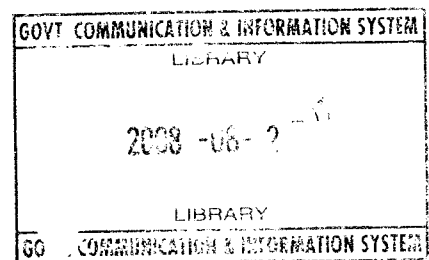


REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
NATIONAL HOUSE OF
TRADITIONAL LEADERS BILL**

[B 56—2008]

*(As agreed to by the Portfolio Committee on Provincial and Local Government
(National Assembly))*



[B 56A—2008]

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AMENDMENTS AGREED TO

NATIONAL HOUSE OF TRADITIONAL LEADERS BILL

[B 56—2008]

1. On page 2, in the first line of the enacting clause, to omit “BE IT ENACTED” and to substitute “BE IT THEREFORE ENACTED”

CLAUSE 1

1. On page 3, in line 10, to omit the definition of “Constitution”.
2. On page 3, in line 23, to omit the definition of “ordinary sittings”.
3. On page 3, in line 24, to omit the definition of “Parliament”.
4. On page 3, in line 26, to omit the definition of “premier” and to insert the following definition:

“prescribe” means prescribed by regulation in terms of section 24;

5. On page 3, in line 28, to omit the definition of “province”.
6. On page 3, in line 38, to omit the definition of “Speaker”.

CLAUSE 2

Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow clause 1:
 2. (1) There is hereby established a house of traditional leaders to be known as the National House of Traditional Leaders.
 - (2) The term of the House is five years.
 - (3) Notwithstanding the dissolution of the House in terms of section 21—
 - (a) every person who on the date of the dissolution of the House is a member remains a member of the House;
 - (b) the House remains competent to function; and
 - (c) the Minister may summon the House to an extraordinary meeting for the dispatch of urgent business, during the period following such dissolution until the day before the first meeting of the next House.

CLAUSE 3

1. On page 3, in line 52, after “house”, to insert “Provided that where on good grounds shown or due to an insufficient number of senior traditional leaders in a provincial house, such provincial house may elect headmen or headwomen”.
2. On page 4, in line 24, after “question” to insert “and the provincial house concerned”.

CLAUSE 4

Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow clause 3:

4. (1) The Minister must, within 30 days before the expiry of the term of the House, request the Premiers to notify provincial houses to, subject to section 3, conduct elections for members to serve in the House.

(2) The members of a provincial house that are to serve in the House must be elected, within 21 days after having received the notice from the Premier 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.

(3) The election proceedings must be conducted by the Premier or a person designated by the Premier of the province concerned, observed by officials of the House and the provincial department responsible for traditional affairs.

(4) An election contemplated in subsection (3) 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 designate one of the members elected in terms of subsections (2), (3) and (4) as leader of the elected members.

(6) The Premier must submit to the Minister, in respect of every person elected, such person's—

- (a) acceptance of the election;
- (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 House, within the time limits referred to in subsection (2), the Premier must designate members of the provincial house concerned to serve in the House.

CLAUSE 5

1. On page 5, in line 3, after “a” to omit “full-time”.

CLAUSE 8

1. On page 5, in line 43, after “(1)” to insert “(a)”.
2. On page 5, after line after line 44, to add the following paragraph:

“(b) The President or a person designated by him or her must address the annual official opening of the House”.

3. On page 5, in line 54, after “and” to omit “ordinary sittings” and to substitute “meetings”.
4. On page 6, in line 3, after “by” to omit “sufficient”.
5. On page 6, in line 4, after “(6)”, to omit “51 per cent” and to substitute “two thirds”.

CLAUSE 9

1. On page 6, in line 7, after “been” to omit “convened” and to substitute “constituted”.
2. On page 6, in line 36, after the third “the”, to omit “Minister” and to substitute “President”.
3. On page 6, in line 37, after the first “the”, to omit “Minister” and to substitute “President”.

CLAUSE 10

Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow clause 9:

10. (1) The chairperson and deputy chairperson shall be full-time members of the House.

(2) The President may, after consultation with the House, determine that, subject to subsection (1), certain members are full-time members of the House.

CLAUSE 11

1. On page 6, in line 50, to omit the heading to clause 11 and to substitute:
“Powers and duties of House”
2. On page 6, in line 51, after the first “The” to omit “functions and roles” and to substitute “powers and duties”.
3. On page 7, after line 3, to add the following subparagraph:

(viii) the transformation and adaptation of customary law and custom 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 leadership positions; and

CLAUSE 12

1. On page 7, in line 33, after “as” to omit “much” and to substitute “many”.

CLAUSE 18

1. On page 8, in line 47, after “prescribed” to omit “by law”.
2. On page 8, from line 48 to omit subclause (2) and to substitute:

“(2) (a) Members of the House have freedom of speech in the House and its committees, subject to the rules and orders of the House.

(b) Members of the 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 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 House or any of its committees.

CLAUSE 19

1. On page 9, in line 2, after “and”, to omit “allowances” and to substitute “benefits”.

CLAUSE 20

1. On page 9, from line 15, to omit subclause (2) and to substitute:

(2) (a) There may be an executive committee consisting of the chairperson and deputy chairperson and as many additional members, so as to ensure that each provincial house is represented in the executive committee, as elected by the House.

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

CLAUSE 22

Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow clause 21:

22. All the members of the House must, before they begin to perform their functions in the House, take an oath or solemn affirmation in the terms set out in Schedule B, before the Chief Justice or a judge designated by the Chief Justice.

CLAUSE 24

1. On page 9, after line 40, to add the following subsection:

(3) Before any regulations are made under this section, the Minister must—

- (a) consult the House;
- (b) publish the draft regulations in the *Gazette* for public comment; and
- (c) submit the draft regulations to Parliament for parliamentary scrutiny at least one month before their publication.

CLAUSE 25

1. On page 9, in line 48, after “term” to omit “of local government”.

LONG TITLE

1. On page 2, in the second line of the long title, after “powers”, to omit “functions”.

“PREAMBLE

1. On page 2, after the Long Title, to insert the following preamble:

WHEREAS the Constitution of the Republic of South Africa, 1996, recognises the institution, status and role of traditional leadership according to custom and customary law;

AND WHEREAS the Constitution of the Republic of South Africa, 1996, provides that national or provincial legislation may provide for the establishment of houses of traditional leaders to deal with matters relating to traditional leadership, the role of traditional leaders, customary law and the customs of communities observing a system of customary law;

AND WHEREAS the Constitution of the Republic of South Africa Act, 1993 (Act No. 200 of 1993), for the first time in the history of South Africa, provided for the enactment of the Council of Traditional Leaders Act, 1994 (Act No. 31 of 1994), which was repealed in 1997 and replaced by the National House of Traditional Leaders Act, 2000 (Act No. 20 of 2000);

AND WHEREAS from 1994, provinces passed provincial legislation providing for the establishment of provincial houses of traditional leadership;

AND WHEREAS in 2003 the government adopted the White Paper on Traditional Leadership and Governance which provides for another layer of houses of traditional leadership at a district municipal level;

AND WHEREAS the vision of government enunciated in the 2003 White Paper on Traditional Leadership and Governance necessitates the alignment of legislation establishing the National House of Traditional Leaders with the principles of non-sexism, co-operative governance between the houses, nation building, unity and peace among the houses and traditional communities as well as enhancing traditions and culture.