



**NORTH WEST
NOORDWES**

EXTRAORDINARY • BUITENGEWOON

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

Vol. 259

MAHIKENG
15 JUNE 2016
15 JUNIE 2016

No. 7657

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ISSN 1682-4532



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Government Printing Works

Notice submission deadlines

Government Printing Works has over the last few months implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submit your notice request.

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the GPW website www.gpwonline.co.za to familiarise yourself with the new deadlines.

CANCELLATIONS

Don't forget!

Cancellation of notice submissions are accepted by GPW according to the deadlines stated in the table above.

Non-compliance to these deadlines will result in your request being failed. **Please pay special attention to the different deadlines for each gazette.**

Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

take note!

With effect **from 01 October**, GPW will not longer accept amendments to notices. The cancellation process will need to be followed and a new notice submitted thereafter for the next available publication date.

CUSTOMER INQUIRIES



Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While GPW deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

PROOF OF PAYMENTS



GPW reminds you that all notice submissions **MUST** be submitted with an accompanying proof of payment (PoP) or purchase order (PO). If any PoP's or PO's are received without a notice submission, it will be failed and your notice will not be processed.

When submitting your notice request to submit.egazette@gpw.gov.za, please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email.

A reminder that documents must be attached separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment/purchase order – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment).

REMINDER OF THE GPW BUSINESS RULES

- ☐ Single notice, single email – with proof of payment or purchase order.
- ☐ All documents must be attached separately in your email to GPW.
- ☐ 1 notice = 1 form, i.e. each notice must be on a separate form
- ☐ Please submit your notice **ONLY ONCE**.
- ☐ Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- ☐ The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.

IMPORTANT NOTICE:

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PROCLAMATION • PROKLAMASIE

PROCLAMATION 19 OF 2016**COMMISSION OF INQUIRY INTO THE TRADITIONAL LEADERSHIP
DISPUTES IN RESPECT OF THE BAKGATLA BA KGAFELA COMMUNITY
DISPUTE, BATLHAKO BA LEEMA AND BAPO I AND II COMMUNITY
DISPUTES RESPECTIVELY**

I, Supra Obakeng Ramoeletsi Mahumapelo, hereby in my capacity as Premier of the North West Province and in terms of section 127(2)(e) of Act 108 of 1996 (Constitution of the Republic of South Africa), hereby appoint a Commission of Inquiry to investigate traditional succession disputes and claims around:-

- (1) Bakgatla ba Kgafela traditional dispute and claim;
- (2) Batlhako ba Leema succession and dispute; and
- (3) Bapo I and II traditional disputes.

1. Bakgatla ba Kgafela

Succession dispute broke at the time of Kgosi Tidimane Ramono Pilane, on or about 1993. Certain members of the Community have approached the High Court to seek various orders.

Furthermore Mr Merafe Ramono during 2013 referred the leadership dispute to the North West Provincial Committee of the Commission, where recommendations were not approved as per reasons advanced on 24/02/2016 hence this Commission to investigate and find solution and settlement to the matter.

2. Batlhako ba Leema

Since the death of Kgosi Leema Batleng In October 2005 and the subsequent appointment of his widow Kgosigadi Nkibi Batleng as regent for her then teenage daughter Semodieng, there has been discontent amongst members of the royal family and the Khuduthamaga. This has led to a split

in the Khuduthamaga which has culminated in a number of court cases wherein the Premier was cited as a party. The daughter being of age has not been throned.

With the last court matter, an order of court was made to refer the matter to the Commission hence this appointment to look into the crux of the dispute and find solution and settlement to the matter.

3. Bapo I and II

There was also a High Court matter in this regard under case No. M9/14 whereby a number of orders were sought, even subsequent interventions were unsuccessful hence this Commission with the following terms of reference:-

3.1 To investigate whether the bogosi of the Bapo I and II traditional community is properly constituted and in accordance with the customs of the traditional community and determine the rightful successor to the bogosi of the Bapo I and II traditional community.

3.2 To determine the relationship amongst the Mogale clan, the Maimane sub-clan and the Moerane sub-clan.

3.3 To identify the legitimate members of the Royal Family and the Khuduthamaga of the Bapo I and II traditional community.

4. The Commissioner shall be made of the following persons:-

4.1 Commissioners:

4.1.1 Judge GSS Maluleke – Chairperson

4.1.2 Advocate Sesi Baloyi – Member

4.1.3 Professor Pearl Sithole – Member

4.2 The evidence leaders shall be:

4.2.1 Advocate Thembeke Nqckukaitobi

4.2.2 Advocate Benny Makola

4.3 To assist the Commission the following are also appointed

4.3.1 Advocate Morongwa Moagi

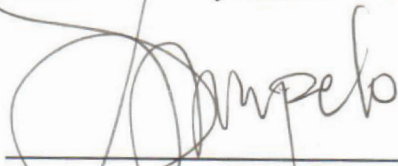
4.3.2 Advocate Naledi Mothapo

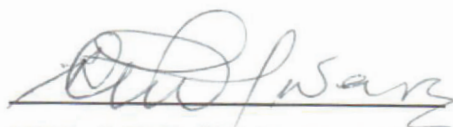
4.3.3 Advocate Pontsho O Mosiane

5. The Commission shall make recommendations to the Premier (including interim report).

6. In considering all the terms of reference relating to specific tribes, the Commission shall be enjoined to apply section 39(2) and 212 of the Constitution and any relevant case laws, in relation to all terms of reference.

Given under my hand and seal at **Mahikeng** on02.....June 2016



PREMIER: NORTH WEST PROVINCE

MEC: ARTS CULTURE AND TRADITIONAL AFFAIRS

Schedule 1

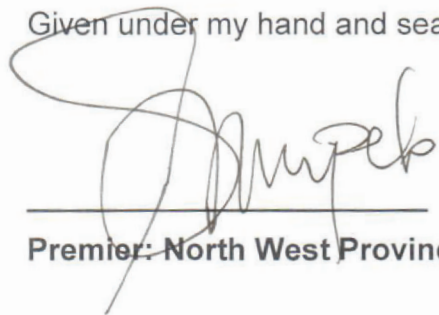
The Commission of Inquiry (herein referred to as the Commission) shall conduct investigations under the following Terms of reference

1. Bakgatla ba Kgafela

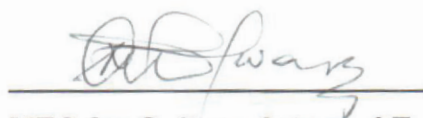
- 1.1 The role of a Paramount Chief in terms of the tradition and custom specifically in Botswana *vis a vis* in Moruleng;
- 1.2 The powers and procedure, if any, to appoint senior traditional leader of Bakgatla ba Kgafela in Moruleng;
- 1.3 To determine who the rightful heir is in terms of the tradition and custom had Tidimane Pilane not acted in the manner he did which led to the appointment (the manner and procedure is not in dispute) of Chief Nyalala Pilane;
- 1.4 The merits and demerits of Mr Ramono Merafe's claim as senior traditional leader as was referred to the North West Provincial Committee during 2014;
- 1.5 The role of senior traditional leader of Bakgatla ba Kgafela in Moruleng;
- 1.6 The correct relationship between Kgafela Kgafela II and the senior traditional leader in Moruleng under our Constitutional dispensation;
- 1.7 The role of the 32 sub villages officiating the appointment of the senior traditional leader of Moruleng Village;
- 1.8 The role of the 32 villages under Moruleng in the acquisition-making process;
- 1.9 The flow of financial benefits in any transactions conducted with any third party in the name of or on behalf of Bakgatha ba Kgafela by any person;

1.10 In considering the content of customary law, the commission shall be enjoined to apply sections 39(2) and 212 of the Constitution and any relevant case law.

Given under my hand and seal at **MAHIKENG** on 02 June 2016



Premier: North West Province

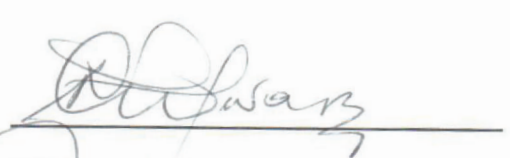


MEC for Culture Arts and Traditional Affairs

Schedule 2***To investigate the succession dispute around the Chieftainship of the Batlhako Ba Leema in Tlhatlhaganyane***

- 1.1 To identify the descendants of the late Kgosi Tlhogoane, and determine the rightful person to have succeeded in after his death.
- 1.2 To identify the legitimate members of the Royal Family and Khuduthamaga of the Batlhako Ba Leema Traditional Community.
- 1.3 To investigate the ascendancy of the Makabe house to the chieftaincy of Batlhako Ba Leema traditional community and the legitimate of such ascendancy.
- 1.4 The commission will further investigate whether the Royal Family and/or Council of Batlhako Ba Leema had in terms of customary practice and in line with their tradition paid any *bogadi* (bridewealth) for Kgosi Nkibi Batleng on behalf of Kgosi Leema Batleng.

Given under my hand and seal at **MAHIKENG** on^{ist} June 2016


MEC for Culture, Arts and Tradition North West Province
Mr S.O.R Mahumapelo**Premier: North West Province**

Schedule 3

The Commission of Inquiry (herein referred to as the Commission) shall conduct investigations under the following Terms of reference

The Commission is established by the Premier to investigate claims relating to the bogosi of the Bapo Ba Mogale and to determine:

1. Bapo I

- 1.1 Hierarchy of the houses constituting the Bapo Ba Mogale royal family.
- 1.2 The rightful ruling house.
- 1.3 The rightful heir to the bogosi of the Bapo Ba Mogale.
- 1.4 Members of the Bapo Ba Mogale royal family.
- 1.5 Members of the Khuduthamaga of the Bapo Ba Mogale.

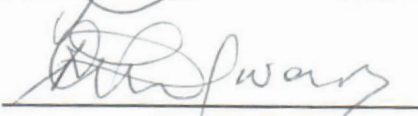
2. Bapo II

- 2.1 To investigate whether the bogosi of the Bapo I and II traditional community is properly constituted and in accordance with the customs of the traditional community and determine the rightful successor to the bogosi of the Bapo I and II traditional community.
- 2.2 To determine the relationship amongst the Mogale clan, the Maimane sub-clan and the Moerane sub-clan.
- 2.3 To identify the legitimate members of the Royal Family and the Khuduthamaga of the Bapo I and II traditional community.

Given under my hand and seal at **MAHIKENG** on^{1st} June 2016



Premier: North West Province



MEC for Culture Arts and Traditional Affairs

DIRECTIVES

A COMMISSION OF INQUIRY INTO TRADITIONAL CLAIMS AND DISPUTES WITHIN THE NORTH WEST PROVINCE AND CLAIMS AND DISPUTE OF BAKGATLA BA KGAFELA SENIOR TRADITIONAL LEADER, CHIEFTAINSHIP OF BATLHAKO BA LEEMA AND INVESTIGATION OF BOKGOSI OF BAPO I AND II .

DEFINITIONS

1. In this directive, unless the context indicates the contrary.

“Affected person” means any natural or affected by the manner in which custom is observed.

“Chairperson” means Judge Maluleke, appointed by the Premier.

“Confidential”, “Secret” or “Classified” means any communication or documentation which by law is protected from public disclosure.

“Designated Person” means a person appointed by the Chairperson in terms of Regulation 4.

“Discovery” means the discovery of all relevant documents, record, tape recordings, electronic communications and data message as are directed to be discovered by the Chairperson through in Secretary.

“Document” includes whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or other device by means of which information or data is recorded or stored.

“Evidence Leader” means the person/s appointed whose primary responsibility shall be to be present evidence to the Commission at its

hearings by way of leading witnesses and give assistance to the Commission as may be necessary.

“Hearing” means that taking of evidence only on matters as the Chairperson may direct.

“Investigation” means the investigation of issues referred to in the Terms of Reference or such issues as the Chairperson may direct.

“Issues” means the issues defined in the Terms of Reference.

“Regulations” means relating to this Commission published in Government Gazette.

“Secretary” means the Secretary of the inquiry appointed by the Chairperson.

“Terms of Reference” means the Terms of Reference for the inquiry, as published in the Government Notice.

“Third Parties” means that person who have been invited by the Chairperson and/or those persons with a special interest and/or knowledge who have been invited to make representations and submissions to the inquiry.

“Witness” means a person contemplated in paragraphs 13 to 20.

Any reference to singular includes plural and vice versa.

Any reference to gender includes the other genders.

Any reference to a person includes natural and juristic persons.

GENERAL

2. These directives are subject to, and should be read in conjunction, with the Commissions Act 8 of 1947 ("the Commissions Act) and the Commission Regulations, GN R4, GG 35023, 8 February 2012.
3. The conduct of and the procedure of this inquiry shall be under the control and discretion of the Chairperson.
4. The Commission shall determine whether the evidence presented to the inquiry or a representation to the inquiry is to be in writing or oral.
5. The Commission shall determine a person can participate in the inquiry and the manner and extent of their participation after considering:
 - (a) whether the person's interest may be adversely affected by the findings of the Commission.
 - (b) whether the participation of the person would further the conduct of the inquiry; and
 - (c) whether the participation would contribute to the fairness and openness of the inquiry.
6. All parties shall be deemed to undertake to adhere to the directives. The Chairperson shall deal with the breach of these directives as he sees fit.

7. The directives outlined below are not intended to cover every eventuality or procedural issue. Where interests of justice and fairness require it, Commission may depart from these directives. Further, these directives may be amended by the Chairperson in keeping with his obligation to act fairly and avoid unnecessary costs. Should the directives be amended, the amended version will be published.

SUBMISSION

8. Any person who wishes to give evidence or make submissions to the Commission shall, by a date directed by the Chairperson, file with the Secretary and marked for the attention of the Chairperson, a copy (and an electronic copy where possible) of his or her submissions, which shall include a statement on oath by a person who is able to verify any factual allegation pertaining to the issues described in the Terms of Reference and where applicable.
 - (a) documents which are relevant and support the allegations pertaining to the issues described in the Terms of Reference;
 - (b) identification of confidential, classified or secret elements in the representations and these shall be separate, sealed and dispatched accordingly;
 - (c) legal submissions which address any of the Terms of Reference; and
 - (d) any expert opinion on any relevant aspect of the Terms of Reference.

9. FORMAT OF SUBMISSION

- (a) Any submission which is more than 15 pages shall be accompanied by a summary indicating the essence of the submission and the conclusion sought to be drawn from it and contain a table of contents with correct references.
- (b) Any person who makes submission must lodge 5 copies of submissions.
- (c) The submission shall be clearly typed on stout A4 standard paper in double-spacing in black ink, on one side of the paper only.
- (d) Legible documents that were typed or printed in their original form such as cheques and the like shall not be retyped, clear photocopies shall be provided instead.
- (e) The pages shall be numbered clearly and consecutively.
- (f) A bulky submission shall be divided into separate conveniently-sized volumes of approximately 100 pages each.
- (g) At the top of each page containing evidence, the name of the witness, and at the top each page containing exhibits the number of the exhibit, shall appear.
- (h) The submission shall be securely bound in suitable covers and shall bear the name of the party or his attorney, the postal and physical address, facsimile, telephone number and an e-mail address, where available, and the original documents shall be signed by the party or his or attorney.
- (i) each submission shall be securely bound in book format to withstand constant use and shall be so bound that upon being used will lie open without manual or other restraint.

- (j) Where documents are lodged and such documents are recorded on a computer disk, the party lodging the document shall where possible also make available to the Commission a disk containing the file in which the document is contained, or transmit an electronic copy of the document concerned by email in a format determined by the Commission which is compatible with software that is used by the Commission at the time of lodgement. Provided that the transmission of such a copy shall not relieve the party concerned from the obligation to lodge the prescribed number of hard copies under paragraph 9(b).
 - (k) Every submission at its close shall bear the name of the person or his or her legal representative, the postal and physical address, fax mail, telephone number, where available. And the original document shall be signed by the party or his or her attorney.
- 10. Any person who intends giving oral evidence before the Commission shall submit to the Chairperson, through the Secretary:
 - (a) a brief summary of the evidence that he or she wishes to lead before the Commission; and
 - (b) a statement as to how he or she satisfies the criteria set out in paragraph 5.
- 11. On instruction of the Chairperson, the Secretary shall furnish to every affected person the submission together with all relevant documents which implicate such person in the improper influencing of the award or conclusion of any of the contracts awarded and concluded in the SDPP Procurement Process.
- 12. Any affected person shall have the right to make submission and produce documents in answers to the allegations made against him or her. No

evidence regarding any fact or information that comes to light in consequence of any such submission, shall be admissible in any criminal proceedings, except in criminal proceedings in terms of section 6 of the Commissions Act or Regulation 14.

HEARINGS

13. The Commission may, after receipt of submission, require by means of a notice or summons, any deponent or any person to appear before it to make oral representations on any aspect of the Terms of Reference.
14. The Commission may call upon any competent and compellable person to give evidence on any of the issues.
15. Any party may, through the Secretary and after approval from the Chairperson, call upon any competent and compellable person to give evidence on any relevant aspect of the Terms of Reference.
16. In making a determination whether to exercise the powers contemplated in the directives above, the Chairperson shall consider whether:
 - (a) the person played or may have played, a direct and significant role in relation to the matter to which this inquiry relates;
 - (b) the person has significant interest in an important aspect of the matter to which the inquiry relates; or

- (c) the person has been implicated in the evidence submitted to it or may be subject to explicit or significant criticism during the inquiry proceedings or in the report or in any interim report.
17. Where a witness gives oral evidence at the hearing, the Evidence Leader shall present information relevant to the inquiry to the witness and the Commissioners may put questions to a witness if they deem this necessary.
18. Where a witness has been questioned orally the Chairperson may allow his or her legal representative to put questions to him or her to clarify certain aspects.
19. Where a witness has been questioned by the Evidence Leader, or by the Commissioners, and that witness's evidence directly relates to the evidence of another witness or implicates another person, the legal representative of the witness to whom the evidence relates or person implicated may apply to the Chairperson for permission to question the witness giving oral evidence. When making such application, the legal representative must state:
- (a) the issues in respect of which the witness is to be questioned; and
 - (b) whether questioning will raise new issues and if not, why the questioning should be permitted.
20. It is in the discretion of the Chairperson to allow the cross-examination and re-examination of any witness called to give evidence.
21. The hearing shall be open to the public unless on good cause shown the Chairperson directs otherwise.

22. The Commission may by order or notice restrict or prohibit the publishing or broadcast of any of its proceedings if the Commission has reason to believe that the order or notice is necessary for the effective and efficient fulfilment of the Commission's Terms of Reference and would make available to the Commission evidence that would otherwise not be available.
23. The Commission shall sit at such premises and at such dates and times as the Chairperson may direct.
24. The Chairperson may invite any party to make legal submission addressing any of the issues in the Terms of Reference.

APPLICATION FOR ANONYMITY AND OTHER PROTECTIVE MEASURE

25. Any person who believes that he or she has relevant evidence to submit to the inquiry but believes that there is a need to provide such evidence anonymously may apply to the Chairperson of the Commission for confidentiality.
26. The Chairperson will, in the first instance, discuss with any such person the nature of the evidence which that person can give to the Inquiry, the measures sought to protect anonymity and the reasons for seeking anonymity. If following this preliminary stage the Chairperson considers the evidence to be of sufficient relevance as to be of interest, and he accepts that there is a *prima facie* case for anonymity, then he will invite a formal application for protective measures to be submitted. If a witness statement has not been provided voluntarily already then he will request one in writing at this stage.

27. A formal application for anonymity or other protective measure shall be made in writing and shall contain a statement setting out the protective measures sought, reasons in support of the application for anonymity and other protective measures and any other factual material relied on. For the purposes of the inquiry, anonymity may include the right to have his or her identity disclosed only by way of non-identifying initials, and if the person so wishes, the right to testify before the Commission in private, together with any other privacy measures that the person may request from the Chairperson and which the Chairperson, in his discretion, grants. Subject further to the discretion of the Chairperson, specified persons may be present during testimony being heard in private.
28. A person who is granted confidentiality shall be identified in the records, transcripts of the hearing and any reports of the Commission by non-identifying initials.
29. The witness shall reveal his or her name to the Commissioners and to the Evidence Leaders for the purposes of preparation. The Commission and Evidence Leaders shall maintain the confidentiality of the names revealed to them.
30. Commission staff and other contracted service providers, and media representatives shall be deemed to undertake to adhere to the directives in respect of confidentiality.
31. Where the Chairperson refuses the application for protective measures either in whole or in part, then the Chairperson will not ordinarily be expected to compel the application to give evidence.

DISCOVERY

32. The Commission may, at any stage, call on any person to make discovery on oath to the inquiry within a time-frame directed by the Chairperson.
33. Any interested person may, with the approval of the Chairperson, call upon any person through the Secretary to make discovery of any document relevant to the inquiry. The request must state:
 - (a) the reasons the interested person believes that the holder of document possesses the document; and
 - (b) the reasons the interested person believes the document is relevant to a matter before the Commission.
34. Documents which by law are protected from public disclosure will remain so protected.

CONTEMPT

35. Any person summoned to attend and give evidence or to produce any book, document, or object before the Commission who, without sufficient cause, fails to attend at the time and place specified in the summons or remain in attendance until the conclusion of the inquiry or until he or she is excused by the Chairperson of the Commission from further attendance, or having attended, refuses to be sworn-in or to make affirmation as a witness after he or she has been required by the Chairperson of the Commission to do so or, having been sworn in or having made affirmation, fails to answer fully satisfactorily any question lawfully put to him or her or fails to produce any book, document or object in his or her possession or custody, or under his or

her control which she or he has been summoned to produce shall dealt with in terms of section 1(2) and (3) of the Commissions Act read in conjunction with Regulation 8(1), 15(1)(b) and (2)(a).

REPORT

36. Pursuant to Regulation 15, the contents of the report, and any interim report or information regarding the consideration of evidence by the Commission will be treated as confidential unless the President has unauthorised the publication thereof.

IN COMPILING THE DIRECTIVE WE BORROWED AND DISTILLED THE BEST PRACTICE FROM SOURCES IN THE REPUBLIC AND OTHER JURISDICTIONS

G.S.S MALULEKE

Chairperson of the Traditional Claims and Disputes
within the Province and also of claim and Dispute
of Bakgatla ba Kgafela's claim and dispute of
Senior Traditional Leader Chieftainship of Batlhako
Ba Leema and investigation of Bokgosi of Bapo I and II

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065
Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121.