

**THE HOUSE OF TRADITIONAL LEADERS FOR THE PROVINCE OF
THE NORTH WEST ACT**

NO. 12 OF 1994

[ASSENTED TO 18 OCTOBER, 1994] [DATE OF COMMENCEMENT: 4 NOVEMBER, 1994]

(English text signed by the Premier)

ACT

To provide for the establishment, the composition and the election of representatives of the Provincial House of Traditional Leaders; to determine and regulate the privileges, immunities and powers of the House of Traditional Leaders; and to provide for incidental matters.

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

"chairperson" means a chairperson of the House and includes a vice-chairperson as well as any member when such presiding at a meeting of the House or any committee thereof;

"Constitution" means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

"Executive Council" means the Executive Council of the Province as referred to in section 149 of the Constitution;

"House" means the House of Traditional Leaders established in terms of section 2 (1);

"kgosi" or "kgosigadi" means the kgosi or kgosigadi of a tribe as an heir to bogosi who has been appointed by the family of bogosi in accordance with their succession;

"kgosana" means the head of an independent sub-tribe or a dependent sub-tribe or clan, appointed by the kgosi or kgosigadi or the independent sub-tribe or clan in accordance with the genealogical succession of such sub-tribe or clan;

"member" means a member of the House of Traditional Leaders;

"officer of the House" means the Secretary or any other person acting as an officer of the House under the orders of the chairperson within the precincts of the House, and includes any member of the Provincial Police Force on duty within the precincts of the House;

"precincts of the House" means the chamber of the House, and includes, while the House is in sitting, any other premises provided for the purposes of the House;

"Premier" means the Premier of the Province elected as contemplated in section 145 of the Constitution and includes the acting Premier referred to in section 148 of the Constitution;

"Province" means the Province of the North-West;

"regent" (motshwareledi) means a member of the family of bogosi who is the senior uncle of the kgosi or kgosigadi who takes bogosi in the absence of the kgosi or kgosigadi as a result of the death of a kgosi or kgosigadi;

"region" means any region referred to in the Schedule to this Act;

"Secretary" means the Secretary of the House and includes an assistant Secretary;

"traditional authority" means a tribal authority or a community authority established by proclamation or other notice issued by—

(a) the person who immediately before the Constitution was—

(i) the State President of the Republic within the meaning of the Republic of South Africa Constitution Act, 1983 (Act 110 of 1983);

(ii) the President, Chief Minister or other chief Executive in a government under any other constitution or constitutional arrangement which was in force in an area which forms part of the Republic of South Africa;

(b) the Premier, and includes a tribal authority and a community authority referred to in the Traditional Authorities Act, 1978 (Act 23 of 1978);

"traditional leader" means a kgosi or a kgosana or a regent or a head of a tribe or village or a head of an area under traditional authorities; and

"visitor" means any person other than a member or an officer of the House, his or her representative, the Premier of the Province and any Member of the Provincial Legislature.

(2) (a) The powers, functions and duties lawfully exercised by traditional leaders at the date of the coming into operation of the Constitution, shall be and remain in force until varied or withdrawn by a competent authority.

(b) Traditional leaders shall continue to enjoy the personal status they have hitherto enjoyed and shall in regard to ceremonial and traditional matters and at ceremonial occasions within their areas take precedence over any person.

2. Establishment of Provincial House of Traditional Leaders.—(1) Subject to the Constitution there is hereby established a House of Traditional Leaders for the Province.

(2) For the purposes of this Act there is established in the Province the regions as mentioned in the Schedule to this Act.

3. Composition of House, disqualifications for membership of House, Removal from office and vacation of seat and filling of vacancies.—(1) The House shall consist of twenty-four members being—

(a) two dikgosi or dikgosigadi elected by the dikgosi or dikgosigadi from their number in each of the regions referred to in the Schedule;

(b) four persons by virtue of their expertise, experience knowledge of indigenous law and custom of the people of Province, appointed by the Executive Council.

(2) (a) The House shall function as Such for a period commencing on its establishment or reconstitution, and terminate on the date upon which the five year term of the Provincial Legislature is dissolved by section 128 (1) of the Constitution.

(b) The House shall be reconstituted in accordance with the provisions of subsection (1) within thirty days from the date on which its term of office has been terminated in terms of subsection (2) (a).

(3) The procedure to be followed to conduct an election referred to in paragraph (a) of subsection (1) shall be prescribed by the Premier from time to time.

(4) Notwithstanding the provisions of this section, a person shall be disqualified from being elected or remaining a member of the House if—

(a) he or she is not a kgosi or kgosigadi, a kgosana or a regent;

(b) he or she is subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective; or

(c) he or she has been convicted of any offence under this Act or of any offence whatsoever in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of six months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her election.

(5) (a) The term of office of any member may before the expiration thereof be terminated by the House in consultation with the Executive Council (whereupon the member concerned shall be removed from office)—

(i) on account of his or her misconduct;

(ii) on account of unfitness for the duties of his or her office;

(iii) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the duties of his or her office or discharging them properly;

(iv) if he or she is or has become disqualified in terms of subsection (4).

(b) A member may at any time resign from the House upon two months' written notice tendered to the chairperson.

(6) (a) The office of a member shall become vacant—

(i) when he or she dies;

(ii) when his or her written resignation tendered to the chairperson in terms of subsection (5) (b) becomes effective;

(iii) when his or her term of office is terminated in terms of subsection (5) (a);

(iv) if he or she is absent from three consecutive meetings of the House without the prior consent of the House or that of its chairperson;

(v) if he or she is a member by virtue of having been so elected in terms of section 3 (1) (a) and he or she ceases to be a kgosi or kgosigadi of a tribe.

(b) Any vacancy in the House shall be filled by the election of another member by the regional authority affected or the Executive Council thirty days after the occurrence of such vacancy, and any member so elected shall remain in office for the unexpired portion of his or her predecessor's term of office.

4. Executive Committee.—(1) The members shall, within thirty days from the date of the establishment or reconstitution of the House as contemplated by subsection (2) (a) of section 3, elect from their number—

(a) one member as chairperson of the House;

(b) one member as vice-chairperson of the House; and

(c) three members to serve on the Executive Committee of the House.

(2) The members elected in terms of subsection (1) shall constitute the Executive Committee of the House and shall hold office for the same period as the term of office of the House as contemplated by section 3 (2) (a).

(3) The chairperson may at any time designate any of the members of the Executive Committee to perform such duties in connection with any portfolio which are within the powers and functions of the House in terms of this Act.

(4) The Executive Committee or any member thereof may execute such powers and perform such duties and functions as may be delegated by the House during any time whenever the House is not in session.

(5) The Executive Committee and any member thereof who has executed any power or performed any function or duty contemplated by subsection (4), shall submit a report for ratification of any such action taken to the House at the next session of the House.

(6) If the seat of any member of the Executive Committee becomes vacant in terms of the provisions of this Act before the expiry of his or her period of office his or her seat shall, for the remainder of such period of office, be filled by another member in terms of this Act as soon as may be reasonably practicable after the occurrence of such vacancy.

5. Sub-committees.—The House may appoint sub-committees from among the members and under the chairpersonship of any member of the Executive Committee to investigate any specific matter which is within the powers and functions of the House.

6. Powers and Functions of House.—(1) Subject to the provisions of section 183 of the Constitution, the House shall have the power to—

(a) consider and comment on any Bill of the Provincial Legislature and/or the National Assembly pertaining to traditional authorities, indigenous law or the traditions and customs of traditional communities within the Province;

(b) advise and make proposals to the Provincial Legislature, a member of the Executive Council or any department or institution in all matters pertaining to indigenous law, traditional authorities or the traditions and customs of traditional communities within the Province and, without prejudice to the generality of the foregoing power, especially advise and make proposals in relation to matters in connection with—

(i) the powers and functions referred to in section 4 of the Traditional Authorities Act, 1978 (Act 23 of 1978);

(ii) the establishment and recognition of tribes and tribal authorities;

(iii) the establishment and dissolution of community authorities;

(iv) the appointment, recognition, deposition and discipline of traditional leaders;

(v) the delegation and devolution of powers and functions to traditional authorities;

(vi) the administration of justice within the areas of jurisdiction of traditional authorities;

(vii) the remuneration and privileges of traditional leaders;

(viii) the co-ordination of the developmental activities of Provincial government departments and institutions within the areas of jurisdiction of traditional authority;

(ix) any other matter which may be referred to the House by the Premier or by the Provincial Legislature.

(2) A Bill contemplated in subsection (1) (a) shall be referred by the Speaker of the Provincial Legislature to the House for its comments before the Bill is passed by the Provincial Legislature.

(3) The House shall within 30 days as from the date of such referral, indicate by written notification to the Provincial Legislature its support for or opposition to the Bill together with any comments it wishes to make.

(4) If the House indicates in terms of subsection (3) that it is opposed to the Bill the Provincial Legislature shall not pass the Bill before a period of 30 days, as from the date of receipt by the Speaker of such written notification, has lapsed.

(5) If the House fails to indicate within the period prescribed by subsection (3) whether it supports or opposes the Bill the Provincial Legislature may proceed with the Bill.

7. Rules of procedure.—Subject to the provisions of the Constitution and subject to the approval of the Executive Council, the House may make rules reregulating the conduct of business and procedure in the House, including rules and orders regulating—

(a) the time and place at which the House shall meet: Provided that there shall be at least two sessions of the House during the course of each calendar year;

(b) the manner in which the views of the House shall be recorded and expressed;

(c) the attire of the members of the House; and

(d) the language used by members.

8. House may transact business notwithstanding vacancies.—The House shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof including any vacancy not filled when the House is first constituted or is reconstituted at any time and any proceedings in the House shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the House or otherwise took part in the proceedings.

9. Remuneration of members of House.—There shall be paid out of and as a charge against the Provincial Revenue Fund to a member of the House such moneys as may be prescribed by an Act of the Provincial Legislature.

10. Immunity from legal proceedings.—No civil proceedings may be instituted against any member for words spoken before the House, or by reason of any matter or thing brought by him or her by motion or otherwise before the House.

11. Execution of process.—No process issued by any court in the exercise of its jurisdiction shall be served or executed within the precincts of the House while it is in session.

12. Freedom from arrest.—No member shall be liable to arrest—

(a) for any civil debt whilst going to, attending or returning from any meeting of the House,

(b) within the precincts of the House while it is in session for any criminal offence,

without the consent of the chairperson.

13. Control of entry.—(1) No visitor shall be entitled of right to enter or to remain within the precincts of the building.

(2) The chairperson may issue such orders as he or she may deem necessary for the regulation of the admittance of visitors to the precincts of the building.

(3) Copies of any order issued as contemplated in subsection (2) shall be authenticated by the Secretary and shall be exhibited in a conspicuous place within the precincts of the building.

(4) The chairperson may at any time order any visitor to withdraw from the precincts of the building.

14. Offences relating to admittance.—Any person who being a visitor—

(a) enters or attempts to enter or refuses to withdraw from the precincts of the House in contravention of any order of the chairperson;

(b) fails or refuses to withdraw from the precincts of the House when ordered to withdraw therefrom by the chairperson; or

(c) contravenes any order made under the provisions of this Act, shall be guilty of an offence and on conviction be liable to pay a fine not exceeding two-hundred rand.

15. Other offences.—Any person who—

(a) offers to any member or officer of the House any bribe in order to influence such member or officer, as the case may be, in his or her conduct as such member or officer, or offers to any member or officer of the House any fee, compensation, gift or reward for or in respect of the promotion of or in opposition to any Bill or matter submitted to or intended to be submitted to the House;

(b) assaults, molests, insults, resists or obstruct any member of the House coming to, being within, or going from the precincts of the building or endeavours to compel any such member by force, insult or menace to declare himself or herself in favour of or against any proposition or matter pending in or expected to be brought before the House;

(c) assaults, molests, insults, resists or obstruct any officer in the execution of his or her duties;

(d) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the House while it is in session;

(e) utters or publishes any false or scandalous defamatory matter concerning the House or upon any member or officer in his or her capacity as such member or officer;

(f) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence any member in his or her vote, opinion, judgment or action, upon any question arising in the House, or to induce him or her to absent himself or herself from any sitting of the House; or

(g) threatens, assaults or insults any member or officer of the House on account of his or her conduct as such member or officer,

shall be guilty of an offence and, on conviction be liable to pay a fine not exceeding one thousand rand or imprisonment not exceeding twelve months.

16. Acceptance of bribes by members.—Any member who accepts or agrees to accept or obtains or agrees to obtain for himself or herself or for any other person any bribe, fee, compensation, reward or benefit of any kind for speaking, voting or acting as such member, or from refraining from so speaking, voting or acting, or on account of his or her having do spoken, voted or acted, or having so refrained, shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding one thousand rand or imprisonment not exceeding twelve months.

17. Printing or publishing of minutes or messages without authority prohibited.—Any person who—

(a) wilfully and unlawfully and without the majority of the House or the chairperson prints or

publishes or causes to be printed or published any copy of any minute, report, decision or message of the House without the express authority of the House or the chairperson; or

(b) presents any print or publication as referred to in paragraph (a) as having been printed or published on the authority of the House or the chairperson, well knowing that it has not been so printed or published,

shall be guilty of an offence and, on conviction be liable to pay a fine not exceeding one thousand rand or to undergo imprisonment not exceeding twelve months.

18. Proof of authority for publication.—In any court of law, the production of a certificate under the hand of the chairperson together with an affidavit which verifies the authenticity of such certificate, shall be sufficient evidence of the fact that any print or publication referred to in section 17 has or has not been printed or published under the authority of the House or the chairperson.

19. Chairperson may order words out of order.—(1) If the chairperson under the provisions of the Rules of Procedure of the House, rules that any words used or uttered in any debate in the House to be out of order, the chairperson may order that such words, or any words arising out of them, shall not be published in any manner.

(2) Any person who publishes or prints any words which are the subject of any order made in terms of subsection (1), shall be guilty of an offence and, on conviction be liable to pay a fine not exceeding four hundred rand or to undergo imprisonment not exceeding four months.

20. Secretary and staff.—(1) The Executive Council shall appoint a person in Provincial Government as Secretary of the House and may assign such other staff as it may deem necessary to assist the Secretary in the performance of his or her duties.

(2) Any officer appointed in terms of subsection (1) shall be deemed to be an officer of the House.

21. Short title.—This Act shall be called the House of Traditional Leaders for the Province of the North West Act, 1994.

Schedule

REGIONS ESTABLISHED IN TERMS OF SECTION 2 (2).

(a) Bafokeng, consisting of the following districts—

Bafokeng, Koster, Rustenburg 1[8], Rustenburg 2[9], Ventersdorp, Potchefstroom and Klerksdorp;

(b) Mankwe, consisting of the district of Mankwe;

(c) Taung, consisting of the following districts—

Taung, Bloemhof, Christiana, Schweizer-Reneke and Wolmaranstad;

(d) Odi, consisting of the following districts—

Odi, Brits [1] and Pretoria [7];

(e) Ditsobotla, consisting of the following districts—

Ditsobotla, Coligny, Delareyville [2] and Lichtenburg [4];

(f) Kudumane, consisting of the following districts—

Kudumane, Ganyesa, Kuruman [3] and Vryburg [1];

(g) Lehurutshe, consisting of the district of Lehurutshe and shall include for the purposes of this Schedule, Zeerust or Marico in principle if Marico 1 or 2 is not Zeerust;

(h) Madikwe, consisting of the following districts—

Madikwe, Marico [6], Marico 2 and Swartruggens [10] with the exclusion of Zeerust;

(i) Moretele, consisting of the following districts—

Moretele and Warmbad [12];

(j) Molopo, consisting of the following districts—

Molopo and Mafikeng [5].