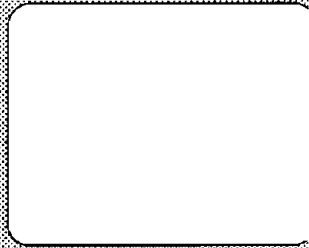


NORTHERN CAPE PROVINCE

PROFENSI YA KAPA-BOKONE

NOORD-KAAP PROVINSIE



IPHONDO LOMNTLA KOLONI

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PREMIER'S NOTICE

No. 3, 2008

Correction of Premiers' notice 2 of 2008, Extraordinary Gazette No.1195, dated 15 May 2008

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

**NORTHERN CAPE TRADITIONAL LEADERS, GOVERNANCE AND HOUSES
OF TRADITIONAL LEADERS REGULATIONS**

I, Elizabeth Dipuo Peters, in my capacity as the Premier of the Northern Cape Province, hereby in terms of section 61(2)(m) publish draft regulations as contained in the *schedule* for public comment.

Written comments must reach Ms P.N Mafungo by no later than the 18th of June 2008 at;

Office of the Premier
Northern Cape Province
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KIMBERLEY
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**E.D. PETERS
PREMIER: NORTHERN CAPE PROVINCE**

Date: 22 May 2008

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PART I**A. SHORT TITLE AND COMMENCEMENT**

A.1 These regulations must be called the Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Regulations, 2008, and must come into operation on the date of publication.

B. INTERPRETATION

“**Act**” – “means” Northern Traditional, Governance and Houses of Traditional Leaders, Act, 2007 (Act 2 of 2007).

“**Royal Council**” – “means” the executive Council of the Royal Family.

“**Head of Department**”- “means” in these regulations the Director General in the Office of the Premier.

“**Department**” – “means” Office of the Premier Northern Cape Province

C. STATUTORY AUTHORIZATION

C.1 Section 61 of the Provincial Act authorizes these Regulations.

D. SCOPE OF APPLICATION

D.1 These Regulations are subject to the provisions of the Constitution, 1996, the Framework Act, the Provincial Act and are applicable to-

- all Traditional communities,
- Traditional Councils,
- Traditional Leaders,
- provincial and local houses of Traditional Leaders, and
- personnel employed in terms of the Provincial Act, in the Northern Cape Government.

E. THE SAVING OF PREVIOUS APPLICABLE REGULATIONS

- E.1 The Northern Cape Traditional Leadership, Governance and Houses of Traditional Leaders Regulations replaces the North West Traditional Leadership Regulations.
- E.2 Anything that has been done in terms of any applicable law or regulation under the North West Province, before the coming into operation of this regulation, must be deemed to have been done under these regulations.

PART II**A. APPLICATION FOR RECOGNITION AS A TRADITIONAL COMMUNITY**

A.1 A community that wishes to be recognized as a Traditional community in terms of section 3 must apply to the Premier to be recognized as such and the application must include the following -

- (a) a duly completed application form TC1, annexed hereto as appendix 1;
- (b) a copy of a community resolution, requesting to be recognized as a Traditional community;
- (c) a certified copy of an identity document of a person recognized as a hereditary leader as well as proof of history of lineage of hereditary leadership;
- (d) proof of ownership of land or continued use of land in a defined area.

A.2 The Premier may, also, subject to section 59(1)(c) of the Act recognize a community as a Traditional community on the recommendation of the commission of enquiry.

A.3 The Premier must upon receipt of an application for recognition-

- (a) within 2 months consult the community concerned,
- (b) within 3 months consult the Local House of Traditional Leaders having jurisdiction within the area in which the applicant community is situated; and
- (c) within 3 months consult the Provincial House of Traditional Leaders.

B. WITHDRAWAL OF RECOGNITION OF A TRADITIONAL COMMUNITY

B.1 The Premier may withdraw recognition of a Traditional community subject to section 4 of the Act: Provided that an application for withdrawal of recognition is forwarded to him or her and such application must enclose the following documents:

- (a) a duly completed application form TC2, annexed hereto as appendix 2;

- (b) a copy of a community resolution requesting withdrawal of recognition;
 - (c) a copy of a resolution by a community if such community requests to be reviewed in terms of section 4(2)(a) of the Act,
 - (d) a copy of a resolution by a community if such a community requests to be merged in terms section 4(2)(b) of the Act, and
 - (e) the original certificate issued to a Traditional Leader responsible for the Traditional Community that requests either to be withdrawn or reviewed or merged.
- B.2 The Premier may in terms of section 59(1)(c) of the Act withdraw recognition of Traditional community or review recognition of a Traditional community or merge a Traditional community on the recommendation of a commission of enquiry.
- B.3 The Premier must consult the Provincial House and the Local House of Traditional Leaders having jurisdiction within the area in which the applicant community is within 3 months -
- (a) of receipt of an application to withdraw recognition;
 - (b) of receipt of an application to review a Traditional community; or
 - (c) of an application to merge communities.
- B.4 A decision of the Premier to withdraw recognition of a Traditional community must provide for the following:
- (a) Withdrawal of a certificate of recognition of a Traditional Leader and contractual obligations;
 - (b) Accountability by the outgoing Traditional Leader for assets and liabilities of the Traditional community;
 - (c) Staff of the Traditional community; and
 - (d) Disestablishment of Traditional Council.

PART III**A. ESTABLISHMENT OF THE TRADITIONAL COUNCIL**

- A.1 A Traditional Council is established in terms of section 6 of the Act.
- A.2 Elected members of a Council must reflect an even or geographic spread of representation.
- A.3 Election for members of a Traditional Council must be conducted after every 5 years.
- A.4 Elections must be managed and overseen by an Independent Electoral Commission.
- A.5 A candidate wishing to be elected into office as a member of the Traditional Council must be ordinarily resident in the relevant Traditional community area.
- A.6 The Premier must proclaim the date or dates for the elections of Traditional Council.
- A.7 The proclaimed date or dates of the elections must be published in the provincial gazette at least 6 months before the expiry of the reigning Traditional Councillors allowing for the following processes to take place:-
- (a) proper awareness processes with Traditional communities which must be done through the media and may, also, include other communication methods;
 - (b) nominations, election and the announcement of results at least 6 weeks before the expiry of the term of office of the reigning Traditional Councillors;
 - (c) submission of names of the newly elected members to the Premier at least two weeks before the gazette containing the names of the newly elected members of the Traditional Council is published;
 - (d) the gazetting of names referred to in sub-paragraph (c) of sub-regulation A.7 must be done at least two weeks before the expiry of the term of office of the outgoing Traditional Councillors; and

(e) the swearing-in of the newly elected members of the Traditional Council must take place on or before the last day of the term of office of the outgoing Traditional Council.

A.8 A Senior Traditional Leader must give at least 14 days notice of a meeting of the Traditional community in terms of custom of that Traditional community, for the purposes of the elections.

A.9 The meeting referred to in sub-regulation A.8 must be conducted at a venue within the jurisdictional area of the Traditional Council to be identified by the Senior Traditional Leader.

B. DETERMINATION OF MEMBERSHIP AND THE FORMULA FOR REPRESENTATION

B.1 The number of members and formula for determining Traditional Council must be as follows:

Category A

A Traditional community with at least 200,000 members or more must be entitled to not more than 30 Traditional Council members.

Category B

A Traditional community with not less than 150,000 and not more than 199,999 members must be entitled to not more than 25 Traditional Council members.

Category C

A Traditional community with not less than 100,000 and not more than 148,999 must be entitled to 20 Traditional Council members.

Category D

A Traditional community with not less than 50,000 and not more than 99,999 members must be entitled to 15 Traditional Council members.

Category E

A Traditional community with less than 49,999 members must be entitled to 10 Traditional Council members.

C. COMPOSITION OF TRADITIONAL COUNCILS AND TERM OF OFFICE OF COUNCILLORS

C.1 A Traditional Council consists of such number of councillors as the Premier shall in respect of each Traditional Council determine by notice in the Gazette taking into account the categories listed under regulation B.

C.3 The councillors of each Traditional Council must -

- (a) be elected in accordance with the provisions of the Act by persons who, in relation to such Traditional Council, are registered and enrolled as voters for that purpose; and
- (b) hold office for a period of five years, at the end of which they must be eligible for re-election.

D. QUALIFICATION OF COUNCILLORS

(1) A person who -

- (a) is not disqualified in terms of section 7 of the Act;
- (b) is above the age of 18 years;
- (c) is a member of the Traditional community in question;
- (d) is ordinarily and lawfully resident in the Traditional community area in question; and
- (e) is a citizen of the Republic of South Africa;

must qualify to be nominated and elected as a Traditional Councilmember during the election of councillors of a Traditional Council in that Traditional community.

E. QUALIFICATION OF VOTERS AND DUTIES OF THE HEAD OF DEPARTMENT IN THE ELECTION PROCESS

E.1 A person who—

- (a) is 18 years of age or above;
- (b) is a member of the community in question;

- (c) is ordinarily and lawfully resident in the Traditional Council area in question; and
- (d) is a citizen of the Republic of South Africa;

must qualify to be registered as a voter for the election of councillors of the Traditional Council in question.

- E.2 A person who lives outside the jurisdictional area of the Traditional community, but who, by birth or by choice, belongs to the said Traditional community may be allowed to participate in the proceedings of the Traditional community meeting and vote in the election.
- E.3 The Head of Department must cause to be registered as voters in elections to be held for the purposes of electing councillors or any councillor to a Traditional Council, all such persons as are qualified for that purpose in terms of sub-regulation E.1.
- E.4 The Head of Department must cause the names and other particulars of each voter who is so registered, to be entered in the voters' roll which the Head of Department must keep, maintain, revise and make alterations for the purposes of such elections.
- E.5 Whenever any election is to be held for the purpose of electing one person or any other number of persons as a councillor or councillors of a Traditional Council, the Head of Department must make all such arrangements or take all such steps as are necessary to ensure that a substantial number of voters is registered for the purpose of elections (30) thirty days prior to the date of such elections.
- E.6 Where a Traditional Council refuses to register any person as a voter in any election of one or more councillors of that Traditional Council on the ground that such person does not, in terms of sub-regulation E.1, qualify for registration as such, such person may within seven days from the date of the refusal, appeal against such refusal to the Head of Department. The decision of the Head of Department is final.

F. PROVISIONS REGARDING THE ELECTION OF PERSONS AS COUNCILLORS TO TRADITIONAL COUNCIL

- F.1 An election for the purpose of electing the councillors of a Traditional Council for the purpose of filling a vacancy occurring

in a Traditional Council in terms of section 8 of the Act must be held within the Traditional community area.

- F.2 Only persons registered as voters for a Traditional community area in which an election is to be held, are entitled to vote in the election held for that Traditional community area, and may -
- (a) in a general election of councillors, vote for not more than such number of candidates as are equal to the number of councillors to be elected to represent that ward in the Traditional Council;
 - (b) in an election held to fill any vacancies in the seats of councillors who so represent that ward, vote for not more than such number of candidates as are equal to the number of such seats as are vacant.
- F.3 An officer of the Independent Electoral Office appointed by the Provincial Electoral Officer for that purpose must be the electoral officer for any election referred to in paragraph (a) or (b) of sub-regulation F.2.
- F.4 Any such election must, subject to the provisions of these Regulations, be held in the manner and in accordance with such provisions, rules and procedures as the Premier may from time to time by notice in the Gazette prescribe:
- Provided that voting in any such election must be by way of secret ballot.
- F.5 The result of an election process must be made known to the electorate within 48 hours of the conducting of elections in a Traditional community area.
- F.6 The Premier must within one month of the constitution of a Traditional Council publish by way of notice in the Provincial Gazette the newly constituted Traditional Council.

G. ELECTION OF CANDIDATES BY SECRET BALLOT

- G.1 All elections for Traditional Councils must be held by way of a secret ballot.
- G.2 An Independent Electoral Agency/Independent Electoral Commission nominated in terms of regulation H, below, must complete the ballot form by filling the names of the candidates nominated during the meeting held in terms of these regulations.

- G.3 The Independent Electoral Agency/Independent Electoral Commission must, after completing the ballot form, distribute all election material as prescribed in **Schedule A** of these regulations.
- G.4 Before voting takes place, the Independent Electoral Agency/Independent Electoral Commission must explain to the voters:-
- (a) the secret ballot voting procedure;
 - b) that each voter may only vote for one candidate;
 - (c) that the ballot papers will be reconciled against the number of voters after the voting has taken place;
 - (d) that the counting of votes and finalization of results will take place once voting has been finalized; and
 - (e) that the results will be issued within 48 hours after counting has been completed.
- G.5 The Independent Electoral Agency/Independent Electoral Commission must determine the number of participating voters and distribute the exact number of ballot papers
- G.6 The voters must be directed to deposit their ballots in the deposit boxes provided for that purpose.
- G.7 A person, other than the presiding officer or a voting officer, may assist a voter in voting, but only if—
- (a) the voter requires assistance due to physical disability;
 - (b) the voter has requested to be assisted by that person; and
 - (c) the presiding officer is satisfied that the person rendering assistance is -
 - (i) at least 18 years old; and
 - (ii) not an observer or a candidate.
- G.8 The presiding officer or a voting officer, at the request of a voter who is unable to read, must assist that voter to cast a vote and provide such assistance in the presence of—
- (a) a person appointed by an accredited observer, if available; and

- (b) a voting officer.
- G.9 In applying sub-regulation G.8, the secrecy of voting contemplated in these regulations must be preserved as far as possible.
- G.10 When the voting has been finalized the Independent Electoral Agency/Independent Electoral Commission must immediately reconcile the ballot papers and count the votes.
- G.11 When counting has been finalized and the results have been determined, the Independent Electoral Agency/Independent Electoral Commission must immediately announce the results to the meeting.
- G.12 The record of the election process must be signed by the Senior Traditional Leader and the official of the Independent Electoral Agency/Independent Electoral Commission, and sent by the official of the Independent Electoral Agency/Independent Electoral Commission to the Head of the Department within 7 days or within the period as may be prescribed in terms of the Act after the conclusion of the election process.
- G.13 The record of the elections referred to in sub-regulation G.12 must be kept for the whole term of office of the elected Traditional Councillors.

H. APPOINTMENT OF INDEPENDENT ELECTORAL AGENCY/INDEPENDENT ELECTORAL COMMISSION

- H.1 The Department may approach the Provincial Electoral Commission, after the Premier has proclaimed the date(s) for the election, for appointment as the Independent Electoral Agency//Independent Electoral Commission, failing which the Department must appoint an independent election agency through the official tender process to conduct the elections, including the nominations of candidates for the election, the announcement of the election results and the finalization of any disputes and appeals that may have arisen during the elections.
- H.2 In appointing an Independent Electoral Agency/Independent Electoral Commission the Department must take into account the following -
 - (a) the experience and familiarity of the agency with the electoral processes;

- (b) the capacity of the agency to carry out its obligations;
- (c) the familiarity of the agency with Traditional communities and leadership;
- (d) the familiarity of the agency with customary and Traditional norms; and
- (e) any other consideration that the Department may consider necessary in compiling the tender documentation.

I. ELECTION STAFF

- I.1 Each voting station must be managed by efficient and competent election staff appointed by the Independent Electoral Agency/Independent Electoral Commission from within the Traditional community where the elections will take place.
- I.2 To qualify for appointment as an election staff member each person must prove that he or she -
 - (a) is registered at the voting station where he/she is to be stationed;
 - (b) is not an agent for any candidate who has been nominated to contest the elections;
 - (c) is not a candidate in the election;
 - (d) does not hold political office in any political party;
 - (e) is not a member of any legislature; and
 - (f) meets the academic and other criteria set by the Independent Electoral Agency//Independent Electoral Commission.
- I.3 Each voting station must be staffed by the following officials-
 - (a) the presiding officer;
 - (b) the deputy presiding officer; and
 - (c) a sufficient number of support staff including voting officers and counting officers.

- I.4 Voting and counting officers are responsible for all activities within each voting station including but not limited to-
- (a) verification of registration;
 - (b) stamping and issuing of ballots;
 - (c) marking of voters with identifying mark;
 - (d) assisting voters who need assistance;
 - (e) ensuring that ballots are deposited into the ballot box;
 - (f) ensuring that full ballot boxes are sealed and stored in a secure place in the voting station; and
 - (g) counting of ballots papers.
- I.5 The presiding officer is responsible for the following:-
- (a) manage, co-ordinate and supervise the voting at the voting station
 - (b) take all reasonable steps to ensure orderly conduct at that voting station;
 - (c) may order a security member to assist in ensuring orderly conduct;
 - (d) may exclude persons for valid reasons from the area within the boundary of the voting station; and
 - (e) make all determinations, recommendations and decisions regarding disputes and any other matters relating to the voting process within the voting station including the decision whether or not a dispute should be referred to the Election Dispute Tribunal appointed in terms of these regulations.
- I.6 Election staff must subscribe to the code of conduct as set out in **Schedule B** to these regulations.
- I.7 The Independent Electoral Agency//Independent Electoral Commission may at any time terminate the appointment of any election staff that is in contravention of the code of conduct as set out in **Schedule B** to these regulations, provided that such termination is inline with applicable labour legislation.

- I.8 The Independent Electoral Agency/Independent Electoral Commission is responsible for the training of election staff deployed at each voting station and to equip staff with the voting material set out in **Schedule A** to these regulations.
- I.9 Election staff will be appointed by and be responsible to the Independent Electoral Agency/Independent Electoral Commission which will determine their contractual obligations and rights and no liability arising out of this relationship lies against the Department.
- I.10 In appointing the election staff from the local community the election agency must exercise fairness, equity and equality and avoid practices that may be viewed as bias, nepotism or favouritism.

J. BY-ELECTIONS

- J.1 Whenever a vacancy arises in any Traditional Council such a vacancy must be filled by the candidate who got the next highest number of votes in the election.
- J.2 A candidate who did not receive any votes in the election contemplated in these regulations may not become a member of the Traditional Council in terms of sub-regulation J.1, above, and is regarded as being disqualified.
- J.3 In the event that a female member of the Traditional Council caused the vacancy to arise, the next available female candidate on the remaining list of candidates who received the highest number of votes in the election contemplated in these regulations must fill the vacancy.
- J.4 Where the next candidate who obtained the highest number of votes in the election contemplated in these regulations is, for any reason whatsoever, not available to fill the vacancy, then the next person with the highest number of votes will become a member of the Traditional Council.
- J.5 The name of the person who becomes a member of the Traditional Council in terms of this regulation must be proclaimed in the provincial gazette.
- J.6 Where no person is available to take up the membership of a Traditional Council in terms of this regulation, then a new election must be conducted afresh in terms of these regulations.

- J.7 In the event that a new election must be conducted the Premier must proclaim the date for the by-election in a provincial gazette and allow for the required number of days to give effect to the election process.
- J.8 The councillor elected at the by-elections must be elected for the remainder of the term of office of the existing Traditional Council.

K. ELECTION DISPUTES AND APPEALS

- K.1 Where any interested party, including an observer or candidate wishes to lodge a complaint regarding the procedures or processes of the election or the results of the elections he or she must do so by lodging such complaint in writing with the presiding officer at the voting station.
- K.2 The presiding officer must seek to resolve the dispute through mediation or negotiation failing which the presiding officer must make a decision.
- K.3 The presiding officer must record the objection and his or her decision and inform the objector and any other party involved or affected, verbally, of the decision taken.
- K.4 Where the objector is still not satisfied with the decision of the presiding officer the objector may lodge an appeal within 48 hours with the election tribunal as established in terms of regulation L, below, of these regulations.

L. THE ESTABLISHMENT OF AN ELECTION TRIBUNAL

- L.1 The Premier must immediately after the proclamation of the election date, establish an Election Tribunal consisting of not less than three people and not more than five people.
- L.2 The members of the Tribunal must be fit and proper persons and must possess at least one or more of the following basic skills and competencies-
- (a) knowledge of legal procedures;
 - (b) knowledge of election processes;
 - (c) knowledge of Traditional Leadership issues;

- (d) knowledge of dispute resolution procedures; or
 - (e) any other competency as may be identified by the Premier.
- L.3 The Premier must appoint one of the members of the Tribunal as the chairperson of the Tribunal.
- L.4 The Tribunal must adopt rules and procedures for the conduct of its business.
- L.5 The Tribunal will have jurisdiction over all electoral matters and infringements of the Code referred to it and may take any decision and may impose any reasonable sanction having due regard to any applicable law and prescripts.
- L.6 The decision of the tribunal regarding disputes referred to it is final.
- L.7 Any complaint must be lodged in writing in a form substantially similar to Appendix 3.
- L.8 The Tribunal must convene within 3 days of the complaint being lodged or the contravention being committed.
- L.9 The term of office of the Election Tribunal must end after the announcement of the results or such other time as may be recommended for the proper finalization of its responsibilities.
- L.10 The powers of the Election Tribunal must be as contemplated in **Schedule C** to these regulations.

PART IV**A. DESIGNATION OF A SENIOR TRADITIONAL LEADER**

- A.1 The Royal Council is the sole institution responsible for designation or appointment of a Senior Traditional Leader.
- A.2 The designation of a Senior Traditional Leader must be done in accordance with the customary laws and customs of a Traditional community.
- A.3 Only the Royal Council bestowed with the power to designate a Senior Traditional Leader must participate in the designation process.
- A.4 A meeting by the Royal Council to designate a Senior Traditional Leader must take place at such time and venue as the chairperson, who must be the Senior paternal uncle or the most Senior person in terms of the Traditional community's custom and culture, may decide.
- A.5 A meeting to designate a Senior Traditional Leader must be within the jurisdiction of the Traditional community.
- A.6 A meeting of the Royal Council must be conducted and recorded in accordance with the provisions of section 21 of the Act.
- A.7 The chairperson of the Royal Council must within 30 days of designation of a Senior Traditional Leader inform the Premier of their decision and request him or her to recognize the designated person as Senior Traditional Leader.

B. RECOGNITION OF A SENIOR TRADITIONAL LEADER

- B.1 A Royal Council must within 30 days of the designation of a Senior Traditional Leader, through its chairperson or any other person assigned thereto by the Royal Council concerned, submit the following documents to the Premier requesting recognition of a designated Senior Traditional Leader:
 - (a) A letter informing the Premier of the designated person;
 - (b) A copy of notice of meeting and agenda;

- (c) Copy of attendance register;
- (d) Copy of minutes of the meeting;
- (e) Certified Copy of Identity Document of designee;
- (f) Copy of qualifications of the designee, if any;
- (g) Banking details of designee;
- (h) Copy of acceptance letter of designee;
- (i) If designee is not the patrilineal successor a copy of a declaration by the patrilineal successor declining designation;
- (j) If the designee is a regent a copy of a declaration confirming that he or she acknowledges that he or she must relinquish the seat upon attainment of a pre-determined condition of such regency, which condition must be incorporated in the certificate of recognition of such Traditional Leader.

B.2 An officer responsible for Traditional Leadership must submit a report on the constitution of the meeting and the resolution to designate a Senior Traditional Leader.

B.3 The Premier must within 30 days of receipt of the letter and all relevant documents referred to in regulation B.1 and B.2 decide whether or not to recognize the designee.

B.4 The Premier must issue the designee with a certificate of recognition, if he/she decides to recognize the designee.

B.5 If the Premier decides not to recognize the designee he/she must provide the Royal Council with written reasons for the decline.

B.6 A designated Senior Traditional Leader must assume office upon recognition by the Premier.

C. DISCIPLINE AND REMOVAL OF A SENIOR TRADITIONAL LEADER

C.1 The Royal Council is the sole custodian of the Senior Traditional Leadership of a Traditional community.

C.2 It is responsible for maintaining discipline of a Senior Traditional Leader.

- C.3 If any of the circumstances contemplated in section 14(1) of the Act arise, the Royal Council must inform the Senior Traditional Leader of its intention to bring such matter to the attention of the Premier.
- C.4 The Royal Council must institute the necessary investigations and serve the Senior Traditional Leader with documentation of allegations against him/her.
- C.5 If the Royal Council finds that the transgression as contemplated in section 14 (1)(d) of the Act is of such a serious nature and that the continued stay of a Senior Traditional Leader will temper with investigations or witnesses, the Royal Council may suspend the Senior Traditional Leader.
- C.6 The Royal Council must notify the Senior Traditional Leader of its intention to suspend him/her and request such a Senior Traditional Leader to provide the Royal Council with reasons why he/she not be suspended.
- C.7 The Royal Council must after taking a decision to suspend a Senior Traditional Leader, designate an acting Senior Traditional Leader and inform the Premier of its decision.
- C.8 The Premier must upon receipt of such a request, accordingly inform the Senior Traditional Leader and issue a certificate of recognition to an acting Senior Traditional Leader.
- C.9 A suspended Senior Traditional Leader must be on suspension with full pay, pending investigations and/or disciplinary process.
- C.10 The Royal Council must after receipt of the investigation report, in accordance with the customs and practice, conduct a disciplinary hearing.
- C.11 The Royal Council must within a reasonable period inform a Senior Traditional Leader of the following:
- (a) Charge preferred against him/her;
 - (b) Date, time and venue of the hearing; and
 - (c) Possible witnesses to be called to testify in the hearing.

- C.12 At the conclusion of the hearing the Royal Council must, in accordance with its customs and practice, make decisions on the verdict and sanction, if any.
- C.13 Where the Royal Council, in accordance with its customs and practice, decides to remove a Senior Traditional Leader, they must then designate a person to be appointed as a Senior Traditional Leader.
- C.14 Where the designee or the heir is still a minor, the Royal Council must designate a regent in terms of section 15 of the Act to be recognized as a Senior Traditional Leader.
- C.15 The Premier must within 30 days of receipt of decision and request to remove a Senior Traditional Leader, withdraw a certificate of recognition of a Senior Traditional Leader as contemplated in section 14(3) of the Act.

D. IDENTIFICATION OF A HEADMAN/HEADWOMEN

- D.1 The Royal Council and the Senior Traditional Leader are responsible for identification of a Headman/Headwomen.
- D.2 The identification of a Headman/Headwomen must be done in accordance with the customary laws and customs of the Traditional community concerned.
- D.3 Only Senior members of the Royal Council bestowed with the power to identify a Headman/Headwomen and the Senior Traditional Leader must participate in the identification process.
- D.4 A meeting to identify a Headman/Headwomen must take place at such time and venue as the chairperson, whom must be a Senior paternal uncle, may decide.
- D.5 A meeting to identify a Headman/Headwomen must be within the jurisdiction of the Traditional community.
- D.6 A meeting of the Royal Council must be observed and monitored by an officer responsible for Traditional Leadership.
- D.7 A meeting of the Royal family must be conducted and recorded in accordance with the provisions of Section 25 of the Act.
- D.8 A Royal family must within 30 days of designation of a Headman/Headwomen inform the Premier of its decision.

E. RECOGNITION OF A HEADMAN/HEADWOMEN

- E.1 The chairperson of the Royal Council must in writing inform the Premier of its decision to identify a person as a Headman/Headwomen.
- E.2 The Royal Council must submit the following documents to the Premier requesting recognition of an identified Headman/Headwomen:
- (a) A letter informing the Premier of the Royal Family's decision;
 - (b) A copy of notice of meeting and agenda;
 - (c) Copy of attendance register;
 - (d) Copy of minutes of the meeting;
 - (e) Certified copy of Identity Document of Identified Headman/Headwomen;
 - (f) Certified copy of qualifications of identified Headman/Headwomen;
 - (g) Banking details of the identified Headman/Headwomen;
 - (h) Copy of acceptance letter of identified Headman/Headwomen;
 - (i) If the identified Headman/Headwomen is not the patrilineal successor a copy of a declaration by the patrilineal successor declining identification.
- E.3 An officer responsible for Traditional Leadership must submit a report on the constitution of the meeting and the resolution to identify a Headman/Headwomen.
- E.4 The Premier must within 30 days of receipt of the request for recognition, decide whether or not to recognize an identified Headman/Headwomen.
- E.5 The Premier must issue the identified Headman/Headwomen with a certificate of recognition, if he/she decides to recognize the identified Headman/Headwomen.

- E.6 Where the Premier decides not to recognize the identified Headman/Headwomen, he/she must provide the Royal Council with written reasons for the decision to decline.
- E.7 An identified Headman/Headwomen must assume office upon recognition by the Premier.

F. REMOVAL OF A HEADMAN/HEADWOMEN

- F.1 The Royal family is responsible for the affairs of a Headman/Headwomen.
- F.2 The Royal family is also responsible for maintaining discipline of a Headman/Headwomen.
- F.3 If any of the circumstances contemplated in section 14(1) arise the Royal Council must inform the Headman/Headwomen concerned of its intention to bring such matter to the attention of the Premier.
- F.4 The Royal Council must institute the necessary investigations and serve the Headman/Headwomen with documentation of allegations against him/her.
- F.5 If the Royal Council finds that the transgression as contemplated in section 14 (1) (d) is of serious nature and the continued stay in office of a Headman/Headwomen will prejudice investigations or temper with witnesses the Royal family may decide to suspend the Headman/Headwomen.
- F.6 The Royal Council must notify the Headman/Headwomen of its intention to suspend him/her and request such a Headman/Headwomen to provide the Royal Council with reasons why he/she should not be suspended.
- F.7 The Royal Council must after taking a decision to suspend a Headman/Headwomen designate an acting Headman/Headwomen and inform the Premier of its decision.
- F.8 The Premier must upon receipt of such a request, accordingly inform the Headman/Headwomen and issue a certificate of recognition to an acting Headman/Headwomen.
- F.9 A suspended Headman/Headwomen must be on suspension with full pay, pending investigations and/or disciplinary process.

- F.10 The Royal Council must after receipt of the investigation report and in accordance with the customs and practice conduct a disciplinary hearing.
- F.11 The Royal Council must within a reasonable time inform a Headman/Headwomen of the following:
- (a) Charge(s) preferred against him/her;
 - (b) Date, time and venue of the hearing;
 - (c) Possible witnesses to be called to testify in the hearing.
- F.12 At the conclusion of the hearing the Royal Council in accordance with the customs and practice must make decisions on the verdict and sanction if any.
- F.13 If the Royal family in accordance with its customs and practice decide to remove a Headman/Headwomen, they must then identify a person to be appointed as a Headman/Head of the Royal family.
- F.14 Where the heir is still a minor, the Royal family must identify a regent to be recognized as a Headman/Headwomen in terms of section 15 of the Act.
- F.15 The Premier must within 30 days after receipt of decision and request to remove a Headman/Headwomen, withdraw a certificate of recognition of a Headman/Headwomen as contemplated in section 14(3) of the Act

PART V

A. PARTNERSHIP WITH MUNICIPALITIES

A.1 A partnership arrangement between a municipality and a Traditional Council contemplated in section 29 of the Act may set out the basis of co-operation between those institutions, which may include:

- (a) Areas of co-operation;
- (b) Role and status of the respective parties;
- (c) Types of services to be rendered by the municipality;
- (d) Functions that may be assigned to the Traditional Council by the municipality;
- (e) Monitoring and evaluation of performance of each party to the agreement;
- (f) Dispute resolution;
- (g) Legal proceedings against one another; and
- (h) The standard and quality of services delivery.

B ADMINISTRATION OF TRADITIONAL COMMUNITY

B.1 A Traditional Council must be responsible for the administration of the affairs of the Traditional community and performance of functions as contemplated in section 9 of the Act.

B.2 A Traditional Council is responsible for performing such functions as may from time to time be assigned to it by any Act of Parliament or Legislature or as may be delegated to it.

B.3 A Traditional Council must annually prepare and submit to the Head of Department a strategic plan or programme of action, which must have clear deliverables and budgets.

- B.4 A Traditional Council must annually prepare and submit to the Head of Department and table before the Traditional community an annual report which must include the following: -
- (a) A detailed annual performance report; and
 - (b) An audited financial statement.
- B.5 A Traditional Council may in accordance with section 12 of the Act appoint such staff as may be necessary to perform the duties and functions of a Traditional Council.
- B.6 The Head of Department must develop and monitor implementation of policies that regulate the administration and management of staff, finances and assets.
- B.7 The Head of Department must from time to time issue such policies in circular minute as may be necessary to regulate any aspect of the affairs of Traditional communities.
- B.8 A Traditional Council must implement policies that regulate the administration and management of staff, finances and assets.

PART VI

A. VOLUNTARY CONTRIBUTIONS

- A.1 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.
- A.2 In order for a Traditional Council to request voluntary contributions, the Traditional Council must first comply with the following:
- (a) identify a need for a particular project;
 - (b) develop a cost implication of the project;
 - (c) deliberate on the advantages and disadvantages of the project and resolve on it; and
 - (d) prepare a calculation of each member's contribution to be able to realize the objectives of the project;
- A.3 After consulting with the district co-ordinator convene a special community meeting convened specifically for passing a resolution approving the request for members to make voluntary contributions.
- A.4 A Traditional Council must, at a meeting observed by the officer responsible for Traditional Leadership, brief members of the community as to the need and such aspects referred to in sub-regulation A.2 above.
- A.5 A Traditional community must after being briefed by the Traditional Council pass a resolution approving the request for voluntary contributions and the amount contributable by each member of the Traditional community.
- A.6 A Traditional Council must submit a request to the Head of Department to approve a resolution requesting voluntary contribution.
- A.7 The Head of Department must after receipt of a request consider and respond to the Traditional Council concerned in writing.
- A.8 A member of a Traditional community may not be subjected to any form of prejudice on account of his or her failure to pay to the

Traditional Council a voluntary contribution contemplated in sub-regulation A.1 hereof.

B. REVENUE

- B.1 A Traditional Council may apply to the Premier to open a banking account on behalf of a Traditional community into which account must be deposited such funds as may be received on behalf of such Traditional community from any other source other than funds awarded to such Traditional community by government.
- B.2 A Traditional Council must, before it can be allowed to conduct and manage a banking account contemplated in sub-regulation B.1 above, satisfy the requirements under regulation B3 below.
- B.3 A Traditional Council must have and maintain accounting systems as required in terms of the Public Finance Management Act, 1999, and applicable Treasury Regulations and must-
- (a) show sustainable cash flow management systems; and
 - (b) have sustainable source of income.
- B.4 An application referred to in sub-regulation B.1 above must be accompanied by a tribal resolution, taken in a tribal meeting convened specifically for that purpose, authorizing the Traditional Council to open and manage a banking account on behalf of the Traditional community.
- B.5 The Premier may, if satisfied that the Traditional Council has complied with the requirements contemplated in sub-regulation B.2 approve the application referred to in sub-regulation B.1 subject to such terms and conditions that he or she may deem necessary.
- B.4 A Traditional Council that has been authorized to conduct and manage a banking account referred to in sub-regulation B.1 must submit to the Head of Department audited financial statement at the end of every financial year as contemplated in regulation B(4) of Part V.
- B.5 All moneys payable to the Traditional community must be deposited promptly into the Traditional community account by the treasurer appointed in terms of regulation D, below, daily when the amount on hand exceeds two hundred Rand, or within seven days after the receipt of such moneys whether or not such moneys exceed the amount of two hundred Rand.

C. GIFTS, DONATIONS AND SPONSORSHIPS

- C.1 A Traditional Council may receive gifts, donations and or sponsorship on behalf of a Traditional community.
- C.2 Whenever a gift, donation or sponsorship is offered to a Traditional community, the Traditional Council of such Traditional community must request approval to receive such gift, donation or sponsorship from the Head of Department.
- C.3 All moneys which may be payable to the Traditional community, in terms of section 26(3) of the Act or any other law, must be paid into the Traditional community account.

D. APPOINTMENT AS TREASURER

- D.1 A Traditional Council must, in consultation with the Head of Department, appoint an employee as treasurer of the Traditional Council and the person appointed as treasurer must be responsible to the Traditional Council for the collection and accounting of the Traditional Council funds.
- D.2 The treasurer must not exonerate himself from his responsibility by the delegation thereof to a subordinate employee.

E. OFFICIAL RECEIPTS

- E.1 A treasurer must immediately issue an official receipt, in the form of NCM 6, for all moneys received in his or her official capacity.
- E.2 An official receipt must reflect the following -
 - (a) the official date-stamp of the Traditional community;
 - (b) the amount of money received; and
 - (c) the name of the depositor and or the name of the drawer of a third party cheque;
- E.2 The name or amount on the receipt may not be altered or rectified and where a mistake occurs, the receipt must forthwith be cancelled and a new receipt be issued

- E.3 All cancelled receipts must be retained for audit purposes at the close of each month and the fact that it has been cancelled be reflected on the cash book.
- E.4 The number, the date and the amount of the receipt issued for moneys received by cheque must be reflected on the reverse side of the cheque for which it was issued.

F. REFUNDS

- F.1 Refunds from revenue as well as dispensations of revenue may be allowed on a gratuities basis on such conditions or under such circumstances as the Head of Department may prescribe.
- F.2 Irrecoverable revenue may not be written off without the prior approval of the Head of Department.
- F.3 All refunds of amounts inadvertently received or collected on behalf of a person or body of persons and accounted for as revenue must be paid from accumulated revenue unless provision has been made for such payment under the estimates of expenditure.

G. PAYMENTS FROM TRADITIONAL COMMUNITY REVENUE

- G.1 A final payment out of appropriated moneys may not be made, except for properly approved grand-in-aid, without the approval of the Head of Department and unless it is for services rendered to the Traditional Councilor for value received or in consequence of a judgment of a competent court.
- G.2 Payment may not be made unless it has become due or a special approval thereto has been granted by the Head of Department and no savings may be used for any purpose not budgeted for, and no anticipated savings may be used for any other reason other than the anticipated needs.
- G.3 Payments "on account" in respect of stores, services or work are prohibited unless it be substantiated by a certificate to the effect that the amount is fully covered by the stores delivered or the work done or services rendered; Provided that under special circumstances a deviation from this regulation may be authorized by the Head of Department.
- G.4 The treasurer must furnish vouchers substantiating all payments to be made from the Traditional community account.

H. MISAPPROPRIATION

H.1 A person may not appropriate any money or property of the Traditional Council for his or her personal use or for any other purposes and may not advance, lend or exchange any amount or property for which he is accountable to the Traditional Council, unless he or she is authorized in terms of these regulations.

I. LOSSES

I.1 Losses incurred due to improper payments, abortive expenditure or the failure to collect moneys due to the Traditional Council, or any deficiency, loss, destruction or mutilation of Traditional Council's reported moneys, stamps, face value documents and forms with a potential value, securities, stores or other property must forthwith be reported to the Traditional Council who must report the matter to the Head of Department.

I.2 A Traditional Council must ensure that all recoverable losses are recovered from a person responsible or a person who benefited from it.

I.3 Where a loss cannot be recovered in full, the outstanding amount may be paid from moneys provided for in the estimates or may be written off, as the case may be, after prior approval of the Head of Department has been obtained.

J. CONTROL OVER FUNDS OF A TRADITIONAL COUNCIL

J.1 A treasurer must keep a cash book, in the form of NCM 1 (one), in which all moneys received or spent must be recorded within 48 hours from the time of the receipt or expenditure, as the case may be.

J.2 The Head of Department, the Auditor General or any person so authorized in writing by the Head of Department may at any time and without prior notice thereof, require the treasurer to produce all books, accounts, receipts, vouchers and cash on hand and such Head of Department, Auditor General or such other person may inspect all such in order to ascertain whether the moneys of the Traditional Council have been properly accounted for, and the treasurer must forthwith comply with the request.

J.3 The Head of Department, Auditor General or other person authorized thereto in writing may conduct any investigation into the

financial administration of the Traditional Council as he or she may deem necessary.

K. EXPENDITURE IN GENERAL

- K.1 A voucher, in the form of NCM 2 (two), for payment must clearly indicated which payment is done and the need against which the payment is made and it must be certified that payment is due, that it has not been made previously and that the Traditional Council has authorized the payment.
- K.2 All payments from the Traditional Council account must be made by cheque: Provided that cheques may be negotiated and payment may then be made in cash in which instance the vouchers in respect of such payments must be produced to the Head of Department within seven days after negotiation.
- K.3 The treasurer must obtain a receipt or any other satisfactory proof of payment from each person to whom payment in cash is made.
- K.4 All cash payment referred to under regulation K.2 which cannot be paid out within a period of seven days, must, before the expiry of the seven-day period, be re-deposited into the Traditional community account or must be dealt with in the manner prescribed by the Head of Department from time to time.
- K.5 Payments may not be made from the Traditional community account for any purpose, unless such funds are released by the Head of Department or his / her delegate for such purpose.
- K.6 The Head of Department may refuse to release such funds if he or she is not satisfied –
- (a) that the amount requested is due;
 - b) that the payment is in accordance with the approved estimates;
 - (c) that sufficient funds are available in the Traditional Council account,
 - (d) that the Traditional Council has approved of the payment, and
 - (e) that all the supporting documents in respect of the amount payable are attached to the voucher and are correct.

L. SAFES

- L.1 The Traditional Council must make a suitable safe available to the treasurer and the treasurer must keep all moneys, valuable documents and document of potential value in safe custody in the safe.
- L.2 The treasurer must hand duplicate keys of the safe to the Head of Department or his/her delegate for safe keeping and the Head of Department or his or her delegate must acknowledge receipt thereof in writing.
- L.3 Funds other than moneys belonging to the Traditional Council may not be kept in the safe of the Traditional Council and any funds found in a Traditional Council safe must be regarded as funds belonging to the Traditional Council.
- L.4 The treasurer must forthwith report to the Head of Department the loss of keys to a safe and the safe must be fitted with a new lock, the costs of which may be recovered from the treasurer if deemed necessary by the Head of Department.

M. ILLITERATE PERSONS

- M.1 When any person is required to sign his / her name in terms of these regulations and is incapable of so signing, it will be sufficient to affix his / her thumbprint in the presence of a witness on the document concerned. Such witness must confirm by his / her signature that the thumbprint is that of the person whom is required to sign.

N. BENEFITS

- N.1 An employee or member of the Traditional Council may not receive benefit of any fees or remuneration, except for approved salaries and allowances payable by the Traditional community to such employee in terms of a contract of employment concluded by the Traditional Council and such person, in terms of the provisions of this Act or any other law.
- N.2 All fees or remuneration received by an employee or member of the Traditional Council in his official capacity must be paid into the Traditional community account.

O. RETURNS

- O.1 At the end of each month, the treasury must submit to the Head of Department a return of revenue and expenditure, in the form of NcM 3 (three) and NcM 4 (four).
- O.2 Not later than two months after the close of the financial year the treasurer must submit to the Head of Department appropriation account of revenue and expenditure, prepared substantially in the form of NcM 5 (five), in accordance with the approved estimates of the Traditional Council.
- O.3 The estimates of revenue and expenditure must be made in the form of NcM 7 (seven) and NcM 8 (eight) and the revised estimates must be made substantially in the form NcM 9 (nine).

P. PROCUREMENT OF GOODS AND SERVICES

- P.1 Traditional Councils may procure goods and services in the manner provided for in these regulations.
- P.2 Procurement of goods and services, either by way of quotations or through a bidding process, must be within the threshold values as determined by the National Treasury.
- P.3 A Traditional Council must only sign and enter into a service level agreement after receiving authority from the Head of Department or her/his delegate.
- P.4 A supply chain management system must be established to, in the case of procurement through a bidding process, provide for -
- (a) the adjudication of bids through a bid adjudication committee;
 - (b) the establishment, composition and functioning of bid specification, evaluation and adjudication committees;
 - (c) the selection of bid adjudication committee members;
 - (d) bidding procedures; and
 - (e) the approval of bid evaluation and/or adjudication committee recommendations.

- P.5 Where it is impractical to invite competitive bids, a Traditional Council may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Head of Department or her / his delegate.

Q. DISPOSAL AND LETTING TRADITIONAL COMMUNITY ASSETS

- Q.1 Disposal of movable assets must be at market-related value or by way of price quotations, competitive bids or auction, whichever is most advantageous to the State, unless determined otherwise by the relevant treasury.
- Q.2 Any sale of immovable property of a Traditional community must be at market-related value, unless the Head of Department or her/his delegate approves otherwise.
- Q.3 The letting of immovable property of a Traditional community (excluding housing for officials) must be at a market-related tariff, unless the Head of Department approves otherwise: provided that no Traditional community property may be let free of charge.

R. STORES

- R.1 The treasurer must maintain stores and equipment registers reflecting all receipts and issues of stores and equipment.
- R.1 All stores and equipment must be taken on charge in the registers without delay and must be marked immediately in the manner as the Head of Department may prescribe from time to time.
- R.2 A receipt must be obtained whenever stores and equipment are issued and the issue thereof must be entered in the register concerned.
- R.3 The treasurer must acknowledge in writing the receipt of stores and equipment returned after the issue thereof and such stores and equipment must again be taken on charge.
- R.4 Receipts and other vouchers must be retained by the treasurer for purposes of audit and inspections.
- R.5 On the appointment of a new treasurer or in the case of appointment of another person in charge of stores and equipment, the stores and equipment must be checked by the new incumbent

and he or she must sign a taking-over certificate. In the case where the person from whom the stores and equipment is being taken over, is not available, an impartial person must be appointed by the Head of Department to assist the treasurer in the checking of the stores and equipment. The person so appointed must countersign the taking-over certificate.

- R.6 The treasurer must retain a copy of the taking-over certificate and submit the original thereof to the Head of Department.
- R.7 During the month of October of each year, the Head of Department or a person authorized by him, must, in the presence of the chairperson of the Traditional Council and the treasurer or the person in charge of the stores and equipment, take stock of all stores and equipment;
- R.8 The treasurer must prepare a certificate certifying that all stores and equipment have been checked and particulars in respect of deficiencies, surpluses, useless, obsolete, damaged and redundant stores and equipment must also be reflected.
- R.9 The certificate prepared in terms of regulation R.8 must be completed in duplicate and must be signed by the Head of Department or his representative as well as by the treasurer and the chairperson and must be submitted to the Traditional Council for consideration.
- R.10 A person in charge of stores must, with the recommendation and commentary of the Head of Department, apply to the Traditional Council for exemption to take stock if it is impossible to do so during the financial year concerned, due to exceptional circumstances. The Traditional Council must record its decision in writing.

PART VII

A. ESTABLISHMENT OF PROVINCIAL HOUSE OF TRADITIONAL LEADERS

- A.1 All Senior Traditional Leaders in a District Municipality must establish an Electoral College.
- A.2 The Premier must within 30 days after the election of all Traditional Councils in a particular District Municipality designate a person in terms of section 37(2)(iii) to be the chairperson of an Electoral College.
- A.3 The chairperson of an Electoral College must within 30 days after his or her designation by the Premier, in writing, inform the Premier of the existence of an electoral college.
- A.4 The chairperson of an Electoral College must be tasked to -
- (a) Preside over the proceedings at an Electoral College meeting,
 - (b) Conduct nominations of Senior Traditional Leaders who must represent the Electoral College at the Provincial House of Traditional Leaders in accordance with a procedure determined by the Premier in terms of section 37(3), and
 - (c) Keep record of all the proceedings of the meeting of an Electoral College.
- A.5 When informing the Premier of the existence of an Electoral College the chairperson must also submit the following documents to the Premier;
- (a) A letter informing the Premier of the establishment of such an Electoral College,
 - (b) A copy of notice of meeting and agenda;
 - (c) Copy of attendance register,
 - (d) Copy of minutes of the meeting,
 - (e) Certified Copies of certificate of recognition of Senior Traditional Leaders attending such meeting, and

- (f) The names of members nominated to the Provincial House of Traditional Leaders.
- A.6 An Electoral College will not be established in a district Municipality where there is only one Traditional Council and the Senior Traditional Leader of such a Traditional Council must automatically become a member of the Provincial House of Traditional Leaders.
- A.7 The number of members of a Provincial house of Traditional Leaders may not be less than twelve and may not exceed 20 or such higher number as may be determined by the Premier where there are more than 35 Traditional Councils in a particular district municipality.
- A.8 The Formulae that must be used to elect members of the Provincial house of Traditional Leaders must be as follows:
- a) Eight Senior Traditional Leaders elected by the Electoral College to the Provincial House of Traditional Leaders.
 - b) Two Traditional Leaders will be elected by the Local House of Traditional Leaders.
 - c) Two Traditional Leaders must be elected from the remainder of Traditional Leaders not elected either by the Electoral College or the Local House.
- A.9 The Premier may, from time to time, subject to regulation A.7 determine, by way of a notice in a government gazette, a higher number of Senior Traditional Leaders to be elected to the Provincial house from a particular district municipality using **Schedule D** as a guide.

B ESTABLISHMENT OF A LOCAL HOUSE OF TRADITIONAL LEADERS

- B.1 All Senior Traditional Leaders in a specific District Municipality must establish an Electoral College.
- B.2 The Premier must within 30 days after the election of all Traditional Councils in a particular District Municipality designate a person in terms of section 44(2)(iii) to be the chairperson of an Electoral College.
- B.3 The chairperson of an Electoral College must within 30 days after his or her designation by the Premier in writing inform the Premier of the existence of an electoral college.

- B.4 The chairperson of an Electoral College must be tasked to -
- (a) Preside over the proceedings at an Electoral College meeting;
 - (b) Conduct nominations of Senior Traditional Leaders who must represent the Electoral College at the Local House of Traditional Leaders in accordance with a procedure determined by the Premier in terms of section 44(4); and
 - (c) Keep record of all the proceedings of the meeting of an Electoral College.
- B.5 When informing the Premier of the existence of an Electoral College the chairperson must also submit the following documents to the Premier;
- (a) A letter informing the Premier of the establishment of such an Electoral College;
 - (b) A copy of notice of meeting and agenda;
 - (c) Copy of attendance register;
 - (d) Copy of minutes of the meeting;
 - (e) Certified Copies of certificate of recognition of Senior Traditional Leaders attending such meeting; and
 - (f) The names of members nominated to the Local House of Traditional Leaders.
- B.6 An Electoral College must not be established in a district Municipality where there is only one Traditional Council and a Senior Traditional Leader of such a Traditional Council must automatically become a member of the Local House of Traditional Leaders.
- B.7 The number of members of a local house of Traditional Leaders may not be less than five (5) and may not be more than ten (10), or such other higher number not exceeding twenty (20) as may be determined by the Premier where there are more than thirty five (35) Traditional Councils in a particular district municipality.
- B.8 The Formula that must be used to elect members of the local house of Traditional Leaders must be as follows:

- (a) Eight Senior Traditional Leaders will elect two members amongst themselves to be members of the Local House.
 - (b) The Electoral College will then elect seven Traditional Leaders to be members of the local house.
- B.9 The Premier may, from time to time, subject to regulation B.7 determine, by way of a notice in a government gazette, a higher number of Senior Traditional Leaders to be elected to the local house in a particular district municipality using **Schedule D** as a guide.

SCHEDULE A

VOTING MATERIALS

The following minimum voting material is needed in each voting station:-

ballot papers;

ballot boxes;

voting compartments;

the certified segment of the voters' roll for the voting district;

indelible ink

seals

official stamp

all prescribed forms

pencils and pens

rulers

boundary tape

banners

industrial tape

envelopes

paper clips

stickers and name tags

punch

SCHEDULE B**CODE FOR APPOINTED OFFICERS****(REGULATION 19(6) AND (7))**

All appointed officers must:

1. Come to work on time and knock off after counting is completed;
2. Abide by the instructions given by the Presiding Officer or Deputy Presiding Officer;
3. Carry out all your assigned duties competently and efficiently;
4. Be and act impartial and do not favour or side with any candidate;
5. Serve voters with respect, dignity and courtesy;
6. Be accurate and thorough in their work;
7. Keep their work above question;
8. Preserve the secrecy of the vote;
9. Treat their colleagues, observers and security personnel with respect
10. Dress respectfully and be presentable;
11. Conduct themselves in a professional manner;
12. Make sure that the voting station is presentable and tidy;
13. Always act in accordance with the law; and
14. Approach the presiding officer or the deputy for clarity on issues where and when necessary.

During the Election Day, a voting officer is not allowed to:

- 1) Canvass or campaign for any candidate;
- 2) Use equipment or assets of a candidate;
- 3) Behave negligently;
- 4) Behave fraudulently;
- 5) Wear clothing with any candidate names, signs or logos;
- 6) Abuse equipment for personal interests during the hours of voting and counting;
- 7) Use drugs and alcohol-related substances; and
- 8) Disclose any information regarding how a voter voted.

SCHEDULE C

ELECTORAL CODE OF CONDUCT FOR CANDIDATES PARTICIPATING IN TRADITIONAL COUNCIL ELECTIONS

Part 1

PROHIBITED CONDUCT

Undue influence

- (1) No person may -
- (a) compel or unlawfully persuade any person -
 - (i) to register or not to register as a voter;
 - (ii) to vote or not to vote;
 - (iii) to vote or not to vote for any nominated candidate; or
 - (iv) to support or not to support any nominated candidate;
 - (b) interfere with the independence or impartiality of the Independent Electoral Agency/Independent Electoral Commission, any member, employee or officer of the Independent election agency;
 - (c) prejudice any person because of any past, present or anticipated performance of a function in terms of these regulations;
 - (d) advantage, or promise to advantage, a person in exchange for that person not performing a function in terms of these regulations;
 - (e) prevent any of the following persons from gaining reasonable access to voters, whether in a public or private place:
 - (i) any representative of a candidate or a candidate;
 - (ii) any candidate in an election;
 - (iii) any member, employee or officer of the Independent Electoral Agency/Independent Electoral Commission;
 - (iv) any person appointed by an accredited observer; or

- (v) any person accredited to provide voter education;
- (2) Subject to these regulations, no person may prevent anyone from exercising a right conferred by these regulations.
- (3) No person, knowing that another person is not entitled to be registered as a voter, may -
- (a) persuade that other person is entitled to be registered as a voter; or
 - (b) represent to anyone else that that other person is entitled to be registered as a voter.
- (4) No person, knowing that another person is not entitled to vote, may -
- (a) assist, compel or persuade that other person to vote; or
 - (b) represent to anyone else that that other person is entitled to vote.

IMPERSONATION

No person -

- (a) may apply to be registered as a voter in the name of any other person, whether living, dead or fictitious;
- (b) may apply for a ballot paper at a voting station in the name of another person, whether living, dead or fictitious;
- (c) who is not entitled to vote in an election or at a voting station, may vote in that election or at that voting station;
- (d) may cast more votes than that person is entitled to; or
- (e) may impersonate -
 - (i) a representative of a candidate or candidates;
 - (ii) a candidate in an election;
 - (iii) a member, employee or officer of the Independent election agency;
 - (iv) a person appointed by an accredited observer; or

- (v) a person accredited to provide voter education.

INTENTIONAL FALSE STATEMENTS

- (1) No person, when required in terms of these regulations to make a statement, may make the statement -
- (a) knowing that it is false; or
 - (b) without believing on reasonable grounds that the statement is true.
- (2) No person may publish any false information with the intention of -
- (a) disrupting or preventing an election;
 - (b) creating hostility or fear in order to influence the conduct or outcome of an election; or
 - (c) influencing the conduct or outcome of an election.

INFRINGEMENT OF SECRECY

- (1) No person may interfere with a voter's right to secrecy while casting a vote.
- (2) Except as permitted in terms of these regulations, no person may-
- (a) disclose any information about voting or the counting of votes; or
 - (b) open any ballot box or container sealed in terms of these regulations, or break its seal.

PROHIBITIONS CONCERNING VOTING AND ELECTION MATERIALS

- (1) Except as permitted in terms of these regulations, no person may-
- (a) print, manufacture or supply any voting or election material;
 - (b) remove or conceal any voting or election material;
 - (c) damage or destroy any voting or election material; or

- (d) use the voters' roll or any voting or election material for a purpose other than an election purpose.
- (2) The Independent Electoral Agency/Independent Electoral Commission may authorize -
- (a) the printing, manufacture or supply of any voting or election material;
 - (b) the use of the voters' roll or any voting or election material for a purpose other than an election purpose; and
 - (c) the removal or destruction of any voting or election material.

PROHIBITIONS CONCERNING PLACARDS AND BILLBOARDS DURING ELECTION

From the date on which an election is called to the date the result of the election is determined and declared in terms of sub-regulation F5 of Part III, no person may deface or unlawfully remove any billboard, placard or poster published by a candidate.

OBSTRUCTION OF OR NON-COMPLIANCE WITH, DIRECTIONS OF INDEPENDENT ELECTION AGENCY AND ASSIGNED OFFICIALS

- (1) No person may refuse or fail to give effect to a lawful direction, instruction or order of the Independent Electoral Agency/Independent Electoral Commission, or a member, employee or officer of the Independent Electoral Agency/Independent Electoral Commission.
- (2) A person may not obstruct or hinder the Independent Electoral Agency/Independent Electoral Commission, presiding official or a government official, or a person appointed by an accredited observer, in the exercise of their powers or the performance of their duties.

CONTRAVENTION OF CODE

No candidate bound by the Code may contravene or fail to comply with provisions of this Code.

Part 2

ENFORCEMENT

INSTITUTION OF AND INTERVENTION IN CIVIL PROCEEDINGS BY INDEPENDENT ELECTORAL AGENCY/INDEPENDENT ELECTORAL COMMISSION

- (1) Subject to these regulations and any other law, the Premier may either personally or through the Independent Electoral Agency/Independent Electoral Commission institute civil proceedings before a court to enforce a provision or provisions of these regulations or the Code.
- (2) The Premier, either personally or through the Independent Electoral Agency/Independent Electoral Commission, may intervene in any civil proceedings if the Premier or Independent Electoral Agency/Independent Electoral Commission has a legal interest in the outcome of those proceedings.

JURISDICTION AND POWERS OF ELECTION TRIBUNAL

- (1) The Election Tribunal has jurisdiction in respect of all electoral disputes and complaints about infringements of the Code.
- (2) If the Election Tribunal finds that a person has contravened a provision of Part 1 of this Chapter it may in the interest of a free and fair election impose any appropriate penalty or sanction on that person, including -
 - (a) a formal warning;
 - (b) a fine not exceeding R10 000;
 - (c) an order prohibiting that person from -
 - (i) using any public media;
 - (ii) holding any public meeting, demonstration, march or other event;
 - (iii) entering any voting district for the purpose of canvassing voters or for any other election purpose;
 - (iv) erecting or publishing billboards, placards or posters at or in any place;
 - (v) publishing or distributing any campaign literature;

- (vi) electoral advertising; or
 - (d) an order imposing limits on the right of that person to perform any of the activities mentioned in paragraph (d);
 - (e) an order excluding that person or any agents of that person from entering a voting station;
 - (f) an order reducing the number of votes cast in favour of that person;
 - (g) an order disqualifying the candidature of that person; or
- (3) Any penalty or sanction provided for in this section will be in addition to any penalty provided for in Part 3 of this Chapter.
- (4) Any penalty paid in terms of this regulation is payable to the magistrate's court in whose area of jurisdiction the matter arose.

Part 3

ADDITIONAL POWERS AND DUTIES OF INDEPENDENT ELECTORAL AGENCY/INDEPENDENT ELECTORAL COMMISSION

ELECTORAL CODE OF CONDUCT AND OTHER CODES

- (1) The Electoral Code of Conduct must be subscribed to-
- (a) by every registered candidate before that candidate is allowed to contest an election; and
 - (b) by every candidate before that candidate may be placed on a list of candidates.
- (2) In order to promote free, fair and orderly elections, the Independent Electoral Agency/Independent Electoral Commission may compile and issue any other Code.
- (3) The Independent Electoral Agency/Independent Electoral Commission may change or replace a Code issued in terms of subsection (2).
- (4) A Code issued in terms of subsection (2), or a change to or replacement of such a Code, must be published in the Government Gazette.

SCHEDULE D

NUMBER OF TRADITIONAL COUNCILS	NUMBER OF MEMBER IN LOCAL HOUSE	FORMULA/ COMMENTS	NUMBER OF WOMEN	LOWER THRESHOLD OF WOMEN MEMBERS
1	No local house-	function of local house performed by the traditional council		
1-7	5	Traditional Council / Minimum number of members may not be less than 5	2	
8-14	7	7 Formula: 6 + 1 // 7 traditional councils	3	
15-21	8	Formula: 7 + 1 // 7 traditional councils	3	
22-28	9	Formula: 8 + 1 // 7 traditional councils	3	
29-35	10	Formula: 9 + 1 // 7 traditional councils // for 35 traditional councils the members may not exceed 10.	4	
		Where there are more than 35 traditional councils the numbers must be higher than 10 but not exceeding 20 as determined by the Minister		
36-44	12	Formula: 10+ 2 // 9 traditional councils // for each 9 traditional council 2 members are added.	4	
45-53	14	Formula: 12 + 2 // 9 traditional councils	5	
54-62	16	Formula: 14 + 2 // 9 traditional councils	5	
63-71	18	Formula: 16 + 2 // traditional councils	6	
72 and more	20	Formula: 18 + 2 // 9 traditional councils	7	

APPENDIX 1

	APPLICATION FORM	TC1
APPLICATION FOR RECOGNITION OF A TRADITIONAL COMMUNITY:		
1	DESCRIPTION OF THE COMMUNITY: -----	
2	COMMUNITY DEMOGRAPHICS: (a) Ethnic Groups - ----- (b) Population - -----	
3	CLAN NAME: -----	
4	REGION/AREA WHERE COMMUNITY RESIDES: ----- ----- ----- -----	
5	CUSTOMARY SYSTEM(S) OBSERVED: ----- ----- ----- -----	
Any additional information may be attached hereto		

APPENDIX 2

APPLICATION FORM		TC2
APPLICATION FOR WITHDRAWAL, REVIEW OR MERGING OF TRADITIONAL COMMUNITY		
1	APPLICATION TO: WITHDRAW MERGE REVIEW	
2	DESCRIPTION OF THE COMMUNITY/COMMUNITIES: ----- ----- -----	
3	CLAN NAMES: ----- ----- -----	
4	REGION/AREA WHERE COMMUNITY RESIDES: ----- ----- -----	
5	CUSTOMARY SYSTEM(S) OBSERVED: ----- ----- ----- <p style="text-align: center;">Any additional information may be attached hereto</p>	

Appendix 3

INDEPENDENT ELECTORAL AGENCY/INDEPENDENT ELECTORAL COMMISSION
OBJECTION CONCERNING VOTING IN THE TRADITIONAL COUNCIL ELECTIONS

Election date:

Traditional Community:

Voting District:

Traditional ward:

Objector

Identity number:

Full Names

Agent/Candidate/ Voter:
(Where applicable)

I object to:

A voter being allowed to vote

A voter being allowed to vote at this station

A voter (or myself) being refused a ballot paper

The conduct of an officer, an agent or other person at this voting station

Reasons for objection (giving full particulars of voter, officer, agent or other person involved)

Signature of Objector

Date

Presiding Officer's decision

Signature of Objector

Date