

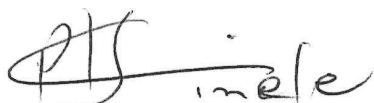
## DEPARTMENT OF TRADITIONAL AFFAIRS

NO. 4880

24 May 2024

**TRADITIONAL AND KHOI-SAN LEADERSHIP ACT, 2019: FORMULA FOR DETERMINATION OF NUMBER OF MEMBERS OF A KHOI-SAN COUNCIL**

Under the powers vested in me by section 18(2)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), I, Thembisile Nkadameng, Minister for Cooperative Governance and Traditional Affairs, hereby, in the Schedule hereto, publishes a formula for the determination of the number of members of a Khoi-San Council.

**MS THEMBISILE NKADIMENG, MP****MINISTER FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****DATE:** 15/04/2024

## SCHEDULE

### FORMULA FOR DETERMINATION OF NUMBER OF MEMBERS OF A KHOI-SAN COUNCIL (KSC)

The formula for determining the number of members of a Khoi-San council as contemplated in section 18(2)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019) (hereinafter referred to as the Act), is as follows:

INPUTS			TOTAL NUMBER OF MEMBERS OF A KHOI-SAN COUNCIL		OUTPUTS					
Number of legally recognised branch heads	% of community members within the 60% selected component	% of branch heads and royal family members within the selected component	60% Selected members of Khoi-San Council			Total number of 40% elected members				
	20% of 60% selected members	80% of 60% selected members	Number of senior Khoi-San leaders	Number of selected royal family members	Selected branch heads		Selected community members	Total number of 60% selected members		
x	A		y	a	F	e	d	c		

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$x$ = Number of legally recognised branch heads
$y$ = Total number of Khoi-San Council (KSC) members
$b$ = Number of senior Khoi-San leader(s) (SKSL)
$c$ = Total number of elected members
$d$ = Total number of selected members
$e$ = Number of community members selected by the SKSL
$f$ = Number of branch heads selected by the SKSL
$g$ = Number of royal family members (RFM) selected by the SKSL

For:

$0 \leq x \leq 7$ ; $y = 18$
$8 \leq x \leq 14$ ; $y = 24$
$15 \leq x \leq 24$ ; $y = 32$
$25 \leq x \leq 50$ ; $y = 40$
$x > 50$ ; $y = 50$

$b = 1$	For:
$c = \text{round}(0.4 * y)$	$\text{ROUND}[(y-c-b-e)/2] > x$ ; then $f = x$ ; otherwise $f = \text{ROUND}[(y-c-b-e)/2]$
$d = y - c$	$g = y - b - f - e - c$
$e = \text{round}(a * d)$	

See application below.

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## 1. APPLICATION OF FORMULA

- 1.1. The sole determining factor for the number of members of a Khoi-San council is the number of legally recognised branch heads under a recognised senior Khoi-San leader of the Khoi-San community concerned.
- 1.2. The number of members of a Khoi-San council are as follows:

Number of legally recognised branch heads under a senior Khoi-San leader concerned	Total number of members of a Khoi-San council
7 or less	18
8-14	24
15-24	32
25-50	40
51 and more	50

- 1.3. Members of a Khoi-San council comprise 60% selected members (60% selected component) and 40% elected members (40% elected component). In terms of the Act, the 60% selected component comprises Khoi-San leaders (recognised senior Khoi-San leader and branch heads), royal family members and main community members.
- 1.4. Eighty percent (80%) of the 60% selected component are Khoi-San leaders (senior Khoi-San leader and branch heads, one of which is the senior Khoi-San leader) and royal family members, and twenty percent (20%) of the 60% selected component are members of the main Khoi-San community concerned. Should any of the calculations for the selected component result in a decimal, it should be rounded off upwards if the decimal is .5 or above and rounded off downwards should the decimal be lower than .5.
- 1.5. The composition of the 60% selected component comprises 80% of the total number of selected members being the Khoi-San leaders (senior Khoi-San leader, branch heads) and royal family members.
- 1.6. The number of branch heads and royal family members in the 80% of the 60% selected component is equal (i.e., each is 50% of the 80% of the 60% selected component).

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1.7. The composition of the 60% selected members of the Khoi-San council is as follows:

- a) The legally recognised senior Khoi-San leader who is an *ex officio* member and chairperson of the Khoi-San council;
- b) community members comprising 20% of the total number of selected members (thus 20% of the 60% selected members); and
- c) legally recognised branch heads and royal family members: Provided that-
  - (i) in instances where there are more legally recognised branch heads than the number required to serve as selected members, the relevant senior Khoi-San leader must select the required number from amongst the recognised branch heads. In this instance, a rotation approach must be adopted for the different 5-year terms of the Khoi-San councils to afford each branch head an opportunity to serve as a Khoi-San council member. Therefore, in all instances where, based on the total number of legally recognised branch heads within a particular Khoi-San community, it is possible to implement a rotation schedule, no selected branch head may serve consecutive terms;
  - (ii) in all instances where there are less recognised branch heads than the number required to serve as selected members, all recognised branch heads under the senior Khoi-San leader concerned must be selected, and notwithstanding paragraphs 1.4., 1.5. and 1.6 as many community members as may be required to reach the total number of selected members must be selected;
  - (iii) in all instances where there are no recognised branch heads under the senior Khoi-San leader, the 60% component will consist of the senior Khoi-San leader, royal family members and as many community members as may be required to reach the 80% of the 60% selected component, notwithstanding paragraphs 1.4., 1.5. and 1.6. and paragraph 1.7(b);
  - (iv) in all instances where there are less royal family members under the senior Khoi-San leader, as many community members as may be required to reach the 80% of the 60% selected component, notwithstanding paragraphs 1.4., 1.5 and 1.6 and paragraph 1.7(b) must be selected;
  - (v) in all instances, should the calculation of the 50% of the 80% of the 60% selected component for the royal family members and branch heads result in an even number, the number of branch heads and royal family members will be equal;



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- (vi) in all instances, should the calculation of the 50% of the 80% of the 60% selected component for the royal family members and branch heads result in an odd number, the number of branch heads will be more and royal family members will be less, notwithstanding paragraph 1.6;
- (vii) in all instances where there are less royal family members under the senior Khoi-San leader than the number required to serve as selected members, as many community members as may be required to reach the total number of selected members notwithstanding paragraphs 1.4., 1.5. and 1.6 and paragraph 1.7(b) must be selected.

- 1.8. In instances where there are branch heads, the selection of main community members must be done by the recognised senior Khoi-San leader after consultation with the branch heads. The selection of royal family members must be done by the recognised senior Khoi-San leader and a forum of not less than five and not more than 10 members designated by the royal family. The forum must be established before the commencement of the selection process.
- 1.9. In instances where there are no branch heads, the recognised senior Khoi-San leader must, with the concurrence of the forum referred to above, select the required number of members from the members of the main community and from the members of the royal family. If, however, there is also no royal family, the recognised senior Khoi-San leader must select the required number of members from the members of the main community.
- 1.10. Should any of the calculations for the selected component result in a decimal, it should be rounded off upwards if the decimal is .5 or above and rounded off downwards should the decimal be lower than .5.
- 1.11. The selection of members by the senior Khoi-San leader is, where applicable, subject to the concurrence of the forum referred to in paragraph 1.8. If there is no concurrence, the provisions of section 18(2)(b)(i)(cc) read with section 16(3)(c) of the Act shall apply. In this regard, if there is no concurrence with the between the senior Khoi-San leader and the forum in respect of the selected persons, the senior Khoi-San leader must submit the names of the persons who were nominated for selection to the Premier concerned and the Premier must, after consultation with such leader and the forum select the required number of selected members.



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- 1.12. During the selection process, the senior Khoi-San leader and the forum are encouraged to select persons who represent the interests of the youth and persons with disabilities of that Khoi-San community: Provided that for the purposes of this formula "youth" means persons who are at least 18 years old but not older than 35.
- 1.13. During the selection process the senior Khoi-San leader and the forum must ensure that at least one third of the selected members of the particular Khoi-San council are women to comply with section 18(5) read with section 16(2)(b) of the Act.
- 1.14. The selection of the 60% component must be finalised before the process relating to the 40% election component commences. In this regard, the names of such selected members must be made public within 14 days from the date of such selection: Provided that the election process of the 40% elected component of a Khoi-San council must take place within 21 days from the date on which the names of the selected members have been made public.
- 1.15. The process of electing the 40% component of a Khoi-San council must be done in terms of section 21 of the Act. During the election process, the community is encouraged to elect persons who represent the interests of the youth and persons with disabilities of that community.
- 1.16. As prescribed by section 18(5) read with section 16(2)(b) of the Act, at least a third of the members of a Khoi-San council must be women, and if this requirement cannot be met in any instance, the Premier may determine a lower threshold for the Khoi-San council concerned, therefore:—
- a) during the selection of the 60% component of a Khoi-San council, senior Khoi-San leader and the forum must ensure that at least one third of the selected members are women; and
  - b) during the election of the 40% component of a Khoi-San council, the community must ensure that at least one third of the elected members are women.

  
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