
GENERAL NOTICE

NOTICE 708 OF 2008

DEPARTMENT OF PROVINCIAL AND LOCAL GOVERNMENT

NATIONAL HOUSE OF TRADITIONAL LEADERS BILL, 2008

The Minister for Provincial and Local Government intends introducing the National House of Traditional Leaders Bill, 2008 in the National Assembly during the 2nd quarter of 2008. The draft Bill is hereby published in accordance with Rule 241(1)(c) of the Rules of the National Assembly.

Interested persons and institutions may submit written representations on the draft Bill to the Secretary to Parliament by no later than 02 July 2008 –

(a) by posting it to the following address:

The Secretary to Parliament
PO Box 15
CAPE TOWN
8000

OR

(b) by delivering it at the following address:

The Secretary to Parliament
Parliament Building
Visitors' Centre
Room V20
Parliament Street
Cape Town

REPUBLIC OF SOUTH AFRICA

NATIONAL HOUSE OF TRADITIONAL LEADERS BILL, 2008

(ACT NO. _____ OF 2008)

[B _____ 2008]

BILL

To provide for the establishment of the National House of Traditional Leaders; to determine powers, functions, duties and responsibilities of the House; to provide for support to the House by government; to provide for the relationship between the House and the provincial houses; to provide for the accountability of the House; and to provide for matters incidental thereto.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa as follows -

ARRANGEMENT OF SECTIONS

Sections

1. Definitions
2. Establishment of the House
3. Composition of the House
4. Election of members to the House
5. Qualification for membership of the House
6. Vacation of seats
7. Filling of vacancies
8. Seat and meetings of the House
9. Chairperson and Deputy Chairperson of the House
10. Status of members of the House
11. Roles and functions of the House
12. Administration of the House
13. Responsibilities of the House
14. Relationship between the House and kings and queens
15. Relationship between the House and provincial houses
16. Support to the House
17. Accountability of the House
18. Privileges and immunities of members of the House
19. Remuneration and benefits to member of the House
20. Rules, orders and committees of the House
21. Dissolution of the House
22. Oath or affirmation by members of the House
23. Code of conduct
24. Regulatory powers
25. Repeal of laws and transitional provisions
26. Short title

SCHEDULE A: REPEAL OF LAWS

SCHEDULE B: OATH OR AFFIRMATION BY MEMBERS OF THE HOUSE

SCHEDULE C: CODE OF CONDUCT

Definitions

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

"**code of conduct**" means the code of conduct contained in schedule C;

"**Constitution**" means the Constitution of the Republic of South Africa;

"**Department**" means the national department responsible for traditional leadership;

"**Framework Act**" means the Traditional Leadership and Governance Framework Act, 2003 (Act No 41 of 2003);

"**House**" means the House established in terms of section 2;

"**king or queen**" means a person recognised as such in terms of section 9 of the Framework Act;

"**local house**" means a local house as established in terms of section 17 of the Framework Act, and "local houses" has a corresponding meaning;

"**member**" means a member of the House elected in terms section 4;

"**Minister**" means the Minister responsible for traditional leadership;

"**ordinary sittings**" means the sittings of the full House;

"**Parliament**" means the Parliament of the Republic of South Africa contemplated in section 42 of the Constitution;

"**premier**" means the premier of a province as contemplated in section 125 of the Constitution;

"**province**" means a province as mentioned in section 103 of Constitution, and "provinces" has a corresponding meaning;

"**provincial house**" means a provincial house of traditional leaders established in terms applicable provincial legislation, and "provincial houses" has a corresponding meaning;

"**rules and orders**" means rules and orders of the House as provided for in section 20;

"**Secretary**" means the Secretary of the House appointed in terms of section 12;

"**senior traditional leader**" means a senior traditional leader as defined in section 1 of the Framework Act;

"**Speaker**" means the Speaker of the National Assembly;

"**this Act**" means the National House of Traditional Leaders Act, 2008, and includes any regulations made under section 24;

"**traditional council**" means a traditional council as defined in section 1 of the Framework Act; and

"**traditional leader**" means a traditional leader as defined in section 1 of the Framework Act.

Establishment and term of office of the House

2. (1) There is hereby established a house of traditional leaders known as the National House of Traditional Leaders.

(2) The term of office of the House is five years and it runs concurrently with the term of office of local government.

Composition of the House

3. (1) The House consists-

(a) of three persons who are senior traditional leaders elected by each provincial house;

(b) in a case-

- (i) where a provincial house has not been established due to an insufficient number of traditional leaders to form a provincial house; or
 - (ii) where a traditional council performs the functions of a local house, of a chairperson of a local house, or a chairperson of a traditional council, as the case may be; and
 - (c) where relevant, persons identified in terms of subsection (3).
- (2) The provisions of subsection (1)(c) apply only in cases where a provincial house has not been established, and will be implemented as follows, -
- (a) where there are more than three traditional councils performing functions of a local house, the senior traditional leaders must elect from amongst themselves three representatives to the House; or
 - (b) where there are three or a lesser number of traditional councils performing functions of a local house, the senior traditional leaders from such traditional councils must be ex-officio members of the House; or
 - (c) where one or more local houses exist, or one or more traditional councils perform the functions of a local house, the senior traditional leaders from within the province must elect three members from amongst themselves.
- (3) The chairperson of a local house referred to in subsection (1)(b) must be a senior traditional leader, and if not, any other member of a local house who is a senior traditional leader, elected by the local house concerned.
- (4) A third of the members of the House must consist of women: Provided that if the Minister is satisfied that there is an insufficient number of women to participate in the House the Minister must, after consultation with the Premier of the province in question, determine a lower threshold.

Election of members to the House

4. (1) The Minister must, 30 days before the expiry of the term of office of the House, request the Premiers to call upon provincial houses to conduct elections for members to serve in the House, or, in appropriate cases, to cause the processes contemplated in subsection (3) to be initiated.
- (2) Each Premier must submit the names of persons identified in terms of processes contemplated in subsection (1) to the Minister within timeframes determined by the Minister.
- (3) Notwithstanding the dissolution of the House in terms of section 21-
- (a) every person who at the date of the dissolution of the House is a member remains a member of the House;
 - (b) the House remains competent to perform its functions in terms of this Act or any other law; and

(c) the Minister has power to summon the House to an extraordinary meeting for the dispatch of urgent business during the period following such dissolution and before the new House assumes office.

(4) The members of the provincial house to serve in the House must be elected by members of the provincial house in the province concerned in a meeting attended by at least two thirds of the membership of the provincial house concerned called for that purpose: Provided that such members are not members of Parliament or members of any provincial legislature or members of municipal councils.

(5) The election proceedings must be conducted by a person designated by the Premier of the province concerned observed by the officials of the House and the Department.

(6) Any election contemplated in subsection (5) must be made by means of a secret ballot of members of the provincial house concerned in the same sitting where the nomination takes place.

(7) The Premier must submit to the Minister in writing in respect of any person elected-

- (a) his or her acceptance of the election;
- (b) his or her full name and surname;
- (c) identity number; and
- (c) contact details.

Qualification for membership of the House

5. (1) No person is eligible to become a member of the House if that person-

- (a) is a full-time member of a municipal council, a member of provincial legislature or a member of Parliament;
- (b) at the time of the election of members of the House is serving a sentence of imprisonment;
- (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: Provided that a disqualification under this paragraph ends five years after the sentence has been completed;
- (f) is not a South African citizen; or
- (g) is not permanently resident within the country.

Vacation of seats

6. The seat of a member of the House becomes vacant -

- (a) upon the death of a member;
- (b) if the member resigns by written notice under his or her hand;
- (c) if the member becomes disqualified in terms of section 5;
- (d) if the member becomes a full time member of a municipal council, member of provincial legislature or a member of Parliament;
- (e) if a member is convicted of a criminal offence without the option of a fine;
- (f) if he or she, without having obtained leave in accordance with the rules and orders, absents himself or herself from three consecutive meetings of the House;
- (g) is removed from the House for breach of the code of conduct appearing in Schedule C; or
- (h) in the case of a member contemplated in section 3(1), he or she ceases to be a member of a provincial house that elected him or her, or ceases to be a chairperson or member of a local house, as the case may be.

Filling of vacancies

7. (1) Where a vacancy occurs in the House the Minister must, within 14 days, inform the relevant Premier of such a vacancy occurring.
- (2) A vacancy in the House must be filled, within 45 days, 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 latter member was elected.
- (3) A vacancy must be filled in accordance with sections 3 and 4.

Seat and meetings of the House

8. (1) The first meeting of the House after its constitution in terms of sections 3 and 4 must take place at a time determined by the Secretary and at the seat of the House.
- (2) Ordinary meetings of the House may take place at the seat of the House at the date and time determined by the Secretary in consultation with the Chairperson.
- (3) Special meetings must be held at a time and place determined by the Executive Committee of the House or, if authorized thereto by the Executive Committee of the House, by the Chairperson of the House: Provided that the Minister may at any time summon the House to an extraordinary meeting for the dispatch of urgent business.
- (4) There must be an ordinary meeting of the House at least once in every calendar year during the sitting of Parliament.

(5) The administrative seat of the House is located at the same place where the head office of the Department is located, and ordinary sittings of the House may take place either in the administrative seat or at the seat of the Parliament.

(6) The quorum for meetings of the House is fifty-one percent of the total membership of the House.

(7) The decisions of the House must be taken by sufficient consensus, or where a vote is taken, fifty-one percent of the members present and voting in the meeting: Provided that the chairperson has a casting vote in addition to his or her deliberative vote.

Chairperson and deputy chairperson of the House

9.(1) At its first meeting after it has been convened in terms of this Act the House with the President or any person designated by the President presiding, must 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 House.

(3) The chairperson presides over meetings of the 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 chairperson, or when the office of 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 House designated in terms of the rules and orders of the 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 chairperson.

(7) While presiding at a meeting of the 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 -

(a) ceases to be a member of the provincial house which elected him or her;

(b) resigns by lodging a written letter of resignation with the House;

(c) is convicted of a criminal offence without the option of a fine; or

(d) becomes disqualified in terms of section 5.

(9) A chairperson or a deputy chairperson may be removed from office by the House, by a vote supported by a two thirds majority of the full complement of the

membership of the House and thereupon such chairperson or deputy chairperson must vacate his or her office.

(10) If the office of the chairperson becomes vacant, the Minister or a person designated by the Minister, must preside over the election of a member of the House to fill the vacancy.

(11) If the office of the deputy chairperson becomes vacant, the chairperson must preside over the election of a member to fill the vacancy.

(12) If the offices of the chairperson and deputy chairperson of the House become vacant, the House, with the Minister or a person designated by the Minister presiding, shall elect a member of the House to fill the vacancy.

(13) A chairperson or deputy chairperson is eligible for re-election in such a position: Provided that no member may serve as a chairperson or deputy chairperson of the House for more than two consecutive terms.

Status of members of the House

10. The President may, after consultation with the House, determine that certain members are full-time members of the House.

Roles and functions of the House

11. (1) The functions and roles of the House are-

- (a) working with the provincial houses of traditional leaders, to promote -
 - (i) the role of traditional leadership within a democratic constitutional dispensation;
 - (ii) nation building;
 - (iii) peace, stability, and cohesiveness of communities;
 - (iv) the preservation of the moral fibre and regeneration of society;
 - (v) and preserve the culture and traditions of communities;
 - (vi) socio-economic development and service delivery; and
 - (vii) the social well-being and welfare of communities;
- (b) to enhance co-operation between the House and the various Provincial houses with a view to addressing matters of common interest.

(2) The House-

- (a) must consider Parliamentary Bills referred to it by the Secretary to Parliament in terms of section 18 of the Framework Act;
- (b) may advise the national government and make recommendations relating to any of the following:

- (i) matters relating to policy and legislation regarding traditional leadership;
 - (ii) the role of traditional 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 leadership, traditional communities, customary law and customs;
- (d) must, at the request of the member of National Cabinet, advise him or her in connection with any matter referred to in this section;
- (e) must be consulted on national government development programmes that affect traditional communities;
- (f) must complement and support the work of government at national level;
- (g) must form cooperative relations and partnerships with government at national level in development and service delivery;
- (h) may participate in international and national programmes geared towards the development of rural communities;
- (i) participate in national initiatives meant to monitor, review and evaluate government programmes in rural communities; and
- (j) perform tasks as may be determined by a member of the national Cabinet or as may be provided for in national legislation.

Administration of the House

- 12.** (1) The Minister must, with the approval of the House and subject to the laws governing the Public Service, second staff as may be necessary to discharge the work of the House.
- (2) The Minister must, in terms of the laws governing the Public Service and with the approval of the 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; and
 - (b) subject to the directions of the House, perform such work as is incidental to the exercise or performance by the House of its powers and functions.
- (3) The Secretary must be supported in the exercise or performance of his or her powers and functions by officers of the Department designated in terms of subsection (1) for that purpose.

Responsibilities of the House

13. The House must-

- (a) keep proper records;
- (b) have its financial statements audited by the Auditor-General;
- (c) in addition to quarterly meetings, hold an annual meeting with Provincial houses to give account of the activities and finances of the House;
- (d) enforce the Code of Conduct provided for in Schedule C;
- (e) establish clear relationships with, and facilitate co-operation and communication between itself and, provincial houses as well as between provincial houses;
- (f) hold the Secretary of the House accountable for the overall performance and administration of the House;
- (g) maximize the efficiency of communication and decision-making within the administration of the House;
- (h) assign clear responsibilities for the management and co-ordination of the administration of the House;
- (i) involve the Secretary of the House in decisions impacting on the overall management of the House, as far as is practicable;
- (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 the House.

Relationship between the House and kings and queens

14. The House must, on a biannual basis, hold a meeting with all kings and queens in the country to discuss –

- (a) the activities and programmes of the House;
- (b) matters of interest to kings and queens;
- (c) matters relating to service delivery and development of traditional communities;
- (d) any other business identified and proposed by either party and agreed by both parties.

Relationship between the House and provincial houses

- 15.** (1) The House must investigate matters referred to it by the provincial houses and make recommendations.
- (2) The House must advise provincial houses regarding the administration of their affairs.
- (3) The House must on a biannual basis hold meetings with provincial houses to discuss progress on matters relating to the general interest and welfare of traditional communities.
- (4) Where the House wishes to interact with a local house or a traditional council, such interaction must be done in consultation with the relevant provincial house.
- (5) The chairperson of the House may establish a body of Chairpersons of Provincial Houses to interact with the House on a regular basis on issues of mutual interest.
- (6) The Secretary of the House may establish a body of Secretaries of Provincial Houses to interact with the House on a regular basis on issues of mutual interest.

Support to the House

- 16.** The national government must adopt such legislative or other measures as may be necessary to support and strengthen the capacity of the House to fulfil its functions, and such support may include provision of-
- (a) infrastructure;
 - (b) finances;
 - (c) human resources;
 - (d) skills development programmes; and
 - (e) administrative systems.

Accountability of the House

- 17.** (1) The House must, on an annual basis, submit a report to Parliament giving an account on its activities and programmes.
- (2) Parliament may request a meeting with the House to discuss matters of interest to Parliament.

Privileges and immunities of members of the House

- 18.** (1) The House has full power to control, regulate and dispose of its internal affairs and has all such powers, privileges and immunities as may, subject to the Constitution, be prescribed by law.
- (2) Subject to the rules and orders of the House, there must be freedom of speech and debate in the House and in any committee thereof.

Remuneration and benefits to member of the House

19. The remuneration and allowances of members of the House are determined in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Rules, orders and committees of the House

20. (1) The House must make rules and orders in connection with the conduct of its business and proceedings, including rules and orders regulating -

(a) the establishment, constitution, powers and functions, procedures and lifespan of committees of the House;

(b) the procedure to be followed in meetings of the House and its committees;

(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 seat of the House; and

(e) the designation of members to preside over meetings of the committees of the House.

(2)(a) There must be a standing executive committee consisting of the chairperson, deputy chairperson and three other members elected by the House.

(b) The House may, at any time for good cause shown, replace any one of the three members elected in terms of paragraph (a).

Dissolution of the House

21. The House must be dissolved-

(a) on the expiry of the term of office of the House; or

(b) after a vote supported by two thirds majority of the full complement of the members of the House in a meeting of the House called for that purpose.

Oath or affirmation by members of the House

22. The Chairperson, Deputy Chairperson and all other members of the House must, before assuming office, take and subscribe to an oath or solemn affirmation in the terms set out in Schedule B, before a Judge of the High Court designated by the Chief Justice for this purpose.

Code of conduct

23. (1) All members of the House must, in addition to the code of conduct contained the schedule to the Framework Act, adhere to the code of conduct appearing in schedule C.

(2) Any breach of the codes of conduct referred to in subsection (1) must be dealt with in accordance with the procedure set out in item 9 of Schedule C.

Regulatory powers

24. The Minister may make regulations relating, in general, to any matter which is considered necessary or expedient to prescribe to achieve the objects of this Act.

Repeal of laws and transitional provisions

25. (1) The laws listed in Schedule A are hereby repealed to the extent indicated in the Schedule.

(2) The traditional leaders who, on the date of commencement of this Act, were members of the National House of Traditional Leaders in terms of the National House of Traditional Leaders Act No. 10 of 1997, are members of the House and will continue as such as if Act No. 10 of 1997 had not been repealed until the expiry of the current term of local government, whereupon the House must be reconstituted in terms of this Act.

(3) Despite subsection (2), the current composition of the House must be expanded to accommodate the additional members contemplated in section 3(2).

Short title

26. This Act is called the National House of Traditional Leaders Act.

SCHEDULE A
REPEAL OF LAWS

Name of Act	Year of Publication	Extent of Repeal
National House of Traditional Leaders Act	Act No. 10 of 1997	The Whole
Council of Traditional Leaders Amendment Act	Act No. 85 of 1998	The Whole
National House of Traditional Leaders Amendment Act	Act No. 20 of 2000	The Whole

SCHEDULE B**PART A****OATH BY MEMBERS OF THE HOUSE**

I,(name of member), do swear that I will be faithful to the National House of Traditional Leaders and do solemnly and sincerely promise at all times to promote that which will advance, and to oppose all that may harm the House; to obey, observe, uphold and maintain the laws, rules, orders and procedures of the House and all other laws of the Republic of South Africa; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all; and to devote myself to the well-being of the House and its members.

May the Almighty God by His Grace and or the ancestors guide and sustain me in keeping this oath with honour and dignity.

So help me God.

PART B**AFFIRMATION**

I,(name of member), do solemnly affirm that I will be faithful to the National House of Traditional Leaders and do solemnly and sincerely promise at all times to promote that which will advance and to oppose, all that may harm the House; to obey, observe, uphold and maintain the laws, rules, orders and procedures of the House and all other laws of the Republic of South Africa; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all; and to devote myself to the well-being of the House and its members.

May the ancestors guide and sustain me in keeping this affirmation with honour and dignity.

SCHEDULE C
CODE OF CONDUCT

Members of the House

Performance of functions by members

1. A member of the House must-

- (a) perform the functions of office in good faith and in an honest, non-discriminatory and transparent manner; and
- (b) at all times act in the best interest of the House and in such a way that the credibility and integrity of the House are not compromised.

Attendance at meetings

2. A member of the House must attend each meeting of the House and of a committee of which that member of the House 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
- (b) that member of the House is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance of meetings

3. (1) The House may impose a sanction as determined by the rules and orders of the House on a member of the House for:

- (a) not attending a meeting which that member of the House is required to attend in terms of item 2; or
- (b) failing to remain in attendance at such a meeting.

(2) A member of the House who is absent from three or more consecutive meetings of the House, or from three or more consecutive meetings of a committee of the House, which that member of the House is required to attend in terms of item 2, must be removed from office as a member of the House.

(3) The Minister must inform the relevant Premier of the removal of the member of the House representing.

(4) Proceedings for the imposition of a sanction including removal of a member of House must be conducted in accordance with a uniform standing procedure which the House must adopt for the purposes of this item.

Disclosure of interests

4. (1) A member of the House must-

(a) disclose to the House; or to any committee of the House of which that member of the House is a member, any direct or indirect personal or private business interest that that member of the House, or any spouse, partner or business associate of that member of the House may have in any matter before the House or the committee of the House; and

(b) withdraw from the proceedings of the House or committee of the House when that matter is considered by the House or its committee, unless the House or its committee decides that the member of the House's direct or indirect interest in the matter is trivial or irrelevant.

(2) A member of the House 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, must disclose full particulars of the benefit of which the member of the House is aware at the first meeting of the House at which it is possible for the member of the House to make the disclosure.

(3) This section does not apply to an interest or benefit which a member of the House, or a spouse, partner, business associate or close family member, has or acquires in common with other members of the House.

Personal gain

5. (1) A member of the House may not use the position or privileges of a member of the House, or confidential information obtained as a member of the House, for private gain or to improperly benefit another person.

(2) Except with the prior consent of the House, a member of the House may not-

(a) be a party to or beneficiary under a contract for-

(i) the provision of goods or services to the House; or

(ii) the performance of any work otherwise than as a member of the House and for the House;

(b) obtain a financial interest in any business of the House; or

(c) for a fee or other consideration appear on behalf of any other person before the House or its committee.

(3) If more than one quarter of the members of the House object to consent being given to a member of the House in terms of sub-item (2), such consent may only be given to the member of the House with the approval of the Minister.

Declaration of interests

6. (1.) When elected or appointed, a member of the House must within 60 days declare in writing to an officer of the House designated by the Minister the following financial interests held by that member of the House:

(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 of the House must be declared in writing to the officer referred to in sub-item (1) annually.

(3) Gifts received by a member of the House above a prescribed amount must also be declared in accordance with sub-item (1).

(4) The House 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.

Rewards, gifts and favours

7. A member of the House 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 before a committee of the House of which that member of the House is a member;
- (b) persuading the House or any committee of the House in regard to the exercise of any power, function or duty;
- (c) making a representation to the House or any committee of the House; or
- (d) disclosing privileged or confidential information.

Unauthorised disclosure of information

8. (1) A member of the House may not without the permission of the House or a committee disclose any privileged or confidential information of the House or committee to any unauthorised person.

(2) For the purpose of this item 'privileged or confidential information' includes any information-

- (a) determined by the House or committee of the House to be privileged or confidential;
- (b) discussed in closed session by the House or its committee;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of the law.

(3) This item does not derogate from the right of any person to access to information in terms of national legislation.

Breach of code

9. (1) If the House, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the House must-

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the member of the House a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) report the matter to a meeting of the House after paragraphs (a) and (b) have been complied with.

(2) A report referred to in sub-item (1)(c) may be made available to the public.

(3) The House must report the outcome of the investigation to the Minister.

(4) The Secretary of the House must ensure that each member of the House when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the House or a committee of the House meets.

(5) The House may-

- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
- (b) establish a special committee-
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the House.

(6) If the House or a special committee appointed by the House to conduct the investigation finds that a member of the House has breached a provision of this part of the Code of Conduct, the House may-

- (a) issue a formal warning to the member of the House;
- (b) reprimand the member of the House;

- (c) suspend the member of the House for a period in consultation with the Minister; and
- (d) remove the member of the House from office in consultation with the Minister.
- (7) (a) Any member of the House who has been warned, reprimanded, suspended or removed in terms of paragraph (a), (b), (c) or (d) of sub-item (6) may within 14 days of having been notified of the decision of 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 House.
- (c) The 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 House and inform the member of the House and the House of the outcome of the appeal.
- (8) The Minister may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the House should be suspended or removed from office.
- (9) If the Minister is of the opinion that a member of the House has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the Minister may-
- (a) suspend the member of the House for a period and on conditions determined by the Minister; or
- (b) remove the member of the House from office.
- (10) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL HOUSE OF TRADITIONAL LEADERS BILL, 2008

1. The main object of the Bill is to repeal the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997) and replace it with a whole new Act. The Bill fully overhauls the current Act by repealing it together with its amending Acts passed in 1998 and 2000, and replacing it with a new law which is fully in line with the Constitution and the White Paper on Traditional Leadership and Governance adopted in July 2003. The main thrust of the Bill is thus the establishment and functioning of the National House of Traditional Leaders.
2. Clause 1 provides for the definition of certain terms used in the Bill;
3. Clause 2 provides for the establishment of the National House of Traditional Leaders and further provides that its term runs for 5 years concurrently with that of local government;
4. Clause 3 provides for the composition of the House from three representatives from each province. A provision is made for a special representation of provinces which have traditional leaders but do not have provincial houses. This applies mainly to Gauteng and Northern Cape provinces;
5. Clause 4 provides for the dissolution of the National House and the procedure to be followed in the election of members of provincial houses to serve in the House;
6. Clause 5 provides for criteria for qualification of members to serve in the House and exclusion of certain persons from participating in the House;
7. Clause 6 provides for the circumstances under which vacancies may occur in the membership of the House;
8. Clause 7 provides for the procedure to fill vacancies occurring in the membership of the House;
9. Clause 8 provides that the administrative seat of the House is the seat of the department responsible for traditional leadership and parliament for ordinary meetings of the House, and it further provides for the procedure of calling the meetings of the House and the frequency of such meetings;
10. Clause 9 provides for the procedure for the election of the chairperson and the deputy chairperson of the House and the manner in which the vacancies to these positions are to be filled;
11. Clause 10 provides that the President may determine that certain members of the House may be full time;
12. Clause 11 provides for the functions of the House fully aligned to the functions of the House envisaged in the White Paper on Traditional Leadership and Governance, 2003;
13. Clause 12 provides for the administration and management of the support to the House especially by the appointment of staff to provide support as the secretariat of the House;
14. Clause 13 provides for a set of responsibilities placed on the House;
15. Clause 14 provides for the unprecedented legislative relationship between the National House and the kings and queens. This relationship has never been

regulated before. Kings and queens are recognized at national level and the national house is established and operates at national level; hence it follows that the House and kings and queens should have a regulated relationship;

16. Clause 15 regulates the relationship between the House and the provincial houses and further regulates the protocol procedure to be followed should the National House wish to interact with local houses and traditional councils. This clause further provides for the establishment of administrative structures by the chairperson and the secretary of the House working with provincial houses to enhance national unity and uniformity;
17. Clause 16 provides for the areas of support to the National House by government of the country for the House to fulfill its mandate in terms of the legislation and custom;
18. Clause 17 places certain specific duties on the House for the accountability of the House
19. Clause 18 accords certain privileges and immunities to the members of the National House when performing the functions of the House;
20. Clause 19 provides for the payment of remuneration and certain allowances to members of the House in terms of the determinations by the President in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998);
21. Clause 20 enable the House to adopt its rules of procedure to conduct its business and for the House to establish its committees for the performance of its functions;
22. Clause 21 provides for the circumstances under which the House may be dissolved and the manner in which such dissolution should be conducted;
23. Clause 22 provides for the oath or affirmation to be taken by the members of the House upon assuming office, and this schedule is contained in Schedule B to the Bill;
24. Clause 23 provides for the Code of Conduct to be adhered to by members of the House, and this code of conduct is contained in schedule C to the Bill;
25. Clause 24 provides for the regulatory powers of the Minister on certain matters he /she may deem necessary for the functioning of the National House;
26. Clause 25 provides for the repeal of the National House of Traditional Leaders Act, 1997 and its subsequent amending legislation passed in 1998 and 2000; and
27. Clause 26 provides for the name of the Act and its commencement.