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GENERAL NOTICE

NOTICE 2385 OF 2010



GAUTENG LEGISLATURE

THE GAUTENG PROVINCIAL GOVERNMENT INTENDS TO INTRODUCE GAUTENG TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2010 IN THE GAUTENG PROVINCIAL LEGISLATURE

The above mentioned Bill is hereby published in English in the Gauteng Provincial Extraordinary Gazette No ... on ... August 2010 for public comments and general information.

The bill seeks to provide for the recognition of traditional communities, to provide for the establishment and recognition of traditional councils; to provide for the functions of traditional councils; to provide for the recognition and functions of different levels of traditional leadership; to provide for financial management of the institution of traditional leadership; to provide for the establishment and functioning of the provincial house and local houses of traditional leaders; to provide for the functions of traditional leadership and partnerships with government; to provide for government support to traditional leadership; to provide for the accountability of the institution of traditional leadership; to provide for dispute resolution mechanisms in respect of traditional leadership; to provide for the delegation of certain powers and functions; and to provide for matters connected therewith.

People, who wish to comment on the Bill, may send their written comments to:

Office of the Secretary
C/o Committee Coordinator (Ms Jacky Moteke)
Gauteng Provincial Legislature
Private Bag X52
Johannesburg
2000

Tel: (011) 498 5562
Mobile: (079) 522 8669
Fax: (011) 498 5719

Comments must reach the above office on or before Thursday, 09 September 2010.

Copies of the *Gazette* may be obtained from Government Printers, Publications Section, Vermeulen and Bosman Streets, Pretoria at R2.50 per copy

GAUTENG PROVINCIAL GOVERNMENT

**GAUTENG TRADITIONAL LEADERSHIP
AND GOVERNANCE BILL, 2010**

(The English text is the official text of the Bill)

B I L L

To provide for the recognition of traditional communities, to provide for the establishment and recognition of traditional councils; to provide for the functions of traditional councils; to provide for the recognition and functions of different levels of traditional leadership; to provide for financial management of the institution of traditional leadership; to provide for the establishment and functioning of the provincial house and local houses of traditional leaders; to provide for the functions of traditional leadership and partnerships with government; to provide for government support to traditional leadership; to provide for the accountability of the institution of traditional leadership; to provide for dispute resolution mechanisms in respect of traditional leadership; to provide for the delegation of certain powers and functions; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Province of Gauteng, in accordance with the Constitution, National Policy Framework and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), acknowledges the existence of traditional communities in the Province, and seeks to—

- * recognise, protect, preserve, transform, as well as to provide an enabling environment for the development of, traditional communities, traditional institutions, customary law and customs;
- * define a place and role for traditional leadership within the system of democratic governance in South Africa; and
- * restore the integrity and legitimacy of the institution of traditional leadership in line with customary law and custom.

BE IT THEREFORE ENACTED by the Provincial Legislature of Gauteng, as follows:—

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CHAPTER 1

INTERPRETATION AND APPLICATION

Definitions

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

“**area of jurisdiction**” means a designated area of jurisdiction for a traditional community recognised as contemplated in section 2, a traditional council recognised as contemplated in section 5, and a Local House as established in section 38;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**customary law**” means those customs that are deemed to be binding on and enforceable in respect of all members of a particular traditional community, whether it is recognised as contemplated in this Act or not;

“**customs**” means traditional practices adhered to by a traditional community, whether it is recognised as contemplated in this Act or not;

“**Department**” means the Department responsible for traditional affairs in the Province;

“**electoral college**” means an electoral college consisting of all senior traditional leaders of that traditional community recognised as contemplated in section 30;

“Executive Council” means the Executive Council for the Province;

“financial year” means the period commencing on 1 April of any year and ending on 31 March of the succeeding year, both days included;

“Framework Act” means the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

“government” means the national, provincial, and/or local spheres of government as contemplated in section 40 (1) of the Constitution;

“headman or headwoman” means a traditional leader who-

(a) is under authority of, or exercise authority within the area of jurisdiction of, a senior traditional leader in accordance with customary law; and

(b) is recognised as such in terms of this Act;

“headmanship or headwomanship” means the position held by a headman or headwoman;

“Head of Department” means the head of the Provincial Government Department responsible for traditional affairs;

“Houses” means the Local Houses and the Provincial House of Traditional Leaders;

“institution” means the institution of traditional leadership consisting of traditional leaders and the following structures established in terms of this Act and applicable national legislation:

(a) traditional councils;

(b) local houses;

(c) the provincial house; and

(d) the national house;

“local municipality” means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155 (1) (b) of the Constitution as a category B municipality;

“MEC” means the Member of the Executive Council for Gauteng responsible for traditional affairs;

"municipal council" means a municipal council as contemplated in Chapter 7 of the Constitution;

"municipality" means a municipality as contemplated in Chapter 7 of the Constitution;

"national code of conduct" means the code of conduct contained in Schedule 1 of the Framework Act;

"National Commission" means the Commission on Traditional Leadership Disputes and Claims established as contemplated in section 22 of the Framework Act;

"National House" means the National House of Traditional Leaders as contemplated in section 212(2) (a) of the Constitution and established as contemplated in the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997), or any successor legislation to that Act;

"Premier" means the Premier of the Gauteng Province elected as contemplated in section 128 of the Constitution and includes an acting Premier as contemplated in section 131 of the Constitution;

"prescribed" means prescribed by way of proclamation, regulation or notice as contemplated in this Act;

"Province" means the Province of Gauteng as contemplated in section 103 of the Constitution;

"provincial code of conduct" means the code of conduct contemplated in section 69 and contained in Schedule 1 of this Act;

"Provincial Gazette" means the *Provincial Gazette* of Gauteng;

"Provincial Government" means the Gauteng Provincial Government;

"Provincial House" means the Provincial House of Traditional Leaders for the Province as contemplated in section 30;

"Provincial Legislature" means the legislative authority of the Province as contemplated in section 104(1) of the Constitution;

"Royal Council" means the core customary institution or structure consisting of immediate relatives of the ruling family within a traditional community, who have been identified in terms of custom, and includes, where applicable, other family members who are close relatives of the ruling family;

"Royal family" means the royal family as defined in section 1 of the Framework Act;

"SALGA" means the South African Local Government Association recognised as the national organisation representing organised local government as contemplated in section 2(1)(a) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), and for purposes of this Act is represented by SALGA GAUTENG;

"SALGA GAUTENG" means the Gauteng Local Government Association recognised as a provincial organisation representing municipalities within Gauteng as contemplated in section 2 (1) (b) of the Organised Local Government Act, 1997 (Act No. 52 of 1997);

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

"this Act" includes proclamations, regulations and notices made as contemplated in this Act;

"tradition" includes the traditions, laws and customs practiced by members of a traditional community;

"traditional leader" means traditional leader as defined in section 1 of the Framework Act; and

"traditional institution" means an institution, whether recognised as contemplated in this Act or not, established as contemplated in the applicable customary law and customs of a traditional community, whether recognised as contemplated in section 2 or not.

(2) An expression, which denotes singular includes the plural and *vice versa*.

(3) Any word or expression to which a meaning has been assigned in the Framework Act bears the meaning so assigned, unless the context indicates otherwise.

CHAPTER 2

TRADITIONAL COMMUNITIES AND TRADITIONAL COUNCILS

Recognition of traditional communities

2. (1) A community may be recognised as a traditional community if it-
 - (a) is subject to the system of traditional leadership in terms of that community's customs;
 - (b) observes a system of customary law; and
 - (c) complies with any criteria set out in the Constitution and the Framework Act.
- (2) Any member or group of members of a community as contemplated in section 2(1) of the Framework Act appointed or nominated by the community may apply to the Premier for the community to be recognised as a traditional community.
- (3) An application referred to in subsection (2) must contain the following particulars:
 - (a) a short history of the community;
 - (b) the generally accepted name of the community;
 - (c) the name of the senior traditional leader under whose authority the community falls;
 - (d) the names of persons who the community regard as their leaders and their designations in terms of applicable custom; and
 - (e) indication of the area within which the community generally resides.
- (4) The Premier must, within three months after receipt of an application referred to in subsection (2) -
 - (a) consult the senior traditional leader concerned, the Provincial House, if established, and the community concerned;
 - (b) take a decision in consultation with the Executive Council, on whether to recognise the community concerned as a traditional community; and
 - (c) inform the community of the decision.
- (5) If a decision to a traditional community as contemplated in subsection (4) is taken, the Premier must, by notice in the provincial *gazette*, recognise the community as a traditional community and issue a certificate of recognition to the community so recognised.

Merger or division of traditional communities

3. (1) A traditional community or communities may apply to the Premier to be divided or merged.

(2) The provisions of section 2(1)-(5) apply with the necessary changes to application referred to in sub-section (1).

(3) The notice referred to in sub section 2(5) must regulate the legal, practical and other consequences of the merger or division including the assets, liabilities, staff, administrative and other records relating the traditional communities.

Withdrawal of recognition of traditional communities.

4. (1) The Premier, after consultation with the Provincial House and any community that may be affected, may withdraw the recognition as a traditional community where the community concerned requests the Premier in writing that its recognition as a traditional community be withdrawn.

(2) The Premier may, at any time after the publication of the notice referred to in section 2(5) reverse his or her decision if it is subsequently established that the group of people who have been recognized a traditional community-

- (a) are not subject to a system of traditional leadership in terms of that community's customs and practices;
- (b) does not observe a system of customary law; and
- (c) were erroneously granted recognition.

(3) The withdrawal of the recognition of traditional community or communities must be effected by way of notice in the Provincial Gazette.

(4) The notice referred to in subsection 3 must also provide for the withdrawal of the recognition of the traditional council at the same time that the recognition of its traditional community is withdrawn.

Establishment and recognition of traditional councils

5. (1) A traditional community that has been recognised in terms of section 2 must establish a traditional council within two months after the traditional community has been recognised in terms of section 2 (5).

(2) The establishment of a traditional council is subject to this section and section 3 of the Framework Act.

(3) (a) The number of members of a traditional council must be determined by the Premier by notice in the provincial gazette and may not be

more than 30;

(b) at least one third of the members of the traditional council must be

women;

(d) where it has been proved that an insufficient number of women are available to participate in a traditional council, the Premier may determine a lower threshold for the traditional council concerned than that required in terms of paragraph (b).

(4) The following principles apply to the establishment of a traditional council-

(a) no person is eligible to become a member of the traditional council if that person-

(i) at the time of the selection or election of members of the traditional council is serving a sentence of imprisonment;

(ii) is an unrehabilitated insolvent;

(iii) is suffering from physical incapacity or mental infirmity which based on acceptable medical evidence, makes it impossible for that person to function as such;

(iv) 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;

(v) is not a South African citizen;

(vi) is not permanently resident within the area of the traditional council concerned; and

(vii) is under the age of 18 years;

(b) 60 percent of the members of the traditional council must consist of traditional leaders and members of the traditional community selected by the senior traditional leader for the traditional community concerned in terms of that community's customs subject to the provisions of subsection (3);

(c) the senior traditional leader is an ex-officio member, part of the traditional council and the chairperson of the traditional council;

(d) the remaining 40 percent of members of the traditional council must be elected from other members of that traditional community, in the prescribed manner; and

(e) the senior traditional leader must announce the names of the members of the traditional council selected by him or her in terms of subsection (4)(b) before the remaining members of the traditional council are elected.

(5) The relevant senior traditional leader must submit to the Premier in writing, within two weeks of the establishment of the traditional council in terms of subsection (1), the names of the members of the traditional council and the particulars of the establishment of that traditional council.

(6) On receipt of the information referred to in subsection (5), the Premier must consider whether the establishment of the traditional council concerned was done in accordance with this section and section 3 of the Framework Act.

(7) Where the Premier is of the view that the provisions of this section were not complied with, the Premier must –

- (a) notify the senior traditional leader concerned which provision has not been complied with; and
- (b) request the senior traditional leader to comply with the relevant provisions within a timeframe determined by the Premier.

(8) If the Premier is satisfied that this section has been complied with, the Premier must, by notice in the *Provincial Gazette*, recognise the traditional council and determine its area of jurisdiction

Term of office and filling of vacancies

6. (1) A member of a traditional council holds office for a period of five years and is eligible for re-election.

(2) A member of a traditional council vacates his or her office when his or her term of office expires, or if he or she—

- (a) resigns in writing;
- (b) is deceased ; or
- (c) becomes disqualified in terms of section 5(4) or the code of conduct.

(3) When a vacancy occurs amongst –

- (a) the selected members of a traditional council, the senior traditional leader concerned must select a member of the traditional community to fill the vacancy, within six weeks of the vacancy occurring;
- (b) the elected members of a traditional council an election must, be held within 30 days of a vacancy occurring to, elect a member of the traditional council in terms of section 5 to fill the vacancy.

(4) Members selected or elected to fill the vacancy in terms of this section only serve for the remainder of the term of office.

Functions of traditional councils

7. (1) A traditional council performs the following functions:

- (a) managing the affairs of the traditional community in accordance with the customary law and customs of the community concerned;
- (b) assisting, supporting and guiding traditional leaders in the

- performance of their functions;
- (c) supporting municipalities in the identification of community needs;
 - (d) facilitating the involvement of the traditional community concerned in the compilation and review of the integrated development plan of the local municipality in whose area of jurisdiction that community resides;
 - (e) recommending to government, after consultation with the local Municipality and local house concerned, and the Provincial House, appropriate mechanisms and steps that will contribute to development and service delivery within the area of jurisdiction of the traditional council;
 - (f) participating in the development of policy and legislation at local government level;
 - (g) participating in development programmes of municipalities and of the provincial and national spheres of government;
 - (h) promoting the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;
 - (i) promoting indigenous knowledge systems for sustainable development and disaster management;
 - (j) alerting any relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council in question, or the well-being of people living in such area of jurisdiction, and contributing to disaster management in general;
 - (k) entering into service delivery agreements with a municipality in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and any other applicable legislation;
 - (l) sharing information and co-operating with other traditional councils;
 - (m) executing any power or performing any other function or duty allocated to a traditional council as contemplated in this Act and other applicable legislation; and
 - (n) meeting at least once every year with its traditional community to give account of the activities and finances of the traditional council.

(2) A traditional council must execute any power or perform any other function allocated to it by organs of state, by means of an assignment, delegation, agency agreement or power of attorney as contemplated in section 53.

(3) A traditional council performs the customary functions provided for in the customary law and customs of the traditional community concerned, in addition to any functions allocated to a traditional council as contemplated in this Act and other applicable legislation.

- (4) When performing any of its functions, a traditional council must—
- (a) keep proper records;
 - (b) have its financial statements audited as contemplated in section 27;
 - (c) disclose the receipt of gifts in the prescribed manner; and
 - (d) adhere to both the national code of conduct and the provincial code of conduct.
- (5) A traditional council may not promote or prejudice the interests of any political party, and no one may use the resources of a traditional council to promote or prejudice the interests of any political party.
- (6) Subject to section 74, the Premier must monitor a traditional council's performance of its functions, and the Premier must ensure that the traditional council complies with all constitutional and other relevant legal requirements.
- (7) The Premier may take necessary steps he or she deems necessary to ensure that a traditional council complies with the requirements of this section.
- (8) No-one may hinder a traditional council from performing its functions, unless this Act or any other law authorises such conduct.

Staffing of traditional councils

- 8.** (1) The Provincial Government must, in accordance with applicable legislation, employ and second staff to traditional councils.
- (2) The Provincial Government must take into consideration the extent of the area of jurisdiction of a traditional council and the needs of its residents when taking decisions regarding the provision of staff to a traditional council.
- (3) Personnel seconded to traditional councils must report to a person designated by the senior traditional leader under whose area of jurisdiction the relevant traditional council falls.
- (4) Any unacceptable behaviour or conduct by personnel seconded to traditional councils must be reported to a person designated by the responsible Member of the Executive Council.
- (5) After receiving a report of unacceptable behaviour or conduct in terms of subsection (4), the designated responsible person must decide whether any disciplinary steps should be taken, in accordance with the applicable law.

Meetings of traditional councils

- 9.** (1) A senior traditional leader must, within 21 days after the establishment of a traditional council in terms of section 5, convene the first meeting of the traditional council.

- (2) (a) The senior traditional leader under whose area of jurisdiction a traditional council falls must chair the meetings of the traditional council, unless the senior traditional leader is absent from a meeting, in which case that meeting must be chaired by the deputy chairperson;
- (b) The members of a traditional council must elect a deputy chairperson at the traditional council's first meeting;
- (c) If both the chairperson and deputy chairperson are absent from a meeting, that meeting will be chaired by an acting chairperson, elected by the members who are present.
- (3) A traditional council must hold an ordinary meeting each month, on a date and time determined by the chairperson.
- (4) A notice of a meeting must be given to all members of the traditional council at least four days prior to the date of the meeting.
- (5) The procedure to be followed at any meeting of a traditional council must be in accordance with customary law and customs.
- (6) A special meeting may be called by the chairperson or by two members of the traditional council, to discuss a specific agenda item which cannot wait for a scheduled meeting.

Minutes of meetings

- 10.** (1) A traditional council must keep minutes of each of its meetings, in which the following must be recorded -
- (a) the date, time and place of the meeting;
- (b) the names of the members present;
- (c) a summary of every decision taken at the meeting; and
- (d) if a member so requests, the fact that he or she voted against any decision taken.
- (2) A copy of the minutes must, within twenty-one days after a meeting, be forwarded to an officer in the Department designated by the Premier for this purpose.

Withdrawal of recognition of traditional councils

- 11.** (1) The Premier may, by notice in the *Provincial Gazette*, withdraw the recognition of a traditional council in terms of section 7(1) of the Framework Act and this section, after consultation with the Provincial House, the relevant Local House and the traditional community concerned.
- (2) If the recognition of a traditional community is withdrawn in terms of

section 4(1), the recognition of the traditional council is deemed to have been withdrawn when the withdrawal of the recognition of the traditional community takes effect.

CHAPTER 3

LEADERSHIP POSITIONS WITHIN THE INSTITUTION OF TRADITIONAL LEADERSHIP

Part 1

Traditional Leadership Positions

Recognition of traditional leadership positions

- 12.** The following traditional leadership positions are recognised-
- (a) Senior traditional leaders; and
 - (b) Headmen and headwomen.

Part 2

Senior traditional leaders, headmen and headwomen

Recognition of a senior traditional leader

- 13.** (1) Whenever the position of a senior traditional leader is to be filled, the following process must be followed -
- (a) the royal family of a traditional community recognised in terms of section 2, must, within a reasonable time after the need arises for the position of a senior traditional leader to be filled -
 - (i) identify a person who qualifies in terms of customary law to assume the position of a senior traditional leader, after taking into account whether any of the grounds referred to in section 16(1)(a), (b) or (d) apply to that person; and
 - (ii) provide the Premier with the motivation for the identification of that person as a senior traditional leader.
 - (b) the Premier must, subject to subsection (4) and section 2, recognise a person identified in terms of subsection (1)(a) as a senior traditional leader.

(2) The Premier must recognise a person as a senior traditional leader in terms of subsection (1)(b) by -

- (a) publishing a notice in the *Provincial Gazette* recognising the person identified as a senior traditional leader; and
- (b) issuing a certificate of recognition to the person identified.

(3) The Premier must inform the Provincial House of the identification and recognition of a senior traditional leader.

(4) Where there is evidence or an allegation that the identification of a person to be appointed as a senior traditional leader was not done in accordance with customary law or customs, the processes required in terms of subsection (1), or was done in contravention of section 2 of this Act, the Premier -

- (a) may refer the matter to the Local House as well as the Provincial House for comment; or
- (b) may refuse to issue a certificate of recognition and refer the matter back to the royal council for reconsideration and resolution.

(5) After a matter which has been referred back to the royal council for reconsideration and resolution in terms of subsection (4) has been reconsidered and resolved, if the Premier is satisfied that the reconsideration and resolution by the royal council has been done in accordance with customary law, then the Premier must recognise the person identified by the royal council.

(6) If the Premier is not satisfied that the royal council has resolved the matter to his or her satisfaction the provisions of section 62 apply.

(7) The recognition of a senior traditional leader takes effect on a date specified in the certificate and as re stated in the notice referred to in subsection (2).

(8) Within three weeks after the date of recognition referred to in subsection (7) a senior traditional leader who has been recognised must furnish, in writing, to the Premier the names of headmen and headwomen within his or her traditional community.

(9) A senior traditional leader who has been recognised holds office until he or she—

- (a) retires in terms of subsection (10) ;
- (b) is removed from office in terms of section 16; or
- (c) is deceased.

(10) A senior traditional leader retires from office when he or she submits a written notice of his or her retirement to the Premier.

Recognition of position of headmanship or headwomanship

14 (1) A traditional council must whenever the need arises, recommend to

the Premier the number of headmanships and headwomanships that the traditional community should have, and provide a motivation for the recommendation.

(2) The Premier must determine the number of headmanships and headwomanships for the traditional community, after taking into account the recommendation of the traditional community and administrative needs of the traditional community, as well the customary law of the traditional community concerned.

(3) Before recognising a headmanship or a headwomanship the Premier must conduct an investigation into the number of headmanships or headwomanships established in terms of the customary law of the community concerned.

(4) The Premier must, by notice in the *Provincial Gazette*, recognise the headmanships and headwomanships for each traditional community.

(5) Any recognition of a headmanship or headwomanship that happens during the term of the traditional council in whose area of jurisdiction such a headmanship or headwomanship is recognised does not influence the membership of the traditional council concerned.

Recognition of headmen and headwomen

15. (1) Whenever the position of a headman or a headwoman is to be filled such a headman or headwoman must be, subject to the provisions of section 18, identified in terms of the customary law of the traditional community concerned.

(2) The senior traditional leader for the traditional community concerned must inform the Premier of the headman or headwoman and particulars of the person so identified.

(3) A person identified as a headman or headwoman must reside within the area of the headmanship or headwomanship.

(4) The Premier must recognise a person identified as a headman or headwoman in terms of subsection (3) by-

- (i) publishing a notice in the *Provincial Gazette*; and
- (ii) issuing a certificate of recognition to the identified person.

(5) The Premier must inform the Local House of the recognition of a headman or headwoman.

Removal of senior traditional leader, headman or headwoman

16. (1) A senior traditional leader, headman or headwoman may be removed from office if he or she-

- (a) is convicted of an offence with a sentence of imprisonment for more than 12 months without an option of a fine;
- (b) suffers from physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for that senior traditional leader, headman or headwoman to function as such;
- (c) was wrongfully appointed or recognised;
- (d) transgressed a customary rule or principle that warrants removal;
- (e) breached the National or Provincial Codes of Conduct; or
- (f) committed misconduct as contemplated in section 63.

(2) Whenever any of the grounds referred to in subsection (1)(a) - (f) come to the attention of the royal council, and the royal council concerned decides to remove a senior traditional leader, headman or headwoman, the royal council may, within a reasonable time and through the relevant customary structure -

- (a) inform the Premier of the particulars of the traditional leader to be removed from office; and
- (b) furnish reasons for such removal.

(3) A senior traditional leader, headman or headwoman may only be removed from office on the grounds set out in subsection (1) after he or she has been given an opportunity to submit representations in response to the grounds upon which his or her removal from office is being considered, and those representations have been considered by the Premier.

(4) Upon being informed of a request for removal in terms of subsection (2), the Premier must, in consultation with the royal family of the traditional community concerned and the Executive Council, appoint a member of the traditional community who is not eligible to be considered for identification and recognition as a temporary traditional leader in terms of section 17 and 18, to perform all of the functions of the traditional leader whose removal is being considered in terms of this section.

(5) A person appointed to temporarily act as a traditional leader in terms of subsection (4) must be appointed by the Premier to act as traditional leader for the period between the date on which the Premier was informed of the request for removal contemplated in subsection (2) and the withdrawal of the certificate of recognition contemplated in this section.

(6) When it has been decided to remove a senior traditional leader, headman or headwoman in terms of this section, the Premier must -

- (a) withdraw the certificate of recognition with effect from the date of removal;
 - (b) publish a notice in the *Provincial Gazette* with particulars of the removed traditional leader; and
 - (c) inform the royal council, the removed traditional leader concerned, and the Provincial House of the removal.
- (7) When a traditional leader is removed from office, a successor may be appointed as contemplated in this Act and in accordance with the prevailing customary law of the traditional community concerned.

Part 3

General provisions regarding traditional leaders

Recognition of regents

- 17.** (1) If the successor to the position of a senior traditional leader identified by the royal family is still a minor, the royal family must identify a regent to assume leadership on behalf of the minor heir.
- (2) Whenever the position of a traditional leader is to be filled, the following process must be followed:
- (a) the royal family must, within a reasonable time after the need arises for the position of a traditional leader to be filled, and with due regard to applicable customary law -
 - (i) identify a person in terms of customary law to assume the position of a regent, after taking into account whether any of the grounds referred to in section 16(1)(a), (b) or (d) apply to that person; and
 - (ii) through the relevant customary structure -
 - (aa) inform the Premier of the particulars of the person identified as a regent; and
 - (bb) provide the Premier with the reasons for the identification of that person as a regent; and
 - (b) the Premier must, subject to section (5), recognise a person identified in terms of paragraph (a) as a regent.
- (3) The Premier must recognise a person as a regent in terms of subsection(2) (b) by-
- (a) publishing a notice in the *Provincial Gazette*; and
 - (b) issuing a certificate of recognition to the identified person.
- (4) The Premier must review the recognition of a regent at least every three years.

(5) Where there is evidence or an allegation that the identification of a person to be recognised as a regent was not done in accordance with customary law, customs or the processes required in terms of this section, the Premier –

(a) may refer the matter to the Provincial House for its recommendation; or

(b) may refuse to issue a certificate of recognition and refer the matter back to the royal family for reconsideration and resolution.

(6) When the matter which has been referred back to the royal family for reconsideration and resolution in terms of subsection (5) has been reconsidered and resolved, if the Premier is satisfied that the reconsideration and resolution by the royal family has been done in accordance with customary law, then the Premier must recognise the person identified by the royal family.

(7) As soon as the successor to the position of senior traditional leader ceases to be a minor in terms of customary law or customs, the regent recognised in terms of subsection (2) must relinquish his or her position as regent, and the Premier must recognise the rightful successor to the position of senior traditional leader as set out in section 13.

(8) The Premier must recognise the rightful successor in terms of subsection (7) by-

(a) publishing a notice in the *Provincial Gazette*; and

(b) issuing a certificate of recognition to the rightful successor.

Recognition of acting traditional leaders

18. (1) A royal family may identify a suitable person to act as acting traditional leader for a senior traditional leader when -

(a) a successor to the position of senior traditional leader has not been identified by the royal family concerned in terms of section 13(1);

(b) the identification of a successor to the position of senior traditional leader is being reconsidered and resolved in terms of section 13(4)(a); or

(c) a senior traditional leader will be absent from his or her area of jurisdiction under circumstances other than those provided for in section 21 and for a period of more than six months for -

(i) the treatment of illness;

(ii) study purposes; or

(iii) any other lawful purpose.

(2) The Premier must publish a notice containing the particulars of a person appointed as acting traditional leader in the *Provincial Gazette*.

(3) The Premier must issue a certificate of appointment to a person appointed as acting traditional leader.

(4) The Premier must review the acting appointment of an acting traditional leader every six months, to establish whether the acting appointment is still necessary.

(5) The provisions of section 17(1), with the necessary changes, apply to an acting traditional leader.

(6) A person appointed as acting traditional leader in terms of subsection (1), must be removed from the position when a new senior traditional leader is appointed, or the senior traditional leader is able to resume his or her duties.

Appointment of deputy traditional leaders

19. (1) A senior traditional leader, headman or headwoman may, after consultation with the royal family, appoint a deputy to act in his or her stead whenever that senior traditional leader, headman or headwoman-

- (a) becomes a full-time member of a municipal council;
- (b) is elected as a member of the Provincial Legislature;
- (c) is elected as a member of the National Assembly; or
- (d) is elected to, or appointed in, a full-time position in any House of Traditional Leaders.

(2) Where a deputy traditional leader has been appointed to act in the position of a senior traditional leader in terms of this section, the senior traditional leader must, within 30 days, advise the Premier accordingly, and the Premier must -

- (a) inform the Provincial House and the Local House concerned of such recognition;
- (b) recognise the designated person within a reasonable time by the publication of a notice in the *Provincial Gazette*; and
- (c) issue a certificate of recognition to the designated person, within a period of thirty days after the date of publication of the notice of recognition.

(3) The recognition contemplated in subsection (2) lapses at the end of the membership, appointment or election contemplated in subsection (1).

(4) The deputy traditional leader performs the functions of the senior traditional leader for whom he or she acts.

Removal of deputy traditional leaders

20. The deputy traditional leader may be removed from office on the same grounds and according to the procedure as contemplated in section 16.

Absence of traditional leader

21. A traditional leader must make provision for the proper performance of his or her duties during any absence.

CHAPTER 4

FINANCIAL ARRANGEMENTS

Salaries and allowances

22. The salaries, allowances and benefits of traditional leaders; and the chairpersons, deputy chairpersons, members of the Provincial House and Local Houses and any other level of traditional leadership or membership of any traditional structure are dealt with in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Travelling and subsistence

23. (1) The MEC, in consultation with the MEC responsible for Finance, may determine the out-of-pocket expenses payable to traditional leaders, members of traditional councils and members of houses of traditional leaders in connection with performing of official duties.

(2) A member of a traditional council or any house is not entitled to an allowance in terms of subsection (1) if the member is entitled to receive a subsistence and travelling allowance in terms of the provisions of any other law or direction, or if there is proof that such expenses are catered for by a third party.

Funds of traditional councils

24. (1) Funds of a traditional council consist of-

- (a) all monies which, in accordance with the customary law of the traditional community concerned, are payable to the traditional council;
- (b) fines collected by the traditional leader or council in accordance with the traditional community's laws and customs;
- (c) all monies derived from any property in possession of the traditional community concerned;
- (d) any donations made by any person for the benefit of the traditional community concerned;

- (e) any monies paid to the traditional council under any law; and
- (f) any monies allocated by the Provincial Government as a direct charge to the Provincial Revenue Fund.

(2) Any conditional grant or donation made to a traditional council must, subject to any applicable legislation or government policy, be administered in accordance with the conditions of that grant or donation.

Opening of accounts for finances of traditional councils

25. (1) The MEC must open or cause to be opened for each traditional council a trust account from which all expenditure incurred in connection with any matter specified within the duties and functions of the traditional community concerned must be met.

(2) In addition, the MEC may on good cause shown by a traditional council and being satisfied that there are sufficient controls and financial systems, permit such a traditional council to open another trust account, into which must be paid such amounts and from which all expenditure incurred in connection with any matter specified in subsection (3) within the duties and functions of the traditional community concerned must be met.

(3) There must be paid into an account opened as referred to in subsection (2)-

- (a) all fees, charges and voluntary contributions which are payable to the traditional community;
- (b) all cash proceeds derived from any property or right to title of the traditional community;
- (c) any donation or gift made by any person, institution or organization to and for the benefit of the traditional community; and
- (d) any other amounts derived from any source whatsoever for the benefit of a traditional community.

(4) Subject to the approval of the MEC, a traditional council may invest any surplus funds from a traditional community's account with any financial institution or body corporate: Provided that the Premier may prescribe conditions as he or she may deem fit in connection with such investment.

(5) A traditional council must, in respect of each financial year submit to the MEC for his or her approval, estimates of the revenue and expenditure for each traditional council account referred to in subsection (1): Provided that such estimates must reach the Premier not later than the last day of February of the year preceding such financial year.

(6) No expenditure may be incurred and no payments may be made from an account referred to in subsection (1), except in accordance with the estimates of expenditure from such account approved in terms of subsection

(5): Provided that any recurring expenditure, as determined from time to time may be paid as well as such payments which a traditional council may be obliged to make in accordance with any contract, agreement or debt lawfully entered into or incurred or in accordance with an order of any court.

(7) Notwithstanding the provisions contained in subsection (6) the MEC may authorize the payment of any amount from the account referred to in subsection (1) on the submission of any revised estimates of expenditure from such account if the Premier is satisfied that such amount is due, that the payment thereof is necessary and that funds are available.

Accounting Officer for finances of traditional councils

26. The Head of Department is the accounting officer for the funds of traditional councils in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Auditing of books and accounts of traditional councils

27. (1) The books and accounts of every traditional council must be audited by the Auditor-General.

(2) The Auditor-General must as soon as possible after an audit of the books and accounts of a traditional council, submit a copy of his or her report on the books and accounts of such traditional council concerned to the Premier and to such traditional council: Provided that the Auditor-General may at any time, if he or she considers it desirable, submit a special report on any matter connected with his or her powers and duties under this Act to the Premier and to such traditional council.

(3) In the execution of any audit in terms of subsection (1) of the books and accounts of any traditional council, the provisions of the Public Audit Act, 2004 (Act No. 25 of 2004) and section 188 of the Constitution is applicable.

(4) After a report contemplated in subsection (2) has been received by the traditional council of the community concerned for consideration, and after consideration thereof such traditional council must submit to the Premier its comments, including its findings and decisions thereon.

Keeping of records

28. A traditional council must—

- (a) keep proper records of all its activities and income and expenditure;
- and

(b) make the records referred to in paragraph (a) available to be audited by the Auditor-General.

CHAPTER 5

HOUSES OF TRADITIONAL LEADERS

Part 1

Provincial House of Traditional Leaders

Establishment of Provincial House of Traditional Leaders

29. (1) There is hereby established a Provincial House to be known as the Gauteng Provincial House of Traditional Leaders.

(2) The Provincial House has the powers conferred upon it by or under the Act or any other law.

Members of Provincial House

30. (1) The Premier must by notice in the *Provincial Gazette* determine the number of members of the Provincial House and such members must be fairly and reasonably representative of the demographics of the Province in accordance with a formula prescribed by the Premier.

(2) (a) The members of the Provincial House must be elected by an electoral college consisting of all senior traditional leaders from within the Province: Provided that in the event that there are less than five senior traditional leaders two recognised headmen or headwoman elected by each of the traditional councils concerned must form part of the electoral college.

(b) The Electoral College is chaired by a person designated by the Premier to chair meetings of the Electoral College.

(3) No person is eligible to become a member of a Provincial House unless that person is a senior traditional leader: Provided that in the event that there are less senior traditional leaders than the number determined by the Premier in terms of a notice contemplated in subsection 1, headmen and selected members of the traditional councils within the Province may be members of the Provincial House.

(4) The procedure to be followed to conduct nominations and elections must be determined by the Premier by the notice contemplated in subsection (1).

(5) A third of the members of the Provincial House must consist of women: Provided that if the Premier is satisfied that there is an insufficient number of women to participate in the Provincial House the Premier may, after consultation with the Local Houses, determine a lower threshold.

(6) (a) Subject to the provisions of paragraph (b) the term of office of the Provincial House is 5 years and must run concurrently with that of the National House;

(b) notwithstanding the dissolution of the Provincial House by virtue of the provisions of paragraph (a) -

(i) every person who at the date of the dissolution is a member of the Provincial House remains a member thereof; and

(ii) the Provincial House remains competent to exercise or to perform its powers and functions during the period following such dissolution up to and including the day immediately preceding the day on which the first meeting of the new Provincial House takes place.

(7) The Provincial House must be reconstituted in accordance with the provisions of subsection (2) within 30 days from the date on which its term has lapsed in terms of subsection (6).

Meetings of Provincial House

31.(1) The first meeting of the Provincial House must be held at the Provincial Legislature, and the House shall subsequently meet at the place that the executive committee of the Provincial House determines from time to time.

(2) An ordinary meeting of the House must be held at least once quarterly during the session of the Provincial Legislature.

(3) In addition to the ordinary meetings of the house, the executive committee may at any time, and if so directed by the Premier, call a special meeting of the Provincial House on a day and at a place to be determined by the executive committee.

(4) At a special meeting called by the executive committee, only those matters that are placed before the House may be dealt with.

(5) If a special meeting is called at the direction of the Premier, only those matters which necessitated the calling of the special meeting may be dealt with.

(6) The Premier must, as soon as possible after the election of the members of the House, convene the Provincial House in the manner that he or she deems suitable.

(7) An officer from the Department, designated by the Premier, must attend the meetings of the Provincial House, to advise the House regarding government policies and legislation that relate to traditional affairs.

Functions of Provincial House

- 32.** (1) The functions and roles of the Provincial House are-
- (a) working with the national house 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 local houses with a view to addressing matters of common interest.
- (2) The Provincial House-
- (a) must consider Bills referred to it by the Secretary of the Provincial Legislature;
 - (b) may advise the Provincial 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 provincial Executive Council, advise him or her in connection with any matter referred to in this section;
 - (e) must be consulted on Provincial Government development programmes that affect traditional communities;
 - (f) must complement and support the work of government at provincial level;
 - (g) must form cooperative relations and partnerships with government at national level in development and service delivery;
 - (h) may participate in national and provincial programmes geared towards the development of rural communities;
 - (i) participate in provincial 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 provincial Executive Council or as may be provided for in national or provincial legislation.

Election of Office Bearers of the Provincial House

33. (1) At its first meeting after it has been convened in terms of section 31(6), the House, with the Premier or a person designated by the Premier as chairperson-

- (a) must elect one of its members to be the chairperson, and another of its members to be the deputy chairperson of the House; and
- (b) elect no more than five members as the executive committee of the provincial house.

(2) Subject to the provisions of subsection (9), the chairperson and deputy chairperson hold office for the term of the Provincial House and they are eligible for re-election at the expiry of their term of office: Provided that no member may serve as a chairperson or deputy chairperson for more than two consecutive terms.

(3) The chairperson has the powers and functions assigned to him or her by this Act and the rules and orders of the House.

(4) If the chairperson is absent or for any reason is unable to perform his or her functions, or when the office of chairperson is vacant, the deputy chairperson shall act as chairperson until the chairperson returns or is again able to properly perform his or her functions, or until a new chairperson is elected.

(5) If any of the circumstances described in subsection (4) applies to both the chairperson and the deputy chairperson, a member of the House designated in terms of the rules and orders must act as chairperson for as long as those circumstances prevail.

(6) The deputy chairperson or the member designated under subsection (5), while acting as chairperson, may exercise the powers and must perform the functions of the chairperson.

(7) The chairperson, the deputy chairperson or any other members of the House designated in terms of the rules and orders, presides over the meetings of the House.

(8) While presiding at a meeting of the Provincial House, the chairperson, deputy chairperson or other member presiding does not have a deliberative vote, but has a casting vote in the case of an equality of votes.

(9) The chairperson or deputy chairperson:

- (a) must vacate his or her office if he or she ceases to be a member of the House according to section 35;

(b) may be removed from office by resolution of the Provincial House;
and

(c) may resign by lodging his or her resignation in writing with the secretary to the Provincial House.

(10) If the office of chairperson or deputy chairperson becomes vacant, the Provincial House, under the chairpersonship of the Premier or a person designated by the Premier, must elect a member to fill the vacancy.

(11) The chairperson elected by the Provincial House in terms of subsections (1) or (10) must then preside at the election of the deputy chairperson, if the office of deputy chairperson is vacant.

Qualification for membership of Provincial House

34. (1) No person is eligible to become a member of a Provincial House if -

- (a) at the time of the election of members of the House of Traditional Leaders is serving a sentence of imprisonment;
- (b) is an unrehabilitated insolvent;
- (c) is suffering from physical incapacity or mental infirmity which based on acceptable medical evidence, makes it impossible for that senior traditional leader, headman or headwoman to function as such;
- (d) 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; or
- (e) is not a South African citizen.

(2) A disqualification under subsection (1) ends five years after the sentence has been completed.

Vacation of seats of Provincial House

35. (1) A member of the Provincial House vacates his or her seat if he or she-

- (a) is deceased;
- (b) resigns by written notice ;
- (c) is disqualified in terms of section 34;
- (d) becomes a full time member of a municipal council, member of parliament or the provincial legislature;
- (e) is convicted of a criminal offence with a sentence of imprisonment for more than 12 months without the option of a fine; or

(f) without having obtained leave in accordance with the rules and orders, absents himself or herself from three consecutive meetings of the House.

(2) If a member vacates his or her seat, the vacancy must be filled within 30 days by a procedure determined in section 30.

Status of members of the Provincial House

36. (1) The chairperson and the deputy chairperson are full-time members of the provincial house.

(2) The Premier may, after consultation with the Provincial House, determine that certain other members are full-time members of the Provincial House.

Election of representatives to National House

37. The Provincial House must, in its first sitting, elect its representatives to serve in the National House in accordance with the provisions of the National House.

Part 2

Local Houses

Establishment of Local Houses

38. (1) Subject to the provisions of this Act, a local house of traditional leaders must be established for the area of jurisdiction of a local municipality or metropolitan municipality where there are five or more traditional councils.

(2) A local house must consist of not less than five members.

(3) All senior traditional leaders who reside within the area of jurisdiction of a local municipality are members of a local house established for that area.

(4) Where there are less than five traditional councils within the area of jurisdiction of a local municipality or metropolitan municipality each of the traditional councils must perform the functions of a local house of traditional leaders.

(5) The traditional councils referred to in subsection (4) must elect five members each from the membership of each traditional council to perform the functions of a local house.

(6) The functions of a local house of traditional leaders are—

(a) to advise the local municipality or metropolitan municipality in question on—

- (i) matters pertaining to customary law, customs, traditional and the traditional communities within the local municipality or metropolitan municipality;
- (ii) the development of planning frameworks that impact on traditional communities; or
- (iii) the development of by-laws that impact on traditional communities;

(b) to participate in local programmes that have the development of rural communities as an object; or

(c) to participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in rural communities.

Qualification for membership of Local House

39. Subject to section 41(2)(b) only persons recognised as traditional leaders are eligible to become a member of a Local House.

Persons disqualified from being members of Local House

40. (1) The provisions of section 34 apply, with the necessary changes, to members disqualified to be members of the Local House.

Membership of Local House

41. (1) The Premier must by notice in the Provincial Gazette determine formula for the number of members of each of the Local Houses.

- (2) The members of Local Houses must be elected by the Electoral College—
 - (a) established for the area of jurisdiction of each district municipality or metropolitan municipality;
 - (b) consisting of all senior traditional leaders from within the district municipality or metropolitan municipality concerned consisting of all senior traditional leaders from within the district municipality or metropolitan municipality: Provided that in the event that there are less than five senior traditional leaders a number of recognised headmen determined by the Premier in the provincial gazette must form part of the electoral college; and
 - (c) of which each electoral college must be chaired by a person designated by the Premier to chair meetings of electoral colleges.
- (3) The Premier must, within 60 days after the recognition of a new

traditional council within the district or metropolitan municipality, by notice in the Provincial *Gazette*, call the first elections of the respective Local Houses of Traditional Leaders: Provided that such elections must take place within thirty days of the said notice.

(4) The Premier must determine the procedure to be followed at the elections referred to in subsection (3), by notice in the Provincial *Gazette*.

(5) A third of the members of a Local House must consist of women: Provided that if the Premier is satisfied that there is an insufficient number of women to be elected to the Local House of Traditional Leaders, the Premier may, after consultation with the relevant electoral college, determine a lower threshold.

(6) (a) Subject to the provisions of paragraph (b) the term of office of a Local House is five years and must run concurrently with the duration of the Provincial House established in terms of this Act;

(b) Notwithstanding the lapsing of the duration of a Local House by virtue of the provisions of paragraph (a) -

(i) every person who at the date of the dissolution is a member of a Local House remains a member of such a local house until new members assume office;

(ii) a Local House remains competent to exercise or to perform its powers and functions; and

(iii) the Premier has the power to summon a Local House to an extraordinary meeting for the dispatch of urgent business after consultation with the chairperson, during the period following such dissolution up to and including the day immediately preceding the day on which the first meeting of the Local House after such lapsing takes place.

(7) A Local House must be reconstituted within thirty days from the date on which its term lapsed as referred to in subsection (6).

(8) The Premier may, after consultation with the Local House, determine that certain members are full-time members.

Seat and meetings of Local House

42. (1) A Local House must, by resolution, decide on its own seat within the district or metro municipality: Provided that if a traditional council performs the functions of a local house the seat of the traditional council is the seat for the purposes of the local house.

(2) There must be an ordinary meeting of a Local House at least once every quarter.

(3) In addition to the ordinary meetings of the house, the executive

committee may at any time, and if so directed by the Premier, call a special meeting of the local House on a day and at a place to be determined by the executive committee: Provided that if a traditional council performs the functions of a local house the traditional council decides.

(4) At a special meeting called by the executive committee, only those matters that are placed before the House may be dealt with.

(5) If a special meeting is called at the direction of the Premier, only those matters which necessitated the calling of the special meeting may be dealt with.

Vacation of seats in Local House

43. (1) A member of a Local House vacates his or her seat if he or she-

- (a) is deceased;
- (b) resigns by written notice;
- (c) ceases to possess the qualifications required by section 39;
- (d) becomes a full time member of a municipal council member; of Parliament or the Provincial Legislature or a permanent delegate in the National Council of Provinces;
- (e) is convicted of a criminal offence and sentenced to imprisonment for more than 12 months without the option of a fine; or
- (f) without having obtained leave from the chairperson of the house, or in the case of the chairperson the executive committee, absents himself or herself from three consecutive meetings of the Local House.

(2) If a member vacates his or her seat, the vacancy must be filled as soon as possible as provided for in section 41.

Functions of Local House

44. (1) The functions of a Local House are-

- (a) to advise the relevant district municipality on-
 - (i) matters pertaining to customary law, customs, traditional leadership and the traditional communities within the district municipality or metropolitan municipality;
 - (ii) the development of planning frameworks that impact on traditional communities; or
 - (iii) the development of by-laws that impact on traditional communities;
- (b) to participate in local programmes that have the development of rural communities as an object; and
- (c) to participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in rural communities.

(2) A Local House may exercise any powers and must perform any functions that are conferred or imposed on it in terms of any other law.

Chairperson and Deputy Chairperson of Local House

45. Section 33 applies, with the necessary changes, to the election and functions of the office bearers of the local house.

Part 3

General Provisions Relating to Houses

Rules and orders of Houses

46. A House of Traditional Leaders 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 duration of committees of the House: Provided that provision must be made for an executive committee consisting of the chairperson, deputy chairperson and three other members elected by the House;
- (b) restrictions on access to such committees;
- (c) 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
- (d) the designation of members to preside over meetings of the House upon the direction of the chairperson.

Quorum

47. The presence of at least one-half of all the members other than the chairperson or other presiding member is necessary to constitute a quorum for a meeting of that House.

Requisite majority

48. All decisions of the House must be taken by the majority of members constituting the meeting of the House: Provided that where a decision to remove the chairperson or the deputy chairperson must be taken that decision requires two thirds of the total membership of a house.

Moneys payable to members

49. The remuneration and benefits of a member of any house are determined in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Powers, privileges and immunities of members of Houses and benefits of members

50. (1) A House has full powers to control, regulate and dispose of its internal affairs.

(2) Subject to the rules and orders of the House there must be freedom of speech and debate in or before such House and any committee thereof and such freedom may not be impeached or questioned in any court of law.

(3) A member of a House is not liable for any civil or criminal proceedings, arrest or imprisonment by reason of anything which the member has said, produced or submitted in or before or to such House or any committee thereof.

Administration and accountability of the Provincial House

51. (1) The Premier must, after consultation with 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 Premier must, in terms of the laws governing the Public Service and with the concurrence of the Provincial 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.

(4) The Provincial House must-

- (a) keep proper records;
- (b) have its financial statements audited by the Auditor-General;
- (c) disclose the receipt of awards, gifts and favours of its members as contemplated in Part A of the Schedule to this Act;

- (d) in addition to quarterly meetings, hold a meeting with Local Houses on a half yearly basis to give account of the activities and finances of the Provincial House;
- (e) adhere to the Code of Conduct provided for in the Schedule to this Act;
- (f) be responsive to the needs of Local Houses within the Province;
- (g) establish clear relationships, and facilitate co-operation and communication between Local Houses;
- (h) quarterly inform the Local Houses of how the Provincial House is managed, of costs involved and the persons in charge;
- (i) hold the secretary of the Provincial House accountable for the overall performance of the administration of the Provincial House;
- (j) maximize the efficiency of communication and decision-making within the administration of the Provincial House;
- (k) assign clear responsibilities for the management and co-ordination of the administration of the Provincial House;
- (l) involve the secretary of the Provincial House in management decisions as far as is practicable; and
- (m) provide an equitable, fair, open and non-discriminatory working environment for all Local Houses.

(5) This section applies, with necessary changes, to the administration and accountability of the Local Houses.

CHAPTER 6

FUNCTIONS OF TRADITIONAL LEADERSHIP

Functions of traditional leadership

52. (1) A traditional leader performs any function provided for in terms of customary law, or as assigned to him or her in terms of any law, subject to section 20 of the Framework Act.

(2) In addition to what is contemplated in subsection (1), a traditional leader performs, in consultation with the traditional council, the following functions:

- (a) promote the interests of the traditional community concerned;
- (b) in co-operation with the relevant municipalities and government departments, assist with the administration of the traditional community;
- (c) actively participate in the development of the traditional community;

- (d) at the request of any government department or the relevant municipality, make known to all residents of the traditional community concerned the provisions of any new law; and
- (e) any functions allocated by any organ of state in accordance with this Act or any other law.

Guiding principles for allocation of functions to senior traditional leaders and traditional councils by organs of state

53. (1) Whenever an organ of state within either the national or the provincial sphere of government considers allocating functions to senior traditional leaders and traditional councils, that organ of state must—

- (a) seek the concurrence of the Premier;
- (b) consult with—
 - (i) the Provincial House;
 - (ii) the Local Houses concerned; and
 - (iii) SALGA GAUTENG;
- (c) ensure that the allocation of functions is consistent with the Constitution and applicable legislation;
- (d) take the customary law and customs of the respective traditional communities into account;
- (e) ensure that the allocation of functions is accompanied by sufficient skills development, administrative, financial and other support, and that appropriate measures to account for such support are implemented;
- (f) ensure, to the extent that it is possible, that the allocation of functions is implemented uniformly; and
- (g) promote the constitutional principles of co-operative governance, the constitutional basic values and principles of public administration, integrated development planning, sustainable development and service delivery through the allocation of functions.

(2) The organ of state concerned must monitor the performance of the functions allocated by it to the senior traditional leader or traditional council concerned, and must ensure compliance with the Constitution and all other applicable legal requirements.

(3) In the event that the senior traditional leader or traditional council does not perform a function allocated in terms of this Act, the allocation of that function, as well as the support as contemplated in subsection (1) (e) may be withdrawn after an investigation into the matter has been completed, and the outcome of the investigation warrants a withdrawal of functions.

Functions of traditional leaders

54. (1) A traditional leader must perform the following functions:

- (a) protect and promote—
 - (i) customary law and customs;
 - (ii) the institution of traditional leadership;
- (b) the indigenous African language of the traditional community of which the traditional leader is the leader;
- (c) manage the affairs of the traditional community concerned as contemplated in this Act and other applicable legislation;
- (d) co-operate with, support and assist traditional institutions in the performance of their functions;
- (e) serve as a symbol of unity within the traditional community concerned;
- (f) promote indigenous knowledge systems for sustainable development and disaster management;
- (f) share information and co-operate with other traditional leaders;
- (g) represents the traditional council when the traditional council is not in session;
- (h) is bound by the decisions of the traditional council including decisions for the development and general socio-economic upliftment of the traditional community concerned; and
- (i) participate in the relevant municipal council subject to the provisions of section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

(2) Government departments and statutory institutions may, wherever possible, after consultation with the traditional leader, through legislative or administrative measures, allocate functions to traditional leaders in respect of any functional area within the legislative, executive and/or administrative competence of the Provincial Government.

(3) Subject to section 20 of the Framework Act, a traditional leader must perform any other role or function allocated to him or her by a government department or an organ of state.

(4) When performing any of his or her roles or functions, a traditional leader must keep proper records.

(5) A traditional leader may not promote or prejudice the interests of any political party.

(6) A senior traditional leader is the chairperson of the traditional council established for the community for which he or she is recognised.

Functions of headmen and headwomen

55. (1) A headman or a headwoman carries out the functions of a headman and a headwoman in terms of customary law and this Act.

(2) The senior traditional leader under whose community the headman or a headwoman is recognised may allocate any other functions to a headman or headwoman under him or her.

CHAPTER 7**PARTNERSHIPS, COLLABORATION AND COOPERATIVE GOVERNMENT****Establishment of structures**

56. (1) The MEC must, within 12 months after the commencement of this Act, establish, by notice in the Provincial Gazette, appropriate coordinating structures and partnership framework in respect of the following institutions:

(a) a traditional council and —

(i) the local municipality or metropolitan municipality, as the case may be, within whose jurisdictional area it functions;

(ii) the district municipality within whose jurisdictional area, if at all, it functions;

(b) a local house and the district municipality or metropolitan municipality, as the case may be, within whose jurisdictional area it functions; and

(c) in the absence of a duly established Local House as contemplated in section 38, a senior traditional leader and—

(i) the local municipality or metropolitan municipality concerned, as the case may be; and

(ii) the district municipality, if applicable;

(d) the Provincial House and —

(i) the Executive Council of the Province;

(ii) the Provincial Legislature;

(e) a Senior Traditional Leader, a traditional council, a Local House or the Provincial House with its counterpart in any of the other Provinces of the Republic of South Africa.

(2) The notice contemplated in subsection (1) must specify

(a) the terms of reference of; and

(b) the support that will be provided to enable the effective functioning of, each coordinating structure so established.

Co-operation between traditional councils and municipalities and traditional councils and Provincial Government Departments

57. (1) The Provincial Government must, through legislative, administrative and other measures promote partnerships, collaboration and cooperation between:-

- (a) municipalities and traditional councils; and
- (b) Provincial Government Departments and traditional councils.

(2) The partnerships, collaboration and cooperation envisaged in subsection (1) must be based on the principle of mutual respect and recognition of the status and roles of the parties concerned.

(3) In addition to what is provided for in subsection (1)(a), a traditional council may submit a proposal to the municipal council to adopt a by-law, which the traditional council may consider to be necessary in respect of any matter directly affecting its area of jurisdiction.

(4) The proposal contemplated in subsection (3) must be motivated in writing and may be accompanied by a draft of the proposed by-law.

(5) The municipal council must consider the proposed by-law at its first meeting after submission of the proposal and must request comments from its municipal manager regarding the proposal.

(6) A traditional council or a Local House must comment on a draft by-law submitted to such a traditional council or local house by the speaker of the municipality concerned within 30 days of the draft by-law being submitted.

(7) In the event that the municipal council rejects the proposed by-law or the comments to a by-law as contemplated in this section, the municipal council must, in writing, inform the traditional council of its decision and give reasons for its decision, in accordance with the requirements of the Promotion of Administrative Justice Act No. 3 of 2000.

Relationship between Provincial House and traditional councils

58. (1) The Provincial House must, in consultation with traditional councils, advise the Provincial Government on matters relating to the general interest and welfare of traditional communities.

(2) The Provincial House must investigate matters referred to it by the traditional councils and make appropriate recommendations to the sphere of government concerned and the Premier.

(3) The Provincial House must, at least two times a year convene a meeting to advise, traditional councils regarding the administration of its affairs.

(4) Members of the Provincial House must—

- (a) provide a written report on the progress of matters relating to the general interest and welfare of traditional communities on a quarterly basis to their respective traditional councils; and
- (b) table the report referred to in paragraph (a) at the first meeting of the Provincial House after the reports have been submitted to the respective traditional councils.

Relationship between Provincial House and Provincial Legislature

59. (1) The Speaker of the Provincial Legislature must refer all bills introduced in the Provincial Legislature that relate to traditional communities, traditional leadership, customary law, traditions or customs, and all matters affecting the wellbeing and development of traditional communities, to the Provincial House.

(2) The Provincial House must consider and comment on the bills referred to in subsection (1).

(3) The written notification of the Provincial House's support or opposition of a bill referred to it, together with the comments, must be submitted to the Speaker within 30 days from the date of the referral of the bill to the Provincial House.

Relationship between Provincial House and Executive Council

60. The Premier, after consultation with the Provincial House and the Executive Council, must determine the relationship between the subcommittees of the House and the subcommittees of the Executive Council.

CHAPTER 8

DISPUTE RESOLUTION

PART 1

DECISIONS OF THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS ESTABLISHED IN TERMS OF SECTION 22 OF THE FRAMEWORK ACT

Implementation of Decisions of the National Commission

61. (1) The Premier must, within seven days of receipt of the decision of the National Commission in terms of section 26(2) of the Framework Act, refer

such decision to the Provincial House for its advice on implementation.

(2) The Provincial House must submit its advice contemplated in subsection (1) to the Premier within 14 calendar days of receipt of the decision of the National Commission, although the Premier may, if he or she deems it necessary, require the Provincial House to submit its advice within a specified shorter period.

(3) The Premier must implement a decision of the National Commission within 30 calendar days of receipt of the decision from the National Commission subject to the provisions of section 26(2) of the Framework Act.

PART 2

INQUIRY INTO TRADITIONAL LEADERSHIP DISPUTES, CLAIMS AND OTHER MATTERS RELATED TO TRADITIONAL AFFAIRS

Appointment and work of persons appointed to conduct the inquiry

62. (1) Whenever the MEC cannot through mediation resolve a dispute, claim or any other matter related to traditional leadership, the MEC, in consultation with the Premier and the Executive Council, may appoint a person or persons who are knowledgeable in traditional affairs to investigate the matter and make recommendations to the MEC.

(2) The appointment contemplated in subsection (1) must be done by publishing a notice in the *Provincial Gazette*.

(3) When appointing the person or persons for the purposes of subsection (1) the MEC must:

- (a) where more than one person is appointed, designate the chairperson of the inquiry;
- (b) outline the terms of reference for the inquiry; and
- (c) determine the timeframe for the completion of the investigation and submission of the recommendations.

(4) The person or persons appointed in terms of subsection (1) must determine the procedure to conduct the investigation.

(5) The provisions of the Gauteng Commissions Act, 1997 (Act No. 1 of 1997) apply, with the necessary changes, to the person or persons appointed in terms of this section.

(6) Upon receipt of the recommendations of the person or persons appointed to conduct a inquiry, the MEC must, after consultation with the Provincial House and in consultation with the Premier and the Executive Council, within 60 days, make a decision on the matter under investigation.

(7) The Commission established in terms of this section may not deal with any matter that falls within the ambit of the mandate of the National Commission established in terms of 21 of the Framework Act until the National Commission ceases to exist.

Misconduct

63. (1) Whenever there is reason to believe that a senior traditional leader, headman or headwoman, or member of a traditional council may be guilty of misconduct in that he or she -

- (a) fails or refuses to comply with the national and/or provincial Code of Conduct;
 - (b) fails or refuses to comply with any provision of this Act or of any other law which it is his or her duty to comply with;
 - (c) disobeys, disregards or makes wilful default in carrying out a lawful order given to him or her by a person having authority to give it, or by conduct displays insubordination;
 - (d) conducts himself or herself in a disgraceful, improper or unbecoming manner;
 - (e) uses intoxicating liquor or dependence-producing drugs excessively;
 - (f) abuses his or her role, or extorts, or by the use of compulsion or arbitrary means obtains, any tribute, fee, reward or present;
 - (g) tries or punishes any person without being duly authorised thereto by or under any law; or
 - (h) is negligent or indolent in the discharge of his or her duties,
- the MEC after consultation with the Premier and the Executive Council may charge him or her in writing with such misconduct and appoint an appropriate person or persons to enquire into the matter in terms of section 62.

(2) At any enquiry by the person or persons appointed under section (1), the senior traditional leader, headman or headwoman, or a member of a traditional council who has been charged with misconduct shall be entitled to:

- (a) adequate notice of the enquiry;
- (b) the opportunity to make representations to answer the charges against him or her; and
- (c) the opportunity to cross examine any witnesses who may give evidence at the enquiry, and to challenge any evidence admitted at the enquiry.

(3) The enquiry referred to in subsection (2):

- (a) shall be conducted in accordance with the requirements of procedural fairness and natural justice; and

(b) shall not be invalidated by any unreasonable failure of the senior traditional leader, headman or headwoman, or member of a traditional council who has been charged with misconduct to attend the enquiry.

(4) The person or persons appointed to conduct the enquiry must -

(a) at the conclusion of the enquiry, find whether the traditional leader or a member of a traditional council is guilty of the misconduct, inform him or her of the enquiry's findings and recommendations, and the reasons for the enquiry's findings; and

(b) forward to the MEC, the record of the proceedings, a statement of the enquiry's findings and recommendations, and the reasons therefore.

(5) If the senior traditional leader, headman or headwoman or a member of a traditional council has been found guilty of the misconduct, the MEC may -

(a) caution or reprimand the traditional leader, headman or headwoman, or member of a traditional council;

(b) compel the senior traditional leader, headman or headwoman, or member of a traditional council to go for rehabilitation for alcoholism or drug dependency;

(c) impose on him or her a fine to the amount determined by the Premier from time to time, payable or recoverable from any remuneration to be paid to him or her in terms of the applicable legislation for the benefit of the Provincial Revenue Fund, in such instalments as the MEC may determine;

(d) direct that for a period not exceeding two years, he or she must not be paid any remuneration; or

(e) impose on him or her any two or more of the penalties referred to in paragraph (a), (b) and (c) jointly.

(6) Any senior traditional leader, headman or headwoman, or member of a traditional council who has been convicted by a court of law of any offence referred to in Schedule 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or of any offence which, in the opinion of the Premier, is tantamount to misconduct within the purview of this section, must be charged with misconduct in terms of this section, and the provisions of subsection (5) relating to the penalties which may be imposed for misconduct must apply.

(7) Whenever a senior traditional leader, headman or headwoman, or member of a traditional council has been charged with misconduct in terms of subsection (1) or with any offence contemplated by subsection (6), the MEC may suspend the senior traditional leader, headman or headwoman, or member of a traditional council from his or her office until either—

(a) the senior traditional leader, headman or headwoman, or member of a traditional council has been found guilty of misconduct or of the

offence, and the Premier has imposed a penalty in terms of subsection (5); or

(b) the senior traditional leader, headman or headwoman, or member of a traditional council is found to be not guilty of misconduct, or the charge of misconduct or the criminal prosecution against him or her is withdrawn or abandoned.

(8) Any senior traditional leader, headman or headwoman, or member of a traditional council suspended from his or her office in terms of subsection (7) must not, during the period of his or her suspension, perform any function associated with a senior traditional leader, headman or or headwoman, or member of a traditional council in terms of any law, nor must he or she receive any remuneration or benefits payable to a senior traditional leader, headman or headwoman, or member of a traditional council.

PART 3

DISPUTE RESOLUTION

Dispute resolution

64. (1) Whenever a dispute concerning customary law or customs arises within a traditional community or between traditional communities or other traditional institutions on a matter arising from the implementation of this Act or otherwise, members of the traditional community or traditional institution and traditional leaders within the traditional community or traditional institution concerned must first seek to resolve the dispute internally, in accordance with customary law and customs.

(2) Any dispute contemplated in subsection (1) that cannot be resolved internally must be referred to the Provincial House, if it has been established as contemplated in section 30, which must seek to resolve the dispute in accordance with its rules and procedures within 30 calendar days.

(3) If the Provincial House has not been established, or if the Provincial House is unable or has failed to resolve the dispute, the dispute must be referred to the Provincial Commission, which must seek to resolve the dispute in accordance with its rules and procedures within 30 calendar days.

(4) In the event that the Provincial House is unable to or has failed to resolve the dispute, the dispute must be referred to the MEC, who may, if he or she thinks it is appropriate, refer the matter to the National Commission for its recommendation, subject to section 61, within 30 calendar days, subject to the provisions of 21(1) (b) and 25 of the Framework Act.

(5) In the event that the MEC is unable to or has failed to resolve the dispute, the Premier must resolve the dispute within 30 days, after consultation with –

- (a) the responsible MEC;
- (b) the parties to the dispute;
- (c) the Provincial House; and
- (d) the Provincial Commission.

CHAPTER 9

GENERAL PROVISIONS

Support

65. (1) The Provincial Government, and in particular, the Department, must provide sufficient skills development, administrative, financial and other support on a continuous basis to–

- (a) support the development of traditional leaders, traditional communities, traditional councils, the Provincial House, the Local Houses; and
- (b) enable and strengthen traditional leaders, traditional communities, traditional councils, the Provincial House, the Local Houses, to perform all of their functions as contemplated in this Act, and any other law.

(2) The support envisaged to be provided to traditional councils in terms of subsection (1) may include transport and infrastructural assistance, taking into consideration budgetary means of the Provincial Government.

(3) The support envisaged to be provided in terms of this section shall be in accordance with any applicable legal and national policy requirements.

National and Provincial Codes of conduct

66. (1) The Provincial Code of Conduct contained in Schedule 1 applies to all members of the Provincial House and Local Houses, all traditional leaders and all members of every traditional council, and must be read together with the National Code of Conduct which is also contained in Schedule 1.

(2) In the event of conflict between the National and Provincial code the Provincial Code will prevail.

Compliance

67. (1) All administrative actions, decisions taken, rulings made, allocations and awards made, transfers of funds and grants effected, reports made, or any other action undertaken or task performed in terms of this Act, must be in accordance with national policy, national legislation, provincial policy and provincial legislation, as well as any other applicable laws relating to compliance in respect of the following-

- (a) basic values and principles governing public administration and governance;
- (b) financial management;
- (c) risk management;
- (d) quality assurance management;
- (e) any other matter as provided for in this Act requiring compliance; and
- (f) any other matter that may be prescribed in the Regulations.

Performance Management

68. (1) The MEC must, within six months after commencement of this Act, by notice in the *Provincial Gazette*, determine the minimum performance standards in respect of the procedures for, and the frequency of, the assessment and the manner in which the following institutions have performed their functions:

- (a) senior traditional leaders;
- (b) headmen and headwomen;
- (c) traditional councils;
- (d) the Provincial House; and
- (e) Local Houses.

(2) The standards and procedures referred to in subsection (1) must be in accordance with any national norms and standards which may be issued from time to time, and they must provide that performance assessment must take place at least once every six months.

(3) Where it has been found that any of the persons or structures referred to in subsection (1) are not able to perform its functions as determined in the performance management standards the MEC must implement any mechanism to support such a person or structure as the MEC may deem fit.

Monitoring, Evaluation and Impact Assessment

69. (1) The MEC must, within six months after the commencement of this

Act, by notice in the *Provincial Gazette*, determine the minimum standards in respect of, the procedures for, and the frequency of monitoring, evaluation and impact assessment.

(2) The standards and procedures referred to in subsection (1) must be in accordance with any national norms and standards which may be issued from time to time, and they must provide that monitoring, evaluation and impact assessment must take place at least once every twelve months.

(3) All functions performed in terms of this Act and any other law by—

- (a) senior traditional leaders;
- (b) headmen and headwomen;
- (c) traditional councils;
- (d) the Provincial House; and
- (e) Local Houses;

are subject to monitoring, evaluation and impact assessment by the MEC.

Tabling of Annual Report by MEC

70. The MEC must, at the end of each financial year, table a report in the Provincial Legislature containing full information on the performance management, monitoring and evaluation and impact assessment in respect of -

- (a) individual senior traditional leaders;
- (b) individual headmen and headwomen;
- (c) individual traditional councils;
- (d) the Provincial House; and
- (e) individual Local Houses.

Oath of office

71. Newly appointed members of traditional councils, the Provincial House and Local Houses of Traditional Leaders assume office only after swearing or affirming faithfulness to the Province and obedience to the Constitution in accordance with the oath of office contained in Schedule 2, before a person designated in writing by the Premier.

Regulatory powers

72. (1) The MEC may issue proclamations and notices in the *Provincial Gazette* as contemplated in this Act.

(2) The MEC may, after consultation with the Premier and the Provincial Legislature, by notice in the *Provincial Gazette*, make regulations in respect of -

- (a) any matter which is required or permitted by this Act to be prescribed;
- (b) the introduction and implementation of a system of performance management for traditional councils, traditional leaders, the Provincial and Local Houses of Traditional Leaders;
- (c) the introduction and implementation of a system of monitoring, evaluation and impact assessment; and
- (d) any administrative or procedural matter necessary to give effect to the provisions of this Act, including the manner in which all elections contemplated in this Act are to be conducted.

Delegation of powers, assignments, powers of attorney agency and service delivery agreements

73. (1) Departments in the Provincial Government, statutory institutions, organs of state and municipalities may -

- (a) delegate any function to;
- (b) enter into agency or service delivery agreements with; or
- (c) issue powers of attorney to a traditional leader, traditional councils, the Provincial House and Local Houses.

(2) Traditional councils, the Provincial House and Local Houses may not sub-delegate or assign any power or function which has been delegated or assigned to them in terms of subsection (1) above.

Delegation of powers and assignment of duties by Premier

74. (1) The Premier may, subject to such conditions as he or she may determine, in writing, delegate any power or assign any duty conferred on him or her by or under this Act, to the MEC.

(2) A delegation or assignment in terms of subsection (1) does not prevent the exercise of the relevant power or the performance of any duty by the Premier.

(3) The Premier may at any time withdraw or amend, in writing, a delegation or assignment as contemplated in subsection (1).

(4) The delegation of any power or the assignment of any duty does not divest the Premier of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

(5) The MEC may not further delegate any power or assign any duty, which has been delegated or assigned as contemplated in subsection (1) without the express written authorization of the Premier.

Delegation of powers and assignment of duties by the MEC

75. (1) The MEC may, subject to such conditions as he or she may determine, in writing, delegate any power or assign any duty conferred on him or her by or under this Act, other than -

- (a) the power to publish a notice contemplated in section 72;
- (b) the power to make regulations contemplated in section 72, to the Head of Department.

(2) A delegation in terms of subsection (1) does not prevent the exercise of the relevant power or the performance of the assigned duty by the MEC.

(3) The MEC may at any time withdraw or amend, in writing, a delegation or assignment as contemplated in subsection (1).

(4) The delegation of any power or the assignment of any duty does not divest the MEC of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

Delegation of powers by the Head of Department

76. (1) The Head of Department may in writing-

- (a) delegate to any officer of the Department any power delegated to him or her in terms of section 75(1); and
- (b) authorise that officer to perform any duty which he has been authorised to perform in terms of section 75(1).

(2) Any officer to whom a power has been delegated or who has been authorised to perform a duty in terms of subsections (1), must exercise that power or perform that duty subject to the conditions determined by the Head of Department or granted the authorisation.

(3) An officer may not further delegate any power or assign any duty which has been delegated or assigned as contemplated in subsection (1) or section 75(1) without express written authorisation from the Head of Department.

(4) Any delegation of a power or authorisation to perform a duty under subsection (1)-

- (a) does not prevent the Head of Department from exercising that power or performing that duty himself; and
- (b) may at any time be amended or withdrawn in writing by the Head of Department.

Offences and penalties

77. (1) A person who -

(a) purports to be a traditional leader in terms of this Act without having been recognised as contemplated in this Act;

(b) wilfully obstructs the performance of any function by any traditional leader, any traditional council, the Provincial House, any Local House as contemplated in this Act or any other law is guilty of an offence.

(2) A person convicted of an offence contemplated in subsection (1) is liable to a fine of R 12 000 or imprisonment not exceeding 12 months, or, in serious cases, both such fine and imprisonment.

Short title and Commencement

78. This Act is called the Gauteng Traditional Leadership and Governance Act, 2010 and comes into operation on the date fixed by the Premier in the *Provincial Gazette*, and different dates may be fixed for the commencement of different sections.

SCHEDULE 1**The National Code of Conduct and the Provincial Code of Conduct****PART A: The National Code of Conduct****General conduct of traditional leader**

In this Schedule, "traditional leader" means a senior traditional leader, a headman or a headwoman, as the case may be.

1. A traditional leader -

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of the traditional community or communities he or she serves;
- (f) must promote unity amongst traditional communities;
- (g) may not embark on actions that would create division within or amongst traditional communities;
- (h) must promote nation building;
- (i) may not refuse to provide any service to a person on political or ideological grounds;
- (j) must foster good relations with the organs of state with whom he or she interacts;
- (k) must promote the principles of a democratic and open society; and
- (l) must disclose gifts received.

General conduct of traditional council**2. A traditional council must -**

- (a) perform the functions allocated to it in good faith, diligently, honestly and in a transparent manner;
- (b) execute its duties in an efficient manner;
- (c) comply with any applicable legislation;
- (d) act in the best interest of the traditional community it serves;
- (e) give effect to the principles governing public administration set out in section 195 of the Constitution; and

- (f) foster good relations with the organs of state with whom it interacts.

PART B: The Gauteng Provincial Code of Conduct

1. Conflict of interest

1.1 A traditional leader, a member of the Provincial House, a member of a Local House and a member of a traditional council must declare any personal or private financial or business interest that the member may have in a matter

- (a) that is before the traditional council;
- (b) that is before a House of Traditional Leaders;
- (c) that is before a Committee of a House of Traditional Leaders or Traditional Council on which the member serves; or
- (d) in relation to which the member is required to take a decision as a traditional leader or a member of a traditional council.

1.2 A traditional leader or a member of a traditional council must withdraw from the proceedings of any committee of the Provincial or Local House of Traditional Leaders or Traditional Council considering a matter in which the traditional leader or a member of a traditional council has any personal or private financial or business interest, unless the chairperson of a House of Traditional Leaders, or senior traditional leader or senior traditional leader under whose authority the traditional council falls, as the case may be, decides that the traditional leader's or a member of a traditional council's interest is trivial or not relevant.

1.3 If a traditional leader or a member of a traditional council is required to adjudicate upon or decide a matter in which the traditional leader or a member of a traditional council has a personal or private financial or business interest, the traditional leader or a member of a traditional council must declare that interest to the chairperson of the Provincial or Local House of Traditional Leaders, as the case may be, or senior traditional leader or senior traditional leader under whose authority the traditional council falls, as the case may be, and seek the permission that the chairperson, senior traditional leader or senior traditional leader to adjudicate upon or decide the matter.

2. Gifts

2.1 A traditional leader or a member of a traditional council may not solicit or accept a gift or benefit which -

- (a) is in return for any benefit received from the traditional leader or a member of a traditional council, except gifts recognised by custom;
- (b) constitutes improper influence on the traditional leader; or

(c) constitutes an attempt to influence the traditional leader in the performance of his or her duties.

3. Gifts and benefits to be disclosed

3.1 Gifts

A traditional leader, a member of the Provincial House, a member of a Local House and a member of a traditional council must disclose gifts and hospitality other than those received from a spouse or permanent companion or family member.

A description, including the value and source of-

- (a) any gift with a value of more than R100.00;
- (b) gifts received from a single source, which cumulatively exceed the value of R100.00 in any calendar year;
- (c) hospitality intended as a personal gift and with a value of more than R100.00; and
- (d) hospitality intended as a gift and received from a single source, and which cumulatively exceeds the value of R100.00 in any calendar year.

3.2 Benefits

- (a) The nature and source of any other benefit of a material nature; and
- (b) The value of that benefit.

4. Breaches of Code

4.1 If a traditional council or any house, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the a traditional council or the house concerned must-

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

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

4.3 The a traditional council or any house must report the outcome of the investigation to the MEC.

4.4 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 and at the seat of a traditional council.

4.5 The a traditional council or a 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 a traditional council or a house.

4.6 If the a traditional council or a house or a special committee appointed by the a traditional council or a house to conduct the investigation finds that a member of the a traditional council or a house has breached a provision of this part of the Code of Conduct, the a traditional council or a house may-

- (a) issue a formal warning to the member of the a traditional council or a house;
- (b) reprimand the member of the a traditional council or a house;
- (c) suspend the member of the a traditional council or a house for a period in consultation with the MEC; and
- (d) remove the member of the a traditional council or a house from office in consultation with the MEC.

4.7 (a) Any member of the a traditional council or a 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 a traditional council or a house appeal to the MEC in writing setting out the reasons on which the appeal is based;

(b) A copy of the appeal must be provided to the a traditional council or a house concerned;

(c) The a traditional council or a house as the case may be may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC in writing; and

(d) The MEC may, after having considered the appeal, confirm, set aside or vary the decision of the a traditional council or a house and inform the member of the a traditional council or a house and the a traditional council or a house of the outcome of the appeal.

4.8 The MEC may, in terms of section 62 of the Act, appoint a person or a persons to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the a traditional council or a house should be suspended or removed from office.

4.9 If the MEC 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 MEC may-

- (a) suspend the member of the a traditional council or a house for a

period and on conditions determined by the MEC; or

(b) remove the member of the a traditional council or a house from office.

4.10 Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

SCHEDULE 2

Oath or solemn affirmation of members of Provincial House of Traditional Leaders, Local Houses of Traditional Leaders and traditional councils

I,, swear/solemnly affirm that I will be faithful to the Republic of South Africa and the Province of Gauteng and will obey, respect and uphold the Constitution and all other law of the Republic of South Africa, and I undertake and solemnly promise to hold my office as a member of (insert Provincial House of Traditional Leaders or name of applicable Local House of Traditional Leaders or traditional council) with honour and dignity; impartially and without bias, fear, or favour or influence, and to perform the role and function of my office conscientiously and to the best of my ability.

(In the case of an oath: "So help me God".)

EXPLANATORY MEMORANDUM ON THE OBJECTS OF GAUTENG TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2010

1. BACKGROUND

1.1 Chapter 12 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”) provides for the recognition of traditional leadership, traditional authorities and customary law, as well as the establishment of a National House of Traditional Leaders (by means of national legislation), Provincial Houses of Traditional Leaders (by means of national or provincial legislation), and the determination of a role for traditional institutions in local government (by means of national legislation).

1.2 The National Parliament enacted the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) (“the Framework Act”), to give effect to Chapter 12 of the Constitution. As traditional leadership is a matter within the concurrent domain of national and provincial legislative competence in Part A of Schedule 4 of the Constitution, the Framework Act provided for the enactment of province-specific legislation to provide for provincial peculiarities.

1.3 On account of the redetermination of provincial boundaries and the incorporation of some traditional communities from the North West Province and Mpumalanga into Gauteng, it has become necessary for Gauteng provincial legislation to be enacted to provide a regulatory framework for the recognition of traditional communities, traditional leadership, traditional councils and related matters. Legislation is necessary to provide for the administration of traditional community affairs by means of the establishment and implementation of structures and systems.

1.4 In terms of a MinMec Resolution of 26 September 2006, it was resolved that the capacity of the Institution of Traditional Leadership must be developed to give full effect to it being a partner with government. This Bill contains an enabling framework for the provision of support and capacity-building initiatives.

1.5 The Gauteng Traditional Leadership and Governance Bill, 2010 ("the Bill") is intended to fulfill the requirements for provincial legislation in respect of traditional leadership and governance. The Bill is fully aligned with the Constitution, the National Framework Policy on Traditional Leadership and Governance, the Framework Act, recent policy initiatives at the national and provincial levels, as well as with administrative practices that were implemented in respect of the traditional communities concerned by the Mpumalanga and North West Provincial Governments.

2. THE PURPOSE OF THE BILL

The purpose of the Bill is to provide for the recognition of traditional communities, to provide for the establishment and recognition of traditional councils; to provide for the functions of traditional councils; to provide for the recognition and functions of different levels of traditional leadership; to provide for financial management of the institution of traditional leadership; to provide for the establishment and functioning of the provincial house and local houses of traditional leaders; to provide for the functions of traditional leadership and partnerships with government; to provide for government support to traditional leadership; to provide for the accountability of the institution of traditional leadership; to provide for dispute resolution mechanisms in respect of traditional leadership; to provide for the delegation of certain powers and functions; and to provide for matters connected therewith.

3. ORGANIZATIONAL AND PERSONNEL IMPLICATIONS

3.1 The assignment of responsibilities relating to Traditional Leadership and Governance to the Department of Local Government and Housing ("the Department") has necessitated the Department revising and expanding its organizational structure in order to accommodate the additional responsibilities.

3.2 The Department has established a Deputy Directorate: Traditional Leadership and Governance, within the Governance Directorate. A Deputy Director: Traditional Leadership and Governance has been appointed, and additional staff will be appointed to assist the Deputy Director: Traditional Leadership and Governance.

3.3 The Department must appoint and second staff to the two Traditional Councils in addition to the ones located within the Department. The two new staff members will be replacement for one transferred from Mpumalanga who retired in July 2009 (Mr. SV Mnguni) and the other official that declined to be transferred to Gauteng who provided administrative support to the Amandebele-Ba-Lebelo office (Ms M Nkuntsheu).

3.4 The Department has also inherited a staff member who was working with the Dilopye Community Authority, who was previously employed by the North West Provincial Government, and has been transferred to work with the Department.

3.5 The recent establishment of a National Department for Traditional Affairs will have profound impact on the Departmental organizational structure. Flowing from the changes nationally, the Department will be required to re-align itself and structure Traditional Leadership in

accordance with developments within Traditional Leadership at national level and in other Provinces as well as Treasury requirements, which allocate funding to Traditional Leadership as a Programme that is Chief Directorate, as compared to a Sub-directorate.

4. FINANCIAL IMPLICATIONS

4.1 The financial implications associated with this Bill will be those which are associated with the provision of the envisaged support to Traditional Leadership and Traditional Communities. The envisaged support includes but is not limited to the following: provision of resources (human and financial), infrastructural development, and building the capacity of traditional leadership. The National Department of Traditional Affairs through the National Programme of Support for Traditional Leadership seeks to guide provinces on the kind of uniform support that should be provided to Traditional Leadership.

4.2 There are also financial implications in respect of remuneration, allowances and benefits for Traditional Leaders, salaries for staff that are seconded to Traditional Councils, additional members and administrative costs associated with the Traditional Leadership and Governance Sub-Directorate.

4.3 The current budgetary allocations for various aspects relating to Traditional Leadership and Governance are as follows:

NO	SUPPORT ITEM	CURRENTLY PROVIDED AND EXTENT	FUTURE PLANS	BUDGETORY IMPLICATIONS
1.	Total Budget Allocation and Breakdown	<p>Total: 3,114,000,00</p> <p>Break Down:</p> <p>Traditional institution administration: 921,000,00</p> <p>Plus Goods and services: 193,000,00</p> <p>Traditional Admin Resources: 799,000,00</p> <p>Plus Goods and services: 21,000,00</p> <p>Rural Development facilities inst.: 478,000,00</p> <p>Plus Goods and services: 102,000,00</p> <p>Traditional Land Admin.: 389,000,00</p> <p>Plus Goods and services: 211,000,00</p>	<p>Allocations will be done in accordance with relevant legislation and National Policy</p>	<p>Allocations will be done as per the National Programme of Support to traditional leadership</p>
2.	Salaries of Traditional Leaders (Kings, Queens, senior Traditional Leaders and Headmen/women)	<p>Acting Kgosi Kekana Acting Ikosi J.J. Mahlangu are catered for in the budget above</p>	<p>To continue paying for the salaries in accordance with relevant legislation and National Policy</p>	
3.	Human Resources employed by provincial Government and Seconded to TCs and Houses	<p>1x Diloye Community office (Phago S.G) no office equipment</p> <p>Seconded Staff MM Nkutshweu withdrew and remains in North West</p> <p>Seconded staff Mr. Mnguni retired in July 2009</p>	<p>To get a permanent administrator appointed as per envisaged disestablishment of Diloye community authority</p> <p>To get staff appointed and seconded to the two traditional council offices</p>	<p>Budget will be provided for by either the province or Tshwane Metro</p>
4.	Infrastructure: a) Offices / Chambers (Inventory for All TCs and Houses) b) Vehicles c) Furniture	<p>Amendable A Lebelo has one dilapidated building used as an office</p> <p>Sokhulumi tribal authority also</p>	<p>To jointly look at provision of office spaces and equipment.</p>	<p>The budget will either come from, provincial, grant, traditional council/commu-</p>

	d) Computers, Printers, Photocopiers, etc e) Telecommunications f) Internet and e-mail facilities g) Other Consumables and sundries	has one room office without office equipment		nity authority budgets and municipalities
5.	Skills Development Programmes (currently running, provided in the last two years and the future skills development plans)	The province has developed a skills development plan, COGTA has also developed a skills developed programme that will be implemented in conjunction with provinces.	Develop skills programme in support to traditional leaders in accordance with the National Programme of Support	Allocation of skills development budget
6.	Sitting Allowance	Tshwane and Kungwini initiated a process of discussing the matter with Chief Kekana and JJ Mahlangu in line with the provision of section 81 of Local Government Structures Act. The National House of Traditional Leaders is paying the sitting allowance to the two Chief for attending meetings of the NHTL. Establishment of Provincial and Local Houses will require the province to start paying sitting allowances.	The matter is receiving attention	Sitting allowance budget
7.	Out of Pocket Expenses	Claimed from the grants transferred to the traditional council account.		
8.	Maintenance and other Operational Costs	Included in the budget break down in row 1 above		
9.	Special Provision for Kings and Queens	None, as there are currently no recognized Kings and Queens in the Province		
10.	Current staff compliment in terms of the current organogram in the provincial office (Existing personnel, vacancies and future reconfiguration plans)	The province appointed in 2008 a deputy director for Traditional Leadership and Governance. An admin clerk (formerly with Dilopye) is providing support to the sub-directorate. The following posts have been approved but vacant 2 X Assistant Directors 1 X Senior Admin Officer 2 X Admin Officer	To employ staff that will mainly focus on support to traditional leaders	
11.	Any other Support provided	The province has procured LDVs for the two traditional councils. An annual grant is transferred to each traditional council to assist with running costs.		Budget is available both in the province and COGTA

		<p style="text-align: center;">The province is currently in a process of rolling out a support plan in concert with COGTA</p>		
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4.4 The necessary amounts have been budgeted by the Department for the current 2010/2011 financial year, and over the MTEF period.

5. CONSTITUTIONAL IMPLICATIONS

5.1 The purpose of the Bill is to give effect to the Constitutional provisions relating to recognizing the institution, status and role of traditional leadership, according to the prescripts of customary law.

5.2 Chapter 12 of the Constitution provides for the recognition of traditional leadership, traditional authorities and customary law, as well as the establishment of a national house of Traditional Leaders (by means of national legislation), provincial Houses of Traditional Leaders (by means of national or provincial legislation), and the determination of a role for traditional institutions in local government (by means of national legislation).

5.3 In order to give effect to Chapter 12 (by means of a policy formulation process and the enactment of appropriate legislation at national level), national government embarked on a policy programme (consisting of the Status Quo Report on Traditional Leadership and Institutions (1999), the Draft Discussion Document on Traditional Leadership and Institutions (2000), and the White Paper on Traditional Leadership and Governance (2003). This was followed by the enactment of the Framework Act. On account of traditional leadership being within the concurrent domain of national and provincial legislative competence, both the 2003 White Paper and the Framework Act 41 of 2003 provided for the enactment of provincial legislation.

5.4 With the redetermination of Gauteng's jurisdictional areas and the incorporation of traditional communities, provision for a regulatory framework for the recognition of traditional communities, traditional leadership, traditional councils and related matters must be made by means of Gauteng provincial legislation. The Bill is intended to comply with all of the Constitutional and Legislative obligations of the Gauteng Provincial Government in respect of Traditional Leadership and Governance.

6. SOCIAL IMPLICATIONS

The Social implication of the Bill is that there will be a regulatory framework within which Traditional Leaders and Institutions will operate. This will thus allow for good governance, accountability and service delivery to the people living in Traditional Communities, and will promote the effective integration of Traditional Leaders, Institutions, and Communities within the overall governance structures in Gauteng. It is hoped that the overall social environment in the Traditional Communities will be enhanced.

7. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this Bill.

8. PARTIES CONSULTED

The following organs of state and departments were consulted in the initial development process of the Bill:

1. Mpumalanga Provincial Government.
2. North West Provincial Government.
3. Leaders of the Traditional Communities whose jurisdictional areas have been incorporated into Gauteng.

4. Management of the Department.
5. Chief Directorate: Traditional Leadership and Institutions.
Department of Provincial and Local Government.
6. All Provincial Departments in particular Provincial Treasury.
7. Representatives of affected Municipalities in Gauteng.

9. CONSULTATION WITH OTHER DEPARTMENTS/BODIES

Through the extensive stakeholder consultations which the Department undertook in developing the draft Bill, the Department has thoroughly engaged with all relevant stakeholders, and has solicited their opinions and gained a thorough understanding of the issues which must be addressed in the legislation. The Bill reflects the submissions made in the consultation processes with stakeholders, and address the issues which were highlighted during the consultation processes.

10. CLAUSE BY CLAUSE EXPLANATION OF THE BILL

Clause 1 provides for Definitions.

Clause 2 provides for Recognition of traditional communities.

Clause 3 provides for Merger or division of traditional communities.

Clause 4 provides for Withdrawal of recognition of traditional communities.

Clause 5 provides for Establishment and recognition of traditional councils.

Clause 6 provides for Term of office and filling of vacancies.

Clause 7 provides for Functions of traditional councils.

Clause 8 provides for Staffing of traditional councils.

Clause 9 provides for Meetings of traditional councils.

Clause 10 provides for Minutes of meetings.

Clause 11 provides for Withdrawal of recognition of traditional councils.

Clause 12 provides for Recognition of traditional leadership positions.

- Clause 13** provides for Recognition of a senior traditional leader.
- Clause 14** provides for Recognition of position of headman or headwomanship.
- Clause 15** provides for Recognition of headmen and headwomen
- Clause 16** provides for Removal of senior traditional leader, headman or headwoman.
- Clause 17** provides for Recognition of regents.
- Clause 18** provides for Recognition of acting traditional leaders.
- Clause 19** provides for Appointment of deputy traditional leaders.
- Clause 20** provides for Removal of deputy traditional leaders.
- Clause 21** provides for Absence of traditional leader.
- Clause 22** provides for Salaries and allowances.
- Clause 23** provides for Travelling and subsistence.
- Clause 24** provides for Funds of traditional councils.
- Clause 25** provides for Opening of accounts for finances of traditional councils.
- Clause 26** provides for Accounting Officer for finances of traditional councils.
- Clause 27** provides for Auditing of books and accounts of traditional councils.
- Clause 28** provides for Keeping of records.
- Clause 29** provides for Establishment of Provincial House of Traditional Leaders.
- Clause 30** provides for Members of Provincial House.
- Clause 31** provides for Meetings of Provincial House.
- Clause 32** provides for Functions of Provincial House.
- Clause 33** provides for Election of Office Bearers of the Provincial House.
- Clause 34** provides for Qualification for membership of Provincial House.
- Clause 35** provides for Vacation of seats of Provincial House.
- Clause 36** provides for Status of members of the Provincial House.
- Clause 37** provides for Election of representatives to National House.

Clause 38 provides for Establishment of Local Houses.

Clause 39 provides for Qualification for membership of Local House.

Clause 40 provides for Persons disqualified from being members of Local House.

Clause 41 provides for Membership of Local House.

Clause 42 provides for Seat and meetings of Local House.

Clause 43 provides for Vacation of seats in Local House.

Clause 44 provides for Functions of Local House.

Clause 45 provides for Chairperson and Deputy Chairperson of Local House.

Clause 46 provides for Rules and orders of Houses.

Clause 47 provides for Quorum.

Clause 48 provides for Requisite majority.

Clause 49 provides for Moneys payable to members.

Clause 50 provides for Powers, privileges and immunities of members of Houses and benefits of members.

Clause 51 provides for Administration and accountability of the Provincial House.

Clause 52 provides for Functions of traditional leadership.

Clause 53 provides for Guidelines for allocation of functions to senior traditional leaders and traditional councils by organs of state.

Clause 54 provides for Functions of traditional leaders.

Clause 55 provides for Functions of headmen and headwomen.

Clause 56 provides for Establishment of structures.

Clause 57 provides for Co-operation between traditional councils and municipalities, and traditional councils and provincial government departments.

Clause 58 provides for Relationship between Provincial House and traditional councils.

Clause 59 provides for Relationship between Provincial House and Provincial Legislature.

Clause 60 provides for Relationship between Provincial House and Executive Council.

Clause 61 provides for Implementation of Decisions of the National Commission.

Clause 62 provides for Appointment and work of persons appointed to conduct the inquiry.

Clause 63 provides for Misconduct.

Clause 64 provides for Dispute resolution.

Clause 65 provides for Support.

Clause 66 provides for National and Provincial Codes of conduct.

Clause 67 provides for Compliance.

Clause 68 provides for Performance Management.

Clause 69 provides for Monitoring, Evaluation and Impact Assessment.

Clause 70 provides for Tabling of Annual Report by MEC.

Clause 71 provides for Oath of office.

Clause 72 provides for Regulatory powers.

Clause 73 provides for Delegation of powers, assignments, powers of attorney agency and service delivery agreements.

Clause 74 provides for Delegation of powers and assignment of duties by Premier.

Clause 75 provides for Delegation of powers and assignment of duties by the MEC.

Clause 76 provides for Delegation of powers by the Head of Department.

Clause 77 provides for Offences and penalties.

Clause 78 provides for Short title and Commencement.

Schedule 1 contains the National and Provincial Codes of Conduct.

Schedule 2 contains the oath and solemn affirmation of members of the Houses of the Traditional Leaders and Traditional Councils.