



**NORTH WEST
NOORDWES**

EXTRAORDINARY • BUITENGEWOON

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

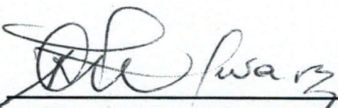
PROVINCIAL NOTICE 160 OF 2016**DEPARTMENT OF CULTURE, ARTS AND TRADITIONAL AFFAIRS****PUBLICATION OF THE NORTH WEST INITIATION SCHOOL MATTERS BILL, 2016, IN COMPLIANCE WITH SECTION 154(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996**

1. In compliance with section 154(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the NORTH WEST Initiation School Matters Bill, 2016, is hereby published for public comment.

2. Organised local government, municipalities and other interested parties are invited to submit comments on the proposed Bill in writing by no later than 30 days after the publication hereof, by –

- (a) post to the Head of Department: Culture, Arts and Traditional Affairs, Private Bag X 90 Mmabatho, 2735;
- (b) hand to the 76 Dr. James Moroka Drive, Gaabmotho building, Mmabatho, Attention: Mrs. S. R. Bapela;
- (c) facsimile to: (018) 388 1907; or
- (d) e-mail to: tsifumba@nwpg.gov.za

Given under my Hand at MAHAKENG on this 17 day of JUNE 2016,
Two thousand and Sixteen.



MRS. ONTLAMETSE MOCHWARE

Member of Executive Council of the North West Province
of Culture, Arts and Traditional Affairs

CERTIFIED: 18 MARCH 2016

Principal State Law Advisor

NORTH WEST INITIATION SCHOOL MATTERS BILL, 2016

(As introduced in the Provincial Legislature)

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

(MEMBER OF THE EXECUTIVE COUNCIL FOR ARTS AND CULTURE)

CERTIFIED: 18 March 2016



Adv BW Tihale

PRINCIPAL STATE LAW ADVISOR

CERTIFIED: 18 MARCH 2016
Principal State Law Advisor

BILL

To regulate initiation schools in the North West Province, to provide for the procedure granting permission to conduct an initiation school, to provide for the observation of health standards in traditional initiation schools, to give effect to section 104 and 211 of the Constitution of the Republic of South Africa, 1996 and to the Children's Act, 2005 (Act No 38 of 2005); and to provide for matters connected therewith.

PREAMBLE

RECOGNISING the need to manage and regulate initiation schools in the North West Province;

WHEREAS the section 104, read with Part A of Schedule 4 of the Constitution of the Republic of South Africa, 1996 assigns Provinces the competence to legislate on indigenous law and customary law, subject to Chapter 12 of the Constitution, 1996;

AND WHEREAS the Children's Act, 2005 (Act No.38 of 2005) provides for the protection of children's rights.

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of North West, as follows:-

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2. Powers of responsible Member

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3. Powers and functions of *Kgosi*

4. Powers and functions of medical practitioner

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5. Designation of Environmental Health Practitioner
6. Power of Environmental Health Practitioner to inspect initiation school
7. Powers and functions of initiation school principal

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CHAPTER 1
DEFINITIONS AND POWERS OF THE RESPONSIBLE MEMBER IN RESPECT OF
INITIATION SCHOOLS

Definitions

1. In this Act, unless the context otherwise indicates;

“**circumcision**” means the surgical removal of the foreskin by a traditional surgeon in accordance with Section 5 of this Act;

“**consent**” means a permission given by a parent or an initiate to attend an initiation school;

“**coordinating structures**” means the coordinating structures established in terms Chapter 5 of this Act;

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

“**Department**” means the department in the Provincial Government of North West responsible for Traditional Affairs;

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“District Initiation Coordinating Committee” means a District Initiation Coordinating Committee established in terms of section 17 of this Act;

“Environmental Health Practitioner” means an Environmental Health practitioner designated by the responsible Member, in consultation with the Member of the Executive Council for Health in terms of section 5 of this Act;

“Gazette” means the official *Provincial Gazette* of the North West Province;

“Head of Department” means the most senior officer of the department in the Provincial Government of North west responsible for Traditional Affairs;

“House” means the Provincial House of Traditional Leaders established in terms of Section 2 of the National House of Traditional Leaders Act, 2009 (Act No 22 of 2009);

“initiate” means a person who undergoes an initiation in an initiation school contemplated in Chapter 4 of this Act;

“initiation” means a customary or traditional process of ushering initiates into adulthood;

“initiation school” means a place where an initiate undergoes an initiation process carried out in terms of a permit issued in terms of Chapter 4 of this Act; also referred to as **“sekolo sa setso”**;

“Kgosi” means a person recognised in terms of Chapter 3 of the North West Traditional Leadership and Governance Act, 2005 (Act No 2 of 2005), **“Kgosigadi”** has a corresponding meaning;

“Legislature” means the North West Provincial Legislature as contemplated in Section 103 of the Constitution of South Africa, 1996 (Act No 108 of 1996);

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“**Local Initiation Coordinating Committee**” means Local Initiation Coordinating Committee to established in terms section 19 of this Act;

“**licensing authority**” means powers given to a person who is to grant permission to conduct initiation school;

“**Local House**” means the Local House of Traditional Leaders established in terms of section 11(1) of the North West Provincial House of Traditional Leaders Act, 2009 (Act No. 3 of 2009);

“**medical practitioner**” means a person registered as such under the Health Professions Act, 1974 (Act No 56 of 1974);

“**North West Provincial Initiation Coordinating Committee**” means the North West Provincial Initiation Coordinating Committee established in terms of section 15 of this Act;

“**parent**” means –

- (a) the parent of an initiate or prospective initiate; or
- (b) the person legally entitled to custody of an initiate or a prospective initiate;

“**principal or *mogokgo***” means a person appointed or recognised by *Kgosi* or *Kgosigadi* as the person in charge of the initiation school;

“**manager**” means a municipal manager in areas under the jurisdiction of local municipalities where there is no *Kgosi* or *Kgosigadi*;

“**Provincial House**” means the North West Provincial House of Traditional Leaders established in terms of Section 2 of the North West Provincial House of Traditional Leaders Act, 2009 (Act No 3 of 2009);

“**Province**” means the Province of the North West referred to in section 103(1) (h) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

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"regulations" means regulations made in terms of section 25 of this Act;

"responsible Member" means the Member of the Executive Council of the North West Province responsible for traditional matters in the Province;

"stakeholders" means the key role players in respect of the conduct of initiation schools;

"traditional surgeon" means a person responsible for performing circumcision on the initiates and who has been trained or has experience to perform such circumcisions and meets with the requirements for performing circumcision in accordance with section 7 of this Act;

"traditional practice" means a practice according to the customs and beliefs of the traditional community;

"this Act" includes the regulations contemplated in section 25 of this Act.

Powers of responsible Member

2.(1) The responsible Member in consultation with the Member of the Executive Council responsible for Health in the Province must, in writing, designate one or more officers of the health department, on conditions and qualifications as may be prescribed, as a medical practitioner for the purpose of exercising and performing powers and functions conferred or imposed on them by this Act.

(2) The responsible Member may establish the Provincial Initiation Coordinating Committee.

(3) The responsible Member may close an initiation school on the advice of the Provincial Initiation Coordinating Committee and *Kgosi*.

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(4) The relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), apply with the necessary changes to the closure of an initiation school, contemplated in subsection (3).

CHAPTER 2

POWERS AND FUNCTIONS OF KGOSI, THE MEDICAL PRACTITIONER, THE ENVIRONMENTAL HEALTH PRACTITIONER AND THE INITIATION SCHOOL PRINCIPAL

Powers and functions of *Kgosi*

3. The powers and functions of a *Kgosi* are –

- (a) to screen and recommend initiation school applications for approval of the responsible Member;
- (b) to screen relevant documents applicable to principals of initiation schools and traditional surgeons before they are allowed to participate in any initiation processes;
- (c) to take primary guardianship of and responsibility for initiation schools.
- (d) to take overall responsibility for protection and preservation of the customs and customary practice of initiation schools;
- (e) to conduct regular inspections for the purpose of monitoring and reporting on initiation schools and practices to the responsible Member; and
- (f) to ensure cooperation between traditional leaders and government.

Powers and functions of medical practitioner

4. A medical practitioner must, in addition to any other power and functions assigned to him or her by this Act, exercise and perform the following powers and functions –

- (a) issuing of medical reports or certificates prior to any initiate undergoing the initiation school;

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- (b) keeping of records and statistics pertaining to the health status of the initiates and reporting thereon as prescribed by the Department;
- (c) have a right of access to any occasion or instance where circumcision is performed or an initiate is treated: Provided that such person has the relevant credentials and
- (d) to intervene by referring an initiate to a health institution if deemed necessary.

Designation of Environmental Health Practitioner

5.(1) The responsible Member, in consultation with the Member of the Executive Council responsible for Health in the Province, must in writing, designate an Environmental Health Practitioner per district as an inspector for initiation schools.

(2) An Environmental Health Practitioner must be a person who has been through the process of an initiation school.

Power of Environmental Health Practitioner to inspect initiation school

6. The Environmental Health Practitioner must inspect an initiation school to ensure that the initiation school complies with the hygienic or sanitary requirements in terms of the National Health Act, 2003 (Act No 61 of 2003).

Powers and functions of initiation school principal

7.(1) A principal is responsible for the overall well-being of the initiates and administration of an initiation school such as ensuring that –

- (a) there is adequate supply of clean water for initiates;
- (b) the food for initiates is prepared in a hygienic manner;
- (c) there is adequate shelter for initiates, against natural elements;
- (d) the instruments to be used for the circumcision of initiates are kept, prepared and used in a manner that will not place an initiate at risk of injury, disease or death; and

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(e) there are no other factors in the environment that could have negative impact on the lives or health of the initiates in terms of any other relevant Act.

(2) A principal or any person delegated by the principal must ensure the learning and developmental environment is in terms of the dominant cultural practices in the Province.

(3) A traditional surgeon who is employed must be experienced and registered under the Traditional Health Practitioners' Act.

(4) A principal responsible for the application or delegated person of similar age and experience must at all reasonable times, be present at the initiation school.

CHAPTER 3

PRE-INITIATION MEDICAL EXAMINATION AND CIRCUMCISION INSTRUMENTS

Pre-initiation medical examination

8.(1) No initiate may undergo initiation or be admitted at an initiation school without having undergone a pre-initiation medical examination.

(2) The pre-circumcision medical examination must be conducted by a medical practitioner.

(3) Upon completion of the pre-circumcision medical examination the medical practitioner contemplated in subsection (2), must issue a medical certificate.

(4) The medical certificate contemplated in subsection (3) must indicate whether the prospective initiate is fit to undergo initiation or not.

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(5) In conducting the pre-initiation medical examination, the medical practitioner must amongst other things, consider the medical history of the prospective initiate.

(6) A prospective initiate who has been certified unfit for admission to an initiation school, may not be admitted at any initiation school.

(7) A person who admits an initiate, who has been declared unfit in terms of subsection (6), commits an offence.

Traditional surgeon

9.(1) A traditional surgeon, who is to perform circumcision on initiates must be known to the Principal.

(2) Where a traditional surgeon does not comply with the necessary prescribed requirements to perform circumcision, he or she must perform it under the supervision of an experienced traditional surgeon.

Circumcision instruments

10.(1) An instrument used to perform circumcision on one initiate must not be used again to perform a circumcision on another initiate.

(2) Non-compliance with the provisions of subsection (1), constitutes an offence.

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(3) A traditional surgeon must use instruments as recommended or prescribed by a medical officer where the surgeon has to perform more than one circumcision on more than one initiate but does not have sufficient instruments.

(4) The principal in compliance with the requirements from the Health Department must make available all material and keep instruments clean at all times to be used by the traditional surgeon to perform circumcision before a circumcision takes place, and must use a substance prescribed by a medical practitioner for the sterilisation of the instruments.

CHAPTER 4 PERMIT AND LICENSING AUTHORITY

Application to conduct Initiation School

11.(1) An application to conduct an initiation school must be made by the prospective principal of an initiation school by completing and submitting the form in Schedule A, to the relevant *Kgosi* or manager of the area where an initiation school is to be established.

(2) All received applications and recommendations by the *Kgosi* or where applicable, a manager, must be submitted to the responsible Member, for final approval.

(3) The form contemplated in subsection (1) must reflect –

- (a) the names and surname of the prospective principal;
- (b) the identity number of the prospective principal;
- (c) the location or area where the initiation school is to be established;
- (d) the duration of the initiation school;
- (e) the number of initiates; and
- (f) contact details.

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(4) The form contemplated in subsection (1) must be accompanied by –

- (a) a certified copy of the identity document of the prospective principal;
- (b) a reference letter confirming that the prospective principal has undergone circumcision in the past;
- (c) a certified copy of the identity document of the person who will perform the circumcision;
- (d) a referral letter confirming the experience of the person who will perform the circumcision;
- (e) a list confirming the names, guardians or next of kin, and addresses of initiates;
- (f) a duly completed consent form signed by the parent, parents or guardian of each initiate;
- (g) a duly completed form by a medical practitioner, certifying that he or she has examined the initiate and that the initiate is in a good state of health to attend the initiation school;
- (g) copies of birth certificates of initiates; and
- (h) contact details of relatives in case of emergency.

(5) An application contemplated in subsection (1) is complete upon receipt of a correctly completed form contemplated in subsection (3) and the documentation contemplated in subsection (4).

Permission to conduct initiation school

12.(1) The responsible Member is the licensing authority for permits to conduct initiation schools.

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(2) Upon receipt of an application for permission to conduct an initiation school, a *Kgosi* or where applicable, a manager must consider and make recommendations to the responsible Member, to approve or reject the application for a permit to conduct an initiation school.

(3) In areas where there is no traditional leadership the manager has the authority to consider and recommend to the responsible Member, the approval or rejection of the application for a permit to conduct an initiation school.

(4) The approved permit contemplated in subsections (2) and (3), is valid for the duration of an initiation school.

(5) A person intending to conduct an initiation school must obtain a permit a month prior to the start of the initiation school season.

(6) An application form for the conduct of an initiation school must bear the traditional council stamp and signature of the *Kgosi* or manager if the intended initiation school is to take place on the tribal land.

(7) An application form for the conduct of an initiation school in areas where there is no *Kgosi* must bear the signature of the manager and the local municipality stamp must be appended thereto;

(8) A principal must keep a register of all initiates in the initiation school.

(9) The responsible Member may delegate the licensing authority responsibility in terms of this Act, to a *Kgosi* or manager.

Age limit of applicants

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13. The age limit for any prospective principal applying for a permit to conduct an initiation school is 45 years.

CHAPTER 5 COORDINATING STRUCTURES

Publication of names and administrative support to coordinating structures

14.(1) The responsible Member must, by notice in the *Gazette*, publish the names of members of the –

(a) the District Initiation Coordinating Committee, established in terms of section 17;
and

(b) the Local Initiation Coordinating Committee, established in terms of section 19.

(2) In addition to the obligation contemplated in subsection (1), the responsible Member must provide administrative support to –

(a) the Provincial Initiation Coordinating Committee;

(b) the District Initiation Coordinating Committee; and

(c) the Local Initiation Coordinating Committee.

North West Provincial Coordinating Committee

15.(1) The responsible Member must, in consultation with the provincial house of traditional leaders, by notice in the *Gazette*, establish the North West Provincial Coordinating Committee.

(2) The term of office of the North West Provincial Initiation Coordinating Committee runs concurrently with the term of office of the provincial house.

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(3) The North West Provincial Initiation Coordinating Committee is composed of the Chairperson, and three other members delegated from the North West provincial house and two officials per provincial department, designated by the responsible Member and the Premier in the Province.

(4) Gender representation must be taken into account, in respect of the composition of the North West Provincial Initiation Coordinating Committee.

(5) The North West Provincial Initiation Coordinating Committee may establish the District Coordinating Committees.

Powers and functions of North West Provincial Initiation Coordinating Committee

16. The Powers and functions of the North West Provincial Initiation Coordinating Committee are –

(a) to coordinate all initiation schools, practice and activities within the North West Province in respect of –

(i) administering and overseeing all initiation schools and practices in the Province;

(ii) advice the responsible Member in determining the number of initiation schools to be allowed in the Province taking into account criteria such as proximity of the schools to one another.

(iii) ensure that only registered or approved schools conduct initiation in the Province and that any non-approved school is reported to the South African Police Services closed forthwith and that steps are taken against those who are responsible for conducting illegal or non-approved initiation schools.

(iv) ensure that any abuse of initiates is reported to the South African Police Services and dealt with in accordance with any applicable legislation.

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(v) the North West Provincial Initiation Coordinating Committee may in consultation with the responsible Member close down any initiation school found to be violating the key tenets of this Act.

(b) to ensure cooperation between traditional leadership, government, District Initiation Coordinating Committees and any other role players in respect of initiation practices.

(c) to provide advice to initiation schools on any matter relating to initiation;

(d) to coordinate the flow of information between different stakeholders on required interventions in different initiation schools;

(e) to develop a code of conduct for all involved in initiation and to ensure that persons receive a copy of the code of conduct; and

(f) monitor and evaluate the general functioning of initiation schools during the initiation period.

Establishment of District Coordinating Committee

17.(1) North West Provincial Initiation Coordinating Committee must in liaison with the Head of each of the government departments and at district level establish District Initiation Coordinating Committees.

(2) A District Initiation Coordinating Committee must be constituted by the representatives from the *Kgosi* or manager's initiation school committee, community policing forum, and district municipality, recognised organizations representing women, youth, and any interested body identified by the North West Provincial Initiation Coordinating Committee.

Powers and functions of District Initiation Coordinating Committee

18. Powers and functions of the District Initiation Coordinating Committee are –

(a) coordination of all initiation schools, practices and activities at the particular District level in respect to –

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- (i) administering and overseeing all initiation schools and practices in the District;
 - (ii) determining the number of initiation schools to be allowed in the District taking into account criteria such as proximity of the schools to one another;
 - (iii) ensure that only registered or approved schools conduct initiation in the District and that any non-approved school is reported to the South African Police Services and closed forthwith and that steps are taken against those who are responsible for conducting illegal or non-approved initiation schools;
 - (iv) ensure that any abuse of initiates is reported to the South African Police Services and dealt with in accordance with any applicable legislation;
- (b) to ensure cooperation between traditional leadership, government, North West Provincial Initiation Coordinating Committee and any other role players in respect of initiation practices;
- (c) to provide advice to initiation schools on any matter relating to initiation;
- (d) to coordinate the flow of information between different stakeholders on required interventions in different initiation schools; and
- (e) monitor and evaluate the general functioning of initiation schools during the initiation period.

Establishment of Local Initiation Coordinating Committee

19.(1) A District Initiation Coordinating Committee must in liaison with the North West Provincial Initiation Coordinating Committee and traditional councils establish Local Initiation Coordinating Committees.

(2) A Local Initiation Coordinating Committee must be constituted by the representatives from the *Kgos's* initiation school committee, community policing forum, local municipality, recognised organizations representing women, youth, and any interested body identified by the District Initiation Coordinating Committee or member of the Local House.

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CHAPTER 6
PERMISSION TO CONDUCT INITIATION, ADMISSION TO INITIATION SCHOOL AND
DURATION OF INITIATION SCHOOLS

Permission to perform circumcision

20.(1) A circumcision must be performed by –

- (a) a traditional surgeon who has experience to perform circumcision and has been subjected to an initiation school; or
- (b) a medical practitioner.

(2) A traditional surgeon may not perform any circumcision in the Province without permission of the medical officer designated for the area in which the circumcision is to be performed.

(3) A traditional surgeon must apply as prescribed by the Traditional Health Practitioner's Act, 2007 (Act 22 of 2007) for a permission to perform circumcision and such permission may only be given in terms of all the conditions set out in Annexure A.

(4) A medical practitioner may –

- (a) refuse the use of a surgical instrument that the traditional surgeon intends to use;
an
- (b) prescribe or supply a suitable instrument where the use of a particular instrument has been refused in terms of subsection 4(a);
- (c) where a proper surgical instrument has been prescribed or supplied in terms of paragraph and
- (d) the medical practitioner concerned must demonstrate to, or train the traditional surgeon as to how the instrument should be used.

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(5) A traditional surgeon appointed by the Principal to perform a circumcision must within one month of the date of the appointment, submit proof of compliance with the conditions referred to in Annexure A, failing which the application shall lapse.

Admission to Initiation School

21.(1) A person may be admitted to an initiation school at the age of 16 years or older.

(2) The parent or guardian of a prospective initiate must, in respect of a prospective initiate who is 16 years old or below the age of 18 years, complete and sign the consent form referred to in Annexure B.

(3) Any person who is 18 years of age or older may be admitted to an initiation school by completing and signing an application form in Annexure A.

(4) Any person who is 18 years of age or older with mental illness and other such related disabilities whose real age is comparable to a minor may be admitted to an initiation school with parental or guardianship consent.

(5) No person may abduct or kidnap any other person and take him or her to an initiation school and have him or her admitted to the initiation school.

(6) The parent or guardian of an initiate must, in addition to all other responsibilities which such parent or guardian has in respect of the initiate, render the assistance and cooperation as may be prescribed in the interest of the health of the initiate.

(7) Any person who intends attending an Initiation school must comply with the cultural and customary laws or prescripts as laid down by the *Kgosi*.

(8) , Any person who intends attending an Initiation school must comply with the rules as laid down by a Municipal Manger of an area under the jurisdiction of a municipality or the Principal of an initiation school.

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Duration of Initiation schools

22.(1) An initiation school must be conducted outside the official school holidays in accordance with the school calendar of the National Department of Education.

(2) The Initiation school may be operated inside the school holiday period if –

- (a) the initiates are not learners who attend formal education institutions; or
- (b) the initiates have obtained permission from the applicable school authority to attend an initiation school.

CHAPTER 7 GENERAL PROVISIONS

Prohibitions

23.(1) No person may –

- (a) open and run an initiation school without a permit to do so;
- (b) admit an initiate without production of a medical certificate from a medical practitioner;
- (c) forcefully abduct another person to join an initiation school; or
- (d) conduct an initiation school on any privately owned farm without the owner's written consent, which must accompany the application form.

(2) Non-compliance with the provisions of this section constitutes an offence.

(3) The private farm owner may not be allowed to conduct an initiation school without the necessary approval as contemplated in this Act.

Offences and Penalties

24. A person who contravenes any provision in this Act, commits an offence and is liable to a fine on conviction not exceeding R100 000-00 or a sentence for a period not exceeding 10 years imprisonment or both.

Regulations

CERTIFIED: 18 MARCH 2016
Principal State Law Advisor

25. The responsible Member may make regulations in regard to any matter which in the opinion of the responsible Member may be necessary or desirable for the purpose of achieving the objects of this Act.

Short title

26. This Act is called the North West Initiation School Matters Act, 2016.

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Principal State Law Advisor

ANNEXURE A

CONDITIONS FOR OBTAINING PERMISSION TO PERFORM CIRCUMCISSION

1. There must be proof in the form of a certified birth certificate or certified identity document that the prospective initiate in respect of whom permission is requested is at least 16 years old, or if the parents of the initiates so specifically request.
2. Parental consent must at all times be in respect of a prospective initiate who is under the age of 18 years and those with mental disabilities deemed to be under age in terms of this Act.
3. A prospective initiate must undergo a pre-initiation medical examination by a medical practitioner. The medical certificate must indicate as to whether the prospective initiate, based on the examination by the medical practitioner who must have considered amongst others the medical history of the prospective initiate, is fit to undergo initiation or not.
4. A traditional surgeon who is to perform circumcision on initiates must be known to the Principal.
5. Where a traditional surgeon does not comply with the necessary prescribed requirements to perform circumcision, he or she must perform it under the supervision of an experienced traditional surgeon.
6. An instrument used to perform circumcision on one initiate must not be used again to perform a circumcision on another initiate.
7. The traditional surgeon must use instruments recommended or prescribed by the Medical Officer where the additional surgeon has to perform more than one circumcision on more than one initiate but does not have sufficient instruments.
8. The Principal must keep instruments to be used by him or her to perform circumcision clean at all times before a circumcision take place, and shall use a substance prescribed by a Medical practitioner for the sterilisation of the instruments.

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Principal State Law Advisor

9. The traditional surgeon must cooperate at all times with the Medical Officer concerned in respect of any directives given or decision made by the Medical Officer under the powers vested in the Medical Practitioner by this Act.
10. The Principal must keep a register which indicates the names of initiates, the dates on which he or she admitted the initiates, when the circumcision was done, as well as when an initiate completed his or her stay at the Initiation School.
11. The contents of this Annexure must be explained to an initiate or his or her parent or guardian.

CERTIFIED: 18 MARCH 2016

Principal State Law Advisor

ANNEXURE B**(NORTH WEST PROVINCIAL GOVERNMENT)****(THE NAME OF THE DEPARTMENT MAY CHANGE OR THE FUNCTION
RELOADED ELSEWHERE)****DEPARTMENT OF ARTS, CULTURE AND TRADITIONAL AFFAIRS (CATA)****LICENCING AUTHORITY****APPLICATION FORM FOR PERMISSION TO CONDUCT AN INITIATION
SCHOOL****APPLICANT/PRINCIPAL****NAME****IDENTITY NUMBER****LOCATION/AREA****PERIOD OF APPLICATION****NUMBER OF INITIATES**_____
SIGNATURE_____
DATE**CONSENT****PARENT/GUARDIAN****INITIATE/MINOR****NAME**

.....

GENDER

.....

CERTIFIED: 18 MARCH 2016

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IDENTITY NUMBER

AGE

LOCATION/AREA

PERIOD OF INITIATION:.....

SIGNATURE

DATE

NAME OF MEDICAL PRACTITIONER

EXAMINATION DATE OF INITIATE

.....

.....

LOCALITY/AREA

.....

PROSPECTIVE INITIATE FIT TO ATTEND INITIATION/PROSPECTIVE
INITIATE NOT FIT TO ATTEND INITIATION SCHOOL.

(IF NOT FIT TO ATTEND INITIATION SCHOOL GIVE REASON/S):

.....
.....
.....
.....

SIGNATURE

DATE

RECOMMENDATIONS BY KGOSI/KGOSIGADI

.....
.....
.....

.....

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SIGNATURE

DATE

TRADITIONAL COUNCIL STAMP

MEMBER OF THE EXECUTIVE COUNCIL

1. APPROVED/NOT APPROVED

2. REMARKS:

.....

SIGNATURE

DATE

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**MEMORANDUM ON THE OBJECTS OF THE
NORTH WEST INITIATION SCHOOL MATTERS BILL, 2016**

1. INTRODUCTION

A need to regulate initiation schools in the North West Province and to provide for the procedure granting permission to conduct an initiation school, has been identified. The North West Initiation School Matters Bill, 2016 also provides for the observation of health standards in traditional initiation schools. The Bill further gives effect to the Children's Act, 2005 (Act No 38 of 2005)..

Section 104, read with Part A of Schedule 4 of the Constitution of the Republic of South Africa, 1996 assigns Provinces the competence to legislate on indigenous law and customary law, subject to Chapter 12 of the Constitution of the Republic of South Africa, 1996;

2. CLAUSE BY CLAUSE ANALYSIS

Clause 1.

Clause 1 defines certain terms in the context they are used in the Act.

Clause 2.

Clause 2 accords the responsible Member the power to, in consultation with the Member of the Executive Council responsible for Health in the Province and in writing, designate one or more officers of the health department, on conditions and qualifications as may be prescribed, as medical practitioners for the purpose of exercising and performing powers and functions conferred or imposed on them by this Act.

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This clause further empowers the responsible Member to establish the Provincial Initiation Coordinating Committee and to close an initiation school on the advice of the Provincial Initiation Coordinating Committee and a *Kgosi*.

Clause 3.

Clause 3 defines **the** powers and functions of a *Kgosi* which are amongst to screen and recommend initiation school applications for approval of the responsible Member, to screen relevant documents applicable to principals of initiation schools and traditional surgeons before they are allowed to participate in any initiation processes, to take primary guardianship of and responsibility for initiation schools, to conduct regular inspections for the purpose of monitoring and reporting on initiation schools and practices to the responsible Member, and to ensure cooperation between traditional leaders and government.

Clause 4.

Clause 4 provides for **the** powers and functions of a **medical practitioner as** issuing of medical reports or certificates prior to any initiate undergoing the initiation school, keeping of records and statistics pertaining to the health status of the initiates and reporting thereon as prescribed by the Department, having a right of access to any occasion or instance where circumcision is performed or an initiate is treated and intervening by referring an initiate to a health institution if deemed necessary.

Clause 5.

Clause 5 provides for the designation of Environmental Health Practitioner by the responsible Member, in consultation with the Member of the Executive Council responsible for Health in the Province.

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Clause 6.

Clause 6 provides for the power of Environmental Health Practitioner to inspect initiation schools to ensure that the initiation schools comply with the hygienic or sanitary requirements in terms of the National Health Act, 2003 (Act No 61 of 2003).

Clause 7.

Clause 7 defines the powers and functions of an initiation school principal as amongst others, ensuring that there is adequate supply of clean water for initiates, the food for initiates is prepared in a hygienic manner, there is adequate shelter for initiates, against natural elements, the instruments to be used for the circumcision of initiates are kept, prepared and used in a manner that will not place an initiate at risk of injury, disease or death, and that there are no other factors in the environment that could have negative impact on the lives or health of the initiates.

Clause 8.

Clause 8 provides for mandatory Pre-initiation medical examination. It prohibits initiates from undergoing initiation or be admitted at an initiation school without having undergone a pre-initiation medical examination. It also makes it mandatory for a pre-circumcision medical examination to be conducted by a medical practitioner.

Clause 9.

Clause 9 makes it mandatory that a traditional surgeon, who is to perform circumcision on initiates to be known to the Principal. It further provides that where a traditional surgeon does not comply with the necessary prescribed requirements to perform circumcision, he or she must perform circumcision under the supervision of an experienced traditional surgeon.

Clause 10.

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Clause 10 makes it mandatory that an instrument used to perform circumcision on one initiate to not be used again to perform circumcision on another initiate. It also makes non-compliance with this mandatory provision, an offence.

Clause 11.

Clause 11 provides for the application procedure to conduct Initiation Schools.

Clause 12.

Clause 12 provides for the granting of permission to conduct an initiation school. It confirms the responsible Member as the licensing authority for permits to conduct initiation schools.

Clause 13.

Clause 13 confirms the age limit for any prospective principal applying for a permit to conduct an initiation school to be 45 years.

Clause 14.

Clause 14 provides for the publication of names of initiates in the Gazette and assigns the responsibility of providing administrative support to coordinating structures.

Clause 15.

Clause 15 provides for the establishment of the North West Provincial Coordinating Committee. It empowers the responsible Member to, in consultation with the provincial house of traditional leaders and, by notice in the *Gazette*, establish the North West Provincial Coordinating Committee. It also prescribes the term of office of

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the North West Provincial Initiation Coordinating Committee to runs concurrently with the term of office of the provincial house.

Clause 16.

Clause 16 provides for the powers and functions of the North West Provincial Initiation Coordinating Committee to amongst others, to coordinate all initiation schools, practice and activities within the Province, to ensure cooperation between traditional leadership, government, District Initiation Coordinating Committees and any other role players in respect of initiation practices, to provide advice to initiation schools on any matter relating to initiation and to coordinate the flow of information between different stakeholders on required interventions in different initiation schools etc.

Clause 17.

Clause 17 provides for the establishment of District Coordinating Committee and how it should be constituted.

Clause 18.

Clause 18 provides for the powers and functions of a District Initiation Coordinating Committee. It confirms its powers and functions as amongst others, as coordination of all initiation schools, practices and activities, to ensure cooperation between traditional leadership, government, North West Provincial Initiation Coordinating Committee and any other role players in respect of initiation practices, to provide advice to initiation schools on any matter relating to initiation, to coordinate the flow of information between different stakeholders on required interventions in different initiation schools, and to monitor and evaluate the general functioning of initiation schools during the initiation period.

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Clause 19.

Clause 19 provides for the establishment of Local Initiation Coordinating Committees.

Clause 20.

Clause 20 makes it mandatory for a circumcision to be performed by a traditional surgeon who has experience to perform circumcision and has been subjected to an initiation school; or a medical practitioner. It also prohibits a traditional surgeon from performing any circumcision in the Province without permission of a medical officer designated for the area in which the circumcision is to be performed.

Clause 21.

Clause 21 sets the criteria for admission to Initiation School. It also prohibits the admission of a person under the age of 16 years to an initiation school.

Clause 22.

Clause 22 provides for the duration of Initiation schools. It also makes it mandatory for initiation schools to be conducted outside the official school holidays in accordance with the school calendar of the National Department of Education.

Clause 23.

Clause 23 prohibits a person to open and run an initiation school without a permit to do so, admit an initiate without production of a medical certificate from a medical practitioner, forcefully abduct another person to join an initiation school, or conduct an initiation school on any privately owned farm without the owner's written consent, which must accompany the application form.

Clause 24.

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Clause 24 provides for offences and penalties.

Clause 25.

Clause 25 provides for regulations.

Clause 26.

Clause 26 provides for the short title

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

No organisational and personnel implications are foreseen in as far as the establishment of the North West Provincial Initiation Coordinating Committee is concerned as the administrative support of such council will be provided by the Department.

4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

4.1 There are financial implications in as far as the establishment of the North West Provincial Initiation Coordinating Committee is concerned.

4.2 There members of the North West Provincial Initiation Coordinating Committee will have to be paid fees for attending meetings and the normal subsistence and travelling fees.

5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

5.1 The Bill has been drafted in consultation with the key staff members in the Department;

5.2 The North West House of Traditional Leaders;

5.3 The municipalities; and

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5.4 The office of the Chief State Law Advisor.

6. CONTACT PERSON:

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