

NORTHERN CAPE PROVINCE

PROFENSI YA KAPA-BOKONE

NOORD-KAAP PROVINSIE

IPHONDO LOMNTLA KOLONI

EXTRAORDINARY • BUITENGEWONE

**Provincial Gazette
Kasete ya Profensi**

**iGazethi YePhondo
Provinsiale Koerant**

Vol. 14

KIMBERLEY, 4 DECEMBER 2007
DESEMBER

No. 1156

CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
PREMIER'S NOTICES			
8	Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Act (2/2007): For general information	3	1156
9	Northern Cape Adjustments Appropriation Act (3/2007): For general information	78	1156

PREMIER'S NOTICES

OFFICE OF THE PREMIER

No. 8

4 December 2007

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information.

No. 2 of 2007: Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Act, 2007

NORTHERN CAPE PROVINCE

NORTHERN CAPE TRADITIONAL LEADERSHIP, GOVERNANCE AND HOUSES OF TRADITIONAL LEADERS ACT, 2007 (ACT NO. 2 OF 2007)

NORTHERN CAPE TRADITIONAL LEADERSHIP, GOVERNANCE AND HOUSES OF TRADITIONAL LEADERS ACT, 2007

ACT

To provide for the recognition of traditional communities, traditional leadership and institutions thereof; to define the role and functions of traditional leaders; to provide for the establishment and recognition of traditional councils; to define the functions of traditional councils; to provide for the appointment, recognition and removal of traditional leaders; to provide for the establishment of a Provincial House of Traditional Leaders and Local Houses of Traditional Leaders; to define the powers, functions and duties of a Provincial House of Traditional Leaders and Local Houses of Traditional Leaders; to provide for the payment of allowances to traditional leaders; to promote cooperative governance and transformation of traditional leadership and to provide for mechanisms for dispute resolution; to provide for a code of conduct; to regulate the administration of traditional institutions; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the State has in accordance with the Constitution and National Legislation set out-

- * a national framework, norms and standards that define the place and role of traditional leadership within the system of democratic governance;
- * to transform the institution of traditional leadership in line with Constitutional imperatives;
- * to restore the integrity and legitimacy of the institution of traditional leadership in line with customary law and practices; and
- * to establish houses of traditional leaders;

AND WHEREAS the Constitution recognizes-

- * the institutional status and role of traditional leaders according to customary law; and
- * a traditional authority that observes a system of customary law;

AND WHEREAS -

- * the State must respect, protect and promote the institution of traditional leadership in accordance with the dictates of democracy in South Africa;
- * the State recognizes the need to provide appropriate support and capacity to the institution of traditional leadership;
- * the institution of traditional leadership must be transformed to be in harmony with the Constitution so that-
 - democratic governance and the values of an open and democratic society may be promoted;
 - gender equality within the institution of traditional leadership may progressively be advanced;
 - the institution of traditional leadership must-
 - promote freedom, human dignity and achievement of equality and non sexism;
 - derive its mandate and primary authority from applicable law and practices;
 - strive to enhance tradition and culture;
 - promote nation building, harmony and peace amongst people;
 - promote the principle of co-operative governance in its interaction with all spheres of government and organs of state; and
 - promote an efficient and effective and fair dispute resolution system and a fair system of administration of justice, as envisaged in applicable legislation;

AND WHEREAS the Northern Cape Provincial Government is committed to transformation of the institution of traditional leadership;

AND WHEREAS the Northern Cape Provincial Government seeks to promote collaboration between the institution and the three spheres of government in line with the dictates of co-operative governance;

AND WHEREAS the Northern Cape Provincial Government seeks to provide an enabling environment for the recognition, protection, preservation, transformation and development of traditional communities, institutions, customary law and customs in the Northern Cape Province,

BE IT THEREFORE ENACTED by the Legislature of Northern Cape Province as follows:-

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION AND APPLICATION

Sections

1. Interpretation
2. Application of the Act

CHAPTER 2

TRADITIONAL COMMUNITIES AND TRADITIONAL COUNCILS

3. Recognition of a traditional community
4. Withdrawal of recognition of a traditional community
5. Traditional community area
6. Establishment of a traditional council
7. Disqualification of membership of a traditional council
8. Vacation of seat by a member of a traditional council
9. Functions of a traditional council
10. Administration of a traditional council

11. Meetings of a traditional council
12. Staff of a traditional council

CHAPTER 3

TRADITIONAL LEADERS

13. Recognition of a senior traditional leader, headman or headwoman
14. Removal of a senior traditional leader, headman or headwoman
15. Recognition of regents
16. Recognition of an acting traditional leader
17. Recognition of deputy traditional leader
18. Roles and functions of senior traditional leaders
19. Roles and functions of headman or headwoman
20. Royal Council
21. Meetings of Royal Council

CHAPTER 4

CONDITIONS OF SERVICE

22. Subsistence and travelling allowances
23. Code of conduct and breach of the code

CHAPTER 5

FINANCIAL MATTERS

24. Levies
25. Voluntary contributions
26. Traditional council accounts
27. Auditing of books and accounts of traditional councils

CHAPTER 6

GOVERNANCE MATTERS

- 28. Legal proceedings against traditional communities and traditional councils
- 29. Partnerships with municipalities
- 30. Support to traditional councils and performance monitoring
- 31. Capacity building
- 32. Development programmes
- 33. Inter- Provincial matters
- 34.

CHAPTER 7

HOUSES OF TRADITIONAL LEADERS

- 35. Disqualification from membership
- 36. Vacation of seats

CHAPTER 8

PROVINCIAL HOUSE OF TRADITIONAL LEADERS

- 37. Establishment of Provincial House of Traditional Leaders
- 38. Membership of Provincial House of Traditional Leaders
- 39. Seat and meetings of Provincial House of Traditional Leaders
- 40. Powers, functions and duties of Provincial House of Traditional Leaders
- 41. Chairperson and deputy chairperson
- 42. Administration of the Provincial House of Traditional Leaders
- 43. Representation in the National House of Traditional Leaders

CHAPTER 9**LOCAL HOUSES OF TRADITIONAL LEADERS**

- 43. Establishment of Local Houses of Traditional Leaders
- 44. Membership of Local Houses of Traditional Leaders
- 45. Election of representatives to a Provincial House of Traditional Leaders
- 46. Seat and meetings of a Local House of Traditional Leaders
- 47. Powers, functions and duties of a Local House of Traditional Leaders
- 48. Chairperson and deputy chairperson

CHAPTER 10**RULES OF THE HOUSES OF TRADITIONAL LEADERS**

- 49. Rules and orders of the Houses
- 50. Quorum
- 51. Requisite majority
- 52. Moneys payable to members
- 53. Powers, privileges and immunities of members of a House and benefits of members

CHAPTER 11**RELATIONSHIPS**

- 54. Relationship between the Local House of Traditional Leaders and traditional Councils
- 55. Relationship between the Provincial House of Traditional Leaders and the Provincial Legislature
- 56. Relationship between the Provincial House of Traditional Leaders and the Municipal Council

57. Relationship between the Provincial House of Traditional Leaders and the Executive Council

CHAPTER 12 GENERAL MATTERS

58. Implementation of decisions of National Commission on Traditional Leadership Disputes and Claims
59. Commission or committee of inquiry into disputes and other matters relevant to Traditional leadership of Traditional Communities, and powers of Premier following commission's report.
60. Offences and penalties
61. Regulations
62. Transitional arrangements
63. Short title and commencement

SCHEDULE

CODE OF CONDUCT

Part A: Members of traditional councils and Houses of Traditional Leaders

Part B: Traditional leaders

Part C: Oath or affirmation

CHAPTER 1 INTERPRETATION AND APPLICATION

1. Interpretation

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

“acting traditional leader” means a suitable person identified by the Royal Council to act as senior traditional leader, headman or headwoman where a successor to the position of senior traditional leader, headman or headwoman has not been identified or resolved;

“area of jurisdiction” means the area of jurisdiction designated for a traditional community and traditional council that have been recognized as provided for in sections 3 and 6 of this Act;

“code of conduct” means the code of conduct contained in the Schedule to this Act;

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

“department” means a provincial department responsible for traditional leadership and institutions;

“deputy traditional leader” means a person appointed by a senior traditional leader, headman or headwoman to act in his or her stead, after consultation with the Royal Council as contemplated in section 17;

“district municipality” means a category C municipality envisaged in section 155 (1) (c) of the Constitution;

“electoral college” means the body of senior traditional leaders residing within a district municipality where traditional communities exist;

“Executive Council” means the Executive Council of the Province of the Northern Cape as contemplated in section 132 of the Constitution;

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

“Head of Department” means a head of a provincial department responsible for traditional leadership and institutions;

“headman or headwoman” means a hereditary traditional leader who-

- (a) is under the authority of and exercise authority within the area of jurisdiction of a senior traditional leader in accordance with customary law; and
- (b) is recognized as such in terms of this Act;

“House of Traditional Leaders” means both a Local House of Traditional Leaders and the Provincial House of Traditional Leaders and “House” has a corresponding meaning;

“Legislature” means the Northern Cape Provincial Legislature as contemplated in section 103 of the Constitution;

“Local House” means a Local House of Traditional Leaders established in terms of section 43 of this Act;

“officer” means an officer of the Northern Cape Provincial Government;

“organ of state” means an organ of state as defined in section 239 of the constitution;

“Premier” means the Premier of the Northern Cape Province elected as contemplated in section 128 of the Constitution and includes an acting Premier as contemplated in section 131 of the Constitution;

“province” means the Northern Cape Province;

“Provincial House” means the Provincial House of Traditional Leaders established in terms of section 36 of this Act;

“provincial government” means the provincial executive established by Chapter 6 of the Constitution and includes all provincial organs of state with the exclusion of the provincial Legislature;

“prescribe” means prescribe by regulation in the *Provincial Gazette* and prescribed has a corresponding meaning;

“regent” means any person who, in terms of the traditional community concerned, holds a traditional leadership position in a temporary capacity until a successor to that position, who is a minor, is recognized as contemplated in section 15;

“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;

“rules and orders” means the rules and orders made by a House of Traditional Leaders in terms of section 49;

“senior traditional leader” means a traditional leader of a specific traditional community who exercises authority over a number of headmen and headwomen;

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

“this Act” means the Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Act, 2007 (Act No. of 2007) and any regulations made in terms thereof;

“tradition” includes the traditions, law and customs practised by members of a traditional community;

“traditional council” means a traditional council constituted in terms of section 6 of this Act;

“traditional community” means a traditional community recognized as such in terms of section 3 of this Act;

“traditional leader” includes a senior traditional leader, headman or headwoman, regent, acting senior traditional leader or an acting headman or headwoman and a deputy to such position.

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

2. Application of the Act

(1) This Act applies within the boundaries of the Northern Cape Province and governs traditional leadership within the province.

(2) This Act is subject to the provisions of the Constitution and the Framework Act.

(3) Nothing contained in this Act may be construed as precluding a member of the traditional community from addressing a traditional leader by the traditional title accorded to him or her by custom, but such traditional title may not derogate from, or add anything to the status, role and functions of a traditional leader as provided for in this Act.

(4) Traditional leaders may acknowledge or recognize the different levels of seniority amongst themselves in accordance with custom and none of the definitions contained in section 1 of this Act must be construed as conferring or detracting from such seniority.

(5) Customs, traditions or customary laws relating to traditional leadership will continue to operate, subject to the provisions of the Constitution, the Framework Act and this Act.

CHAPTER 2

TRADITIONAL COMMUNITY AND TRADITIONAL COUNCIL

3. Recognition of a traditional community

(1) A community may be recognized as a traditional community if it-

- (a) is subject to a system of traditional leadership in terms of that community's customs and practices; and
- (b) observes a system of customary law.

(2) A community envisaged in subsection (1) may apply to the Premier to be recognized as a traditional community.

(3) An application referred to in subsection (2) must at least contain the following information-

- (a) a description of the community;
- (b) an indication of the demographics of the community;
- (c) the generally accepted name of the community;
- (d) the name of a traditional leader under whose authority the community falls; and
- (e) a definition of the area within which the community generally resides.

(4) On receipt of an application referred to in subsection (2) the Premier-

- (a) may refer the application to any member of the Executive Council for comment or advice;
- (b) must consult with the community concerned or any other community affected by such application;
- (c) must consult with the Local House having jurisdiction within the area in which the applicant community resides and the Provincial House of Traditional Leaders; and
- (d) may consult with any other person he or she deems fit.

(5) The Premier may if satisfied that the traditional community referred to in subsection (2) qualifies to be recognized as such approve such application.

(6) The Premier may, by notice in the Provincial *Gazette* publish the approval referred to in subsection (5).

4. Withdrawal of recognition of a traditional community

(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 traditional community be withdrawn.

(2) The Premier may, after consultation with the Provincial House of Traditional Leaders and any community that may be affected, withdraw the recognition as a traditional community where-

- (a) the community or communities concerned requests the Premier to review the position of that community or communities that was or were divided or merged prior to 1994 in terms of applicable legislation; or
- (b) two or more recognized traditional communities request the Premier that they be merged into a single traditional community.

(3) The Premier may at any time after the publication of the notice referred to in section 3 (6) reverse his or her decision if it is subsequently established that the group of people who have been recognized as 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; or
- (c) were erroneously granted recognition.

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

(5) The notice referred to in subsection (4) 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.

5. Traditional community area

(1) The Premier must determine, by notice in the *Provincial Gazette*, an area of jurisdiction of any traditional community recognized in terms of section 3 and may likewise modify and re-determine such traditional community area.

(2) Any determination of a traditional community area in terms of subsection (1) must be made after consultation with members of any traditional community affected by such determination and the Local House having jurisdiction within the area affected by such determination.

(3) Consultation in terms of subsection (2) must take place by means of a public meeting of members of any traditional community affected by such determination, convened by the Premier for such purpose.

6. Establishment of a traditional council

(1) Once the Premier has recognized a traditional community in terms of section 3, that traditional community must establish a traditional council in terms of subsection (2).

- (2) (a) A traditional council must have no more than 30 members, depending on the needs of the traditional community concerned;
- (b) At least one third of the members of a traditional council must be women;
- (c) The members of a traditional council must comprise of-
 - (i) traditional leaders and members of the traditional community selected by the relevant senior traditional leader in terms of that community's customs, subject

to such conditions and requirements as may be prescribed, taking into account the need for overall compliance with paragraph (b), who must, with the inclusion of the senior traditional leader, constitute 60% of the members of the council; and

- (ii) other members of the traditional community who are democratically elected as prescribed, and who must constitute 40% of the members of the traditional council.
- (d) The Premier must by notice in the *Provincial Gazette* determine the number of members of the traditional council;
- (e) Where it has been proved that an insufficient number of women is available to participate in a traditional council, the Premier may determine a lower threshold regarding the requirement of paragraph (b);
- (f) The term of office of members of the traditional council must run concurrently with the duration of the Local House.

(3) A traditional community recognized in terms of section 3 must within 14 days of the establishment of its traditional council, submit to the Premier the names of members of its traditional council, who must recognize the traditional council and define the area of jurisdiction of the traditional council by notice in the *Provincial Gazette*.

(4) Members of the traditional council must, before assuming office, take an oath or make an affirmation as may be prescribed.

(5) The senior traditional leader is the chairperson of the traditional council concerned.

(6) The traditional council must in a full sitting, elect a deputy chairperson who must act as chairperson in the temporary absence of the chairperson.

7. Disqualification from membership of a traditional council

A person is disqualified from holding any office or becoming or remaining a member of a traditional council if he or she-

- (a) is under eighteen years of age;
- (b) is not a South African citizen;
- (c) is not a full-time resident of a traditional community concerned;
- (d) is an unrehabilitated insolvent;
- (e) is suffering from a 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;
- (f) 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. A disqualification under this paragraph ends five years after the sentence has been completed;
- (g) has been removed from an office of trust on account of misconduct;
- (h) was wrongfully appointed or recognised; or
- (i) transgresses a customary rule or principle that warrants removal.

8. Vacation of seat by a member of a traditional council

(1) Subject to the provisions of the Constitution, the Framework Act and this Act, the seat of a member of a traditional council becomes vacant-

- (a) at the death of such member;
- (b) if such member resigns;
- (c) if such member ceases to hold the position of senior traditional leader, headman or headwoman, as the case may be; or
- (d) if such member is disqualified in terms of section 7 of this Act.

(2) The senior traditional leader, traditional council and Royal Council must ensure that any vacancy which may occur as referred to in subsection (1) is appropriately filled in accordance with this Act within a period of at least three months.

9. Functions of a traditional council

(1) The traditional council of any traditional community, must subject to the provisions of the Constitution, the Framework Act, this Act and any other law-

- (a) administer the affairs of the traditional community in accordance with customs and tradition and perform such other functions conferred by customary law and customs;
- (b) promote the interests, advancement and well-being of the members of the traditional community;
- (c) administer the finances of the traditional community;
- (d) perform such roles and functions as may be delegated to it by or under any law;

- (e) assist, support and guide leaders in the performance of their functions;
- (f) support municipalities in the identification of community needs;
- (g) facilitate and ensure involvement of its traditional community in the development or amendment of the integrated development plan of a municipality in which area that community resides;
- (h) participate in the development of policy and legislation at local government level through public hearings and active participation in local structures;
- (i) participate in developmental programmes of municipalities, provincial-and national spheres of government;
- (j) promote indigenous knowledge systems for sustainable development and disaster management;
- (k) alert any relevant municipality to any hazard or calamity that threatens the jurisdiction of the traditional council in question or the well-being of people living in such jurisdiction, and contribute to disaster management in general;
- (l) share information and co-operate with other traditional councils within the province;
- (m) keep proper records of its activities and accounts as audited;
- (n) have its financial statements audited; and
- (o) adhere to the code of conduct.

(2) The functions assigned to any traditional council in terms of this section must be performed under the supervision of the Northern Cape Provincial Government.

(3) The Premier may take steps, not inconsistent with this Act to ensure proper administration and good governance by traditional councils.

10. Administration of a traditional council

(1) A traditional council must endeavour to perform its functions in the best interest of its traditional community and is accountable to the Premier for the efficient and effective performance of the functions assigned to such traditional council.

(2) The Premier may, subject to the provisions of the Constitution, the Framework Act and this Act, with due observance of the traditions applicable in a traditional community, take such steps as may be necessary to ensure the performance of the functions referred to in subsection (1).

(3) The Premier may, after consultation with the Royal Council, if satisfied that a traditional council is unable to perform the functions assigned to it in terms of this Act in an efficient and effective manner or in a manner which is conducive to good governance and administration, appoint or designate any person to assist the traditional council concerned to perform the functions assigned to such traditional council.

(4) A person appointed in terms of subsection (3) must be competent to exercise any power and perform any function conferred or imposed by law upon such traditional council.

(5) The appointment made in terms of this section must be reviewed after a period of 180 days.

11. Meetings of a traditional council

(1) A traditional council must hold an ordinary council meeting at least once every month on a date fixed by the senior traditional leader in council.

(2) A senior traditional leader may, at the request of the Premier or his or her delegate, convene a special meeting of the traditional council.

(3) At least 50% plus one of the total members of a traditional council forms a quorum and no proceedings and no decision in the absence of such quorum shall be valid or be of any force and effect: Provided that any decision taken or proceedings conducted contrary to the provisions contained in this subsection, if binding against third parties shall render such members of a traditional council who participated in such proceedings and supported such decision liable against such third parties jointly and severally.

(4) The proceedings at any meeting of a traditional council and committee thereof, must be in accordance with the applicable customary law and customs: Provided that the traditional council or such committee must cause minutes of any such meeting to be recorded and be kept as permanent record thereof.

(5) The following persons may attend and address a meeting of the traditional council-

- (a) the Premier;
- (b) a member of the Executive Council;
- (c) a designated officer; and
- (d) any other person invited by the traditional council.

12. Staff of a traditional council

(1) A traditional council may, subject to the approval of the Head of Department, appoint such staff and employees as may be necessary to perform the duties and functions of such traditional council in terms of this Act or any other law.

(2) A person appointed in terms of subsection (1) must be employed on such conditions as determined by the traditional council and must be remunerated from the funds and accounts referred to in section 26 of this Act.

(3) The Premier may on the recommendation of the Head of Department, second an officer to assist such traditional council in the execution of its functions in terms of this Act and may likewise end such a secondment.

**CHAPTER 3
TRADITIONAL LEADERS****13. Recognition of a senior traditional leader, headman or headwoman**

(1) Leadership positions of a traditional community must be bestowed in accordance with the customary law and customs applicable to such a traditional community.

(2) The identification of an incumbent for appointment to a traditional leadership position of a traditional community must be made by the Royal Council in accordance with its customary law and customs.

(3) The Premier may recognize a person identified as contemplated in

subsection (2) as senior traditional leader, headman or headwoman of a particular traditional community by issuing such person with a certificate of recognition.

(4) The Premier must publish a notice in the *Provincial Gazette* recognizing a senior traditional leader, headman or headwoman and such notice must be served on the Provincial House for its information.

(5) Where there is evidence or an allegation that the identification of a person referred to in subsection (1) was not done in accordance with customary law, customs or process, the Premier-

- (a) may refer the matter to the Provincial House of Traditional Leaders for its recommendations;
- (b) may refuse to issue a certificate of recognition; and
- (c) must refer the matter back to the Royal Council for reconsideration and resolution where the certificate of recognition has been refused.

(6) Where the matter which has been referred back to the Royal Council has been reconsidered and resolved, the Premier must recognize the person identified by the Royal Council in accordance with subsections (3) and (4).

14. Removal of a senior traditional leader, headman or headwoman

(1) A senior traditional leader, headman or headwoman may be removed from office on the grounds of-

- (a) conviction of an offence with a sentence of imprisonment for more than 12 months without the option of a fine;
- (b) 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) wrongful appointment or recognition; or
- (d) a transgression of a customary rule, principle or code of conduct that warrants the removal from office.

(2) Whenever any of the grounds referred to in subsection (1) come to the attention of the Royal Council and the Royal Council decides to remove the senior traditional leader, headman or headwoman the Royal Council must within a reasonable time inform the Premier of such decision and the reasons therefor.

(3) The Premier must upon receipt of such decision and reason therefor, withdraw the certificate of recognition of such a senior traditional leader, headman or headwoman by-

- (a) publishing a notice of withdrawal of recognition of such senior traditional leader, headman or headwoman in the *Provincial Gazette*; and
- (b) informing the Royal Council concerned and the Provincial House of such removal.

(4) The Royal Council must after taking a decision to remove a senior traditional leader, headman or headwoman, identify a successor in accordance with the applicable customs and customary law and the provisions of this Act.

15. Recognition of a regent

Where the successor to a position of senior traditional leader, headman or headwoman is still regarded as a minor in terms of applicable customary law-

- (a) the Royal Council concerned must within a reasonable time-
 - (i) identify a regent in accordance with the applicable customs and customary law, to assume leadership on behalf of the minor; and
 - (ii) inform the Premier of such identification, and the reasons therefor;
- (b) the Premier may with due regard to the applicable customs, recognize the regent identified by the Royal Council by issuing such regent with a certificate of recognition;
- (c) the Premier must publish a notice in the *Provincial Gazette* recognizing the regent and also inform the Provincial House of such recognition; and
- (d) the Premier must review the regency every three years.

16. Recognition of an acting traditional leader

(1) A Royal Council may in accordance with customary law identify an acting senior traditional leader, headman or headwoman to traditional leadership of the traditional community, where-

- (a) a successor to the position of a senior traditional leader, headman or headwoman has not been identified by the Royal Council concerned in terms of section 13(2);
- (b) the identification of a successor to the position of a senior traditional leader, headman or headwoman is being reconsidered and resolved; or
- (c) a senior traditional leader, headman or headwoman would be absent from his or her area of jurisdiction under circumstances other than those provided for in section 17 and for a period of more than six months for-
 - (i) the treatment of illness;
 - (ii) studies; or

(iii) any other lawful purpose.

(2) The Premier may recognize a person identified as contemplated in subsection (1) as an acting senior traditional leader, headman or headwoman of a particular traditional community by issuing such person with a certificate of recognition.

(3) The Premier must publish a notice in the Provincial *Gazette* recognizing an acting senior traditional leader, headman or headwoman and such notice must be served on the Provincial House of Traditional Leaders for its information.

17. Recognition of a deputy traditional leader

(1) A senior traditional leader, headman or headwoman may, after consultation with the Royal Council, appoint a deputy to act in his or her stead in the event that such senior traditional leader, headman or headwoman-

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

(2) The Premier may recognize a person designated as contemplated in subsection (1) as a deputy senior traditional leader, headman or headwoman of a particular traditional community by issuing such person with a certificate of recognition and inform the Provincial House of Traditional Leaders.

(3) The deputy senior traditional leader, headman or headwoman must vacate the seat when the permanent incumbent is in a position to resume duties.

(4) The Premier must, subject to subsection (3) and by notice in the Provincial *Gazette* withdraw the recognition of such deputy senior traditional leader, headman or headwoman.

18. Roles and functions of a senior traditional leader

(1) A senior traditional leader recognized in terms of section 13 must subject to the Constitution, the Framework Act and this Act -

- (a) administer the affairs of the traditional community;
- (b) maintain peace in the traditional community by conciliating and mediating disputes between members;
- (c) forthwith report to the competent authorities-
 - (i) the death of any person within the traditional community area as a result of violence or any other unnatural cause;
 - (ii) the outbreak of any contagious or infectious disease or epidemic;
 - (iii) any allegation of an act of witchcraft or divination; and
 - (iv) the commission of any offence which cannot lawfully be disposed of through the exercise of the senior traditional leader's powers in co-operation with the traditional council and jurisdiction conferred upon such senior traditional leader;
- (d) take such steps as are necessary and effective to make known to members of the traditional community the provisions of any new law or policy;

- (e) convene and attend meetings of the traditional council to discuss the affairs of the traditional community: Provided that such meetings must be held at least once a month;
- (f) convene and attend meetings of the traditional community to discuss the affairs of the traditional community: Provided that such meetings shall be convened at least once every six months;
- (g) take note of any problems, grievances or matters, raised by any member of the traditional community at any meeting as referred to in paragraph (f);
- (h) take such steps as are necessary to resolve such grievances, problems or matters, as the case may be; and
- (i) generally seek to promote the interests of the traditional community and take reasonable steps which may be necessary to promote the well-being and advancement of the traditional community.

(2) A senior traditional leader must enjoy the status, rights and privileges conferred upon such senior traditional leader by customs and traditions applicable within the traditional community concerned.

(3) A senior traditional leader is entitled, in the lawful execution of his or her functions, to loyalty, respect, support and obedience by any member of the traditional community.

19. Roles and functions of a headman or headwoman

A headman or headwoman recognised in terms of section 13 must, subject to the Constitution, the Framework Act and this Act-

- (a) perform such functions as are entrusted to a headman or headwoman in terms of customary law and customs;

- (b) perform such other functions as may be prescribed;
- (c) obey and execute the lawful instructions of the senior traditional leader; and
- (d) attempt to settle any dispute between members of the traditional community in his or her area of jurisdiction and refer such dispute to the tribal court where such attempts to settle a dispute are unsuccessful.

20. Royal Council

A Royal Council must-

- (a) take such lawful steps that may be necessary to protect the traditional leadership of the traditional community concerned; and
- (b) in accordance with the customary law and customs of the traditional community identify a person who is the rightful incumbent and or successor to a traditional leadership position of the traditional community.

21. Meetings of Royal Council

(1) A Royal Council must, when meeting to discuss matters emanating from this Act, function in accordance with provisions of this Act, customs and customary law of the traditional community concerned.

(2) A Royal Council must keep a minute book in which it must record the minutes of each meeting, with the inclusion of-

- (a) the date, the time and venue of the meeting;
- (b) the names of the members of the Royal Council members present and their respective designation;

- (c) the issues for consideration; and
- (d) the decisions of the meeting.

CHAPTER 4

CONDITIONS OF SERVICE

22. Subsistence and traveling allowances

(1) A member of a traditional council who is not a traditional leader, must be paid such allowances as may be prescribed.

(2) A member of a traditional council who is in the employment of an organ of state is not entitled to the allowances contemplated in subsection (1), but is entitled to such benefits as his or her conditions of service provide.

23. Code of conduct and breach of the code

(1) The code of conduct contained in the Schedule applies to every traditional leader and every member of a traditional council.

(2) When there is reasonable suspicion that a traditional leader or a member of a traditional council has breached any provision of the code of conduct, the Premier may charge him or her in writing with such alleged breach and may appoint a suitable person to conduct an inquiry of the alleged breach in line with the provisions of the code.

(3) The Premier may suspend such traditional leader or a member of a traditional council before or during the inquiry of the alleged breach.

(4) A traditional leader or a member of a traditional council who is suspended from his or her office for the alleged breach of a provision of the

code of conduct as contemplated in the Schedule is not competent to exercise and perform any function conferred or imposed on or associated with his or her office by or in terms of any law during the period of his or her suspension.

CHAPTER 5

FINANCIAL MATTERS

24. Levies

A traditional council may not impose any levy to be paid by any member of a traditional community or by any section of members of the traditional community.

25. Voluntary contributions

A traditional council may request members of the traditional community or any section of the members of the traditional community to make any voluntary contribution to the traditional community account: Provided that no such voluntary contribution shall be binding, unless the majority of the members of such traditional community or such section thereof as the case may be, who attend any meeting convened for such purpose, have consented to the payment of such voluntary contribution: Provided further that the payment of any such voluntary contribution may only be made for purpose of financing any specific project.

26. Traditional council accounts

(1) The Premier 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 Premier 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;
- (d) any other amounts derived from any source whatsoever for the benefit of a traditional community.

(4) Subject to the approval of the Premier, 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 Premier 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 competent court.

(7) Notwithstanding the provisions contained in subsection (6) the Premier 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.

27. Auditing of books and accounts of traditional councils

(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.

CHAPTER 6

GOVERNANCE MATTERS

28. Legal proceedings against traditional communities and traditional councils

Any legal proceedings by or against a traditional community or traditional council may be instituted by or against the senior traditional leader of that traditional community or traditional council in his or her official capacity: Provided-

- (a) that a traditional community or traditional council is not responsible for the personal obligations of a senior traditional leader; and
- (b) that in respect of the land occupied by the traditional community or traditional council, such traditional community or traditional council shall not be bound in any way whatsoever by any contract entered into or liability incurred by any senior traditional leader, headman or headwoman unless such contract has been approved after having been adopted at a meeting in accordance with the rules governing land of the traditional community concerned.

29. Partnerships with municipalities

(1) There may be partnership agreements between all levels of municipalities and traditional councils to ensure service delivery at a local level.

(2) Any partnership agreement between a municipality and a traditional council must-

- (a) be based on the principles of mutual respect and recognition of the status and role of the respective parties; and
- (b) be guided by and based on the principles of co-operative governance.

(3) A traditional council may enter into a service delivery agreement with a municipality in accordance with the guiding provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and any other applicable legislation.

(4) A traditional council and municipality involved in an inter-governmental dispute must make every reasonable effort to settle the dispute by means of mechanisms and procedures provided for that purpose, and must exhaust all other remedies before it approaches a court of law to resolve the dispute.

30. Support to traditional council and performance monitoring

(1) The provincial government and municipalities must adopt legislative or other measures as may be necessary to support and strengthen the capacity of traditional councils to enable them to fulfill their functions.

(2) The provincial government must finance traditional councils to enable them to perform their functions from monies appropriated by the Legislature.

(3) The provincial government must monitor the work of traditional councils using any existing mechanism as well as any mechanisms as may be prescribed.

31. Capacity building

The Head of Department must-

- (a) assess the needs of a traditional council and its members;
- (b) formulate a skills needs data base; and
- (c) provide a training programme, aimed at improving the skills of members of a traditional council to perform their functions and meet the required service delivery standards.

32. Development programme

All provincial organs of the state must, in the execution of its functions, promote the involvement of traditional leadership in provincial and local development programmes.

33. Inter-provincial matters

The Northern Cape Provincial Government may enter into an agreement with any other provincial government on matters of a mutual nature relating to traditional leadership and traditional communities operating within, or residing in, the two provinces.

CHAPTER 7

HOUSES OF TRADITIONAL LEADERS

34. Disqualification from membership

(1) No person is eligible to become a member of a Provincial House unless that person is a senior traditional leader.

(2) Only in the event that there are not a sufficient number of senior traditional leaders, a headman or a headwoman may become a member of the Provincial House.

(3) A senior traditional leader and headman or headwoman qualify to become a member of a Local House.

(4) No person is eligible to become a member of a House of Traditional Leaders if that person-

- (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. A disqualification under this paragraph ends five years after the sentence has been completed;

- (e) is not a South African citizen.

35. Vacation of seats

(1) The seat of a member of a House of Traditional Leaders becomes vacant –

- (a) upon the death of such member;
 - (b) if the member resigns by written notice under his or her hand;
 - (c) if the member is disqualified in terms of section 34;
 - (d) if the member becomes a full time member of a municipal council, member of Parliament or Legislature or a permanent delegate in the National Council of Provinces; or
 - (e) if a member is convicted of a criminal offence without the option of a fine.
- (2) If a member vacates his or her seat, the vacancy must, in the case of a Provincial House be filled as soon as possible as contemplated in section 37.
- (3) If a member vacates his or her seat, the vacancy must, in the case of a Local House be filled as soon as possible as contemplated in section 44.

CHAPTER 8

PROVINCIAL HOUSE OF TRADITIONAL LEADERS

36. Establishment of Provincial House

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

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

37. Membership of Provincial House

(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) The members of the Provincial House must be elected by electoral colleges-

- (i) established for the area of jurisdiction of each district municipality where there exists more than one traditional council;
- (ii) consisting of all senior traditional leaders from within the district municipality concerned;
- (iii) of which each electoral college must be chaired by a person designated by the Premier to chair meetings of electoral colleges.

(3) The procedure to be followed to conduct nominations and

elections must be determined by the Premier by notice in the Provincial *Gazette*.

(4) The members of the Provincial House must elect five members to serve in the management committee, one of which must be the chairperson and the other the deputy chairperson.

(5) A third of the members of the Provincial House of Traditional Leaders 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 of Traditional Leaders, 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 established in terms of the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997);

(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 duration has lapsed in terms of subsection (6).

(8) Whenever for any reason, a an electoral college fails to nominate and elect members as contemplated in subsection (2) within the prescribed period, the Premier may nominate such members to the Provincial House in its stead.

38. Seat and meetings of Provincial House

(1) The Premier must within a reasonable time after the date of commencement of this Act, convene the Provincial House in such a manner as he or she deems suitable.

(2) The Provincial House must meet at the seat of the Provincial Legislature, unless the Premier directs otherwise.

(3) There must be an ordinary meeting of the Provincial House of Traditional Leaders at least quarterly every year.

(4) The Provincial House of Traditional Leaders must sit during such periods and on such days and during such hours as it may determine: Provided that the chairperson or the deputy chairperson must call a meeting of the Provincial House of Traditional Leaders within 10 days from the date on which a draft Bill has been referred to the Provincial House in terms of section 39 (2).

(5) The management committee may if so directed by the Premier, call a special meeting of the Provincial House of Traditional Leaders on a day to be determined by the said committee with the approval of the Premier and at such special meeting only such matters as

the Premier places before the Provincial House, may be dealt with.

39. Powers, functions and duties of Provincial House

(1) The Provincial House must advise and make proposals to the Legislature or provincial government in respect of matters relating to traditional councils, customary law or the traditions and customs of traditional communities within the province.

(2) The Speaker of the Legislature must refer any Provincial Bill introduced in the Legislature that pertains to traditional affairs, customary law, traditions or customs of traditional communities in the province to the Provincial House of Traditional Leaders for its comment before the Bill is passed by the Legislature.

(3) The Provincial House must, within 30 days from the date of the referral in terms of subsection (2), indicate by written notification to the Legislature any comments it wishes to make.

40. Chairperson and deputy chairperson

(1) At its first meeting after it has been convened under section 38(1) the Provincial House with the Premier or any person designated by the Premier presiding, must elect one of its members to be the chairperson, and must thereafter elect another of its members to be the deputy chairperson.

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

(3) The chairperson is vested with all powers and functions in terms of this Act and the rules and orders of the Provincial House.

(4) The chairperson presides over meetings of the Provincial House.

(5) If the chairperson is absent or for any reason unable to exercise or perform the powers or functions vested in the office of chairperson, or when the office of chairperson is vacant, the deputy chairperson must act as chairperson during the chairperson's absence or inability or until a chairperson is elected.

(6) If both the chairperson and the deputy chairperson are absent, a member of the Provincial House designated in terms of the rules and orders of the Provincial House of Traditional Leaders must act as chairperson while the said circumstances prevail.

(7) The deputy chairperson or the member designated in terms of subsection (6), while acting as a chairperson, may exercise the powers and must perform the functions vested in the office of chairperson.

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

(9) The chairperson or deputy chairperson must vacate the office if he or she -

- (a) ceases to be a member;
- (b) is removed from office by resolution of the Provincial House;
- (c) resigns by lodging a written resignation with the House;

- (d) is convicted of a criminal offence without the option of a fine; or
- (e) is disqualified in terms of section 34.

(10) If the office of chairperson becomes vacant, the Premier or a person designated by the Premier, must preside over the election of a member to fill the vacancy.

(11) If the office of the deputy chairperson becomes vacant, the chairperson must preside over the election of a member to fill the vacancy.

41. Administration and accountability of the Provincial House

(1) The Premier must subject to the law governing the Public Service, appoint a secretary and such other staff as may be necessary to discharge the work of the Provincial House.

(2) Until the necessary staff is appointed as contemplated in subsection (1), the Premier may designate officers as may be necessary for the purpose of subsection (1).

- (3) 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 an annual meeting with Local Houses 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.

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

42. Representation in the National House

At least one of the representatives of the Provincial House of Traditional Leaders nominated as contemplated in the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997) must be a woman, unless the Premier, after consultation with the Provincial House of Traditional Leaders, establishes that there is no woman traditional leader.

CHAPTER 9

LOCAL HOUSES OF TRADITIONAL LEADERS

43. Establishment of Local Houses of Traditional Leaders

There is hereby established Local Houses of Traditional Leaders in the district municipalities where traditional communities exist.

44. Membership of Local Houses of Traditional Leaders

(1) The Premier must by notice in the *Provincial Gazette* and after consultation with an electoral college referred to in subsection (2), determine the number of members of each of the Local Houses in accordance with a formula to be prescribed by the Premier.

(2) The members of Local Houses must be elected by electoral colleges-

- (i) established for the area of jurisdiction of each district municipality where there exists more than one traditional council;
- (ii) consisting of all senior traditional leaders from within the district municipality concerned;
- (iii) 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 coming into operation of this Act, 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 thereof;
 - (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) When for any reason, an electoral college fails to elect its

Local House within the prescribed period, the Premier may nominate eligible persons to constitute such Local House in its stead.

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

45. Election of representatives to a Provincial House

The representatives of Local Houses to serve in the Provincial House must be elected by the electoral college in accordance with the provisions of subsections (1) and (2) of section 43 and subsections (1), (2), (3) and (5) of section 37 of this Act.

46. Seat and meetings of Local Houses of Traditional Leaders

(1) A Local House must, by resolution, decide on its own seat.

(2) The Premier must within a reasonable time after the election of the Local Houses of Traditional Leaders, convene the Local Houses of Traditional Leaders in such a manner as he or she deems suitable.

(3) There must be an ordinary meeting of a Local House of Traditional Leaders at least twice every year.

(4) The chairperson may if so directed by the Premier, call a special meeting of the Local House on a day to be determined in consultation with the Premier: Provided that at such special meeting only matters as are placed before the Local House of Traditional Leaders by the Premier, may be dealt with.

47. Powers, functions and duties of Local Houses of Traditional Leaders

(1) The functions of a Local House are:

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

(2) A Local House may exercise such other powers and must perform such duties as may be conferred or imposed on it under any other law.

(3) The provisions of section 41 regarding administration and accountability apply with the necessary changes to this section.

48. Chairperson and deputy chairperson

(1) At the first meeting of a Local House convened under section 46 (2), the Premier or any person designated by him or her, must preside over the election of one of its members to be the chairperson, and another as deputy chairperson.

(2) The chairperson and deputy chairperson hold office for

the duration of the Local House.

(3) The chairperson is vested with all powers and functions assigned to the chairperson by this Act and the rules and orders of the Local House.

(4) If the chairperson is absent or for any reason unable to exercise or perform the powers or functions vested in the office of chairperson, or when the position of chairperson is vacant, the deputy chairperson must act as chairperson.

(5) If both the chairperson and the deputy chairperson are absent, a member of the Local House designated in terms of the rules and orders of the Local House must act as a chairperson while the said circumstances prevail.

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

(7) The chairperson presides over meetings of the Local House.

(8) While presiding at a meeting of the Local House, the chairperson, deputy chairperson or other member designated for that purpose does not have a deliberative vote, but has a casting vote in the event of an equality of votes.

(9) The chairperson or deputy chairperson must vacate the office if he or she -

- (a) ceases to be a member;
- (b) is removed from office by resolution of the Local House;

- (c) resigns by lodging a written resignation with the Local House; or
- (d) is disqualified in terms of section 34.

(10) If the office of chairperson becomes vacant, the Local House of Traditional Leaders, with the Premier or a person designated by the Premier presiding over the session, must elect a member to fill the vacancy.

(11) If the office of the deputy chairperson becomes vacant, the chairperson must preside over the election of a deputy chairperson.

CHAPTER 10

RULES OF HOUSES OF TRADITIONAL LEADERS

49. Rules and orders of the Houses

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 a standing management 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.

50. Quorum

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.

51. Requisite majority

All decisions of the House must be taken by the majority of members constituting the meeting of the House.

52. Moneys payable to members

There must be paid out of and as a charge to the Provincial Treasury Fund of the province to a member such moneys as may be determined by the President in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

53. Powers, privileges and immunities of members of House and benefits of members

(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..

CHAPTER 11

RELATIONSHIPS

54. Relationship between the Local House of Traditional Leaders and traditional councils

(1) The Local House must investigate matters referred to it by the traditional councils and make recommendations.

(2) The Local House must advise traditional councils regarding the administration of its affairs.

(3) The Local House must quarterly report on the progress of matters relating to the general interest and welfare of traditional councils to their respective traditional councils.

(4) The Local House must table the reports referred to in subsection (3) at the first meeting of the House, after the reports have been submitted to the respective traditional councils.

(5) Where the Provincial House wishes to interact with a traditional council, such interaction must be done in consultation with the Local House under which jurisdiction the said traditional council is located.

55. Relationship between the Provincial House of and the Legislature

(1) The Speaker of the Legislature must refer any provincial Bill introduced in the Legislature that pertains to traditional affairs, customary

law, traditions or customs of traditional communities in the province to the Provincial House for its comments before the Bill is passed in the Legislature.

(2) 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 such referral.

(3) Notwithstanding subsection (1), the Legislature may refer any other Bill introduced in the Legislature to the Provincial House for its comments.

56. Relationship between a Local House and the Municipal Council

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

(2) The Speaker of a district municipality must refer all draft by-laws that relate to traditional affairs, customary law, traditions or customs of traditional communities in the municipality's jurisdiction, to a Local House for its comments.

(3) A Local House must consider and comment on draft by-laws referred to in subsection (2).

(4) The written notification of the Local House's support or opposition of a by-law referred to it, together with comments, must be submitted to the Speaker of the district municipality within 30 days from the date of such referral.

(5) Notwithstanding subsection (2), a district municipality may refer any other draft by-law to a Local House for its comments.

57. Relationship between the Provincial House of Traditional Leaders and the Executive Council

The Premier must, in consultation with the Provincial House and the Executive Council, determine the relationship between the Executive Council and the House.

CHAPTER 12 GENERAL MATTERS

58. Implementation of decisions of National Commission on Traditional Leadership disputes and claims

(1) The Premier must, immediately upon receipt of a decision of the Commission contemplated in section 26 of the Framework Act, inform the parties affected, the Local House concerned and Provincial House of Traditional Leaders of the decision.

(2) The Premier must implement the decision of the Commission as directed by Commission, immediately upon receipt of such decision.

59. Commission or committee of inquiry into disputes and other matters relevant to Traditional Leadership of traditional communities and powers of Premier following commission's report

(1) The Premier may appoint a commission or a committee, in terms provincial legislation to inquire into and submit a report to him or her in regard to-

- (a) any dispute in connection with the recognition of a senior traditional leader or the appointment of a headman or headwoman;
- (b) the question as to whether any person recognized as senior traditional leader or confirmed as headman or headwoman-
 - (i) is subject to a permanent physical incapacity and mental infirmity which renders him or her incapable of discharging the duties of his or her office or discharging it properly;
 - (ii) generally acts or has acted or conducts himself or herself in a manner detrimental to good and effective governance or administration of the traditional community in question, or fails or has failed to act or conduct himself or herself in a manner conducive to good and effective governance of such traditional community or is otherwise unfit for the duties of his or her office;
 - (iii) is the rightful incumbent of the office of senior traditional leader or headman or headwoman as the case may be; or
 - (iv) is guilty of fraud or gross irregularity in connection with the administration of the affairs of the traditional community or is otherwise guilty of maladministration of such affairs; or
- (c) any other matter which the Premier may deem necessary.

- (2) (a) At any inquiry by a commission referred to in subsection (1), representations may be made and evidence may be presented to the commission either personally or otherwise by a senior traditional leader or headman or headwoman in relation to whom the inquiry is held, and on behalf of any member of the traditional community in question and where applicable, by or on behalf of the person claiming to be entitled to traditional leadership as the case may be;
- (b) A failure or refusal on the part of any person referred to in paragraph (a) to attend an inquiry held by the commission or to make any representations or give evidence in the course of the proceedings before the commission, does not in any way invalidate the proceedings or the findings of the commission.

(3) The commission must, as soon as reasonably practicable, after the conclusion of its inquiry, submit to the Premier its report, containing its findings and recommendations.

(4) The Premier may, after having considered the report, findings and recommendations of the commission-

- (a) settle or decide the dispute in such a manner as he or she deems fair and equitable and for that purpose issue a directive as he or she deems fit;
- (b) in the case of a senior traditional leader, headman or headwoman revoke his or her recognition as such; or
- (c) in the circumstances contemplated in paragraph (b) of this subsection, depose the senior traditional leader, headman or headwoman concerned as the case may be, and, for the purposes of paragraph (b) of this subsection, recognize any other member of the particular traditional community

qualified for that purpose as the senior traditional leader or headman or headwoman respectively.

60. Offences and penalties

A senior traditional leader, headman or headwoman, who-

- (a) willfully and unlawfully, directly or indirectly extracts, accepts, agrees to accept or attempts to obtain for himself or herself or for any other person, any gift, reward or any other consideration whatsoever, other than the allowances to which such senior traditional leader, headman or headwoman, is entitled to receive in terms of this Act, for or on account of the services or functions performed or the refraining from doing or having done or refrained from doing anything in the capacity as senior traditional leader, headman or headwoman, shall be guilty of an offence and liable on conviction to pay a fine or to imprisonment not exceeding two years;
- (b) willingly and unlawfully fails or refuses to comply with any provisions of this Act, shall be guilty of an offence and on conviction liable to pay a fine or to imprisonment not exceeding six months;
- (c) without the consent of the traditional council concerned, allows, induces or authorizes any person to take up residence in, or in any way to occupy land registered in the name of a trust for any traditional community shall be guilty of an offence and on conviction liable to pay a fine or to imprisonment not exceeding two years; or
- (d) without the consent of the traditional council concerned, takes up residence or in any way occupy land registered in the name of or in trust for any traditional community, shall be guilty of an

offence and on conviction liable to pay a fine or to imprisonment not exceeding two years.

61. Regulations

(1) The Premier may make regulations regarding-

- (a) the application for recognition as a traditional community;
- (b) the administration, control, accounting, auditing of accounts of traditional councils and the procedure to be followed in connection therewith;
- (c) the formula and number of traditional council members;
- (d) the roles and functions of traditional leaders;
- (e) time frames within which audit reports must be submitted to traditional councils;
- (f) mechanisms for monitoring performance of traditional councils;
- (g) the orderly conduct of the proceedings of Houses of Traditional Leaders; and
- (h) any other matter which he or she may deem essential to ensure the effective operation of any traditional council and the administration of this Act.

(2) Regulations made in respect of one traditional community may differ from regulations made in respect of any other traditional community or may differ from area to area under the jurisdiction of a senior traditional leader.

(2) Before making regulations as envisaged in subsection (1) the Premier –

- (m) must publish the proposed regulations for public comment; and
- (n) may consult with any traditional leadership.

62. Transitional arrangements

(1) All traditional councils, within the boundaries of the province, established in terms of the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005) shall continue to exist until such time that they are reconstituted as contemplated in section 6.

(2) The Premier may, by notice in the *Provincial Gazette*, within one month of the commencement of this Act-

- (a) disestablish all traditional councils that have been established in terms of applicable legislation before the commencement of this Act;
- (b) regulate the legal, practical and other consequences of the disestablishment, including-
 - (i) the transfer of assets, liabilities and administrative and other records to an appropriate provincial department, or a municipality or Local House, or a traditional community and traditional council as circumstances may require;
 - (ii) the vacation of office by any office bearer of such a traditional council; and
 - (iii) the transfer of staff of such a traditional council.

(3) Anything done in pursuance of the powers and functions conferred upon or assigned to any competent authority by virtue of any provision of any law repealed in terms of this Act shall be deemed to have been done by the appropriate authority in pursuance of the powers and functions conferred upon or assigned to such authority by virtue or in terms of the corresponding provisions in this Act.

(3) A traditional council authorized to maintain an account in terms of the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005) shall continue to operate such an account on such terms and conditions as were attached to its authorization to maintain the account, until the Premier by notice in the *Provincial Gazette* issues another directive.

(4) Notwithstanding the provisions of this Act, the regulations in force at the coming into operation of this Act shall remain in force in as far as they can be applied, until the regulations in terms of this Act, commences.

63. Short title and commencement

(1) This Act is called the Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Act, 2007, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

(2) Different dates for commencement of different sections of this Act may be proclaimed.

SCHEDULE CODE OF CONDUCT

Part A

Members of traditional councils and Houses of Traditional Leaders

Definitions

1. In this Schedule 'partner' means a person who permanently lives with another person in a manner as if married.

General conduct of members of traditional councils and the Houses of Traditional Leaders

2. A member of a traditional council or the Houses of Traditional Leaders must-

- (a) perform the functions of that office in good faith, honesty and in an open and transparent manner; and
- (b) at all times act in the best interest of the traditional community and in such a way that the credibility and integrity of the traditional community are not compromised.

Attendance of meetings

3. A member of a traditional council or the Houses of Traditional Leaders must attend each meeting of the traditional council, the Houses of Traditional Leaders or of a committee of which that member of the traditional council or the Houses of Traditional Leaders is a member and remain in attendance until such meeting is adjourned, except when-

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of a traditional council; or
- (b) that member of a traditional council or the Houses of Traditional Leaders is required in terms of this code to withdraw from the meeting.

Sanctions for non-attendance of meetings

4. (1) A traditional council or the Houses of Traditional Councils may impose a fine as determined by the standing rules and orders of that traditional council or the Houses of Traditional Leaders on a member for-

- (a) not attending a meeting which that member of the traditional council is required to attend in terms of item 3; or
 - (b) failing to remain in attendance at such a meeting.
- (2) A member of the traditional council or the Houses of Traditional Leaders who is absent from three or more consecutive meetings of a traditional council or the Houses of Traditional Leaders, or from three or more consecutive meetings of a committee, which that member of the traditional council or the Houses of Traditional Leaders is required to attend in terms of item 3, must be removed from office as a member of such traditional council or the Houses of Traditional Leaders.
- (3) Proceedings for the imposition of a fine or the removal of a member of the traditional council or the Houses of Traditional Leaders must be conducted in accordance with a uniform standing procedure which each traditional council or the Houses of Traditional Leaders must adopt for the purpose of this item. The uniform standing procedure must comply with the rules of natural justice.

Disclosure of interests

- 5. (1) A member of a traditional council and the Houses of Traditional Leaders must-
 - (a) disclose to the traditional council, the Houses of Traditional Leaders or to any committee of which that member of the traditional council or the Houses of Traditional Leaders is a member, any direct or indirect personal or private business interest that the member of

the traditional council or the Houses of Traditional Leaders or any spouse, partner or business associate of that member of the traditional council or the Houses of Traditional Leaders may have in any matter before the council or the committee; and

- (b) withdraw from the proceedings of the traditional council, the Houses of Traditional Leaders or committee when that matter is considered by the traditional council, the Houses of Traditional Leaders or committee, unless the traditional council, the Houses of Traditional Leaders or committee decides that the member's direct or indirect interest in the matter is trivial or irrelevant.
- (2) A member of a traditional council or the Houses of Traditional Leaders who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the traditional community, must disclose full particulars of the benefit of which the member of the traditional council or the Houses of Traditional Leaders is aware of at the first meeting of the traditional council or the Houses of Traditional Leaders at which it is possible for the member of the traditional council or the Houses of Traditional Leaders to make the disclosure.
- (3) This item does not apply to an interest or benefit which a member of the traditional council or the Houses of Traditional Leaders, or a spouse, partner, business associate or close family member, has acquired in common with other residents of the traditional community.

Personal gain

6. (1) A member of a traditional council or the Houses of Traditional Leaders may not use the position or privileges of a member of the traditional council or the Houses of Traditional Leaders, or confidential information obtained as a member of the traditional council or the Houses of Traditional Leaders, for private gain or to improperly benefit another person.
- (2) Except with the prior consent of the traditional council or the Houses of Traditional Leaders, a member of the traditional council or the Houses of Traditional Leaders may not-
- (a) be a party to or beneficiary under a contract for-
 - (i) the provision of goods or services to the traditional community; or
 - (ii) the performance of any work otherwise than as a member of the traditional council for the traditional community;
 - (b) obtain a financial interest in any business of the traditional community; or
 - (c) for a fee or other consideration appear on behalf of any other person before the council or a committee.
- (3) If more than one quarter of the members of the traditional council or the Houses of Traditional Leaders object to consent being given to a member of the traditional council or the Houses of Traditional Leaders in terms of subitem (2), such consent may only be given to the member of the traditional council with the approval of the Premier.

Declaration of interests

7. (1) When elected or appointed, a member of the traditional council or the Houses of Traditional Leaders must within 60 days declare in writing to an officer designated by the Premier the following financial interests held by that member of the traditional council-
- (a) shares and securities in any company;
 - (b) membership of any close corporation;
 - (c) interest in any trust;
 - (d) directorship;
 - (e) partnership;
 - (f) other financial interests in any business undertaking;
 - (g) employment and remuneration;
 - (h) interest in property;
 - (i) pension; and
 - (j) subsidies, grants and sponsorships by any organization.
- (2) Any change in the nature or detail of the financial interest of a member of the traditional council or the Houses of Traditional Leaders must be declared in writing to the officer referred to in subitem (1) annually.
- (3) Gifts received by a member of the traditional council or the Houses of Traditional Leaders above a prescribed amount must also be declared in accordance with subitem (1).
- (4) The traditional council or the Houses of Traditional Leaders must determine which of the financial interests referred to in subitem (1) must be made public, having regard to the need for confidentiality and the public interest for disclosure.

Rewards, gifts and favours

8. A member of the traditional council or the Houses of Traditional Leaders may not request, solicit or accept any reward, gift or favour for-
- (a) voting or not voting in a particular manner on any matter before the traditional council or the Houses of Traditional Leaders or before a committee of which that member of the traditional council is a member;
 - (b) persuading the traditional council or the Houses of Traditional Leaders or a committee in regard to the exercise of any power, function or duty;
 - (c) making a representation to the traditional council or the Houses of Traditional Leaders or any committee of the council; or
 - (d) disclosing privileged or confidential information.

Disclosure of information

9. (1) A member of the traditional council or the Houses of Traditional Leaders may not without the permission of the traditional council, the Houses of Traditional Leaders or a committee disclose any privileged or confidential information of the council or committee to any unauthorized person.
- (2) For the purpose of this item privileged or confidential information include any information-
- (a) determined by the traditional council, the Houses of Traditional Leaders or committee to be privileged or confidential;
 - (b) discussed in closed session by the council or committee;
 - (c) which disclosure thereof would violate a person's right to privacy; or

- (d) declared to be privileged, confidential or secret in terms of the law.
- (3) This item does not derogate from the right of any person to access to information in terms of national legislation.

Community property

- 10. A member of the traditional council or the Houses of Traditional Leaders may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the traditional community to which that member of the traditional council or the Houses of Traditional Leaders has no right.

Breach of code

- 11. (1) If the traditional council or the Houses of Traditional Leaders, on reasonable suspicion, is of the opinion that a provision of this code has been breached, the traditional council or the Houses of Traditional Leaders must-
 - (a) authorise an investigation of the facts and circumstances of the alleged breach;
 - (b) give the member of the traditional council or the Houses of Traditional Leaders a reasonable opportunity to reply in writing regarding the alleged breach; and
 - (c) table the report in the traditional council or the Houses of Traditional Leaders meeting after paragraphs (a) and (b) have been complied with.
- (2) A report in terms of subitem (1) (c) must be open to the public.

- (3) The traditional council or the Houses of Traditional Leaders must report the outcome of the investigation to the Premier.
- (4) A senior traditional leader, headman or headwoman must ensure that each member of the traditional council or the Houses of Traditional Leaders when assuming office is given a copy of this code and that a copy thereof is available in every room or place where the traditional council meets.
- (5) A traditional council 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 findings on any alleged breach of this code; and
 - (ii) to make appropriate recommendations to the traditional council.
- (6) If the council or a special committee finds that a member of the traditional council or the Houses of Traditional Leaders has breached a provision of this code, the council may-
 - (a) issue a formal warning to the member of the traditional council or the Houses of Traditional Leaders;
 - (b) reprimand the member of the traditional council or the Houses of Traditional Leaders;
 - (c) request the Premier to suspend the member of the traditional council or the Houses of Traditional Leaders for a specific period;
 - (d) fine the member of the traditional council or the Houses of Traditional Leaders; or
 - (e) request the Premier to remove the member of the

traditional council or the Houses of Traditional Leaders from office.

- (7) (a) Any member of a traditional council or the Houses of Traditional Leaders who has been warned, reprimanded or fined in terms of subitem (6) may within 14 days of having been notified of the decision of traditional council appeal to the Premier in writing setting out the reasons on which the appeal is based;
- (b) A copy of the appeal must be provided to the traditional council or the Houses of Traditional Leaders;
- (c) The traditional council or the Houses of Traditional Leaders may within 14 days of receipt of the appeal referred to in paragraph (b) make written representation pertaining to the appeal to the Premier;
- (d) The Premier may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the member of the traditional council or the Houses of Traditional Leaders and the council of the outcome of the appeal.
- (8) The Premier may appoint a person or a committee to investigate any alleged breach of a provision of this code and to make a recommendation on whether the member of the traditional council or the Houses of Traditional Leaders should be suspended or removed from office.
- (9) If the Premier is of the opinion that the member of the traditional council or the Houses of Traditional Leaders has breached a provision of this code, and that such contravention warrants a suspension or removal from office, the Premier may-

- (a) suspend the member of the traditional council or the Houses of Traditional Leaders for a period and on conditions determined by the Premier; or
 - (b) remove the member of the traditional council or the Houses of Traditional Leaders from office.
- (10) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

PART B

Traditional leaders

Misconduct

1. A traditional leader shall be guilty of misconduct and may be dealt with in accordance with the provisions of item 2, if that traditional leader-
 - (a) contravenes or fails to comply with any provision of this Act or fails to perform any duty or to discharge any obligation imposed upon such traditional leader by or under any other law;
 - (b) is negligent, careless or indolent in the discharge of his or her duties;
 - (c) is unable to execute his or her duties in an efficient manner;
 - (d) disobeys, disregards or willfully defaults in carrying out a lawful instruction given to him or her by a person having authority to do so;
 - (e) conducts himself or herself in a disgraceful, improper or unbecoming manner; or
 - (f) is found guilty by a court of law, for any offence with an element of violence or dishonesty.

Procedure in cases of misconduct

2. (1) If a traditional leader is accused of misconduct as defined in item 1, the traditional council of the traditional community concerned must enquire into the allegations in accordance with the customary law of the traditional community concerned. An inquiry in terms of this subitem must observe the rules of natural justice.
- (2) If the traditional council is, after the inquiry referred to in subitem (1), of the opinion that a traditional leader is guilty of misconduct, the traditional council may, in consultation with the Royal Council, refer the findings of its inquiry together with a recommendation on the appropriate measures to the Premier.
- (3) (a) The Premier must, within seven days of receipt of the findings of the inquiry in terms of subitem (2), refer the matter to the Provincial House for its recommendation;
(b) The Provincial House must within 14 days of receipt of the findings consider the matter and refer its recommendation to the Premier.
- (4) If after receipt of the recommendations of the Provincial House Premier is satisfied that the traditional leader is guilty of misconduct, the Premier may, with due regard to the recommendations of the traditional council and the Provincial House-
 - (a) caution or reprimand the traditional leader;
 - (b) impose on the traditional leader a fine;
 - (c) direct that the traditional leader must not be paid remuneration for a specific period;

- (d) impose a combination of paragraphs (i) and (ii); or
 - (e) refer the matter to the Royal Council with an instruction that the matter be dealt with in accordance with section 13 of this Act, if the Premier is satisfied that the matter falls within the ambit of the said section.
- (5) The Premier may in his or her discretion, before acting in terms of subitem (4), appoint a committee to carry out a further inquiry into the alleged misconduct.

PART C

Oath or affirmation

Before a traditional leader, member of a traditional council or member of a House of Traditional Leaders begin to perform their functions in terms of this Act, they must swear or affirm faithfulness to the Republic and obedience to the Constitution in the following way-

I, A.B., swear/affirm that I will be faithful to the: Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic; and I solemnly promise to perform my functions as a traditional leader/member of a traditional council/member of a House of Traditional Leaders of the Northern Cape province to the best of my ability.

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

OFFICE OF THE PREMIER**No. 9****4 December 2007**

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information.

No. 3 of 2007: Northern Cape Adjustments Appropriation Act, 2007

NORTHERN CAPE PROVINCE

**NORTHERN CAPE
ADJUSTMENTS APPROPRIATION ACT, 2007
(ACT NO 3 OF 2007)**

Act No 3, 2007

Northern Cape Adjustments Appropriation Act, 2007

(English text signed by the Premier)
(Assented to on 27 November 2007)

ACT

To appropriate adjusted amounts of money from the Northern Cape Provincial Revenue Fund for the requirements of the Northern Cape Province in respect of the financial year ending 31 March 2008 (and to provide for matters incidental thereto).

PREAMBLE

WHEREAS section 226(2) of the Constitution of the Republic of South Africa, 1996 provides that money may be withdrawn from the Provincial Revenue Fund only in terms of an appropriation by an Act of Legislature;

AND WHEREAS section 26 of the Public Finance Management Act, 1999 (Act 1 of 1999) provides that the Northern Cape Provincial Legislature must appropriate money for each financial year for the requirements of the province;

BE IT THEREFORE ENACTED by the Northern Cape Provincial Legislature, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Finance Management Act has the meaning assigned to it in that Act and —

“Act” includes the Schedule;

“current payments” means any payments made by a provincial department in respect of the operational requirements of that department, and includes, amongst others, payments for the compensation of employees, goods and services, interest, rental of immovable property and financial transactions relating to assets and liabilities, but exclude transfers and subsidies, payments for capital assets and payments made under section 73 of the Public Finance Management Act;

“transfers and subsidies” means any payments made by a provincial department to another organ of state or any other person in respect of which the provincial department does not receive anything of similar value directly in return;

“payments for capital assets” means any payments made by a provincial department —

- (a) for assets that can be used continuously or repeatedly in production for more than one year, and from which future economic benefits or service potential is expected to flow directly to the provincial department making the payment; and
- (b) that must be classified as or deemed to be payments for capital assets in accordance with the *“Reference Guide to the new Economic Format”* (November 2003, Version 2) and the *“Asset Management Framework”* (April 2004, Version 3.3), issued by the National Treasury under section 76 of the Public Finance Management Act;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

Act No 3, 2007

Northern Cape Adjustments Appropriation Act, 2007

“conditional grants” means allocations to provinces, local government or municipalities from the national government’s share of revenue raised nationally, provided for in section 214(1)(c) of the Constitution of the Republic of South Africa, 1996.

Appropriation of money for the requirements of the Northern Cape Province

2. (1) Adjusted appropriations by Northern Cape Provincial Legislature of money from the Northern Cape Provincial Revenue Fund for the requirements of the Northern Cape Province in the 2007/08 financial year, to votes and main divisions within a vote, and for the specific listed purposes, are set out in the Schedule.

(2) The spending of appropriations contemplated in subsection (1) is subject to the provisions of the Public Finance Management Act.

Appropriation listed as specifically and exclusively

3. Despite the provisions of any law, appropriations to a vote or main divisions within a vote that are listed as specifically and exclusively appropriated may only be utilised for the purpose indicated and may not be used for any other purpose, unless an Act of the Northern Cape Provincial Legislature amends or changes the purpose for which it was allocated.

Short title

4. This Act is called the Northern Cape Adjustments Appropriation Act, 2007.

Act No 3, 2007

Northern Cape Adjustments Appropriation Act, 2007

Details of vote		Details of adjusted appropriation				
No.	Title	Total per Vote and Main Division	Current Payments	Transfers & Subsidies	Payments for Capital Assets	Specifically and Exclusively Appropriated
		R'000	R'000	R'000	R'000	
1	Office of the Premier <i>Aim: Leading the Northern Cape to prosperity with quality life for all.</i>	6,710	5,632	1,000	78	
1	Administration	4,710	4,632		78	
2	Institutional Development	1,000	1,000			
3	Policy and Governance	1,000		1,000		
	<i>Of which</i> <i>Youth Commission</i>					1,000
2	Legislature <i>Aim: To serve the people of the Northern Cape by building a modern organisation for effective law-making, oversight, accountability, through participatory democracy.</i>	3,679	3,193	—	486	
1	Administration	3,193	3,193			
2	Facilities and Benefits to Members.....	(232)	(232)			
3	Parliamentary Services.....	718	232		486	
3	Provincial Safety and Liaison <i>Aim: To promote effective crime prevention and safe and cost effective roads utilisation through sustainable and effective: Social crime prevention programmes, Monitoring and oversight functions, Community police partnership, Crime prevention partnership with</i>	3,747	3,747	—	—	
1	Administration	1,208	1,089		120	
2	Civilian Secretariat.....	1,100	1,100			
3	Traffic Management	1,439	1,559		(120)	
4	Education <i>Aim: To develop and maintain a high quality and efficient education system in the Northern Cape.</i>	19,889	(3,029)	10,626	12,392	
1	Administration.....	30,084	27,598	1,150	1,336	
2	Public Ordinary School Education.....	(33,339)	(27,280)	(6,865)	806	
4	Public Special School Education.....	4,095	3,593	502		
5	Further Education and Training.....	2,703	2,703			
6	Adult Basic Education and Training.....	2,000	2,000			
7	Early Childhood Development.....	(2,861)	(2,861)			
8	Auxiliary and Associated Services.....	17,307	(8,782)	15,839	10,250	
	<i>Of which</i> <i>Conditional Grants:</i> <i>-National School Nutrition Programme Grant</i> <i>-HIV and Aids (Life Skills Education) Grant</i>					2,625 468
5	Transport, Roads and Public Works <i>Aim: To provide in the mobility and accommodation needs of clients.</i>	32,067	(562)	280	32,349	
1	Administration	3,000	1,920	80	1,000	
2	Public Works	20,996	970		20,026	
3	Roads.....	7,871	(2,333)	200	10,004	
4	Public Transport.....	1,200	(119)	—	1,319	
	<i>Of which</i> <i>Taxi Rank Recapitalisation</i>					
5	CBPW.....	(1,000)	(1,000)	—	—	
6	Economic Affairs <i>Aim: To create an enabling environment for the economic growth and development in the Northern Cape.</i>	4,378	4,378	—	—	
1	Administration	2,730	2,700		30	
2	Integrated Economic Services	(3,774)	(3,744)		(30)	
3	Trade and Industry Development.....	4,882	4,882			
4	Business Regulation and Governance.....	(1,060)	(1,060)			
5	Economic Planning	1,600	1,600			

Act No 3, 2007

Northern Cape Adjustments Appropriation Act, 2007

7 Sport, Arts and Culture <i>Aim: To serve all the people of the Northern Cape, especially the poor by promoting, protecting and developing sport and the diverse cultures of our province and at the same time be catalysts in development, economic empowerment and other activities thereby e</i>	10,427	6,092	1,083	3,252	
1 Administration.....	—	(577)		577	
2 Cultural Affairs..... <i>Of which</i> <i>Mayibuye Centre in Galeshewe</i> <i>Northern Cape Arts and Cultural Council</i>	7,446	3,708	1,063	2,675	2,613 778
3 Library and Archives Services.....	1,000	1,000			
4 Sport and Recreation	1,981	1,961	20		
8 Provincial Treasury <i>Aim: To render timeous and responsive service delivery to clients through enforcing the implementation of the Public Finance Management Act and Municipal Finance Management Act, Preparation of sound, sustainable and developmental provincial budgets, Promotion</i>	(6,800)	(7,982)	—	1,182	
1 Administration.....	(1,740)	(1,740)			
2 Sustainable Resource Management.....	(1,260)	(1,660)		400	
4 Financial Governance.....	(3,800)	(4,582)		782	
9 Housing and Local Government <i>Aim: To promote and facilitate sustainable, integrated human settlements and infrastructure development for effective service delivery. To facilitate, monitor and support the consolidation and sustainability phases at municipalities for integrated, sustainable</i>	2,785	3,507	(872)	150	
1 Administration.....	1,370	450		920	
2 Housing..... <i>Of which</i> <i>Conditional Grants:</i> <i>-Integrated Housing & Human Settlement Development Grant</i>	60	(150)	60	150	60
3 Local Government.....	1,365	3,207	(932)	(920)	
10 Health <i>Aim: Empowered by the people's contract, we are committed to provide quality health care services, we will promote a healthy society in which we care for one another and take responsibility for our health, our caring, multi-skilled professionals will integrate</i>	120,052	39,116	(9,880)	90,816	
1 Administration..... <i>Of which</i> <i>MDR & SDR TB</i>	1,927	1,927			1,927
2 District Health Services..... <i>Of which</i> <i>MDR & SDR TB</i>	20,745	18,290	(9,880)	12,335	4,410
3 Emergency Medical Services.....	(4,000)	(4,000)			
4 Provincial Hospital Services..... <i>Of which</i> <i>MDR & SDR TB</i>	22,899	22,899		—	1,938
7 Health Facilities Management <i>Of which</i> <i>Conditional Grants:</i> <i>-Hospital Revitalisation</i> <i>-Forensic Pathology Services</i>	78,481			78,481	78,481 12,335
11 Social Services and Population Development <i>Aim: To provide integrated evidence based social development services in partnership with non-profit and other stakeholders, to vulnerable individuals, groups and communities through: Social development interventions; Developmental initiatives; Developmental s</i>	5,896	2,140	—	3,755	
1 Administration.....	6,280	6,280			
2 Social Welfare Services.....	615	(3,140)		3,755	
3 Development and Research.....	(1,000)	(1,000)			

Act No 3, 2007

Northern Cape Adjustments Appropriation Act, 2007

12	Agriculture and Land Reform <i>Aim: The Department will lead in the development of the agricultural sector and contribute towards the improvement of livelihoods in the province, by ensuring equitable access and participation in the agricultural value chain, improving global competitiveness,</i>	45 688	6 441	-	39 247
	1 Administration.....	1 188	1 188		
	2 Sustainable resource management.....	45 000	30 818		14 182
	3 Farmer Support and Development.....	(2 900)	(27 965)		25 065
	4 Veterinary Services.....	1 000	1 000		
	5 Technical Research and Development.....	1 400	1 400		
13	Tourism Environment and Conservation <i>Aim: To promote sustainable development and the management of tourism, conservation and the environment.</i>	(13 210)	(262)	(12 948)	-
	1 Administration	1 430	1 350	80	
	3 Planning, Impact, Pollution and Waste Management.....	-	680	(680)	
	4 Marine and Coastal Management.....		(100)	100	
	5 Tourism.....	(14 640)	(2 192)	(12 448)	
	6 Ecosystem, Biodiversity and Natural Heritage Management.....	-			
Amount to be Voted		235 407	62 411	(10 711)	183 707