

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
TRADITIONAL AND KHOI-SAN
LEADERSHIP BILL**

[B 23—2015]

*(As agreed to by the Portfolio Committee on Co-Operative Governance
and Traditional Affairs (National Assembly))*

[B 23A—2015]

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AMENDMENTS AGREED TO

TRADITIONAL AND KHOI-SAN LEADERSHIP BILL [B 23—2015]

CLAUSE 1

1. On page 5, from line 14, to omit the definition of “Advisory Committee”.
2. On page 5, from line 23, to omit “Traditional Leadership Disputes and Claims”, and to substitute, “Khoi-San”.
3. On page 6, in line 10, to omit “67” and to substitute “60”.
4. On page 6, in line 14, to omit “70” and to substitute “63”.
5. On page 6, in line 20, to omit “70” and to substitute “63”.

CLAUSE 2

1. On page 7, in line 23, to omit “may” and to substitute “must”.
2. On page 7, in line 23, after “party”, to insert “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”.

CLAUSE 3

1. On page 8, in line 51, to omit “67” and to substitute “60”.

CLAUSE 4

1. On page 9, in line 10, after “by” to insert “a resolution of each traditional council of such traditional communities and”.
2. On page 10, in line 22, to omit “67” and to substitute “60”.

CLAUSE 5

1. On page 10, in line 52, to omit “Advisory Committee” and to substitute “Commission”.
2. On page 10, in line 53, to omit “66” and to substitute “58”.
3. On page 10, in line 53, to omit “65” and to substitute “57”.
4. On page 11, in line 8, to omit “Advisory Committee” and to substitute “Commission”.

CLAUSE 7

1. On page 13, in line 22, to omit “Advisory Committee” and to substitute “Commission”.

2. On page 13, in line 22, to omit “65” and to substitute “57”.
3. On page 14, in line 9, to omit “66” and to substitute “58”.

CLAUSE 8

1. On page 14, in line 27, to omit “a reasonable time” and to substitute “90 days”.
2. On page 14, in line 33, to omit “or (e)” and to substitute “, (e) or (k)”.
3. On page 14, in line 53, to omit “a reasonable time” and to substitute “90 days”.
4. On page 14, in line 56, to omit “or (e)” and to substitute “, (e) or (k)”.
5. On page 14, from line 60, to omit “a reasonable time” and to substitute “90 days”.
6. On page 15, in line 2, to omit “or (e)” and to substitute “, (e) or (k)”.
7. On page 15, in line 45, to omit “67” and to substitute “60”.

CLAUSE 9

1. On page 16, from line 10, to omit “a reasonable time” and to substitute “90 days from the date of becoming aware of such grounds”.
2. On page 16, in line 26, to omit “a reasonable time” and to substitute “90 days from the date of becoming aware of such grounds”.
3. On page 17, from line 53, to omit “or may, in the case of subsection (1)(a)(i), identify an acting leader as contemplated in section 13(1): Provided that any disqualification in terms of this Act relating to a sentence of imprisonment for a period of more than 12 months without the option of a fine ends five years after the sentence has been completed”.

CLAUSE 10

1. On page 17, in line 60, to omit “64, 65 and 66” and to substitute “56, 57 and 58”.
2. On page 18, in line 2, to omit “a reasonable time” and to substitute “90 days”.
3. On page 18, in line 8, to omit “a reasonable time” and to substitute “90 days”.
4. On page 18, in line 20, after “(3)” to insert “(a)”.
5. On page 18, in line 20, after “must” to insert “, subject to paragraph (b),”.
6. On page 18, after line 21, to insert:

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

CLAUSE 11

1. On page 19, in line 19, to omit “a reasonable time” and to substitute “90 days from the date of becoming aware of such grounds”.

CLAUSE 12

1. On page 20, in line 38, to omit “60” and to substitute “90”.
2. On page 20, in line 45, to omit “(a), (c), (d) or (e)”.
3. On page 20, in line 47, to omit “(a), (c), (d) or (e)”.
4. On page 20, in line 60, after “family” to insert “and after taking into account whether any of the grounds contemplated in subsection (1)(a)(i) apply to such person”.

CLAUSE 13

1. On page 22, in line 1, to omit “**leader**” and to substitute “**leaders**”.
2. On page 22, in line 2, to omit “60” and to substitute “90”.
3. On page 22, in line 7, to omit “(a), (c), (d) or (e)”.
4. On page 22, in line 11, to omit “(a), (c), (d) or (e)”.
5. On page 22, from line 31, to omit “and such royal family or council may, in the case of imprisonment as contemplated in section 9(1)(a)(i) and subject to section 9(7) and the provisions of this section, identify a person to act in the place of a leader whose recognition has been withdrawn as a result of such imprisonment”.
6. On page 22, in line 37, after “be,” to insert “and after taking into account whether any of the grounds contemplated in subsection (1) apply to such person,”.
7. On page 23, from line 30, to omit “: Provided that in the case of a leader whose recognition was withdrawn as contemplated in section 9(1)(a)(i) and who, subject to section 9(7), may resume his or her functions, the provisions of section 8(3) must be complied with and the date of the notice referred to in section 8(3)(a) shall be the date on which such leader resumes his or her functions and on which the acting recognition lapses”.

CLAUSE 14

1. On page 23, in line 36, to omit “**leader**” and to substitute “**leaders**”.
2. On page 23, in line 37, to omit “king, queen, principal traditional leader,”.
3. On page 23, in line 39, to omit “60” and to substitute “90”.
4. On page 23, in line 41, to omit “king, queen, principal traditional leader,”.
5. On page 23, in line 49, to omit “king, queen, principal traditional leader,”.
6. On page 23, from line 51, to omit “(a), (c), (d) or (e)”.
7. On page 23, in line 53, to omit “king, queen, principal traditional leader,”.

8. On page 23, in line 55, after “family”, to insert “and after taking into account whether any of the grounds contemplated in subsection (1) apply to such person”.
9. On page 23, in line 58, to omit “60” and to substitute “90”.
10. On page 23, in line 62, to omit “(a), (c), (d) or (e)”.
11. On page 24, in line 3, after “family“ to insert “and after taking into account whether any of the grounds contemplated in subsection (3) apply to such person”.
12. On page 24, from line 14, to omit “the Minister of the recognition of a deputy king or queen and inform”.
13. On page 24, in line 15, to omit “any other” and to substitute “such”.
14. On page 24, in line 17, to omit “king, queen, principal traditional leader,”.
15. On page 24, in line 23, to omit “king, queen, principal traditional leader,”.
16. On page 24, in line 42, to omit “king, queen, principal traditional leader,”.

CLAUSE 16

1. On page 25, in line 7, to omit “70” and to substitute “63”.
2. On page 25, in line 9, to omit “one year” and to substitute “two years”.
3. On page 25, in line 16, to omit “one year” and to substitute “two years”.
4. On page 25, in line 29, to omit “all” and to substitute “the relevant”.
5. On page 25, in line 52, after “public”, to insert “within 14 days from the date of such selection”.
6. On page 25, in line 53, after “within”, to insert “28 days of the names of the selected members having been made public and, in the case of a traditional council, within”.
7. On page 25, in line 56, to omit “21” and to substitute “14”.
8. On page 26, from line 5, to omit paragraph (a) and to substitute:

“(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).”
9. On page 26, from line 17, to omit paragraph (a) and to substitute:

“(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.”.

10. On page 26, in line 35, after “jurisdiction,” to insert “indicating the portions of land forming part of such area of jurisdiction, and”.
11. On page 26, after line 42, to insert:

“(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).”.
12. On page 26, in line 47, after “council” to insert “: Provided that for the purposes of determining such quorum, the total number of members excludes any vacancies”.
13. On page 26, in line 57, to omit “may” and to substitute “must at least”.
14. On page 27, in line 20, to omit “30” and to substitute “90”.

CLAUSE 17

1. On page 28, in line 7, after “more” to insert “non-contiguous”.
2. On page 28, in line 14, after the comma, to insert “by notice in the relevant Provincial *Gazette*”.
3. On page 28, in line 15, to omit “by notice in the relevant Provincial *Gazette*”, and to substitute, “, 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”.
4. On page 28, from line 30, to omit “designated by the traditional council”, and to substitute “elected by the members of such sub-council”.
5. On page 28, in line 32, to omit “designated” and to substitute “elected”.
6. On page 28, in line 34, after “sub-council”, to insert “is not more than five years and”.
7. On page 28, from line 34, to omit “to the term of office of the members of the main traditional council” and to substitute “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.”.

CLAUSE 18

1. On page 28, in line 55, to omit “66” and to substitute “58”.

2. On page 28, in line 56, to omit “one year” and to substitute “two years”.
3. On page 29, in line 1, to omit “one year” and to substitute “two years”.
4. On page 29, from line 32, to omit paragraph (c).
5. On page 29, in line 39, to omit “and (d), (4)” and to substitute “, (d) and (e).”.
6. On page 29, after line 52, to insert the following:

“(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.”

CLAUSE 19

1. On page 30, in line 11, to omit “67” and to substitute “60”.
2. On page 30, in line 14, to omit “the Auditor-General”, and to substitute “a registered auditor as contemplated in the Auditing Profession Act, 2005 (Act No. 26 of 2005),”.
3. On page 30, in line 15, to omit “one month” and to substitute “two months”.
4. On page 30, in line 17, to omit paragraph (c) and to substitute:

“(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*;”
5. On page 30, after line 19, to insert:

“(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.”.

CLAUSE 20

1. On page 30, in line 52, to omit “the Auditor-General” and to substitute “a registered auditor as contemplated in the Auditing Profession Act, 2005 (Act No. 26 of 2005),”.
2. On page 30, in line 53, to omit “one month” and to substitute “two months”.
3. On page 30, in line 55, to omit paragraph (c) and to substitute:

“(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”

4. On page 31, after line 3, to insert:

“(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.”.

CLAUSE 22

1. On page 31, in lines 29, 33, 35, 44, 46, 48, 51, 54 and 58, after “statutory”, to insert “, financial”.
2. On page 31, in line 56, after “(7)”, to insert “(a)”.
3. On page 31, after line 59, to insert:

“(b) A Premier must submit copies of the reports contemplated in paragraph (a) to the National House and relevant provincial house for noting.”.

4. On page 32, in line 4, after “statutory”, to insert “, financial”.

CLAUSE 23

1. On page 32, in line 15, after “councils”, to insert “: Provided that the Department must, subject to section 62, monitor the management of the finances of such councils”.
2. On page 32, in line 26, to omit “may” and to substitute “must”.
3. On page 32, in line 37, to omit “may”, and to substitute “must”.
4. On page 32, in line 37, after “to”, to insert “paragraph (c) and”.
5. On page 32, after line 56, to insert the following:

“(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.”.

6. On page 32, in line 58, omit the first “may” and to substitute “must”.

CLAUSE 24

1. On page 33, in line 21, after “to”, to insert “a prior consultation with the relevant community represented by such council and”.
2. On page 33, in line 38, to omit “and”.
3. On page 33, in line 40, after “(d)”, to insert “, which copies must be kept by the Department in an appropriate database; and”.

4. On page 33, after line 40, to insert:

“(c) review all partnerships and agreements as contemplated in section 63(22)”.
5. On page 33, from line 49, to omit sub clause (8).

CLAUSE 25

1. On page 34, in line 3, after “(2)” to insert “(a)”.
2. On page 34, in line 5, to omit “of,” and to substitute “thereof, and the”.
3. On page 34, in line 5, after “may”, to insert “, subject to paragraph (b),”.
4. On page 34, after line 6, to insert:

“(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.”
5. On page 34, in line 14, after comma, to insert “such role or”.
6. On page 34, in line 15, after “concerned”, to insert “: 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”.
7. On page 34, after line 15, to insert:

“(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) 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.”

CLAUSE 27

1. On page 34, in line 35, to omit “70” and to substitute “63”.
2. On page 34, in line 37, to omit “31 May 2017” and to substitute “30 June 2022”.
3. On page 34, in line 39, to omit “31 May, calculated from 31 May 2017” and to substitute, “30 June, calculated from 30 June 2022”.

CLAUSE 28

1. On page 34, from line 41, to omit sub clause (1) and to substitute the following:
 - “(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
 - (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. On page 34, from line 48, to omit sub clause (2) and to substitute the following:

“(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.”

CLAUSE 29

1. On page 35, in line 9, to omit “60” and to substitute “30”.
2. On page 35, in line 17, after “(a)”, to insert “(i) and (b)”.
3. On page 35, in line 26, to omit “designate” and to substitute “elect”.
4. On page 35, in line 26, to omit “elected as”.

CLAUSE 30

1. On page 35, in line 46, after “imprisonment”, to insert “of more than 12 months without the option of a fine”.

CLAUSE 31

1. On page 36, in line 11, after “(a)”, to insert “(i) and (b)”.
2. On page 36, in line 13, to omit “(b)” and to substitute “(a)(ii)”.

CLAUSE 33

1. On page 36, in line 25, to omit comma and to substitute “must take place within 90 days”.
2. On page 36, in line 26, to omit “must take place”.
3. On page 36, in line 28, to omit “must” and to substitute “may”.
4. On page 36, in line 47, to omit “two-thirds” and to substitute “by a majority”.
5. On page 36, after line 48, to insert:

“(8) Meetings of the National House are, subject to section 46(1)(f), open to the public.”

CLAUSE 34

1. On page 36, in line 51, to omit “President or any person designated by the President” and to substitute “Chief Justice or a judge designated by the Chief Justice”.
2. On page 37, from line 22, to omit “Minister or a person designated by the Minister” and to substitute “Chief Justice or a judge designated by the Chief Justice”.

CLAUSE 37

1. On page 38, in line 25, to omit “as many”.
2. On page 38, from line 25, to omit “as he or she considers necessary,”.

CLAUSE 38

1. On page 39, from line 16, to omit paragraph (b) and to substitute:

“(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.”.

CLAUSE 39

1. On page 39, from line 24, to omit paragraph (a) and to substitute:
 - “(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.”

CLAUSE 40

1. On page 39, in line 37, to omit “kings and queens”, and to substitute “kings, queens and principal traditional leaders”.
2. On page 39, in line 38, to omit “kings and queens”, and to substitute “kings, queens and principal traditional leaders”.
3. On page 39, in line 40, to omit “kings and queens”, and to substitute “kings, queens and principal traditional leaders”.

CLAUSE 42

1. On page 40, in line 15, after “support”, to insert “, which support is subject to the budget allocation of the Department”.

CLAUSE 43

1. On page 40, in line 30, to omit “kings and queens” and to substitute “kings, queens and principal traditional leaders”.

CLAUSE 46

1. On page 41, after line 19, to insert:
 - “(3) The National House must, subject to subsection (1), establish an ethics committee.”

CLAUSE 47

1. On page 41, in line 23, to omit “two-thirds”.

CLAUSE 49

1. On page 41, in line 52, to omit “70” and to substitute “63”.
2. On page 42, in line 2, to omit “30 April 2017” and to substitute “31 May 2022”.
3. On page 42, in line 4, to omit “30 April, calculated from 30 April 2017” and to substitute “31 May, calculated from 31 May 2022”.

4. On page 42, in line 7, before “the”, to insert “where applicable,”.
5. On page 42, in line 7, after “of”, to insert “both”.
6. On page 42, in line 7, to omit “where applicable,”.
7. On page 42, in line 8, after “(a)”, to insert “(i) and (b)”.
8. On page 42, from line 14, to omit paragraph (g) and to substitute:

“(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.”
9. On page 42, from line 18, to omit “represented in local houses”.
10. On page 42, from line 19, to omit “in substantially the same proportion they are represented in the local houses concerned: Provided that if the local house has only one senior Khoi-San leader as a member, that senior Khoi-San leader must be a member of the provincial house concerned” and to substitute

“concerned—

 - (i) in the same proportion that they are represented in the local houses concerned; or
 - (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.”.

CLAUSE 50

1. On page 43, in line 42, to omit “70” and to substitute “63”.
2. On page 43, in line 44, to omit “31 March 2017” and to substitute “30 April 2022”.
3. On page 43, in line 46, to omit “31 March, calculated from 31 March 2017” and to substitute “30 April, calculated from 30 April 2022”.
4. On page 43, in line 56, to omit “67” and to substitute “60”.
5. On page 44, in line 16, to omit “67” and to substitute “60”.

CHAPTER 4

1. On page 44, in line 22, to omit “**AND ADVISORY COMMITTEE**” and to substitute “**ON KHOI-SAN MATTERS**”.
2. On page 44, in line 23, to omit “*Part I*”.
3. On page 44, in line 24, to omit “*Commission on Traditional Leadership Disputes and Claims*”.

CLAUSES 51 to 58

1. Clauses rejected.

CLAUSE 59

1. On page 48, in line 19, to omit “**Part 2**”.
2. On page 48, in line 20, to omit “*Advisory Committee on Khoi-San Matters*”.
3. On page 48, in line 21, to omit “**Advisory Committee**” and to substitute “**Commission**”.
4. On page 48, in line 22, to omit “an Advisory Committee” and to substitute “a Commission”.
5. On page 48, in line 23, to omit “Advisory Committee” and to substitute “Commission”.

CLAUSE 60

1. On page 48, in line 25, to omit “**Advisory Committee**” and to substitute “**Commission**”.
2. On page 48, in line 26, to omit “(e), (f) and (g)” and to substitute “(d), (e) and (f)”.
3. On page 48, in line 28, to omit “Advisory Committee” and to substitute “Commission”.
4. On page 48, in line 29, to omit “three” and to substitute “five”.
5. On page 48, in lines 31 and 37, to omit “Advisory Committee” and to substitute “Commission”.
6. On page 48, from line 40, to omit paragraph (d).
7. On page 48, in line 43, to omit “(e)” and to substitute “(d)”.
8. On page 48, in line 46, to omit “Advisory Committee” and to substitute “Commission”.
9. On page 48, in line 47, to omit “(f)” and to substitute “(e)”.
10. On page 48, in line 48, to omit “(e)” and to substitute “(d)”.
11. On page 48, in line 50, to omit “(g)” and to substitute “(f)”.
12. On page 48, in line 54, to omit “Advisory Committee” and to substitute “Commission”.
13. On page 48, after line 54, to insert:

“(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*.”
14. On page 48, in lines 55 and 57, to omit “Advisory Committee” and to substitute “Commission”.

15. On page 49, in lines 3, 14 and 17, to omit “Advisory Committee” and to substitute “Commission”.

CLAUSE 61

1. On page 49, in line 20, to omit “Advisory Committee” and to substitute “Commission”.
2. On page 49, in line 22, to omit “60” and to substitute “52”.

CLAUSE 62

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“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.”.

CLAUSE 63

1. On page 49, in line 30, to omit “**Advisory Committee**” and to substitute “**Commission**”.
2. On page 49, in lines 32, 34, 35 and 39, to omit “Advisory Committee” and to substitute “Commission”.

CLAUSE 64

1. On page 49, in lines 44 and 49, to omit “Advisory Committee” and to substitute “Commission”.
2. On page 50, in line 5, to omit “65” and to substitute “57”.
3. On page 50, in lines 9, 11 and 16, to omit “Advisory Committee” and to substitute “Commission”.

CLAUSE 65

1. On page 50, in line 18, to omit “**Advisory Committee**” and to substitute “**Commission**”.
2. On page 50, in lines 19, 25 and 27, to omit “Advisory Committee” and to substitute, “Commission”.

3. On page 50, in line 28, to omit “64” and to substitute “56”.
4. On page 50, in line 32, to omit “three” and to substitute “five”.
5. On page 50, in line 33, to omit “60” and to substitute “52”.
6. On page 50, in lines 34 and 35, to omit “Advisory Committee” and to substitute “Commission”.
7. On page 50, in line 39, to omit “56(8)” and to substitute “59”.

CLAUSE 66

1. On page 50, in lines 42, 43, 44, 48, 52 and 59, to omit “Advisory Committee” and to substitute “Commission”.

NEW CLAUSE

1. That the following be a new clause:

“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.”.

CLAUSE 67

1. On page 51, after line 32, to insert:

“(3) Any regulations made under this section must, within 90 days of the notice contemplated in subsection (1), be tabled in Parliament for noting.”.

CLAUSE 68

1. On page 51, after line 45, to insert:

“(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.”.

CLAUSE 70

1. On page 52, in lines 19 and 25, to omit “Commission in terms of section 57” and to substitute “CTLDC”.
2. On page 52, in line 44, after “Act”, to insert “and which complies with all requirements of this Act”.
3. On page 52, in line 56, to omit “Commission in terms of section 57” and to substitute “CTLDC”.
4. On page 53, in line 1, to omit “one year” and to substitute “two years”.
5. On page 53, in line 2, to omit “one year” and to substitute “two years”.
6. On page 53, from line 2, to omit “take the necessary steps to ensure that the provisions of section 16(2) are met” and to substitute “, 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)”.
7. On page 53, in line 9, to omit “Commission in terms of section 56(2)” and to substitute “CTLDC”.
8. On page 53, after line 18, to insert:

“(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).”

9. On page 53, in line 19, to omit “(c)” and to substitute “(d)”.
10. On page 53, from line 20, to omit “take the necessary steps to ensure that the provisions of this subsection are met”, and to substitute “, 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).”.

11. On page 53, from line 22, to omit “member of the Executive Council of a province responsible for traditional affairs” and to substitute “Premier of a province”.
12. On page 53, in line 23, to omit “one year” and to substitute “two years”.
13. On page 53, in line 36, to omit “one year” and to substitute “two years”.
14. On page 53, in line 38, to omit “take the necessary steps to ensure that the provisions of this subsection are met” and to substitute “, 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).”
15. On page 53, after line 45, to insert:

“(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.”
16. On page 54, from line 15, to omit sub clauses (10) and (11) and to substitute the following:

“(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.”
17. On page 54, in line 31, to omit “31 May 2017” and to substitute “30 June 2022”.
18. On page 54, in line 39, to omit “30 April 2017” and to substitute “31 May 2022”.
19. On page 54, in line 44, to omit “31 March 2017” and to substitute “30 April 2022”.
20. On page 54, after line 53, to insert the following:

“(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.
 (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 amend 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.

(23) For the purposes of this section, “CTLDC” means the Commission on Traditional Leadership Disputes and Claims established in terms of section 22 of the Framework Act.”.

CLAUSE 73

1. On page 55, in line 5, to omit “2015” and to substitute “2018”.

SCHEDULE 1

1. On page 56, in line 2, after “conduct” to insert “for members of houses and councils”.
2. On page 56, in line 42, to omit “this code of conduct”, and to substitute “item 5(1)(b)”.
3. On page 57, in line 20, to omit “, subject to item 2(e),”.
4. On page 58, in line 17, before “classified”, to insert “in respect of which the House or a council or a committee of the House or a council is the original author and is”.
5. On page 59, from line 8, to omit paragraph (a) and to substitute:

“(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.”
6. On page 59, in line 40, to omit “A Premier may appoint a person or a” and to substitute “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”.
7. On page 59, from line 42, to omit “, if the relevant provincial house, local house or council does not have an investigation conducted as contemplated in sub-item (1) and the Premier considers it necessary”.
8. On page 59, after line 59, to insert:

“(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.”
9. On page 60, in line 1, to omit “(4)” and to substitute “(5)”.
10. On page 60, in line 3, to omit “(5)” and to substitute “(6)”.

SCHEDULE 2

1. On page 61, from line 6, to omit “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”

and to substitute

“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”.

2. On page 62, from line 5, to omit “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”

and to substitute

“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”.

SCHEDULE 3

1. On page 63, in line 3, to omit “71” and to substitute “64”.
2. On page 63, in lines 17, 22 and 27, to omit “2015”, and to substitute “2018”.
3. On page 63, in line 28, to omit “70” and to substitute “63”.
4. On page 63, in line 39, to omit the bracket.
5. On page 63, in lines 42, 43 and 44, after “Traditional”, to insert “and Khoi-San”.
6. On page 63, in line 44, to omit “[and members of houses”.
7. On page 64, in lines 10, 15, 22 and 40, to omit “2015” and to substitute “2018”.
8. On page 66, in line 35, to omit “2015” and to substitute “2018”.
9. On page 68, in line 19, after “questions”, to insert, “: Provided that the non-attendance or non-participation of any participating leader will have no effect on any municipal council proceedings”.
10. On page 69, in line 25, to omit comma and substitute semi-colon.
11. On page 69, after line 25, to insert the following:
 - “(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 its structures,”.
12. On page 70, in line 46, to omit “2015” and to substitute “2018”.

SCHEDULE 4

1. On page 71, in line 3, to omit “72” and to substitute “65”.

LONG TITLE

1. On page 2, from the 11th line, to omit “Traditional Leadership Disputes and Claims, and the Advisory Committee on”.

ARRANGEMENT OF SECTIONS

1. On page 3, in lines 11 and 12, to omit “leader” and to substitute “leaders”.
2. On page 4, in line 15, to omit “**AND ADVISORY COMMITTEE**” and to substitute “**ON KHOI-SAN MATTERS**”.
3. On page 4, from line 16, to omit the following:

*“Part 1**Commission on Traditional Leadership Disputes and Claims*

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. Functions of Commission
57. Recommendations of Commission
58. Provincial committees of Commission

*Part 2**Advisory Committee on Khoi-San Matters”.*

4. On page 4, in line 28, to omit “59.” and to substitute “51.”.
5. On page 4, in line 28, to omit “Advisory Committee” and to substitute “Commission”.
6. On page 4, in line 29, to omit “60.” and to substitute “52.”.
7. On page 4, in line 29, to omit “Advisory Committee” and to substitute “Commission”.
8. On page 4, in line 30, to omit “61.” and to substitute “53.”.
9. On page 4, in line 31, to omit “62.” and to substitute “54.”.
10. On page 4, in line 31, to omit “Advisory Committee” and to substitute “Commission”.
11. On page 4, in line 32, to omit “63.” and to substitute “55.”.
12. On page 4, in line 32, to omit “Advisory Committee” and to substitute “Commission”.
13. On page 4, in line 33, to omit “64.” and to substitute “56.”.
14. On page 4, in line 35, to omit “65.” and to substitute “57.”.
15. On page 4, in line 35, to omit “Advisory Committee” and to substitute “Commission”.
16. On page 4, in line 36, to omit “66.” and to substitute “58.”.

17. On page 4, after line 38, to insert:
 “59. Disputes”
18. On page 4, in line 39, to omit “67.” and to substitute “60.”.
19. On page 4, in line 40, to omit “68.” and to substitute “61.”.
20. On page 4, in line 41, to omit “69.” and to substitute “62.”.
21. On page 4, in line 42, to omit “70.” and to substitute “63.”.
22. On page 4, in line 43, to omit “71.” and to substitute “64.”.
23. On page 4, in line 44, to omit “72.” and to substitute “65.”.
24. On page 4, in line 45, to omit “73.” and to substitute “66.”.
25. On page 5, in line 2, after “conduct”, to insert “for members of houses and councils”.

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