gemeenskap.

(8) *(a)* Die intrekking van die erkenning van 'n hoofmanskap of hoofvrouskap kan, behoudens subartikel (12), slegs oorweeg word waar die tersaaklike tradisionele raad versoek dat die betrokke Premier sodanige erkenning intrek.

(b) 'n Versoek in paragraaf *(a)* bedoel moet vergesel gaan van die gronde vir die versoek.

(9) Die betrokke Premier kan, na oorleg met die tersaaklike tradisionele raad en by kennisgewing in die *Provinsiale Koerant*, die erkenning van die hoofmanskap of hoofvrouskap soos in subartikel (8) bedoel, intrek.

(10) Die betrokke Premier kan, voordat die erkenning van 'n tradisionele gemeenskap, 'n hoofmanskap of hoofvrouskap ingetrek word, 'n ondersoek laat doen ten einde vas te stel of daar voldoende rede is vir die intrekking van sodanige erkenning.

(11) Die Minister kan, ooreenkomstig die bepalings van artikel 60, regulasies uitvaardig ten opsigte van—

(a) 'n proses wat voldoende oorlegplegings soos in subartikels (4), (5), (6) en (9) in die vooruitsig gestel, moontlik sal maak; en

(b) die tydperk waarbinne 'n Premier 'n besluit moet neem ten opsigte van die intrekking van die erkenning van gemeenskappe soos in hierdie artikel in die vooruitsig gestel.

(12) *(a)* Die erkenning van 'n koningskap of koninginskap, hoof- tradisionele gemeenskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap moet ingetrek word indien 'n hof dit beveel.

(b) Die President, in die geval van 'n koningskap of 'n koninginskap, en die betrokke Premier, in die geval van 'n hoof- tradisionele gemeenskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap, moet in die *Staatskoerant* of *Provinsiale Koerant*, na gelang van die geval, kennis gee van enige intrekking van erkenning ooreenkomstig 'n hofbevel.

(c) Die kennisgewing in paragraaf *(b)* beoog moet die regs-, praktiese en ander gevolge van die intrekking van erkenning, vasstel.

Erkenning van Khoi-San-gemeenskap en -tak

5. (1) *(a)* 'n Gemeenskap kan, behoudens paragraaf *(b)*, by die betrokke Premier aansoek doen om as 'n Khoi-San-gemeenskap erken te word indien dit—

(i) 'n geskiedenis van selfidentifikasie deur lede van die betrokke gemeenskap het, as behorend tot 'n unieke gemeenskap afsonderlik van alle ander gemeenskappe;

(ii) afsonderlike gevestigde Khoi-San-gewoontereg en -gebruike nakom;

(iii) onderhewig is aan 'n stelsel van erf- of verkose Khoi-San-leierskap met strukture wat gesag uitoefen ingevolge gewoontereg en gebruike van daardie gemeenskap;

(iv) 'n voorkoms van onderskeidende kultuurerfenisverskynsels het;

(v) 'n bewese bestaansgeskiedenis van die gemeenskap van 'n bepaalde tydstip tot op hede het; en

(vi) 'n bepaalde geografiese gebied of verskeie geografiese gebiede saam met ander niegemeenskapslede okkupeer:

Met dien verstande dat alle aansoeke om erkenning soos in hierdie artikel beoog, by die Kommissie ingedien moet word en ooreenkomstig die prosedures in artikel 58 uiteengesit hanteer moet word totdat die tydperk in artikel 57(2)*(a)* bedoel verstryk het, waarna alle aansoeke om erkenning ingevolge hierdie artikel by die Premier ingedien moet word.

(b) 'n Aansoek ingevolge paragraaf *(a)* moet vergesel gaan van—

(i) 'n aansoek om die erkenning van 'n senior- Khoi-San-leier van daardie gemeenskap soos in artikel 10 beoog; en

(ii) 'n lys van alle gemeenskapslede: Met dien verstande dat so 'n lys ten opsigte van elke gemeenskapslid sy of haar—

(aa) volle naam en van;

(bb) identiteitsnommer en gesertifiseerde afskrif van sy of haar geldige identiteitsdokument of paspoort, of in die geval van 'n gemeenskapslid wat jonger as 16 jaar is, 'n gesertifiseerde afskrif van sy of haar geboortesertifikaat;

This gazette is also available free online at www.gpwonline.co.za

(cc) physical address as confirmed by documentary evidence, including the name of the province where such physical address is located;

(dd) contact details;

(ee) signature acknowledging his or her association with such community; and

(ff) any other information as may be requested by the Commission or as may be prescribed by the Minister:

Provided that in the case of any community member who is younger than 16 years, the information required by this subparagraph must be provided by any parent or the legal guardian of such member and such parent or legal guardian must sign the list on behalf of the relevant member: Provided further that only community members who are 18 years or older may participate in the official affairs of a Khoi-San community or council as provided for in this Act.

(c) A person who has confirmed his or her association with a particular Khoi-San community by signing a list as contemplated in paragraph *(b)*(ii), may not be a member of any other Khoi-San community.

(d) Once a Khoi-San council has been established for a particular Khoi-San community, such council must update the list of members referred to in paragraph *(b)*(ii) at least annually and provide copies of such a list to the Minister, the Premier of the province where such council is situated and the Premiers of the provinces where any branch of such a community may have been recognised: Provided that the Minister or any relevant Premier may take the necessary steps to have the information contained in such a list verified.

(2) The Premier concerned may cause an investigation to be conducted to determine whether a community meets the criteria set out in subsection (1) and the guiding principles set out in section 2.

(3) The Premier concerned may, after consultation with the relevant provincial house, by notice in the relevant Provincial *Gazette* recognise the community contemplated in subsection (1) as a Khoi-San community.

(4) *(a)* A Khoi-San community may, where applicable, consist of branches recognised in terms of subsection (5).

(b) A branch may be recognised in terms of subsection (5) if it—

(i) is recognised by the Khoi-San community as a branch of that community;

(ii) consists of not less than 10% of the total number of members of such community as reflected in the list of community members referred to in subsection (1)*(b)*(ii);

(iii) will contribute to a more effective and efficient administration of the Khoi-San council; and

(iv) recognises the senior Khoi-San leader in terms of customary law and customs.

(5) *(a)* A Khoi-San council may, subject to paragraphs *(b)* and *(c)*, apply to the Premier of the province where the council is situated, for the recognition of a branch if it meets the criteria set out in subsection (4).

(b) If the Premier is of the view that the branch meets the criteria set out in subsection (4), but such branch is situated in a province other than the province where the Khoi-San council is situated, the Premier of the province where the council is situated must request the Premier of the province where the branch is situated to recognise that branch.

(c) The recognition of a branch contemplated in paragraph *(a)* or *(b)* is subject to subsections (6), (7) and (8).

(6) The Premier of the province where the branch is situated may cause an investigation to be conducted to determine whether a branch meets the criteria set out in subsection (4).

(7) The Premier of the province where the branch is situated may, subject to subsection (8), recognise a branch that meets the criteria set out in subsection (4).

(8) Where the Khoi-San community consists of branches in different provinces, the recognition of such branches must be done by the relevant Premiers by notice in the Provincial *Gazettes* of the provinces where the branches are situated.

(9) *(a)* A Premier must on an annual basis, or when requested by the Minister, provide the Minister with a report on the recognition of Khoi-San communities and branches.

(b) A copy of the report referred to in paragraph *(a)* must be submitted to the relevant provincial house for noting.

(cc) fisieke adres soos gestaaf deur dokumentêre bewyse, met inbegrip van die naam van die provinsie waar sodanige fisieke adres geleë is;

(dd) kontakbesonderhede;

(ee) handtekening wat sy of haar verbintenis met sodanige gemeenskap erken; en

(ff) enige ander inligting soos deur die Kommissie aangevra kan word of deur die Minister voorgeskryf kan word,

moet bevat:

Met dien verstande dat in die geval van enige gemeenskapslid wat jonger as 16 jaar oud is, moet die inligting wat deur hierdie subparagraaf vereis word deur enige ouer of wettige voog van sodanige lid verstrek word en sodanige ouer of wettige voog moet die lys namens die tersaaklike lid onderteken: Met dien verstande verder dat slegs gemeenskapslede wat 18 jaar of ouer is aan die amptelike sake van 'n Khoi-San-gemeenskap of -raad soos in hierdie Wet voor voorsiening gemaak, mag deelneem.

(c) 'n Persoon wat sy of haar verbintenis met 'n bepaalde Khoi-San-gemeenskap bevestig het deur 'n lys soos in paragraaf *(b)*(ii) beoog te onderteken, kan nie 'n lid van enige ander Khoi-San-gemeenskap wees nie.

(d) Sodra 'n Khoi-San-raad vir 'n bepaalde Khoi-San-gemeenskap ingestel is, moet sodanige raad die lys van lede in paragraaf *(b)*(ii) beoog ten minste jaarliks bywerk en afskrifte van so 'n lys aan die Minister, die Premier van die provinsie waar die raad geleë is en die Premiers van die provinsies waar enige tak van so 'n gemeenskap erken mag wees, voorsien: Met dien verstande dat die Minister of enige betrokke Premier die nodige stappe kan doen om die inligting wat in so 'n lys vervat is, te laat verifieer.

(2) Die betrokke Premier kan 'n ondersoek laat doen om te bepaal of 'n gemeenskap aan die maatstawwe uiteengesit in subartikel (1) en die leidende beginsels uiteengesit in artikel 2, voldoen.

(3) Die betrokke Premier kan, waar van toepassing, na oorleg met die tersaaklike provinsiale huis, die gemeenskap in subartikel (1) beoog by kennisgewing in die tersaaklike *Provinsiale Koerant* as 'n Khoi-San-gemeenskap erken.

(4) *(a)* 'n Khoi-San-gemeenskap kan, waar van toepassing, bestaan uit takke wat ingevolge subartikel (5) erken is.

(b) 'n Tak kan ingevolge subartikel (5) erken word indien dit—

(i) deur die Khoi-San-gemeenskap as 'n tak van daardie gemeenskap erken word;

(ii) bestaan uit minstens 10% van die totale lede van sodanige gemeenskap soos weerspieël in die lys van gemeenskapslede in subartikel (1)*(b)*(ii) bedoel;

(iii) sal bydra tot 'n meer doeltreffende en doelmatige administrasie van die Khoi-San-raad; en

(iv) die Khoi-San-leier ingevolge gewoontereg en gebruike erken.

(5) *(a)* 'n Khoi-San-raad kan, behoudens paragrawe *(b)* en *(c)*, by die Premier van die provinsie waar die raad geleë is, aansoek doen om die erkenning van 'n tak indien dit aan die maatstawwe in subartikel (4) uiteengesit, voldoen.

(b) Indien die Premier van mening is dat die tak voldoen aan die maatstawwe in subartikel (4) uiteengesit, maar sodanige tak is nie in dieselfde provinsie as die Khoi-San-raad geleë nie, moet die Premier van die provinsie waar die raad geleë is, versoek dat die Premier van die provinsie waar die tak geleë is, daardie tak erken.

(c) Die erkenning van 'n tak in paragraaf *(a)* of *(b)* beoog, is onderhewig aan subartikels (6), (7) en (8).

(6) Die Premier van die provinsie waar die tak geleë is, kan 'n ondersoek laat doen om te bepaal of 'n tak voldoen aan die maatstawwe in subartikel (4) uiteengesit.

(7) Die Premier van die provinsie waar die tak geleë is kan, behoudens subartikel (8), 'n tak erken wat voldoen aan die maatstawwe in subartikel (4) uiteengesit.

(8) Waar die Khoi-San-gemeenskap uit takke in verskillende provinsies bestaan, moet die erkenning van sodanige takke by kennisgewing in die *Provinsiale Koerante* van die provinsies waar die takke geleë is deur die tersaaklike Premiers gedoen word.

(9) *(a)* 'n Premier moet jaarliks, of wanneer deur die Minister versoek, die Minister voorsien van 'n verslag oor die erkenning van Khoi-San-gemeenskappe en takke.

(b) 'n Afskrif van die verslag in paragraaf *(a)* bedoel moet ter kennisname by die betrokke provinsiale huis ingedien word.

Withdrawal of recognition of Khoi-San community and branch

6. (1) The withdrawal of the recognition of a Khoi-San community or a branch may, subject to subsection (5), only be considered where—

(a) a Khoi-San council requests the Premier concerned that the recognition of a Khoi-San community or the recognition of a branch or branches of such community be withdrawn; or

(b) the Khoi-San councils of two or more recognised Khoi-San communities request the Premier concerned to merge such communities into a single Khoi-San community:

Provided that such request must be accompanied by the grounds on which the request is based.

(2) *(a)* Subject to paragraph *(b)* and subsection (3), the Premier concerned may, after consultation with the relevant provincial house, by notice in the relevant Provincial *Gazette* withdraw the recognition of a Khoi-San community or a branch as contemplated in subsection (1)*(a)*.

(b) Where the branches of a Khoi-San community which are to be withdrawn, are situated in more than one province, the Premiers of the provinces where the branches are situated must, subject to subsection (3), by notice in the relevant Provincial *Gazettes* withdraw the recognition of the branches.

(3) The Premier or Premiers concerned may, before withdrawing the recognition of the Khoi-San community or branch in terms of subsection (2), cause an investigation to be conducted in order to establish whether the communities to be affected by a request contemplated in subsection (1) were consulted and support such request.

(4) *(a)* The Premier concerned must recognise a merged Khoi-San community contemplated in subsection (1)*(b)* and disestablish the individual Khoi-San communities that requested to be merged, by notice in the Provincial *Gazette*.

(b) Whenever Khoi-San communities are merged, such merger automatically results in the disestablishment of any branch or Khoi-San council that has been established for such communities: Provided that a merged Khoi-San community must establish a Khoi-San council in accordance with the provisions of section 18 and may request that new branches for such merged community be recognised in accordance with the provisions of section 5.

(c) The notice referred to in paragraph *(a)* must stipulate the legal, practical and other consequences of the merger and disestablishment including—

(i) if applicable, the transfer of assets, liabilities and administrative and other records of the disestablished Khoi-San community, branches and councils; and

(ii) the leadership position of the merged Khoi-San community and the vacation of office of any office bearer of a disestablished Khoi-San community or branch.

(5) *(a)* The recognition of a Khoi-San community or branch must be withdrawn if so ordered by a court.

(b) The relevant Premier must give notice in the Provincial *Gazette* of any withdrawal of recognition in accordance with a court order.

(c) The notice contemplated in paragraph *(b)* must stipulate the legal, practical and other consequences of the withdrawal of recognition.

Part 2

Traditional and Khoi-San leaders

Recognition of leadership positions

7. (1) *(a)* There are the following traditional leadership positions:

(i) King or queen;

(ii) principal traditional leader;

(iii) senior traditional leader; and

(iv) headman or headwoman:

Provided that the position of principal traditional leader only applies to a person who is deemed to be a principal traditional leader as defined in section 1.

(b) There are the following Khoi-San leadership positions:

(i) Senior Khoi-San leader; and

(ii) branch head.

Intrekking van erkenning van Khoi-San-gemeenskap en -tak

6. (1) Die intrekking van die erkenning van ’n Khoi-San-gemeenskap of ’n tak kan, behoudens subartikel (5), slegs oorweeg word waar—

(a) ’n Khoi-San-raad die betrokke Premier versoek dat die erkenning van ’n Khoi-San-gemeenskap of die erkenning van ’n tak of takke van sodanige gemeenskap, ingetrek word; of

(b) die Khoi-San-rade van twee of meer erkende Khoi-San-gemeenskappe versoek dat die Premier sodanige gemeenskappe saamsmelt tot ’n enkele Khoi-San-gemeenskap:

Met dien verstande dat sodanige versoek vergesel moet gaan van die gronde vir die versoek.

(2) *(a)* Behoudens paragraaf *(b)* en subartikel (3), kan die betrokke Premier, na oorleg met die tersaaklike provinsiale huis, by kennisgewing in die tersaaklike *Provinsiale Koerant*, die erkenning van ’n Khoi-San-gemeenskap of ’n tak intrek soos in subartikel (1)*(a)* beoog.

(b) Waar die takke van ’n Khoi-San-gemeenskap wat ingetrek gaan word, in meer as een provinsie geleë is, moet die Premiers van die provinsies waar die takke geleë is, behoudens subartikel (3), die erkenning van die takke by kennisgewing in die tersaaklike *Provinsiale Koerante*, intrek.

(3) Die betrokke Premier of Premiers kan, voordat die erkenning van die Khoi-San-gemeenskap of tak ingevolge subartikel (2) ingetrek word, ’n ondersoek laat doen ten einde vas te stel of die gemeenskappe wat deur ’n versoek in subartikel (1) beoog geraak gaan word, geraadpleeg is en sodanige versoek ondersteun.

(4) *(a)* Die betrokke Premier moet ’n saamgesmelte Khoi-San-gemeenskap in subartikel (1)*(b)* beoog, erken en die individuele Khoi-San-gemeenskappe wat versoek het om saamgesmelt te word, by kennisgewing in die *Provinsiale Koerant* afstig.

(b) Wanneer Khoi-San-gemeenskappe saamsmelt, het die samesmelting outomaties die afstigting van enige tak of Khoi-San-raad wat vir sodanige gemeenskappe ingestel is, tot gevolg: Met dien verstande dat ’n saamgesmelte Khoi-San-gemeenskap ’n Khoi-San-raad ooreenkomstig die bepalings van artikel 18 moet instel en kan versoek dat nuwe takke vir sodanige saamgesmelte gemeenskap erken word ooreenkomstig die bepalings van artikel 5.

(c) Die kennisgewing in paragraaf *(a)* bedoel moet die regs-, praktiese en ander gevolge van die samesmelting en ontbinding bepaal, met inbegrip van—

(i) indien van toepassing, die oordrag van bates, laste en administratiewe en ander rekords van die afgestigte Khoi-San-gemeenskap, -takke en -rade; en

(ii) die leierskapsposisie van die saamgesmelte Khoi-San-gemeenskap en die ontruiming van amp van enige ampsbekleër van ’n ontbinde Khoi-San-gemeenskap of tak.

(5) *(a)* Die erkenning van ’n Khoi-San-gemeenskap of -tak moet ingetrek word indien ’n hof dit beveel.

(b) Die tersaaklike Premier moet in die *Provinsiale Koerant* kennis gee van enige intrekking van erkenning ooreenkomstig ’n hofbevel.

(c) Die kennisgewing in paragraaf *(b)* beoog moet die regs-, praktiese en ander gevolge van die intrekking van erkenning, bepaal.

Deel 2

Tradisionele en Khoi-San-leiers

Erkenning van leierskapsposisies

7. (1) *(a)* Die volgende tradisionele leierskapsposisies bestaan:

(i) Koning of koningin;

(ii) hoof- tradisionele leier;

(iii) senior- tradisionele leier; en

(iv) hoofman of hoofvrou:

Met dien verstande dat die posisie van hoof- tradisionele leier slegs van toepassing is op ’n persoon wat geag word ’n hoof- tradisionele leier te wees soos in artikel 1 omskryf.

(b) Daar is die volgende Khoi-San-leierskapsposisies:

(i) Senior- Khoi-San-leier; en

(ii) takhoof.

(2) The following criteria apply whenever a leadership position is to be recognised:

(a) A proven history of existence of such leadership position within the community concerned;

(b) a proven history of acceptance of such leadership position by the community concerned;

(c) a history of functions and powers of the specific leadership position in terms of the established customary law and customs within the particular community;

(d) the recognition of the community in terms of this Act; and

(e) a proven history of either—

(i) hereditary leadership in terms of customary law or customs of the community, with or without a customary role for community participation in the determination or confirmation of the individual as leader; or

(ii) elected leadership where, in terms of the customary law or customs of the community concerned, the leader is elected.

(3) *(a)* An application for the recognition of the position of a king or a queen must be submitted to the President.

(b) An application for the recognition of the position of a principal traditional leader, senior traditional leader, senior Khoi-San leader, headman, headwoman or branch head must be submitted to the Premier concerned: Provided that all applications for the recognition of the position of a senior Khoi-San leader or branch head must be lodged with the Commission until such time as the period referred to in section 57(2)*(a)* has expired, whereafter all applications for recognition must be lodged with the Premier in terms of sections 5 and 10, respectively.

(4) Where there is evidence or an allegation that a leadership position does not comply with the criteria set out in subsection (2), the President or Premier, as the case may be, must cause an investigation to be conducted by an investigative committee designated by the President or Premier, as the case may be, which committee must provide a report on whether the leadership position complies with the said criteria: Provided that in the case of the leadership position of a king or a queen, at least one member of the investigative committee must be a member of the National House and in the case of any other leadership position, at least one member of the investigative committee must be a member of the provincial house concerned.

(5) The President or the Premier, as the case may be, may, after having considered the report of the investigative committee, recognise the leadership position.

(6) The recognition of a leadership position in terms of this section must be done by notice in the *Gazette* or Provincial *Gazette*, as the case may be.

(7) *(a)* Whenever a senior traditional leader is recognised as a king or a queen in terms of this Act or has been so recognised prior to the commencement of this Act, such senior traditional leadership position becomes vacant or is regarded as vacant, as the case may be.

(b) A vacant senior traditional leadership position as contemplated in paragraph *(a)* may, subject to paragraph *(c)* and within 90 days of such vacancy occurring or, in the case of a recognition as a king or a queen prior to the commencement of this Act, within 90 days from the commencement of this Act, be filled—

(i) by means of the recognition of another person as senior traditional leader in accordance with the provisions of section 8; or

(ii) by the identification of a deputy traditional leader in accordance with the provisions of section 14.

(c) Whenever the recognition of a kingship or a queenship is withdrawn in terms of section 4, such withdrawal will automatically result in—

(i) the recognised king or queen reverting to the position of senior traditional leader which he or she occupied prior to recognition as a king or queen; and

(ii) the withdrawal of the recognition of the senior traditional leader referred to in paragraph *(b)*(i) or the lapsing of the recognition of a deputy traditional leader referred to in paragraph *(b)*(ii).

(d) A person whose recognition as senior traditional leader has been withdrawn as contemplated in paragraph *(c)*(ii)—

(i) relinquishes all functions, roles, duties, responsibilities and rights associated with the relevant position of senior traditional leader;

(ii) shall continue to receive the salary and benefits associated with such senior traditional leadership position until his or her death; and

(2) Die volgende maatstawwe is van toepassing by die erkenning van ’n leierskapsposisie:

(a) ’n Bewese bestaansgeskiedenis van sodanige leierskapsposisie in die betrokke gemeenskap;

(b) ’n bewese geskiedenis van aanvaarding van sodanige leierskapsposisie deur die betrokke gemeenskap;

(c) ’n geskiedenis van werksaamhede en bevoegdhede van die bepaalde leierskapsposisie ingevolge die gevestigde gewoontereg en gebruike binne die bepaalde gemeenskap;

(d) die erkenning van die gemeenskap ingevolge hierdie Wet; en

(e) ’n bewese geskiedenis óf—

(i) erfleierskap ingevolge gewoontereg of gebruike van die gemeenskap, met of sonder ’n gebruiklike rol vir gemeenskapsdeelname in die bepaling of bevestiging van die individu as leier; óf

(ii) verkose leierskap waar die leier ingevolge die gewoontereg of gebruike van die betrokke gemeenskap verkies word.

(3) *(a)* ’n Aansoek om die erkenning van die posisie van ’n koning of ’n koningin moet aan die President voorgelê word.

(b) ’n Aansoek om die erkenning van die hoof- tradisionele leier, senior- tradisionele leier, senior- Khoi-San-leier, hoofman, hoofvrou of takhoof moet aan die betrokke Premier voorgelê word: Met dien verstande dat alle aansoeke om die erkenning van die posisie van ’n senior- Khoi-San-leier of takhoof by die Kommissie ingedien moet word totdat die tydperk in artikel 57(2)*(a)* bedoel verstryk het, waarna alle aansoeke om erkenning by die Premier ingedien moet word ingevolge onderskeidelik artikels 5 en 10.

(4) Waar daar bewyse of ’n bewering is dat ’n leierskapsposisie nie aan die maatstawwe in subartikel (2) uiteengesit voldoen nie, moet die President of Premier, na gelang van die geval, ’n ondersoek deur ’n ondersoekkomitee wat deur die President of Premier, na gelang van die geval, aangewys is, laat doen welke komitee ’n verslag moet voorsien oor hetsy die leierskapsposisie aan die genoemde maatstawwe voldoen: Met dien verstande dat in die geval van die leierskapsposisie van ’n koning of ’n koningin, ten minste een lid van die ondersoekkomitee ’n lid van die Nasionale Huis en in die geval van enige ander leierskapsposisie, ten minste een lid van die ondersoekkomitee ’n lid van die betrokke provinsiale huis moet wees.

(5) Die President of die Premier, na gelang van die geval, kan, na oorweging van die ondersoekkomitee se verslag, die leierskapsposisie erken.

(6) Die erkenning van ’n leierskapsposisie ingevolge hierdie artikel moet by kennisgewing in die *Staatskoerant* of *Provinsiale Koerant*, na gelang van die geval, gedoen word.

(7) *(a)* Wanneer ’n senior- tradisionele leier ingevolge hierdie Wet as ’n koning of koningin erken word of voor die inwerkingtreding van hierdie Wet aldus erken is, word sodanige tradisionele leierskapsposisie vakant of word geag vakant te wees, na gelang van die geval.

(b) ’n Vakante tradisionele leierskapsposisie, soos in paragraaf *(a)* beoog kan, behoudens paragraaf *(c)* en binne 90 dae nadat sodanige vakature ontstaan of, in die geval van ’n erkenning as ’n koning of ’n koningin voor die inwerkingtreding van hierdie Wet, binne 90 dae vanaf die inwerkingtreding van hierdie Wet, gevul word—

(i) by wyse van die erkenning van ’n ander persoon as senior- tradisionele leier ooreenkomstig die bepalings van artikel 8; of

(ii) deur die identifikasie van ’n adjunk- tradisionele leier ooreenkomstig die bepalings van artikel 14.

(c) Wanneer die erkenning van ’n koningskap of koninginskap ook al ingevolge artikel 4 ingetrek word, sal sodanige intrekking outomaties daartoe lei dat—

(i) die erkende koning of koningin na die posisie van senior- tradisionele leier terugkeer wat hy of sy voor erkenning as koning of koningin beklee het; en

(ii) die intrekking van die erkenning van die senior- tradisionele leier in paragraaf *(b)*(i) bedoel of die verstryking van die erkenning van ’n adjunk- tradisionele leier in paragraaf *(b)*(ii) bedoel.

(d) Iemand wie se erkenning as senior- tradisionele leier ingetrek is soos in paragraaf *(c)*(ii) beoog—

(i) gee alle funksies, rolle, pligte, verantwoordelikhede en regte op wat met die betrokke posisie van senior- tradisionele leier verband hou;

(ii) ontvang tot sy dood die salaris en voordele wat met sodanige senior leierskapsposisie verband hou; en

(iii) is no longer entitled to receive any allowance or enabling resource as contemplated in the Independent Commission for the Remuneration of Public Office-Bearers Act, 1997.

(8) *(a)* Any recognised traditional or Khoi-San leader may resign as such leader: Provided that such resignation must be in writing and must, in the case of a king or a queen, be submitted to the President and in the case of any other recognised traditional or Khoi-San leader, be submitted to the Premier who recognised such leader: Provided further that in the case of a Khoi-San leader who was recognised by the Minister in terms of section 58, such resignation must be submitted to the Minister and a copy thereof must be submitted to the Premier of the province in which such Khoi-San leader resides.

(b) A traditional or Khoi-San leader who resigns as such leader automatically relinquishes, with effect from the date of resignation, any salaries, allowances, benefits and rights associated with the leadership position occupied prior to such resignation.

(c) A traditional or Khoi-San leader who has resigned may not reapply for recognition.

(d) Whenever a traditional or Khoi-San leader resigns as contemplated in this subsection, the relevant position becomes vacant and has to be filled in accordance with the relevant provisions of this Act, taking into account the fact that a resignation does not affect succession in terms of customary law and customs of the particular community.

(9) Any person who is not a recognised leader as contemplated in subsection (1) but purports to be such a leader, is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding three years.

Recognition of king or queen, principal traditional leader, senior traditional leader, headman or headwoman

8. (1) Whenever the position of a king or queen is to be filled or the successor to a principal traditional leader is to be identified, the following process applies:

(a) The royal family concerned must, within 90 days after the need arises for the position of a king or queen, or principal traditional leader to be filled, and with due regard to applicable customary law and customs—
   (i) identify a person who qualifies in terms of customary law and customs to assume the position of a king or queen, or principal traditional leader, as the case may be, taking into account whether any of the grounds referred to in section 9(1) or 16(11)*(h)* or 16(14)*(a)*, *(c)*, *(d)*, *(e)* or *(k)* apply to that person; and
   (ii) apply to the President or relevant Premier, as the case may be, for the recognition of the person so identified as a king or queen, subject to section 3(2), or principal traditional leader which application must be accompanied by—
      (aa) the particulars of the person so identified to fill the position of a king or queen, or principal traditional leader; and
      (bb) the reasons for the identification of that person as king or queen, or principal traditional leader.

(b) The President may, after consultation with the Minister and the Premier concerned, and subject to subsections (3) and (4), recognise as a king or queen a person so identified in terms of paragraph *(a)*(i), taking into account whether a kingship or queenship has been recognised in terms of section 3.

(c) The Premier may recognise as the successor to a principal traditional leader a person so identified in terms of paragraph *(a)*(i), taking into account whether a principal traditional community still exists.

(2) Whenever the position of senior traditional leader, headman or headwoman is to be filled, subject to subsection (3)—

(a) the royal family concerned must, in the event of hereditary succession, within 90 days after the need arises for any of those positions to be filled, identify a person who qualifies in terms of customary law or customs to assume the position in question, taking into account whether any of the grounds referred to in section 9(1) or 16(11)*(h)* or 16(14)*(a)*, *(c)*, *(d)*, *(e)* or *(k)* apply to that person;

(iii) is nie meer geregtig op enige toelaag of magtigende hulpbronne soos in die Wet op die Onafhanklike Kommissie vir die Besoldiging van Openbare Ampsbekleërs, 1997, beoog nie.

(8) *(a)* Enige erkende tradisionele of Khoi-San-leier kan as sodanige leier bedank: Met dien verstande dat sodanige bedanking skriftelik moet wees en, in die geval van ’n koning of ’n koningin, by die President ingedien moet word en in die geval van enige ander erkende tradisionele of Khoi-San-leier, by die Premier wat die leier erken het, ingedien moet word: Met dien verstande verder dat in die geval van ’n Khoi-San-leier wat ingevolge artikel 58 deur die Minister erken is, sodanige bedanking by die Minister ingedien moet word en ’n afskrif daarvan by die Premier van die provinsie waarin sodanige Khoi-San-leier woonagtig is, ingedien moet word.

(b) ’n Tradisionele of Khoi-San-leier wat as sodanige leier bedank, gee outomaties, met ingang van die datum van bedanking, enige salarisse, toelae, voordele en regte op wat gepaard gaan met die leierskapsposisie wat voor bedanking beklee is.

(c) ’n Tradisionele of Khoi-San-leier wat bedank het, mag nie heraansoek doen om erkenning nie.

(d) Wanneer ’n tradisionele Khoi-San-leier soos in hierdie subartikel beoog bedank, word die betrokke posisie vakant en moet ooreenkomstig die tersaaklike bepalings van hierdie Wet gevul word, met inagneming van die feit dat ’n bedanking nie opvolging ingevolge gewoontereg en gebruike van die bepaalde gemeenskap, raak nie.

(9) Iemand wat nie ’n erkende leier is soos in artikel (1) beoog nie, maar beweer dat hy of sy so ’n leier is, is skuldig aan ’n misdryf en by skuldigbevinding strafbaar met ’n boete of gevangenisstraf van hoogstens drie jaar.

Erkenning van koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou

8. (1) Wanneer die posisie van ’n koning of koningin gevul moet word of die opvolger van ’n hoof- tradisionele leier geïdentifiseer moet word, geld die volgende proses:

(a) Die betrokke koninklike familie moet, binne 90 dae nadat die behoefte ontstaan dat die posisie van ’n koning of koningin, of hoof- tradisionele leier, gevul moet word, en met behoorlike inagneming van geldende gewoontereg en gebruike—

(i) iemand identifiseer wat ingevolge gewoontereg en gebruike kwalifiseer om die posisie van ’n koning of koningin, of hoof- tradisionele leier, na gelang van die geval, in te neem, nadat oorweeg is of enige van die gronde in artikel 9(1) of 16(11)*(h)* of 16(14)*(a)*, *(c)*, *(d)*, *(e)* of *(k)* bedoel op daardie persoon van toepassing is; en

(ii) by die President of tersaaklike Premier, na gelang van die geval, aansoek doen om erkenning van die persoon aldus geïdentifiseer as koning of koningin, of hoof- tradisionele leier, behoudens artikel 3(2), of hoof- tradisionele leier, welke aansoek vergesel moet gaan van—

(aa) die besonderhede van die persoon aldus geïdentifiseer om die posisie van ’n koning of koningin, of hoof- tradisionele leier, in te neem; en

(bb) die redes vir die identifikasie van daardie persoon as koning of koningin, of hoof- tradisionele leier.

(b) Die President kan, na oorleg met die Minister en betrokke Premier, en behoudens subartikels (3) en (4), ’n persoon aldus geïdentifiseer ingevolge paragraaf *(a)*(i), as koning of koningin erken, met inagneming van hetsy ’n koningskap of koninginskap ingevolge artikel 3 erken is.

(c) Die Premier kan as die opvolger van ’n hoof- tradisionele leier ’n persoon aldus geïdentifiseer ingevolge paragraaf *(a)*(i) erken, met inagneming van of ’n hoof- tradisionele gemeenskap steeds bestaan.

(2) Wanneer die posisie van senior- tradisionele leier, hoofman of hoofvrou gevul moet word, behoudens subartikel (3)—

(a) moet die betrokke koninklike familie, in die geval van erfopvolging, binne 90 dae nadat dit nodig geword het om enige van daardie posisies te vul, ’n persoon identifiseer wat ingevolge gewoontereg of gebruike kwalifiseer om die betrokke posisie op te neem, met inagneming van of enige van die gronde in artikel 9(1) of 16(11)*(h)* of 16(14)*(a)*, *(c)*, *(d)*, *(e)* of *(k)* op daardie persoon van toepassing is;

(b) in the event that hereditary succession is not applicable, a person who is to assume the position of headman or headwoman must, in terms of customs or customary law be identified or elected by the community concerned, within 90 days after the need arises for such a position to be filled, taking into account whether any of the grounds referred to in section 9(1) or 16(11)*(h)* or 16(14)*(a)*, *(c)*, *(d)*, *(e)* or *(k)* apply to that person;

(c) the royal family in the case of hereditary succession referred to in paragraph *(a)*, through the relevant customary structure, and the traditional council concerned in the case of an identified or elected headman or headwoman referred to in paragraph *(b)*, must apply to the Premier for the recognition of the person so identified or elected and provide the Premier with the particulars of such person; and

(d) the Premier concerned must, subject to subsection (3), recognise the person so identified or elected as senior traditional leader, headman or headwoman, as the case may be.

(3) Whenever the President recognises a king or queen, or a Premier recognises the successor to a principal traditional leader or recognises a senior traditional leader, headman or headwoman, the President or the Premier, as the case may be, must—

(a) publish a notice in the *Gazette* recognising such person as a king or queen, or publish a notice in the relevant Provincial *Gazette* recognising such person as a principal traditional leader, senior traditional leader, headman or headwoman;

(b) issue a certificate of recognition to such person; and

(c) inform the National House of the recognition of a king or queen and inform the relevant provincial house of the recognition of a principal traditional leader, senior traditional leader, headman or headwoman.

(4) Where there is evidence or an allegation that the identification of a person as a king or queen, principal traditional leader or senior traditional leader, or the identification or election of a person as a headman or headwoman, was not done in terms of customary law and customs, the President or the relevant Premier, as the case may be—

(a) must cause an investigation to be conducted by an investigative committee designated by the President or Premier, as the case may be, which committee must, in the case of a committee designated by the President, include at least one member of the National House and in the case of a committee designated by a Premier, include at least one member of the relevant provincial house, to provide a report on whether the identification or election of the relevant person was done in accordance with customary law and customs and if not, which person should be so identified or whether a new election should be held; and

(b) must, where the findings of the investigative committee indicate that the identification or election of the person referred to in subsections (1) and (2) was not done in terms of customary law and customs, refer the report contemplated in paragraph *(a)* to the royal family or relevant traditional council in the case of an elected headman or headwoman, for its comments.

(5) The President or the relevant Premier, as the case may be, may, after having considered the report of the investigative committee as well as the comments of the royal family, subject to subsection (3) recognise a person as king or queen, principal traditional leader, senior traditional leader, headman or headwoman, as the case may be.

(6) The Minister may, in accordance with the provisions of section 60, make regulations in respect of the—

(a) consultation by the Premier concerned with the traditional council where the position of a senior traditional leader, headman or headwoman is to be filled; and

(b) procedure to be followed for the identification or election of a senior traditional leader, headman or headwoman in instances where the customs or customary law does not make provision for such identification or election.

(b) waar erfopvolging nie van toepassing is nie, moet 'n persoon wat die posisie van hoofman of hoofvrou moet opneem ingevolge gebruike of gewoontereg deur die betrokke gemeenskap geïdentifiseer of verkies word, binne 90 dae nadat dit nodig geword het om sodanige posisie te vul, met inagneming van of enige van die gronde in artikel 9(1) of 16(11)*(h)* of 16(14)*(a)*, *(c)*, *(d)*, *(e)* of *(k)* op daardie persoon van toepassing is;

(c) moet die koninklike familie in die geval van erfopvolging in paragraaf *(a)* bedoel, deur die tersaaklike gebruiklike struktuur, en die betrokke tradisionele raad in die geval van 'n geïdentifiseerde of verkose hoofman of hoofvrou in paragraaf *(b)* bedoel, by die Premier aansoek doen om die erkenning van die persoon wat aldus geïdentifiseer of verkies is en die Premier voorsien van die besonderhede van sodanige persoon; en

(d) die betrokke Premier moet, behoudens subartikel (3), die persoon aldus geïdentifiseer of verkies erken as senior- tradisionele leier, hoofman of hoofvrou, na gelang van die geval.

(3) Wanneer die President ook al 'n koning of koningin erken, of die Premier die opvolger van 'n hoof- tradisionele leier erken, of 'n senior- tradisionele leier, hoofman of hoofvrou erken, moet die President of die Premier, na gelang van die geval—

(a) 'n kennisgewing in die *Staatskoerant* publiseer waarin sodanige persoon as 'n koning of koningin erken word, of 'n kennisgewing in die betrokke *Provinsiale Koerant* publiseer waarin sodanige persoon as 'n hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou erken word;

(b) 'n sertifikaat van erkenning aan sodanige persoon uitreik; en

(c) die Nasionale Huis verwittig van die erkenning van 'n koning of koningin en die tersaaklike provinsiale huis verwittig van die erkenning van 'n hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou.

(4) Waar daar getuienis of 'n bewering is dat die identifikasie van 'n persoon as 'n koning of koningin, hoof- tradisionele leier of senior- tradisionele leier, of die identifikasie of verkiesing van 'n persoon as 'n hoofman of hoofvrou, nie ingevolge gewoontereg of gebruike gedoen is nie moet die President of betrokke Premier, na gelang van die geval —

(a) 'n ondersoek laat doen deur 'n ondersoekkomitee wat deur die President of Premier, na gelang van die geval, aangewys is, welke ondersoekkomitee, in die geval van 'n komitee deur die President aangewys, ten minste een lid van die toepaslike provinsiale huis moet insluit, om 'n verslag te voorsien oor of die identifikasie of verkiesing van die toepaslike persoon ooreenkomstig gewoontereg en gebruike gedoen is en indien nie, watter persoon aldus geïdentifiseer is of hetsy 'n nuwe verkiesing gehou moet word; en

(b) moet, waar die bevindings van die ondersoekkomitee aandui dat die identifikasie of verkiesing van die persoon in subartikels (1) en (2) bedoel nie ingevolge gewoontereg en gebruike gedoen is nie, die verslag in paragraaf *(a)* beoog, na die koninklike familie of tersaaklike tradisionele raad verwys in die geval van 'n verkose hoofman of hoofvrou, vir kommentaar.

(5) Die President of die tersaaklike Premier, na gelang van die geval, kan, na oorweging van die verslag van die ondersoekkomitee asook die opmerkings van die koninklike familie, 'n persoon behoudens subartikel (3) erken as 'n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou, na gelang van die geval.

(6) Die Minister kan, ooreenkomstig die bepalings van artikel 60, regulasies uitvaardig ten opsigte van die—

(a) oorlegpleging deur die betrokke Premier met die tradisionele raad waar die posisie van 'n senior- tradisionele leier, hoofman of hoofvrou gevul moet word; en

(b) prosedure wat gevolg moet word vir die identifikasie of verkiesing van 'n senior- tradisionele leier, hoofman of hoofvrou in gevalle waar die gebruike of gewoontereg nie voorsiening maak vir sodanige identifikasie of verkiesing nie.

Withdrawal of recognition of king or queen, principal traditional leader, senior traditional leader, headman or headwoman

9. (1) The recognition of a king or queen, principal traditional leader, senior traditional leader, headman or headwoman, subject to subsections (2) and (3)—

(a) must be withdrawn if he or she—
   (i) has been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
   (ii) is declared mentally unfit or mentally disordered by a court; or
   (iii) no longer permanently resides within the area of the kingship or queenship council, principal traditional council or traditional council, as the case may be; or

(b) may be withdrawn if he or she—
   (i) has been removed from office in terms of the code of conduct; or
   (ii) has transgressed customary law or customs,

   on a ground that warrants withdrawal of recognition; and

(c) must be withdrawn if so ordered by a court.

(2) *(a)* Whenever in the case of a king or a queen, any of the grounds referred to in subsection (1) come to the attention of the royal family, the royal family must, within 90 days from the date of becoming aware of such grounds and through the relevant customary structure—

(i) inform the President, the Premier concerned, the Minister and the senior traditional leaders within the kingship or queenship, of the particulars of such king or queen, and of the particulars relating to the specific ground referred to in subsection (1); and

(ii) give written confirmation to the President that the Premier concerned and the Minister have been informed accordingly.

(b) Whenever any of the grounds referred to in subsection (1)*(b)* come to the attention of the royal family, the royal family may recommend the withdrawal of the recognition of the king or queen, and must furnish the President with reasons for such recommendation.

(3) *(a)* Whenever in the case of a principal traditional leader, senior traditional leader, headman or headwoman, any of the grounds referred to in subsection (1) come to the attention of the royal family or, in the case of an elected headman or headwoman, come to the attention of the relevant traditional council, the royal family or traditional council concerned must, within 90 days from the date of becoming aware of such grounds and through the relevant customary structure, inform the Premier concerned and the senior traditional leaders within the principal traditional community or traditional community, as the case may be, of the particulars of such principal traditional leader, senior traditional leader, headman or headwoman, and of the particulars relating to the specific ground referred to in subsection (1).

(b) Whenever any of the grounds referred to in subsection (1)*(b)* come to the attention of the royal family or, in the case of an elected headman or headwoman, come to the attention of the relevant traditional council, the royal family or traditional council, as the case may be, may recommend the withdrawal of the recognition of the principal traditional leader, senior traditional leader, headman or headwoman, and must furnish the Premier with reasons for such recommendation.

(4) *(a)* When the President or relevant Premier is informed of the presence of any of the grounds referred to in subsection (1)*(a)*, the President or Premier must, after consultation with the Minister or member of the Executive Council responsible for traditional affairs in the particular province, as the case may be, and subject to subsections (5) and (6), withdraw the recognition of the relevant king or queen, principal traditional leader, senior traditional leader, headman or headwoman.

(b) When the President or relevant Premier is informed of the presence of any of the grounds referred to in subsection (1)*(b)*, the President or Premier may, after consultation with the Minister or member of the Executive Council referred to in paragraph *(a)*, and—

(i) after having considered the information referred to in subsection (2)*(a)*(i); and

(ii) where applicable, after having considered any recommendation and reasons as contemplated in subsection (2)*(b)*,

withdraw the recognition of the king or queen, principal traditional leader, senior traditional leader, headman or headwoman or refuse to withdraw such recognition: Provided that if the President or Premier refuses to withdraw such recognition, he or she,

Intrekking van erkenning van koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou

9. (1) Die erkenning van 'n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou, behoudens subartikels (2) en (3)—

(a) moet ingetrek word indien hy of sy—

(i) aan 'n misdryf skuldig bevind is en tot gevangenisstraf van meer as 12 maande sonder die opsie van 'n boete gevonnis is;

(ii) deur 'n hof geestesversteurd of -gestrem verklaar is; of

(iii) nie meer permanent in die gebied van die koningskap of koninginskapsraad, na gelang van die geval, woon nie; of

(b) kan ingetrek word indien hy of sy—

(i) ingevolge die gedragskode uit die amp verwyder is; of

(ii) gewoontereg of gebruike oortree het,

op 'n grond wat intrekking van erkenning regverdig; en

(c) moet ingetrek word indien 'n hof dit beveel.

(2) *(a)* Wanneer in die geval van 'n koning of 'n koningin, enige van die gronde in subartikel (1) beoog ook al onder die aandag van die koninklike familie kom, moet die koninklike familie, binne 90 dae vanaf die datum van bewuswording van daardie gronde en deur die tersaaklike gebruikstruktuur—

(i) die President, die betrokke Premier, die Minister en die senior- tradisionele leiers in die koningskap of koninginskap verwittig van die besonderhede van sodanige koning of koningin en van die besonderhede rakende die bepaalde grond in subartikel (1) bedoel; en

(ii) skriftelike bevestiging aan die President gee dat die betrokke Premier en die Minister ooreenkomstig verwittig is.

(b) Wanneer enige van die gronde in subartikel (1)*(b)* bedoel tot die aandag van die koninklike familie kom, kan die koninklike familie aanbeveel dat die erkenning van die koning of koningin ingetrek word en moet gronde vir die aanbeveling aan die President verstrek.

(3) *(a)* Wanneer, in die geval van 'n hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou, enige van die gronde in subartikel (1) bedoel, ook al tot die aandag van die koninklike familie of, in die geval van 'n verkose hoofman of hoofvrou, onder die aandag van die tersaaklike tradisionele raad kom, moet die betrokke koninklike familie of tradisionele raad binne 90 dae vanaf die datum van bewuswording van daardie gronde en deur die tersaaklike gebruikstruktuur, die betrokke Premier en die senior- tradisionele leiers in die hoof- tradisionele gemeenskap of tradisionele gemeenskap, na gelang van die geval, verwittig van die besonderhede van sodanige hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou en van die besonderhede met betrekking tot die bepaalde grond in subartikel (1) bedoel.

(b) Wanneer enige van die gronde in subartikel (1)*(b)* onder die aandag van die koninklike familie of, in die geval van 'n verkose hoofman of hoofvrou, onder die aandag van die tersaaklike tradisionele raad kom, kan die koninklike familie of tradisionele raad, na gelang van die geval, aanbeveel dat die erkenning van die hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou, ingetrek word en redes vir die aanbeveling moet aan die Premier verstrek word.

(4) *(a)* Wanneer die President of tersaaklike Premier verwittig word van die teenwoordigheid van enige van die gronde in subartikel (1)*(a)* bedoel, moet die President of Premier, na oorleg met die Minister of lid van die Uitvoerende Raad verantwoordelik vir Tradisionele Sake in die bepaalde provinsie, na gelang van die geval, en behoudens subartikels (5) en (6), die erkenning van die tersaaklike koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou intrek.

(b) Wanneer die President of tersaaklike Premier van die teenwoordigheid van die gronde in subartikel (1)*(b)* bedoel verwittig word, kan die President of Premier, na oorleg met die Minister of lid van die Uitvoerende Raad in paragraaf *(a)* bedoel, en—

(i) na oorweging van die inligting in subartikel (2)*(a)*(i) bedoel; en

(ii) waar van toepassing, na oorweging van enige aanbeveling en redes soos in subartikel (2)*(b)* beoog,

die erkenning van die koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou intrek of weier om sodanige erkenning in te trek: Met dien verstande dat indien die President of Premier weier om sodanige erkenning in te trek, hy of sy, na gelang van die geval, skriftelik redes aan die koninklike familie moet verstrek of, in die geval van 'n verkose hoofman of hoofvrou, aan die tersaaklike tradisionele

as the case may be, must in writing provide reasons to the royal family or, in the case of an elected headman or headwoman, to the relevant traditional council: Provided further that if the President refuses to withdraw a recognition, he or she must inform the relevant Premier and the Minister accordingly.

(5) When the President or relevant Premier withdraws the recognition of a king or queen, principal traditional leader, senior traditional leader, headman or headwoman—

(a) the President must cause a notice with particulars of such king or queen and the date on which such withdrawal takes effect to be published in the *Gazette*;

(b) the relevant Premier must cause a notice with particulars of such principal traditional leader, senior traditional leader, headman or headwoman and the date on which such withdrawal takes effect to be published in the relevant Provincial *Gazette*; and

(c) the President or Premier, as the case may be, must inform the royal family or traditional council concerned and the relevant king or queen, principal traditional leader, senior traditional leader, headman or headwoman of such withdrawal.

(6) *(a)* Where there is evidence or an allegation that—

(i) the withdrawal of the recognition of a king or queen, principal traditional leader, senior traditional leader, headman or headwoman was not based on any of the grounds set out in subsection (1);

(ii) the information which was brought to the President or Premier's attention in accordance with subsection (2)*(a)*(i) was provided in bad faith; or

(iii) a recommendation made by the royal family or relevant traditional council, in the case of an elected headman or headwoman, as contemplated in subsection (2)*(b)* was done in bad faith,

the President or Premier, as the case may be, must cause an investigation to be conducted by an investigative committee designated by the President or Premier which committee must, in the case of a king or queen, include at least one member of the National House and, in the case of a principal traditional leader, senior traditional leader, headman or headwoman, include at least one member of the relevant provincial house, to provide a report as well as recommendations on whether the withdrawal of the recognition of the person concerned was done in accordance with the grounds set out in subsection (1), or whether the information brought to the attention of the President or Premier was done in bad faith or not, or whether the recommendation of the royal family or traditional council was made in bad faith or not.

(b) Where the report of the investigative committee indicates that—

(i) the withdrawal of the recognition of the king or queen, principal traditional leader, senior traditional leader, headman or headwoman was not done in accordance with any of the grounds set out in subsection (1);

(ii) the information brought to the President or Premier's attention was done in bad faith; or

(iii) the recommendation of the royal family or relevant traditional council was made in bad faith,

the President or Premier, as the case may be, must refer the report to the royal family or traditional council for its comments and the royal family or traditional council must provide the President or Premier with written comments within 60 days from the date of such referral.

(c) The President or Premier may, after having considered the report of the investigative committee as well as the comments of the royal family or traditional council where applicable—

(i) refuse to withdraw the recognition of a king or queen, principal traditional leader, senior traditional leader, headman or headwoman if the information provided or the recommendations made by the royal family or traditional council were done in bad faith; or

(ii) by notice in the *Gazette* or Provincial *Gazette,* as the case may be, confirm the withdrawal of recognition of the particular traditional leader or revoke such withdrawal of recognition: Provided that if the withdrawal of recognition is revoked, the relevant traditional leader shall consequentially be regarded as reinstated from the date on which the recognition was withdrawn.

(7) Where the recognition of a king or queen, principal traditional leader, senior traditional leader, headman or headwoman is withdrawn in accordance with subsection (1)*(a)*, *(b)* or *(c)*, the royal family must identify a successor in accordance with section 8 and the relevant customary law and customs.

raad: Met dien verstande verder dat indien die President weier om 'n erkenning in te trek, hy of sy die tersaaklike Premier en die Minister ooreenkomstig moet verwittig.

(5) Wanneer die President of tersaaklike Premier die erkenning van 'n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou intrek—

(a) moet die President 'n kennisgewing met besonderhede van sodanige koning of koningin en die datum waarop sodanige intrekking in werking tree in die *Staatskoerant* laat publiseer;

(b) die tersaaklike Premier moet 'n kennisgewing met besonderhede van sodanige hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou en die datum waarop sodanige intrekking in werking tree in die tersaaklike *Provinsiale Koerant* laat publiseer; en

(c) die President of Premier, na gelang van die geval, moet die betrokke koninklike familie of tradisionele raad en die tersaaklike koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou van sodanige intrekking verwittig.

(6) *(a)* Waar daar bewyse of 'n bewering is dat—

(i) die intrekking van die erkenning van 'n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou nie op enige van die gronde in subartikel (1) gebaseer was nie;

(ii) die inligting wat ooreenkomstig subartikel (2)*(a)*(i) onder die aandag van die President of Premier gebring is, te kwader trou verstrek is; of

(iii) 'n aanbeveling deur die koninklike familie of tersaaklike tradisionele raad gedoen, in die geval van 'n verkose hoofman of hoofvrou, soos in subartikel (2)*(b)* beoog, te kwader trou gedoen is,

moet die President of Premier, na gelang van die geval, 'n ondersoek deur 'n ondersoekkomitee deur die President of Premier aangewys, laat doen, welke komitee, in die geval van 'n koning of koningin, ten minste een lid van die Nasionale Huis en in die geval van 'n hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou ten minste een lid van die tersaaklike provinsiale huis, moet insluit, om 'n verslag asook aanbevelings te voorsien oor of die intrekking van die betrokke persoon se erkenning ooreenkomstig die gronde in subartikel (1) uiteengesit, gedoen is en of die inligting te kwader trou onder die aandag van die President of Premier gebring is al dan nie, en of die aanbeveling van die koninklike familie of tradisionele raad, te kwader trou gedoen is, al dan nie.

(b) Waar die verslag van die ondersoekkomitee aandui dat—

(i) die intrekking van die erkenning van die koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou nie ooreenkomstig enige van die gronde in subartikel (1) uiteengesit, gedoen is nie;

(ii) die inligting te kwader trou onder die President of Premier se aandag gebring is; of

(iii) die aanbeveling van die koninklike familie of tersaaklike tradisionele raad te kwader trou gedoen is,

moet die President of Premier, na gelang van die geval, die verslag na die koninklike familie of tradisionele raad verwys vir kommentaar en die koninklike familie of tradisionele raad moet binne 60 dae na sodanige verwysing skriftelike kommentaar aan die President of Premier verstrek.

(c) Die President of Premier kan, na oorweging van die verslag van die ondersoekkomitee asook die kommentaar van die koninklike familie of tradisionele raad, waar van toepassing—

(i) weier om die erkenning van 'n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou in te trek indien die inligting te kwader trou verstrek is of aanbevelings deur die koninklike familie of tradisionele raad te kwader trou gedoen is; of

(ii) by kennisgewing in die *Staatskoerant* of *Provinsiale Koerant*, na gelang van die geval, die intrekking van die erkenning van die bepaalde tradisionele leier bevestig of sodanige intrekking van erkenning herroep: Met dien verstande dat indien die intrekking van erkenning herroep word, die tersaaklike tradisionele leier gevolglik geag word in die amp herstel te wees vanaf die datum waarop die erkenning ingetrek is.

(7) Waar die erkenning van 'n koning of koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou ooreenkomstig subartikel (1)*(a)*, *(b)* of *(c)* ingetrek word, moet die koninklike familie 'n opvolger ooreenkomstig artikel 8 en die tersaaklike gebruiksreg en gewoontes identifiseer.

Recognition of senior Khoi-San leader or branch head

10. (1) Whenever the position of a senior Khoi-San leader or branch head is to be filled, subject to sections 56, 57 and 58—

(a) the royal family concerned, in the event of hereditary succession must, within 90 days after the need arises for a position to be filled and with due regard to applicable customary law and customs, identify a senior Khoi-San leader as the hereditary successor, taking into account whether any of the grounds referred to in section 11(1) or, with the necessary changes, any of the grounds referred to in section 16(14)*(a)*, *(c)*, *(d)* or *(e)* apply to that person;

(b) the Khoi-San council concerned, in the case of succession by election must, within 90 days after the need arises for a position to be filled and with due regard to applicable customary law and customs, elect a senior Khoi-San leader or a branch head to assume the position in question, taking into account whether any of the grounds referred to in section 11(1) or, with the necessary changes, any of the grounds referred to in section 16(14)*(a)*, *(c)*, *(d)* or *(e)* apply to that person;

(c) the royal family or the Khoi-San council, as the case may be, must apply to the Premier for the recognition of the person identified or elected in terms of paragraphs *(a)* or *(b)*.

(2) A branch head elected in terms of subsection (1)*(b)* is, subject to the provisions of section 6(4)*(b)*, elected for a period of five years which term must coincide with the term of the Khoi-San council concerned.

(3) *(a)* An election referred to in subsection (1)*(b)* must, subject to paragraph *(b)*, be conducted in terms of rules and procedures adopted by the Khoi-San council concerned.

(b) The Minister may make regulations in respect of an election referred to in subsection (1)*(b)*.

(4) The royal family or Khoi-San council, as the case may be, must inform the Premier concerned of the particulars of the person identified or elected as contemplated in subsection (1).

(5) The Premier concerned must, subject to subsections (6) and (7), where a senior Khoi-San leader or branch head has been identified or elected—

(a) by notice in the relevant Provincial *Gazette* recognise the person identified or elected in terms of subsection (1);

(b) issue a certificate of recognition to the person so identified or elected and, subject to subsection (2), indicate the term of office of an elected person; and

(c) inform the Minister and the relevant provincial house of the particulars of the person referred to in paragraph *(a)*.

(6) *(a)* Where a branch head who has been elected resides in a province other than the province where the relevant Khoi-San council is situated, the Premier of the province within which the branch is situated must, by notice in the relevant Provincial *Gazette* and after consultation with the Premier of the province where the Khoi-San council is situated, recognise the branch head concerned.

(b) The provisions of subsection (5)*(b)* and *(c)* apply to the recognition of a branch head in terms of paragraph *(a)*.

(7) Where there is evidence or an allegation that the election or identification of a person referred to in subsection (1) was not done in accordance with the rules and procedures contemplated in subsection (3) or customary law and customs, the Premier concerned—

(a) must cause an investigation to be conducted by an investigative committee designated by the Premier which committee must include at least one Khoi-San member of the provincial house, to provide a report on whether the identification or election of the person referred to in subsection (1) was done in accordance with customary law and customs or the rules and procedures contemplated in subsection (3) and if not, which person should be so identified or whether a new election should be held; and

(b) must, where the findings of the investigative committee indicate that the identification or election of the person referred to in subsection (1) was not done in terms of customary law and customs or the rules and procedures contemplated in subsection (3), refer the report contemplated in paragraph *(a)* to the royal family or Khoi-San council, as the case may be, for its comments.

Erkenning van senior- Khoi-San-leier of -takhoof

10. (1) Wanneer die posisie van ’n senior- Khoi-San-leier of -takhoof gevul moet word, behoudens artikels 56, 57, en 58—

(a) moet die betrokke koninklike familie, in die geval van ’n erfopvolging, binne 90 dae nadat dit nodig geword het om ’n posisie te vul en met behoorlike inagneming van gewoontereg en gebruike, ’n senior- Khoi-San-leier as die erfopvolger identifiseer, met inagneming of enige van die gronde in artikel 11(1) bedoel of, met die nodige veranderinge, enige van die gronde in artikel 16(14)*(a)*, *(c)*, *(d)* of *(e)* op daardie persoon van toepassing is;

(b) die betrokke Khoi-San-raad moet, in die geval van opvolging deur verkiesing, binne 90 dae nadat dit nodig geword het om ’n posisie te vul en met behoorlike inagneming van toepaslike gewoontereg en gebruike, ’n senior- Khoi-San-leier of ’n -takhoof verkies om die posisie waaroor dit gaan op te neem, met inagneming of enige van die gronde in artikel 11(1) bedoel of, met die nodige veranderinge, enige van die gronde in artikel 16(14)*(a)*, *(c)*, *(d)* of *(e)* op daardie persoon van toepassing is;

(c) die koninklike familie of die Khoi-San-raad, na gelang van die geval, moet by die Premier aansoek doen om die erkenning van die persoon ingevolge paragrawe *(a)* of *(b)* geïdentifiseer of verkies.

(2) ’n Takhoof ingevolge subartikel (1)*(b)* verkies word, behoudens die bepalings van artikel 6(4)*(b)*, vir ’n tydperk van vyf jaar verkies, welke termyn met die termyn van die betrokke Khoi-San-raad moet saamloop.

(3) *(a)* ’n Verkiesing in subartikel (1)*(b)* bedoel moet, behoudens paragraaf *(b)*, ingevolge reëls en prosedures deur die betrokke Khoi-San-raad goedgekeur, gehou word.

(b) Die Minister kan regulasies ten opsigte van ’n verkiesing in subartikel (1)*(b)* beoog, uitvaardig.

(4) Die koninklike familie of Khoi-San-raad, na gelang van die geval, moet die betrokke Premier van die besonderhede van die persoon wat geïdentifiseer of verkies is soos in subartikel (1) beoog, verwittig.

(5) Die betrokke Premier moet, behoudens subartikels (6) en (7), waar ’n senior- Khoi-San-leier of -takhoof geïdentifiseer of verkies is—

(a) die persoon ingevolge subartikel (1) geïdentifiseer of verkies by kennisgewing in die betrokke *Provinsiale Koerant* erken;

(b) ’n erkenningsertifikaat aan die aldus geïdentifiseerde of verkose persoon uitreik en, behoudens subartikel (2), die ampstermyn van ’n verkose persoon aandui; en

(c) die Minister en die tersaaklike provinsiale huis verwittig van die besonderhede van die persoon in paragraaf *(a)* bedoel.

(6) *(a)* Waar ’n verkose takhoof nie in die provinsie woon waar die tersaaklike Khoi-San-raad geleë is nie, moet die Premier van die provinsie waar die tak geleë is, by kennisgewing in die tersaaklike *Provinsiale Koerant* en na oorleg met die Premier van die provinsie waar die Khoi-San-raad geleë is, die betrokke takhoof erken.

(b) Die bepalings van subartikel (5)*(b)* en *(c)* is van toepassing op die erkenning van ’n takhoof ingevolge paragraaf *(a)*.

(7) Waar daar bewyse of ’n bewering is dat die verkiesing of identifikasie van ’n persoon in subartikel (1) bedoel nie ooreenkomstig die reëls en prosedures in subartikel (3) beoog of gewoontereg en gebruike gedoen is nie—

(a) moet die betrokke Premier ’n ondersoek deur ’n ondersoekkomitee deur die Premier aangewys, laat doen, welke komitee ten minste een Khoi-San-lid van die provinsiale huis moet insluit, om ’n verslag te voorsien oor of die identifikasie of verkiesing van die persoon in subartikel (1) bedoel ooreenkomstig gewoontereg en gebruike of die reëls en prosedures in subartikel (3) bedoel, gedoen is en indien nie, watter persoon aldus geïdentifiseer moet word en of ’n nuwe verkiesing gehou moet word; en

(b) moet die betrokke Premier, waar die bevindings van die ondersoekkomitee aandui dat die identifikasie of verkiesing van die persoon in subartikel (1) bedoel nie ingevolge gewoontereg of gebruike of die reëls en prosedures in subartikel (3) beoog gedoen is nie, die verslag in paragraaf *(a)* beoog na die koninklike familie of Khoi-San-raad, na gelang van die geval, verwys vir kommentaar.

(8) The Premier concerned may, after having considered the report of the investigative committee as well as the comments of the royal family or Khoi-San council—

(a) recognise a person as a senior Khoi-San leader or a branch head; or

(b) advise the Khoi-San council that the election of a senior Khoi-San leader or branch head was not done in terms of customary law and customs or in accordance with the rules and procedures contemplated in subsection (3) and that a re-election must be held within the time determined by the Premier.

(9) *(a)* A Premier must on an annual basis, or when requested by the Minister, provide the Minister with a report on the recognition of Khoi-San leaders and branch heads.

(b) A copy of the report referred to in paragraph *(a)* must be submitted to the relevant provincial house for noting.

Withdrawal of recognition of senior Khoi-San leader or branch head

11. (1) The recognition of a senior Khoi-San leader or branch head, subject to the provisions of subsection (2)—

(a) must be withdrawn if he or she—

(i) has been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;

(ii) is declared mentally unfit or mentally disordered by a court; or

(b) may be withdrawn if he or she—

(i) has been removed from office in terms of the code of conduct; or

(ii) has transgressed customary law or customs,

on a ground that warrants withdrawal of recognition; and

(c) must be withdrawn if so ordered by a court.

(2) *(a)* Whenever any of the grounds referred to in subsection (1) come to the attention of the royal family or Khoi-San council, as the case may be, the royal family or Khoi-San council must, within 90 days from the date of becoming aware of such grounds and through the relevant customary structure inform the Premier of the province where the royal family or branch is situated of the particulars of such senior Khoi-San leader or branch head and of the particulars relating to the specific ground referred to in subsection (1).

(b) Whenever any of the grounds referred to in subsection (1)*(b)* come to the attention of the royal family or Khoi-San council, the royal family or Khoi-San council may recommend the withdrawal of the recognition of the senior Khoi-San leader or branch head and must furnish the Premier with reasons for such recommendation.

(3) *(a)* When the Premier is informed of the presence of any of the grounds referred to in subsection (1)*(a)*, the Premier must, subject to subsections (4) and (5), withdraw the recognition of the relevant senior Khoi-San leader or branch head.

(b) When the Premier is informed of the presence of any of the grounds referred to in subsection (1)*(b)*, the Premier may—

(i) after having considered the information referred to in subsection (2)*(a)*; and

(ii) where applicable, after having considered any recommendation and reasons as contemplated in subsection (2)*(b)*,

withdraw the recognition of the senior Khoi-San leader or branch head or refuse to withdraw such recognition: Provided that if the Premier refuses to withdraw such recognition, he or she must in writing provide reasons to the royal family or Khoi-San council, as the case may be.

(4) When the Premier withdraws the recognition of a senior Khoi-San leader or branch head, the Premier must—

(a) cause a notice with particulars of such senior Khoi-San leader or branch head and the date on which such withdrawal takes effect to be published in the Provincial *Gazette*; and

(b) inform the royal family or Khoi-San council concerned and the senior Khoi-San leader or branch head concerned of such withdrawal.

(5) *(a)* Where there is evidence or an allegation that the withdrawal of the recognition of a senior Khoi-San leader or branch head was not based on any of the grounds set out in subsection (1), or that the information which was brought to the Premier's attention in accordance with subsection (2)*(a)* was provided in bad faith, or that a recommendation made by the royal family or Khoi-San council as contemplated in subsection (2)*(b)* was done in bad faith, the Premier must cause an investigation to be conducted by an investigative committee designated by the Premier which committee must include at

(8) Die betrokke Premier kan, na oorweging van die verslag van die ondersoekkomitee asook die kommentaar van die koninklike familie of Khoi-San-raad—

(a) 'n persoon as 'n senior- Khoi-San-leier of 'n -takhoof erken; of
(b) die Khoi-San-raad adviseer dat die verkiesing van 'n senior- Khoi-San-leier of -takhoof nie ingevolge gewoontereg en gebruike of ooreenkomstig die reëls en prosedures in subartikel (3) beoog, gedoen is nie en dat 'n herverkiesing in die tyd deur die Premier bepaal, gehou moet word.

(9) *(a)* 'n Premier moet jaarliks, of wanneer die Minister dit versoek, die Minister voorsien van 'n verslag oor die erkenning van Khoi-San-leiers en takhoofde.

(b) 'n Afskrif van die verslag in paragraaf *(a)* bedoel moet ter kennisname aan die tersaaklike provinsiale huis voorgelê word.

Intrekking van erkenning van senior- Khoi-San-leier of -takhoof

11. (1) Die erkenning van 'n senior- Khoi-San-leier of -takhoof, behoudens die bepalings van subartikel (2)—

(a) moet ingetrek word indien hy of sy—
(i) aan 'n misdryf skuldig bevind is en tot gevangenisstraf van meer as 12 maande sonder die opsie van 'n boete gevonnis is;
(ii) deur 'n hof geestesversteurd of gestrem verklaar is; of
(b) kan ingetrek word indien hy of sy—
(i) ingevolge die gedragskode van sy of haar amp onthef is; of
(ii) gewoontereg of gebruike oortree het,
op 'n grond wat intrekking van erkenning regverdig; en
(c) moet ingetrek word indien 'n hof dit beveel.

(2) *(a)* Wanneer enige van die gronde in subartikel (1) bedoel onder die aandag van die koninklike familie of Khoi-San-raad kom, na gelang van die geval, moet die koninklike familie of Khoi-San-raad, binne 90 dae vanaf bewuswording van sodanige gronde en deur die tersaaklike gebruikstruktuur, die Premier van die provinsie waar die koninklike familie of tak geleë is, verwittig van die besonderhede van sodanige senior-Khoi-San-leier of -takhoof en die besonderhede wat op die bepaalde grond in subartikel (1) bedoel, betrekking het.

(b) Wanneer enige van die gronde in subartikel (1)*(b)* bedoel onder die aandag van die koninklike familie of Khoi-San-raad kom, kan die koninklike familie of Khoi-San-leier aanbeveel dat die erkenning van die senior- Khoi-San-leier of -takhoof ingetrek word en die redes vir sodanige aanbeveling moet aan die Premier verskaf word.

(3) *(a)* Wanneer die Premier verwittig word van die teenwoordigheid van enige van die gronde in subartikel (1)*(a)* bedoel, moet die Premier, behoudens subartikels (4) en (5), die erkenning van die tersaaklike senior- Khoi-San-leier of -takhoof intrek.

(b) Wanneer die Premier verwittig word van die teenwoordigheid van enige van die gronde in subartikel (1)*(b)* bedoel, kan die Premier—

(i) na oorweging van die inligting in subartikel (2)*(a)* bedoel; en
(ii) waar van toepassing, na oorweging van enige aanbeveling en redes soos in subartikel (2)*(b)* beoog,

die erkenning van die senior- Khoi-San-leier of -takhoof intrek of weier om sodanige erkenning in te trek: Met dien verstande dat indien die Premier weier om sodanige erkenning in te trek, hy of sy skriftelik redes aan die koninklike familie of Khoi-San-raad, na gelang van die geval, moet verstrek.

(4) Wanneer die Premier die erkenning van 'n senior- Khoi-San-leier of-takhoof intrek, moet die Premier—

(a) 'n kennisgewing met besonderhede van sodanige senior- Khoi-San-leier of -takhoof op die datum waarop sodanige intrekking in werking tree, in die *Provinsiale Koerant* laat publiseer; en
(b) die betrokke koninklike familie of Khoi-San-raad en die betrokke senior-Khoi-San-leier of -takhoof verwittig van sodanige intrekking.

(5) *(a)* Waar daar getuienis of 'n bewering is dat die intrekking van die erkenning van 'n senior- Khoi-San-leier of -takhoof nie op enige van die gronde in subartikel (1) gebaseer was nie, of dat die inligting wat onder die aandag van die Premier gebring is ooreenkomstig subartikel (2)*(a)* te kwader trou verstrek is of dat 'n aanbeveling deur die koninklike familie of Khoi-San-raad soos in subartikel (2)*(b)* beoog te kwader trou gedoen is, moet die Premier 'n ondersoek deur 'n ondersoekkomitee deur die Premier aangewys laat doen, welke komitee ten minste een Khoi-San-lid van die tersaaklike

least one Khoi-San member of the relevant provincial house, to provide a report as well as recommendations on whether the withdrawal of the recognition of the senior Khoi-San leader or branch head was done in accordance with the grounds set out in subsection (1), or whether the information brought to the attention of the Premier was done in bad faith or not, or whether the recommendation of the royal family or Khoi-San council was made in bad faith or not.

(b) Where the report of the investigative committee indicates that the withdrawal of the recognition of the senior Khoi-San leader or branch head was not done in accordance with any of the grounds set out in subsection (1), or that the information brought to the Premier's attention was done in bad faith, or that the recommendation of the royal family or Khoi-San council was made in bad faith, the Premier must refer the report to the royal family or Khoi-San council, as the case may be, for its comments and the royal family or Khoi-San council must provide the Premier with written comments within 60 days from the date of referral.

(c) The Premier may, after having considered the report of the investigative committee as well as the comments of the royal family or Khoi-San council where applicable—

(i) refuse to withdraw the recognition of a senior Khoi-San leader or branch head if the information provided or the recommendations made by the royal family or Khoi-San council were done in bad faith; or

(ii) by notice in the Provincial *Gazette*, confirm the withdrawal of recognition of the senior Khoi-San leader or branch head concerned or revoke such withdrawal of recognition: Provided that if the withdrawal of recognition is revoked, the relevant senior Khoi-San leader or branch head shall consequentially be regarded as reinstated from the date on which the recognition was withdrawn.

(6) If a senior Khoi-San leader or branch head whose recognition has been withdrawn—

(a) occupied a position of hereditary leadership as contemplated in section 7(2)*(e)*(i), a successor or an acting senior Khoi-San leader as contemplated in section 13(1), as the case may be, must be identified by the royal family in accordance with the provisions of section 10 or 13 respectively; or

(b) was elected as contemplated in section 7(2)*(e)*(ii), a successor must be elected by the Khoi-San council in accordance with the provisions of section 10: Provided that a person elected as branch head in terms of this paragraph is elected for the unexpired term of his or her predecessor.

(7) *(a)* Where the royal family or Khoi-San council, as the case may be, recommended the withdrawal of the recognition of a branch head who resides in a province other than the province where the Khoi-San council is situated, the Premier of the province where the Khoi-San council is situated must request the Premier of the province that recognised the branch head to withdraw the recognition of such branch head.

(b) The provisions of subsections (4) and (5) apply to a withdrawal in terms of paragraph *(a)*.

Recognition of regent

12. (1) Where the hereditary successor to the position of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman or senior Khoi-San leader identified in terms of sections 8 or 10, as the case may be, is regarded as a minor—

(a) the royal family concerned must, within 90 days of the death of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman or senior Khoi-San leader—

(i) identify a regent to assume leadership on behalf of the minor, after taking into account whether, in the case of a regent to the position of a king, queen, principal traditional leader, senior traditional leader, headman or headwoman any of the grounds referred to in section 9(1) or 16(11)*(h)* or 16(14) apply to such regent, or whether, in the case of a regent to a senior Khoi-San leader, any of the grounds referred to in section 11(1) or 16(14) apply to such regent; and

(ii) through the relevant customary structure and with due regard to applicable customary law and customs, inform the Premier concerned of the particulars of the person identified as regent and the reasons for the identification of that person; and

provinsiale huis moet bevat, ten einde ’n verslag asook aanbevelings oor of die intrekking van die erkenning van die senior- Khoi-San-leier of -takhoof ooreenkomstig die gronde in subartikel (1) uiteengesit, gedoen is en of die inligting wat onder die aandag van die Premier gebring is te kwader trou verstrek is, al dan nie, en of die aanbeveling van die koninklike familie of Khoi-San-raad te kwader trou gedoen is, al dan nie.

(b) Waar die verslag van die ondersoekkomitee aandui dat die intrekking van die erkenning van die senior- Khoi-San-leier of -takhoof nie ooreenkomstig enige van die gronde in subartikel (1) uiteengesit, gedoen is nie of dat die inligting wat onder die Premier se aandag gebring is te kwader trou verstrek is, of dat die aanbeveling van die koninklike familie of Khoi-San-raad te kwader trou gedoen is, moet die Premier die verslag aan die koninklike familie of Khoi-San-raad, na gelang van die geval, rapporteer vir sy kommentaar en die koninklike familie of Khoi-San-raad moet binne 60 dae vanaf die datum van verwysing skriftelike kommentaar aan die Premier verstrek.

(c) Die Premier kan, na oorweging van die verslag van die ondersoekkomitee asook die kommentaar van die koninklike familie of Khoi-San-raad waar van toepassing—

(i) weier om die erkenning van ’n senior- Khoi-San-leier of takhoof in te trek indien die inligting te kwader trou verstrek is of die aanbevelings deur die koninklike familie of Khoi-San-raad te kwader trou gedoen is; of

(ii) by kennisgewing in die *Provinsiale Koerant*, die intrekking van erkenning van die betrokke senior- Khoi-San-leier of -takhoof bevestig: Met dien verstande dat indien die intrekking van erkenning herroep word, die tersaaklike senior- Khoi-San-leier of -takhoof gevolglik vanaf die datum waarop die erkenning herroep word, geag word heringestel te wees.

(6) Indien ’n senior- Khoi-San-leier of takhoof wie se erkenning ingetrek is—

(a) ’n posisie van erfleierskap soos in artikel 7(2)*(e)*(i) beoog beklee het, moet ’n opvolger of ’n waarnemende senior- Khoi-San-leier na gelang van die geval, soos in artikel 13(1) beoog, ooreenkomstig die bepalings van onderskeidelik artikel 10 of 13 deur die koninklike familie geïdentifiseer word; of

(b) verkies is soos in artikel 7(2)*(e)*(ii) beoog, moet ’n opvolger deur die Khoi-San-raad verkies word ooreenkomstig die bepalings van artikel 10: Met dien verstande dat ’n persoon ingevolge hierdie paragraaf as takhoof vir die onverstreke termyn van sy of haar voorganger verkies word.

(7) *(a)* Waar die koninklike familie of Khoi-San-raad, na gelang van die geval, die intrekking van die erkenning van ’n takhoof wat nie in die provinsie waar die Khoi-San-raad geleë is, woon nie, moet die Premier van die provinsie waar die Khoi-San-raad geleë is die Premier van die provinsie wat die takhoof erken het, vra om die erkenning van sodanige takhoof in te trek.

(b) Die bepalings van subartikels (4) en (5) is van toepassing op ’n intrekking ingevolge paragraaf *(a)*.

Erkenning van regent

12. (1) Waar die erfopvolger tot die posisie van ’n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier ingevolge artikels 8 of 10 geïdentifiseer, na gelang van die geval, as ’n minderjarige beskou word—

(a) moet die betrokke koninklike familie, binne 90 dae na die dood van ’n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier—

(i) ’n regent identifiseer om leierskap namens die minderjarige op te neem, nadat in ag geneem is of, in die geval van ’n regent tot die posisie van ’n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou, enige van die gronde in artikel 9(1) of 16(11)*(h)* of 16(14) op sodanige regent van toepassing is, of hetsy, in die geval van ’n regent vir ’n senior- Khoi-San-leier, enige van die gronde in artikel 11(1) of 16(14) op sodanige regent van toepassing is; en

(ii) deur die tersaaklike gebruikstruktuur en met behoorlike inagneming van toepaslike gewoontereg en gebruike, die betrokke Premier verwittig van die besonderhede van die persoon as regent geïdentifiseer en die redes vir die identifikasie van daardie persoon; en

(b) the Premier concerned must, with due regard to applicable customary law or customs and subject to subsections (2) and (3), recognise the regent identified by the royal family in respect of the position of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman or senior Khoi-San leader:

Provided that the recognition of a regent must be reviewed by the Premier concerned at least every two years.

(2) Where the royal family fails to identify a regent as contemplated in subsection (1), the Premier must, after consultation with the royal family and after taking into account whether any of the grounds contemplated in subsection (1)*(a)*(i) apply to such person, identify a suitable person as regent.

(3) Whenever a Premier recognises a regent as contemplated in subsection (1), he or she must—

(a) publish a notice in the relevant Provincial *Gazette* recognising the person identified as regent in terms of subsection (1);

(b) issue a certificate of recognition to the identified regent; and

(c) inform the relevant provincial house of the recognition of a regent.

(4) A regent is responsible for the performance of the functions that are attached to the relevant position and is entitled to the salary and allowances attached to such position.

(5) The provisions of section 10(7) apply with the necessary changes in respect of a regent identified for a senior Khoi-San leader.

(6) Where there is evidence or an allegation that the identification of a person as regent was not done in accordance with customary law or customs, the Premier concerned—

(a) must cause an investigation to be conducted by an investigative committee designated by the Premier which committee must include at least one member of the relevant provincial house, to provide a report on whether the identification of the person referred to in subsection (1) was done in accordance with customary law and customs and if not, which person should be so identified; and

(b) must, where the findings of the investigative committee indicate that the identification of the person referred to in subsection (1) was not done in terms of customary law and customs, refer the report contemplated in paragraph *(a)* to the royal family for its comments.

(7) The Premier concerned may, after having considered the report of the investigative committee as well as the comments of the royal family, recognise a person as a regent.

(8) As soon as the successor to the position of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman or senior Khoi-San leader ceases to be a minor, the regent recognised in terms of subsection (1) must relinquish his or her position as regent, and the rightful successor—

(a) in the case of a king or queen, must be recognised by the President after consultation with the Minister as contemplated in section 8(1)*(b)*, and a certificate of recognition as contemplated in section 8(3)*(b)* must be issued after his or her name has been published in the *Gazette*;

(b) in the case of a principal traditional leader, senior traditional leader, headman or headwoman, must be recognised by the Premier concerned in terms of section 8(1)*(c)* or 8(2)*(d)*, as the case may be, and a certificate of recognition contemplated in section 8(3)*(b)* must be issued after his or her name has been published in the relevant Provincial *Gazette*; or

(c) in the case of a senior Khoi-San leader, must be recognised by the Premier concerned in terms of section 10(5)*(a)*, and a certificate of recognition contemplated in section 10(5)*(b)* must be issued after his or her name has been published in the relevant Provincial *Gazette*.

(9) Where a regent has been recognised in respect of the position of a king or queen, the Premier concerned must inform the President and the Minister—

(a) of the particulars of the regent;

(b) when the regent is supposed to relinquish his or her position as regent; and

(c) if applicable, of the withdrawal of the recognition of the regent.

(10) If the successor to the position of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman or senior Khoi-San leader dies while still being a minor, the regent automatically and immediately relinquish his or her position.

(b) die betrokke Premier moet, met behoorlike inagneming van toepaslike gewoontereg en gebruike en behoudens subartikels (2) en (3), die regent deur die koninklike familie geïdentifiseer ten opsigte van die posisie van 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier, erken:

Met dien verstande dat die erkenning van 'n regent ten minste elke twee jaar deur die betrokke Premier hersien moet word.

(2) Waar die koninklike familie versuim om 'n regent te identifiseer soos in subartikel (1) beoog, moet die Premier, na oorleg met die koninklike familie en na inagneming of enige van die gronde in subartikel (1)*(a)*(i) bedoel op daardie persoon van toepassing is, 'n geskikte persoon as regent identifiseer.

(3) Wanneer 'n Premier ook al 'n regent erken soos in subartikel (1) beoog, moet hy of sy—

(a) 'n kennisgewing in die tersaaklike *Provinsiale Koerant* publiseer waarin die persoon wat as regent geïdentifiseer is, ingevolge subartikel (1) erken word;

(b) 'n erkenningsertifikaat aan die geïdentifiseerde regent uitreik; en

(c) die tersaaklike provinsiale huis van die erkenning van 'n regent verwittig.

(4) 'n Regent is verantwoordelik vir die verrigting van die werksaamhede wat met die posisie gepaard gaan en is geregtig op die salaris en toelaes wat met die posisie gepaard gaan.

(5) Die bepalings van artikel 10(7) is met die nodige veranderinge van toepassing ten opsigte van 'n regent vir 'n senior- Khoi-San-leier geïdentifiseer.

(6) Waar daar bewyse of 'n bewering is dat die identifikasie van 'n persoon as regent nie ooreenkomstig gewoontereg of gebruike gedoen is nie, moet die betrokke Premier—

(a) 'n ondersoek laat doen deur 'n ondersoekkomitee deur die Premier aangewys, welke komitee ten minste een lid van die tersaaklike provinsiale huis moet insluit, om 'n verslag te voorsien oor hetsy die identifikasie van die persoon in subartikel (1) bedoel ooreenkomstig gewoontereg en gebruike gedoen is en indien nie, watter persoon aldus geïdentifiseer moet word; en

(b) waar die bevindings van die ondersoekkomitee aandui dat die identifikasie van die persoon in subartikel (1) bedoel nie ingevolge gewoontereg en gebruike gedoen is nie, die verslag in paragraaf *(a)* beoog na die koninklike familie verwys vir kommentaar.

(7) Die betrokke Premier kan, na oorweging van die verslag van die ondersoekkomitee asook die kommentaar van die koninklike familie, 'n persoon as 'n regent erken.

(8) Sodra die opvolger tot die posisie van 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier nie langer 'n minderjarige is nie, moet die regent ingevolge subartikel (1) erken, sy of haar posisie as regent opgee, en die regmatige opvolger—

(a) in die geval van 'n koning of koningin, moet deur die President erken word na oorleg met die Minister soos beoog in artikel 8(1)*(b)*, en 'n erkenningsertifikaat soos in artikel 8(3)*(b)* beoog, moet uitgereik word nadat sy of haar naam in die *Staatskoerant* gepubliseer is;

(b) in die geval van 'n hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou, moet deur die betrokke Premier erken word ingevolge artikel 8(1)*(c)* of 8(2)*(d)*, na gelang van die geval, en 'n sertifikaat van erkenning in artikel 8(3)*(b)* beoog moet uitgereik word nadat sy of haar naam in die tersaaklike *Provinsiale Koerant* gepubliseer is; of

(c) in die geval van 'n senior- Khoi-San-leier, moet deur die betrokke Premier erken word ingevolge artikel 10(5)*(a)*, en 'n sertifikaat van erkenning in artikel 10(5)*(b)* beoog moet uitgereik word nadat sy of haar naam in die tersaaklike *Provinsiale Koerant* gepubliseer is.

(9) Waar 'n regent ten opsigte van die posisie van 'n koning of koningin erken is, moet die tersaaklike Premier die President en die Minister verwittig—

(a) van die besonderhede van die regent;

(b) wanneer die regent veronderstel is om sy of haar posisie as regent op te gee; en

(c) indien van toepassing, van die intrekking van die erkenning van die regent.

(10) Indien die opvolger tot die posisie van 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier sterf terwyl hy of sy 'n minderjarige is, gee die regent outomaties en onmiddellik sy of haar posisie op.

(11) In instances where—

(a) the position of a king, queen, senior traditional leader, headman, headwoman or senior Khoi-San leader has been recognised for the first time in terms of sections 8 or 10, as the case may be;

(b) such leadership position is regarded as hereditary in nature; and

(c) the person identified or elected to assume such leadership position is a minor,

the provisions of this section apply with the necessary changes.

Recognition of acting traditional and Khoi-San leaders

13. (1) Within 90 days of becoming aware of any of the instances mentioned in subparagraphs (i), (ii) and (iii)—

(a) a royal family must identify a suitable person to act as a king, queen, principal traditional leader, senior traditional leader, headman or headwoman, after taking into account whether any of the grounds referred to in section 9(1) or 16(11)*(h)* or 16(14) apply to such person; or

(b) a royal family or Khoi-San council, as the case may be, must identify a suitable person to act as a senior Khoi-San leader or branch head, as the case may be, after taking into account whether any of the grounds referred to in section 11(1) or 16(14) apply to such a person,

where—

(i) a successor—

(aa) to the hereditary position of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman or senior Khoi-San leader has not been identified by the royal family concerned in terms of section 8 or 10, as the case may be; or

(bb) to the position of senior Khoi-San leader or branch head has not been elected by the Khoi-San council as contemplated in section 10(1)*(b)*;

(ii) the identification of a successor to the position of a king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader or branch head is being dealt with in terms of section 8(4) or 10(7), as the case may be; or

(iii) a king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader or branch head, as the case may be, is unable to perform his or her functions under circumstances other than those provided for in section 14 for—

(aa) the treatment of illness for a period of more than three months;

(bb) study purposes for a period of more than three months; or

(cc) any other lawful purpose.

(2) Where the royal family or Khoi-San council fails to identify a suitable person as contemplated in subsection (1), the Premier must, after consultation with the royal family or Khoi-San council, as the case may be, and after taking into account whether any of the grounds contemplated in subsection (1) apply to such person, identify a suitable person to act as a king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader or branch head, as the case may be.

(3) Where a person has been identified to act as a king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader or branch head, the royal family or Khoi-San council, as the case may be, must, within seven days of the identification of an acting person, inform the Premier concerned of the particulars of the person so identified and the reasons for the identification of that person.

(11) In gevalle waar—

(a) die posisie van 'n koning, koningin, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier vir die eerste keer ingevolge artikels 8 of 10, na gelang van die geval, erken is;

(b) sodanige leierskapsposisie as erflik van aard beskou word; en

(c) die persoon wat geïdentifiseer of verkies is om sodanige leierskapsposisie op te neem 'n minderjarige is,

kan die bepalings van hierdie artikel met die nodige veranderinge van toepassing wees.

Erkenning van waarnemende tradisionele en Khoi-San-leiers

13. (1) Binne 90 dae na bewuswording van enige van die gevalle in subparagrawe (i), (ii) en (iii) genoem—

(a) moet 'n koninklike familie 'n geskikte persoon identifiseer om as 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou waar te neem, na inagneming van of enige van die gronde in artikel 9(1) of 16(11)*(h)* of 16(14) bedoel op sodanige persoon van toepassing is; of

(b) moet 'n koninklike familie of Khoi-San-raad, na gelang van die geval, 'n geskikte persoon identifiseer om as 'n senior- Khoi-San-leier of -takhoof, na gelang van die geval, waar te neem, na inagneming van of enige van die gronde in artikel 11(1) of 16(14) bedoel op sodanige persoon van toepassing is,

waar—

(i) 'n opvolger—

(aa) tot die erfposisie van 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier nie ingevolge artikel 8 of 10, na gelang van die geval, deur die betrokke koninklike familie geïdentifiseer is nie; of

(bb) tot die posisie van senior- Khoi-San-leier of takhoof nie deur die Khoi-San-raad verkies is soos in artikel 10(1)*(b)* beoog nie;

(ii) die identifikasie van 'n opvolger tot die posisie van 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, senior- Khoi-San-leier of -takhoof ingevolge artikel 8(4) of 10(7), na gelang van die geval, hanteer word; of

(iii) 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, senior- Khoi-San-leier of -takhoof, na gelang van die geval, nie daartoe in staat is om sy of haar werksaamhede te verrig nie onder omstandighede behalwe die omstandighede in artikel 14 voor voorsiening gemaak vir—

(aa) die behandeling van siekte vir 'n tydperk van meer as drie maande;

(bb) studie-doeleindes vir 'n tydperk van meer as drie maande; of

(cc) enige ander regmatige doel.

(2) Waar die koninklike familie of Khoi-San-raad versuim om 'n geskikte persoon te identifiseer soos in subartikel (1) beoog, moet die Premier, na oorleg met die koninklike familie of Khoi-San-raad, na gelang van die geval, en na inagneming of enige van die gronde in subartikel (1) beoog, op daardie persoon van toepassing is, 'n gepaste persoon identifiseer om as 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, senior- Khoi-San-leier of -takhoof, na gelang van die geval, waar te neem.

(3) Waar 'n persoon geïdentifiseer is om as 'n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, senior- Khoi-San-leier of -takhoof waar te neem, moet die koninklike familie of Khoi-San-raad, na gelang van die geval, binne sewe dae vanaf die identifikasie van 'n waarnemende persoon, die betrokke Premier verwittig van die besonderhede van die aldus geïdentifiseerde persoon en die redes vir die identifikasie van daardie persoon.

(4) A person identified to act as a king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader or branch head must, subject to subsection (5), be recognised by the Premier concerned by notice in the relevant Provincial *Gazette* and the Premier must—

(a) issue a certificate of recognition to the person identified to act in a particular position; and

(b) inform the Minister of the recognition of an acting king or queen and inform the relevant provincial house of the recognition of any other acting leader:

Provided that an acting recognition must be reviewed at least every two years by the Premier concerned.

(5) *(a)* Where there is evidence or an allegation that the identification of a person as acting king, queen, principal traditional leader, senior traditional leader, headman or headwoman was not done in accordance with customary law or customs, the Premier concerned—

(i) must cause an investigation to be conducted by an investigative committee designated by the Premier which committee must include at least one member of the relevant provincial house, to provide a report on whether the identification of the person referred to in subsection (1) was done in accordance with customary law and customs and if not, which person should be so identified; and

(ii) must, where the findings of the investigative committee indicate that the identification of the person referred to in subsection (1) was not done in terms of customary law and customs, refer the report contemplated in subparagraph (i) to the royal family for its comments.

(b) The provisions of section 10(7) apply with the necessary changes in respect of the identification of an acting senior Khoi-San leader or branch head.

(6) A person who has been recognised as an acting king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader or branch head in terms of this section, is responsible for the performance of the functions that are attached to the relevant position and is entitled to the salary and allowances attached to such position: Provided that the king, queen, principal traditional leader, senior traditional leader, headman, headwoman, senior Khoi-San leader and branch head in whose stead a person has been recognised to act in terms of this section, is not entitled to any salary and allowances attached to the relevant position for the duration of the recognition of the person so acting.

(7) Where a person has been identified as an acting king or queen, the Premier concerned must inform the President and the Minister of—

(a) the acting recognition; and

(b) if applicable, the withdrawal of recognition of the person who has been identified as an acting king or queen.

(8) Whenever the successor to a leadership position has been identified or elected as contemplated in subparagraph (i) of subsection (1), or an investigation as contemplated in subparagraph (ii) of subsection (1) has been finalised, or the circumstances referred to in subparagraph (iii) of subsection (1) are no longer applicable, any relevant acting recognition shall automatically lapse on the date on which the relevant leader referred to in subparagraph (i) or (ii) of subsection (1) is recognised by notice in the *Gazette* or Provincial *Gazette*, as the case may be, or the date on which the leader referred to in subparagraph (iii) of subsection (1) resumes his or her functions.

Recognition of deputy traditional and Khoi-San leaders

14. (1) Any senior traditional leader, headman or headwoman who occupies a hereditary position must, with the concurrence of the relevant royal family, within 90 days of any of the circumstances set out in paragraphs *(a)* to *(f)* occurring, identify a deputy to act in his or her stead whenever that senior traditional leader, headman or headwoman—

(a) becomes a full-time member of a municipal council;

(b) is elected as a member of a provincial legislature;

(c) is elected as a member of the National Assembly;

(d) is appointed as a permanent delegate in the National Council of Provinces;

(e) holds a full-time position in any house of traditional and Khoi-San leaders; or

(4) ’n Persoon geïdentifiseer om as ’n koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, senior- Khoi-San-leier of -takhoof waar te neem, moet, behoudens subartikel (5), by kennisgewing in die *Provinsiale Koerant* deur die betrokke Premier erken word en die Premier moet—

(a) ’n erkenningsertifikaat uitreik aan die persoon wat geïdentifiseer is om in ’n bepaalde posisie waar te neem; en

(b) die Minister verwittig van die erkenning van ’n waarnemende koning of koningin en die tersaaklike provinsiale huis verwittig van die erkenning van enige ander waarnemende leier:

Met dien verstande dat ’n waarnemende erkenning ten minste elke twee jaar deur die betrokke Premier hersien moet word.

(5) *(a)* Waar daar bewyse of ’n bewering is dat die identifikasie van ’n persoon as waarnemende koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman of hoofvrou nie ingevolge gewoontereg of gebruike gedoen is nie, moet die betrokke Premier—

(i) ’n ondersoek laat doen deur ’n ondersoekkomitee deur die Premier aangewys, welke komitee ten minste een lid van die tersaaklike provinsiale huis moet insluit, om ’n verslag te voorsien oor of die identifikasie van die persoon in subartikel (1) bedoel ooreenkomstig gewoontereg en gebruik gedoen is en indien nie, watter persoon aldus geïdentifiseer moet word; en

(ii) waar die bevindings van die ondersoekkomitee aandui dat die identifikasie van die persoon in subartikel (1) bedoel nie ingevolge gewoontereg of gebruike gedoen is nie, die verslag in subparagraaf (i) beoog na die koninklike familie verwys vir kommentaar.

(b) Die bepalings van artikel 10(7) is van toepassing met die nodige veranderinge ten opsigte van die identifikasie van ’n waarnemende senior- Khoi-San-leier of takhoof.

(6) ’n Persoon wat ingevolge hierdie artikel as ’n waarnemende koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, senior- Khoi-San-leier of -takhoof geïdentifiseer is, is verantwoordelik vir die verrigting van die werksaamhede wat met die tersaaklike posisie gepaard gaan en is geregtig op die salaris en toelaes wat met die tersaaklike posisie gepaard gaan: Met dien verstande dat die koning, koningin, hoof- tradisionele leier, senior- tradisionele leiers, hoofman, hoofvrou, senior- Khoi-San-leier en -takhoof in wie se plek ’n persoon ingevolge hierdie artikel erken is om waar te neem, vir die duur van die erkenning nie op enige salaris en toelaes wat met die tersaaklike posisie gepaard gaan, geregtig is nie.

(7) Waar ’n persoon as ’n waarnemende koning of koningin erken is, moet die betrokke Premier die President en die Minister verwittig van—

(a) die waarnemende erkenning; en

(b) indien van toepassing, die intrekking van erkenning van die persoon wat as ’n waarnemende koning of koningin geïdentifiseer is.

(8) Wanneer die opvolger tot ’n leierskapsposisie ook al geïdentifiseer of verkies is soos in subparagraaf (i) van subartikel (1) beoog, of ’n ondersoek soos beoog in subparagraaf (ii) van subartikel (1) afgehandel is, of die omstandighede in subparagraaf (iii) van subartikel (1) bedoel nie meer geld nie, verval enige tersaaklike waarnemende erkenning outomaties op die datum waarop die tersaaklike leier in subparagraaf (i) of (ii) van subartikel (1) bedoel by kennisgewing in die *Staatskoerant* of *Provinsiale Koerant*, na gelang van die geval, erken word of op die datum waarop die leier in subparagraaf (iii) van subartikel (1) bedoel sy of haar werksaamhede weer opneem.

Erkenning van adjunk- tradisionele en Khoi-San-leiers

14. (1) ’n Senior- tradisionele leier, hoofman of hoofvrou, wat ’n erfposisie beklee moet, met die instemming van die tersaaklike koninklike familie, binne 90 dae na enige van die omstandighede in paragraaf *(a)* tot *(f)* voorgekom het, ’n adjunk identifiseer om in sy of haar plek waar te neem wanneer daardie senior- tradisionele leier, hoofman of hoofvrou—

(a) ’n voltydse lid van ’n munisipale raad word;

(b) as ’n lid van ’n provinsiale wetgewer verkies word;

(c) as ’n lid van die Nasionale Vergadering verkies word;

(d) as ’n permanente afgevaardigde in die Nasionale Raad van Provinsies aangestel word;

(e) ’n heeltydse posisie in enige huis van tradisionele en Khoi-San-leiers beklee; of

(f) is employed on a full-time basis by any employer:

Provided that such senior traditional leader, headman or headwoman must, prior to the identification of a deputy, take into account whether any of the grounds referred to in section 9(1) or 16(11)*(h)* or 16(14) apply to such deputy.

(2) Where the senior traditional leader, headman or headwoman fails to identify a suitable person as contemplated in subsection (1), the Premier must, after consultation with the relevant leader and royal family, and after taking into account whether any of the grounds contemplated in subsection (1) apply to such person, identify a suitable person as deputy.

(3) A hereditary senior Khoi-San leader must, with the concurrence of the relevant royal family, within 90 days of any of the circumstances set out in subsection (1)*(a)* to *(f)* occurring, identify a suitable person as deputy to act in the stead of that senior Khoi-San leader: Provided that such senior Khoi-San leader must, prior to the identification of a deputy, take into account whether any of the grounds referred to in section 11(1) or 16(14) apply to such a person.

(4) Where the senior Khoi-San leader fails to identify a suitable person as contemplated in subsection (3), the Premier must, after consultation with the relevant leader and royal family, and after taking into account whether any of grounds contemplated in subsection (1) apply to such person, identify a suitable person as deputy.

(5) A royal family referred to in subsection (1) or (3) must, within seven days of the identification of a deputy and through the relevant customary structure, inform the Premier concerned of the particulars of the person identified as deputy traditional leader in terms of subsection (1) or deputy senior Khoi-San leader in terms of subsection (3), and the reasons for the identification of that person.

(6) The Premier concerned may, with due regard to applicable customary law or customs and subject to subsection (8), recognise the deputy identified in terms of subsection (1) or (3) and must—

(a) issue a certificate of recognition to such deputy traditional leader or deputy senior Khoi-San leader; and

(b) inform the relevant provincial house of the recognition of such deputy leader:

Provided that the recognition of a person as a deputy shall automatically lapse with effect from the date that the senior traditional leader, headman, headwoman or senior Khoi-San leader ceases to occupy a position referred to in subsection (1).

(7) The provisions of section 10(7) apply with the necessary changes in respect of the identification of a deputy senior Khoi-San leader.

(8) Where there is evidence or an allegation that the identification of a person as deputy senior traditional leader, headman or headwoman was not done in accordance with customary law or customs, the Premier concerned—

(a) must cause an investigation to be conducted by an investigative committee designated by the Premier which committee must include at least one member of the relevant provincial house, to provide a report on whether the identification of the person referred to in subsection (1) was done in accordance with customary law and customs and if not, which person should be so identified; and

(b) must, where the findings of the investigative committee indicate that the identification of the person referred to in subsection (1) was not done in terms of customary law and customs, refer the report contemplated in paragraph *(a)* to the royal family for its comments.

(9) Any recognition in terms of this section must be reviewed by the Premier concerned at least every two years in order to establish whether the reasons for having identified and recognised a deputy are still applicable.

(10) A person who has been recognised as a deputy in terms of this section is responsible for the performance of the functions that are attached to the relevant position and is entitled to the salary and allowances attached to such position: Provided that the senior traditional leader, headman, headwoman or senior Khoi-San leader in whose stead a person has been recognised as deputy in terms of this section, is not entitled to any salary and allowances attached to the relevant position for the duration of the recognition of such deputy.

(f) heeltyds in diens van 'n werkgewer is:

Met dien verstande dat sodanige senior- tradisionele leier, hoofman of hoofvrou voor die identifikasie van 'n adjunk, in ag neem of enige van die gronde in artikel 9(1) of 16(11)*(h)* of 16(14) bedoel op sodanige adjunk van toepassing is.

(2) Waar die senior- tradisionele leier, hoofman of hoofvrou versuim om 'n geskikte persoon te identifiseer soos in subartikel (1) beoog, moet die Premier, na oorleg met die tersaaklike leier en koninklike familie, en nadat in ag geneem is of enige van die gronde in subartikel (1) beoog op daardie persoon van toepassing is, 'n geskikte persoon as adjunk identifiseer.

(3) 'n Senior Khoi-San-erfleier moet, met die instemming van die tersaaklike koninklike familie, binne 90 dae nadat enige van die omstandighede in subartikel (1)*(a)* tot *(f)* voorgekom het, 'n geskikte persoon identifiseer as adjunk om in die plek van die senior- Khoi-San-leier waar te neem: Met dien verstande dat sodanige senior- Khoi-San-leier, voor die identifikasie van 'n adjunk, in ag moet neem of enige van die gronde bedoel in artikel 11(1) of 16(14) op die persoon van toepassing is.

(4) Waar die senior- Khoi-San-leier versuim om 'n geskikte persoon soos beoog in subartikel (3) te identifiseer, moet die Premier, na oorleg met die tersaaklike leier en koninklike familie, en nadat in ag geneem is of enige van die gronde in subartikel (1) beoog op daardie persoon van toepassing is, 'n geskikte persoon as adjunk identifiseer.

(5) 'n Koninklike familie in subartikel (1) of (3) bedoel moet, binne sewe dae vanaf die identifikasie van 'n adjunk en deur die tersaaklike gebruikstruktuur, die betrokke Premier verwittig van die besonderhede van die persoon ingevolge subartikel (1) as adjunk- tradisionele leier geïdentifiseer of as adjunk-senior- Khoi-San-leier ingevolge subartikel (3), en die redes waarom daardie persoon geïdentifiseer is.

(6) Die betrokke Premier kan, met behoorlike inagneming van toepaslike gewoontereg of gebruike en behoudens subartikel (8), die adjunk geïdentifiseer ingevolge subartikel (1) of (3), erken en moet—

(a) 'n erkenningsertifikaat aan sodanige adjunk- tradisionele leier of adjunk-senior- Khoi-San-leier uitreik; en

(b) die tersaaklike provinsiale huis verwittig van die erkenning van daardie adjunkleier:

Met dien verstande dat die erkenning van 'n persoon as 'n adjunk outomaties sal verval met ingang van die datum waarop die senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier ophou om 'n posisie in subartikel (1) bedoel, te beklee.

(7) Die bepalings van artikel 10(7) is van toepassing met die nodige veranderings ten opsigte van die identifikasie van 'n adjunk-senior- Khoi-San-leier.

(8) Waar daar bewyse of 'n bewering is dat die identifikasie van 'n persoon as senior- tradisionele leier, hoofman of hoofvrou nie ooreenkomstig gewoontereg of gebruike gedoen is nie, moet die betrokke Premier—

(a) 'n ondersoek deur 'n ondersoekkomitee deur die Premier aangewys laat doen, welke komitee ten minste een lid van die tersaaklike provinsiale huis moet insluit, om 'n verslag te voorsien oor of die identifikasie van die persoon in subartikel (1) bedoel ooreenkomstig gewoontereg en gebruike gedoen is en indien nie, watter persoon aldus geïdentifiseer moet word; en

(b) moet die betrokke Premier, waar die bevindings van die ondersoekkomitee aandui dat die identifikasie van die persoon in subartikel (1) bedoel nie ooreenkomstig gewoontereg en gebruike gedoen is nie, die verslag in paragraaf *(a)* bedoel na die koninklike familie verwys vir kommentaar.

(9) Enige erkenning ingevolge hierdie artikel moet ten minste elke twee jaar deur die betrokke Premier hersien word ten einde vas te stel of die redes waarom 'n adjunk geïdentifiseer en erken is, steeds geld.

(10) 'n Persoon wat ingevolge hierdie artikel as 'n adjunk erken is, is verantwoordelik vir die verrigting van die werksaamhede wat met die tersaaklike posisie gepaard gaan en is geregtig op die salaris en toelaes wat met die posisie gepaard gaan: Met dien verstande dat die senior- tradisionele leier, hoofman, hoofvrou of senior- Khoi-San-leier in wie se plek 'n persoon ingevolge hierdie artikel as adjunk erken is, vir die duur van die erkenning van sodanige adjunk nie op enige salaris en toelaes wat met die tersaaklike posisie gepaardgaan, geregtig is nie.

Functions and resources of traditional and Khoi-San leaders

15. (1) A traditional or Khoi-San leader performs the functions provided for—

(a) in terms of customary law and customs of the traditional or Khoi-San community concerned; and

(b) in terms of any applicable national or provincial legislation.

(2) The Minister may, taking into account a recommendation made by the Independent Commission for the Remuneration of Public Office-bearers in terms of section 8(4)*(c)* of the Independent Commission for the Remuneration of Public Office-bearers Act, 1997 (Act No. 92 of 1997), and after consultation with all Premiers, by notice in the *Gazette* determine the resources to be made available to traditional and Khoi-San leaders as may be necessary to enable them to perform their functions effectively.

Part 3

Traditional and Khoi-San councils

Establishment of kingship or queenship council, principal traditional council or traditional council

16. (1) Once the President has recognised a kingship or a queenship, or a community has been deemed to be a principal traditional community as contemplated in section 63(8)*(c)*, or the Premier has recognised a traditional community as contemplated in section 3, that kingship or queenship, principal traditional community or traditional community must, within a period of two years of such recognition or any such further period as the Minister, in the case of a kingship or a queenship, or a Premier, in the case of a principal traditional community or a traditional community, may determine by notice in the *Gazette* or Provincial *Gazette*, as the case may be, establish a kingship or queenship council, principal traditional council or traditional council, as the case may be: Provided that in any instance where a kingship or queenship, principal traditional community or traditional community has been recognised prior to the publication of the formula contemplated in subsection (2), the period of two years shall commence from the date of publication of such formula.

(2) *(a)* A kingship or queenship council, a principal traditional council and a traditional council consists of the number of members as determined by the Minister, by formula published by notice in the *Gazette* after consultation with—

(i) in the case of a kingship or queenship council or principal traditional council—

(aa) the king or queen, or principal traditional leader, as the case may be;

(bb) a forum of not more than five members of the royal family designated by the royal family; and

(cc) a forum of not more than 20 senior traditional leaders under the kingship or queenship or principal traditional community, designated by the senior traditional leaders from amongst themselves;

(ii) in the case of a traditional council, the relevant Premiers and provincial houses:

Provided that the formula must be published in the *Gazette* within two years from the date of commencement of this Act.

(b) At least a third of the members of a kingship or queenship council, principal traditional council or traditional council must be women: Provided that if this requirement cannot be met, the Minister may determine a lower threshold for the particular kingship or queenship council or the relevant Premier may determine a lower threshold for the particular principal traditional council or traditional council.

(c) The membership of a kingship or queenship council, principal traditional council or traditional council comprises—

(i) 60% of traditional leaders and members of the traditional community selected, subject to subsection (3) and in terms of that community's customs, by the king or queen, principal traditional leader or senior traditional leader who is an *ex officio* member and chairperson of the relevant council, taking into account the need for overall compliance with paragraph *(b)*: Provided that if, in the case of traditional councils, there are no recognised headmen or headwomen, only community members must be selected; and

Werksaamhede en hulpbronne van tradisionele en Khoi-San-leiers

15. (1) 'n Tradisionele of Khoi-San-leier verrig die werksaamhede waarvoor voorsiening gemaak word—

(a) ingevolge gewoontereg en gebruike van die tradisionele of betrokke Khoi-San-gemeenskap; en

(b) ingevolge enige toepaslike nasionale of provinsiale wetgewing.

(2) Die Minister kan, met inagneming van 'n aanbeveling deur die Onafhanklike Kommissie vir die Besoldiging van Openbare Ampsbekleërs ingevolge artikel 8(4)*(c)* van die Wet op die Onafhanklike Kommissie vir die Besoldiging van Openbare Ampsbekleërs, 1997 (Wet No. 92 van 1997), en na oorleg met alle Premiers, by kennisgewing in die *Staatskoerant* die hulpbronne bepaal wat beskikbaar gestel moet word aan tradisionele en Khoi-San-leiers soos nodig mag wees om hulle in staat te stel om hul werksaamhede doeltreffend te verrig.

Deel 3

Tradisionele en Khoi-San-rade

Instelling van koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad

16. (1) Sodra die President 'n koningskap of koninginskap erken het, of 'n gemeenskap geag is 'n hoof- tradisionele gemeenskap te wees soos in artikel 63(8)*(c)* bedoel, of die Premier 'n tradisionele gemeenskap erken het soos in artikel 3 beoog, moet daardie koningskap of koninginskap, hoof- tradisionele gemeenskap of tradisionele gemeenskap, binne 'n tydperk van twee jaar vanaf sodanige erkenning of enige sodanige verdere tydperk wat die Minister, in die geval van 'n koningskap of koninginskap, of 'n Premier, in die geval van 'n hoof- tradisionele gemeenskap of 'n tradisionele gemeenskap, by kennisgewing in die *Staatskoerant* of *Provinsiale Koerant*, na gelang van die geval, kan bepaal, 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad, na gelang van die geval, instel: Met dien verstande dat in 'n geval waar 'n koningskap of koninginskap, hoof- tradisionele gemeenskap of tradisionele gemeenskap voor die publikasie van die formule beoog in subartikel (2) erken is, die tydperk van twee jaar op die datum van publikasie van die formule, sal begin.

(2) *(a)* 'n Koningskaps- of koninginskapsraad, 'n hoof- tradisionele raad en 'n tradisionele raad bestaan uit die aantal lede soos bepaal deur die Minister, by formule by kennisgewing in die *Staatskoerant* gepubliseer na oorleg met—

(i) in die geval van 'n koningskaps- of koninginskapsraad of hoof- tradisionele raad—

(aa) die koning of koningin, of hoof- tradisionele leier, na gelang van die geval;

(bb) 'n forum van nie meer nie as vyf lede van die koninklike familie deur die koninklike familie aangewys; en

(cc) 'n forum van nie meer nie as 20 senior- tradisionele leiers onder die koningskap of koninginskap of hoof- tradisionele gemeenskap, deur die senior- tradisionele leiers uit eie geledere aangewys;

(ii) in die geval van 'n tradisionele raad, die tersaaklike Premiers en provinsiale huise:

Met dien verstande dat die formule binne twee jaar vanaf die inwerkingtredingsdatum van hierdie Wet in die *Staatskoerant* gepubliseer moet word.

(b) Ten minste 'n derde van die lede van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad moet vroue wees: Met dien verstande dat indien hierdie vereiste nie aan voldoen kan word nie, die Minister 'n laer drempel vir die bepaalde koningskaps- of koninginskapsraad kan bepaal of die tersaaklike Premier 'n laer drempel vir die bepaalde hoof- tradisionele raad of tradisionele raad kan bepaal.

(c) Die lidmaatskap van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad is saamgestel uit—

(i) 60% van tradisionele leiers en lede gekies, behoudens subartikel (3) en ingevolge daardie gemeenskap se gebruike, deur die koning of koningin, hoof- tradisionele leier of senior- tradisionele leier wat 'n *ex officio*-lid en voorsitter van die tersaaklike raad is, met inagneming van die behoefte vir algemene voldoening aan paragraaf *(b)*: Met dien verstande dat indien, in die geval van tradisionele rade, daar geen erkende hoofmanne of hoofvroue is nie, slegs gemeenskapslede gekies moet word; en

(ii) 40% of members elected in terms of paragraph *(f)* in the case of a kingship or queenship council or principal traditional council, or elected in terms of section 21 in the case of a traditional council.

(d) The selection of the members of a kingship or queenship council, principal traditional council or traditional council as contemplated in this section must be finalised before the election of members as contemplated in this section, and the names of such selected members must be made public within 14 days from the date of such selection: Provided that any election in the case of a kingship or queenship council or principal traditional council must take place within 28 days of the names of the selected members having been made public and, in the case of a traditional council, within 21 days of the names of the selected members having been made public.

(e) A kingship or queenship, principal traditional community or traditional community must, within 14 days of the date of an election, submit the names of the members that have been selected and elected to the Premier concerned.

(f) Each traditional council falling within the area of jurisdiction of the kingship or queenship or principal traditional community concerned, must elect one person from the elected members of that council, to serve as a member referred to in paragraph *(c)*(ii): Provided that where the number of persons so elected are less than the number of members contemplated in paragraph *(c)*(ii), the traditional councils must each elect one additional person from amongst the elected members of that council: Provided further that where the number of persons so elected exceed the number of members contemplated in paragraph *(c)*(ii), the persons elected by the traditional councils must elect from amongst themselves the number of persons contemplated in paragraph *(c)*(ii).

(3) *(a)* The forum contemplated in subsection (2)*(a)*(i)*(bb)* must assist the king or queen, principal traditional leader or senior traditional leader with the selection contemplated in subsection (2)*(c)*(i).

(b) The selection of the members contemplated in subsection (2)*(c)*(i) by a king or queen, principal traditional leader or senior traditional leader is subject to the concurrence of the forum referred to in paragraph *(a)*.

(c) If there is no concurrence as referred to in paragraph *(b)*, the king or queen, principal traditional leader or senior traditional leader, as the case may be, must submit the names of the persons who were nominated for selection as contemplated in paragraph *(a)* to the Premier concerned and the Premier must, after consultation with such leader and the forum referred to in paragraph *(a)*, select the required number of members as contemplated in subsection (2)*(c)*(i).

(4) *(a)* (i) The term of office of the members of a traditional council, excluding the senior traditional leader, is not more than five years and must be aligned to the term of office of the National House: Provided that, notwithstanding anything to the contrary contained in any law, the term of any traditional council that was established and constituted prior to the commencement of this Act, will expire on 31 March 2022: Provided further that any term of office of any such council constituted or established after the commencement of this Act, shall expire every five years on 31 March, calculated from 31 March 2022.

(ii) The term of office of the members of a kingship or queenship council or a principal traditional council, excluding the king or queen or principal traditional leader, is not more than five years and must be aligned to the term of office of the National House: Provided that, notwithstanding anything to the contrary contained in any law, the term of any kingship or queenship council or principal traditional council that was established and constituted prior to the commencement of this Act, will expire on 30 April 2022: Provided further that any term of office of any such council constituted or established after the commencement of this Act, shall expire every five years on 30 April, calculated from 30 April 2022.

(b) The selection of members in terms of subsection (2)*(c)*(i) must, in the case of a kingship or queenship council or principal traditional council, be finalised at least 60 days prior to the expiry of the term of office of members of such council, and in the case of a traditional council, at least 45 days prior to the expiry of the term of office of the members of such council.

(5) *(a)* The Premier concerned must, by notice in the relevant Provincial *Gazette* and in accordance with this Act, recognise a kingship or queenship council, principal traditional council or traditional council for such kingship or queenship, principal traditional community or traditional community and define its area of jurisdiction, indicating the portions of land forming part of such area of jurisdiction, and having regard to the provisions of section 3(1)*(b)* and (2)*(a)* in the case of a kingship or

(ii) 40% van lede wat ingevolge paragraaf *(f)* verkies is in die geval van 'n koningskaps- of koninginskapsraad of hoof- tradisionele raad, of ingevolge artikel 21 verkies in die geval van 'n tradisionele raad.

(d) Die kies van lede van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad soos in hierdie artikel beoog, moet afgehandel wees voor lede verkies word soos in hierdie artikel beoog, en die name van sodanige gekose lede moet openbaar gemaak word binne 14 dae vanaf die datum van sodanige keuse: Met dien verstande dat enige verkiesing in die geval van 'n koningskaps- of koninginskapsraad of hoof- tradisionele raad binne 28 dae nadat die name van gekose lede openbaar gemaak is, geskied en in die geval van 'n tradisionele raad, binne 21 dae nadat die name van die gekose lede openbaar gemaak is.

(e) 'n Koningskap of koninginskap, hoof- tradisionele gemeenskap of tradisionele gemeenskap moet, binne 14 dae na die datum van 'n verkiesing, die name van die lede wat gekies en verkies is aan die betrokke Premier voorlê.

(f) Elke tradisionele raad wat in die regsgebied van die betrokke koningskap of koninginskap of hoof- tradisionele gemeenskap val, moet een persoon uit die verkose lede van daardie raad verkies om as 'n lid in paragraaf *(c)*(ii) bedoel te dien: Met dien verstande dat waar die getal persone wat aldus verkies is minder is as die getal lede in paragraaf *(c)*(ii) beoog, die tradisionele rade elkeen een bykomende persoon uit die geledere van verkose lede van daardie raad moet verkies: Met dien verstande verder dat waar die getal persone aldus verkies die getal lede in paragraaf *(c)*(ii) beoog oorskry, die persone deur die tradisionele rade verkies uit eie geledere die getal persone in paragraaf *(c)*(ii) beoog, moet verkies.

(3) *(a)* Die forum in subartikel (2)*(a)*(i)*(bb)* bedoel, moet die koning of koningin, hoof- tradisionele leier of senior- tradisionele leier bystaan met die keuse in subartikel (2)*(c)*(i) bedoel.

(b) Die kies van die lede in subartikel (2)*(c)*(i) bedoel deur 'n koning of koningin, hoof- tradisionele leier of senior- tradisionele leier, is onderhewig aan die instemming van die forum in paragraaf *(a)* bedoel.

(c) Indien daar geen instemming soos in paragraaf *(b)* bedoel is nie, moet die koning of koningin, hoof- tradisionele leier of senior- tradisionele leier, na gelang van die geval, die name van die persone wat vir keuring benoem is soos in paragraaf *(a)* beoog aan die betrokke Premier voorlê en die Premier moet, na oorleg met sodanige leier en die forum in paragraaf *(a)* beoog, die vereiste getal lede in subartikel (2)*(c)*(i) beoog, kies.

(4) *(a)* (i) Die ampstermyn van die lede van 'n tradisionele raad, met uitsondering van die senior- tradisionele leier, is hoogstens vyf jaar en moet saam met die ampstermyn van die Nasionale Huis loop: Met dien verstande dat, ondanks enigiets tot die teendeel in enige wet vervat, die termyn van enige tradisionele raad wat voor die inwerkingtreding van hierdie Wet ingestel en saamgestel is, op 31 Maart 2022 sal verstryk: Met dien verstande verder dat 'n ampstermyn van enige sodanige raad wat opnuut saamgestel of ingestel is na die inwerkingtreding van hierdie Wet, elke vyf jaar vanaf 31 Maart 2022 bereken op 31 Maart sal verstryk.

(ii) Die ampstermyn van die lede van 'n koningskaps- of koninginskapsraad of 'n hoof- tradisionele raad, met uitsondering van die koning of koningin of hoof- tradisionele leier, is hoogstens vyf jaar en moet in ooreenstemming wees met die ampstermyn van die Nasionale Huis: Met dien verstande dat, ondanks enigiets tot die teendeel in enige wet bepaal, die termyn van enige koningskaps- of koninginskapsraad wat voor die inwerkingtreding van hierdie Wet ingestel en saamgestel is, op 30 April 2022 sal verstryk: Met dien verstande verder dat enige ampstermyn van enige sodanige raad saamgestel of ingestel na die inwerkingtreding van hierdie Wet, elke vyf jaar op 30 April sal verstryk, vanaf 30 April 2022 bereken.

(b) Die kies van lede ingevolge subartikel (2)*(c)*(i) moet, in die geval van 'n koningskap of koninginskapsraad of hoof- tradisionele raad, ten minste 60 dae voor die verstryking van die ampstermyn van lede van sodanige raad, en in die geval van 'n tradisionele raad, ten minste 45 dae voor die verstryking van die ampstermyn van die lede van sodanige raad, afgehandel wees.

(5) *(a)* Die betrokke Premier moet, by kennisgewing in die tersaaklike *Provinsiale Koerant* en ooreenkomstig hierdie Wet, 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad, of tradisionele raad vir sodanige koningskap of koninginskap, hoof- tradisionele gemeenskap of tradisionele gemeenskap erken en die raad se regsgebied omskryf, wat die gedeeltes grond aandui wat deel van daardie regsgebied uitmaak, en met inagneming van die bepalings van artikel 3(1)*(b)* en (2)*(a)* in die geval van 'n koningskap of koninginskap: Met dien verstande dat die Premier die President en die

queenship: Provided that the Premier must inform the President and the Minister of any recognition of a kingship or queenship council: Provided further that the area of jurisdiction of a traditional council must include the area of a traditional sub-council, where applicable.

(b) The notice referred to in paragraph *(a)* must contain the names of the council members.

(c) The area of jurisdiction contemplated in paragraph *(a)* must be mapped and such map must be published under the notice referred to in paragraph *(a)*.

(6) A kingship or queenship council, a principal traditional council and a traditional council convenes at the administrative seat of the particular council.

(7) The quorum of a kingship or queenship council, principal traditional council or traditional council consists of the majority of the total number of members of such council: Provided that for the purposes of determining such quorum, the total number of members excludes any vacancies.

(8) A kingship or queenship council, principal traditional council or traditional council must elect one of its members as a deputy chairperson who will act as the chairperson in the absence of the king or queen, principal traditional leader or senior traditional leader, as the case may be.

(9) *(a)* A kingship or queenship council or principal traditional council must meet once every three months and a traditional council must meet every two months: Provided that the king or queen, principal traditional leader or senior traditional leader, as the case may be, may, with the concurrence of the relevant Premier, convene any additional ordinary or any special meeting of the relevant council.

(b) A king, a queen or a principal traditional leader must at least once a year meet with all senior traditional leaders falling under such kingship, queenship or principal traditional leadership.

(10) A king or queen, principal traditional leader or senior traditional leader, as the case may be, must, for purposes of convening a special meeting, give notice of not less than seven days to members of the kingship or queenship council, principal traditional council or traditional council.

(11) A member of a kingship or queenship council, principal traditional council or traditional council must vacate his or her office if—

(a) he or she ceases to be a South African citizen;
(b) he or she has been convicted of an offence and sentenced to imprisonment for more than 12 months without the option of a fine;
(c) he or she tenders his or her resignation;
(d) he or she is declared mentally unfit or mentally disordered by a court;
(e) the period for which the member was selected or elected, as the case may be, has expired;
(f) he or she becomes disqualified in terms of subsection (14);
(g) he or she has been removed from office in terms of the code of conduct;
(h) he or she no longer resides within the area of jurisdiction of the kingship or queenship council, principal traditional council or traditional council, as the case may be; or
(i) he or she is a selected member and his or her recognition as a traditional leader has been withdrawn.

(12) If a member of a kingship or queenship council, principal traditional council or traditional council dies or vacates his or her office before the expiration of his or her term of office, such a vacancy must be filled in the manner referred to in subsection (2)*(c)*(i) or (ii), as the case may be, within 90 days of the vacancy having arisen.

(13) A person who has been appointed to fill a vacancy in a kingship or queenship council, principal traditional council or traditional council as contemplated in subsection (12), holds office for the unexpired period of his or her predecessor's term of office.

(14) A person is not eligible to be elected or selected as a member of a kingship or queenship council, principal traditional council or traditional council if that person—

(a) is not a South African citizen;
(b) is under 18 years of age;
(c) has been convicted of an offence in respect of which he or she was sentenced to imprisonment for more than 12 months without the option of a fine;
(d) is an unrehabilitated insolvent or has entered into a compromise with his or her creditors;

Minister moet verwittig van enige erkenning van 'n koningskaps- of koninginskapsraad: Met dien verstande verder dat die regsgebied van 'n tradisionele raad die gebied van 'n tradisionele subraad, waar van toepassing, moet insluit.

(b) Die kennisgewing in paragraaf *(a)* bedoel moet die name van die raadslede bevat.

(c) Die regsgebied in paragraaf *(a)* beoog moet gekarteer word en daardie kaart moet in die kennisgewing bedoel in paragraaf *(a)*, gepubliseer word.

(6) 'n Koningskaps- of koninginskapsraad, 'n hoof- tradisionele raad en 'n tradisionele raad vergader by die administratiewe setel van die bepaalde raad.

(7) Die kworum van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad bestaan uit die meerderheid van die totale getal lede van sodanige raad: Met dien verstande dat die totale getal lede vir die vasstelling van sodanige kworum, enige vakatures uitsluit.

(8) 'n Koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad moet een van sy lede as 'n ondervoorsitter verkies wat as die voorsitter sal waarneem in die afwesigheid van die koning of koningin, hoof- tradisionele leier of senior- tradisionele leier, na gelang van die geval.

(9) *(a)* 'n Koningskaps- of koninginskapsraad of hoof- tradisionele raad moet een keer elke drie maande vergader en 'n tradisionele raad moet elke twee maande vergader: Met dien verstande dat die koning of koningin, hoof- tradisionele leier of senior- tradisionele leier, na gelang van die geval, met die instemming van die tersaaklike Premier, enige bykomende gewone of enige spesiale vergadering van die tersaaklike raad kan saamroep.

(b) 'n Koning, 'n koningin of 'n hoof- tradisionele leier moet ten minste een keer per jaar met alle sodanige tradisionele leiers vergader wat onder sodanige koningskap, koninginskap of hoof- tradisionele leierskap val.

(10) 'n Koning of koningin, hoof- tradisionele leier of senior- tradisionele leier, na gelang van die geval, moet, vir die doel van die sameroeping van 'n spesiale vergadering, kennis van minstens sewe dae aan lede van die koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad, gee.

(11) 'n Lid van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad moet sy of haar amp ontruim indien—

(a) hy of sy ophou om 'n Suid-Afrikaanse burger te wees;
(b) hy of sy aan 'n misdryf skuldig bevind is en tot gevangenisstraf van meer as 12 maande sonder die opsie van 'n boete gevonnis is;
(c) hy of sy sy of haar bedanking indien;
(d) hy of sy deur 'n hof geestesversteurd of -gestrem verklaar is;
(e) die tydperk waarvoor die lid gekies of verkies is, na gelang van die geval, verstryk het;
(f) hy of sy ingevolge subartikel (14) onbevoeg word;
(g) hy of sy ingevolge die gedragskode uit sy of haar amp onthef is;
(h) hy of sy nie meer in die regsgebied van die koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad, na gelang van die geval, woon nie; of
(i) hy of sy 'n gekose lid is en sy of haar erkenning as 'n tradisionele leier ingetrek is.

(12) Indien 'n lid van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad tot sterwe kom of sy of haar amp ontruim voor sy of haar ampstermyn verstryk, moet sodanige vakature gevul word op die wyse bedoel in subartikel (2)*(c)*(i) of (ii), na gelang van die geval, binne 90 dae nadat die vakature ontstaan het.

(13) 'n Persoon wat aangestel is om 'n vakature in 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad te vul soos in subartikel (12) beoog, beklee die amp vir die onverstreke tydperk van sy of haar voorganger se ampstermyn.

(14) 'n Persoon is nie verkiesbaar of kiesbaar as 'n lid van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad nie indien daardie persoon—

(a) nie 'n Suid-Afrikaanse burger is nie;
(b) onder die ouderdom van 18 jaar is;
(c) aan 'n misdryf skuldig bevind is en tot gevangenisstraf van meer as 12 maande sonder die opsie van 'n boete gevonnis is;
(d) 'n ongerehabiliteerde insolvent is of 'n kompromie met sy of haar skuldeisers aangegaan het;

(e) is of unsound mind and has been so declared by a competent court;
(f) is or becomes a full-time member of a municipal council;
(g) is elected as a member of a provincial legislature;
(h) is elected as a member of the National Assembly;
(i) is appointed as a permanent delegate in the National Council of Provinces;
(j) is elected to a full-time position in any house of traditional leaders; or
(k) does not reside within the area of jurisdiction of the kingship or queenship council, principal traditional council or traditional council, as the case may be.

(15) *(a)* The withdrawal of the recognition of a kingship or queenship, principal traditional community or traditional community in terms of section 4, automatically results in the disestablishment of the relevant kingship or queenship council, principal traditional council or traditional council and the withdrawal of the recognition of the relevant king or queen, principal traditional leader or senior traditional leader.

(b) The disestablishment of a kingship or queenship council, principal traditional council or traditional council must be done by the Premier concerned by notice in the relevant Provincial *Gazette*.

(16) The notice referred to in subsection (15)*(b)* must stipulate the legal, practical and other consequences of the disestablishment of a kingship or queenship council, principal traditional council or traditional council, including the transfer of assets, liabilities, staff, administrative and other records, taking into account any applicable legislation.

(17) Any provision of this Act that relates to the establishment of a kingship or queenship council, principal traditional council, traditional council or traditional sub-council, apply to the initial establishment of such a council or sub-council and any subsequent reconstitution of the council or sub-council following the expiry of any term thereof: Provided that, subject to subsection (18) or (19), as the case may be, the provisions of subsection (5) and section 17(2) relating to areas of jurisdiction do not apply to the reconstitution of such a council or sub-council.

(18) Whenever the area of jurisdiction of a traditional council is to be amended, the Premier must, after consultation with the relevant traditional council and municipal council, by notice in the Provincial *Gazette* redefine such area of jurisdiction.

(19) Whenever the area of jurisdiction of a traditional sub-council is to be amended, the Premier must, after consultation with the relevant traditional council and sub-council, by notice in the Provincial *Gazette* redefine such area of jurisdiction.

Establishment of traditional sub-council

17. (1) *(a)* Notwithstanding the provisions of section 16, the Premier concerned may at the request of a traditional council, in cases where a traditional community occupies two or more non-contiguous geographical areas within a province, establish a traditional sub-council for the geographical area which is located outside the area where the administrative seat of the traditional community is situated, if the Premier is of the view that such establishment will improve the effective administration of the traditional community.

(b) A traditional sub-council consists of the number of members as determined by the Premier concerned, after consultation with the main traditional council.

(2) The Premier concerned must, subject to the provisions of section 16(5), (17) and (19), by notice in the relevant Provincial *Gazette* recognise a traditional sub-council as part of the main traditional council and define its area of jurisdiction, indicating the portions of land forming part of such area of jurisdiction, which area must be mapped and such map must be published under such notice.

(3) *(a)* At least a third of the members of a traditional sub-council must be women.

(b) The members of a traditional sub-council must comprise of—

(i) 60% traditional leaders and members of the traditional sub-community, selected by the senior traditional leader concerned, in terms of that community's customs, taking into account the need for overall compliance with paragraph *(a)*: Provided that if there are no recognised headmen or headwomen, only community members must be selected; and
(ii) 40% of members of the traditional sub-community who are elected by members of the traditional sub-community in accordance with the provisions of section 21.

(e) geestesgekrenk is en deur 'n bevoegde hof aldus verklaar is;
(f) 'n voltydse lid van 'n munisipale raad is of word;
(g) as 'n lid van 'n provinsiale wetgewer verkies word;
(h) as 'n lid van die Nasionale Vergadering verkies word;
(i) as 'n permanente afgevaardigde in die Nasionale Raad van Provinsies aangestel word;
(j) tot 'n voltydse posisie in enige huis van tradisionele leiers verkies word; of
(k) nie binne die regsgebied van die koningskaps- of koninginskapsraad of tradisionele raad, na gelang van die geval, bly nie.

(15) *(a)* Die intrekking van die erkenning van 'n koningskap of koninginskap, hoof- tradisionele gemeenskap of tradisionele gemeenskap ingevolge artikel 4, lei outomaties tot die afstigting van die tersaaklike koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad en die intrekking van die erkenning van die tersaaklike koning of koningin, hoof- tradisionele leier of senior- tradisionele leier.

(b) Die afstigting van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad moet deur die betrokke Premier by kennisgewing in die tersaaklike *Provinsiale Koerant* gedoen word.

(16) Die kennisgewing in subartikel (15)*(b)* bedoel, moet die regs-, praktiese en ander gevolge van die afstigting van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad of tradisionele raad, met inbegrip van die oordrag van bates, laste, personeel, administratiewe en ander rekords, met inagneming van enige toepaslike wetgewing, bepaal.

(17) Enige bepaling van hierdie Wet wat van toepassing is op die instelling van 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad of tradisionele subraad, is van toepassing op die aanvanklike instelling van so 'n raad of subraad en enige daaropvolgende hersamestelling van die raad of subraad na die verstryking van enige termyn daarvan: Met dien verstande dat, behoudens subartikel (18) of (19), na gelang van die geval, die bepalings van subartikel (5) en artikel 17(2) betreffende die regsgebiede, nie van toepassing is op die hersamestelling van so 'n raad of subraad nie.

(18) Wanneer die regsgebied van 'n tradisionele raad gewysig moet word, moet die Premier, na oorleg met die tersaaklike tradisionele raad en munisipale raad, by kennisgewing in die *Provinsiale Koerant*, die regsgebied herdefinieer.

(19) Wanneer die regsgebied van 'n tradisionele subraad gewysig moet word, moet die Premier, na oorleg met die tersaaklike tradisionele raad en subraad, by kennisgewing in die *Provinsiale Koerant,* die regsgebied herdefinieer.

Instelling van tradisionele subraad

17. (1) *(a)* Ondanks die bepalings van artikel 16, kan die betrokke Premier op versoek van 'n tradisionele raad, in gevalle waar 'n tradisionele gemeenskap twee of meer nieaangrensende geografiese gebiede in 'n provinsie okkupeer, 'n tradisionele subraad instel vir die geografiese gebied wat buite die gebied val waar die administratiewe setel van die tradisionele gemeenskap geleë is, indien die Premier van oordeel is dat sodanige instelling die doeltreffende administrasie van die tradisionele gemeenskap sal verbeter.

(b) 'n Tradisionele subraad bestaan uit die getal lede soos deur die betrokke Premier bepaal, na oorleg met die groot tradisionele raad.

(2) Die betrokke Premier moet, behoudens die bepalings van artikel 16(5), (17) en (19), by kennisgewing in die tersaaklike *Provinsiale Koerant* 'n tradisionele subraad erken as deel van die groot tradisionele raad en sy regsgebied, wat die gedeeltes grond wat deel is van daardie regsgebied aandui, welke gebied gekarteer moet word en daardie kaart moet in daardie kennisgewing gepubliseer word.

(3) *(a)* Ten minste 'n derde van die lede van 'n tradisionele subraad moet vroue wees.

(b) Die lede van 'n tradisionele subraad moet bestaan uit—

(i) 60% tradisionele leiers en lede van die tradisionele subgemeenskap, gekies deur die betrokke senior- tradisionele leier, ingevolge daardie gemeenskap se gebruike, met inagneming van die behoefte vir oorhoofse voldoening aan paragraaf *(a)*: Met dien verstande dat indien daar geen erkende hoofmanne of hoofvroue is nie, slegs gemeenskapslede gekies moet word; en

(ii) 40% van lede van die tradisionele subgemeenskap wat ooreenkomstig die bepalings van artikel 21 deur lede van die tradisionele subgemeenskap verkies is.

(4) The provisions of section 16(2)*(b)* and *(d)* apply to the constitution and composition of a traditional sub-council and any reference in the said paragraphs to members of a traditional council shall be construed as a reference to members of a traditional sub-council.

(5) The chairperson of a traditional sub-council must be elected by the members of such sub-council.

(6) A chairperson elected in terms of subsection (5) must be a member of the traditional council.

(7) The term of office of members of a traditional sub-council is not more than five years and must be aligned with the term of office of the relevant traditional council: Provided that, notwithstanding anything to the contrary contained in any law, the term of any traditional sub-council that was established and constituted prior to the commencement of this Act, will expire on 30 April 2022: Provided further that any term of office of any such sub-council constituted or established after the commencement of this Act, shall expire every five years on 30 April, calculated from 30 April 2022.

(8) *(a)* A traditional sub-council must meet every two months and performs the functions referred to in section 20 as may be delegated to it by the traditional council concerned.

(b) A traditional sub-council must, in the format and within the timeframes as determined by the traditional council, submit a report to the traditional council on the performance of the functions delegated to it.

(9) *(a)* The withdrawal of the recognition of a community as a traditional community in terms of section 4, automatically results in the disestablishment of the traditional sub-council concerned.

(b) If, after consultation with a traditional council, a Premier is of the opinion that a traditional sub-council is no longer contributing to the effective administration of that traditional community, the Premier may withdraw the recognition of such traditional sub-council.

(c) The withdrawal of the recognition of a traditional sub-council must be done by the Premier concerned by notice in the relevant Provincial *Gazette*.

(d) The provisions of section 16(16) apply with the necessary changes to the withdrawal of the recognition of a traditional sub-council.

Establishment of Khoi-San council

18. (1) Once a Premier or the Minister has recognised a Khoi-San community in accordance with the provisions of section 5 or 58 respectively, that community must within a period of two years of such recognition or any further period as the Premier may determine by notice in the Provincial *Gazette*, establish a Khoi-San council: Provided that in any instance where a Khoi-San community has been recognised prior to the publication of the formula contemplated in subsection (2)*(a)*, the period of two years shall commence from the date of publication of such formula.

(2) *(a)* A Khoi-San council consists of the number of members determined by the Minister by formula published in the *Gazette*, after consultation with all Premiers: Provided that the formula must be published in the *Gazette* within two years from the date of commencement of this Act.

(b) The members of a Khoi-San council must comprise of—

(i) 60% of members which consists of—

(aa) the senior Khoi-San leader concerned who is an *ex officio* member and chairperson of the Khoi-San council; and

(bb) where the main community has branches, branch heads: Provided that if the senior Khoi-San leader together with the branch heads is less than the required number of members, the senior Khoi-San leader must select the remainder from the members of the main community after consultation with the branch heads and, where there is a royal family, must also select from members of the royal family with the concurrence of a forum as contemplated in subparagraph *(cc)*: Provided further that if the number of branch heads are more than the required number of members, the branch heads must elect the required number from amongst themselves, ensuring provincial representation; or

(4) Die bepalings van artikel 16(2)*(b)* en *(d)* is van toepassing op die stigting en samestelling van ’n tradisionele subraad en enige verwysing in die genoemde paragrawe na lede van ’n tradisionele raad moet as ’n verwysing na lede van ’n tradisionele subraad uitgelê word.

(5) Die voorsitter van ’n tradisionele subraad moet deur die lede van daardie subraad verkies word.

(6) ’n Voorsitter ingevolge subartikel (5) verkies, moet ’n lid van die tradisionele raad wees.

(7) Die ampstermyn van lede van ’n tradisionele subraad is nie meer as vyf jaar nie en moet in ooreenstemming wees met die ampstermyn van die tersaaklike tradisionele raad: Met dien verstande, ongeag enigiets tot die teendeel in enige wet vervat, die termyn van enige tradisionele subraad wat voor die inwerkingtreding van hierdie Wet ingestel en saamgestel is, op 30 April 2022 sal verstryk: Met dien verstande verder dat enige ampstermyn van enige sodanige subraad wat na die inwerkingtreding van hierdie Wet saamgestel of ingestel is, elke vyf jaar op 30 April sal verstryk, vanaf 30 April 2022 bereken.

(8) *(a)* ’n Tradisionele subraad moet elke twee maande vergader en verrig die werksaamhede in artikel 20 bedoel soos deur die betrokke tradisionele raad daaraan opgedra.

(b) ’n Tradisionele subraad moet, in die formaat en binne die tydsraamwerke soos deur die tradisionele raad bepaal, ’n verslag aan die tradisionele raad voorlê oor die verrigting van die werksaamhede wat daaraan opgedra is.

(9) *(a)* Die intrekking van die erkenning van ’n gemeenskap as ’n tradisionele gemeenskap ingevolge artikel 4, het outomaties die afstigting van die betrokke subraad tot gevolg.

(b) Indien, na oorleg met ’n tradisionele raad, ’n Premier van mening is dat ’n tradisionele subraad nie meer tot die doeltreffende administrasie van daardie tradisionele gemeenskap bydra nie, kan die Premier die erkenning van sodanige tradisionele subraad intrek.

(c) Die intrekking van die erkenning van ’n tradisionele subraad moet by kennisgewing in die tersaaklike *Provinsiale Koerant* deur die betrokke Premier gedoen word.

(d) Die bepalings van artikel 16(16) is met die nodige veranderinge van toepassing op die intrekking van die erkenning van ’n tradisionele subraad.

Instelling van Khoi-San-raad

18. (1) Sodra ’n Premier of die Minister ’n Khoi-San-gemeenskap ooreenkomstig die bepalings van onderskeidelik artikel 5 of 58 erken het, moet daardie gemeenskap binne ’n tydperk van twee jaar na sodanige erkenning of enige verdere tydperk wat die Premier by kennisgewing in die *Provinsiale Koerant* kan bepaal, ’n Khoi-San-raad instel: Met dien verstande dat in enige geval waar ’n Khoi-San-gemeenskap voor die publikasie van die formule beoog in subartikel (2)*(a)* erken is, die tydperk van twee jaar begin met ingang van die datum van publikasie van sodanige formule.

(2) *(a)* ’n Khoi-San-raad bestaan uit die getal lede deur die Minister bepaal deur ’n formule in die *Staatskoerant* gepubliseer, na oorleg met al die Premiers: Met dien verstande dat die formule in die *Staatskoerant* gepubliseer moet word binne twee jaar vanaf die inwerkingtredingsdatum van hierdie Wet.

(b) Die lede van ’n Khoi-San-raad moet bestaan uit—

(i) 60% van lede wat bestaan uit—

(aa) die betrokke senior- Khoi-San-leier wat ’n *ex officio*-lid en voorsitter van die Khoi-San-raad is; en

(bb) waar die groot gemeenskap takke het, takhoofde: Met dien verstande dat indien die senior- Khoi-San-leier saam met die takhoofde minder as die vereiste getal lede is, moet die senior- Khoi-San-leier die res uit die lede van die groot gemeenskap kies na oorleg met die takhoofde en, waar daar ’n koninklike familie is, ook uit lede van die koninklike familie met die instemming van ’n forum soos in subparagraaf *(cc)* beoog, kies: Met dien verstande verder dat indien die getal takhoofde meer as die vereiste getal lede is, die takhoofde die nodige getal uit eie geledere moet verkies, om provinsiale verteenwoordiging te verseker; of

(cc) where the main community has no branches, the senior Khoi-San leader must, where applicable, with the concurrence of a forum of not less than five and not more than 10 members designated by the royal family, select the required number of members from the members of the royal family and members of the main community, or where there is no royal family, the senior Khoi-San leader must select the required number of members from the main community only: Provided that the provisions of section 16(3)*(c)* shall apply with the necessary changes to instances where there is no concurrence;

(ii) 40% of members which consist of members of the main community who are elected by the main community in accordance with the provisions of section 21.

(3) The Premier concerned must, by notice in the relevant Provincial *Gazette*, recognise a Khoi-San council for a Khoi-San community and indicate the administrative seat of such Khoi-San council.

(4) The jurisdiction of a Khoi-San council will apply only to the members of the Khoi-San community contemplated in section 5(1) and (3).

(5) The provisions of section 16(2)*(b)*, *(d)* and *(e)*, (5)*(b)*, (7), (8), (11), (14)*(a)* to *(j)*, (15) and (16) apply to a Khoi-San council and any reference in the said section to a traditional council, senior traditional leader and headmen or headwomen shall, respectively, be construed as a reference to a Khoi-San council, senior Khoi-San leader and branch head.

(6) Any provision of this Act that relates to the establishment of a Khoi-San council applies to the initial establishment of such a council and any subsequent reconstitution of the council following the expiry of any term thereof.

(7) A Khoi-San council must meet every three months: Provided that the senior Khoi-San leader may, with the concurrence of the Premier of the province where such council is recognised, convene any additional ordinary or any special meeting of the relevant council: Provided further that for the purposes of convening a special meeting, the senior Khoi-San leader must give notice of not less than seven days to the members of the relevant Khoi-San council.

(8) The term of office of the members of a Khoi-San council, excluding the senior Khoi-San leader, is, subject to section 63(19), not more than five years and must be aligned to the term of office of the National House: Provided that any term of office of any such council established after the commencement of this Act, shall expire every five years on 31 March, calculated from 31 March 2027.

Functions of kingship or queenship council and principal traditional council

19. (1) A kingship or queenship council and principal traditional council have the following functions:

(a) Administering the affairs of the kingship or queenship or principal traditional community in accordance with customary law and customs;

(b) assisting, supporting and guiding senior traditional leaders and traditional councils falling within the jurisdiction of the kingship or queenship or principal traditional community concerned in the performance of their functions;

(c) assisting the king or queen, or principal traditional leader in performing customary functions in relation to the recognition of senior traditional leaders, where applicable;

(d) assisting the king or queen, or principal traditional leader in mediating disputes between senior traditional leaders falling within the jurisdiction of the kingship or queenship or principal traditional community;

(e) promoting unity between traditional communities falling under the jurisdiction of the kingship or queenship or principal traditional community; and

(f) assisting the king or queen, or principal traditional leader in performing his or her roles and functions conferred upon him or her in terms of regulations made in accordance with the provisions of section 60.

(cc) waar die groot gemeenskap geen takke het nie, moet die senior- Khoi-San-leier, waar van toepassing, met die instemming van 'n forum van minstens vyf en hoogstens 10 lede deur die koninklike familie aangewys, die vereiste getal lede kies uit die lede van die koninklike familie en lede van die groot gemeenskap, of waar daar geen koninklike familie is nie, moet die senior- Khoi-San-leier die vereiste getal lede slegs uit die groot gemeenskap kies: Met dien verstande dat die bepalings van artikel 16(3)*(c)* met die nodige veranderinge van toepassing is op gevalle waar daar geen instemming is nie;

(ii) 40% van lede wat uit lede van die groot gemeenskap bestaan wat demokraties ooreenkomstig die bepalings van artikel 21 deur die groot gemeenskap verkies is.

(3) Die betrokke Premier moet, by kennisgewing in die tersaaklike *Provinsiale Koerant*, 'n Khoi-San-raad vir 'n Khoi-San-gemeenskap erken en die administratiewe setel van sodanige Khoi-San-raad erken.

(4) Die regsgebied van 'n Khoi-San-raad sal slegs op die lede van die Khoi-San-gemeenskap in artikel 5(1) en (3) beoog, van toepassing wees.

(5) Die bepalings van artikel 16(2)*(b)*, *(d)* en *(e)*, (5)*(b)*, (7), (8), (11), (14)*(a)* tot *(j)*, (15) en (16) is op 'n Khoi-San-raad van toepassing en enige verwysing in die genoemde artikel na 'n tradisionele raad, senior- tradisionele leier en hoofmanne of hoofvroue word, onderskeidelik, uitgelê as 'n verwysing na 'n Khoi-San-raad, senior- Khoi-San-leier en -takhoof.

(6) Enige bepalings van hierdie Wet wat van toepassing is op die instelling van 'n Khoi-San-raad is van toepassing op die aanvanklike instelling van so 'n raad en enige daaropvolgende hersamestelling van die raad na die verstryking van enige termyn daarvan.

(7) 'n Khoi-San-raad moet elke drie maande vergader: Met dien verstande dat die senior- Khoi-San-leier, met die instemming van die Premier van die provinsie waar sodanige raad erken word, 'n bykomende gewone of 'n spesiale vergadering van die tersaaklike raad saamroep: Met dien verstande voorts dat vir die doeleindes van die sameroeping van 'n spesiale vergadering, die senior- Khoi-San-leier kennisgewing van nie minder nie as sewe dae aan die lede van die tersaaklike Khoi-San-raad moet gee.

(8) Die ampstermyn van die lede van 'n Khoi-San-raad, met uitsondering van die senior- Khoi-San-leier, is, behoudens artikel 63(19), hoogstens vyf jaar en moet in ooreenstemming gebring word met die ampstermyn van die Nasionale Huis: Met dien verstande dat enige ampstermyn van enige sodanige raad ingestel na die inwerkingtreding van hierdie Wet, elke vyf jaar op 31 Maart sal verstryk, vanaf 31 Maart 2027 bereken.

Werksaamhede van koningskaps- of koninginskapsraad en hoof- tradisionele raad

19. (1) 'n Koningskaps- of koninginskapsraad en hoof- tradisionele raad het die volgende werksaamhede:

(a) Administrasie van die sake van die koningskaps- of koninginskaps- of hoof- tradisionele gemeenskap ooreenkomstig gewoontereg en gebruike;

(b) bystand, ondersteuning en leiding aan senior- tradisionele leiers en tradisionele rade in die regsgebied van die betrokke koningskap of koninginskap of hoof- tradisionele gemeenskap in die verrigting van hulle werksaamhede;

(c) bystand aan die koning of koningin, of hoof- tradisionele leier in die verrigting van gewoontewerksaamhede in verband met die erkenning van senior- tradisionele leiers, waar van toepassing;

(d) bystand aan die koning of koningin, of hoof- tradisionele leier in die bemiddeling van geskille tussen senior- tradisionele leiers wat in die regsgebied van die koningskaps- of koninginskaps- of hoof- tradisionele gemeenskap val;

(e) bevordering van eenheid tussen tradisionele gemeenskappe wat onder die regsgebied van die koningskaps- of koninginskaps- of hoof- tradisionele gemeenskap val; en

(f) bystand aan die koning, koningin of hoof- tradisionele leier in die uitvoering van sy of haar rolle en werksaamhede wat ingevolge die regulasies ooreenkomstig die bepalings van artikel 60 uitgevaardig, aan hom of haar opgelê is.

(2) A kingship or queenship council or principal traditional council must—

(a) keep proper records;

(b) have its financial statements audited by a registered auditor as contemplated in the Auditing Profession Act, 2005 (Act No. 26 of 2005), and submit such audited statements to the Premier within two months from the date of receipt thereof;

(c) disclose to the Premier concerned, the receipt of gifts with a value above an amount as may be determined by the Minister by notice in the *Gazette*;

(d) adhere to the code of conduct; and

(e) advise and support all traditional councils falling under its authority.

(3) *(a)* If an audit contemplated in subsection (2)*(b)* is not performed by the Auditor-General, the Auditor-General may review any such audit.

(b) If any kingship or queenship council or principal traditional council does not have its financial statements audited as contemplated in subsection (2)*(b)*, the accounting officer of the provincial department responsible for providing financial support to such council may withhold any financial support to such council or impose any other appropriate sanction on the council.

Functions of traditional council, traditional sub-council, Khoi-San council and branch

20. (1) A traditional council, a traditional sub-council subject to section 17(8), a Khoi-San council and a branch have the following functions:

(a) Administering the affairs of the traditional or Khoi-San community in accordance with customs and tradition;

(b) assisting, supporting and guiding traditional and Khoi-San leaders in the performance of their functions;

(c) supporting municipalities in the identification of community needs;

(d) facilitating the involvement of the traditional or Khoi-San community in the development or amendment of the integrated development plan of a municipality in whose area that community resides;

(e) recommending, after consultation with the relevant local and provincial houses, appropriate interventions to government that will contribute to development and service delivery within the area of jurisdiction of the traditional council or within the municipal area where the administrative seat of the Khoi-San council is;

(f) participating in the development of policy and legislation at a municipal level;

(g) participating in development programmes of the local, provincial and national spheres of government;

(h) promoting the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;

(i) promoting indigenous knowledge systems for sustainable development and disaster management;

(j) alerting any relevant municipality to any hazard or calamity, and contributing to disaster management in general;

(k) sharing information and co-operating with other traditional and Khoi-San councils; and

(l) performing the functions conferred by customary law, customs and statutory law consistent with the Constitution.

(2) A traditional and Khoi-San council must—

(a) keep proper records;

(b) have its financial statements audited by a registered auditor as contemplated in the Auditing Profession Act, 2005 (Act No. 26 of 2005), and submit such audited statements to the Premier within two months from the date of receipt thereof;

(c) disclose to the Premier concerned, the receipt of gifts with a value above an amount as may be determined by the Minister by notice in the *Gazette*; and

(d) adhere to the code of conduct.

(3) A traditional and Khoi-San council must—

(a) co-operate with any relevant ward committee established in terms of section 73 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and

(2) ’n Koningskaps- of koninginskapsraad of hoof- tradisionele raad moet—

(a) behoorlike rekords byhou;

(b) sy finansiële state deur ’n geregistreerde ouditeur soos beoog in die ‘‘Auditing Profession Act’’, 2005 (Wet No. 26 van 2005), laat ouditeer en sodanige geouditeerde state aan die Premier voorlê binne twee maande vanaf die datum van ontvangs daarvan;

(c) die ontvangs van geskenke met ’n waarde van meer as ’n bedrag wat die Minister by kennisgewing in die *Staatskoerant* bepaal, aan die betrokke Premier openbaar maak;

(d) die gedragskode volg; en

(e) alle tradisionele rade wat onder sy gesag val van raad bedien en ondersteun.

(3) *(a)* Indien ’n oudit in subartikel (2)*(b)* beoog nie deur die Ouditeur-generaal gedoen is nie, kan die Ouditeur-generaal enige sodanige oudit hersien.

(b) Indien enige koningskap of koninginskapsraad of hoof- tradisionele raad nie die finansiële state laat ouditeer soos in subartikel (2)*(b)* beoog nie, kan die rekenpligtige beampte van die provinsiale departement verantwoordelik vir die voorsiening van finansiële ondersteuning aan daardie raad, enige finansiële ondersteuning aan daardie raad weerhou of enige ander gepaste sanksie aan die raad oplê.

Werksaamhede van tradisionele raad, tradisionele subraad, Khoi-San-raad en -tak

20. (1) ’n Tradisionele raad, ’n tradisionele subraad behoudens artikel 17(8), ’n Khoi-San-raad en ’n tak het die volgende werksaamhede:

(a) Administrasie van die sake van die tradisionele of Khoi-San-gemeenskap ooreenkomstig gewoontereg en gebruike;

(b) bystand, ondersteuning en leiding aan tradisionele leiers en Khoi-San-leiers in die verrigting van hulle werksaamhede;

(c) ondersteuning van munisipaliteite in die identifikasie van gemeenskapsbehoeftes;

(d) vergemakliking van die betrokkenheid van die tradisionele of Khoi-San-gemeenskap in die ontwikkeling of wysiging van die geïntegreerde ontwikkelingsplan van ’n munisipaliteit in wie se gebied daardie gemeenskap woonagtig is;

(e) aanbeveling, na oorleg met die tersaaklike plaaslike en provinsiale huise, van tersaaklike ingrypings aan die regering wat sal bydra tot ontwikkeling en dienslewering in die regsgebied van die tradisionele raad of binne die munisipale gebied waar die administratiewe setel van die Khoi-San-raad is;

(f) deelname aan die ontwikkeling van beleid en wetgewing op munisipale vlak;

(g) deelname aan ontwikkelingsprogramme van die plaaslike, provinsiale en nasionale regeringsfere;

(h) bevordering van die ideale van samewerkende regering, geïntegreerde ontwikkelingsbeplanning, onderhoubare ontwikkeling en dienslewering;

(i) bevordering van stelsels van inheemse kennis vir onderhoubare ontwikkeling en rampbestuur;

(j) maak enige tersaaklike munisipaliteit bewus van enige gevaar of katastrofe, en dra by tot rampbestuur in die algemeen;

(k) deel inligting en werk saam met ander tradisionele en Khoi-San-rade; en

(l) verrig die werksaamhede deur gewoontereg, gebruike en statutêre reg bestaanbaar met die Grondwet, verleen.

(2) ’n Tradisionele en Khoi-San-raad moet—

(a) deeglike rekords byhou;

(b) sy finansiële state deur ’n geregistreerde ouditeur soos beoog in die ‘‘Auditing Profession Act’’, 2005 (Wet No. 26 van 2005), laat ouditeer en sodanige state aan die Premier voorlê binne twee maande vanaf die datum van ontvangs daarvan;

(c) die ontvangs van geskenke met ’n waarde groter as ’n bedrag wat die Minister by kennisgewing in die Staatskoerant bepaal, aan die betrokke Premier openbaar maak; en

(d) by die gedragskode hou.

(3) ’n Tradisionele en Khoi-San-raad moet—

(a) saamwerk met enige tersaaklike wykskomitee ingevolge artikel 73 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), ingestel; en

(b) respectively meet at least once a year with the relevant traditional or main Khoi-San community to give account of the activities and finances of the traditional or Khoi-San council.

(4) *(a)* If an audit contemplated in subsection (2)*(b)* is not performed by the Auditor-General, the Auditor-General may review any such audit.

(b) If any traditional or Khoi-San council does not have its financial statements audited as contemplated in subsection (2)*(b)*, the accounting officer of the provincial department responsible for providing financial support to such council may withhold any financial support to such council or impose any other appropriate sanction on the council.

Election of members of traditional council, traditional sub-council and Khoi-San council and filling of vacancies

21. (1) Whenever a member of a traditional council, traditional sub-council or Khoi-San council is to be elected, the Premier concerned, after consultation with the relevant provincial house, may have such elections conducted—

(a) by the Electoral Commission established in terms of the Electoral Commission Act, 1996 (Act No. 51 of 1996), if the Electoral Commission and the Premier of the province concerned enters into an agreement in respect of such elections, which agreement must include provisions relating to the manner in which the elections are to be conducted: Provided that this paragraph does not apply to the filling of a vacancy that occurs during the term of office of the council concerned; or

(b) subject to subsection (2)—

(i) by way of a community meeting; or

(ii) by a body consisting of one or more persons appointed by the Premier.

(2) A Premier may, by notice in the relevant Provincial *Gazette*, make regulations in respect of—

(a) the elections as contemplated in subsection (1)*(b)* relating to the procedure to be followed and timeframes within which such elections must be conducted; and

(b) subject to the provisions of this Act, the filling of vacancies.

Administration of kingship or queenship council, principal traditional council, traditional council, Khoi-San council and traditional sub-council

22. (1) A kingship or queenship council, principal traditional council, traditional council, traditional sub-council and a Khoi-San council (in this section jointly referred to as a council) must endeavor to perform its statutory, financial and customary obligations in the best interest of its community and is accountable to the Premier concerned for the efficient and effective performance of such obligations.

(2) A Premier must monitor a council situated within his or her province so as to ensure the effective and efficient performance of that council's statutory, financial and customary obligations.

(3) If a Premier is of the view that a council does not or cannot fulfill a statutory, financial or customary obligation binding on that council, the Premier must—

(a) by written notice, request the council to provide the Premier with the information relating to the council's performance in respect of the obligation required in the notice; or

(b) if the Premier considers it necessary, designate a person or persons to investigate the matter.

(4) If, based on the information received or investigation conducted as contemplated in subsection (3), a Premier is satisfied that a council does not or cannot fulfill its statutory, financial or customary obligations, the Premier may intervene by appointing any person or persons for a period determined by the Premier in writing—

(a) to assist the council concerned to perform any or all of the statutory, financial and customary obligations assigned to such council; or

(b) to assume responsibility for any or all the statutory, financial and customary obligations of such council.

(b) ten minste een keer 'n jaar onderskeidelik met die tersaaklike tradisionele of Khoi-San-gemeenskap vergader om rekenskap te gee van die aktiwiteite en finansies van die tradisionele of Khoi-San-raad.

(4) *(a)* Indien 'n oudit in subartikel 2*(b)* beoog nie deur die Ouditeur-generaal gedoen is nie, kan die Ouditeur-generaal enige sodanige oudit hersien.

(b) Indien enige tradisionele of Khoi-San-raad nie die finansiële state laat ouditeer soos in subartikel (2)*(b)* nie, kan die rekenpligtige beampte van die provinsiale departement verantwoordelik vir die voorsiening van finansiële ondersteuning aan daardie raad, enige finansiële ondersteuning aan daardie raad weerhou of enige ander gepaste sanksie aan die raad oplê.

Verkiesing van lede van tradisionele raad, tradisionele subraad en Khoi-San-raad en vul van vakatures

21. (1) Wanneer 'n lid van 'n tradisionele raad, tradisionele subraad of Khoi-San-raad verkies moet word, kan die betrokke Premier na oorleg met die tersaaklike provinsiale huis, sodanige verkiesings laat hou—

(a) deur die Verkiesingskommissie ingevolge die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), ingestel indien die Verkiesingskommissie en die Premier van die betrokke provinsie 'n ooreenkoms aangaande sodanige verkiesings aangaan, welke ooreenkoms bepalings moet insluit oor die wyse waarop die verkiesings gehou moet word: Met dien verstande dat hierdie paragraaf nie geld vir die vul van 'n vakature wat tydens die ampstermyn van die betrokke raad ontstaan nie; of

(b) behoudens subartikel (2)—

(i) by wyse van 'n gemeenskapsvergadering; of

(ii) deur 'n liggaam bestaande uit een of meer persone deur die Premier aangestel.

(2) 'n Premier kan, by kennisgewing in die tersaaklike *Provinsiale Koerant*, regulasies uitvaardig ten opsigte van—

(a) die verkiesings soos in subartikel (1)*(b)* beoog in verband met prosedure wat gevolg moet word en tydsbestekke waarbinne sodanige verkiesings gehou moet word; en

(b) behoudens die bepalings van hierdie Wet, die vul van vakatures.

Administrasie van koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad en tradisionele subraad

22. (1) 'n Koningskaps-of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, tradisionele subraad en 'n Khoi-San-raad (in hierdie artikel gesamentlik 'n raad genoem), moet streef om sy statutêre, finansiële en gewoonteverpligtings in die beste belang van sy gemeenskap te verrig en is aan die betrokke Premier aanspreeklik vir die doeltreffende en doelmatige verrigting van sodanige verpligtinge.

(2) 'n Premier moet 'n raad wat in sy of haar provinsie geleë is monitor, ten einde die doeltreffende en doelmatige verrigting van daardie raad se statutêre, finansiële en gewoonteverpligtings te verseker.

(3) Indien 'n Premier die standpunt huldig dat 'n raad nie 'n statutêre, finansiële of gewoonteverpligting wat bindend op daardie raad is nakom of kan nakom nie, moet die Premier—

(a) by skriftelike kennisgewing, versoek dat die raad die inligting oor die raad se prestasie ten opsigte van die verpligting in die kennisgewing vereis, aan die Premier voorsien; of

(b) indien die Premier dit nodig ag, 'n persoon of persone aanwys om die aangeleentheid te ondersoek.

(4) Indien, gegrond op die inligting ontvang of ondersoek gedoen soos beoog in subartikel (3), 'n Premier tevrede is dat 'n raad nie sy statutêre, finansiële of gewoonteverpligtings nakom of kan nakom nie, kan die Premier ingryp deur enige persoon of persone aan te stel vir 'n tydperk wat skriftelik deur die Premier bepaal is—

(a) om die betrokke raad by te staan in die verrigting van enige of al die statutêre, finansiële en gewoonteverpligtinge aan sodanige raad opgedra; of

(b) om verantwoordelikheid te aanvaar vir enige of al die statutêre, finansiële en gewoonteverpligtinge van sodanige raad.

This gazette is also available free online at www.gpwonline.co.za

(5) If a person or persons are appointed in terms of subsection (4), the council concerned is divested of the specific or all of its statutory, financial and customary obligations, as the case may be.

(6) A person or persons appointed in terms of subsection (4) must be competent to perform either the statutory, financial or the customary obligations of such council or all three, as the case may be.

(7) *(a)* A person or persons appointed in terms of subsection (4) must submit monthly written reports to the Premier concerned setting out the steps taken and progress made in respect of the performance of the specific or all of the council's statutory, financial and customary obligations, as the case may be.

(b) A Premier must submit copies of the reports contemplated in paragraph *(a)* to the National House and relevant provincial house for noting.

(8) An appointment made in terms of subsection (4) must be reviewed before the expiry of a period of 180 days: Provided that such a period may, as many times as the Premier concerned deems necessary to ensure the efficient and effective performance of the specific or all of the relevant council's statutory, financial and customary obligations, be renewed for a further period of 180 days and must be reviewed before the expiry of any such period of 180 days.

Support to kingship or queenship council, principal traditional council, traditional council, Khoi-San council and traditional sub-council

23. (1) The national government may and a provincial government must adopt such legislative or other measures as may be necessary to—

(a) support and strengthen the capacity of kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils to fulfil its functions, and such support includes the provision of administrative and financial support; and

(b) monitor and manage the finances of such councils: Provided that the Department must, subject to section 62, monitor the management of the finances of such council.

(2) The Premier of a province may, after consultation with a kingship or queenship council, principal traditional council, traditional council or Khoi-San council situated in the particular province—

(a) determine the number and remuneration levels of posts needed to perform the administrative, financial and related duties relevant to the functions of the specific council;

(b) determine any other conditions of service applicable to such posts; and

(c) appoint suitable persons in such posts in accordance with the recruitment procedures applicable to that provincial government or second officials from the provincial government to perform such duties.

(3) *(a)* For the purposes of subsection (1) a Premier must, in consultation with the relevant Provincial Treasury and subject to any legislative or other measures as contemplated in subsection (1), cause to be opened an account for each established council referred to in subsection (1) into which must be paid—

(i) all voluntary contributions made by members of the relevant community;

(ii) all moneys derived from any property owned or managed by such council;

(iii) any financial donation made to such council by any person, body or institution;

(iv) any moneys payable to the council in accordance with the provisions of a partnership or agreement as contemplated in section 24; and

(v) any other moneys as may be determined or agreed to by the Premier.

(b) For the purposes of the management of any account referred to in paragraph *(a)*, a Premier must, in consultation with the relevant Provincial Treasury and subject to paragraph *(c)* and any legislative or other measures as contemplated in subsection (1), determine—

(i) the financial systems and controls applicable to such account;

(ii) any conditions applicable to such account;

(iii) the investment of any moneys by the council concerned;

(iv) the payment of any expenditure by the council concerned;

(v) the purposes for which any moneys in such account may be used by the relevant council;

(5) Indien ’n persoon of persone ingevolge subartikel (4) aangestel word, word die betrokke raad ontneem van die spesifieke of al sy statutêre, finansiële of gewoonteverpligtinge, na gelang van die geval.

(6) ’n Persoon of persone ingevolge subartikel (4) aangestel, moet bevoeg wees om óf die statutêre óf finansiële óf gewoonteverpligtinge van sodanige raad of al drie, na gelang van die geval, te vervul.

(7) *(a)* ’n Persoon of persone ingevolge subartikel (4) aangestel, moet maandeliks skriftelike verslae aan die betrokke Premier voorlê waarin die stappe gedoen en vordering gemaak ingevolge die verrigting van die bepaalde of al die statutêre, finansiële of gewoonteverpligtinge, na gelang van die geval, van die raad uiteengesit word.

(b) ’n Premier moet afskrifte van die verslae in paragraaf *(a)* beoog, aan die Nasionale Huis en tersaaklike provinsiale huis voorlê vir kennisname.

(8) ’n Aanstelling ingevolge subartikel (4) gemaak, moet hersien word voordat ’n tydperk van 180 dae verstryk: Met dien verstande dat sodanige tydperk soveel keer soos die betrokke Premier dit nodig ag om die doeltreffende en doelmatige verrigting van die bepaalde of al die statutêre, finansiële en gewoonteverpligtinge, na gelang van die geval, van die betrokke Raad te verseker, vir ’n verdere tydperk van 180 dae verleng kan word en hersien moet word voor die verstryking van enige sodanige tydperk van 180 dae.

Ondersteuning aan koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad en tradisionele subraad

23. (1) Die nasionale regering kan en ’n provinsiale regering moet sodanige wetgewende of ander maatreëls deurvoer wat nodig mag mees om—

(a) koningskaps- of koninginskapsrade, hoof- tradisionele rade, tradisionele rade, Khoi-San-rade en tradisionele subrade se kapasiteit om hul werksaamhede te verrig te ondersteun en te versterk, en die ondersteuning sluit die voorsiening van administratiewe en finansiële ondersteuning in; en

(b) die finansies van sodanige rade te monitor en te bestuur: Met dien verstande dat die Departement, behoudens artikel 62, die bestuur van die finansies van daardie raad moet monitor.

(2) Die Premier van ’n provinsie kan, na oorleg met ’n koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad of Khoi-San-raad wat in die bepaalde provinsie geleë is—

(a) die getal en besoldigingsvlakke van poste bepaal om die administratiewe, finansiële en verwante pligte wat op die werksaamhede van die bepaalde raad van toepassing is, te verrig;

(b) enige diensvoorwaardes verwant aan enige sodanige poste bepaal; en

(c) geskikte persone in sodanige poste aanstel ooreenkomstig die werwingsprosedures van toepassing op daardie provinsiale regering of beamptes van die provinsiale regering sekondeer om daardie pligte te verrig.

(3) *(a)* By die toepassing van subartikel (1) moet ’n Premier, in oorleg met die tersaaklike Provinsiale Tesourie en behoudens enige wetgewende of ander maatreëls soos beoog in subartikel (1), ’n rekening laat oopmaak vir elke ingestelde raad bedoel in subartikel (1) waarin—

(i) alle vrywillige bydraes gemaak deur lede van die tersaaklike gemeenskap;

(ii) alle gelde ontleen aan enige eiendom in besit van of bestuur deur sodanige raad;

(iii) enige finansiële donasie gemaak aan sodanige raad deur enige persoon, liggaam of instelling;

(iv) enige gelde betaalbaar aan die raad ooreenkomstig die bepalings van ’n vennootskap of ooreenkoms soos beoog in artikel 24; en

(v) enige ander gelde soos bepaal deur of op ooreengekom deur die Premier,

betaal moet word.

(b) Vir die doeleindes van die bestuur van enige rekening in paragraaf *(a)* bedoel, moet ’n Premier, in oorleg met die tersaaklike Provinsiale Tesourie en behoudens paragraaf *(c)* en enige wetgewende of ander maatreëls soos beoog in subartikel (1)—

(i) die finansiële stelsels en kontroles van toepassing op daardie rekening;

(ii) enige voorwaardes van toepassing op daardie rekening;

(iii) die belegging van enige gelde deur die betrokke raad;

(iv) die betaling van enige uitgawes deur die betrokke raad;

(v) die doeleindes waarvoor enige gelde in so ’n rekening deur die tersaaklike raad gebruik mag word;

(vi) the closure of any other accounts, including a trust account but excluding a trust account as contemplated in section 10 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), and the transfer of any moneys in such other account or trust account to the account contemplated in paragraph *(a)*;

(vii) the reporting requirements applicable to such account; and

(viii) any other measures as may be deemed necessary by the Premier to ensure the efficient and effective management of such account,

and may designate any official from the provincial government to assist the council concerned with the management of such account or to manage such account on behalf of the relevant council: Provided that for the purposes of subparagraphs (ii) to (vii) the Premier must consult the relevant council prior to making any determination as contemplated in those subparagraphs.

(c) The Minister must, in consultation with the Minister of Finance and after consultation with the Premiers, by notice in the *Gazette* determine the minimum standards to be complied with by a Premier for the purposes of paragraph *(b)*(i) to (vii).

(d) The financial year of any council contemplated in this section must be aligned to the financial year of the provincial department responsible for providing financial support to such council.

(4) *(a)* The provincial government of a province where a branch of a Khoi-San community has been recognised must adopt such legislative or other measures as may be necessary to provide administrative support to such branch: Provided that if a branch is situated in a province other than the province where the Khoi-San council has been recognised, the Premier of the province where the branch is situated must first consult the Premier of the province where the Khoi-San council is situated to ensure uniformity in the provisioning of such administrative support.

(b) The provincial government of a province where a branch of a Khoi-San community has been recognised is responsible for the financial expenditure in relation to the attendance of Khoi-San council meetings by the relevant branch head.

Partnerships and agreements

24. (1) The national government and provincial governments may, through legislative or other measures, regulate partnerships and agreements as contemplated in this section.

(2) Kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils may enter into partnerships and agreements with each other, and with—

(a) municipalities;

(b) government departments; and

(c) any other person, body or institution.

(3) Any partnership or agreement entered into by any of the councils contemplated in subsection (2) must be in writing and, notwithstanding the provisions of any other law,—

(a) must be beneficial to the community represented by such council;

(b) must, in addition to any other provisions, contain clear provisions on the responsibilities of each party and the termination of such partnership or agreement;

(c) is subject to—

(i) a prior consultation with the relevant community represented by such council;

(ii) a decision in support of the partnership or agreement taken by a majority of the community members present at the consultation contemplated in subparagraph (i); and

(iii) a prior decision of such council indicating in writing the support of the council for the particular partnership or agreement;

(d) is subject to ratification by the Premier of the province in which the relevant council is situated and will have no effect until such ratification has been obtained; and

(e) may not bind the state or any person, body or institution who is not a party to such partnership or agreement.

(4) Any partnership or agreement contemplated in subsection (2) must—

(a) be based on the principles of mutual respect and recognition of the status and roles of the respective parties; and

(vi) die sluiting van enige ander rekeninge, met inbegrip van 'n trustrekening maar uitsluitend 'n trustrekening soos beoog in artikel 10 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), en die oordrag van gelde in sodanige ander rekening of trustrekening na die rekening in paragraaf *(a)* beoog;

(vii) die verslagdoeningsvereistes op sodanige rekening van toepassing; en

(viii) enige ander maatreëls wat die Premier nodig mag ag om te verseker dat so 'n rekening doeltreffend en effektief bestuur word,

bepaal en kan 'n beampte van die provinsiale regering aanwys om die betrokke raad by te staan met die bestuur van so 'n rekening of om so 'n rekening namens die tersaaklike regering te bestuur: Met dien verstande dat vir die doeleindes van subparagrawe (ii) tot (vii), die Premier die tersaaklike raad moet raadpleeg voor enige bepaling soos in daardie subparagrawe beoog, gemaak word.

(c) Die Minister moet, in oorleg met die Minister van Finansies en na oorleg met die Premiers, by kennisgewing in die *Staatskoerant* die minimum standaarde bepaal waaraan 'n Premier by die toepassing van paragraaf *(b)*(i) tot (vii) moet voldoen.

(d) Die finansiële jaar van enige raad in hierdie artikel beoog, moet in ooreenstemming wees met die finansiële jaar van die provinsiale departement verantwoordelik vir die verskaffing van finansiële ondersteuning aan daardie raad.

(4) *(a)* Die provinsiale regering van 'n provinsie waar 'n tak van 'n Khoi-San-gemeenskap erken is, moet sodanige wetgewende of ander maatreëls deurvoer wat nodig mag wees om administratiewe ondersteuning aan sodanige tak te voorsien: Met dien verstande dat indien 'n tak in 'n ander provinsie geleë is as die provinsie waar die Khoi-San-raad erken is, moet die Premier van die provinsie waar die tak geleë is eers oorleg pleeg met die Premier van die provinsie waar die Khoi-San-raad geleë is om eenvormigheid in die voorsiening van sodanige administratiewe ondersteuning te verseker.

(b) Die provinsiale regering van 'n provinsie waar 'n tak van 'n Khoi-San-gemeenskap erken is, is verantwoordelik vir die finansiële uitgawes in verband met die bywoning van Khoi-San-raadsvergaderings deur die betrokke takhoof.

Vennootskappe en ooreenkomste

24. (1) Die nasionale regering en provinsiale regerings kan, deur wetgewende of ander maatreëls, vennootskappe en ooreenkomste soos in hierdie artikel beoog, reël.

(2) Koningskaps- of koninginskapsrade, hoof- tradisionele rade, tradisionele rade, Khoi-San-rade en tradisionele subrade kan vennootskappe en ooreenkomste met mekaar aangaan en met—

(a) munisipaliteite;

(b) regeringsdepartemente; en

(c) enige ander persoon, liggaam of instelling.

(3) Enige vennootskap of ooreenkoms aangegaan deur enige van die rade in subartikel (2) beoog, moet skriftelik wees en, ongeag enige ander wetsbepaling—

(a) moet voordelig wees vir die gemeenskap wat deur sodanige raad verteenwoordig word;

(b) moet, bo en behalwe enige ander bepalings, duidelike bepalings bevat oor die verantwoordelikhede van elke party en die beëindiging van sodanige vennootskap of ooreenkoms;

(c) is onderhewig aan—

(i) vooraf raadpleging met die tersaaklike gemeenskap wat deur daardie raad verteenwoordig word;

(ii) 'n besluit ter ondersteuning van die vennootskap of ooreenkoms geneem deur 'n meerderheid van die gemeenskapslede teenwoordig by die raadpleging in subparagraaf (i) beoog; en

(iii) 'n vooraf besluit van daardie raad wat die ondersteuning van die raad vir die bepaalde vennootskap of ooreenkoms op skrif aandui;

(d) is onderhewig aan 'n bekragtiging deur die Premier van die provinsie waarin die tersaaklike raad geleë is en sal geen uitwerking hê totdat sodanige bekragtiging verkry is nie; en

(e) kan nie bindend wees op die staat of enige persoon, liggaam of instelling wat nie 'n party tot sodanige vennootskap of ooreenkoms is nie.

(4) Enige vennootskap of ooreenkoms in subartikel (2) beoog, moet—

(a) op die beginsels van wedersydse respek en erkenning van die status en rolle van die onderskeie partye gegrond wees; en

(b) be guided by and based on the principles of co-operative governance.

(5) Any council contemplated in subsection (2), may enter into a service delivery agreement with a municipality in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and any other applicable legislation.

(6) A Premier must—

(a) monitor all partnerships and agreements as contemplated in this section and may take the necessary steps to ensure the effective and efficient implementation or termination thereof;

(b) provide the Minister with copies of all partnerships or agreements contemplated in subsection (3)*(d)* which copies must be kept by the Department in an appropriate database; and

(c) review all partnerships and agreements as contemplated in section 63(22).

(7) *(a)* A Premier, when considering the ratification of any partnership or agreement as contemplated in subsection (3)*(d)*, must be satisfied that the provisions of subsection (3)*(a)*, *(b)*, *(c)* and *(e)* have been complied with.

(b) If a Premier is of the opinion that a partnership or agreement does not comply with the provisions of subsection (3)*(a)*, *(b)*, *(c)* or *(e)*, the Premier must refer such partnership or agreement to the parties who entered into such partnership or agreement, together with his or her reasons for not ratifying the partnership or agreement, and request them to rectify any shortcomings as referred to in his or her reasons.

Allocation of roles to kingship or queenship council, principal traditional council, traditional council, Khoi-San council, traditional sub-council and traditional and Khoi-San leaders

25. (1) A department within the national or provincial sphere of government, as the case may be, may, through legislative or other measures provide a role for a kingship or queenship council, principal traditional council, traditional council, Khoi-San council, traditional sub-council and traditional and Khoi-San leaders in respect of any functional area of such department: Provided that such a role may not include any decision-making power.

(2) *(a)* The process and procedure to be followed for the provision of a role contemplated in subsection (1) to any of the councils or leaders contemplated in that subsection, as well as the extent thereof, and the conditions and resources attached to any such provision, may, subject to paragraph *(b)*, be determined by the department concerned.

(b) Before a department makes provision for a role as contemplated in subsection (1), such department must—

(i) in the case of a national department, obtain the concurrence of the Minister and consult with the National House; and

(ii) in the case of a provincial department, obtain the concurrence of the member of the Executive Council responsible for traditional affairs of the relevant province and consult with the relevant provincial and local houses.

(3) Where a department has made provision for a role for any council or leader contemplated in subsection (1), such department must monitor the execution of the role and ensure that—

(a) the execution of the role is consistent with the Constitution and any other relevant law; and

(b) the role is being executed efficiently and effectively.

(4) Where any of the councils or leaders contemplated in subsection (1) does not execute a role as envisaged in subsection (3), such role or any resources provided to such a council or leader to perform that role may be withdrawn by the department concerned: Provided that before any such withdrawal, the relevant department must first establish the reasons for the non-execution of the relevant role and, where necessary, capacitate such councils or leaders to enable them to execute the role.

(5) *(a)* When a national or provincial department has made provision for a role as contemplated in subsection (1), such department must inform the Department of—

(i) the extent thereof;

(ii) the conditions and resources attached thereto; and

(iii) the name of the relevant council or leader.

(b) gerig wees deur en gegrond wees op die beginsels van samewerkende regering.

(5) Enige raad in subartikel (2) beoog, kan 'n diensleweringsooreenkoms met 'n munisipaliteit aangaan ooreenkomstig die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), en enige ander toepaslike wetgewing.

(6) 'n Premier moet—

(a) alle vennootskappe en ooreenkomste soos in hierdie artikel beoog monitor en die nodige stappe doen om die effektiewe en doeltreffende instelling of beëindiging daarvan te verseker;

(b) die Minister voorsien van afskrifte van alle vennootskappe of ooreenkomste in subartikel (3)*(d)* beoog, welke afskrifte in 'n gepaste databasis deur die Departement gehou moet word; en

(c) alle vennootskappe en ooreenkomste soos in artikel 63(22) beoog, hersien.

(7) *(a)* 'n Premier, by die oorweging van die bekragtiging van 'n vennootskap of ooreenkoms soos in subartikel (3)*(d)* beoog, moet oortuig wees dat aan die bepalings van subartikel (3)*(a)*, *(b)*, *(c)* en *(e)* voldoen is.

(b) Indien 'n Premier van mening is dat 'n vennootskap of ooreenkoms nie aan die bepalings van subartikel (3)*(a)*, *(b)*, *(c)* of *(e)* voldoen nie, moet die Premier sodanige vennootskap of ooreenkoms na die partye verwys wat die vennootskap of ooreenkoms gesluit het, vergesel van sy of haar redes waarom die vennootskap of ooreenkoms nie bekragtig is nie, en versoek dat hulle enige tekortkominge in sy of haar redes vermeld, regstel.

Toewysing van rolle aan koningskaps- en koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad, tradisionele subraad en tradisionele en Khoi-San-leiers

25. (1) 'n Departement in die nasionale of provinsiale regeringsfeer, na gelang van die geval, kan deur wetgewende of ander maatreëls 'n rol vir 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, Khoi-San-raad, tradisionele subraad en tradisionele en Khoi-San-leiers ten opsigte van enige funksionele gebied van sodanige departement, voorsien: Met dien verstande dat so 'n rol geen besluitnemingsbevoegdheid mag insluit nie.

(2) *(a)* Die proses en prosedure wat gevolg moet word vir die voorsiening van 'n rol in subartikel (1) beoog aan enige van die rade of leiers in daardie subartikel beoog, asook die omvang daarvan, en die omstandighede en hulpbronne verbonde aan enige sodanige voorsiening, kan, behoudens paragraaf *(b)*, deur die betrokke departement bepaal word.

(b) Voordat 'n departement voorsiening maak vir 'n rol soos in subartikel (1) beoog, moet daardie departement—

(i) in die geval van 'n nasionale departement, die Minister se instemming kry en die Nasionale Huis raadpleeg; en

(ii) in die geval van 'n provinsiale departement, die instemming kry van die lid van die Uitvoerende Raad verantwoordelik vir tradisionele sake van die tersaaklike provinsie en die tersaaklike provinsiale en plaaslike huise raadpleeg.

(3) Waar 'n departement voorsiening gemaak het vir 'n rol vir enige raad of leier in subartikel (1) beoog, moet sodanige departement die uitvoering van die rol monitor en verseker dat—

(a) die uitvoering van die rol met die Grondwet en enige ander tersaaklike wet bestaanbaar is; en

(b) die rol doeltreffend en effektief uitgevoer word.

(4) Waar enige van die rade of leiers in subartikel (1) beoog 'n rol soos in subartikel (3) in die vooruitsig gestel, nie uitvoer nie, kan daardie rol of enige hulpbronne aan sodanige raad of leier voorsien om daardie rol te verrig, deur die betrokke departement ingetrek word: Met dien verstande dat die tersaaklike departement, voor enige sodanige intrekking, eers moet vasstel hoekom die tersaaklike rol nie uitgevoer is nie en, waar nodig, daardie rade of leiers bevoeg maak om hulle in staat te stel om die rol uit te voer.

(5) *(a)* Wanneer 'n nasionale of provinsiale departement voorsiening gemaak het vir 'n rol soos in subartikel (1) beoog, moet daardie departement die Departement inlig van—

(i) die omvang daarvan;

(ii) die voorwaardes en hulpbronne daaraan verbonde; en

(iii) die naam van die tersaaklike raad of leier.

(b) When a national or provincial department withdraws a role or resources as contemplated in subsection (4), such department must inform the Department of the reasons for such withdrawal.

(c) The Department must keep proper records of the information contemplated in paragraphs *(a)* and *(b)*.

(6) The allocation or withdrawal of a role as contemplated in this section must be published for noting in the *Gazette* or Provincial *Gazette*, as the case may be, by the relevant department.

CHAPTER 3

HOUSES OF TRADITIONAL AND KHOI-SAN LEADERS

Part 1

Houses of traditional and Khoi-San leaders

Houses of traditional and Khoi-San leaders

26. The houses of traditional and Khoi-San leaders are—

(a) a National House of Traditional and Khoi-San Leaders established in terms of section 27;

(b) provincial houses of traditional and Khoi-San leaders as may be established in accordance with the principles set out in section 49; and

(c) local houses of traditional and Khoi-San leaders as may be established in accordance with the principles set out in section 50.

Part 2

National House of Traditional and Khoi-San Leaders

Establishment and term of office of National House

27. (1) There is hereby established a National House to be known as the National House of Traditional and Khoi-San Leaders.

(2) The term of office of the National House is five years: Provided that, notwithstanding anything to the contrary contained in any law, but subject to section 63(12), the term of the National House that was established in terms of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009), prior to the commencement of this Act, will expire on 30 June 2022: Provided further that any subsequent term of office of the National House as reconstituted after the commencement of this Act, shall expire every five years on 30 June, calculated from 30 June 2022.

Composition of National House

28. (1) *(a)* The National House consists of senior traditional and senior Khoi-San leaders—

(i) elected by each provincial house in accordance with the provisions of paragraph *(b)* and section 29; and

(ii) where relevant, of persons contemplated in subsection (2).

(b) In a province where a provincial house has been established and there are—

(i) only senior traditional leaders, the provincial house must elect three senior traditional leaders as members of the National House; or

(ii) only senior Khoi-San leaders, the provincial house must elect three senior Khoi-San leaders as members of the National House; or

(iii) more senior traditional leaders than senior Khoi-San leaders, the provincial house must elect three senior traditional leaders and one senior Khoi-San leader as members of the National House; or

(iv) more senior Khoi-San leaders than senior traditional leaders, the provincial house must elect three senior Khoi-San leaders and one senior traditional leader as members of the National House; or

(b) Wanneer ’n nasionale of provinsiale departement ’n rol of hulpbronne intrek soos in subartikel (4) beoog, moet daardie departement die Departement inlig van die redes vir daardie intrekking.

(c) Die Departement moet behoorlike rekords hou van die inligting in paragrawe *(a)* en *(b)* beoog.

(6) Die toewysing of intrekking van ’n rol soos in hierdie artikel beoog, moet ter kennisname deur die tersaaklike departement in die *Staatskoerant* of *Provinsiale Koerant*, na gelang van die geval, gepubliseer word.

HOOFSTUK 3

HUISE VAN TRADISIONELE EN KHOI-SAN-LEIERS

Deel 1

Huise van tradisionele en Khoi-San-leiers

Huise van tradisionele en Khoi-San-leiers

26. Die huise van tradisionele en Khoi-San-leiers is—

(a) ’n Nasionale Huis van Tradisionele en Khoi-San-leiers ingevolge artikel 27 ingestel;

(b) provinsiale huise van tradisionele en Khoi-San-leiers wat ooreenkomstig die beginsels in artikel 49 uiteengesit, ingestel kan word; en

(c) plaaslike huise van tradisionele en Khoi-San-leiers wat ooreenkomstig die beginsels in artikel 50 uiteengesit, ingestel kan word.

Deel 2

Nasionale Huis van Tradisionele en Khoi-San-leiers

Instelling en ampstermyn van Nasionale Huis

27. (1) ’n Nasionale Huis, wat as die Nasionale Huis van Tradisionele en Khoi-San-leiers bekend sal staan, word hierby ingestel.

(2) Die ampstermyn van die Nasionale Huis is vyf jaar: Met dien verstande dat, ondanks enigiets tot die teendeel in enige wet vervat, maar behoudens artikel 63(12), die termyn van die Nasionale Huis wat ingevolge die ‘‘National House of Traditional Leaders Act, 2009’’ (Wet No. 22 van 2009), voor die inwerkingtreding van hierdie Wet ingestel is, op 30 Junie 2022 sal verstryk: Met dien verstande voorts dat enige daaropvolgende ampstermyn van die Nasionale Huis soos hersaamgestel na die inwerkingtreding van hierdie Wet, elke vyf jaar, op 30 Junie sal verval, bereken vanaf 30 Junie 2022.

Samestelling van Nasionale Huis

28. (1) *(a)* Die Nasionale Huis bestaan uit senior- tradisionele en Khoi-San-leiers—

(i) deur elke provinsiale huis verkies ooreenkomstig die bepalings van paragraaf *(b)* en artikel 29; en

(ii) waar tersaaklik, uit persone in subartikel (2) beoog, verkies.

(b) In ’n provinsie waar ’n provinsiale huis ingestel is en daar—

(i) slegs senior- tradisionele leiers is, moet die provinsiale huis drie senior- tradisionele leiers as lede van die Nasionale Huis verkies; of

(ii) slegs senior- Khoi-San-leiers is, moet ’n provinsiale huis drie senior- Khoi-San-leiers as lede van die Nasionale Huis verkies; of

(iii) meer senior tradisionele leiers as senior- Khoi-San-leiers is, moet die provinsiale huis drie senior- tradisionele leiers en een senior- Khoi-San-leier as lede van die Nasionale Huis verkies; of

(iv) meer senior- Khoi-San-leiers as senior- tradisionele leiers is, moet die provinsiale huis drie senior- Khoi-San-leiers en een senior- tradisionele leier as lede van die Nasionale Huis verkies; of

(v) an equal number of senior traditional leaders and senior Khoi-San leaders, the provincial house must elect two senior traditional leaders and two senior Khoi-San leaders as members of the National House; or

(vi) two or less than two of either or of both senior traditional leaders and senior Khoi-San leaders, such leaders are *ex officio* members of the National House.

(2) In a province where a provincial house has not been established—

(a) the senior traditional leaders or the senior Khoi-San leaders or the senior traditional leaders and the senior Khoi-San leaders, as the case may be, in the particular province, must, at a meeting convened by the relevant Premier, elect from amongst themselves representatives to the National House in accordance with the representation numbers as contemplated in subsection (1)*(b)*(i) to (v); or

(b) where there are two or less than two of either or of both senior traditional leaders and senior Khoi-San leaders in such province, such leaders are *ex officio* members of the National House.

(3) At least a third of the members of the National House must consist of women: Provided that if this requirement cannot be met, the Minister must, after consultation with the Premiers concerned and the relevant provincial houses, determine a lower threshold in respect of the representation of women in the National House.

Election and designation of members to National House

29. (1) The Minister must, at least 30 days before the expiry of the term of office of the National House, request the Premiers to notify provincial houses to elect subject to section 28, senior traditional leaders and where applicable, senior Khoi-San leaders to serve as members in the National House.

(2) The members of a provincial house referred to in section 28(1) must be elected, within 21 days after having received the notice from the Premier concerned in terms of subsection (1), by members of that provincial house in a meeting called for that purpose and attended by at least two-thirds of the members of the house concerned: Provided that the members of a provincial house referred to in section 28(1)*(a)*(i) and *(b)*, may not be full-time members of such provincial house.

(3) The election proceedings referred to in subsection (2) must be managed and chaired by the Premier concerned or a person designated by such Premier, and must be observed by officials of the National House and the provincial department responsible for traditional affairs.

(4) An election contemplated in subsection (2) must be by secret ballot by members of the provincial house concerned in the same meeting where the nominations take place.

(5) Each provincial house must elect one of the members contemplated in subsection (2) as leader of the elected members.

(6) A Premier must submit to the Minister, in respect of every person elected and designated, such person's—

(a) acceptance of the election or designation;

(b) full name and surname;

(c) identity number; and

(d) contact details.

(7) In the event that a provincial house fails to elect one or more of its members to serve in the National House within the period referred to in subsection (2), the Premier concerned must designate members of the relevant provincial house to serve in the National House.

(8) A member of the National House may not serve more than two consecutive terms as a member of the National House.

Disqualification for membership of National House

30. A person is disqualified from becoming a member of the National House if that person—

(a) is a member of a municipal council, a member of a provincial legislature or a member of Parliament;

(v) ewe veel senior- tradisionele leiers en senior- Khoi-San-leiers is, moet die provinsiale huis twee senior- tradisionele leiers en twee senior- Khoi-San-leiers as lede van die Nasionale Huis verkies; of

(vi) twee of minder van een van of beide senior- tradisionele leiers en senior- Khoi-San-leiers is, is daardie lede *ex officio*-lede van die Nasionale Huis.

(2) In ’n provinsie waar ’n provinsiale huis nie ingestel is nie—

(a) moet die senior- tradisionele leiers of die senior- Khoi-San-leiers of die senior- tradisionele leiers en die senior- Khoi-San-leiers, na gelang van die geval, in die bepaalde provinsie, by ’n vergadering deur die tersaaklike Premier saamgeroep, uit eie geledere verteenwoordigers na die Nasionale Huis verkies ooreenkomstig die getalle vir verteenwoordiging soos in subartikel (1)*(b)*(i) tot (v) beoog; of

(b) waar daar twee of minder as twee van een van of beide senior- tradisionele leiers en senior- Khoi-San-leiers in daardie provinsie is, is daardie lede *ex officio*-lede van die Nasionale Huis.

(3) Ten minste ’n derde van die lede van die Nasionale Huis moet uit vroue bestaan: Met dien verstande dat indien nie aan hierdie vereiste voldoen kan word nie, die Minister, na oorleg met die betrokke Premiers en die tersaaklike provinsiale huise, ’n lae drempel moet bepaal ten opsigte van die verteenwoordiging van vroue in die Nasionale Huis.

Verkiesing en aanwysing van lede tot Nasionale Huis

29. (1) Die Minister moet, ten minste 30 dae voor die verstryking van die ampstermyn van die Nasionale Huis, versoek dat die Premiers die provinsiale huise in kennis stel om, behoudens artikel 28, senior- tradisionele leiers en waar van toepassing, senior- Khoi-San-leiers, te verkies om as lede in die Nasionale Huis te dien.

(2) Die lede van ’n provinsiale huis in artikel 28(1) bedoel, moet binne 21 dae na ontvangs van die kennisgewing van die betrokke Premier ingevolge subartikel (1), verkies word deur lede van daardie provinsiale huis by ’n vergadering vir daardie doelwit saamgeroep en waar ten minste twee derdes van die lede van die betrokke huis teenwoordig is: Met dien verstande dat die lede van ’n provinsiale huis in artikel 28(1)*(a)*(i) en *(b)* bedoel, nie voltydse lede van sodanige provinsiale huis mag wees nie.

(3) Die verkiesingsprosedures in subartikel (2) bedoel, moet deur die betrokke Premier of ’n persoon deur sodanige Premier aangewys, bestuur en voorgesit word, en moet deur beamptes van die Nasionale Huis en die provinsiale departement verantwoordelik vir tradisionele sake, waargeneem word.

(4) ’n Verkiesing in subartikel (2) beoog moet per geheime stembriefie gedoen word deur lede van die betrokke provinsiale huis by dieselfde vergadering waar die benoemings geskied.

(5) Elke provinsiale huis moet een van die lede as leier van die verkose lede verkies soos in subartikel (2) beoog.

(6) ’n Premier moet, ten opsigte van elke verkose en aangewese persoon, sodanige persoon se—

(a) aanvaarding van die verkiesing of aanwysing;

(b) volle naam en van;

(c) identiteitsnommer; en

(d) kontakbesonderhede,

aan die Minister voorlê.

(7) Indien ’n provinsiale huis versuim om binne die tydperk in subartikel (2) bedoel, een of meer van sy lede te verkies om in die Nasionale Huis te dien, moet die betrokke Premier lede van die tersaaklike provinsiale huis aanwys om in die Nasionale Huis te dien.

(8) ’n Lid van die Nasionale Huis mag nie meer as twee agtereenvolgende termyne as ’n lid van die Nasionale Huis dien nie.

Onbevoegdheid vir lidmaatskap van Nasionale Huis

30. ’n Persoon word onbevoeg om as ’n lid van die Nasionale Huis te dien indien daardie persoon—

(a) ’n lid van ’n munisipale raad, ’n lid van ’n provinsiale wetgewer of ’n Parlementslid word;

(b) at the time of the election of members of the National House, is serving a sentence of imprisonment of more than 12 months without the option of a fine;
(c) is an unrehabilitated insolvent;
(d) is of unsound mind and has been so declared by a competent court;
(e) has been convicted of a criminal offence and sentenced to more than 12 months imprisonment without the option of a fine, either in the Republic or outside the Republic, if the conduct constituting the offence would have been an offence in the Republic, but no-one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined or until the time for an appeal has expired;
(f) is not a member of a provincial house;
(g) is not a South African citizen; or
(h) is not permanently resident within the Republic.

Vacation of seats

31. The seat of a member of the National House becomes vacant—
(a) upon the death of a member;
(b) if the member resigns by written notice to the Minister;
(c) if the member becomes disqualified in terms of section 30;
(d) if the member becomes a full-time member of a municipal council, a member of a provincial legislature or a member of Parliament;
(e) if a member is convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
(f) if the member is removed from office for a breach of the code of conduct; or
(g) in the case of a member contemplated in section 28(1)*(a)*(i) and *(b)*, if the member ceases to be a member of a provincial house that elected him or her, and in the case of a member contemplated in section 28(1)*(b)* and (2), if the member ceases to be a chairperson or member of a traditional or Khoi-San council, as the case may be.

Filling of vacancies

32. (1) Where a vacancy occurs in the National House the Minister must, within 14 days after being informed of such a vacancy by the Secretary, inform the relevant Premier of such a vacancy.

(2) A vacancy in the National House must, subject to sections 28 and 29, be filled within 45 days after it became vacant, by the election of a member for the unexpired portion of the term of office of the member in whose place he or she is elected, and in the same manner in which the previous member was elected or designated.

Seat and meetings of National House

33. (1) *(a)* The first meeting of the National House must take place within 90 days after its constitution in terms of sections 28 and 29, at a time and place determined by the Secretary, subject to subsection (5).

(b) The President or a person designated by him or her may address the annual official opening of the National House.

(2) Ordinary meetings of the National House may, subject to subsection (5), take place at a time and place determined by the Secretary in consultation with the Chairperson.

(3) Special meetings of the National House may, subject to subsection (5), be held at a time and place determined by the Executive Committee of the National House or, if authorised thereto by the Executive Committee, by the Chairperson of the National House: Provided that the Minister may at any time summon the National House to a special meeting for the purposes of attending to urgent business at a time and place determined by the Minister.

(4) The National House must meet at least once in every quarter.

(5) The administrative seat of the National House is located at the same place where the head office of the Department is located and meetings of the National House may take place either at the administrative seat or at the seat of Parliament.

(6) The quorum for meetings of the National House is fifty per cent plus one of the total membership of the National House.

This gazette is also available free online at **www.gpwonline.co.za**

(b) ten tye van die verkiesing van lede van die Nasionale Huis, 'n vonnis van gevangenisstraf van meer as 12 maande sonder die opsie van 'n boete uitdien;
(c) 'n ongerehabiliteerde insolvent is;
(d) geestesgekrenk is en deur 'n bevoegde hof aldus verklaar is;
(e) aan 'n misdaad skuldig bevind is en tot meer as 12 maande gevangenisstraf sonder die opsie van 'n boete gevonnis is, hetsy in die Republiek of buite die Republiek indien die gedrag wat die misdryf daarstel 'n misdryf in die Republiek sou wees, maar niemand kan geag word gevonnis te wees nie totdat 'n appèl teen die skuldigbevinding of vonnis oor beslis is nie of totdat die tyd vir 'n appèl verstryk het nie;
(f) nie 'n lid van 'n provinsiale huis is nie;
(g) nie 'n Suid-Afrikaanse burger is nie; of
(h) nie permanent in die Republiek woonagtig is nie.

Ontruiming van setels

31. Die setel van 'n lid van die Nasionale Huis word vakant—
(a) by die afsterwe van 'n lid;
(b) indien die lid by skriftelike kennisgewing aan die Minister bedank;
(c) indien die lid ingevolge artikel 30 onbevoeg word;
(d) indien die lid 'n voltydse lid van 'n munisipale raad, 'n lid van 'n provinsiale wetgewer of 'n Parlementslid word;
(e) indien 'n lid aan 'n misdryf skuldig bevind is en tot gevangenisstraf van meer as 12 maande sonder die opsie van 'n boete gevonnis is;
(f) indien die lid vir 'n verbreking van die gedragskode uit sy of haar amp onthef word; of
(g) in die geval van 'n lid in artikel 28(1)*(a)*(i) en *(b)* beoog, indien die lid ophou om 'n lid van 'n provinsiale huis te wees wat hom of haar verkies het, en in die geval van 'n lid in artikel 28(1)*(b)* en (2) beoog, indien die lid ophou om 'n voorsitter of lid van 'n tradisionele of Khoi-San-raad te wees, na gelang van die geval.

Vul van vakatures

32. (1) Waar 'n vakature in die Nasionale Huis ontstaan, moet die Minister, binne 14 dae nadat hy of sy deur die Sekretaris verwittig is van sodanige vakature, die tersaaklike Premier verwittig van sodanige vakature.

(2) 'n Vakature in die Nasionale Huis moet, behoudens artikels 28 en 29, binne 45 dae nadat dit vakant geword het, gevul word, deur die verkiesing van 'n lid vir die onverstreke gedeelte van die ampstermyn van die lid in wie se plek hy of sy verkies word, en op dieselfde wyse waarop die vorige lid verkies of aangewys is.

Setel en vergaderings van Nasionale Huis

33. (1) *(a)* Die eerste vergadering van die Nasionale Huis moet plaasvind binne 90 dae vanaf die samestelling daarvan ingevolge artikels 28 en 29, op 'n tyd en plek behoudens subartikel (5) deur die Sekretaris bepaal.

(b) Die President of 'n persoon deur hom of haar aangewys, kan die jaarlikse amptelike opening van die Nasionale Huis toespreek.

(2) Gewone vergaderings van die Nasionale Huis kan, behoudens subartikel (5), op 'n tyd en plek deur die Sekretaris in oorleg met die Voorsitter bepaal, plaasvind.

(3) Spesiale vergaderings van die Nasionale Huis kan, behoudens subartikel (5), op 'n tyd en plek gehou word soos deur die Uitvoerende Komitee van die Nasionale Huis bepaal of, indien daartoe gemagtig deur die Uitvoerende Komitee, deur die Voorsitter van die Nasionale Huis bepaal: Met dien verstande dat die Minister te eniger tyd die Nasionale Huis na 'n spesiale vergadering kan ontbied om dringende sake te hanteer, op 'n tyd en plek deur die Minister bepaal.

(4) Die Nasionale Huis moet kwartaalliks ten minste een keer vergader.

(5) Die administratiewe setel van die Nasionale Huis is op dieselfde plek geleë waar die hoofkantoor van die Departement geleë is en vergaderings van die Nasionale Huis kan by die administratiewe setel of by die setel van die Parlement plaasvind.

(6) Die kworum vir vergaderings van die Nasionale Huis is vyftig persent plus een van die totale lidmaatskap van die Nasionale Huis.

(7) The decisions of the National House must be taken by consensus, or where a vote is taken, subject to subsection (6), by a majority of the members present and voting in the meeting.

(8) Meetings of the National House are, subject to section 46(1)*(f)*, open to the public.

Chairperson and deputy chairperson of National House

34. (1) At its first meeting after it has been constituted in terms of sections 28 and 29, the National House must, with the Chief Justice or a judge designated by the Chief Justice presiding, elect one of its members to be the chairperson and must thereafter elect another of its members to be the deputy chairperson.

(2) The chairperson is vested with all powers and functions assigned to a chairperson in terms of this Act and the rules and orders of the National House.

(3) The chairperson presides over meetings of the National House.

(4) If the chairperson is absent or for any reason unable to exercise or perform the powers or functions vested in the office of the chairperson, or when the office of the chairperson is vacant, the deputy chairperson must act as chairperson during the chairperson's absence or inability or until a chairperson is elected.

(5) If both the chairperson and the deputy chairperson are absent, a member of the National House designated in terms of the rules and orders of the National House must act as chairperson while the said circumstances prevail.

(6) The deputy chairperson or the member designated in terms of this Act, while acting as a chairperson, may exercise the powers and must perform the functions vested in the office of the chairperson.

(7) While presiding at a meeting of the National House, a member of the House designated as a chairperson has a deliberative vote as well as a casting vote in the case of an equality of votes.

(8) The chairperson or deputy chairperson must vacate office if he or she becomes disqualified in terms of section 30.

(9) If the position of chairperson becomes vacant, the Minister or a person designated by the Minister must preside over the election of a member of the National House to fill the vacancy.

(10) If the position of deputy chairperson becomes vacant, the chairperson must preside over the election of a member of the National House to fill the vacancy.

(11) If the positions of both chairperson and deputy chairperson of the National House become vacant, the National House must, with the Chief Justice or a judge designated by the Chief Justice presiding, elect members of the National House to fill the vacancies.

(12) A chairperson or deputy chairperson is eligible for re-election: Provided that no member may serve as a chairperson or deputy chairperson of the National House for more than two terms.

Status of members of National House

35. (1) The chairperson and deputy chairperson shall be full-time members of the National House.

(2) The Minister may, after consultation with the National House and subject to subsection (1), determine that certain members are full-time members of the National House.

Duties of National House

36. (1) The duties of the National House are—

(a) to cooperate with the provincial houses, to promote—
  - (i) the role of traditional and Khoi-San leadership within a democratic constitutional dispensation;
  - (ii) nation building;
  - (iii) peace, stability and cohesiveness of communities;
  - (iv) the preservation of the moral fiber and regeneration of society;
  - (v) the preservation of the culture and traditions of communities;
  - (vi) socio-economic development and service delivery;
  - (vii) the social well-being and welfare of communities; and

(7) Die besluite van die Nasionale Huis moet deur konsensus geneem word, of waar gestem word, behoudens subartikel (6), deur ’n meerderheid van die teenwoordige lede wat by die vergadering stem.

(8) Vergaderings van die Nasionale Huis is, behoudens artikel 46(1)*(f)*, oop vir die publiek.

Voorsitter en ondervoorsitter van Nasionale Huis

34. (1) By sy eerste vergadering nadat dit ingevolge artikels 28 en 29 saamgestel is, moet die Nasionale Huis, met die Hoofregter of regter deur die Hoofregter aangewys, as voorsitter, een van die Nasionale Huis lede verkies om die voorsitter te wees en moet daarna nog ’n lid verkies om ondervoorsitter te wees.

(2) Die voorsitter is beklee met alle bevoegdhede en werksaamhede aan ’n voorsitter aangewys ingevolge hierdie Wet en die reëls en orders van die Nasionale Huis.

(3) Die voorsitter sit voor oor vergaderings van die Nasionale Huis.

(4) Indien die voorsitter afwesig is of om enige rede nie die bevoegdhede of werksaamhede in die amp van die voorsitter gevestig kan uitoefen of verrig nie, of wanneer die amp van die voorsitter vakant is, moet die ondervoorsitter as voorsitter optree tydens die voorsitter se afwesigheid of onvermoë of totdat ’n voorsitter verkies word.

(5) Indien die voorsitter en die ondervoorsitter albei afwesig is, moet ’n lid van die Nasionale Huis ingevolge die reëls en orders aangewys as voorsitter waarneem terwyl die genoemde omstandighede geld.

(6) Die ondervoorsitter of die lid ingevolge hierdie Wet aangewys, terwyl hy of sy as voorsitter waarneem, mag die bevoegdhede uitoefen en die werksaamhede verrig wat in die amp van die voorsitter gevestig is.

(7) Terwyl hy of sy by ’n vergadering van die Nasionale Huis voorsit, het ’n lid van die Huis wat as ’n voorsitter aangewys is, ’n gewone stem asook ’n beslissende stem in die geval van ’n staking van stemme.

(8) Die voorsitter of ondervoorsitter moet die amp ontruim indien hy of sy ingevolge artikel 30 onbevoeg raak.

(9) Indien die posisie van ’n voorsitter vakant word, moet die Minister of ’n persoon deur die Minister aangewys, voorsit oor die verkiesing van ’n lid van die Nasionale Huis om die vakature te vul.

(10) Indien die posisie van ondervoorsitter vakant word, moet die voorsitter voorsit oor die verkiesing van ’n lid van die Nasionale Huis om die vakature te vul.

(11) Indien die posisies van voorsitter sowel as ondervoorsitter van die Nasionale Huis vakant word, moet die Nasionale Huis, terwyl die Hoofregter of ’n regter deur die Hoofregter aangewys, voorsit, lede van die Nasionale Huis verkies om die vakatures te vul.

(12) ’n Voorsitter of ondervoorsitter is herverkiesbaar: Met dien verstande dat geen lid vir meer as twee termyne as ’n voorsitter of ondervoorsitter van die Nasionale Huis kan dien nie.

Status van lede van Nasionale Huis

35. (1) Die voorsitter en ondervoorsitter is voltydse lede van die Nasionale Huis.

(2) Die Minister kan, na oorleg met die Nasionale Huis en behoudens subartikel (1), bepaal dat sekere lede heeltydse lede van die Nasionale Huis is.

Pligte van Nasionale Huis

36. (1) Die pligte van die Nasionale Huis is—

(a) om met die provinsiale huise saam te werk, ten einde—

(i) die rol van tradisionele en Khoi-San-leierskap binne ’n demokratiese, grondwetlike bedeling;

(ii) nasiebou;

(iii) vrede, stabiliteit en samehangendheid van gemeenskappe;

(iv) die preservering van die morele karakter en regenerasie van die samelewing;

(v) die preservering van die kultuur en tradisies van gemeenskappe;

(vi) sosio-ekonomiese ontwikkeling en dienslewering;

(vii) die maatskaplike welstand en welvaart van gemeenskappe; en

(viii) the transformation and adaptation of customary law and customs so as to comply with the provisions of the Bill of Rights in the Constitution, in particular by—
(aa) preventing unfair discrimination;
(bb) promoting equality; and
(cc) seeking to progressively advance gender representation in the succession to traditional and Khoi-San leadership positions; and

(b) to enhance co-operation between the National House and the various provincial houses with a view to address matters of common interest.

(2) The National House—

(a) must consider Parliamentary Bills referred to it by the Secretary to Parliament in terms of section 39;
(b) may advise the national government and make recommendations in respect of—
(i) matters relating to policy and legislation regarding traditional and Khoi-San leadership;
(ii) the role of traditional and Khoi-San leaders;
(iii) customary law; and
(iv) the customs of communities observing a system of customary law;
(c) may investigate and make available information on traditional and Khoi-San leadership, traditional and Khoi-San communities, customary law and customs;
(d) must, at the request of the Minister, advise any member of the National Cabinet in connection with any matter referred to in this section;
(e) must complement and support the work of government at national level;
(f) may form cooperative relations and partnerships with government at national level in respect of development and service delivery;
(g) may participate in and form partnerships in respect of international and national programmes geared towards the development of rural communities;
(h) may participate in national initiatives meant to monitor, review and evaluate government programmes in rural communities; and
(i) must perform tasks as may be determined by the President or Minister or as may be provided for in national legislation.

(3) Any member of the National Cabinet who is responsible for national government development programmes that affect or may affect traditional or Khoi-San communities, must consult the National House before any such programme is implemented, amended or discontinued.

Administration of National House

37. (1) The Director-General of the Department may, in consultation with the chairperson of the National House and subject to the laws governing the public service, second or designate officials from the Department to discharge the administrative work of the National House.

(2) The Director-General of the Department must, in terms of the laws governing the public service and in consultation with the chairperson of the National House, appoint a person as Secretary to the House, who must—

(a) exercise or perform the powers and functions conferred upon or assigned to the Secretary by this Act and the rules and orders of the National House;
(b) subject to the directions of the National House, perform such work as is incidental to the exercise or performance by the National House of its powers and functions; and
(c) ensure that the National House and any committee of the House exercise or perform its duties, functions and responsibilities in an appropriate and cost-effective manner.

(3) The Secretary must be supported in the exercise or performance of his or her powers and functions by officials of the Department seconded or designated in terms of subsection (1) for that purpose.

(viii) die transformasie en aanpassing van gewoontereg en gebruike ten einde die bepalings van die Handves van Menseregte na te kom, in die besonder deur—
(aa) onregverdige diskriminasie te voorkom;
(bb) gelykheid te bevorder; en
(cc) te poog om geslagsverteenwoordiging in die opvolging van tradisionele en Khoi-San-leierskapsposisies toenemend te ontwikkel,

te bevorder; en

(b) om samewerking tussen die Nasionale Huis en die verskeie provinsiale huise te verbeter met die oog op die hantering van aangeleenthede van algemene belang.

(2) Die Nasionale Huis—

(a) moet Parlementêre Wetsontwerpe wat ingevolge artikel 39 deur die Sekretaris in die Parlement daarheen verwys is, oorweeg;
(b) kan die nasionale regering van raad bedien en aanbevelings maak ten opsigte van—
(i) aangeleenthede wat met beleid en wetgewing verband hou aangaande tradisionele en Khoi-San-leierskap;
(ii) die rol van tradisionele en Khoi-San-leiers;
(iii) gewoontereg; en
(iv) die gebruike van gemeenskappe wat 'n stelsel van gewoontereg volg;
(c) kan inligting oor tradisionele en Khoi-San-leierskap, tradisionele en Khoi-San-gemeenskappe, gewoontereg en gebruike ondersoek en beskikbaar stel;
(d) moet, op versoek van die Minister, enige lid van die Nasionale Kabinet van raad bedien in verband met enige aangeleentheid in hierdie artikel bedoel;
(e) moet die werk van die regering op nasionale vlak aanvul en ondersteun;
(f) kan samewerkingsverhoudings en vennootskappe ten opsigte van ontwikkeling en dienslewering met die regering op nasionale vlak smee;
(g) kan deelneem aan en vennootskappe aangaan ten opsigte van internasionale en nasionale programme wat op die ontwikkeling van landelike gemeenskappe gerig is;
(h) kan aan nasionale inisiatiewe deelneem wat daarop gerig is om regeringsprogramme in landelike gebiede te monitor, hersien en evalueer; en
(i) moet take verrig soos deur die President of Minister bepaal of soos in nasionale wetgewing voor voorsiening gemaak.

(3) Enige lid van die Nasionale Kabinet wat verantwoordelik is vir ontwikkelingsprogramme van die nasionale regering wat tradisionele of Khoi-San-gemeenskappe raak of kan raak, moet met die Nasionale Huis oorleg pleeg voordat enige sodanige program toegepas, gewysig of gestaak word.

Administrasie van Nasionale Huis

37. (1) Die Direkteur-generaal van die Departement kan, in oorleg met die voorsitter van die Nasionale Huis en behoudens die wette wat die staatsdiens beheer, beamptes van die Departement sekondeer of aanwys om die administratiewe werk van die Nasionale Huis te verrig.

(2) Die Direkteur-generaal van die Departement moet, ingevolge die wette wat die staatsdiens beheer en in oorleg met die voorsitter van die Nasionale Huis, 'n persoon as Sekretaris van die Huis aanstel, wat—

(a) die bevoegdhede moet uitoefen en werksaamhede moet verrig wat deur hierdie Wet en die reëls en orders van die Nasionale Huis aan die Sekretaris opgelê of toegewys is;
(b) behoudens die voorskrifte van die Nasionale Huis, sodanige werk verrig wat insidenteel tot die uitoefening of verrigting deur die Nasionale Huis van sy bevoegdhede en werksaamhede is; en
(c) verseker dat die Nasionale Huis en enige komitee van die Huis sy pligte, werksaamhede en verantwoordelikhede op 'n gepaste en koste-doeltreffende wyse uitoefen of verrig.

(3) Die Sekretaris moet in die uitoefening of verrigting van sy of haar bevoegdhede en werksaamhede deur beamptes van die Departement ingevolge subartikel (1) vir daardie doel gesekondeer of aangewys, ondersteun word.

Responsibilities of National House

38. (1) The National House must—

(a) prepare a strategic plan for a period of five years and review it annually;

(b) prepare an annual performance plan;

(c) keep proper records;

(d) in addition to quarterly meetings, hold an annual meeting with provincial houses to give account of the activities and finances of the National House;

(e) enforce the code of conduct;

(f) establish clear relationships with provincial houses and facilitate co-operation and communication between itself and provincial houses, as well as between the various provincial houses;

(g) assign clear responsibilities for the management and co-ordination of the administration of the National House to the Secretary of the National House and hold him or her accountable for the overall administration of the National House;

(h) maximise the efficiency of communication and decision-making within the administration of the National House;

(i) involve the Secretary of the National House in decisions impacting on the overall management of the National House, as far as is practical;

(j) promote an equitable, fair, open, non-discriminatory and supportive environment for all provincial houses; and

(k) provide an equitable, fair, open, non-discriminatory and supportive environment for members of the National House.

(2) *(a)* The strategic plan and annual performance plan referred to in subsection (1)*(a)* and *(b)* must be submitted to the Minister for approval, before a date determined by the Minister.

(b) The National House must submit a quarterly report to the Minister on the implementation of the strategic plan and annual performance plan.

(c) The National House must, within 60 days after the Minister has approved the strategic plan or any revised strategic plan as contemplated in subsection (1)*(a)*, table the strategic plan in Parliament.

(3) The National House must, where applicable,—

(a) determine the reasons why the one-third requirement for female representation on a provincial house is not met; and

(b) in collaboration with the relevant provincial house, determine the reasons why such requirement is not met by a local house, kingship or queenship council, principal traditional council, traditional council, traditional sub-council or Khoi-San council,

and make recommendations to the Minister and the Premier, house and council concerned on how female representation on such house or council can be advanced to ensure that the one-third requirement is met.

Referral of Bills to National House

39. (1) *(a)* Any Parliamentary Bill—

(i) which directly affects traditional or Khoi-San communities or pertaining to customary law or customs of traditional or Khoi-San communities; or

(ii) pertaining to any matter referred to in section 154(2) of the Constitution,

must, in the case of a Bill contemplated in subparagraph (i) and may, in the case of a Bill contemplated in subparagraph (ii), before it is passed by the house of Parliament where it was introduced, be referred by the Secretary to Parliament to the National House for its comments.

(b) The National House must, within 60 days from the date of such referral, make any comments it wishes to make and submit such comments to the Secretary to Parliament: Provided that the National House may refer any such Bill to any provincial house for comments: Provided further that if the National House has no comments on any Bill referred to it, the National House must inform the Secretary to Parliament accordingly.

This gazette is also available free online at www.gpwonline.co.za

Verantwoordelikhede van Nasionale Huis

38. (1) Die Nasionale Huis moet—

(a) 'n strategiese plan vir 'n tydperk van vyf jaar voorberei en dit jaarliks hersien;

(b) 'n jaarlikse prestasieplan voorberei;

(c) behoorlike rekords hou;

(d) bo en behalwe kwartaallikse vergaderings, 'n jaarvergadering met provinsiale huise hou om rekenskap te gee van die aktiwiteite en finansies van die Nasionale Huis;

(e) die gedragskode afdwing;

(f) duidelike verhoudings met provinsiale huise vestig en samewerking en kommunikasie tussen homself en provinsiale huise bewerkstellig, asook tussen die verskeie provinsiale huise;

(g) duidelike verantwoordelikhede vir die bestuur en koördinasie van die administrasie van die Nasionale Huis aan die Sekretaris van die Nasionale Huis opdra en hom of haar aanspreeklik hou vir die algemene administrasie van die Nasionale Huis;

(h) die doeltreffendheid van kommunikasie en besluitneming binne die administrasie van die Nasionale Huis maksimaliseer;

(i) die Sekretaris van die Nasionale Huis, sover prakties moontlik is, betrek by besluite wat 'n invloed op die algemene bestuur van die Nasionale Huis het;

(j) 'n billike, regverdige, oop, niediskriminerende en ondersteunende omgewing vir alle provinsiale huise bevorder; en

(k) 'n billike, regverdige, oop, niediskriminerende en ondersteunende omgewing vir lede van die Nasionale Huis voorsien.

(2) *(a)* Die strategiese plan en jaarlikse prestasieplan in subartikel (1)*(a)* en *(b)* beoog moet vir goedkeuring aan die Minister voorgelê word, voor 'n datum deur die Minister bepaal.

(b) Die Nasionale Huis moet 'n kwartaallikse verslag aan die Minister voorlê oor die toepassing van die strategiese plan en jaarlikse prestasieplan.

(c) Die Nasionale Huis moet, binne 60 dae nadat die Minister die strategiese plan of enige hersiene strategiese plan soos in subartikel (1)*(a)* beoog, goedgekeur het, die strategiese plan in die Parlement ter tafel lê.

(3) Die Nasionale Huis moet, waar van toepassing—

(a) die redes vasstel waarom die eenderdevereiste vir vroulike verteenwoordiging in 'n provinsiale huis nie aan voldoen is nie; en

(b) in samewerking met die tersaaklike provinsiale huis, redes vasstel waarom 'n plaaslike huis, koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, tradisionele subraad of Khoi-San-raad, nie aan sodanige vereiste voldoen nie,

en aanbevelings aan die Minister en die betrokke Premier, huis en raad maak oor hoe vroulike verteenwoordiging in sodanige huis of raad bevorder kan word om te verseker dat die eenderdevereiste aan voldoen word.

Verwysing van Wetsontwerpe na Nasionale Huis

39. (1) *(a)* Enige Parlementêre Wetsontwerp—

(i) wat tradisionele of Khoi-San-gemeenskappe regstreeks kan raak of wat op gewoontereg of gebruike van tradisionele of Khoi-San-gemeenskappe betrekking het; of

(ii) wat op enige aangeleentheid in artikel 154(2) van die Grondwet bedoel, betrekking het,

moet, in die geval van 'n Wetsontwerp in subparagraaf (i) beoog en kan, in die geval van 'n Wetsontwerp in subparagraaf (ii) bedoel, voordat dit deur die huis van die Parlement waar dit ingedien is deurgevoer word, deur die Sekretaris van die Parlement na die Nasionale Huis verwys word vir kommentaar.

(b) Die Nasionale Huis moet, binne 60 dae na die datum van sodanige verwysing, enige kommentaar lewer wat hy het en sodanige kommentaar aan die Sekretaris van die Parlement voorlê: Met dien verstande dat die Nasionale Huis enige sodanige Wetsontwerp na enige provinsiale huis kan verwys vir kommentaar: Met dien verstande verder dat, indien die Nasionale Huis geen kommentaar het op 'n Wetsontwerp wat daarheen verwys is nie, die Nasionale Huis die Sekretaris van die Parlement ooreenkomstig moet verwittig.

(2) A provincial legislature or a municipal council may adopt the same procedure referred to in subsection (1) in respect of the referral of a provincial Bill or a draft by-law to a provincial house or a local house, as the case may be.

Relationship between National House and kings, queens and principal traditional leaders

40. The National House may meet with recognised kings, queens and principal traditional leaders to discuss—

(a) the activities and programmes of the National House;

(b) matters of interest to kings, queens and principal traditional leaders;

(c) matters relating to service delivery and the development of traditional communities; and

(d) any other business identified and proposed by either party and agreed to by both parties.

Relationship between National House and provincial houses

41. (1) The National House may—

(a) investigate matters referred to it by a provincial house and make recommendations thereon;

(b) advise provincial houses regarding the administration of their affairs; and

(c) hold a meeting with a provincial house to discuss progress on matters relating to the general interest and welfare of traditional and Khoi-San communities.

(2) Where the National House wishes to interact with a local house or a traditional or Khoi-San council, such interaction must be done in consultation with the relevant provincial house: Provided that where no provincial house has been established, the National House may, after having informed the relevant Premier, interact directly with a local house or traditional or Khoi-San council.

(3) The chairperson of the National House must establish a body of chairpersons of provincial houses to interact with the National House on a regular basis on issues of mutual interest.

(4) The Secretary of the National House must establish a body of Secretaries of provincial houses to interact with the National House on a regular basis on issues of mutual interest.

Support to National House

42. (1) The Department must provide support to the National House so as to enable the National House to perform all the functions assigned to it, and such support—

(a) may include the provision of—

(i) infrastructure;

(ii) human resources as contemplated in section 37(1);

(iii) skills development programmes; and

(iv) administrative systems; and

(b) must include financial support, which support is subject to the budget allocation of the Department.

(2) For the purposes of subsection (1)*(b)*, the National House must submit to the Director-General of the Department, before a date determined by the Director-General, annual estimates of expenditure for the next financial year.

Annual report of National House

43. (1) The National House must annually by no later than 30 June of a particular year, submit to the Minister a report in respect of the preceding financial year, complying with the provisions of subsection (2), in respect of its activities and programmes and must, within 30 days after the Minister has approved the report, table it in Parliament.

(2) 'n Provinsiale wetgewer of 'n munisipale raad kan dieselfde prosedure in subartikel (1) bedoel, aanvaar ten opsigte van die verwysing van 'n provinsiale Wetsontwerp of 'n konsepverordening na 'n provinsiale huis of 'n plaaslike huis, na gelang van die geval.

Verhouding tussen Nasionale Huis en konings, koninginne en hoof- tradisionele leiers

40. Die Nasionale Huis kan met erkende konings, koninginne en hoof- tradisionele leiers vergader om—

(a) die aktiwiteite en programme van die Nasionale Huis;
(b) aangeleenthede van belang vir konings, koninginne en hoof- tradisionele leiers;
(c) aangeleenthede wat betrekking het op dienslewering en die ontwikkeling van tradisionele gemeenskappe; en
(d) enige ander besigheid deur een van die partye voorgestel en deur albei partye op ooreengekom,

te bespreek.

Verhouding tussen Nasionale Huis en provinsiale huise

41. (1) Die Nasionale Huis kan—

(a) ondersoek doen na aangeleenthede wat deur 'n provinsiale huis daarheen verwys is en aanbevelings daaroor doen;
(b) die provinsiale huise van raad bedien oor die administrasie van hul sake; en
(c) met 'n provinsiale huis vergader om vordering met aangeleenthede wat met die algemene belange en welvaart van tradisionele en Khoi-San-gemeenskappe verband hou, te bespreek.

(2) Waar die Nasionale Huis met 'n plaaslike huis of tradisionele of Khoi-San-raad in wisselwerking wil tree, moet dit in oorleg met die tersaaklike provinsiale huis geskied: Met dien verstande dat waar geen provinsiale huis ingestel is nie, die Nasionale Huis, nadat die tersaaklike Premier verwittig is, direk met 'n plaaslike huis of tradisionele of Khoi-San-raad in wisselwerking kan tree.

(3) Die voorsitter van die Nasionale Huis moet 'n liggaam van voorsitters van provinsiale huise instel om gereeld met die Nasionale Huis in wisselwerking te tree oor sake van gemeenskaplike belang.

(4) Die Sekretaris van die Nasionale Huis moet 'n liggaam van Sekretarisse van provinsiale huise instel om gereeld oor sake van gemeenskaplike belang in wisselwerking te tree.

Ondersteuning aan Nasionale Huis

42. (1) Die Departement moet ondersteuning aan die Nasionale Huis voorsien ten einde die Nasionale Huis in staat te stel om al die werksaamhede wat daaraan toegewys is te verrig, en sodanige ondersteuning—

(a) kan die voorsiening van—
  (i) infrastruktuur;
  (ii) mensehulpbronne soos in artikel 37(1) beoog;
  (iii) vaardigheidsontwikkelingsprogramme; en
  (iv) administratiewe stelsels,

  insluit; en
(b) moet finansiële ondersteuning insluit, welke ondersteuning aan die begrotingsbewilliging van die Departement onderhewig is.

(2) By die toepassing van subartikel (1)*(b)*, moet die Nasionale Huis, voor 'n datum deur die Direkteur-generaal van die Departement bepaal, jaarlikse beramings van uitgawes vir die volgende finansiële jaar aan die Direkteur-generaal voorlê.

Jaarverslag van Nasionale Huis

43. (1) Die Nasionale Huis moet jaarliks teen nie later nie as 30 Junie van 'n bepaalde jaar, 'n verslag ingevolge die bepalings van subartikel (2) aan die Minister voorlê ten opsigte van die voorafgaande finansiële jaar, oor die Nasionale Huis se aktiwiteite en programme en moet, binne 30 dae nadat die Minister die verslag goedgekeur het, dit in die Parlement ter tafel lê.

(2) The information to be contained in the report contemplated in subsection (1), include but are not limited to, information on—

(a) the composition of the National House;
(b) the filling of any vacancies;
(c) the disqualification of any member;
(d) meetings of the National House, with specific reference to the meetings held with kings, queens and principal traditional leaders, and the meetings held with provincial houses;
(e) the consideration of any Bills referred to the National House;
(f) the exercising of any duties of the National House as contemplated in section 36;
(g) the responsibilities of the National House as contemplated in section 38;
(h) the budget and expenses of the National House;
(i) any matter as may be directed by the President or Minister; and
(j) any other matter deemed necessary by the National House.

(3) *(a)* The Minister may, before approving a report submitted to him or her as contemplated in subsection (1), request a meeting with the National House to discuss the content of the report.

(b) Any house of Parliament may, once a report contemplated in subsection (1) has been tabled in Parliament, request a meeting with the National House to discuss the contents of the report.

Privileges and immunities of members of National House

44. (1) The National House has the authority to control, regulate and dispose of its internal affairs and has all such privileges and immunities as may, subject to the Constitution, be prescribed.

(2) *(a)* Members of the National House have freedom of speech in the National House and its committees, subject to the rules and orders of the National House.

(b) Members of the National House are not liable to civil or criminal proceedings, arrest, imprisonment or damages for—

(i) anything that they have said in, produced before or submitted to the National House or any of its committees; or
(ii) anything revealed as a result of anything that they have said in, produced before or submitted to the National House or any of its committees.

Remuneration and benefits of members of National House

45. The remuneration and benefits of members of the National House are determined in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Rules, orders and committees of National House

46. (1) The National House must make rules and orders in connection with the conduct of its business and proceedings, including rules and orders regulating—

(a) subject to subsection (2), the establishment, constitution, meetings, powers and functions, procedures and lifespan of committees of the National House;
(b) the procedure to be followed in meetings of the National House;
(c) restrictions on access to such committees;
(d) the competency of any such committee to perform or dispose of its business and proceedings at venues other than the administrative seat of the National House;
(e) the designation of members to preside over meetings of the committees of the National House; and
(f) the attendance of any meeting of the National House by any person who is not a member of the House and the status of such a person at such a meeting.

(2) There may be an executive committee consisting of the chairperson and deputy chairperson and those members contemplated in section 29(5).

(3) The National House must, subject to subsection (1), establish an ethics committee.

(2) Die inligting wat die verslag in subartikel (1) beoog moet bevat, sluit in maar is nie beperk nie tot, inligting oor—

(a) die samestelling van die Nasionale Huis;
(b) die vul van enige vakatures;
(c) die onbevoegdheid van enige lid;
(d) vergaderings van die Nasionale Huis, met bepaalde verwysing na die vergaderings wat met die konings, koninginne en hoof- tradisionele leiers gehou is, en die vergaderings wat met provinsiale huise gehou is;
(e) die oorweging van enige Wetsontwerpe wat na die Nasionale Huis verwys is;
(f) die verrigting van enige pligte van die Nasionale Huis soos in artikel 36 beoog;
(g) die verantwoordelikhede van die Nasionale Huis soos in artikel 38 beoog;
(h) die begroting en uitgawes van die Nasionale Huis;
(i) enige aangeleentheid wat die President of Minister kan voorskryf; en
(j) enige ander aangeleentheid wat die Nasionale Huis nodig ag.

(3) *(a)* Die Minister kan, voor goedkeuring van 'n verslag wat soos in subartikel (1) beoog aan hom of haar voorgelê is, 'n vergadering met die Nasionale Huis aanvra om die inhoud van die verslag te bespreek.

(b) Enige huis van die Parlement kan, sodra 'n verslag in subartikel (1) beoog in die Parlement ter tafel gelê is, 'n vergadering met die Nasionale Huis versoek om die inhoud van die verslag te bespreek.

Voorregte en immuniteite van lede van Nasionale Huis

44. (1) Die Nasionale Huis het die gesag om sy interne sake te beheer, te reguleer en daaroor te beskik en het alle sodanige voorregte en immuniteite soos behoudens die Grondwet voorgeskryf kan word.

(2) *(a)* Lede van die Nasionale Huis het vryheid van spraak in die Nasionale Huis en sy gemeenskappe, behoudens die reëls en orders van die Nasionale Huis.

(b) Lede van die Nasionale Huis is nie onderhewig aan siviele of strafregtelike verrigtinge, arrestasie, gevangenisstraf of skadevergoeding nie vir—

(i) enigiets wat hulle gesê, aangevoer of voorgelê het voor die Nasionale Huis of enige van sy komitees; of
(ii) enigiets wat openbaar gemaak is as gevolg van enigiets wat hulle gesê, aangevoer of voorgelê het voor die Nasionale Huis of enige van sy komitees.

Besoldiging en voordele van lede van Nasionale Huis

45. Die besoldiging en voordele van lede van die Nasionale Huis word bepaal ingevolge die Wet op die Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van 1998).

Reëls, orders en komitees van Nasionale Huis

46. (1) Die Nasionale Huis moet reëls en orders maak in verband met die bedryf van sy sake en verrigtinge, met inbegrip van reëls en orders wat—

(a) behoudens subartikel (2), die instelling, stigting, vergaderings, bevoegdhede en werksaamhede, prosedures en lewensduur van komitees van die Nasionale Huis, reël;
(b) die prosedure reël wat in vergaderings van die Nasionale Huis gevolg moet word;
(c) beperkings op toegang tot sodanige komitees reël;
(d) die bevoegdheid reël van enige sodanige komitee om sy besigheid en verrigtinge te verrig of oor te beskik by plekke wat nie die administratiewe setel van die Nasionale Huis is nie;
(e) die aanwysing van lede om voor te sit by vergaderings van die komitees van die Nasionale Huis; en
(f) die bywoning van enige vergadering van die Nasionale Huis deur enige persoon wat nie 'n lid van die Huis is nie en die status van sodanige persoon by sodanige vergadering.

(2) Daar kan 'n uitvoerende komitee wees wat uit die voorsitter en ondervoorsitter en daardie lede in artikel 29(5) beoog, bestaan.

(3) Die Nasionale Huis moet, behoudens subartikel (1), 'n komitee oor etiek instel.

Dissolution of National House

47. (1) The National House must be dissolved—
(a) on the expiry of the term of office of the National House; or
(b) after a vote supported by a majority of the full complement of the members of the National House in a meeting of the National House called for that purpose: Provided that in such instance the National House must be reconstituted in accordance with the provisions of sections 28 and 29, and such reconstituted National House shall function for the unexpired term of the dissolved National House as contemplated in section 27(2).

(2) Notwithstanding the dissolution of the National House, the Minister may summon the National House to an extraordinary meeting to attend to any urgent business, during the period following such dissolution until the day before the first meeting of the next National House and for this purpose—
(a) every person who on the date of the dissolution of the National House is a member, remains a member of the House; and
(b) the National House remains competent to function.

Oath or affirmation by members of National House

48. The members of the National House must, before they begin to perform their functions in the National House, take an oath or solemn affirmation as set out in Schedule 2 to this Act, before the Chief Justice or a judge designated by the Chief Justice.

Part 3

Provincial and local houses of traditional and Khoi-San leaders

Provincial houses of traditional and Khoi-San leaders

49. (1) Provincial houses may be established by provinces in terms of provincial legislation and subject to the provisions of this Act.

(2) The provincial legislation contemplated in subsection (1) must include provisions that provide for—
(a) fair representation of women in the provincial houses and at least one of the elected representatives of such provincial house to the National House to be a woman;
(b) the term of provincial houses to be five years: Provided that, notwithstanding anything to the contrary contained in any law, but subject to section 63(13), the term of a provincial house that was established and constituted in terms of any applicable legislation prior to the commencement of this Act, will expire on 31 May 2022: Provided further that any term of office of provincial houses reconstituted or established after the commencement of this Act, shall expire every five years on 31 May, calculated from 31 May 2022;
(c) where applicable, the membership of both senior traditional leaders and senior Khoi-San leaders in provincial houses;
(d) where applicable, the election of both senior traditional leaders and senior Khoi-San leaders as contemplated in section 28(1)*(a)*(i) and *(b)*;
(e) where applicable, a relationship between the provincial house and any kingship or queenship council or principal traditional council within the particular province, including meetings with such councils or the respective recognised traditional leaders;
(f) full-time and part-time members of the provincial house; and
(g) administrative and financial support to the provincial house,

and may provide for a code of conduct for members of a provincial house that complements the code of conduct contained in Schedule 1 to this Act.

(3) *(a)* The membership contemplated in subsection (2)*(c)* must be composed in such a way that both senior traditional leaders and senior Khoi-San leaders are represented in the provincial house concerned—
(i) in the same proportion that they are represented in the local houses concerned; or

Ontbinding van Nasionale Huis

47. (1) Die Nasionale Huis moet ontbind word—

(a) wanneer die ampstermyn van die Nasionale Huis verstryk; of

(b) na 'n stemming wat deur 'n meerderheid van die volle getalsterkte van die lede van die Nasionale Huis by 'n vergadering van die Nasionale Huis wat vir daardie doel saamgeroep is, ondersteun is: Met dien verstande dat die Nasionale Huis in so 'n geval herstig moet word ooreenkomstig die bepalings van artikels 28 en 29, en sodanige herstigte Nasionale Huis funksioneer vir die onverstreke termyn van die ontbinde Nasionale Huis soos in artikel 27(2) beoog.

(2) Ondanks die ontbinding van die Nasionale Huis, kan die Minister die Nasionale Huis na 'n buitengewone vergadering ontbied om enige ernstige besigheid te hanteer, tydens die tydperk na sodanige ontbinding tot en met die dag voor die eerste vergadering van die volgende Nasionale Huis en vir hierdie doel—

(a) bly elke persoon wat op die datum van die ontbinding van die Nasionale Huis 'n lid is, 'n lid van die Huis; en

(b) bly die Nasionale Huis bevoeg om te funksioneer.

Eed of bevestiging deur lede van Nasionale Huis

48. Die lede van die Nasionale Huis moet, voordat hulle hul werksaamhede in die Nasionale Huis begin verrig, 'n eed of plegtige bevestiging aflê soos in Bylae 2 tot hierdie Wet uiteengesit, voor die Hoofregter of 'n regter deur die Hoofregter aangewys.

Deel 3

Provinsiale en plaaslike huise van tradisionele en Khoi-San-leiers

Provinsiale huise van tradisionele en Khoi-San-leiers

49. (1) Provinsiale huise kan ingevolge provinsiale wetgewing en behoudens die bepalings van hierdie Wet deur provinsies ingestel word.

(2) Die provinsiale wetgewing in subartikel (1) bedoel moet bepalings insluit wat voorsiening maak vir—

(a) billike verteenwoordiging van vroue in die provinsiale huis en dat ten minste een van die verkose verteenwoordigers van daardie provinsiale huis na die Nasionale Huis 'n vrou moet wees;

(b) dat die ampstermyn van provinsiale huise vyf jaar moet wees: Met dien verstande dat, ondanks enigiets tot die teendeel in enige wet vervat, maar behoudens artikel 63(13), die termyn van 'n provinsiale huis wat ingevolge enige toepaslike wetgewing ingestel en gestig is voor hierdie Wet in werking getree het, op 31 Mei 2022 sal verstryk: Met dien verstande verder dat enige ampstermyn van provinsiale huise wat na die inwerkingtreding van die Wet herstig of gestig is, elke vyf jaar op 31 Mei, vanaf 31 Mei 2022 bereken, sal verstryk;

(c) waar van toepassing, die lidmaatskap van senior- tradisionele leiers sowel as senior- Khoi-San-leiers in provinsiale huise;

(d) waar van toepassing, die verkiesing van senior- tradisionele leiers en senior- Khoi-San-leiers sowel as soos in artikel 28(1)*(a)*(i) en *(b)* beoog;

(e) waar van toepassing, 'n verhouding tussen die provinsiale huis en enige koningskaps- of koninginskapsraad of hoof- tradisionele raad binne die bepaalde provinsie, met inbegrip van vergaderings met sodanige rade of die onderskeie erkende tradisionele leiers;

(f) heeltydse en deeltydse lede van die provinsiale huis; en

(g) administratiewe en finansiële ondersteuning aan die provinsiale huis,

en kan voorsiening maak vir 'n gedragskode vir lede van 'n provinsiale huis wat die gedragskode wat in Bylae 1 tot hierdie Wet vervat is, aanvul.

(3) *(a)* Die lidmaatskap in subartikel (2)*(c)* beoog, moet op so 'n wyse saamgestel wees dat senior- tradisionele leiers sowel as senior- Khoi-San-leiers in die provinsiale huis verteenwoordig word—

(i) in dieselfde proporsie waarin hulle in die betrokke plaaslike huise verteenwoordig word; of

(ii) if local houses have not been established, in the same proportion that they would have been represented in such local houses had such houses been established:

Provided that if only one senior Khoi-San leader is a member of a local house as contemplated in subparagraph (i) or would have been such a member as contemplated in subparagraph (ii), such senior Khoi-San leader must be a member of the provincial house concerned.

(b) The fact that only senior traditional leaders or only senior Khoi-San leaders are recognised in a province does not preclude a province from establishing a provincial house.

(4) The members of a provincial house must, before they begin to perform their functions in the provincial house, take an oath or solemn affirmation as set out in Schedule 2 to this Act, before a judge of the High Court designated by the relevant Judge President for this purpose.

Local houses of traditional and Khoi-San leaders

50. (1) Subject to the provisions of this Act and any regulations relating to local houses as contemplated in subsection (11), a Premier may by notice in the relevant Provincial *Gazette* establish a local house of traditional and Khoi-San leaders for the area of jurisdiction of a local municipality, district municipality or a metropolitan municipality where there are one or more traditional councils or Khoi-San councils.

(2) A local house must consist of not less than five members, of which at least one member must be a senior traditional leader or a senior Khoi-San leader.

(3) All senior traditional leaders and senior Khoi-San leaders who reside within the area of jurisdiction of a local municipality, district municipality or a metropolitan municipality are members of a local house established for the specific area.

(4) Where within the area of a local municipality, district municipality or a metropolitan municipality there—

(a) is only one traditional council or only one Khoi-San council, the local house consists of four members elected by that traditional council or Khoi-San council from amongst its members and the senior traditional leader or senior Khoi-San leader who is *ex officio* a member and chairperson of the local house;

(b) are in total more than one but not more than five traditional councils, Khoi-San councils, traditional sub-councils or branches, the local house consists of—

(i) all senior traditional leaders and senior Khoi-San leaders;

(ii) all chairpersons of such traditional sub-councils; and

(iii) all branch heads of such branches:

Provided that where there is more than one—

(aa) branch of the same Khoi-San community, the Khoi-San council must elect one branch head;

(bb) traditional sub-council of the same traditional community, the traditional council must elect one chairperson,

as a member of the local house: Provided further that where in total the senior traditional leaders, senior Khoi-San leaders, branch heads and chairpersons of traditional sub-councils are not more than five, the senior traditional leaders and senior Khoi-San leaders must designate the required number of members from amongst their councils: Provided further that where more than one senior traditional leader or senior Khoi-San leader is required to make a designation, such designation must be made with the concurrence of all relevant senior traditional leaders and senior Khoi-San leaders, as the case may be;

(c) are in total more than five traditional councils, Khoi-San councils, traditional sub-councils or branches, the local house consists of—

(i) all senior traditional leaders and senior Khoi-San leaders;

(ii) all chairpersons of such traditional sub-councils; and

(iii) all branch heads of such branches:

Provided that where there is more than one—

(aa) branch of the same Khoi-San community, the Khoi-San council must elect one branch head;

(bb) traditional sub-council of the same traditional community, the traditional council must elect one chairperson,

as a member of the local house.

(ii) indien plaaslike huise nie ingestel is nie, in dieselfde proporsie wat hulle in daardie plaaslike huise verteenwoordig sou wees, sou daardie huise ingestel wees:

Met dien verstande dat indien slegs een senior- Khoi-San-leier lid is van 'n plaaslike huis soos in paragraaf (i) beoog of so 'n lid sou gewees het soos in subparagraaf (ii) bedoel, moet daardie senior- Khoi-San-leier 'n lid van die betrokke provinsiale huis wees.

(b) Die feit dat slegs senior- tradisionele leiers of slegs senior- Khoi-San-leiers in 'n provinsie erken word, verhoed 'n provinsie nie daarvan om 'n provinsiale huis in te stel nie.

(4) Die lede van 'n provinsiale huis moet, voordat hulle begin om hul werksaamhede in die provinsiale huis te verrig, 'n beëdigde of plegtige verklaring soos in Bylae 2 tot hierdie Wet uiteengesit, aflê voor 'n regter van die Hooggeregshof wat vir hierdie doel deur die tersaaklike Regterpresident aangestel is.

Plaaslike huise van tradisionele en Khoi-San-leiers

50. (1) Behoudens die bepalings van hierdie Wet en enige regulasies in verband met plaaslike huise soos in subartikel (11) beoog, kan 'n Premier by kennisgewing in die tersaaklike *Provinsiale Koerant* 'n plaaslike huis van tradisionele en Khoi-San-leiers instel vir die regsgebied van 'n plaaslike munisipaliteit, distriksmunisipaliteit of 'n metropolitaanse munisipaliteit waar daar een of meer tradisionele rade of Khoi-San-rade is.

(2) 'n Plaaslike huis moet uit minstens vyf lede bestaan, waarvan ten minste een lid 'n senior- tradisionele leier of 'n senior- Khoi-San-leier moet wees.

(3) Alle senior- tradisionele leiers en senior- Khoi-San-leiers wat binne die regsgebied van 'n plaaslike munisipaliteit, distriksmunisipaliteit of 'n metropolitaanse munisipaliteit woon, is lede van 'n plaaslike huis wat vir die vermelde gebied ingestel is.

(4) Waar, binne die gebied van 'n plaaslike munisipaliteit, distriksmunisipaliteit of metropolitaanse munisipaliteit, daar—

(a) slegs een tradisionele raad of slegs een Khoi-San-raad is, bestaan die plaaslike huis uit vier lede wat deur daardie tradisionele raad of Khoi-San-raad uit sy lede verkies is en die senior- tradisionele leier of senior- Khoi-San-leier wat *ex officio* 'n lid en voorsitter van die plaaslike huis is;

(b) in totaal meer as een maar hoogstens vyf tradisionele rade, Khoi-San-rade, tradisionele subrade of takke is, bestaan die plaaslike huis uit—

(i) alle senior- tradisionele leiers en senior- Khoi-San-leiers;

(ii) alle voorsitters van sodanige tradisionele subrade; en

(iii) alle takhoofde van sodanige takke:

Met dien verstande dat waar daar meer as een—

(aa) tak van dieselfde Khoi-San-gemeenskap is, die Khoi-San-raad een takhoof moet verkies;

(bb) tradisionele subraad van dieselfde tradisionele gemeenskap is, moet die tradisionele raad een voorsitter verkies,

as 'n lid van die plaaslike huis: Met dien verstande verder dat waar die senior- tradisionele leiers, Khoi-San-leiers, takhoofde en voorsitters van tradisionele subrade in totaal hoogstens vyf is, die senior- tradisionele leiers en senior- Khoi-San-leiers die vereiste getal lede vanuit hul rade moet aanwys: Met dien verstande verder dat waar meer as een senior- tradisionele leier of senior- Khoi-San-leier vereis word om 'n aanwysing te maak, sodanige aanwysing met die instemming van alle tersaaklike senior- tradisionele leiers en senior- Khoi-San-leiers, na gelang van die geval, gedoen moet word;

(c) in totaal meer as vyf tradisionele rade, Khoi-San-rade, tradisionele subrade of takke is, bestaan die plaaslike huis uit—

(i) alle senior- tradisionele leiers en senior- Khoi-San-leiers;

(ii) alle voorsitters van sodanige subrade; en

(iii) alle takhoofde van sodanige takke:

Met dien verstande dat waar daar meer as een—

(aa) tak van dieselfde Khoi-San-gemeenskap is, die Khoi-San-raad een takhoof moet verkies;

(bb) tradisionele subraad van dieselfde tradisionele gemeenskap is, die tradisionele raad een voorsitter moet verkies,

as 'n lid van die plaaslike huis.

(5) Where the area of a traditional council is situated within more than one local municipality or within a local and district or local and metropolitan municipality—

(a) the senior traditional leader is a member of the local house where he or she resides; and
(b) the traditional council must elect a headman or headwoman from the areas situated in the local, district or metropolitan municipalities other than where the senior traditional leader resides, to be a member of the relevant local house.

(6) The functions of a local house are—

(a) to advise the local municipality, district municipality or the metropolitan municipality on—
  (i) matters pertaining to customary law, customs, traditional and Khoi-San leadership and the traditional and Khoi-San communities within such municipality;
  (ii) the development of planning frameworks that impact on traditional and Khoi-San communities; and
  (iii) the development of by-laws that impact on traditional and Khoi-San communities;
(b) to participate in local programmes that have the development of traditional and Khoi-San communities as an object; and
(c) to participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in traditional and Khoi-San communities.

(7) A local house must meet at least four times a year.

(8) The term of a local house is five years: Provided that, notwithstanding anything to the contrary contained in any law, but subject to section 63(14), the term of a local house that was established and constituted in terms of any applicable legislation prior to the commencement of this Act, will expire on 30 April 2022: Provided further that any term of office of local houses reconstituted or established after the commencement of this Act, shall expire every five years on 30 April, calculated from 30 April 2022.

(9) The traditional and Khoi-San leaders who participate in the proceedings of a municipal council as contemplated in section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), must report on such participation in accordance with the provisions of that section.

(10) A province must provide administrative and financial support to local houses which support may include, but is not limited to, office accommodation and support staff: Provided that where local houses are established for the areas of jurisdiction of local municipalities, the administrative support to such houses may be provided as a shared service on district or metropolitan level.

(11) The Minister may, in accordance with the provisions of section 60, make regulations in respect of—

(a) the disqualification of members of a local house;
(b) the privileges and immunities of members of a local house;
(c) where applicable, the election of representatives to the relevant provincial house;
(d) meetings of a local house, including the quorum and requisite majorities;
(e) the vacation of seats and the filling of vacancies;
(f) subject to subsection (6), the powers, functions and duties of a local house;
(g) subject to subsection (4)*(a)*, the chairperson and deputy chairperson of a local house;
(h) the rules and orders of a local house;
(i) subject to subsection (10), the administrative and financial support to be provided to a local house;
(j) the relationship between provincial and local houses having regard to the provisions of section 41;
(k) mechanisms or procedures that would allow a fair representation of women as members of local houses; and
(l) a code of conduct for members of local houses that complements the code of conduct contained in Schedule 1 to this Act.

This gazette is also available free online at www.gpwonline.co.za

(5) Waar die gebied van 'n tradisionele raad in meer as een plaaslike munisipaliteit of in 'n plaaslike en distriksmunisipaliteit of plaaslike en metropolitaanse munisipaliteit geleë is—

(a) is die senior- tradisionele leier 'n lid van die plaaslike huis waar hy of sy woon; en

(b) die tradisionele raad moet 'n hoofman of hoofvrou verkies uit die gebiede in die plaaslike, distriks- of metropolitaanse munisipaliteite waar die senior-tradisionele leier nie woon nie, om 'n lid van die tersaaklike huis te wees.

(6) Die werksaamhede van 'n plaaslike huis is—

(a) om die plaaslike munisipaliteit, distriksmunisipaliteit of die metropolitaanse munisipaliteit van raad te bedien oor—

(i) aangeleenthede wat op gewoontereg, gebruike, tradisionele en Khoi-San-leierskap en die tradisionele en Khoi-San-gemeenskappe in sodanige munisipaliteit betrekking het;

(ii) die ontwikkeling van beplanningsraamwerke wat tradisionele en Khoi-San-gemeenskappe beïnvloed; en

(iii) die ontwikkeling van verordenings wat tradisionele en Khoi-San-gemeenskappe sal beïnvloed;

(b) om aan plaaslike programme deel te neem wat die ontwikkeling van tradisionele en Khoi-San-gemeenskappe ten doel het; en

(c) om aan plaaslike inisiatiewe deel te neem wat gerig is op die monitering, hersiening en evaluasie van regeringsprogramme in tradisionele en Khoi-San-gemeenskappe.

(7) 'n Plaaslike huis moet ten minste vier keer per jaar vergader.

(8) Die termyn van 'n plaaslike huis is vyf jaar: Met dien verstande dat, ondanks enigiets tot die teendeel in enige wet vervat, maar behoudens artikel 63(14), die termyn van 'n plaaslike huis wat ingevolge enige toepaslike wetgewing ingestel en gestig is voordat hierdie Wet in werking getree het, op 30 April 2022 sal verstryk: Met dien verstande verder dat enige ampstermyn van plaaslike huise na die inwerkingtreding van hierdie Wet herstig of ingestel, elke vyf jaar op 30 April sal verstryk, vanaf 30 April 2022 bereken.

(9) Die tradisionele en Khoi-San-leiers wat aan die verrigtinge van 'n munisipale raad deelneem soos in artikel 81 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), beoog, moet verslag doen oor sodanige deelname ooreenkomstig die bepalings van daardie artikel.

(10) 'n Provinsie moet aan plaaslike huise administratiewe en finansiële ondersteuning voorsien, welke ondersteuning kan insluit, maar nie beperk is nie tot, kantoorakkommodasie en ondersteuningspersoneel: Met dien verstande dat waar plaaslike huise vir die regsgebiede van plaaslike munisipaliteite ingestel word, die administratiewe ondersteuning aan sodanige huise as 'n gedeelde diens op distriks- of metropolitaanse vlak voorsien kan word.

(11) Die Minister kan, ooreenkomstig die bepalings van artikel 60, regulasies uitvaardig ten opsigte van—

(a) die onbevoegdheid van lede van 'n plaaslike huis;

(b) die voorregte en immuniteite van lede van 'n plaaslike huis;

(c) waar van toepassing, die verkiesing van verteenwoordigers tot die tersaaklike provinsiale huis;

(d) vergaderings van 'n plaaslike huis, met inbegrip van die kworum en vereiste meerderhede;

(e) die ontruiming van setels en vul van vakatures;

(f) behoudens subartikel (6), die bevoegdhede, werksaamhede en pligte van 'n plaaslike huis;

(g) behoudens subartikel (4)*(a)*, die voorsitter en ondervoorsitter van 'n plaaslike huis;

(h) die reëls en orders van 'n plaaslike huis;

(i) behoudens subartikel (10), die administratiewe en finansiële ondersteuning wat aan 'n plaaslike huis voorsien moet word;

(j) die verhouding tussen provinsiale en plaaslike huise met inagneming van die bepalings van artikel 41;

(k) meganismes of prosedures wat 'n regverdige verteenwoordiging van vroue as lede van plaaslike huise sal toelaat; en

(l) 'n gedragskode vir lede van plaaslike huise wat die gedragskode in Bylae 1 tot hierdie Wet vervat, aanvul.

(12) A Premier may make regulations in respect of the matters set out in subsection (11): Provided that such regulations may not be inconsistent with any regulations made by the Minister in terms of subsection (11): Provided further that the provisions of section 60(2)*(a)* apply with the necessary changes to any regulations made by a Premier in terms of this subsection.

(13) The members of a local house must, before they begin to perform their functions in the local house, take an oath or solemn affirmation as set out in Schedule 2 to this Act, before a judge of the High Court designated by the Judge President for this purpose.

CHAPTER 4

COMMISSION ON KHOI-SAN MATTERS

Establishment of Commission

51. (1) There is hereby established a Commission on Khoi-San Matters.

(2) The Commission must carry out its functions in a manner that is fair, objective and impartial.

Appointment of members of Commission

52. (1) *(a)* The Minister must, subject to paragraphs *(b)*, *(c)*, *(d)*, *(e)* and *(f)*, and after inviting nominations from the general public, appoint a chairperson, deputy chairperson and not more than five other persons, as members of the Commission for a period not exceeding five years or any such further period as the Minister may determine by notice in the *Gazette*.

(b) A member of the Commission must be a South African citizen and have a qualification or experience in or knowledge appropriate to—

(i) anthropology;

(ii) history relating to the Khoi-San;

(iii) customary law and customs and the institutions of Khoi-San leadership; or

(iv) law.

(c) The members of the Commission referred to in paragraph *(b)*(i), (ii) and (iii) must collectively represent a pool of knowledge concerning issues relevant to the Khoi-San groupings.

(d) The Minister may appoint a selection panel consisting of the Director-General of the Department and not more than three other persons to make recommendations to the Minister on which nominees, based on the requirements referred to in this subsection, are most suited to serve on the Commission.

(e) The Minister may, after having received the recommendations of the selection panel contemplated in paragraph *(d)*, refer the recommendations to the Premiers for comments.

(f) A nomination made by the public must contain all the information as may be specified in the invitation and must indicate whether the nominee is eligible for possible recognition as a senior Khoi-San leader or is a member of a community which may apply for possible recognition as a Khoi-San community: Provided that no such person may serve on the Commission.

(g) The names of the chairperson, deputy chairperson and members appointed in terms of paragraph *(a)*, together with the date from which the appointment takes effect, must be published in the *Gazette*.

(2) A member of the Commission is either a full-time or part-time member, as determined by the Minister.

(3) If a member of the Commission dies or vacates office before the expiry of the term for which he or she has been appointed, the Minister may, in accordance with the provisions of subsection (1), appoint a person to fill the vacancy for the unexpired term for which such member was appointed.

(4) The Minister may remove a member of the Commission on the grounds of—

(a) having been convicted of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;

(b) such member having been declared mentally unfit or mentally disordered by a court;

(c) such member having been declared insolvent by a court;

(12) 'n Premier kan regulasies uitvaardig ten opsigte van die aangeleenthede in subartikel (11) uiteengesit: Met dien verstande dat sodanige regulasies nie onbestaanbaar kan wees met enige regulasies ingevolge subartikel (11) deur die Minister uitgevaardig nie: Met dien verstande verder dat die bepalings van artikel 60(2)*(a)* met die nodige veranderinge van toepassing is op enige regulasies ingevolge hierdie subartikel deur die Minister uitgevaardig.

(13) Die lede van 'n plaaslike huis moet, voor hulle hul werksaamhede in die plaaslike huis begin verrig, 'n beëdigde of plegtige verklaring soos in Bylae 2 tot hierdie Wet uiteengesit, voor 'n regter van die Hooggeregshof deur die Regterpresident aangewys vir hierdie doel, aflê.

HOOFSTUK 4

KOMMISSIE OOR KHOI-SAN-AANGELEENTHEDE

Instelling van Kommissie

51. (1) Hierby word 'n Kommissie, wat as die Kommissie oor Khoi-San-aangeleenthede sal bekend staan, ingestel.

(2) Die Kommissie moet sy werksaamhede verrig op 'n wyse wat regverdig, objektief en onpartydig is.

Aanstelling van lede van Kommissie

52. (1) *(a)* Die Minister moet, behoudens paragrawe *(b)*, *(c)*, *(d)*, *(e)* en *(f)*, en nadat benoemings van die algemene publiek gevra is, 'n voorsitter, ondervoorsitter en nie meer nie as vyf ander persone, as lede van die Kommissie aanstel vir 'n tydperk van hoogstens vyf jaar of vir enige sodanige verdere tydperk wat die Minister by kennisgewing in die *Staatskoerant* kan bepaal.

(b) 'n Lid van die Kommissie moet 'n Suid-Afrikaanse burger wees en 'n kwalifikasie, ervaring in of kennis hê wat gepas is vir—

(i) antropologie;
(ii) geskiedenis wat op die Khoi-San betrekking het;
(iii) gewoontereg en gebruike en die instellings van Khoi-San-leierskap; of
(iv) reg.

(c) Die lede van die Kommissie in paragraaf *(b)*(i), (ii) en (iii) bedoel, moet gesamentlik 'n poel van kennis verteenwoordig rakende kwessies wat betrekking het op die Khoi-San-groeperings.

(d) Die Minister kan 'n keuringspaneel bestaande uit die Direkteur-generaal van die Departement en hoogstens drie ander persone aanstel om aanbevelings aan die Minister te doen oor watter benoemdes, gegrond op die vereistes in hierdie subartikel bedoel, die geskikste persone is om op die Kommissie te dien.

(e) Die Minister kan, na ontvangs van die aanbevelings van die keuringspaneel in paragraaf *(d)* beoog, die aanbevelings na die Premiers verwys vir kommentaar.

(f) 'n Benoeming deur die publiek gemaak, moet al die inligting bevat wat in die uitnodiging vermeld is en moet aandui hetsy die benoemde kwalifiseer vir moontlike erkenning as 'n senior- Khoi-San-leier, of 'n lid van 'n gemeenskap is wat kan aansoek doen om moontlike erkenning as 'n Khoi-San-gemeenskap: Met dien verstande dat geen sodanige persoon op die Kommissie mag dien nie.

(g) Die name van die voorsitter, ondervoorsitter en lede ingevolge paragraaf *(a)* aangestel, saam met die datum waarop die aanstelling van krag word, moet in die *Staatskoerant* gepubliseer word.

(2) 'n Lid van die Kommissie is óf 'n voltydse lid óf 'n deeltydse lid, soos deur die Minister bepaal.

(3) Indien 'n lid van die Kommissie te sterwe kom of die amp ontruim voor die verstryking van die termyn waarvoor hy of sy aangestel is, kan die Minister, ooreenkomstig die bepalings van subartikel (1), 'n persoon aanstel om die vakature vir die onverstreke termyn waarvoor sodanige lid aangestel is, te vul.

(4) Die Minister kan 'n lid van die Kommissie onthef op grond van—

(a) skuldigbevinding aan 'n misdryf met 'n vonnis van gevangenisstraf vir meer as 12 maande sonder die opsie van 'n boete;
(b) die lid deur 'n hof geestesversteurd of -gestrem verklaar is;
(c) 'n hof die lid bankrot verklaar het;

(d) misconduct, incapacity or incompetence; or

(e) such member becoming eligible for recognition as a senior Khoi-San leader or branch head, or being a member of a community which applied for recognition as a Khoi-San community.

(5) *(a)* A decision to remove a member of the Commission on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigative committee appointed by the Minister.

(b) The Minister may suspend a member of the Commission who is under investigation in terms of paragraph *(a)*.

Vacancies

53. A vacancy occurs whenever a member of the Commission—

(a) resigns by giving written notice to the Minister;

(b) is removed in terms of section 52(4); or

(c) becomes a member of the National Assembly, a member of a provincial legislature, a full-time member of a municipal council or a permanent delegate to the National Council of Provinces.

Conditions of appointment of members of Commission

54. (1) The Minister must, after consultation with the Minister of Finance, determine the conditions of appointment of the members of the Commission, taking into account—

(a) the role, duties and responsibilities of the members of the Commission; and

(b) the level of expertise and experience required from the members of the Commission.

(2) Conditions of appointment may differ in respect of—

(a) the chairperson and other members of the Commission; and

(b) full-time and part-time members.

Support to and reports by Commission

55. (1) *(a)* The Department must provide administrative and financial support to the Commission so as to enable it to perform all the functions assigned to it and may second or designate officials from the Department for this purpose or to conduct research on behalf of the Commission.

(b) The Commission may, subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and with the approval of the Director-General of the Department, appoint a suitable person or persons to conduct research on its behalf.

(2) The Commission must quarterly, or when requested by the Minister, provide the Minister with a comprehensive report on its activities.

Application for recognition of Khoi-San communities, branches, senior Khoi-San leaders and branch heads

56. (1) A community that meets the criteria set out in section 5 may lodge a detailed application in writing with the Commission for the recognition of that community and if applicable, the branches of that community as well as for the recognition of a senior Khoi-San leader who meets the criteria set out in section 7 and if applicable, a branch head.

(2) An application contemplated in subsection (1) must be in the format as may be determined by the Commission, must comply with the provisions of section 5(1)*(b)* and must—

(a) be lodged by a member of the community duly authorised by such community or the royal family concerned, as the case may be; and

(b) (i) be accompanied by information setting out the details on which the claim for the recognition of the community as well as the leadership positions are based;

(ii) be accompanied by details of the geographical area or areas referred to in section 5(1)*(a)* and, subject to section 5(1)*(c)*, the number of members of the community occupying such areas;

(d) wangedrag, onvermoë of onbevoegdheid; of
(e) die lid wat in aanspraak kom vir erkenning as 'n senior- Khoi-San-leier of takhoof, of 'n lid is van 'n gemeenskap wat om erkenning as 'n Khoi-San-gemeenskap aansoek gedoen het.

(5) *(a)* 'n Besluit om 'n lid van die Kommissie op grond van wangedrag of onbevoegdheid te onthef, moet op 'n bevinding te dien effekte deur 'n ondersoekkomitee deur die Minister aangestel, gegrond wees.

(b) Die Minister kan 'n lid van die Kommissie skors wat ingevolge paragraaf *(a)* ondersoek word.

Vakatures

53. 'n Vakature ontstaan wanneer 'n lid van die Kommissie—
(a) bedank deur kennis aan die Minister te gee;
(b) ingevolge artikel 52(4) onthef word; of
(c) 'n lid van die Nasionale Vergadering, 'n lid van 'n provinsiale wetgewer, 'n voltydse lid van 'n munisipale raad of 'n permanente afgevaardigde na die Nasionale Raad van Provinsies word.

Voorwaardes van aanstelling van lede van Kommissie

54. (1) Die Minister moet, na oorleg met die Minister van Finansies, die aanstellingsvoorwaardes van lede van die Kommissie bepaal, met inagneming van—
(a) die rol, pligte en verantwoordelikhede van die lede van die Kommissie; en
(b) die vlak van kundigheid en ervaring wat van die lede van die Kommissie vereis word.

(2) Aanstellingsvoorwaardes kan verskil ten opsigte van—
(a) die voorsitter en ander lede van die Kommissie; en
(b) voltydse en deeltydse lede.

Ondersteuning aan en verslae deur Kommissie

55. (1) *(a)* Die Departement moet administratiewe en finansiële ondersteuning aan die Kommissie voorsien ten einde die Kommissie in staat te stel om al die werksaamhede wat daaraan opgedra word, te verrig en kan beamptes van die Departement vir hierdie doel sekondeer of aanwys om navorsing namens die Kommissie te doen.

(b) Die Kommissie kan, behoudens die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), en met die goedkeuring van die Direkteur-generaal van die Departement, 'n geskikte persoon of persone aanstel om namens die kommissie navorsing te doen.

(2) Die Kommissie moet kwartaalliks, of wanneer die Minister dit versoek, 'n omvattende verslag oor die Kommissie se aktiwiteite aan die Minister voorsien.

Aansoek om erkenning van Khoi-San-gemeenskappe, -takke, senior- Khoi-San-leiers en -takleiers

56. (1) 'n Gemeenskap wat aan die maatstawwe in artikel 5 uiteengesit voldoen, kan 'n uitvoerige, skriftelike aansoek by die Kommissie doen om erkenning vir daardie gemeenskap en indien van toepassing, die takke van daardie gemeenskap asook om erkenning van die posisie van 'n senior- Khoi-San-leier wat voldoen aan die maatstawwe in artikel 7 uiteengesit en, indien van toepassing, 'n takhoof.

(2) 'n Aansoek in subartikel (1) bedoel, moet in die formaat deur die Kommissie bepaal wees, moet aan die bepalings van artikel 5(1)*(b)* voldoen en moet—
(a) deur 'n lid van die gemeenskap ingedien word wat behoorlik deur sodanige gemeenskap of die betrokke koninklike familie, na gelang van die geval, gemagtig is; en
(b) (i) vergesel gaan van inligting wat die besonderhede uiteensit waarop die aanspraak op erkenning van die gemeenskap asook die leierskapsposisies, gegrond is;
(ii) vergesel gaan van die besonderhede van die geografiese gebied of gebiede in artikel 5(1)*(a)* bedoel en, behoudens artikel 5(1)*(c)*, die getal lede van die gemeenskap wat sodanige gebiede okkupeer;

(iii) be submitted within the period of two years referred to in section 57(2)*(a)*; and

(iv) if the community referred to in subsection (1) has a proven history of hereditary or elected leadership, be accompanied by details of the hereditary or elected leadership position.

(3) When considering an application, the Commission must consider and apply customary law and customs of the Khoi-San community concerned.

(4) The Commission must, in respect of an application for the recognition of—

(a) a community and branches, apply the criteria set out in section 5; and

(b) hereditary or elected senior Khoi-San leaders, apply the criteria set out in sections 7 and 10.

(5) The Commission must, on a quarterly basis, inform the Premiers concerned of the applications received in terms of this section.

Functions of Commission

57. (1) The Commission must investigate and make recommendations to the Minister on the recognition of—

(a) Khoi-San communities;

(b) hereditary senior Khoi-San leaders;

(c) elected senior Khoi-San leaders; and

(d) branches and branch heads.

(2) The Commission—

(a) may only investigate and make recommendations in respect of those applications that have been lodged with the Commission in terms of section 56 within a period of two years from a date to be determined by the Minister by notice in the *Gazette*, or any such further period as the Minister may determine by notice in the *Gazette*; and

(b) must complete the investigations and make recommendations as contemplated in paragraph *(a)* within the period of five years referred to in section 52(1)*(a)*, or any such further period as the Minister may determine.

(3) Any application that has not been lodged with the Commission by the period referred to in subsection (2)*(a)*, may not be dealt with by the Commission and must be dealt with in accordance with the provisions of sections 5 or 10, as the case may be.

(4) Any dispute that may arise after the period referred to in subsection (2)*(a)*, must be dealt with by the relevant Premier and for this purpose the provisions of section 59 apply with the necessary changes.

Recommendations and decisions

58. (1) A recommendation of the Commission must be agreed to by at least two-thirds of the members of the Commission.

(2) *(a)* A recommendation of the Commission must, within a period of two weeks of the recommendation having been made, be referred for comments to the Premier of the province where the applicant community, leader and branch head reside or where the branch is located.

(b) A Premier must submit his or her comments to the Commission within a period of 60 days from the date of referral of the recommendation: Provided that if no comments are received within the period of 60 days, it shall be deemed that the Premier is in support of the specific recommendation.

(c) The Commission must, within a period of two weeks from the expiry of the 60 days referred to in paragraph *(b)*, submit its recommendation together with the Premier's comments, if any, to the Minister.

(3) The Minister must, within a period of 60 days from the date of receipt of the submission contemplated in subsection (2)*(c)*, make a decision on the recommendation.

(4) If the Minister takes a decision that differs with the recommendation submitted in terms of subsection (2), the Minister must provide written reasons for such decision to the Commission and relevant Premier.

(5) Subject to the decision of the Minister as contemplated in subsection (3), the Minister must—

(a) recognise a Khoi-San community, branch, senior Khoi-San leader or branch head, as the case may be, by notice in the *Gazette*; and

(b) issue a certificate of recognition to such leader.

(iii) voorgelê word binne die tydperk van twee jaar in artikel 57(2)*(a)* bedoel; en

(iv) indien die gemeenskap in subartikel (1) bedoel ’n bewese geskiedenis van erf- of verkose leierskap het, vergesel gaan van besonderhede van die erf- of verkose leierskapsposisie.

(3) By oorweging van ’n aansoek, moet die Kommissie gewoontereg en gebruike van die betrokke Khoi-San-gemeenskap oorweeg en toepas.

(4) Die Kommissie moet, ten opsigte van ’n aansoek om die erkenning van—

(a) ’n gemeenskap en takke, die maatstawwe in artikel 5 uiteengesit, toepas; en

(b) erf of verkose senior- Khoi-San-leiers, die maatstawwe in artikels 7 en 10 uiteengesit, toepas.

(5) Die Kommissie moet, kwartaalliks, die betrokke Premiers verwittig van die aansoeke ingevolge hierdie artikel ontvang.

Werksaamhede van Kommissie

57. (1) Die Kommissie moet ondersoek instel en aanbevelings doen aan die Minister oor die erkenning van—

(a) Khoi-San-gemeenskappe;

(b) senior- Khoi-San-leiers wat erfleiers is;

(c) verkose senior- Khoi-San-leiers; en

(d) takke en takhoofde.

(2) Die Kommissie—

(a) kan slegs ondersoek instel na en aanbevelings doen oor daardie aansoeke wat ingevolge artikel 56 by die Kommissie ingedien is, binne ’n tydperk van twee jaar vanaf ’n datum wat die Minister by kennisgewing in die *Staatskoerant* moet bepaal, of enige sodanige verdere tydperk wat die Minister by kennisgewing in die *Staatskoerant* kan bepaal; en

(b) moet die ondersoeke voltooi en aanbevelings doen soos beoog in paragraaf *(a)* binne die tydperk van vyf jaar in artikel 52(1)*(a)* bedoel, of enige sodanige verdere tydperk wat die Minister kan bepaal.

(3) Enige aansoek wat nie binne die tydperk in subartikel (2)*(a)* bedoel by die Kommissie ingedien is nie, kan nie deur die Kommissie hanteer word nie en moet ooreenkomstig die bepalings van artikels 5 of 10, na gelang van die geval, hanteer word.

(4) Enige geskil wat na die tydperk in subartikel (2)*(a)* bedoel ontstaan, moet deur die tersaaklike Premier hanteer word en vir hierdie doel is die bepalings van artikel 59, met die nodige veranderinge, van toepassing.

Aanbevelings en besluite

58. (1) Ten minste twee derdes van die lede van die Kommissie moet tot ’n aanbeveling van die Kommissie instem.

(2) *(a)* ’n Aanbeveling van die Kommissie moet, binne ’n tydperk van twee weke nadat die aanbeveling gedoen is, vir kommentaar verwys word na die Premier van die provinsie waar die aansoekergemeenskap, leier en takhoof woonagtig is of waar die tak geleë is.

(b) ’n Premier moet sy of haar kommentaar aan die Kommissie voorlê binne 60 dae vanaf die datum van verwysing van die aanbeveling: Met dien verstande dat indien geen kommentaar binne 60 dae ontvang word nie, die Premier geag sal word die bepaalde aanbeveling te ondersteun.

(c) Die Kommissie moet, binne twee weke vanaf die verstryking van die 60 dae in paragraaf *(b)* bedoel, sy aanbeveling, tesame met die Premier se kommentaar, indien enige, aan die Minister voorlê.

(3) Die Minister moet, binne ’n tydperk van 60 dae vanaf die datum van ontvangs van die voorlegging in subartikel (2)*(c)* beoog, ’n besluit oor die aanbeveling neem.

(4) Indien die Minister ’n besluit neem wat verskil van die aanbeveling ingevolge subartikel (2) voorgelê, moet die Minister skriftelike redes vir sodanige besluit aan die Kommissie en tersaaklike Premier voorsien.

(5) Behoudens die besluit van die Minister, soos in subartikel (3) beoog, moet die Minister—

(a) ’n Khoi-San-gemeenskap, -tak, senior- Khoi-San-leier of takhoof, na gelang van die geval, erken by kennisgewing in die *Staatskoerant*; en

(b) ’n sertifikaat van erkenning aan die leier uitreik.

This gazette is also available free online at www.gpwonline.co.za

CHAPTER 5

GENERAL PROVISIONS

Disputes

59. (1) *(a)* This section applies to any traditional leadership dispute other than a dispute that was dealt with or is being dealt with by the CTLDC contemplated in section 63(23).

(b) (i) Provincial legislation may provide for a mechanism to deal with traditional leadership disputes, excluding any dispute relating to a king or a queen or a kingship or a queenship: Provided that such legislation may not be inconsistent with this section.

(ii) Notwithstanding the relevant provisions of provincial legislation contemplated in subparagraph (i), a Premier may apply subsection (3).

(c) In the absence of provincial legislation as contemplated in paragraph *(b)*(i), a Premier must apply the provisions of this section.

(2) Any traditional leadership dispute relating to a king, queen, principal traditional leader, senior traditional leader, headman, headwoman, kingship, queenship, principal traditional community, traditional community, headmanship or headwomanship, must be dealt with by the President in the case of a king, queen, kingship or queenship and by the Premier concerned in the case of any other dispute and the President or Premier, as the case may be, must—

(a) cause an investigation to be conducted by an investigative committee designated by him or her which committee must, in the case of a dispute concerning a king, queen, kingship or queenship include at least one member of the National House and in the case of any other dispute include at least one member of the relevant provincial house, to provide a report as well as recommendations on the matter in dispute within 60 days from the date of designation of the investigative committee; and

(b) refer the report to the relevant royal family or, where applicable, relevant traditional council for its written comments which must be submitted to the President or Premier, as the case may be, within 60 days from the date of such referral.

(3) The President or the relevant Premier, as the case may be, may refer any dispute, including any report, recommendations and comments contemplated in subsection (2), to the Minister for written comments and advice which must be submitted to the President or Premier, as the case may be, within 60 days from the date of such referral.

(4) After having considered the report and recommendations of the investigative committee, the comments of the royal family or traditional council and, where applicable, the comments and advice of the Minister, the President or relevant Premier, as the case may be, must take a decision on the matter in dispute and inform the parties to the dispute in writing of his or her decision.

Regulations

60. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—

(a) any matter that must or may be prescribed in terms of this Act;

(b) the traditional, ceremonial and any other roles and functions of a king or queen, or principal traditional leader, after consultation with a delegation consisting of not more than two members of each kingship or queenship council or principal traditional council, as the case may be, designated by such councils;

(c) any matter that may be necessary to ensure the effective functioning of any local house, including a matter referred to in section 50(11); and

(d) any ancillary or administrative matter that is necessary to prescribe for the proper implementation or administration of this Act.

(2) Before any regulations are made under this section, the Minister must—

(a) in respect of regulations as contemplated in subsection (1)*(a)*, *(c)* and *(d)*, consult—

HOOFSTUK 5

ALGEMENE BEPALINGS

Geskille

59. (1) *(a)* Hierdie artikel is van toepassing op enige tradisionele-leierskapsgeskil behalwe 'n geskil wat hanteer is of hanteer word deur die KTLGA in artikel 63(23) beoog.

(b) (i) Provinsiale wetgewing kan voorsiening maak vir 'n meganisme om tradisionele-leierskapsgeskille te hanteer, met uitsondering van enige geskil met betrekking tot 'n koning of 'n koningin of 'n koningskap of 'n koninginskap: Met dien verstande dat daardie wetgewing nie met hierdie artikel onbestaanbaar kan wees nie.

(ii) Ongeag die tersaaklike bepalings van provinsiale wetgewing in subparagraaf (i) beoog, kan 'n Premier subartikel (3) toepas.

(c) By gebrek aan provinsiale wetgewing soos in paragraaf *(b)*(i) beoog, moet 'n Premier die bepalings van hierdie artikel toepas.

(2) Enige tradisionele-leierskapsgeskil met betrekking tot 'n koning, koningin, hoof-tradisionele leier, senior- tradisionele leier, hoofman, hoofvrou, koningskap, koninginskap, hoof- tradisionele gemeenskap, tradisionele gemeenskap, hoofmanskap of hoofvrouskap, moet deur die President hanteer word in die geval van 'n koning, koningin, koningskap of koninginskap en deur die betrokke Premier in die geval van enige ander geskil en die President of Premier, na gelang van die geval, moet—

(a) 'n ondersoek deur 'n ondersoekkomitee deur hom of haar aangewys laat doen, welke komitee, in die geval van 'n geskil met betrekking tot 'n koning, koningin, koningskap of koninginskap, ten minste een lid van die Nasionale Huis moet insluit en in die geval van enige ander geskil ten minste een lid van die tersaaklike provinsiale huis moet insluit, om 'n verslag asook aanbevelings oor die aangeleentheid in geskil te voorsien binne 60 dae vanaf die datum van aanwysing van die ondersoekende komitee; en

(b) die verslag na die tersaaklike koninklike familie verwys of, waar van toepassing, na die tersaaklike tradisionele raad verwys vir kommentaar wat aan die President of Premier, na gelang van die geval, voorgelê moet word, binne 60 dae vanaf die datum van daardie verwysing.

(3) Die President of die tersaaklike Premier, na gelang van die geval, kan enige geskil, met inbegrip van enige verslag, aanbevelings en kommentaar in subartikel (2) beoog, na die Minister verwys vir skriftelike kommentaar en raad wat aan die President of Premier, na gelang van die geval, voorgelê moet word, binne 60 dae vanaf die datum van daardie verwysing.

(4) Nadat die verslag en aanbevelings van die ondersoekende komitee, die kommentaar van die koninklike familie of tradisionele raad en, waar van toepassing, die kommentaar en raad van die Minister, oorweeg is, moet die President of tersaaklike Premier, na gelang van die geval, 'n beslissing oor die aangeleentheid in geskil vel en die partye tot die geskil skriftelik van sy of haar beslissing inlig.

Regulasies

60. (1) Die Minister kan, by kennisgewing in die *Staatskoerant*, regulasies uitvaardig rakende—

(a) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word;

(b) die tradisionele, seremoniële en enige ander rolle en werksaamhede van 'n koning of koningin, of hoof- tradisionele leier, na oorleg met 'n afvaardiging bestaande uit hoogstens twee lede van elke koningskaps- of koninginskaps-raad of hoof- tradisionele raad, na gelang van die geval, deur sodanige rade aangestel;

(c) enige aangeleentheid wat nodig mag wees om die doeltreffende funksionering van enige plaaslike huis, met inbegrip van 'n aangeleentheid in artikel 50(11) bedoel; en

(d) enige bykomstige of administratiewe aangeleentheid wat nodig is om voor te skryf vir die behoorlike inwerkingstelling of administrasie van hierdie Wet.

(2) Voordat enige regulasies kragtens hierdie artikel uitgevaardig word, moet die Minister—

(a) ten opsigte van regulasies soos in subartikel (1)*(a)*, *(c)* en *(d)* beoog, met—

(i) the members of the Executive Councils responsible for traditional and Khoi-San leadership matters of the provinces concerned; and
(ii) the relevant provincial houses;

(b) in respect of regulations as contemplated in subsection (1)*(b)*, consult—
(i) the Premiers concerned;
(ii) the members of the Executive Councils responsible for traditional and Khoi-San leadership matters of the provinces concerned;
(iii) the National House; and
(iv) the provincial houses concerned; and

(c) publish any draft regulations in the *Gazette* for public comment.

(3) Any regulations made under this section must, within 90 days of the notice contemplated in subsection (1), be tabled in Parliament for noting.

Delegation of powers and duties by Premier

61. (1) A Premier may, subject to such conditions as he or she may determine, in writing, delegate any power or duty conferred on him or her under this Act, except the power to recognise any community or leader or to withdraw such recognition, to the member of the Executive Council responsible for traditional affairs of the province concerned.

(2) A delegation in terms of subsection (1) does not prevent the exercise of the relevant power or the performance of any duty by a Premier.

(3) A Premier may at any time, in writing, withdraw or amend a delegation contemplated in subsection (1).

(4) A member of the Executive Council to whom a power has been delegated, may not further delegate such power or duty, without the written authority of the Premier concerned.

(5) A Premier must, within 30 days of delegating any power or duty in terms of subsection (1) or withdrawing or amending such delegation in terms of subsection (3), inform the Minister accordingly.

Monitoring

62. (1) The Department may monitor the implementation of this Act and any regulations made in terms of this Act, including the functioning of any Commission, committee, house, community, leader, council or branch provided for in this Act, and may submit reports in this regard and make recommendations on such implementation or functioning to the Minister, the relevant Premier or Premiers in general, and the relevant Commission, committee, house, community, leader, council or branch.

(2) The Department may monitor the implementation of section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and make recommendations on such implementation to the Minister, a Premier, any relevant house of traditional and Khoi-San leaders, and any senior traditional leader or senior Khoi-San leader who participates in the proceedings of a municipal council in accordance with the provisions of that Act.

(3) The Minister may, after having received a report or recommendations contemplated in subsections (1) and (2), as the case may be, and in consultation with the relevant Premier, take the necessary steps to ensure that the provisions of this Act are met.

Transitional arrangements

63. (1) *(a)* Any traditional leader—
(i) who was appointed or recognised as such in terms of applicable provincial legislation and was still recognised as a traditional leader immediately before 24 September 2004; or
(ii) who was recognised as such in terms of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) (hereinafter referred to as the Framework Act), prior to the repeal of that Act, or in terms of any applicable provincial legislation which is not inconsistent with the Framework Act, as the case may be,

is deemed to have been recognised as such in terms of section 8 of this Act, subject to a recommendation of the CTLDC, where applicable.

(i) die lede van die Uitvoerende Rade verantwoordelik vir tradisionele en Khoi-San-leierskapsaangeleenthede van die betrokke provinsies; en
(ii) die tersaaklike provinsiale huise,
oorleg pleeg;
(b) ten opsigte van regulasies soos in subartikel (1)*(b)* beoog, met—
(i) die betrokke Premiers;
(ii) die lede van die Uitvoerende Rade verantwoordelik vir tradisionele en Khoi-San-leierskapsaangeleenthede van die betrokke provinsies;
(iii) die Nasionale Huis; en
(iv) die betrokke provinsiale huis,
oorleg pleeg; en
(c) enige konsepregulasies in die *Staatskoerant* publiseer vir openbare kommentaar.

(3) Enige regulasies kragtens hierdie artikel uitgevaardig moet, binne 90 dae vanaf die kennisgewing in subartikel (1) bedoel, in die Parlement voorgelê word vir kennisname.

Delegering van bevoegdhede en pligte deur Premier

61. (1) 'n Premier kan, behoudens sodanige voorwaardes wat hy of sy kan bepaal, enige bevoegdheid of plig kragtens hierdie Wet aan hom of haar opgelê, buiten die bevoegdheid om enige gemeenskap of leier te erken of sodanige erkenning in te trek, aan die lid van die Uitvoerende Raad verantwoordelik vir Tradisionele Sake van die betrokke provinsie, delegeer.

(2) 'n Delegering ingevolge subartikel (1) voorkom nie die uitoefening van die tersaaklike bevoegdheid of die verrigting van enige plig deur 'n Premier nie.

(3) 'n Premier kan 'n delegering in subartikel (1) bedoel te eniger tyd intrek of wysig.

(4) 'n Lid van die Uitvoerende Komitee aan wie 'n bevoegdheid gedelegeer is, kan sodanige bevoegdheid of plig nie verder delegeer sonder die skriftelike magtiging van die betrokke Premier nie.

(5) 'n Premier moet, binne 30 dae vanaf die delegering van enige bevoegdheid of plig ingevolge subartikel (1) of vanaf die intrekking of wysiging van daardie delegering ingevolge subartikel (3), die Minister dienooreenkomstig inlig.

Monitering

62. (1) Die Departement kan die inwerkingstelling van hierdie Wet en enige regulasies ingevolge hierdie Wet uitgevaardig, monitor, met inbegrip van die werking van enige Kommissie, komitee, huis, gemeenskap, leier, raad of tak waarvoor hierdie Wet voorsiening maak, en kan verslae daaroor voorlê en aanbevelings doen oor sodanige inwerkingstelling of werking aan die Minister, die tersaaklike Premier of Premiers oor die algemeen, en die tersaaklike Kommissie, komitee, huis, gemeenskap, leier, raad of tak.

(2) Die Departement kan die inwerkingstelling van artikel 81 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), monitor en aanbevelings oor sodanige inwerkingstelling aan die Minister, 'n Premier, enige tersaaklike huis van tradisionele Khoi-San-leiers, en enige senior- tradisionele leier of senior- Khoi-San-leier doen wat ooreenkomstig die bepalings van daardie Wet aan die verrigtinge van 'n munisipale raad deelneem.

(3) Die Minister kan, na ontvangs van 'n verslag of aanbevelings in subartikels (1) en (2) beoog, na gelang van die geval, en in oorleg met die tersaaklike Premier, die nodige stappe doen om te verseker dat aan die bepalings van hierdie Wet voldoen word.

Oorgangsbepalings

63. (1) *(a)* Enige tradisionele leier—
(i) wat as sodanig ingevolge toepaslike provinsiale wetgewing aangestel of erken is en net voor 24 September 2004 steeds as 'n tradisionele leier erken was; of
(ii) wat ingevolge die ''Traditional Leadership and Governance Framework Act'', 2003 (Wet No. 41 van 2003) (hierna die Raamwerkwet genoem), voor die herroeping van daardie Wet, as sodanig erken is, of ingevolge enige toepaslike provinsiale wetgewing wat nie met die Raamwerkwet bestaanbaar is nie, na gelang van die geval,

word geag ingevolge artikel 8 van hierdie Wet as sodanig erken te wees, behoudens 'n aanbeveling van die KTLGA, waar van toepassing.

(b) Any kingship or queenship, principal traditional community, traditional community and subject to paragraph *(c)*, any headmanship or headwomanship that was recognised as such in terms of the Framework Act prior to the repeal of that Act, or in terms of any applicable provincial legislation which is not inconsistent with the Framework Act, as the case may be, is deemed to have been recognised in terms of section 3 of this Act, subject to a recommendation of the CTLDC, where applicable.

(c) (i) A Premier must, within three years of the commencement of this Act or such further period as the Minister may determine, cause an investigation to be conducted to determine whether any headmanship or headwomanship established or recognised in terms of applicable legislation prior to or since the commencement of the Framework Act, and any headman or headwoman appointed or recognised for such headmanship or headwomanship, meet the relevant criteria set out in sections 3, 7 and 8 of this Act.

(ii) If an investigation as contemplated in subparagraph (i) finds that any headmanship or headwomanship or any headman or headwoman does not meet the relevant criteria set out in sections 3, 7 and 8 of this Act, such headmanship or headwomanship shall automatically be disestablished upon the death or resignation of the relevant headman or headwoman and the appointment or recognition of the position of headman or headwoman, as the case may be, shall be deemed to have been withdrawn.

(iii) The Premier may by notice in the Provincial *Gazette* stipulate the legal, practical and other consequences of a disestablishment as contemplated in subparagraph (ii).

(d) Any kingship or queenship council, principal traditional council, traditional council or traditional sub-council established in terms of the Framework Act prior to the repeal of that Act, or in terms of applicable provincial legislation which is not inconsistent with the Framework Act and which complies with all requirements of this Act, is deemed to have been established in terms of section 16 or 17 of this Act, as the case may be.

(2) Any person who was recognised or appointed as a regent, acting leader or deputy leader in terms of the Framework Act, prior to the repeal of that Act, or in terms of any applicable provincial legislation which is not inconsistent with the Framework Act, as the case may be, is deemed to have been recognised as such in terms of section 12, 13 or 14 of this Act, as the case may be.

(3) Any ''tribe'' that, immediately before 24 September 2004, had been established in terms of applicable legislation and was still recognised as such, is deemed to be a traditional community contemplated in section 3 of this Act, subject to—

- *(a)* the withdrawal of its recognition in accordance with the provisions of section 4; or
- *(b)* a recommendation of the CTLDC, where applicable.

(4) *(a)* A tribal authority that, immediately before 24 September 2004, had been established and was still recognised as such, is deemed to be a traditional council contemplated in section 16 of this Act and must perform the functions referred to in section 20: Provided that such a tribal authority must be reconstituted to comply with the provisions of section 16(2) within two years from the date of commencement of this Act.

(b) If, prior to the commencement of this Act, any tribal authority was reconstituted as contemplated in paragraph *(a)*, but such reconstitution did not comply with all the requirements of section 16(2), such tribal authority is deemed to be a traditional council and must, within two years of the commencement of this Act, be reconstituted in full compliance with the provisions of section 16(2).

(c) If the timeframes contemplated in paragraph *(a)* or *(b)* are not met, the Minister may, within one year after the timeframes have lapsed and after consultation with the relevant Premier, apply the provisions of section 16(2) to ensure that such tribal authority or traditional council is constituted or reconstituted in accordance with the provisions of section 16(2).

(d) The provisions of section 16(5) apply to any constitution or reconstitution contemplated in this subsection.

(5) *(a)* Any community authority that had been established in terms of applicable legislation and still existed as such immediately before 24 September 2004, continues to exist until it is disestablished in accordance with provincial legislation, which disestablishment must take place within three years from the date of commencement of this Act, except where the traditional leadership related to that community authority is still under investigation by the CTLDC in which case the community authority concerned must be administered as if the relevant establishing legislation had not been repealed.

(b) Enige koningskap of koninginskap, hoof- tradisionele gemeenskap, tradisionele gemeenskap en behoudens paragraaf *(c)*, enige hoofmanskap of hoofvrouskap wat ingevolge die Raamwerkwet voor die herroeping van daardie Wet erken is, of ingevolge enige toepaslike provinsiale wetgewing wat nie met die Raamwerkwet onbestaanbaar is nie, na die gelang geval, word geag ingevolge artikel 3 van hierdie Wet erken te wees, behoudens 'n aanbeveling van die KTLGA, waar van toepassing.

(c) (i) 'n Premier moet, binne drie jaar vanaf die inwerkingtreding van hierdie Wet of sodanige tydperk wat die Minister kan bepaal, 'n ondersoek laat doen om vas te stel of enige hoofmanskap of hoofvrouskap ingevolge toepaslike wetgewing ingestel voor of sedert die inwerkingtreding van die Raamwerkwet, en enige hoofman of hoofvrou aangestel of erken vir sodanige hoofmanskap of hoofvrouskap, aan die tersaaklike maatstawwe in artikels 3, 7 en 8 van hierdie Wet uiteengesit, voldoen.

(ii) Indien 'n ondersoek soos in subparagraaf (i) beoog vind dat 'n hoofmanskap of hoofvrouskap of 'n hoofman of hoofvrou nie aan die tersaaklike maatstawwe in artikels 3, 7 en 8 van hierdie Wet uiteengesit, voldoen nie word sodanige hoofmanskap of hoofvrouskap outomaties afgestig by die afsterwe of bedanking van die tersaaklike hoofman of hoofvrou en die aanstelling of erkenning van die posisie van hoofman of hoofvrou, na gelang van die geval, sal geag word teruggetrek te wees.

(iii) Die Premier kan by kennisgewing in die *Provinsiale Koerant* die regs-, praktiese en ander gevolge van 'n afstigting stipuleer soos in subparagraaf (ii) beoog.

(d) 'n Koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad of tradisionele subraad ingevolge die Raamwerkwet ingestel voor die herroeping van daardie Wet, of ingevolge toepaslike provinsiale wetgewing wat nie onbestaanbaar met die Raamwerkwet is nie, en wat aan al die vereistes van hierdie Wet voldoen, word geag ingevolge artikel 16 of 17 van hierdie Wet, na gelang van die geval, ingestel te wees.

(2) 'n Persoon wat, as 'n regent, waarnemende leier of adjunkleier erken of aangestel was ingevolge die Raamwerkwet, voor die herroeping van die Wet, of ingevolge enige toepaslike provinsiale wetgewing wat nie met die Raamwerkwet onbestaanbaar is nie, na gelang van die geval, word geag ingevolge artikel 12, 13 of 14 van hierdie Wet, na gelang van die geval, as sodanig erken te wees.

(3) Enige ''stam'' wat, net voor 24 September 2004, ingevolge toepaslike wetgewing ingestel was en steeds as sodanig erken word, word geag 'n tradisionele gemeenskap te wees soos in artikel 3 van hierdie Wet beoog, behoudens—

(a) die intrekking van die gemeenskap se erkenning ooreenkomstig die bepalings van artikel 4; of

(b) 'n aanbeveling van die KTLGA, waar van toepassing.

(4) *(a)* 'n Stamowerheid wat, net voor 24 September 2004, ingestel was en steeds as sodanig erken word, word geag 'n tradisionele raad in artikel 16 van hierdie Wet beoog te wees en moet die werksaamhede in artikel 20 beoog, verrig: Met dien verstande dat sodanige stamowerheid herstig moet word om aan die bepalings van artikel 16(2) te voldoen binne twee jaar vanaf die inwerkingtredingsdatum van hierdie Wet.

(b) Indien, voor die inwerkingtreding van hierdie Wet, enige stamowerheid herstig is soos in paragraaf *(a)* bedoel, maar herstigting het nie voldoen aan al die vereistes van artikel 16(2) nie, word sodanige stamowerheid geag 'n tradisionale raad te wees en moet, binne twee jaar vanaf die inwerkingtreding van hierdie Wet, herstig word in volle nakoming van die bepalings van artikel 16(2).

(c) Indien die tydsbestekke in paragraaf *(a)* of *(b)* nie aan voldoen word nie, kan die Minister binne een jaar ná verstryking van die tydsbestekke en na oorleg met die tersaaklike Premier, die bepalings van artikel 16(2) toepas om te verseker dat sodanige stamowerhid of tradisionele raad saamgestel of herstig word ooreenkomstig die bepalings van artikel 16(2).

(d) Die bepalings van artikel 16(5) is van toepassing op enige samestelling of hersamestelling in hierdie subartikel beoog.

(5) *(a)* 'n Gemeenskapsowerheid wat ingevolge toepaslike wetgewing ingestel is en net voor 24 September 2004 as sodanig bestaan het, bestaan voort totdat dit ooreenkomstig provinsiale wetgewing afgestig word, welke afstigting binne drie jaar vanaf die inwerkingtredingsdatum van hierdie Wet moet plaasvind, behalwe waar die tradisionele leierskap wat op daardie gemeenskapsowerheid betrekking het, steeds deur die KTLGA ondersoek word, in welke geval die betrokke gemeenskapsowerheid geadministreer moet word asof die tersaaklike stigtingswetgewing nie herroep is nie.

(b) The provincial legislation contemplated in paragraph *(a)* must regulate the legal, practical and other consequences of the disestablishment, including—

(i) the transfer of assets, liabilities and administrative and other records to an appropriate authority;

(ii) the vacation of office of any office bearer of such a community authority; and

(iii) the transfer of staff of such a community authority in accordance with applicable legislation.

(c) In the absence of provincial legislation as contemplated in paragraph *(a)*, the Premier of a province may, after consultation with any relevant member of the Executive Council of the province, the relevant community authority and the provincial house, by notice in the Provincial *Gazette* disestablish such community authority and such notice must stipulate the legal, practical and other consequences of such disestablishment as contemplated in paragraph *(b)*.

(d) If the timeframe referred to in paragraph *(a)* is not met in respect of any community authority, the Minister may, after consultation with the relevant Premier, disestablish a community authority and by notice in the *Gazette*, stipulate the legal, practical and other consequences of such disestablishment as contemplated in paragraph *(b)*.

(6) *(a)* The Premier of a province must, by notice in the Provincial *Gazette*, within two years of the commencement of this Act disestablish any regional authority, Ibandla Lamakhosi, Council of Chiefs and ward authority functioning under tribal authorities that have been established in terms of applicable legislation before the commencement of this Act.

(b) The notice disestablishing a regional authority, Ibandla Lamakhosi, Council of Chiefs or ward authority must stipulate the legal, practical and other consequences of the disestablishment, including—

(i) the transfer of assets, liabilities and administrative and other records to an appropriate provincial department, a municipality or local house of traditional leaders, as circumstances may require;

(ii) the vacation of office of any office bearer of such a regional authority; and

(iii) the transfer of staff of such a regional authority in accordance with applicable legislation.

(c) If the timeframe of two years referred to in paragraph *(a)* is not met in respect of any regional authority, Ibandla Lamakhosi, Council of Chiefs or ward authority, the Minister may, after consultation with the relevant Premier, disestablish a regional authority, Ibandla Lamakhosi, Council of Chiefs or ward authority and by notice in the *Gazette*, stipulate the legal, practical and other consequences of such disestablishment subject to paragraph *(b)*.

(7) *(a)* Where, pursuant to an investigation conducted in terms of section 28(7) of the Framework Act, the Commission decided that a paramountcy qualifies to be recognised as a kingship or queenship, such a paramountcy is deemed to be recognised as a kingship or queenship in terms of section 3 of this Act.

(b) The incumbent paramount chiefs, in respect of the kingships and queenships contemplated in paragraph *(a)*, are deemed to be recognised as kings or queens in terms of section 8 of this Act.

(c) In this subsection and subsection (8), ''Commission'' refers to the Commission on Traditional Leadership Disputes and Claims as it existed prior to 1 February 2010.

(8) *(a)* Where, pursuant to an investigation conducted in terms of section 28(7) of the Framework Act, the Commission decided that a paramountcy does not qualify to be recognised as a kingship or queenship, such a paramountcy will, notwithstanding the decision of the Commission and subject to paragraph *(c)*, be deemed to be recognised as a kingship or queenship in terms of section 3 of this Act.

(b) Where, pursuant to an investigation conducted in terms of section 28(7) of the Framework Act, the Commission has decided that a paramount chief does not qualify to be recognised as a king or queen, such a paramount chief, regent or acting paramount chief will, notwithstanding the decision of the Commission and subject to paragraph *(c)*, be deemed to be recognised as a king or queen in terms of section 8 or a regent or acting king or queen in terms of section 12 or 13 of this Act, respectively.

(c) A kingship or queenship and a king or queen recognised in terms of paragraphs *(a)* and *(b)* lapses—

(i) if, on 1 February 2010, the position was vacant;

(b) Die provinsiale wetgewing in paragraaf *(a)* beoog, moet die regs-, praktiese en ander gevolge van die afstigting reguleer, met inbegrip van—

(i) die oordrag van bates, laste en administratiewe en ander rekords na 'n toepaslike owerheid;

(ii) die ontruiming van amp deur enige ampsdraer van so 'n gemeenskapsowerheid; en

(iii) die oordrag van personeel van so 'n gemeenskapsowerheid ooreenkomstig toepaslike wetgewing.

(c) By gebrek aan provinsiale wetgewing soos in paragraaf *(a)* beoog, kan die Premier van die provinsie, na oorleg met enige tersaaklike lid van die Uitvoerende Raad van die provinsie, die tersaaklike gemeenskapsowerheid en die provinsiale huis, by kennisgewing in die *Provinsiale Koerant* daardie gemeenskapsowerheid afstig en daardie kennisgewing moet die regs-, praktiese en ander gevolge van daardie afstigting bepaal soos in paragraaf *(b)* beoog.

(d) Indien die tydsbestek in paragraaf *(a)* bedoel ten opsigte van enige gemeenskapsowerheid nie nagekom word nie, kan die Minister, na oorleg met die tersaaklike Premier, 'n gemeenskapsowerheid afstig en by kennisgewing in die *Staatskoerant*, die regs-, praktiese en ander gevolge van daardie afstigting bepaal soos in paragraaf *(b)* bedoel.

(6) *(a)* Die Premier van 'n provinsie moet, by kennisgewing in die *Provinsiale Koerant,* binne twee jaar na die inwerkingtreding van hierdie Wet, enige streeksowerheid, Ibandla Lamakhosi, Raad van Opperhoofde en wykowerheid wat onder stamowerhede funksioneer wat voor die inwerkingtreding van hierdie Wet ingevolge toepaslike wetgewing gestig is, afstig.

(b) Die kennisgewing van afstigting van 'n streeksowerheid, Ibandla Lamakhosi, Raad van Opperhoofde of wykowerheid, moet die geregtelike, praktiese en ander gevolge van die afstigting bepaal, met inbegrip van—

(i) die oordrag van bates, laste en administratiewe en ander rekords na 'n geskikte provinsiale departement, 'n munisipaliteit of plaaslike huis van tradisionele leiers, soos deur die omstandighede vereis;

(ii) die ontruiming van amp van enige ampsbekleër van so 'n streeksowerheid; en

(iii) die oorplasing van personeel van so 'n streeksowerheid ooreenkomstig toepaslike wetgewing.

(c) Indien die tydsbestek van twee jaar in paragraaf *(a)* bedoel, nie aan voldoen word ten opsigte van enige streeksowerheid, Ibandla Lamakhosi, Raad van Opperhoofde of wykowerheid nie, kan die Minister, na oorleg met die tersaaklike Premier, 'n streeksowerheid, Ibandla Lamakhosi, Raad van Opperhoofde of wykowerheid afstig en by kennisgewing in die *Staatskoerant*, die regs-, praktiese en ander gevolge van daardie afstigting bepaal behoudens paragraaf *(b)*.

(7) *(a)* Waar die Kommissie na aanleiding van 'n ondersoek ingevolge artikel 28(7) van die Raamwerkwet gedoen, besluit het dat 'n oppergesag kwalifiseer om as 'n koningskap of koninginskap erken te word, word sodanige oppergesag geag ingevolge artikel 3 van hierdie Wet as 'n koningskap of koninginskap erken te wees.

(b) Die huidige opperhoofde, ten opsigte van die koningskappe en koninginskappe in paragraaf *(a)* beoog, word geag ingevolge artikel 8 van hierdie Wet as konings of koninginne erken te wees.

(c) In hierdie subartikel en subartikel (8), verwys ''KTLGA'' na die Kommissie oor Tradisionele-leierskapsgeskille en -aansprake soos dit voor 1 Februarie 2010 bestaan het.

(8) *(a)* Waar die Kommissie na aanleiding van 'n ondersoek ingevolge artikel 28(7) van die Raamwerkwet gedoen, besluit het dat 'n oppergesag nie kwalifiseer om as 'n koningskap of koninginskap erken te word nie, word sodanige oppergesag, ondanks die Kommissie se besluit en behoudens paragraaf *(c)*, geag ingevolge artikel 3 van hierdie Wet as 'n koningskap of koninginskap erken te wees.

(b) Waar die Kommissie na aanleiding van 'n ondersoek ingevolge artikel 28(7) van die Raamwerkwet gedoen, besluit het dat 'n opperhoof nie kwalifiseer om as 'n koning of koningin erken te word nie, word sodanige opperhoof, regent of waarnemende opperhoof, ondanks die Kommissie se besluit en behoudens paragraaf *(c)*, geag ingevolge artikel 8 as 'n koning of koningin of ingevolge artikel 12 of 13 van hierdie Wet as 'n regent of waarnemende koning of koningin, onderskeidelik, erken te wees.

(c) 'n Koningskap of koninginskap en 'n koning of koningin ingevolge paragrawe *(a)* en *(b)* erken, verstryk—

(i) indien die posisie op 1 Februarie 2010 vakant was;

(ii) on the death of the incumbent king or queen where the position of such king or queen is occupied by a permanent incumbent;

(iii) where the position of the incumbent king or queen is occupied by a regent or an acting incumbent, on the death of such regent or acting incumbent or on the date of the recognition of a successor,

whereafter the kingship or queenship and the king or queen, as the case may be, will be deemed to be a principal traditional community and principal traditional leader respectively: Provided that when a leader or a community becomes a principal traditional leader or principal traditional community in terms of this paragraph, the Premier concerned must publish a notice in the relevant Provincial *Gazette* recognising such principal traditional leader and principal traditional community, and issue a certificate of recognition to such principal traditional leader.

(9) If a kingship or queenship council has been established for a kingship or queenship referred to in subsection (8)*(a)* and the recognition of such kingship or queenship lapses in terms of subsection (8)*(c)*, the kingship or queenship council shall be deemed to be a principal traditional council.

(10) *(a)* The CTLDC established by section 22 of the Framework Act shall, notwithstanding the repeal of that Act by this Act, continue to function in accordance with the provisions of sections 21 to 26A of the Framework Act until the expiry of its term of office, subject to section 25(4)*(b)* of the Framework Act.

(b) Any recommendation made by the CTLDC remains valid notwithstanding the repeal of the Framework Act.

(11) Any dispute or claim that has not been disposed of by the CTLDC by the expiry of its term of office must be dealt with in accordance with the provisions of section 59 of this Act or any relevant provisions provided for in provincial legislation.

(12) Notwithstanding the provisions of section 28, the traditional leaders who, on the date of commencement of this Act were members of the National House of Traditional Leaders established in terms of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009), remain members of that House and continue as such as if that Act had not been repealed, until 30 June 2022 whereupon that House must be reconstituted in terms of this Act: Provided that anything done by the National House in accordance with a provision of the National House of Traditional Leaders Act, 2009, prior to the commencement of this Act, shall be deemed to have been done in terms of the corresponding provision of this Act.

(13) Notwithstanding the provisions of section 49, the traditional leaders who, on the date of commencement of this Act were members of a provincial house of traditional leaders established and constituted in terms of provincial legislation, remain members of the provincial house concerned, until 31 May 2022 and any subsequent reconstitution of such a house must comply with the provisions of section 49.

(14) Notwithstanding the provisions of section 50, the members of a local house of traditional leaders who, on the date of commencement of this Act were members of a local house established and constituted in terms of applicable national or provincial legislation, remain members of the local house concerned, until 30 April 2022 and any subsequent reconstitution of such a house must comply with the provisions of section 50.

(15) Any formula or guidelines determined or issued in terms of a provision of the Framework Act, prior to the commencement of this Act, continues to apply until it is replaced by a formula issued in terms of the applicable provision of this Act.

(16) Any consultations done in respect of the establishment of a kingship or queenship council as contemplated in section 3A(2)*(a)* of the Framework Act prior to the commencement of this Act, is deemed to have been done in accordance with the provisions of section 16(2) of this Act.

(17) Notwithstanding the provisions of sections 16 and 17, as the case may be, the members of a kingship or queenship council, a principal traditional council or a traditional sub-council who, on the date of commencement of this Act were members of such a council established and constituted in terms of applicable national or provincial legislation, remain members of the council concerned, until 30 April 2022, and any subsequent reconstitution of such a council must comply with the provisions of section 16 or 17, as the case may be.

This gazette is also available free online at www.gpwonline.co.za

(ii) by die afsterwe van die huidige koning of koningin waar die posisie van sodanige koning of koningin deur ’n permanente ampsbekleër gevul was;

(iii) waar die posisie van die huidige koning of koningin deur ’n regent of ’n waarnemende ampsbekleër gevul word, by die afsterwe van sodanige regent of waarnemende ampsbekleër of op datum van die erkenning van ’n opvolger,

waarna die koningskap of koninginskap en die koning of koningin, na gelang van die geval, geag sal word onderskeidelik ’n hoof- tradisionele gemeenskap en hoof- tradisionele leier, te wees: Met dien verstande dat wanneer ’n leier of ’n gemeenskap ’n hoof- tradisionele leier of hoof- tradisionele gemeenskap ingevolge hierdie paragraaf word, die betrokke Premier ’n kennisgewing in die tersaaklike *Provinsiale Koerant* moet publiseer waarin sodanige hoof- tradisionele leier en hoof- tradisionele gemeenskap erken word, en ’n erkenningsertifikaat aan sodanige hoof- tradisionele leier uitreik.

(9) Indien ’n koningskaps- of koninginskapsraad ingestel is vir ’n koningskap of koninginskap in subartikel (8)*(a)* bedoel en die erkenning van sodanige koningskap of koninginskap verstryk ingevolge subartikel (8)*(c)*, word die koningskaps- of koninginskapsraad geag ’n hoof- tradisionele raad te wees.

(10) *(a)* Die KTLGA by artikel 22 van die Raamwerkwet ingestel, gaan, ongeag die herroeping van daardie Wet deur hierdie Wet, voort om ooreenkomstig die bepalings van artikels 21 tot 26A van die Raamwerkwet te funksioneer totdat die ampstermyn daarvan verstryk, behoudens artikel 25(4)*(b)* van die Raamwerkwet.

(b) Enige aanbeveling deur die KTLGA gemaak bly geldig ongeag die herroeping van die Raamwerkwet.

(11) Enige geskil of aanspraak waaroor teen die verstryking van die ampstermyn van die KTLGA nog nie deur die KTLGA beskik is nie, moet ooreenkomstig die bepalings van artikel 59 van hierdie Wet of enige tersaaklike bepalings in provinsiale wetgewing, voorsiening maak, hanteer word.

(12) Ondanks die bepalings van artikel 28, bly die tradisionele leiers wat op die inwerkingtredingsdatum van hierdie Wet lede is van die Nasionale Huis van Tradisionele Leiers ingestel ingevolge die “National House of Traditional Leaders Act, 2009” (Wet No. 22 van 2009), lede van daardie Huis en gaan so voort asof daardie Wet nie herroep is nie, tot 30 Junie 2022, wanneer daardie Huis ingevolge hierdie Wet herstig moet word: Met dien verstande dat enigiets ooreenkomstig ’n bepaling van die “National House of Traditional Leaders Act, 2009”, deur die Nasionale Huis gedoen voor die inwerkingtreding van hierdie Wet, geag sal word ingevolge die ooreenstemmende bepaling van hierdie Wet gedoen te gewees het.

(13) Ondanks die bepalings van artikel 49, bly die tradisionele leiers wat op die inwerkingtredingsdatum van hierdie Wet lede is van ’n provinsiale huis van tradisionele leiers wat ingevolge provinsiale wetgewing ingestel en saamgestel is, lede van die betrokke provinsiale huis, tot 31 Mei 2022, en enige daaropvolgende herstigting van ’n huis moet aan die bepalings van artikel 49 voldoen.

(14) Ondanks die bepalings van artikel 50, bly die lede van ’n plaaslike huis van tradisionele leiers wat, op die inwerkingtredingsdatum van hierdie Wet lede van ’n plaaslike huis was wat ingevolge toepaslike nasionale en provinsiale wetgewing ingestel is, lede van die betrokke plaaslike huis tot 30 April 2022 en enige daaropvolgende hersamestelling van so ’n huis moet aan die bepalings van artikel 50 voldoen.

(15) Enige formule of riglyne ingevolge ’n bepaling van die Raamwerkwet voor die inwerkingtreding van hierdie Wet vasgestel, is steeds van toepassing totdat dit deur ’n formule vervang word wat ingevolge die toepaslike bepaling van hierdie Wet uitgereik is.

(16) Enige raadplegings ten opsigte van die instelling van ’n koningskaps- of koninginskapsraad soos in artikel 3A(2)*(a)* van die Raamwerkwet voor die inwerkingtreding van hierdie Wet beoog, word geag ooreenkomstig die bepalings van artikel 16(2) van hierdie Wet gedoen te gewees het.

(17) Ondanks die bepalings van artikels 16 en 17, na gelang van die geval, bly lede van ’n koningskaps- or koninginskapsraad, ’n hoof- tradisionele raad of ’n tradisionele subraad wat, op die inwerkingtredingsdatum van hierdie Wet lede van so ’n raad ingevolge toepaslike nasionale of provinsiale wetgewing ingestel en saamgestel, was, lede van die betrokke raad tot 30 April 2022, en enige daaropvolgende herstigting van so ’n raad moet aan die bepalings van artikel 16 of 17, na gelang van die geval, voldoen.

(18) Notwithstanding the provisions of section 16, the members of a traditional council who, on the date of commencement of this Act were members of such a council established and constituted in terms of applicable national or provincial legislation, remain members of the council concerned, until 31 March 2022, and any subsequent reconstitution of such a council must comply with the provisions of section 16.

(19) Notwithstanding the provisions of section 18, the members of a Khoi-San council that was established in terms of this Act prior to 31 March 2022, remain members of the council concerned until 31 March 2027, and any subsequent reconstitution of such a council must comply with the provisions of section 18.

(20) *(a)* Notwithstanding any other provision of this Act, recognised senior Khoi-San leaders will become members of the National House, provincial houses and local houses with effect from the dates referred to in sections 27(2), 49(2)*(b)* and 50(8) respectively and subject to the provisions relating to the constitution of such houses as contemplated in sections 28, 29, 49 and 50.

(b) Notwithstanding the provisions of paragraph *(a)*, any senior Khoi-San leader who has been recognised prior to the dates referred to in sections 49(2)*(b)* and 50(8) respectively, may, upon a decision of the relevant provincial or local house, become a co-opted member of such house with observer status for the term of office of such house ending in 2022.

(c) A recognised senior Khoi-San leader who becomes a co-opted member of a provincial or local house as contemplated in paragraph *(b)*, may be reimbursed for his or her travel and accommodation expenditure for the purposes of attending meetings of such house, in accordance with the travel and subsistence policy of the provincial department responsible for providing administrative and financial support to such house.

(21) In any instance where the area of jurisdiction of a traditional council or traditional sub-council has been defined in terms of national or provincial legislation prior to the commencement of this Act, a Premier must, within three years of the commencement of this Act, or such further period as the Minister may determine, have such areas of jurisdiction mapped and publish such maps by notice in the relevant Provincial *Gazette*.

(22) *(a)* Any partnership or agreement entered into by a kingship or queenship council, principal traditional council, traditional council or traditional sub-council prior to the commencement of this Act, must, within three years from such commencement, be reviewed by the relevant Premier to determine whether such partnership or agreement meets the requirements of section 24(3)*(a)*, *(b)*, *(c)*, *(e)* and (4).

(b) If a Premier is of the opinion that a partnership or agreement contemplated in paragraph *(a)* does not meet such requirements, the Premier must refer such partnership or agreement to the parties who entered into such partnership or agreement and request them to either amend or re-enter into such partnership or agreement to ensure compliance with section 24(3)*(a)*, *(b)*, *(c)*, *(e)* and (4), or to cancel such partnership or agreement.

(c) The provisions of section 24(6) apply to partnerships and agreements contemplated in this subsection.

(d) The provisions of this subsection do not apply to any partnership or agreement which, at the commencement of this Act, has been entered into in accordance with any enabling provisions of any other law.

(23) For the purposes of this chapter, ‘‘CTLDC’’ means the Commission on Traditional Leadership Disputes and Claims established in terms of section 22 of the Framework Act.

Amendment of legislation

64. The legislation mentioned in Schedule 3 to this Act, is hereby amended to the extent set out in that Schedule.

Repeal of legislation and savings

65. (1) The legislation specified in Schedule 4 to this Act, is repealed to the extent indicated in the third column of that Schedule.

(2) Anything done or deemed to have been done under any provision of a law repealed by subsection (1) and which may or must be done in terms of this Act, is regarded as having been done in terms of the corresponding provision of this Act.

This gazette is also available free online at www.gpwonline.co.za

(18) Ondanks die bepalings van artikel 16, bly die lede van ’n tradisionele raad wat, op die inwerkingtredingsdatum van hierdie Wet lede van so ’n raad ingevolge toepaslike nasionale of provinsiale wetgewing ingestel, was, lede van die betrokke raad, tot 31 Maart 2022, en enige daaropvolgende herstigting van so ’n raad moet aan die bepalings van artikel 16 voldoen.

(19) Ondanks die bepalings van artikel 18, bly die lede van ’n Khoi-San-raad wat voor 31 Maart 2022 ingevolge hierdie wet ingestel is, lede van die betrokke raad tot 31 Maart 2027, en enige daaropvolgende herstigting van so ’n raad moet aan die bepalings van artikel 18 voldoen.

(20) *(a)* Ondanks enige ander bepaling van hierdie Wet, word erkende senior-Khoi-San-leiers lede van die Nasionale Huis, provinsiale huise en plaaslike huise met ingang van die datums in onderskeidelik artikels 27(2), 49(2)*(b)* en 50(8) bedoel en behoudens die bepalings met betrekking tot die samestelling van daardie huise soos in artikels 28, 29, 49 en 50 beoog.

(b) Ongeag die bepalings van paragraaf *(a)*, kan enige senior- Khoi-San-leier wat voor die datums in onderskeidelik artikels 49(2)*(b)* en 50(8) bedoel, by beslissing van die tersaaklike provinsiale of plaaslike huis, ’n gekoöpteerde lid van daardie huis word, met waarnemerstatus vir die ampstermyn van daardie huis eindigende in 2022.

(c) ’n Erkende Khoi-San-leier wat ’n gekoöpteerde lid van ’n provinsiale of plaaslike huis soos in paragraaf *(b)* bedoel, word, kan vir sy of haar reis- en verblyfkoste aangegaan om vergaderings van daardie huis by te woon, vergoed word, ooreenkomstig die reis- en bestaansbeleid van die provinsiale departement verantwoordelik vir die voorsiening van administratiewe en finansiële ondersteuning aan daardie huis.

(21) In enige geval waar die regsgebied van ’n tradisionele raad of tradisionele subraad voor die inwerkingtreding van hierdie Wet ingevolge nasionale of provinsiale wetgewing omskryf is, moet ’n Premier, binne drie jaar vanaf die inwerkingtreding van hierdie Wet, of sodanige verdere tydperk wat die Minister kan bepaal, daardie regsgebiede laat karteer en daardie kaarte by kennisgewing in die tersaaklike *Provinsiale Koerant* publiseer.

(22) *(a)* Enige vennootskap of ooreenkoms deur ’n koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad of tradisionele subraad aangegaan voor die inwerkingtreding van hierdie Wet, moet, binne drie jaar vanaf daardie inwerkingtreding, deur die tersaaklike Premier hersien word om te bepaal of daardie vennootskap of ooreenkoms aan die vereistes van artikel 24(3)*(a)*, *(b)*, *(c)*, *(e)* en (4) voldoen.

(b) Indien ’n Premier van mening is dat ’n vennootskap of ooreenkoms in paragraaf *(a)* beoog nie aan daardie vereistes voldoen nie, moet die Premier daardie vennootskap of ooreenkoms verwys na die partye wat daardie vennootskap of ooreenkoms aangegaan het en versoek dat hulle daardie vennootskappe of ooreenkoms óf wysig óf weer aangaan om te voldoen aan artikel 24(3)*(a)*, *(b)*, *(c)*, *(e)* en (4), of om daardie vennootskap of ooreenkoms te kanselleer.

(c) Die bepalings van artikel 24(6) is van toepassing op vennootskappe en ooreenkomste in hierdie subartikel beoog.

(d) Die bepalings van hierdie subartikel is nie van toepassing nie op enige vennootskap of ooreenkoms wat, by die inwerkingtreding van hierdie Wet, ingevolge enige bevoegdheidgewende wetsbepalings aangegaan is.

(23) By die toepassing van hierdie hoofstuk, beteken ‘‘KTLGA’’ die Kommissie oor Tradisionele-leierskapsgeskille en -aansprake ingevolge artikel 22 van die Raamwerkwet ingestel.

Wysiging van wetgewing

64. Die wetgewing in Bylae 3 tot hierdie Wet, word hierby gewysig tot die mate in daardie Bylae uiteengesit.

Herroeping van wetgewing, en voorbehoude

65. (1) Die wetgewing in Bylae 4 tot hierdie Wet vermeld, word herroep tot die mate in die derde kolom van daardie Bylae aangedui.

(2) Enigiets gedoen of geag gedoen te wees kragtens enige bepalings van ’n wet deur subartikel (1) herroep en wat ingevolge hierdie Wet gedoen kan of moet word, word geag ingevolge die gelykstaande bepaling van hierdie Wet gedoen te wees.

Short title and commencement

66. This Act is called the Traditional and Khoi-San Leadership Act, 2019 and comes into operation on the date to be determined by the President by proclamation in the *Gazette*.

Kort titel en inwerkingtreding

66. Hierdie Wet heet die Wet op Tradisionele en Khoi-San-leierskap, 2019 en tree in werking op ’n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

This gazette is also available free online at **www.gpwonline.co.za**

SCHEDULE 1

Code of conduct for members of houses and councils

1. Definitions
2. General conduct of members
3. Attendance of meetings
4. Sanctions for non-attendance of meetings
5. Disclosure of interests
6. Personal gain
7. Declaration of interests
8. Rewards, gifts and favours
9. Unauthorised disclosure of information
10. Breach of code by a member of the National House
11. Breach of code by a member of a provincial house, a local house or a council

Definitions

1. In this Schedule, unless the context indicate otherwise—

(a) **"House"** means the National House of Traditional and Khoi-San Leaders, a provincial house of traditional and Khoi-San leaders and a local house of traditional and Khoi-San Leaders;

(b) **"member"** means a member of a House or a council;

(c) **"council"** means a kingship or queenship council, principal traditional council, traditional council, traditional sub-council, Khoi-San council and a branch.

General conduct of members

2. A member—

(a) must perform his or her functions in good faith and in an honest, non-discriminatory and transparent manner;

(b) must at all times act in the best interest of the House or council and in such a way that the credibility and integrity of the House or council are not compromised;

(c) may not deliberately do anything calculated to unjustly or unfairly injure the reputation of another member;

(d) may not use the power of his or her office to seek or obtain special advantage for personal benefit that is not in the public interest; and

(e) may not disclose confidential information acquired in the course of his or her duties, unless required by law to do so or by circumstances to prevent substantial injury to third persons.

Attendance of meetings

3. A member must attend each meeting of the House or a council and of a committee of the House or a council of which he or she is a member, except when—

(a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the House or council; or

(b) that member is required in terms of item 5(1)*(b)* to withdraw from a meeting.

Sanctions for non-attendance of meetings

4. (1) A member who, without leave of absence, is absent from three or more consecutive meetings of the House or a council which that member is required to attend, must be removed from office as a member of the House or such council.

(2) The removal of a member from office in terms of sub-item (1) is subject to the provisions of item 10 in the case of a member of the National House and item 11 in the case of a member of a provincial house, a local house or a council.

BYLAE 1

Gedragskode vir lede van huise en rade

1. Woordomskrywing
2. Algemene gedrag van lede
3. Bywoning van vergaderings
4. Sanksies vir niebywoning van vergaderings
5. Openbaarmaking van belange
6. Persoonlike gewin
7. Verklaring van belange
8. Belonings, geskenke en gunste
9. Ongemagtigde openbaarmaking van inligting
10. Verbreking van kode deur 'n lid van die Nasionale Huis
11. Verbreking van kode deur 'n lid van 'n provinsiale huis, 'n plaaslike huis of 'n raad

Woordomskrywing

1. In hierdie Bylae, tensy die samehang anders aandui, beteken—
(a) **"Huis"** die Nasionale Huis van Tradisionele en Khoi-San-leiers, 'n provinsiale huis van tradisionele leiers en Khoi-San-leiers en 'n plaaslike huis van tradisionele en Khoi-San-leiers;
(b) **"lid"** 'n lid van 'n Huis of 'n raad;
(c) **"raad"** 'n koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, tradisionele subraad, Khoi-San-raad en -tak.

Algemene gedrag van lede

2. 'n Lid—
(a) moet sy of haar werksaamhede te goeder trou en op 'n eerlike, niediskriminerende en deursigtige wyse, verrig;
(b) moet te alle tye in die beste belang van die Huis of raad, en op so 'n wyse dat die geloofwaardigheid en integriteit van die Huis of raad nie skade ly nie, optree;
(c) mag niks met voorbedagte rade doen wat daarop gemik is om die reputasie van 'n ander lid onbillik of onregverdig skade te berokken nie;
(d) mag nie die bevoegdheid van sy of haar amp gebruik om spesiale bevoordeling vir persoonlike gewin te verlang of te kry wat nie in die openbare belang is nie; en
(e) mag nie vertroulike inligting wat in die loop van die verrigting van sy pligte verkry is openbaar maak nie, tensy die Wet of omstandighede dit vereis ten einde wesenlike onreg vir derde persone te voorkom.

Bywoning van vergaderings

3. 'n Lid moet elke vergadering van die Huis of 'n raad en van 'n komitee van die Huis waarvan hy of sy 'n lid is bywoon, behalwe wanneer—
(a) verlof ingevolge 'n toepaslike wet of soos deur die reëls en orders van die Huis of raad bepaal, toegestaan is; of
(b) daardie lid ingevolge item 5(1)*(b)* uit 'n vergadering moet onttrek.

Sanksies vir niebywoning van vergaderings

4. (1) 'n Lid wat, sonder verlof, van drie of meer agtereenvolgende vergaderings van die Huis of 'n raad afwesig is wat daardie lid moet bywoon, moet van die amp van 'n lid van die Huis of sodanige raad onthef word.

(2) Die ontheffing van 'n lid van 'n amp ingevolge subitem (1), is onderhewig aan die bepalings van item 10 in die geval van 'n lid van die Nasionale Huis en item 11 in die geval van 'n lid van 'n provinsiale huis, 'n plaaslike huis of 'n raad.

Disclosure of interests

5. (1) A member must—

(a) disclose to the House or a council, or to any committee of the House or a council of which he or she is a member, any direct or indirect personal or private business interest that that he or she, or any spouse, partner, business associate or close family member of that member, may have in any matter before the House or a council or before a committee of the House or a council; and

(b) withdraw from the proceedings of the House or a council or committee of the House or a council when a matter as contemplated in paragraph *(a)* is considered by the House, council or committee, unless the House or a council or a committee thereof decides that the member's direct or indirect interest in the matter is trivial or irrelevant.

(2) A member who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the House or a council, must disclose full particulars of the benefit of which that member is aware of, at the first meeting of the House or a council at which it is possible for the member to make such disclosure.

Personal gain

6. (1) A member may not use the position or privileges of being a member, or confidential information obtained as a member, for private gain or to improperly benefit another person.

(2) Except with the prior consent of the House or a council, a member may not—

(a) be a party to or a beneficiary under a contract for the provision of goods or services to the House or a council;

(b) obtain a financial interest in any business of the House or a council; or

(c) for a fee or other consideration appear on behalf of any other person before the House or a council or a committee of the House or a council.

(3) If more than one-quarter of the members of the House or a council object to consent being given to a member in terms of sub-item (2), such consent may only be given to the member with the approval of the Minister in the case of the National House and the relevant Premier in the case of a provincial house, a local house or a council.

Declaration of interests

7. (1) When elected or appointed, a member must within 60 days of his or her election or appointment, declare in writing to an official of the House or of a council, designated by the Minister in the case of the National House or by the relevant Premier in the case of a provincial house, a local house or a council, the following financial interests held by such member:

(a) Shares and securities in any company;

(b) membership of any close corporation;

(c) interest in any trust;

(d) directorships;

(e) partnerships;

(f) other financial interests in any business-undertaking;

(g) employment and remuneration;

(h) interest in property;

(i) pension; and

(j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a member must annually be declared in writing to the official referred to in sub-item (1).

(3) Gifts received by a member with a value above an amount as may be determined by the Minister by notice in the *Gazette*, must also be declared in accordance with sub-item (1).

(4) The House or a council must determine which of the financial interests referred to in sub-item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

Openbaarmaking van belange

5. (1) 'n Lid moet—

(a) aan die Huis of 'n raad, of aan enige komitee van die Huis of 'n raad waarvan hy of sy 'n lid is, enige direkte of indirekte persoonlike of private sakebelang wat hy of sy, of enige gade, vennoot, medewerker of nabye familielid van daardie lid, in 'n aangeleentheid voor die Huis of 'n raad of voor 'n komitee van die Huis of 'n raad mag hê, openbaar maak; en

(b) onttrek van die verrigtinge van die Huis of 'n raad of komitee van die Huis of 'n raad wanneer 'n aangeleentheid in paragraaf *(a)* beoog deur die Huis, raad of komitee oorweeg, tensy die Huis of 'n raad of 'n komitee daarvan besluit dat die lid se direkte of indirekte belang in die aangeleentheid onbeduidend of irrelevant is.

(2) 'n Lid wat, of wie se gade, lewensmaat, medewerker of nabye familielid, enige direkte voordeel uit 'n kontrak met die Huis of 'n raad aangegaan verkry het of kan verkry, moet volle besonderhede van die voordeel waarvan daardie lid bewus is, by die eerste vergadering van die Huis of 'n raad openbaar maak waar dit vir die lid moontlik is om die openbaarmaking te doen.

Persoonlike gewin

6. (1) 'n Lid mag nie die posisie of voordele van 'n lid, of vertroulike inligting wat as lid verkry is, gebruik vir private gewin of om iemand anders te bevoordeel nie.

(2) 'n Lid mag, behalwe met die vooraf toestemming van die Huis of 'n raad, nie—

(a) 'n party of begunstigde kragtens 'n kontrak vir die voorsiening van goedere of dienste aan die Huis of 'n raad, wees nie;

(b) 'n finansiële belang in enige sake van die Huis of 'n raad verkry nie; of

(c) vir gelde of ander oorweging namens iemand anders voor die Huis of 'n raad of 'n komitee van die Huis of 'n raad, verskyn nie.

(3) Indien meer as een kwart van die lede van die Huis of raad daarteen beswaar aanteken dat toestemming ingevolge subitem (2) aan 'n lid gegee is, kan sodanige toestemming slegs met die toestemming van die Minister, in die geval van die Nasionale Huis, en die tersaaklike Premier, in die geval van 'n provinsiale huis, 'n plaaslike huis of 'n raad, aan 'n lid gegee word.

Verklaring van belange

7. (1) Wanneer 'n lid verkies of aangestel word, moet die lid binne 60 dae na sy of haar verkiesing of aanstelling, aan 'n beampte van die Huis of van 'n raad deur die Minister aangewys in die geval van die Nasionale Huis of deur die tersaaklike Premier in die geval van 'n provinsiale huis, 'n plaaslike huis of 'n raad, die volgende finansiële belange wat sodanige lid hou, skriftelik verklaar:

(a) Aandele en effekte in enige maatskappy;

(b) lidmaatskap in enige beslote korporasie;

(c) belange in enige trust;

(d) direkteurskappe;

(e) vennootskappe;

(f) ander finansiële belange in enige sakeonderneming;

(g) werk en vergoeding;

(h) belang in eiendom;

(i) pensioen; en

(j) subsidies, toewysings en borgskappe deur enige organisasie.

(2) Enige verandering in die aard of besonderheid van die finansiële belange van 'n lid moet jaarliks skriftelik aan die beampte in subitem (1) bedoel, verklaar word.

(3) Geskenke wat 'n lid ontvang met 'n waarde van meer as 'n bedrag wat die Minister by kennisgewing in die *Staatskoerant* kan bepaal, moet ook ooreenkomstig subitem (1) verklaar word.

(4) Die Huis of 'n raad moet bepaal watter van die finansiële belange in subitem (1) bedoel, rugbaar gemaak moet word met inagneming van die behoefte aan vertroulikheid en die openbare belang in openbaarmaking.

Rewards, gifts and favours

8. A member may not request, solicit or accept any reward, gift or favour for—

(a) voting or not voting in a particular manner on any matter before the House or a council or before a committee of the House or a council, of which he or she is a member;

(b) persuading the House or a council or any committee of the House or a council with regard to the exercise of any power, function or duty;

(c) making a representation to the House or a council or any committee of the House or a council; or

(d) disclosing privileged or confidential information.

Unauthorised disclosure of information

9. (1) A member may not without the permission of the House or a council or a committee of the House or a council, disclose any privileged or confidential information of the House or a council or such committee to any unauthorised person.

(2) For the purposes of this item ''privileged or confidential information'' includes any information—

(a) in respect of which the House or a council or a committee of the House or a council is the original author and is classified by the House or a council or a committee of the House or a council, to be privileged or confidential;

(b) discussed in closed session by the House or a council or a committee of the House or a council;

(c) of which the disclosure would violate a person's right to privacy; or

(d) declared to be privileged, confidential or secret in terms of law.

(3) This item does not derogate from the right of any person to apply for access to information in terms of relevant national legislation.

Breach of code by a member of the National House

10. (1) If the National House, on reasonable grounds, is of the opinion that a provision of the code of conduct has been breached by one of its members, the National House must—

(a) authorise an investigation of the facts and circumstances of the alleged breach; and

(b) give the member of the National House a reasonable opportunity to reply in writing regarding the alleged breach:

Provided that the National House may suspend the relevant member for the duration of such an investigation.

(2) The National House must inform the Minister of the outcome of any investigation.

(3) The Secretary must ensure that each member of the National House, when taking office, is given a copy of this code of conduct and that a copy of the code is available in every room or place where the National House or a committee of the National House meets.

(4) If the National House has authorised an investigation, it must establish an investigative committee—

(a) to investigate and make a finding on any alleged breach of the code of conduct; and

(b) to make recommendations in respect of an appropriate sanction or sanctions to the National House.

(5) If an investigative committee appointed by the National House to conduct an investigation finds that a member of the National House, including the chairperson or deputy chairperson, has breached a provision of the code of conduct, the National House may—

(a) issue a formal warning to such member;

(b) reprimand such member;

(c) suspend such member for a period specified by the National House; or

(d) remove such member from office.

This gazette is also available free online at www.gpwonline.co.za

Belonings, geskenke en gunste

8. ’n Lid mag nie enige beloning, geskenk of guns aanvaar nie in ruil daarvoor dat hy of sy—

(a) stem of nie op ’n sekere wyse stem nie in enige aangeleentheid voor die Huis of ’n raad of voor ’n komitee van die Huis of ’n raad, waarvan hy of sy ’n lid is;

(b) die Huis of ’n raad of enige komitee van die Huis of ’n raad oortuig ten opsigte van die uitoefening van enige bevoegdheid, werksaamheid of plig;

(c) ’n vertoog aan die Huis of ’n raad of enige komitee van die Huis of ’n raad rig; of

(d) geprivilegeerde of vertroulike inligting openbaarmaak.

Ongemagtigde openbaarmaking van inligting

9. (1) ’n Lid mag nie enige geprivilegeerde of vertroulike inligting van die Huis of ’n raad of sodanige komitee sonder die toestemming van die Huis of ’n raad of ’n komitee van die Huis of ’n raad, aan enige ongemagtigde persoon openbaar maak nie.

(2) Vir die doeleindes van hierdie item sluit ‘‘geprivilegeerde of vertroulike inligting’’ enige inligting in—

(a) ten opsigte waarvan die Huis of ’n raad of ’n komitee van die Huis of ’n raad die oorspronklike outeur is en deur die Huis of ’n raad of ’n komitee van die Huis of ’n raad as geprivilegeerd of vertroulik geklassifiseer is;

(b) in ’n geslote sessie deur die Huis of ’n raad of ’n komitee van die Huis of ’n raad bespreek;

(c) die openbaarmaking waarvan ’n persoon se reg tot privaatheid sal skend; of

(d) wat verklaar is ingevolge wet geprivilegeerd, vertroulik of geheim te wees.

(3) Hierdie item doen nie afbreuk aan enige persoon se reg om ingevolge tersaaklike nasionale wetgewing om toegang tot inligting aansoek te doen nie.

Verbreking van kode deur ’n lid van Nasionale Huis

10. (1) Indien die Nasionale Huis, op redelike gronde, van mening is dat ’n bepaling van die gedragskode deur een van sy lede verbreek is, moet die Nasionale Huis—

(a) ’n ondersoek na die feite en omstandighede van die beweerde verbreking magtig; en

(b) die lid van die Nasionale Huis ’n redelike geleentheid gun om skriftelik te reageer oor die beweerde verbreking:

Met dien verstande dat die Nasionale Huis die tersaaklike lid vir die duur van so ’n ondersoek kan skors.

(2) Die Nasionale Huis moet die Minister van die resultaat van enige ondersoek verwittig.

(3) Die Sekretaris moet verseker dat elke lid van die Nasionale Huis, wanneer hy of sy aangestel word, ’n afskrif van hierdie gedragskode kry en dat ’n afskrif van die kode in elke vertrek of plek waar die Nasionale Huis of ’n komitee van die Nasionale Huis, vergader, beskikbaar is.

(4) Indien die Nasionale Huis ’n ondersoek gemagtig het, moet dit ’n ondersoekkomitee instel—

(a) om enige beweerde verbreking van die gedragskode te ondersoek en ’n bevinding te maak; en

(b) om aanbevelings aan die Nasionale Huis te doen ten opsigte van ’n toepaslike sanksie of sanksies.

(5) Indien ’n ondersoekkomitee deur die Nasionale Huis aangestel om ’n ondersoek te doen, vind dat ’n lid van die Nasionale Huis, met inbegrip van die voorsitter of ondervoorsitter, ’n bepaling van die gedragskode verbreek het, kan die Nasionale Huis—

(a) ’n formele waarskuwing aan sodanige lid uitreik;

(b) sodanige lid betig;

(c) sodanige lid skors vir ’n tydperk deur die Nasionale Huis bepaal; of

(d) sodanige lid van die amp onthef.

(6) *(a)* Any member of the National House who has been warned, reprimanded, suspended or removed in terms of paragraph *(a)*, *(b)*, *(c)* or *(d)* of sub-item (5) may, within 14 days of having been notified of the decision of the National House, appeal to the Minister in writing setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the National House.

(c) The National House may, within 14 days of receipt of the appeal referred to in paragraph *(b)*, make any representation pertaining to the appeal to the Minister in writing.

(d) The Minister may, after having considered the appeal, confirm, set aside or vary the decision of the National House and inform the relevant member of the National House as well as the House of the outcome of the appeal.

(7) *(a)* If the National House does not authorise an investigation as contemplated in sub-item (1), the Minister must appoint a person or a committee to investigate any alleged breach of a provision of this code of conduct by a member of the National House and to make recommendations as to the appropriate sanction in terms of sub-item (5): Provided that the Minister may suspend the relevant member for the duration of such investigation.

(b) If the Minister is of the opinion that a member of the National House has breached a provision of this code of conduct, and that such contravention warrants a suspension or removal from office, the Minister may—

(i) suspend the member of the National House for a period and on conditions determined by the Minister; or

(ii) remove the member of the National House from office.

(8) Any investigation in terms of this item must be conducted in accordance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

Breach of code by a member of a provincial house, a local house or a council

11. (1) If a provincial house, a local house or a council, or any member of such a house or council, on reasonable grounds, is of the opinion that a member of such house or council, excluding the chairperson, has breached a provision of this code of conduct, that house or council must establish an investigative committee—

(a) to investigate and make a finding on any alleged breach of this code of conduct; and

(b) to make recommendations to the relevant house or council:

Provided that the house or council may suspend the relevant member for the duration of such investigation.

(2) If an investigative committee finds that a member of a provincial house, a local house or a council has breached a provision of this code of conduct, the relevant house or council may—

(a) issue a formal warning to such member;

(b) reprimand such member;

(c) request the relevant Premier to suspend the member for a period determined by the Premier; or

(d) request the Premier to remove the member from office.

(3) *(a)* If the relevant provincial house, local house or council does not establish an investigative committee as contemplated in sub-item (1), the relevant Premier must appoint a person or an investigative committee to investigate any alleged breach of a provision of this code of conduct and to make recommendations as to the appropriate sanction in terms of sub-item (2): Provided that in the event of an alleged breach of the code of conduct by the chairperson of a provincial house, a local house or a council, the provisions of this item must be applied by the Premier: Provided further that the Premier may suspend the relevant member for the duration of such investigation.

(b) If a Premier is of the opinion that a member of a provincial house, a local house or a council has breached a provision of this code of conduct and that such contravention warrants a suspension or removal from office, the Premier may—

(i) issue a formal warning to such member;

(ii) reprimand such member;

(iii) suspend the member for a period and on conditions as he or she may determine; or

(6) *(a)* Enige lid van die Nasionale Huis wat ingevolge paragraaf *(a)*, *(b)*, *(c)* of *(d)* van subitem (5) gewaarsku, betig, geskors of onthef is, kan binne 14 dae nadat hy of sy van die Nasionale Huis se besluit verwittig is, skriftelik by die Minister appèl aanteken en die gronde vir die appèl uiteensit.

(b) 'n Afskrif van die appèl moet aan die Nasionale Huis voorsien word.

(c) Die Nasionale Huis kan, binne 14 dae vanaf ontvangs van die appèl in paragraaf *(b)* bedoel, enige vertoog aangaande die appèl skriftelik aan die Minister rig.

(d) Die Minister kan, na oorweging van die appèl, die beslissing van die Nasionale Huis bevestig, ter syde stel of wissel en die tersaaklike lid van die Nasionale Huis asook die Huis van die uitkoms van die appèl verwittig.

(7) *(a)* Indien die Nasionale Huis nie 'n ondersoek soos in subitem (1) beoog, magtig nie, moet die Minister 'n persoon of 'n komitee aanstel om enige beweerde verbreking van 'n bepaling van hierdie gedragskode deur 'n lid van die Nasionale Huis te ondersoek en om aanbevelings te doen oor die gepaste sanksie ingevolge subitem (5): Met dien verstande dat die Minister die tersaaklike lid vir die duur van so 'n ondersoek kan skors.

(b) Indien die Minister van mening is dat 'n lid van die Nasionale Huis 'n bepaling van hierdie gedragskode oortree het, en dat sodanige oortreding 'n skorsing of ontheffing uit die amp regverdig, kan die Minister—

(i) die lid van die Nasionale Huis vir 'n tydperk en op voorwaardes deur die Minister bepaal, skors; of

(ii) die lid van die Nasionale Huis van sy of haar amp onthef.

(8) Enige ondersoek ingevolge hierdie item moet ooreenkomstig die bepalings van die "Promotion of Administrative Justice Act, 2000" (Wet No. 3 van 2000), gedoen word.

Verbreking van kode deur 'n lid van 'n provinsiale huis, 'n plaaslike huis of 'n raad

11. (1) Indien 'n provinsiale huis, 'n plaaslike huis of 'n raad, of enige lid van sodanige huis of raad, op redelike gronde, van mening is dat 'n lid van sodanige huis of raad, met uitsondering van die voorsitter, 'n bepaling van hierdie gedragskode verbreek het, moet daardie huis of raad 'n ondersoekkomitee instel—

(a) om enige beweerde verbreking van hierdie gedragskode te ondersoek en 'n bevinding daaroor te maak; en

(b) om aanbevelings aan die tersaaklike huis of raad te doen:

Met dien verstande dat die huis of raad die tersaaklike lid vir die duur van so 'n ondersoek mag skors.

(2) Indien 'n ondersoekkomitee bevind dat 'n lid van 'n provinsiale huis, 'n plaaslike huis of 'n raad 'n bepaling van hierdie gedragskode verbreek het, kan die tersaaklike huis of raad—

(a) 'n formele waarskuwing aan sodanige lid uitreik;

(b) sodanige lid betig;

(c) versoek dat die tersaaklike Premier die lid vir 'n tydperk deur die Premier bepaal, skors; of

(d) versoek dat die Premier die lid uit die amp verwyder.

(3) *(a)* Indien die tersaaklike provinsiale huis, plaaslike huis of raad nie 'n ondersoekende komitee soos in subitem (1) beoog, instel nie, moet die tersaaklike Premier 'n persoon of 'n ondersoekende komitee aanstel om enige beweerde verbreking van 'n bepaling van hierdie gedragskode te ondersoek en om aanbevelings te doen oor 'n gepaste sanksie ingevolge subitem (2): Met dien verstande dat in die geval van 'n beweerde verbreking van die gedragskode van die voorsitter van 'n provinsiale huis, 'n plaaslike huis of 'n raad, die bepalings van hierdie item deur die Premier toegepas moet word: Met dien verstande verder dat die Premier die tersaaklike lid vir die duur van so 'n ondersoek mag skors.

(b) Indien 'n Premier van mening is dat 'n lid van 'n provinsiale huis, 'n plaaslike huis of 'n raad 'n bepaling van hierdie gedragskode verbreek het en dat sodanige oortreding 'n skorsing of ontheffing van amp regverdig, kan die Premier—

(i) 'n formele waarskuwing aan sodanige lid uitreik;

(ii) sodanige lid betig;

(iii) die lid vir 'n tydperk en op voorwaardes wat hy of sy kan bepaal, skors; of

(iv) remove a member from office: Provided that in the case of the chairperson of a council, any such removal from office is subject to the relevant provision of the Act dealing with the withdrawal of recognition of the leadership position concerned.

(4) If a Premier fails to comply with sub-item (3)*(a)*, the Minister must appoint a person or an investigative committee to conduct an investigation as contemplated in sub-item (3)*(a)*, and the provisions of sub-item (3)*(b)* apply with the necessary changes.

(5) The Commissions Act, 1947 (Act No. 8 of 1947), or where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub-item (3).

(6) Any investigation in terms of this item must be conducted in accordance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

This gazette is also available free online at **www.gpwonline.co.za**

(iv) 'n lid van amp onthef: Met dien verstande dat in die geval van die voorsitter van 'n raad, enige sodanige ontheffing van amp onderhewig is aan die tersaaklike bepaling van die Wet wat handel oor die intrekking van erkenning van die betrokke leierskapsposisie.

(4) Indien 'n Premier versuim om aan subitem (3)*(a)* te voldoen, moet die Minister 'n persoon of 'n ondersoekende komitee aanstel om 'n ondersoek te doen soos in subitem (3)*(a)* beoog, en die bepalings van subitem (3)*(b)* is van toepassing met die nodige veranderinge.

(5) Die Kommissiewet, 1947 (Wet No. 8 van 1947), of waar gepas, toepaslike provinsiale wetgewing, kan toegepas word op 'n ondersoek ingevolge subitem (3).

(6) Enige ondersoek ingevolge hierdie item moet ooreenkomstig die bepalings van die ''Promotion of Administrative Justice Act, 2000'' (Wet No. 3 van 2000), gevoer word.

This gazette is also available free online at **www.gpwonline.co.za**

SCHEDULE 2

PART A

OATH BY MEMBERS OF THE NATIONAL HOUSE, PROVINCIAL HOUSES AND LOCAL HOUSES

I, ... (name of member), do swear that I will be faithful to the House and will obey, respect and uphold the Constitution and all other law of the Republic, and I solemnly promise to perform my functions as a member of the House to the best of my ability.

So help me God.

....
Signature of Member
Date:

BYLAE 2

DEEL A

EED DEUR LEDE VAN DIE NASIONALE HUIS, PROVINSIALE HUISE EN PLAASLIKE HUISE

Ek, ... (naam van lid), sweer om aan die Huis getrou te wees en die Grondwet en alle ander wette van die Republiek te gehoorsaam, respekteer en handhaaf, en ek belowe plegtig om my werksaamhede as 'n lid van die Huis tot die beste van my vermoë te verrig.

So help my God.

....
Handtekening van Lid
Datum:

This gazette is also available free online at **www.gpwonline.co.za**

PART B

AFFIRMATION BY MEMBERS OF THE NATIONAL HOUSE, PROVINCIAL HOUSES AND LOCAL HOUSES

I, ... (name of member), do solemnly affirm that I will be faithful to the House and will obey, respect and uphold the Constitution and all other law of the Republic, and I solemnly promise to perform my functions as a member of the House to the best of my ability.

....

Signature of Member

Date:

DEEL B

PLEGTIGE VERKLARING DEUR LEDE VAN DIE NASIONALE HUIS, PROVINSIALE HUISE EN PLAASLIKE HUISE

Ek, ...(naam van lid), verklaar plegtig om aan die Huis getrou te wees en die Grondwet en alle ander wette van die Republiek te gehoorsaam, respekteer en handhaaf, en ek belowe plegtig om my werksaamhede as 'n lid van die Huis tot die beste van my vermoë te verrig.

....
Handtekening van Lid
Datum:

SCHEDULE 3

AMENDMENT OF LEGISLATION

Section 64

Amendment of the Independent Commission for the Remuneration of Public Office-bearers Act, 1997

1. The Independent Commission for the Remuneration of Public Office-bearers Act, 1997 (Act No. 92 of 1997), is hereby amended by the substitution in section 1 for paragraph (*e*) of the definition of **"office-bearer"** with the following paragraph:

"*(e)* any **[member of the National House of Traditional Leaders, any member of any provincial house of traditional leaders or any traditional leader]**

(i) king, queen, principal traditional leader, senior traditional leader, senior Khoi-San leader, headman, headwoman and branch head recognised in accordance with the relevant provisions of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), prior to the repeal of that Act or as contemplated in section 28 of that Act, or recognised in accordance with the relevant provisions of the Traditional and Khoi-San Leadership Act, 2019;

(ii) member of the National House of Traditional and Khoi-San leaders, any provincial house of traditional and Khoi-San leaders and any local house of traditional and Khoi-San leaders established in accordance with the relevant provisions of the Traditional and Khoi-San Leadership Act, 2019 or in accordance with the provisions of any applicable provincial legislation; and

(iii) non-traditional leader member of any kingship or queenship council, principal traditional council, traditional council, traditional sub-council, Khoi-San council or branch established in accordance with the relevant provisions of the Traditional and Khoi-San Leadership Act, 2019 or as contemplated in section 63 of that Act: Provided that in respect of a non-traditional leader member recommendations may be made only in respect of allowances as referred to in section 8(4)*(a)* and *(c)*;".

Amendment of the Remuneration of Public Office Bearers Act, 1998

2. The Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), (hereinafter referred to as the Remuneration Act), is hereby amended by the substitution for the long title of the following long title:

"**To provide for a framework for determining the salaries and allowances of the President, members of the National Assembly, permanent delegates to the National Council of Provinces, Deputy President, Ministers, Deputy Ministers, traditional leaders, Khoi-San leaders, non-traditional leader members of traditional councils, non-traditional leader members of kingship or queenship councils, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of local Houses of Traditional and Khoi-San Leaders, members of provincial houses of Traditional [Leaders] and Khoi-San Leaders and members of the National House of Traditional and Khoi-San Leaders; to provide for a framework for determining the upper limit of salaries and allowances of Premiers, members of Executive Councils, members of provincial legislatures and members of Municipal Councils; to provide for a framework for determining pension and medical aid benefits of office bearers; to provide for the repeal of certain laws; and to provide for matters connected therewith.**".

3. Section 1 of the Remuneration Act is hereby amended—

(a) by the substitution for the definition of **"benefits"** of the following definition:

" **'benefits' [means]** in respect of a traditional leader, Khoi-San leader, non-traditional leader member **[of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional**

BYLAE 3

WYSIGING VAN WETGEWING

Artikel 64

Wysiging van die Wet op die Onafhanklike Kommissie vir die Besoldiging van Openbare Ampsbekleërs, 1997

1. Die Wet op die Onafhanklike Kommissie vir die Besoldiging van Openbare Ampsbekleërs, 1997 (Wet No. 92 van 1997), word hierby gewysig deur in artikel (1) paragraaf *(e)* die omskrywing van **"ampsbekleër"** deur die volgende paragraaf te vervang:

"*(e)* (i) 'n **[lid van die Nasionale Huis van Tradisionele Leiers, 'n lid van enige provinsiale huis van tradisionele leiers of enige tradisionele leier]** koning, koningin, hoof- tradisionele leier, senior- tradisionele leier, senior- Khoi-San-leier, hoofman, hoofvrou en takhoof erken ooreenkomstig die tersaaklike bepalings van die 'Traditional Leadership and Governance Framework Act', 2003 (Wet No. 41 van 2003), voor die herroeping van daardie Wet of soos beoog in artikel 28 van daardie Wet, of erken ooreenkomstig die tersaaklike bepalings van die Wet op Tradisionele en Khoi-San-leierskap, 2019;

(ii) 'n lid van die Nasionale Huis van Tradisionele en Khoi-San-leiers, enige provinsiale huis van tradisionele en Khoi-San-leiers en enige plaaslike huis van tradisionele en Khoi-San-leiers ingestel ooreenkomstig die tersaaklike bepalings van die Wet op Tradisionele en Khoi-San-leierskap, 2019 of ooreenkomstig die bepalings van enige toepaslike provinsiale wetgesing; en

(iii) nietradisionele-leier-lid van enige koningskaps- of koninginskapsraad hoof- tradisionele raad, tradisionele raad, tradisionele subraad, Khoi-San-raad of -tak ingestel ingevolge die tersaaklike bepalings van die Wet op Tradisionele en Khoi-San-leierskap, 2019, of soos in artikel 63 van daardie Wet beoog: Met dien verstande dat ten opsigte van 'n nietradisionele-leier-lid, aanbevelings slegs ten opsigte van toelaes in artikel 8(4)*(a)* en *(c)* bedoel, gemaak kan word.".

Wysiging van die Wet op die Besoldiging van Openbare Ampsbekleërs, 1998

2. Die Wet op die Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van 1998) (hierna die Besoldigingswet genoem), word hierby gewysig deur die lang titel deur die volgende lang titel te vervang:

"**Om voorsiening te maak vir 'n raamwerk vir die bepaling van salarisse en toelaes van die President, lede van die Nasionale Vergadering, vaste afgevaardigdes na die Nasionale Raad van Provinsies, Adjunkpresident, Ministers, Adjunkministers, tradisionele leiers, Khoi-San-leiers, nietradisionele-leier-lede van tradisionele rade, nietradisionele-leier-lede van koningskaps- of koninginskapsrade, nietradisionele-leier-lede van tradisionele subrade, nietradisionele-leier-lede van hoof- tradisionele rade; lede van die plaaslike Huise van Tradisionele [Leiers] en Khoi-San-leiers, lede van die provinsiale Huise van Tradisionele [Leiers] en Khoi-San-leiers en lede van die Nasionale Huis van Tradisionele [Leiers] en Khoi-San-leiers; om voorsiening te maak vir 'n raamwerk vir die bepaling van die boonste perke van salarisse en toelaes van Premiers, lede van Uitvoerende Rade, lede van provinsiale wetgewers en lede van Munisipale Rade; om voorsiening te maak vir 'n raamwerk vir die bepaling van pensioen- en mediese fonds-voordele van ampsbekleërs; om voorsiening te maak vir die herroeping van sekere wette; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**".

3. Artikel 1 van die Besoldigingswet word hierby gewysig—

(a) deur die omskrywing van "ampsbekleër" deur die volgende omskrywing te vervang:

" **'ampsbekleër'** 'n Adjunkpresident, 'n Minister, 'n Adjunkminister, 'n lid van die Nasionale Vergadering, 'n vaste afgevaardigde, 'n Premier, 'n lid van 'n Uitvoerende Raad, 'n lid van 'n provinsiale wetgewer, 'n

CONTINUES ON PAGE 130 - PART 2

Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 653 | Cape Town / Kaapstad | 28 November 2019 | No. 42865

PART 2 OF 2

THE PRESIDENCY	DIE PRESIDENSIE
No. 1550 28 November 2019	No. 1550 28 November 2019
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—	Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—
Act No. 3 of 2019: Traditional and Khoi-San Leadership Act, 2019	Wet No. 3 van 2019: Wet op Tradisionele en Khoi-San-Leierskap, 2019

ISSN 1682-5843

42865

9 771682 584003

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

leader members of principal traditional councils; a member of a kingship or queenship council; non-traditional members of kingship or queenship councils, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders and a member of the National House of Traditional Leaders] and member of a house means those benefits which the President may determine in terms of section 5(3), and in respect of all other office bearers, the contributions contemplated in sections 8(2) and (5) and 9(2) and (5);'';

(b) by the insertion after the definition of **''Executive Council''** of the following definitions:

'' **'Khoi-San leader'** means a Khoi-San leader as defined in section 1 of the Traditional and Khoi-San Leadership Act, 2019;

'member of a house' means a member of the National House of Traditional and Khoi-San Leaders, a provincial house of traditional and Khoi-San leaders and a local house of traditional and Khoi-San leaders as established in accordance with the relevant provisions of the Traditional and Khoi-San Leadership Act, 2019 or any applicable provincial legislation;'';

(c) by the insertion after the definition of **''Minister''** of the following definition:

'' **'non-traditional leader member'** means a non-traditional leader member of any kingship or queenship council, principal traditional council, traditional council, traditional sub-council, Khoi-San council or branch established in accordance with the relevant provisions of the Traditional and Khoi-San Leadership Act, 2019;'';

(d) by the substitution for the definition of **''office bearer''** of the following definition:

'' 'office bearer' means a Deputy President, a Minister, a Deputy Minister, a member of the National Assembly, a permanent delegate, a Premier, a member of an Executive Council, a member of a provincial legislature, a traditional leader, a Khoi-San leader, a non-traditional leader member **[of a traditional council, a member of a kingship or queenship council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders, a member of the National House of Traditional Leaders]**, a member of a house and a member of a Municipal Council;''; and

(e) by the substitution for the definition of **''traditional leader''** of the following definition:

'' **'traditional leader'** means a traditional leader as defined in section 1 of the Traditional **[Leadership and Governance Framework Act, 2003]** and Khoi-San Leadership Act, 2019.''.

4. The following section is hereby substituted for section 5 of the Remuneration Act, 1998:

''Salaries, allowances and benefits of traditional leaders, Khoi-San leaders, non-traditional leader members [of traditional councils, members of kingship or queenship councils, members of local Houses of Traditional Leaders, members of provincial houses of Traditional Leaders and members of National House of Traditional Leaders] and members of houses

5. (1) Traditional leaders, Khoi-San leaders, non-traditional leader members **[of any traditional council, non-traditional leader members of any kingship or queenship council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of any local House of Traditional Leaders, members of any provincial house of Traditional Leaders and members of the National House of Traditional Leaders]** and members of houses shall, despite anything to the contrary in any other law contained, be entitled to such salaries and allowances as may from time to time be determined by the President after consultation with the Premier concerned by proclamation in the *Gazette*, after taking into consideration—

(a) any recommendations of the Commission;

tradisionele leier, **['n lid van 'n plaaslike Huis van Tradisionele Leiers, 'n lid van 'n provinsiale Huis van Tradisionele Leiers, 'n lid van die Nasionale Huis van Tradisionele Leiers]** 'n Khoi-San-leier, 'n nietradisionele-leier-lid, 'n lid van 'n huis en 'n lid van 'n Munisipale Raad;'';

(b) deur die volgende omskrywing na die omskrywing van ''die Grondwet'' in te voeg:

'' **'Khoi-San-leier'** 'n Khoi-San-leier soos omskryf in artikel 1 van die Wet op Tradisionele en Khoi-San-leierskap, 2019;'';

(c) deur die volgende omskrywing na die omskrywing van ''Minister'' in te voeg:

'' **'nietradisionele-leier-lid'** 'n nietradisionele-leier-lid van enige koningskaps- of koninginskapsraad, hoof- tradisionele raad, tradisionele raad, tradisionele subraad, Khoi-San-raad of -tak ingevolge die tersaaklike bepalings van die Wet op Tradisionele en Khoi-San-leierskap, 2019, ingestel, wat nie 'n tradisionele leier is nie;'';

(d) deur die omskrywing van ''tradisionele leier'' deur die volgende omskrywing te vervang:

'' **'tradisionele leier'** 'n tradisionele leier soos omskryf in artikel 1 van die **[''Traditional Leadership and Governance Framework Act, 2003'']** Wet op Tradisionele en Khoi-San-leierskap, 2019.''.

(e) deur die omskrywing van ''toelaes'' deur die volgende omskrywing te vervang:

'' **'voordele'** met betrekking tot 'n tradisionele leier, **['n lid van plaaslike Huis van Tradisionele Leiers, 'n lid van 'n provinsiale Huis van Tradisionele Leiers en 'n lid van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leier, nietradisionele-leier-lid en lid van 'n huis daardie voordele wat die President ingevolge artikel 5(3) mag bepaal, en met betrekking tot alle ander ampsbekleërs, die bydraes in artikels 8(2) en (5) en 9(2) en (5) beoog;''; en

4. Artikel 5 van die Besoldigingswet, 1998, word hierby deur die volgende artikel vervang:

''**Salarisse, toelaes en voordele van tradisionele leiers, [lede van plaaslike Huise van Tradisionele Leiers, lede van provinsiale Huise van Tradisionele Leiers en lede van Nasionale Huis van Tradisionele Leiers] Khoi-San-leiers, nietradisionele-leier-lede en lede van huise**

5. (1) Tradisionele Leiers, **[lede van die plaaslike Huise van Tradisionele Leiers, lede van die provinsiale Huise van Tradisionele Leiers en lede van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leiers, nietradisionele-leier-lede en lede van huise is, ondanks enige andersluidende bepalings in enige wet vervat, geregtig op die salarisse en toelaes wat die President na oorleg met die betrokke Premier van tyd tot tyd by proklamasie in die *Staatskoerant* bepaal, na oorweging van—

(a) enige aanbevelings van die Kommissie;

(b) the role, status, duties, functions and responsibilities of different categories of traditional leaders, Khoi-San leaders, non-traditional leader members **[of traditional councils, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of kingship or queenship councils, non-traditional members of kingship or queenship councils, different members of the local Houses of Traditional Leaders, different members of the Houses of Traditional Leaders in the various provinces and different members of the National House of Traditional Leaders]** and different members of houses;

(c) the affordability of different levels of remuneration of public office bearers;

(d) the current principles and levels of remuneration in society generally;

(e) the need for the promotion of equality and uniformity of salaries and allowances for equal work performed;

(f) the enhancement of co-operation, unity and understanding between traditional communities and Khoi-San communities nationally;

(g) the extent of the role and functions of traditional leaders and Khoi-San leaders across provincial borders; and

(h) inflationary increases.

(2) Despite the provisions of subsection (1), a traditional leader, a Khoi-San leader, a non-traditional leader member **[of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils, a member of a kingship or queenship council, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders or a member of the National House of Traditional Leaders]** and a member of a house who holds different public offices simultaneously, is only entitled to the salary, allowances and benefits of the public office for which he or she earns the highest income, but—

(a) this subsection shall not preclude the payment of out of pocket expenses for the performance of functions other than those for which such office bearer receives such highest income; and

(b) where only an allowance has been determined in terms of subsection (1) in respect of a traditional or Khoi-San leader's membership of a local House of Traditional and Khoi-San Leaders, a provincial house of Traditional and Khoi-San Leaders or the National House of Traditional and Khoi-San Leaders, such a traditional leader or Khoi-San leader shall be entitled to such an allowance in addition to his or her salary, allowances and benefits as a traditional leader or Khoi-San leader.

(3) *(a)* The President may, if he or she deems it expedient after consultation with the Minister and the Premier concerned, by proclamation in the *Gazette* determine any benefits to which a traditional leader, a Khoi-San leader, a non-traditional leader member **[of a traditional council, a member of a kingship or queenship council, non-traditional leader members of kingship or queenship councils, a member of any local House of Traditional Leaders, a member of any provincial house of Traditional Leaders or a member of the National House of Traditional Leaders]** or a member of a house shall be entitled, subject to such conditions as the President may prescribe.

(b) If the President decides to determine such benefits, the criteria listed in paragraphs *(a)* to *(h)* of subsection (1) shall be applicable, with the necessary changes.

(4) The amount payable in respect of salaries, allowances and benefits to traditional leaders, Khoi-San leaders, non-traditional leader members **[of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils, members of a kingship or queenship council, non-traditional leader members of kingship or queenship councils; members of local houses of Traditional Leaders, members of provincial houses of Traditional Leaders and members of the National House of Traditional Leaders]** and members of houses shall be paid from monies appropriated for that purpose by Parliament in respect of the National House of Traditional and Khoi-San Leaders and by a provincial legislature in respect of traditional leaders, Khoi-San leaders, non-traditional leader members **[of traditional councils, the members of kingship or queenship councils, non-traditional leader members of kingship or queenship councils]**, members of local houses of Traditional and Khoi-San Leaders and members of provincial houses of Traditional and Khoi-San Leaders, as the case may be.

(b) die rol, status, pligte, werksaamhede en verantwoordelikhede van die verskillende kategorieë tradisionele leiers, **[verskillende lede van die plaaslike Huise van Tradisionele Leiers, verskillende lede van die Huise van Tradisionele Leiers in die onderskeie provinsies en verskillende lede van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leiers, nietradisionele-leier-lede en verskillende lede van huise;

(c) die bekostigbaarheid van verskillende vlakke van besoldiging van politieke ampsbekleërs;

(d) heersende beginsels en vlakke van besoldiging in die algemeen in die samelewing;

(e) die noodsaaklikheid vir die bevordering van gelykheid en eenvormigheid van salarisse en toelaes vir gelykstaande diens verrig;

(f) die bevordering van samewerking, eenheid en begrip tussen tradisionele gemeenskappe en Khoi-San-gemeenskappe op nasionale vlak;

(g) die omvang van die rol en werksaamhede van tradisionele leiers en Khoi-San-leiers oor provinsiale grense heen; en

(h) inflasieverhogings.

(2) Ondanks die bepalings van subartikel (1) is ’n tradisionele leier, ’n **[lid van ’n plaaslike Huis van Tradisionele Leiers, ’n lid van ’n provinsiale Huis van Tradisionele Leiers of ’n lid van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leier, ’n nietradisionele-leier-lid en ’n lid van ’n huis wat verskillende openbare ampte gelyktydig beklee, slegs geregtig op die salaris, toelaes en voordele van die openbare amp waarvoor hy of sy die hoogste besoldiging verdien, maar—

(a) hierdie subartikel sluit nie die betaling van klein uitgawes vir die verrigting van ander werksaamhede as daardie waarvoor sodanige ampsbekleër sodanige hoogste besoldiging ontvang, uit nie; en

(b) waar slegs ’n toelae ingevolge subartikel (1) vasgestel is met betrekking tot ’n tradisionele leier of Khoi-San-leier se lidmaatskap van ’n plaaslike Huis van Tradisionele **[Leiers]** en Khoi-San-leiers, ’n provinsiale Huis van Tradisionele **[Leiers]** en Khoi-San-leiers of die nasionale Huis van Tradisionele **[Leiers]** en Khoi-San-leiers, is sodanige tradisionele leier Khoi-San-leier, bykomend tot sy of haar salaris, toelaes en voordele as ’n tradisionele leier of Khoi-San-leier, geregtig op sodanige toelae.

(3) *(a)* Die President kan, indien hy of sy dit na oorleg met die Minister en die betrokke premier wenslik ag, by proklamasie in die *Staatskoerant* voordele bepaal waarop ’n tradisionele leier, ’n **[lid van ’n plaaslike Huis van Tradisionele Leiers, ’n lid van ’n Provinsiale Huis van Tradisionele Leiers of ’n lid van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leier, ’n nietradisionele-leier-lid en ’n lid van ’n huis geregtig is, behoudens sodanige voorwaardes as wat die President mag bepaal.

(b) Indien die President besluit om sodanige voordele te bepaal, is die maatstawwe gelys in paragrawe *(a)* tot *(h)* van subartikel (1), met die nodige aanpassings van toepassing.

(4) Die bedrag betaalbaar ten opsigte van salarisse, toelaes en voordele aan tradisionele leiers, **[lede van die plaaslike Huise van Tradisionele Leiers, lede van die provinsiale Huis van Tradisionele Leiers en lede van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leiers, nietradisionele-leier-lede en lede van huise word betaal uit fondse wat vir dié doel, in die geval van die Nasionale Huis van Tradisionele **[Leiers]** en Khoi-San-leiers, deur die Parlement, en in die geval van tradisionele leiers, Khoi-San-leiers, nietradisionele-leier-lede en lede van huise, lede van die plaaslike Huise van Tradisionele Leiers en Khoi-San-leiers en lede van die provinsiale Huise van Tradisionele Leiers en Khoi-San-leiers, na gelang van die geval, deur ’n provinsiale wetgewer, bewillig is.

(5) . . .

(6) Despite the provisions of subsection (1), a member of the National House of Traditional and Khoi-San Leaders shall be entitled to an allowance as determined by the President by proclamation in the *Gazette* for actual work performed with effect from 10 April 1997 until a determination is made in terms of subsection (1).''.

5. Section 8 of the Remuneration Act, 1998, is hereby amended by the substitution for subsection (6) of the following subsection:

''(6) The provisions of this section shall, subject to section 5(3), not apply to a traditional leader, a Khoi-San leader, a non-traditional leader member **[of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils, a member of a kingship or queenship council, non-traditional leader members of kingship or queenship councils, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders and a member of the National House of Traditional Leaders]** or a member of a house.''.

6. Section 9 of the Remuneration Act, 1998, is hereby amended by the substitution for subsection (6) of the following subsection:

''(6) The provisions of this section shall, subject to section 5(3), not apply to a traditional leader, a Khoi-San leader, a non-traditional leader member **[of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a kingship or queenship council, non-traditional leader members of kingship or queenship councils, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders and a member of the National House of Traditional Leaders]** or a member of a house.''.

Amendment of the Local Government: Municipal Structures Act, 1998

7. (1) The Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), is hereby amended by the substitution for section 81 of the following section:

Participation of traditional and Khoi-San leaders in municipal councils

''**81.** (1) In this section, unless the context indicates otherwise—

(a) **''branch''** means a branch of a Khoi-San community recognised as such in terms of section 5(5) of the TKLA;

(b) **''Khoi-San council''** means a Khoi-San council established for a recognised Khoi-San community in accordance with the provisions of section 18 of the TKLA;

(c) **''TKLA''** means the Traditional and Khoi-San Leadership Act, 2019;

(d) **''local house''** means a local house of traditional and Khoi-San leaders as contemplated in section 50 of the TKLA;

(e) **''MEC''** means the member of the Executive Council responsible for local government matters in a particular province;

(f) **''participating leader''** means the chairperson of a local house, the member or members elected by such local house as contemplated in subsection (2)*(a)* and *(b)*, and the person or persons nominated as contemplated in subsection (2)*(c)*;

(g) **''traditional council''** means a traditional council established for a recognised traditional community in accordance with the provisions of section 16 of the TKLA;

(h) **''traditional sub-council''** means a traditional sub-council as contemplated in section 17 of the TKLA.

(2) *(a)* Where a local house has been established for the area of jurisdiction of a local or metropolitan municipality, the chairperson of such local house and two other members elected by such local house may participate in the proceedings of the council of such local or metropolitan municipality.

(5) . . .

(6) Ondanks die bepalings van subartikel (1), is 'n lid van die Nasionale Huis van Tradisionele **[Leiers]** en Khoi-San-leiers met ingang van 10 April 1997, totdat 'n bepaling ingevolge subartikel (1) gemaak is, geregtig op 'n toelae soos deur die President by proklamasie in die *Staatskoerant* bepaal vir werklike pligte verrig.''.

5. Artikel 8 van die Besoldigingswet, 1998, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

''(6) Die bepalings van hierdie artikel is, behoudens artikel 5(3), nie van toepassing op 'n tradisionele leier, 'n **[lid van 'n plaaslike Huis van Tradisionele Leiers, 'n lid van 'n provinsiale Huis van Tradisionele Leiers en 'n lid van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leier, 'n nietradisionele-leier-lid of 'n lid van 'n huis nie.''.

6. Artikel 9 van die Wet op Besoldiging, 1998, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

''(6) Die bepalings van hierdie artikel is, behoudens artikel 5(3), nie van toepassing op 'n tradisionele leier, 'n **[lid van 'n plaaslike Huis van Tradisionele Leiers, 'n lid van 'n provinsiale Huis van Tradisionele Leiers en 'n lid van die Nasionale Huis van Tradisionele Leiers]** Khoi-San-leier, 'n nietradisionele-leier-lid of 'n lid van 'n huis nie.''.

Wysiging van die Wet op Plaaslike Regering: Munisipale Strukture, 1998

7. (1) Die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), word hierby gewysig deur artikel 81 deur die volgende artikel te vervang:

''**Deelname van tradisionele en Khoi-San-leiers aan munisipale rade**

81. (1) In hierdie artikel, tensy die samehang anders aandui, beteken—

(a) **'deelnemende leier'** die voorsitter van 'n plaaslike huis, die lid of lede verkies deur sodanige plaaslike huis soos beoog in subartikel (2)*(a)* en *(b)*, en die persoon of persone benoem soos in subartikel (2)*(c)* beoog;

(b) **'Khoi-San-raad'** 'n Khoi-San-raad ingestel vir 'n erkende Khoi-San-gemeenskap ooreenkomstig die bepalings van artikel 18 van die TKL-wet;

(c) **'LUR'** die lid van die Uitvoerende Raad verantwoordelik vir plaaslike regeringsaangeleenthede in 'n bepaalde provinsie;

(d) **'plaaslike huis'** 'n plaaslike huis van tradisionele en Khoi-San-leiers soos beoog in artikel 50 van die TKL-wet;

(e) **'tak'** 'n tak van 'n Khoi-San-gemeenskap ingevolge artikel 5(5) van die TKL-wet as sodanig erken;

(f) **'TKL-wet'** die Wet op Tradisionele en Khoi-San-leierskap, 2019;

(g) **''tradisionele raad''** 'n tradisionele raad ingestel vir 'n erkende tradisionele gemeenskap ooreenkomstig die bepalings van artikel 16 van die TKL-wet;

(h) **''tradisionele subraad''** 'n tradisionele subraad soos beoog in artikel 17 van die TKL-wet.

(2) *(a)* Waar 'n plaaslike huis vir die regsgebied van 'n plaaslike of metropolitaanse munisipaliteit ingestel is, kan die voorsitter van sodanige plaaslike huis en twee ander lede deur sodanige plaaslike huis verkies, aan die verrigtinge van die raad van sodanige plaaslike of metropolitaanse munisipaliteit deelneem.

This gazette is also available free online at www.gpwonline.co.za

(b) Where a local house has been established for the area of jurisdiction of a district municipality—

(i) the chairperson of the local house and two members elected by such local house may participate in the proceedings of the council of that district municipality; and

(ii) the local house may, in respect of each local municipality falling within the area of jurisdiction of the district municipality, elect at least one but not more than two members to participate in the proceedings of the councils of such local municipalities: Provided that the chairperson and members of the local house contemplated in subparagraph (i) may not be considered for the purposes of this subparagraph: Provided further that the person or persons to be elected for the purposes of this subparagraph must be residing within the area of jurisdiction of such local municipality.

(c) Where there are no local houses within the areas of jurisdiction of any local, district or metropolitan municipality, but there are traditional councils and Khoi-San councils—

(i) the MEC must hold a consultative meeting with all the recognised senior traditional leaders and recognised senior Khoi-San leaders falling within the area of jurisdiction of the particular municipality; and

(ii) the senior traditional leaders and senior Khoi-San leaders present at such meeting must, from amongst themselves—

(aa) nominate one person in respect of each such municipality to participate in the proceedings of that municipality; and

(bb) nominate one person in respect of each such municipality who will fill any vacancy of the position of participating leader which may occur:

Provided that if consensus cannot be reached on the participating leader or the person to fill a vacancy, the leaders must vote for nominated candidates in any manner deemed appropriate by the MEC.

(d) At least a third of the total number of members elected or nominated in terms of paragraph *(a)*, *(b)* or *(c)* must be women.

(e) The chairperson of a local house must, within two weeks from the date of any election contemplated in paragraph *(a)* or *(b)*, provide the MEC with the full names and surname, identity number and contact details of himself or herself and all elected persons.

(f) The MEC must, in respect of each chairperson and elected or nominated person as contemplated in this subsection, submit to the relevant local, district or metropolitan municipality the information contemplated in paragraph *(e)*.

(g) The election and nomination of participating leaders as contemplated in paragraphs *(a)*, *(b)* and *(c)* must commence at least one month prior to the date of election of a municipal council and must be completed prior to such date: Provided that the MEC may determine a longer period which may not be longer than one month after the date of election of the specific municipal council.

(3) *(a)* A person may not be a participating leader if he or she—

(i) is under the age of 18;

(ii) is not a South African citizen;

(iii) is not a recognised senior traditional leader or recognised senior Khoi-San leader as provided for in the TKLA;

(iv) has been convicted of an offence and is sentenced to imprisonment for more than 12 months without the option of a fine;

(v) is impaired to the extent that he or she cannot participate in the proceedings of the municipal council;

(vi) is an unrehabilitated insolvent or has entered into a compromise with his or her creditors;

(vii) is of unsound mind and has been so declared by a competent court;

(viii) is an elected councillor of a municipal council;

(ix) is a member of a provincial legislature;

(b) Waar 'n plaaslike huis vir die regsgebied van 'n distriksmunisipaliteit ingestel is—

(i) kan die voorsitter van die plaaslike huis en twee lede deur die plaaslike huis verkies, aan die verrigtinge van die raad van daardie distriksmunisipaliteit deelneem; en

(ii) kan die plaaslike huis, ten opsigte van 'n plaaslike munisipaliteit wat binne die regsgebied van die distriksmunisipaliteit val, minstens een maar hoogstens twee lede verkies om aan die verrigtinge van die rade van die plaaslike munisipaliteite deel te neem: Met dien verstande dat die voorsitter en lede van die plaaslike huis in subparagraaf (i) beoog, nie vir die toepassing van hierdie subparagraaf oorweeg mag word nie: Met dien verstande verder dat die persoon of persone wat vir die toepassing van hierdie subparagraaf verkies word, binne die regsgebied van sodanige plaaslike munisipaliteit moet woon.

(c) Waar daar geen plaaslike huise binne die regsgebied van enige plaaslike, distriks- of metropolitaanse munisipaliteit is nie, maar daar tradisionele rade en Khoi-San-rade is—

(i) moet die LUR 'n oorlegsvergadering met al die erkende senior-tradisionele leiers en erkende Khoi-San-leiers hou wat in die regsgebied van die bepaalde munisipaliteit val; en

(ii) die senior- tradisionele leiers en senior- Khoi-San-leiers teenwoordig by so 'n vergadering moet, uit eie geledere—

(aa) een persoon ten opsigte van so 'n munisipaliteit benoem om aan die verrigtinge van daardie munisipaliteit deel te neem; en

(bb) een persoon benoem ten opsigte van elke sodanige munisipaliteit om aan die verrigtinge van daardie munisipaliteit wat enige vakature vir die posisie van deelnemende leier wat kan ontstaan, sal vul:

Met dien verstande dat indien ooreenstemming nie bereik kan word oor die deelnemende leier of die persoon om 'n vakature te vul nie, moet die leiers op enige wyse deur die LUR toepaslik bepaal, vir benoemde kandidate stem.

(d) Ten minste 'n derde van die totale getal lede ingevolge paragraaf *(a)*, *(b)* of *(c)* verkies of benoem, moet vroue wees.

(e) Die voorsitter van 'n plaaslike huis moet, binne twee weke vanaf die datum van enige verkiesing in paragraaf *(a)* of *(b)* beoog, die LUR voorsien van die volle name en van, identiteitsnommer en kontakbesonderhede van homself of haarself en alle verkose persone.

(f) Die LUR moet, ten opsigte van elke voorsitter en verkose of benoemde persoon soos in hierdie subartikel beoog, die inligting in paragraaf *(e)* beoog aan die tersaaklike plaaslike, distriks- of metropolitaanse munisipaliteit voorlê.

(g) Die verkiesing en benoeming van deelnemende leiers soos in paragrawe *(a)*, *(b)* en *(c)* beoog, moet ten minste een maand voor die datum van verkiesing van 'n munisipale raad begin en moet voor sodanige datum afgehandel wees: Met dien verstande dat die LUR 'n langer tydperk mag bepaal wat nie langer as een maand na die datum van die verkiesing van die bepaalde munisipale raad mag wees nie.

(3) *(a)* 'n Persoon mag nie 'n deelnemende leier wees nie as hy of sy—

(i) onder die ouderdom van 18 is;

(ii) nie 'n Suid-Afrikaanse burger is nie;

(iii) nie 'n erkende senior- tradisionele leier of erkende senior- Khoi-San-leier is soos in die TKL-wet voor voorsiening gemaak nie;

(iv) aan 'n misdryf skuldig bevind is en tot gevangenisstraf vir meer as 12 maande sonder die opsie van 'n boete gevonnis is;

(v) tot so 'n mate verswak is dat hy of sy nie aan die verrigtinge van die munisipale raad kan deelneem nie;

(vi) 'n ongerehabiliteerde insolvent is of 'n kompromis met sy of haar skuldeisers aangegaan het;

(vii) verstandelik onbevoeg is en deur 'n bevoegde hof as sodanig verklaar is;

(viii) 'n verkose raadslid van 'n munisipale raad is;

(ix) 'n lid van 'n provinsiale wetgewer is;

(x) is a member of the National Assembly;

(xi) is a permanent delegate in the National Council of Provinces; or

(xii) is a full-time member of any house of traditional and Khoi-San leaders.

(b) A participating leader may no longer participate in the proceedings of a municipal council if—

(i) any of the circumstances referred to in subparagraphs (ii) to (xii) of paragraph *(a)* becomes applicable to such participating leader; or

(ii) he or she tenders his or her resignation as participating leader.

(c) A participating leader may not be elected or nominated for participation in the councils of more than one category of municipality.

(d) The death of a participating leader or any of the circumstances referred to in paragraph *(b)* will result in a vacancy of the position of participating leader which vacancy must be filled in accordance with the provisions of subsection (2)*(a)*, *(b)* or *(c)*, as the case may be, and subject to subsection (2)*(d)*, *(e)* and *(f)*.

(4) A participating leader may participate in the proceedings of the local, district or metropolitan municipality, as the case may be, and—

(a) must perform such official or ceremonial duties as the municipal council may request him or her to do;

(b) must attend and participate in any meeting of the municipal council and may, subject to the rules and orders of the municipal council, submit motions, make proposals and ask questions: Provided that the non-attendance or non-participation of any participating leader will have no effect on any municipal council proceedings;

(c) must attend and participate in any meetings of a committee of the relevant municipal council to which such leader has been co-opted in terms of section 79(2)*(d)* of this Act;

(d) is subject to the appropriate provisions of the Code of Conduct contained in Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and the standing rules and orders of the relevant municipality;

(e) is not entitled to vote in any meeting of the municipal council or council committee and cannot be included for the purpose of establishing a quorum in the municipal council or council committee; and

(f) may address the municipal council on—

(i) any matter directly or indirectly affecting traditional or Khoi-San leadership or the relevant traditional or Khoi-San council or community; or

(ii) any other matter involving traditional or Khoi-San communities in the area of jurisdiction of the relevant municipal council.

(5) A participating leader—

(a) may participate in the proceedings of the specific municipal council for the duration of the term of such council as contemplated in section 24 of this Act;

(b) may not serve consecutive terms: Provided that if there are no other recognised senior traditional leaders or recognised senior Khoi-San leaders available to be considered for election or nomination as contemplated in subsection (2) when a new municipal council is elected, a participating leader who has previously been elected or nominated may serve consecutive terms;

(c) may not request any other person to participate in the proceedings of a municipal council on his or her behalf.

(6) A participating leader must, within three weeks from the date of a municipal council meeting, prepare a report on all matters affecting the relevant traditional and Khoi-San communities, as discussed and decided on by such municipal council, and submit the report to the local house and traditional and Khoi-San councils falling within the area of jurisdiction of such municipality: Provided that where more than one participating leader participate in the proceedings of any municipal council, such leaders must,

(x) ’n lid van die Nasionale Vergadering is;

(xi) ’n permanente afgevaardigde in die Nasionale Raad van Provinsies is; of

(xii) ’n heeltydse lid van enige huis van tradisionele en Khoi-San-leiers is.

(b) ’n Deelnemende leier mag nie meer aan die verrigtinge van ’n munisipale raad deelneem nie indien—

(i) enige van die omstandighede in subparagrawe (ii) tot (xii) van paragraaf *(a)* bedoel, op sodanige deelnemende leier van toepassing word; of

(ii) hy of sy as ’n deelnemende leier bedank.

(c) ’n Deelnemende leier mag nie verkies of benoem word vir deelname in die rade van meer as een kategorie van munisipaliteit nie.

(d) Die afsterwe van ’n deelnemende leier of enige van die omstandighede in paragraaf *(b)* bedoel sal ’n vakante pos vir ’n deelnemende leier tot gevolg hê, welke vakature ooreenkomstig die bepalings van subartikel (2)*(a)*, *(b)* of *(c)*, na gelang van die geval, gevul moet word, en onderhewig aan subartikel (2)*(d)*, *(e)* en *(f)*.

(4) ’n Deelnemende leier mag aan die verrigtinge van die plaaslike, distriks- of metropolitaanse munisipaliteit, na gelang van die geval, deelneem, en—

(a) moet sodanige amptelike of seremoniële pligte verrig wat die munisipale raad kan versoek dat hy of sy verrig;

(b) moet enige vergadering van die munisipale raad bywoon en daaraan deelneem en mag, behoudens die reëls en bevele van die munisipale raad, voorstelle maak en vrae vra: Met dien verstande dat die niebywoning of niedeelname van enige deelnemende leier geen uitwerking op enige verrigtinge van ’n munisipale raad sal hê nie;

(c) moet enige vergaderings van ’n komitee van die tersaaklike munisipale raad waartoe die leier ingevolge artikel 79(2)*(d)* van hierdie Wet gekoöpteer is, bywoon en daaraan deelneem.

(d) is onderhewig aan die toepaslike bepalings van die Gedragskode in Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), en die staande reëls en bevele van die tersaaklike munisipaliteit;

(e) het nie die reg om te stem by enige vergadering van die munisipale raad of raadskomitee nie en kan nie ingesluit word met die doel om ’n kworum daar te stel in die munisipale raad of raadskomitee nie; en

(f) mag die munisipale raad toespreek oor—

(i) enige aangeleentheid wat tradisionele of Khoi-San-leierskap of die tersaaklike tradisionele of Khoi-San-raad of -gemeenskap regstreeks of onregstreeks raak; of

(ii) enige ander aangeleentheid wat tradisionele of Khoi-San-gemeenskappe in die regsgebied van die tersaaklike munisipale raad raak.

(5) ’n Deelnemende leier—

(a) mag aan die verrigtinge van die bepaalde munisipale raad deelneem vir die duur van die termyn van die raad soos in artikel 24 van hierdie Wet beoog;

(b) mag nie opeenvolgende termyne dien nie: Met dien verstande dat indien daar geen ander erkende senior- tradisionele leiers of erkende senior- Khoi-San-leiers beskikbaar is om vir verkiesing of benoeming oorweeg te word soos in subartikel (2) beoog wanneer ’n nuwe munisipale raad verkies word nie, ’n deelnemende leier wat voorheen verkies of benoem is opeenvolgende termyne mag dien;

(c) mag nie iemand anders vra om namens hom of haar aan die verrigtinge van ’n munisipale raad deel te neem nie,

(6) ’n Deelnemende leier moet, binne drie weke vanaf die datum van ’n munisipale vergadering, ’n verslag voorberei oor alle aangeleenthede wat die tersaaklike tradisionele en Khoi-San-gemeenskappe raak, soos bespreek en op besluit deur sodanige munisipale raad, en die verslag aan die plaaslike huis en Khoi-San-rade voorlê wat in die regsgebied van sodanige munisipaliteit val: Met dien verstande dat waar meer as een deelnemende leier aan die verrigtinge van enige munisipale raad deelneem, sodanige

within two weeks from the date of a municipal council meeting, meet to prepare the report referred to in this subsection.

(7) A committee of a municipal council as referred to in subsection (4)*(c)*, may invite any recognised traditional leader or any recognised Khoi-San leader other than a participating leader, to address such committee on any matter affecting the relevant traditional or Khoi-San community or communities.

(8) A participating leader must act in an impartial manner and must—

(a) support municipal councils in the identification of the specific needs of the traditional and Khoi-San communities falling within the area of the municipality;

(b) facilitate the involvement of the traditional and Khoi-San communities in the development or amendment of the integrated development plan of the relevant municipality;

(c) support the relevant municipality in promoting integrated local economic development and planning;

(d) facilitate the participation of the relevant traditional and Khoi-San communities in any affairs of the municipality that requires or allows for public participation, including the affairs of ward committees;

(e) make recommendations and propose appropriate interventions in respect of service delivery within the defined areas of jurisdiction of the relevant traditional councils;

(f) participate in the development of policy and by-laws at a municipal level;

(g) participate in relevant development programmes of the municipality;

(h) promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;

(i) promote indigenous knowledge systems;

(j) participate and ensure the participation of traditional and Khoi-San communities in any environmental programmes of the municipality;

(k) alert the municipality to any current or threatening hazard or calamity which affects or may affect the municipal area;

(l) support the relevant municipality with the implementation of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), as far as that Act makes provision for the involvement of traditional leadership or structures,

and may advise the relevant municipal council on matters concerning the heritage, language, customs and traditions of the relevant traditional and Khoi-San communities.

(9) The councillors of a municipal council and the participating leaders must—

(a) recognise and respect each other's status and roles within the affairs of the municipality;

(b) recognise and respect the local sphere of government as a distinctive, interdependent and interrelated sphere of government as contemplated in the Constitution; and

(c) co-operate with one another in mutual trust and good faith by—

  (i) fostering sound working relations with one another; and

  (ii) assisting and supporting one another in the execution of their roles and responsibilities.

(10) *(a)* In the event of any breach of, or non-compliance with, the applicable provisions of the Code of Conduct contained in Schedule 1 to the Local Government: Municipal Systems Act, 2000, by any participating leader, the municipal council concerned must forthwith inform the—

(i) relevant provincial house of traditional and Khoi-San leaders, if any such house has been established;

(ii) local houses of traditional and Khoi-San leaders within the area of the municipality, if any such houses have been established; and

(iii) traditional councils and Khoi-San councils within the area of the municipality,

of the nature of the alleged breach.

leiers binne twee weke vanaf die datum van 'n munisipale raadsvergadering moet vergader om die verslag in hierdie subartikel bedoel, voor te berei.

(7) 'n Komitee van 'n munisipale raad soos in subartikel (4)*(c)* bedoel, kan enige erkende tradisionele leier of enige erkende Khoi-San-leier behalwe 'n deelnemende leier, nooi om die komitee toe te spreek oor enige aangeleentheid wat die tersaaklike tradisionele of Khoi-San-gemeenskap of -gemeenskappe raak.

(8) 'n Deelnemende leier moet op 'n onpartydige wyse optree en moet—

(a) munisipale rade ondersteun in die identifikasie van die bepaalde behoeftes van die tradisionele en Khoi-San-gemeenskappe wat in die munisipaliteit se gebied is;

(b) die betrokkenheid van die tradisionele en Khoi-San-gemeenskappe in die ontwikkeling of wysiging van die geïntegreerde ontwikkelingsplan van die tersaaklike munisipaliteit fasiliteer;

(c) die tersaaklike munisipaliteit ondersteun in die bevordering van geïntegreerde plaaslike ekonomiese ontwikkeling en beplanning;

(d) die deelname fasiliteer van die tersaaklike tradisionele en Khoi-San-gemeenskappe in enige aangeleenthede van die munisipaliteit wat publieke deelname vereis of toelaat, met inbegrip van die aangeleenthede van wykskomitees;

(e) aanbevelings doen en gepaste intervensies voorstel ten opsigte van dienslewering binne die omskrewe regsgebiede van die tersaaklike tradisionele rade;

(f) deelneem in die ontwikkeling van beleid en verordenings op 'n munisipale vlak;

(g) deelneem aan tersaaklike ontwikkelingsprogramme van die munisipaliteit;

(h) die ideale van samewerkende regering, geïntegreerde ontwikkelingsbeplanning, volhoubare ontwikkeling en dienslewering bevorder;

(i) inheemse kennisstelsels bevorder;

(j) deelneem aan en verseker dat tradisionele en Khoi-San-gemeenskappe deelneem aan enige omgewingsprogramme van die munisipaliteit;

(k) die munisipaliteit bewus maak van enige huidige of dreigende gevaar of rampspoed wat die munisipale gebied raak of kan raak;

(l) die tersaaklike munisipaliteit ondersteun in die instelling van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet No. 16 van 2013), vir sover daardie Wet vir die betrokkenheid van tradisionele leierskap of strukture voorsiening maak,

en mag die tersaaklike munisipale raad van raad bedien oor aangeleenthede wat die erfenis, taal, gebruike en tradisies van die tersaaklike tradisionele en Khoi-San-gemeenskappe aangaan.

(9) Die raadslede van 'n munisipale raad en die deelnemende leiers moet—

(a) mekaar se status en rolle in die aangeleenthede van die munisipaliteit erken en respekteer;

(b) die plaaslike regeringsfeer erken en respekteer as 'n onderskeidende, onderling afhanklike en verbandhoudende regeringsfeer soos in die Grondwet beoog; en

(c) met mekaar saamwerk in wedersydse vertroue en goeie trou deur—

(i) goeie werksverhoudings met mekaar te kweek; en

(ii) mekaar in die uitvoering van hul rolle en verantwoordelikhede by te staan en te ondersteun.

(10) *(a)* In die geval van enige verbreking van, of nienakoming van, die toepaslike bepalings van die Gedragskode vervat in Bylae 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, deur enige deelnemende leier, moet die betrokke munisipale raad onverwyld die—

(i) tersaaklike provinsiale huis van tradisionele en Khoi-San-leiers, indien so 'n huis ingestel is;

(ii) plaaslike huise van tradisionele en Khoi-San-leiers in die gebied van die munisipaliteit, indien enige sodanige huise ingestel is; en

(iii) tradisionele rade en Khoi-San-rade in die gebied van die munisipaliteit,

inlig van die aard van die beweerde verbreking.

(b) Any alleged breach of, or non-compliance with, the applicable provisions of the Code of Conduct referred to in paragraph *(a)*, must be dealt with in accordance with the provisions of item 15 of that Code of Conduct.

(c) The findings of any investigation contemplated in item 15 of the Code of Conduct and any sanctions imposed under that item, must be conveyed by the municipal council or MEC, as the case may be, to—

(i) the relevant participating leader;

(ii) the responsible MEC in the case of investigations conducted by the municipal council or a special committee as contemplated in item 14(1) of Schedule 1 to the Local Government: Municipal Systems Act, 2000;

(iii) the municipal council in the case of investigations conducted by a person or committee appointed by the MEC as contemplated in item 15(4) of Schedule 1 to the Local Government: Municipal Systems Act, 2000; and

(iv) the houses and councils referred to in paragraph *(a)*.

(d) Notwithstanding the provisions of paragraph *(a)*, a participating leader remains subject to the Code of Conduct contained in the Schedule to the TKLA, and any provincial code of conduct provided for in provincial legislation relating to traditional and Khoi-San leadership.

(11) The MEC—

(a) must, through any means deemed appropriate, monitor the implementation of this section in the province and make recommendations on such implementation to any relevant house of traditional and Khoi-San leaders, all relevant municipalities and all relevant participating leaders; and

(b) may delegate any of his or her powers referred to in this section, except the power to determine a longer period as contemplated in subsection (2)*(g)*, to the Director-General of the department responsible for traditional and Khoi-San matters in the particular province, or to any official of such department.

(12) A Premier may by notice in the Provincial *Gazette* make regulations on any matter that is necessary for the proper implementation of this section: Provided that such regulations may not be inconsistent with the provisions of this section.

(13) *(a)* A participating leader may, from the budget of the relevant municipal council, be reimbursed for any out of pocket expenses: Provided that for the purposes of this section, ''out of pocket expenses'' means actual and necessary expenses incurred by a participating leader in respect of own transport, public transport and parking, which expenses must be related to a meeting or event arranged by a municipal council or a committee of such council, or any ceremonial or official duties which such participating leader has been requested to attend to by the municipal council.

(b) Out of pocket expenses must be authorised by the municipality prior to the meeting or event referred to in paragraph *(a)*.

(c) Out of pocket expenses do not include any salaries, allowances or benefits as contemplated in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), or resources as contemplated in the Independent Commission for the Remuneration of Public Office-Bearers Act, 1997 (Act No. 92 of 1997).

(d) To ensure uniformity across provinces, the Minister may, after consultation with the Premiers and by notice in the *Gazette*, make regulations on out of pocket expenses.''.

(2) Schedule 6 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), is hereby repealed.

(3) The provisions of subsections (1) and (2) come into operation on the date of commencement of the Traditional and Khoi-San Leadership Act, 2019.

(b) Enige beweerde verbreking van, of nienakoming van, die toepaslike bepalings van die Gedragskode in paragraaf *(a)* bedoel, moet ooreenkomstig die bepalings van item 15 van daardie Gedragskode hanteer word.

(c) Die bevindings van enige ondersoek in item 15 van die Gedragskode beoog en enige sanksies kragtens daardie item opgelê, moet deur die munisipale raad of LUR, na gelang van die geval, oorgedra word aan—

(i) die tersaaklike deelnemende leier;

(ii) die verantwoordelike LUR in die geval van ondersoeke deur die munisipale raad of 'n spesiale komitee gedoen soos beoog in item 14(1) van Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000;

(iii) die munisipale raad in die geval van ondersoeke deur 'n persoon of komitee deur die LUR aangestel soos beoog in item 15(4) van Bylae 1 tot die Wet op Plaaslike Regering: Munisipale Stelsels, 2000; en

(iv) die huise en rade in paragraaf *(a)* bedoel.

(d) Ondanks die bepalings van paragraaf *(a)*, bly 'n deelnemende lid onderhewig aan die Gedragskode in die Bylae tot die TKL-wet vervat, en enige provinsiale gedragskode waarvoor in provinsiale wetgewing oor tradisionele en Khoi-San-leierskap voorsiening gemaak word.

(11) Die LUR—

(a) moet, op enige gepaste wyse, die inwerkingstelling van hierdie artikel in die provinsie monitor en aanbevelings oor sodanige inwerkingstelling aan enige tersaaklike huis van tradisionele en Khoi-San-leiers, alle tersaaklike munisipaliteite en alle tersaaklike deelnemende leiers doen; en

(b) kan enige van sy of haar bevoegdhede, behalwe die bevoegdheid om 'n langer tydperk as in subartikel (2)*(g)* te bepaal, in hierdie artikel bedoel, delegeer aan die Direkteur-generaal van die departement verantwoordelik vir tradisionele en Khoi-San-sake in die bepaalde provinsie, of aan enige beampte van sodanige departement.

(12) 'n Premier kan by kennisgewing in die *Provinsiale Koerant* regulasies uitvaardig oor enige aangeleentheid wat nodig is vir die behoorlike inwerkingstelling van hierdie artikel: Met dien verstande dat sodanige regulasies nie onbestaanbaar met die bepalings van hierdie artikel mag wees nie.

(13) *(a)* 'n Deelnemende leier kan, uit die begroting van die tersaaklike munisipale raad, vergoed word vir enige klein uitgawes: Met dien verstande dat by die toepassing van hierdie artikel, 'klein uitgawes' werklike en nodige uitgawes beteken aangegaan deur 'n deelnemende leier ten opsigte van eie vervoer, openbare vervoer en parkering, welke uitgawes moet verband hou met 'n vergadering of gebeurtenis gereël deur 'n munisipale raad of 'n komitee van sodanige raad, of enige seremoniële of amptelike pligte wat die munisipale raad gevra het sodanige deelnemende leier moes hanteer.

(b) Klein uitgawes moet voor die vergadering of gebeurtenis in paragraaf *(a)* bedoel deur die munisipaliteit gemagtig word.

(c) Klein uitgawes sluit geen salarisse, toelaes of voordele in soos beoog in die Wet op die Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van 1998), of hulpbronne soos in die Wet op die Onafhanklike Kommissie vir die Besoldiging van Openbare Ampsbekleërs, 1997 (Wet No. 92 van 1997), beoog, in nie.

(d) Om eenvormigheid regoor provinsies te verseker, kan die Minister, na oorleg met die Premiers en by kennisgewing in die *Staatskoerant*, regulasies oor klein uitgawes uitvaardig.''.

(2) Bylae 6 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), word hierby herroep.

(3) Die bepalings van subartikels (1) en (2) tree in werking op die inwerkingtredingsdatum van die Wet op Tradisionele en Khoi-San-leierskap, 2019.

SCHEDULE 4

REPEAL OF LEGISLATION

(Section 65)

No	Title, number and year of law	Extent of repeal
1	Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003)	The whole
2	Traditional Leadership and Governance Framework Amendment Act, 2009 (Act No. 23 of 2009)	The whole
3	National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009)	The whole

BYLAE 4

HERROEPING VAN WETGEWING

(Artikel 65)

No	Titel, nommer en jaar van wet	Omvang van herroeping
1	''Traditional Leadership and Governance Framework Act, 2003'' (Wet No. 41 van 2003)	Die geheel
2	''Traditional Leadership and Governance Framework Amendment Act, 2009'' (Wet No. 23 van 2009)	Die geheel
3	''National House of Traditional Leaders Act, 2009'' (Wet No. 22 van 2009)	Die geheel

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

This gazette is also available free online at **www.gpwonline.co.za**