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REPUBLIEK VAN SUID-AFRIKA**

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THE PRESIDENCY

No. 38 25 January 2010

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 23 of 2009: Traditional Leadership and Governance Framework Amendment Act, 2009.

IHHOVISI LIKAMONGAMELI

Ino. 38 25 January 2010

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 23 Ka 2009: Umthetho Wokuchibiyela Ubuholi Bendabuko kanye Nohlaka Lokuphatha, 2009.

Act No. 23, 2009

TRADITIONAL LEADERSHIP AND
GOVERNANCE FRAMEWORK AMENDMENT ACT, 2009**GENERAL EXPLANATORY NOTE:**

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 20 January 2010.)

ACT

To amend the Traditional leadership and Governance Framework Act, 2003, so as to substitute definitions and to insert definitions; to provide for the recognition of kingships or queenships and the withdrawal of such recognition by the President on the recommendation of the Minister; to provide for the establishment and recognition of principal traditional communities; to further regulate the establishment of traditional councils; to provide for the establishment and recognition of kingship or queenship councils; to provide for the establishment and recognition of principal traditional councils; to provide for the establishment of sub-traditional councils; to provide for the functions of traditional councils; to provide for regulatory powers; to provide for a principal traditional leadership as a forth position of traditional leadership to further regulate the recognition and removal of kings and queens; to provide for the recognition and removal of principal traditional leaders; to further regulate the recognition and appointments of regents, persons acting as traditional leaders and deputy traditional leaders; to further regulate the election of members of local houses of traditional leaders; to provide for a relationship between a provincial house and local houses; to further regulate the roles of traditional leaders; to provide for the reconstitution and operation of the Commission on traditional leadership Disputes and Claims; to provide anew for the transitional provisions relating to tribal authorities, community authorities and paramountcies; to amend the remuneration of Public Office Bearers Act, 1998, so as to make provision for the remuneration of non-traditional leader members of traditional councils, traditional sub-council, principal traditional councils and kingships or queenship councils; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 41 of 2003

1. Section 1(1) of the Traditional Leadership and Governance Framework Act, 2003 (hereinafter referred to as the principal Act), is hereby amended by—

AMAZWI AYINCAZELO AJWAYELEKILE:

[] Amagama abhalwe ngokugcizelelwa afakwa kubakaki abazikwele achaza okwakushiyekele emthethweni emisiwe esebenzayo.

Amagama adwetshelwe ngomugqa akhombisa okufakiwe emthethweni omisiwe osebenzayo.

*(English text signed by the President.)
(Assented to 20 January 2010.)*

UMTHETHO

Ukuchibiyela Umthetho Wohlaka Lobuholi Bendabuko Nokuphatha wango-2003, ukuze sikhophe izincazelo sifake ezinye izincazelo; ukuhlinzekwa kokuhlonishwa kobukhosi noma kondlunkulu nokuhoxisa kwalokho kwaziswa nguMongameli ngesincomo sikaNgqongqoshe; ukuhlinzekwa ngokwakhiwa nokuhlonishwa kwemiphakathi emikhulu yendabuko; ukuqhubeka nokulawula ukwakhiwa kwemikhandlu yendabuko; ukuhlinzeka ngokwakhiwa nokuhlonishwa kwemikhandlu yobukhosi noma yondlunkulu; ukuhlinzeka ngokwakhiwa nokuhlonishwa kwemikhandlu emikhulu yendabuko; ukuhlinzeka ngokwakhiwa kwemikhandlu engaphansi kweyendabuko; ukuhlinzekela imisebenzi yemikhandlu yendabuko; ukuhlinzeka ngamandla okulawula; ukuhlinzeka ngobuholi bendabuko obukhulu njengendawo yesine yobuholi bendabuko ukuqhubeka nokulawula ukuhlonishwa kanye nokususwa kwamakhosi nondlunkulu; ukuhlinzeka ngokuhlonishwa kanye nokususwa kwwabaholi bendabuko abakhulu; ukuqhubeka nokulawula ukuhlonishwa kanye nokuqokwa kwababambeli, abantu abasebenza njengabaholi bendabuko kanye namasekela abaholi bendabuko; ukuqhubeka nokulawula ukukhethwa kwamalungu ezindlu zasekhaya zabaholi bendabuko; ukuhlinzeka ngobudlelwano phakathi kwendlu yesifundazwe kanye nendlu yasekhaya; ukuqhubeka nokulawula izindima zabaholi bendabuko; ukuhlinzekela izinguquko kanye nokusebenza kwe-Khomishini yobuholi bendabuko Izimpikiswano Nezicelo zokufuna; ukuhlinzekela okuqhubekayo kokuhlinzekela uguquko eziphathini mandla zesifunda. iziphathimandla zomphakathi kanye namakhosi amakhulu ; ukuchibiyela inkokhelo yoMthetho Wabasebenzi Basehhovisi Lomphakathi, 1998, ukuze kuhlinzekelwe inkokhelo yamalungu abaholi okungesibo abendabuko bemikhandlu yendabuko, umkhandlu omncane wendabuko, imikhandlu yendabuko emikhulu kanye nobukhosi kanye nemikhandlu yobundlunkulu; nokuhlinzekela ngezinye izindaba ezixhumene nalezi.

UMISWE UMTHETHO wePhalamende laseRiphabhuliki yaseNingizimu Afrika ngale ndlela elandelayo:—

Isichibiyelo sesigaba 1 soMthetho wama-41 wango-2003

1. Isigaba 1(1) soMthetho Wohlaka Lobuholi Bendabuko Nokuphatha, ka-2003 (Iapha owabizwa njengoMthetho oyinhloko), uyachibiyelwa ngoku—

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- (a) the substitution for the definition of “Commission” of the following definition:
“ ‘Commission’ means the commission established by section 22 and includes a committee established by section 26A;”
- (b) the substitution for the definition of “kingship” of the following definition: 5
“ ‘kingship or queenship’ means a kingship or queenship established in terms of section 2A;”
- (c) the insertion after the definition of “kingship” of the following definition:
“ ‘kingship or queenship council’ means a council established and recognised for a kingship or queenship in terms of section 3A;” 10
- (d) the insertion after the definition of “Minister” of the following definitions:
“ ‘principal traditional community’ means a principal traditional community recognised as such in terms of section 2B;
“ ‘principal traditional council’ means a council established and recognised in terms of section 3B; 15
‘principal traditional leader’ means a traditional leader—
 (a) under whose authority, or within whose area of jurisdiction, senior traditional leaders exercise authority in accordance with customary law;
 (b) recognised as such in terms of section 10A; and 20
- (e) the substitution for the definition of “traditional council” of the following definition:
“ ‘traditional council’ means a council established in terms of section 3 and includes a traditional sub-council established in terms of section 4B;” 25

Substitution of heading to Chapter 2 of Act 41 of 2003

2. The following heading is hereby substituted for the heading to Chapter 2 of the principal Act:

“KINGSHIPS OR QUEENSHIPS, PRINCIPAL TRADITIONAL LEADERS, PRINCIPAL TRADITIONAL COMMUNITIES, TRADITIONAL COMMUNITIES, PRINCIPAL TRADITIONAL COUNCILS, KINGSHIP OR QUEENSHIP COUNCILS AND TRADITIONAL COUNCILS”. 30

Insertion of section 2A in Act 41 of 2003

3. The following section is inserted in the principal Act after section 2: 35

“Recognition of kingships or queenships

- 2A.** (1) Subject to subsection (2), a number of traditional communities that are grouped together may be recognised as a kingship or queenship if they—
- (a) are recognised as such in terms of applicable provincial legislation; 40
 (b) each have a recognised traditional council with a defined area of jurisdiction in terms of applicable provincial legislation;
 (c) each have a senior traditional leader recognised in terms of the applicable provincial legislation;
 (d) recognise a recognised senior traditional leader, who is of higher status than the other senior traditional leaders in terms of custom and customary law, as their king or queen; 45
 (e) recognise themselves as a distinct group of traditional communities separate from principal traditional communities and all other traditional communities; and 50
 (f) have a system of traditional leadership at a kingship or queenship level.
- (2) The traditional communities applying for recognition as a kingship or queenship must have a proven history of existence, with a recognised senior

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- (a) ukufakwa esikhundleni sencazelo “Ikhomishini” sale ncazelo elandelayo:
“‘**Ikhomishini**’ isho ikhomishini esungulwe yisigaba 22 futhi ibandakanya ikomiti elisungulwe yisigaba 26A;”;
- (b) ukufakwa esikhundleni sencazelo “ubukhosi” sale ncazelo elandelayo:
“‘**ubukhosi’ noma ubundlunkulu**’ buchaza ubukhosi noma ubundlunkulu obusungulwe ngokwesigaba 2A₂”;
- (c) ukufakwa emva kwencazelo “yobukhosi” yale ncazelo elandelayo:
“‘**umkhandlu wobukhosi noma wobundlunkulu**’ uchaza umkhandlu osungulwe futhi wahlonishwa njengobukhosi nobundlunkulu ngokwesigaba 3A₂”;
- (d) ukufakwa emva kwencazelo “Ungqongqoshe” yale ncazelo elandelayo:
“‘**umphakathi wendabuko oyinhloko**’ kuchaza **umphakathi wendabuko oyinhloko ohlonishwa kanjalo ngokwesigaba 2B**;
“‘**umkhandlu wendabuko oyinhloko**’ kuchaza umkhandlu osungulwe futhi wahlonishwa ngokwesigaba 3B;
“‘**umholi wendabuko oyinhloko**’ kuchaza umholi wendabuko—
- (a) ngaphansi komthetho kabani, noma ngaphakathi endaweni yomthetho kabani, abaholi bendabuko abadala basebenzisa amandla ngokuhambisana nomthetho wabantu bonke;
- (b) wahlonishwa kanjalo ngokwesigaba 10A; kanye
- (e) nokufaka esikhundleni sencazelo “yomkhandlu wendabuko” wencazelo elandelayo:
“‘**umkhandlu wendabuko**’ kuchaza umkhandlu osungulwe ngokwesigaba 3 futhi ubandakanya umkhandlu omncane wendabuko osungulwe ngokwesigaba 4B;”.

Ukufakwa esikhundleni sesihloko Sesahluko sesi 2 soMthetho wama-41 ka-2003

2. Lesi sihloko esilandelayo sifakwe endaweni yesihloko Sesahluko 2 soMthetho oyinhloko:

“UBUKHOSI NOMA UBUNDLUNKULU, ABAHOLI BENDABUKO ABAYINHLOKO, IMIPHAKATHI YENDABUKO EYINHLOKO, IMIPHAKATHI YENDABUKO, 25 IMIKHANDLU YENDABUKO EYINHLOKO, IMIKHANDLU YOBUKHOSI NOMA YOBUNDLUNKULU NEMIKHANDLU YENDABUKO”,

Ukufakwa kweSigaba 2A kuMthetho wama-41 ka-2003

3. Lesi sigaba esilandelayo sifakwe kuMthetho oyinhloko emva kwesigaba sesi 2:

“Ukuhlonishwa kobukhosi noma kobundlunkulu

- 2A.** (1) Ngokwesigaba esincane (2), inamba yemiphakathi yendabuko eqoqelwe ndawonye ingahlonishwa njengobukhosi noma ubundlunkulu uma—
- (a) aziwa kanje ngokomthetho wesifundazwe osetshenziswayo;
- (b) ngamunye unomkhandlu wendabuko ohlonishwayo ngendawo echaziwe yomthetho ngokomthetho wesifundazwe osebenzayo;
- (c) ngamunye unomholi wendabuko omdala ohlonishwa ngokomthetho wesifundazwe osebenzayo;
- (d) kwaziwa umholi wendabuko omdala ohlonishwayo, onesikhundla esiphakeme kunabaholi bendabuko abanye abadala ngokwesiko kanye nomthetho wabantu bonke, njengenkosi noma undlunkulu wabo;
- (e) bazi ngokwabo njengeqembu elehlukile lemiphakathi yendabuko ehlukile emiphakathini yendabuko eyinhloko kanye neminye imiphakathi yendabuko yonke; kanye
- (f) benohlelo lobuholi bendabuko ezingeni lobukhosi noma lobundlunkulu.
- (2) Imiphakathi yendabuko efuna ukuhlonishwa njengobukhosi noma ubundlunkulu kufanele babe nomlando ofakazelwe wokuba khona, nomholi wendabuko omdala ohlonishwayo wesikhundla esiphakeme

traditional leader of higher status as a king or queen in terms of customary law of succession.

(3) (a) The President may, by notice in the *Gazette*, on the recommendation of the Minister and after consultation with the relevant Premier, the provincial house of traditional leaders in the relevant province, the national house of traditional leaders and the senior traditional leaders of traditional communities who fall under the kingship or queenship being applied for, recognise a kingship or queenship envisaged in subsections (1) and (2) as a kingship or queenship.

(b) The President may—

- (i) direct the Minister to conduct the consultation referred to in paragraph (a) in his or her stead; and
- (ii) prescribe a fixed period within which the Minister must finalise the consultation regarding the recognition of a kingship or queenship envisaged in subsections (1) and (2).

(4) A kingship or queenship must transform and adapt customary law and customs relevant to the application of this Act so as to comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by—

- (a) preventing unfair discrimination;
- (b) promoting equality; and
- (c) seeking to progressively advance gender representation in the succession to traditional leadership positions.

(5) The withdrawal of the recognition of a community as a kingship or queenship as provided for in this Act, may only be considered where—

- (a) the majority of traditional communities under the jurisdiction of the kingship or queenship concerned request the President that the recognition of their kingship or queenship be withdrawn; and
- (b) the President, on good cause shown, determines that the withdrawal of such a kingship or queenship is necessary.

(6) The President may, before taking a decision in terms of subsection (5), cause an investigation to be conducted.

(7) The withdrawal of the recognition of a community as a kingship or queenship must be done by the President on the recommendation of the Minister after consultation with the kingship or queenship council, the Minister, the National House of Traditional Leaders, the relevant Premier and the provincial house of traditional leaders concerned.

(8) The withdrawal of a kingship or queenship must be done by way of a notice in the *Gazette*.”

“Recognition of principal traditional communities

2B. (1) A number of traditional communities that are grouped together may be recognised as a principal traditional community if they—

- (a) are recognised as such in terms of applicable provincial legislation;
- (b) each have a recognised traditional council with a defined area of jurisdiction in terms of applicable provincial legislation;
- (c) each have a senior traditional leader recognised in terms of the applicable provincial legislation;
- (d) recognise a recognised senior traditional leader, who is of higher status than the other senior traditional leaders in terms of custom and customary law, as their principal traditional leader;
- (e) recognise themselves as a distinct group of traditional communities separate from kingships or queenships and all other traditional communities; and
- (f) have a system of traditional leadership at a principal traditional leadership level recognised by other traditional communities.

(2) The traditional communities applying for recognition as a principal traditional community must have a proven history of existence recognizing a senior traditional leader of higher status as a principal traditional leader in terms of customary law of succession.

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- njengenkosi noma undlunkulu ngokomthetho wabantu bonke wokulandelana
- (a) UMongameli angafaka isaziso kuGazethi, emva kokuxoxisana noNduankulu ofanele wesifunda, indlu yamakhosi esifundazwe yabaholi bendabuko kuleso sifundazwe esifanele, indlu yamakhosi kazwelonke yabaholi bendabuko nabaholi bendabuko abadala bomphakathi womdabu ongena ngaphansi kobukhosi noma ubundlunkulu obufakelwa isicelo sokuba buhlonishwe ubukhosi noma ubundlunkulu obucatshangelwa kuzigatshana (1) no (2) njengobukhosi noma ubundlunkulu. 5
- (b) UMongameli anga — 10
- (i) yalela uNgqongqoshe ukuthi abe nokuxoxisana okushiwo endimeni (a) ngokwesikhundla sakhe; futhi
- (ii) nquma isikhathi esimisiwe lapho uNgqongqoshe kufanele aphothule izingxoxo zokubonisana mayelana nokuhlonishwa kobukhosi noma kobundlunkulu okucatshangwe esigatshaneni(1) no (2). 15
- (4) Ubukhosi noma ubundlunkulu kufanele buguquke buphinde buthathe imithetho ephathelene namasiko ahambisana nokusetshenziswa kwalo Mthetho ukuze buvumelane nemigomo efanele etholakala kuMqulu Wamalungelo Esintu kuMthethosisekelo ikakhulukazi ngoku—
- (a) ukugwema ukubandlululwa okungafanele; 20
- (b) ukuphakamisa ukulingana; noku
- (c) ukufuna ukuthuthukisa ukumelwa kobulili ekungeneni ezikhundleni zobuholi bendabuko ngokulandelana.
- (5) Ukuhoxisa ukuhlonishwa komphakathi njengobukhosi noma ubundlunkulu njengoba kuhlinzekelwe kulo Mthetho, kungacatshangelwa kuphela lapho— 25
- (a) iningi lemiphakathi yendabuko ngaphansi kwamandla okuphatha esikhundleni esiphathelene nobukhosi noma nobundlunkulu ifaka isicelo kuMongameli sokuthi ubukhosi noma ubundlunkulu babo obukade buhlonishwa buhoxiswe; futhi 30
- (b) UMongameli, ngezinjongo ezinhle ezikhonjisiwe uthatha isinqumo sokuthi kufanele yini kuhoxiswe ubukhosi noma ubundlunkulu.
- (6) UMongameli kufanele, ngaphambi kokuthatha isinqumo ngokwesigatshana (5) angenza ukuthi kwenziwe uphenyo. 35
- (7) Ukuhoxiswa kokuhlonishwa komphakathi njengobukhosi noma ubundlunkulu kufanele kwenziwe uMongameli emva kokuxoxisana nomkhandlu wobukhosi noma wobundlunkulu uNgqongqoshe, Indlu Yamakhosi kaZwelonke, Yabaholi Bendabuko abathintekayo.
- (8) Ukuhoxiswa kobukhosi noma kobundlunkulu kufanele kwenziwe ngendlela yokuthi kufakwe *isaziso kuGazethi*.”. 40

“Ukuhlonishwa kwemiphakathi yendabuko eyinhloko

- 2B.** (1) Inamba yemiphakathi yendabuko eqoqelwe ndawonye ingahlonishwa njengomphakathi yendabuko oyinhloko uma—
- (a) behlonishwa kanjalo ngokomthetho wesifundazwe osebenzayo; 45
- (b) ngamunye ehlonishwa njengomkhandlu yendabuko onendawo echaziwe emthethweni ngokomthetho wesifundazwe osebenzayo;
- (c) ngamunye inomholi yendabuko omdala ohlonishwa ngokomthetho wesifundazwe osebenzayo;
- (d) behlonipha umholi yendabuko omdala ohlonishwayo, oesikhundla esiphakeme kunabanye abaholi bendabuko abadala ngokwesiko nomthetho wabantu bonke njengomholi yendabuko oyinhloko; 50
- (e) bezihlonipha ngokwabo njengeqembu elehlukile lemiphakathi yendabuko ehluke ebukhosini noma ebundlunkulwini kanye neminye imiphakathi yendabuko yonke; futhi
- (f) benohlelo lobuholi bendabuko ezingeni lobuholi bendabuko obuyinhloko buhlonishwa ngeminye imiphakathi yendabuko. 55
- (2) Imiphakathi yendabuko efaka isicelo sokuhlonishwa njengomphakathi yendabuko oyinhloko kufanele kube nomlando ofakazelwayo wokuba khona behlonipha umholi yendabuko omdala wesikhundla esiphakeme njengomholi yendabuko omdala ngokomthetho wabantu wokulandelana. 60

(3)(a) The Premier may, by notice in the *Provincial Gazette*, after consultation with the provincial house of traditional leaders, and the senior traditional leaders who form part of the principal traditional community being applied for, recognise the traditional communities envisaged in subsections (1) and (2) as a principal traditional community. 5

(b) The Premier may—

- (i) direct the member of the Executive Council responsible for traditional affairs to conduct the consultation referred to in paragraph (a) in his stead; and
- (ii) prescribe a fixed period within which the Member of the Executive Council responsible for traditional affairs must finalise the consultation regarding the recognition of a principal traditional community envisaged in subsections (1) and (2). 10

(4) A principal traditional community must transform and adapt customary law and customs relevant to the application of this Act so as to comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by— 15

- (a) preventing unfair discrimination;
- (b) promoting equality; and
- (c) seeking to progressively advance gender representation in the succession to traditional leadership positions. 20

(5) The withdrawal of the recognition of a community as a principal traditional community as provided for in this Act, may only be considered where—

- (a) the majority of traditional communities under the jurisdiction of the principal traditional community concerned request the Premier that the recognition of their principal traditional community be withdrawn; and
- (b) the Premier, for good cause shown determines that the withdrawal of such a principal traditional community is necessary. 25 30

(6) The Premier may, before taking a decision in terms of subsection (5), cause an investigation to be conducted.

(7) The withdrawal of the recognition of a community as a principal traditional community must be done by the Premier after consultation with the provincial house of traditional leaders, and the senior traditional leaders who form part of the principal traditional community. 35

(8) The withdrawal of a principal traditional community must be done by way of a notice in the *Provincial Gazette*.”

Amendment of section 3 of Act 41 of 2003

4. Section 3 of the principal Act is hereby amended by the substitution in subsection (2) for paragraphs (a) and (c) of the following paragraphs: 40

“(a) A traditional council [**may have no more than 30 members, depending on the needs of the traditional community concerned**] consists of the number of members determined by the Premier by formula published in the *Provincial Gazette*, after consultation with the provincial house, in accordance with the guidelines issued by the Minister by notice in the *Gazette*. 45

(c) The members of a traditional council must comprise—

- (i) traditional leaders and members of the traditional community selected by the senior traditional leader concerned who is an *ex officio* member and chairperson of the traditional council, for a term of five years aligned with the term of office of the National House of Traditional Leaders, in terms of that community’s customs, taking into account the need for overall compliance with paragraph (b); and 50
- (ii) other members of the traditional community who are democratically elected for a term of five years aligned with the term of office of the National House of Traditional Leaders and who must constitute 40% of the members of the traditional council.” 55

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- (3) (a) Undunankulu, ngesaziso ku*Gazethi Yesifudazwe*, emva kokubonisa nendlu yabaholi bendabuko besifundazwe,
(b) Undunankulu anga—
- (i) qondisa ilungu loMkhandlu ophethe obhekene nezindaba zendabuko ukuthi ziqhube ukubonisa okushiwo endimeni (a) endaweni yakhe; kanye 5
- (ii) angasho isikhathi esingaguquki lapho Ilungu loMkhandlu Ophethe obhekene nezindaba zendabuko kufanele uphetho ukubonisa maqondana nokuhlonishwa komphakathi wendabuko oyinhloko ocatshangwe ezigabeni ezincane (1) no (2). 10
- (4) Umphakathi wendabuko oyinhloko kufanele uguqule futhi uthathe umthetho wabantu bonke kanye namasiko afanele ekusebenziseni lo Mthetho ukuze ahambisane nemigomo efanele ekuthwe kuMthetho Wamalungelo Esintu kuMthethosisekelo, ikakhulukazi—
- (a) ukugwema ukubandlululwa okungafanele; 15
(b) kuphakamisa ukulingana; noku 10
(c) ukufuna ukuthuthukisa ukumelwa kobulili ekungeneni ezikhundleni zobuholi bendabuko ngokulandelana.
- (5) Ukuhoxa kokuhlonishwa komphakathi njengomphakathi wendabuko oyinhloko njengoba kuhlinzekiwe kulo Mthetho, kungacatshangwa lapho— 20
- (a) iningi lemiphakathi yendabuko ngaphansi komthetho wokuphatha womphakathi wendabuko oyinhloko oqondene ucela uNdunankulu ukuthi ukuhlonishwa kwawo njengomphakathi wendabuko oyinhloko uhoxiswe; futhi 25
- (b) Undunankulu, ngesihle esikhonjiswe anqume ukuthi ukuhoxiswa kwama-20 alowo mphakathi wendabuko oyinhloko kuyaingeka.
- (6) Undunankulu, ngaphambi kokuba athathe isinqumo ngokwesigatshana 95), angenza ukuthi kwenziwe ukhetho.
- (7) Ukuhoxiswa kokuhlonishwa komphakathi njengomphakathi wendabuko oyinhloko kufanele kwenziwe Undunankulu emva kokubonisa nabaholi bendabuko abangama-25 bendlu yesifundazwe, kanye nabaholi bendabuko abadala abakha ingxenye yomphakathi wendabuko oyinhloko. 30
- (8) Ukuhoxiswa komphakathi wendabuko oyinhloko kufanele kwenziwe ngendlela yesaziso se*Gazethi Yesifundazwe*.”. 35

Isichibiyelo sesigaba 3 soMthetho wama-41 ka-2003

4. Isigaba sesi 3 soMthetho oyinhloko siyachitshiyelwa ngokususwa kwesigatshana (2) sezindima (a) no (c) salezi zindima ezilandelayo:
- “(a) Umkhandlu wendabuko [**ungeze waba namalungu angaphezu kwama-30, kuya ngezidingo zomphakathi wendabuko ofanele**] unenamba yamalungu enqunywe nguNdunankulu ngefomula eshicilelwe ku*Gazethi 35 yeSifundazwe*, emva kokubonisa nendlu yesifundazwe ngokuhambisana neziqondiso ezikhishwe uNgqongqoshe nesaziso ku*Gazethi*. 40
- (c) Amalungu omkhandlu omdabu kufanele kube ilaba—
- (i) abaholi bendabuko namalungu omphakathi omdabu akhethwe ngabaholi bendabuko abadala abathintekayo uyilungu ngokwelungelo lesikhundla nosihlalo womkhandlu wendabuko, ngokwethemu yeminyaka eyisihlanu eqondaniswe nesikhathi esinqunyiwe sokuphatha isikhundleni seNdlu Kazwelonke Yabaholi Bendabuko, ngokulandela isiko lalowo mphakathi, kuphinde kubhekwe isidingo sokuvumelana nendima yonke (b); futhi 50
- (ii) amanye amalungu omphakathi endabuko akhethwe ngentando yeningi isikhathi esiyiminyaka emihlanu kuqondaniswe nesikhathi esinqunyiwe sokuphatha isikhundla seNdlu Kazwelonke Yabaholi Bendabuko, okufanele ube nama 40% wamalungu omkhandlu wendabuko.”.

Insertion of section 3A in Act 41 of 2003

5. The following section is hereby inserted in the principal Act after section 3:

“Establishment and recognition of kingship or queenship councils

3A. (1) Once the President has recognised a kingship or queenship, that kingship or queenship must, within one year of the recognition, establish a kingship or queenship council. 5

(2) (a) A kingship or queenship council consists of the number of members as determined by the Minister, after consultation with the kingship or queenship concerned, by formula published by notice in the *Gazette*. 10

(b) At least a third of the members of a kingship or queenship council must be women: Provided that where it has been proved that an insufficient number of women are available to participate in a kingship or queenship council, the Minister may determine a lower threshold for the particular kingship or queenship council than that contemplated in paragraph (a). 15

(c) The membership of a kingship or queenship council comprises—

(i) 60% of traditional leaders, including the king or queen who is an *ex officio* member and chairperson, and members of the traditional community selected by the king or queen in terms of that community’s customs, taking into account the need for overall compliance with paragraph (b); and 20

(ii) 40% of members elected democratically, by an electoral college consisting of all senior traditional leaders who fall under the kingship or queenship.

(d) Each traditional community falling within the area of jurisdiction of the kingship or queenship concerned must in the prescribed manner, elect one person to serve as a member referred to in paragraph (d)(ii): Provided that where the number of persons so elected exceed the number of members contemplated in paragraph (d)(ii), the persons elected by the traditional communities must elect from amongst themselves the number of persons contemplated in paragraph (d)(ii). 25

(3) The term of office of the kingship or queenship council is five years and must be aligned to the term of the National House established by section 2 of the National House of Traditional Leaders Act, 2009.

(4) The Premier must, by notice in the *Provincial Gazette* and in accordance with this Act, recognise a kingship or queenship council for that kingship or queenship within a defined area of jurisdiction, whereafter the Premier must inform the President and the Minister of such establishment and recognition. 35

(5) The kingship or queenship council meets at the king’s or queen’s great place or at any other place to be determined by the king or queen. 40

(6) The quorum of the kingship or queenship council is the majority of the total number of the kingship or queenship council.

(7) The kingship or queenship council must elect one of its members as a deputy chairperson who will act as the chairperson in the absence of the king or queen. 45

(8) The kingship or queenship council must meet every two months: Provided that the king or queen may, in consultation with the Premier of the province concerned, call a special meeting of the kingship or queenship considers necessary. 50

(9) The king or queen must give notice of not less than seven days for holding a special meeting to members of the kingship or queenship council.

(10) A member of a kingship or queenship council vacates his or her office if—

Ukufakwa kwesigaba 3A kuMthetho wama 41 ka-2003

5. Lesi sigaba sifakwe kuMthetho oyinhloko emva kwesigaba sesi 3:

“Ukusungulwa nokuhlonishwa kwemikhandlu yobukhosi noma yobundlunkulu

3A. (1) Uma uMongameli esebuhloniphile ubukhosi noma ubundlunkulu, lobo bukhosi noma ubundlunkulu kufanele, busungule umkhandlu wobukhosi noma wobundlunkulu ungakapheli unyaka buhlonishwe kulowo nyaka owodwa baziwe. 5

(2) (a) Umkhandlu wobukhosi noma wobundlunkulu kufanele ube nenamba yamalungu njengoba eshiwo nguNgqongqoshe, emva kokubonisa nobukhosi noma nobundlunkulu obuthintekayo ngefomula eshicilelwe ngesaziso u*Gazethi*. Okungenani ingxenywe yokuthathu yamalungu omkhandlu wobukhosi noma wobundlunkulu kufanele kube abesifazane: Ngaphandle uma lapho sekunobufakazi bokuthi inani labesifazane alanele ukuhlanganyela emkhandlwini wobukhosi noma wobundlunkulu, uNgqongqoshe anganquma umnyango ophansi yalowo mkhandlu othize 10

(b) kunaloyo odingekayo kusiqephu (a).

(c) Amalungu omkhandlu wobukhosi kufanele abengu—

(i) 60% wabaholi bendabuko, kuhlenganisa nesilo noma indlovukazi eyilungu ngokwelungelo lesikhundla nosihlalo, namalungu omphakathi womdabu akhethwe isilo noma indlovukazi ngokwesiko lalowo mphakathi, kuphinde kubhekwe isidingo sokuvumelana kahle nendima (b); futhi 20

(ii) 40% wamalungu akhethwe ngokwentando yeningi, ngekolishi lokhetho elinabo bonke abaholi bendabuko abadala abangena ngaphansi kobukhosi noma kobundlunkulu. 25

(d) Umphakathi wendabuko ngamunye ongena endaweni yomthetho wokuphatha wobukhosi noma wobundlunkulu obuthintekayo kufanele bube ngendlela eshiwo, kukhethwe umuntu oyedwa ozosebenza njengalungu elishiwo endimeni (d)(ii): Uma kungukuthi inamba yabantu abakhethiwe bayayeqa inamba yamalungu ecatshangiwe endimeni (d)(ii), abantu abakhethiwe imikhandlu yendabuko kufanele bakhethe phakathi kwabo inamba yabantu ecatshangwe endimeni (d)(ii). 30

(3) Isikhathi esinqunyiwe sokuphatha isikhundla samalungu omkhandlu wobukhosi noma wobundlunkulu iminyaka emihlanu, iqondaniswe nesikhathi esinqunyiwe sokuphatha isikhundla kuhulumeni wasekhaya, ngaphandle kwesilo noma kwendlovukazi 35

(4) UNdunankulu wesifundazwe kufanele, ngokufaka isaziso ku*Gazethi* yesifundazwe futhi ngokuhambisana nalo Mthetho ahloniphe umkhandlu wobukhosi noma wobundlunkulu kuleyo ndawo echaziwe ngokwamandla okuphatha esikhundla, emva kwalokho uNdunankulu kufanele atshele uMongameli ngokusungulwa nokuhlonishwa. 40

(5) Umkhandlu wobukhosi noma wobundlunkulu uhlanganela ekhaya lesilo noma lendlovukazi noma ngabe ikuyiphi indawo ekhethwe isilo noma indlovukazi. 45

(6) Inani eligunyaza umhlangano lomkhandlu wobukhosi yingxenywe enkulu yamalungu onke omkhandlu wobukhosi noma wobundlunkulu.

(7) Umkhandlu wobukhosi noma wobundlunkulu kufanele ukhethwe oyedwa wamalungu njengesekela likasihlalo ozobambela usihlalo uma isilo noma indlovukazi bengekho 50

(8) Umkhandlu wobukhosi noma wobundlunkulu kufanele uhlangane njalo emva kwezinyanga ezimbili: Uma isilo noma indlovukazi ingaxoxisana noNdunankulu wesifundazwe esithintekayo, babize umhlangano ophuthumayo womkhandlu wobukhosi ngendlela omunye nomunye abona kunesidingo. 55

(9) Isilo noma indlovukazi kufanele inikeze isaziso sezinsuku ezingekho ngaphansi kwezinyisi 7 ukubamba umhlangano obalulekile kumalungu omkhandlu wobukhosi noma wobundlunkulu

(10) Ilungu lomkhandlu wobukhosi lishiya phansi ihhovisi uma— 60

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- (a) he or she ceases to be a South African citizen;
- (b) he or she has been convicted of an offence and sentenced to imprisonment for more than 12 months without the option of a fine;
- (c) he or she tenders his or her resignation;
- (d) he or she becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the kingship or queenship council; 5
- (e) the period for which the member was selected or elected, as the case may be, has expired; or
- (f) he or she becomes disqualified in terms of subsection (14). 10
- (11) If a member of a kingship or queenship council dies or vacates his or her office before the expiration of his or her term of office, such a vacancy must be filled in the manner envisaged in this Act within a reasonable period of the vacancy occurring.
- (12) A member appointed to fill a vacancy in terms of subsection (11) holds office for the remainder of his or her predecessor's term of office. 15
- (13) A vacancy arising at any time other than the close of a five-year cycle must be filled in the manner described in subsection (2)(d)(i) or (ii), as the case may be, within 14 days and 45 days, respectively.
- (14) A person may not be appointed as a member of a kingship or queenship council if that person— 20
- (a) is not a South African citizen;
- (b) is under 18 years of age;
- (c) has been convicted of an offence in respect of which he or she was sentenced to imprisonment for more than 12 months without the option of a fine; 25
- (d) is an unrehabilitated insolvent or has entered into a compromise with his or her creditors;
- (e) is of unsound mind and has been so declared by a competent court;
- (f) is or becomes a member of a municipal council; 30
- (g) is elected as a member of a provincial legislature;
- (h) is elected as a member of the National Assembly;
- (i) is appointed as a permanent delegate in the National Council of Provinces; or
- (j) is elected to, or appointed in, a full-time position in any house of traditional leaders." 35

Insertion of section 3B in Act 41 of 2003

6. The following section is hereby inserted in the principal Act after section 3A:

“Establishment and recognition of principal traditional councils

- 3B.** (1) Once the Premier has recognised a principal traditional community, that principal traditional community must, within one year of the recognition, establish a principal traditional council. 40
- (2) (a) A principal traditional council consists of the number of members as determined by the Premier, after consultation with the principal traditional community concerned, by formula published by notice in the *Provincial Gazette*. 45
- (b) At least a third of the members of a principal traditional council must be women: Provided that where it has been proved that an insufficient number of women are available to participate in a principal traditional council, the Premier may determine a lower threshold for the particular principal traditional council than that required by paragraph (a). 50
- (c) The membership of a principal traditional council comprises—
- (i) 60% of traditional leaders, including the principal traditional leader who is an ex officio member and chairperson, and members of the

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- (a) sekunqanyuliwe ukuba isakhamuzi saseNingizimu Afrika; uma elahlwe icala waboshwa izinyanga ezingaphezulu kwe 12
- (b) ngaphandle kokunikezwa ithuba lokukhokha inhlawulo;
- (c) esefake isicelo sokushiya isikhundla; esephenduke isonakali kangangoba asakwazi ukuqhubeka nokwenza 5
- (d) umsebenzi wakhe njengelungu lomkhandlu wobukhosi noma wobundlunkulu;
- (e) isikhathi ayenqunyelwe sona ukuthi enze umsebenzi aqokelwe wona, sesiphelile; noma
- (f) uma kunezizathu ezenza avinjelwa ukuqhubeka nomsebenzi ngokwesigatshana (14). 10
- (11) Uma ilungu lomkhandlu wobukhosi noma wobundlunkulu lishona noma lishiya phansi ihhovisi ngaphambi kokuphela kwesikhathi esinqunyiwe sokubamba isikhundla, leso sikhala kuyofanele sigcwaliswe ngokulandela imigomo esohlelweni lwalo Mthetho ngesikhathi esilingene sokuvuleka kwesikhala. 15
- (12) Ilungu eliqashelwe ukugcwalisa isikhala somsebenzi ngokulandela isiqeshana (11) lihlala esikhundleni kuze kuphele isikhathi esasinqunyelwe lowo owayekhona esikhundleni ngaphambili.
- (13) Isikhala esivulekayo noma ingasiphi isikhathi kungakapheli iminyaka emihlanu enqunyiwe kufanele sigcwaliswe ngendlela echaziwe, kusiqeshana (2)(d)(i) noma (ii), noma ingasiphi isizathu phakathi kwezinsuku eziyi-14 nezingama-45 ngokulandelana. 20
- (14) Umuntu angeke aqokwa njengelungu lomkhandlu wobukhosi, uma lowo muntu— 25
- (a) engesona isakhamuzi saseNingizimu Afrika;
- (b) uneminyaka engaphansi kweyi-18;
- (c) ulahlwe icala noma waboshwa isikhathi esingaphezulu kwezinyanga ezingama 12 ngaphandle kokukhetha ukukhokha inhlawulo;
- (d) umuntu osehlekile ukukhokha izikweletu zakhe noma usethathe isinqumo sokwenza isivumelwano nalabo abakweletayo ; 30
- (e) umqondo awuthathi kahle lokho kunquywe inkantolo eyenza umsebenzi ;
- (f) uyilungu noma ubeyilungu eligcwele lomkhandlu kamasipala;
- (g) uqokwe njengelungu lesishayamthetho sesifundazwe; 35
- (h) uqokwe njengelungu iSishayamthetho sikaZwelonke;
- (i) uqokwe njengesithunywa esisebenza ngokugcwele kuMkhandlu kaZwelonke wezifundazwe; noma
- (j) uqokwe noma uqashwe esikhundleni sokusebenza ngokugcwele kunoma iyiphi indlu yabaholi bendabuko.”. 40

Ukufakwa kwesigaba 3B kuMthetho wama-41 ka-2003

6. Lesi sigaba esilandelayo sifakwe kuMthetho oyinhloko emva kwesigaba 3A:

“Ukusungulwa nokuhlonishwa kwemikhandlu yendabuko oyinhloko

3B. (1) Uma ngabe uNdunankulu esazisa umphakathi wendabuko oyinhloko, lowo mphakathi wendabuko oyinhloko kufanele, ngonyaka owodwa wokuhlonishwa, usungule umkhandlu wendabuko oyinhloko. 45

(2) (a) Umkhandlu wendabuko oyinhloko unenamba yamalungu njengokunquma kukaNdunankulu, emva kokubonisana nomphakathi wendabuko oyinhloko, ngefomula eshicilelwe ngesaziso ku*Gazethi Yesifundazwe*. 50

(b) Okungenani okuthathu kumalungu omkhandlu wendabuko oyinhloko kufanele kube ngabesifazane: Uma kungukuthi kufakazelwe ukuthi kunenamba engenele yabesifazane abakhona ukuhlanganyela emkhandlwini wendabuko oyinhloko, uNdunankulu anganquma inamba encane yomkhandlu wendabuko othize oyinhloko kunalokho okudingekayo endimeni (a). 55

(c) Ubulungu bomkhandlu wendabuko oyinhloko unalokhu—

(i) 60% wabaholi bendabuko, kuhlenganisa nomholi wendabuko oyinhloko oyilungu ngokwelungelo lesikhundla nosihlalo, namalungu

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- principal traditional council selected by the principal traditional leader in terms of that community's customs, taking into account the need for overall compliance with paragraph (b); and
- (ii) 40% of members elected democratically, by an electoral college consisting of all senior traditional leaders who fall under the principal traditional council. 5
- (d) The members referred to in paragraph (c)(ii) are elected from amongst persons nominated by each of the traditional councils falling under the jurisdiction of the principal traditional community, with each traditional council nominating two candidates. 10
- (3) The term of office of members of the principal traditional council is five years, and is aligned to the term of office for the National House of Traditional Leaders established in terms of the National House of Traditional Leaders Act, 2009, excluding the principal traditional leader.
- (4) The Premier must, by notice in the *Provincial Gazette* and in accordance with this Act, recognise a principal traditional council for that principal traditional community within a defined area of jurisdiction. 15
- (5) The principal traditional council meets at the principal traditional leader's great place or at any other place to be determined by the principal traditional leader. 20
- (6) The quorum of the principal traditional council is the majority of the total number of members of the principal traditional council.
- (7) The principal traditional council must elect one of its members as a deputy chairperson who will act as the chairperson in the absence of the principal traditional leader. 25
- (8) The principal traditional council must meet every two months: Provided that the principal traditional leader may, in consultation with the Premier of the province concerned, call a special meeting of the principal traditional council as he or she considers necessary.
- (9) The principal traditional leader must give notice of not less than 7 days for holding a special meeting to members of the principal traditional council. 30
- (10) A member of a principal traditional council vacates his or her office if—
- (a) he or she ceases to be a South African citizen; 35
- (b) he or she has been convicted of an offence and sentenced to imprisonment for more than 12 months without the option of a fine;
- (c) he or she tenders his or her resignation;
- (d) he or she becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the principal traditional council; 40
- (e) the period for which the member was selected or elected, as the case may be, has expired; and
- (f) he or she becomes disqualified in terms of subsection (13).
- (11) If a member of a principal traditional council dies or vacates his or her office before the expiration of his or her term of office, such a vacancy must be filled in the manner envisaged in this Act within a reasonable period of the vacancy occurring. 45
- (12) A member appointed to fill a vacancy in terms of subsection (11) holds office for the remainder of his or her predecessor's term of office. 50
- (13) A person may not be appointed as a member of a principal traditional council if that person—
- (a) is not a South African citizen;
- (b) is under 18 years of age;
- (c) has been convicted of an offence in respect of which he or she was sentenced to imprisonment for more than 12 months without the option of a fine; 55
- (d) is an unrehabilitated insolvent or has entered into a compromise with his or her creditors;
- (e) is of unsound mind and has been so declared by a competent court; 60

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- omphakathi womdabu akhethwe umholi wendabuko oyinhloko ngokwamasiko alowo mphakathi, kuphinde kubhekwe isidingo sokuvumelana kahle nendima (b); futhi
- (ii) 40% wamalungu akhethwe ngokwentando yeningi, ngekolishi lokhetho elinabo bonke abaholi bendabuko abadala abangena ngaphansi komkhandlu wendabuko oyinhloko. 5
- (d) Amalungu ashiwo endimeni (c)(ii) akhethwe phakathi kwabantu abaqokwe ngumkhandlu wendabuko ngamunye ngaphansi kwendawo yomthetho yomphakathi wendabuko oyinhloko, umkhandlu ngamunye uqoka abantu ababili. 10
- (3) Isikhathi sokusebenza samalungu omkhandlu wendabuko oyinhloko iminyaka emihlanu, futhi uqondaniswa nesikhathi sokusebenza seNdlu Kazwelonke Yaboholi Bendabuko eyasungulwa ngokoMthetho Wendlu Kazwelonke Yaboholi Bendabuko, 2009, akufakwa umholi wendabuko oyinhloko. 15
- (4) Undunankulu kufanele, ngesaziso ku*Gazethi Yesifundazwe* nanokuvumelana nalo Mthetho, ahloniphe umkhandlu wendabuko oyinhloko walowo mphakathi wendabuko oyinhloko ngaphakathi endaweni eechaziwe yomthetho wokuphatha. 20
- (5) Umkhandlu wendabuko oyinhloko uhlanganela endaweni ehle kamholi wendabuko oyinhloko noma kunanoma iyiphi enye indawo okufanele inqunywe umholi wendabuko oyinhloko. 20
- (6) lesamba senamba yamalungu omkhandlu wendabuko oyinhloko.
- (7) Umkhandlu wendabuko oyinhloko kufanele ukhethe elilodwa lamalungu awo njengesekela sihlalo ozosebenza njengosihlalo uma umholi wendabuko oyinhloko engekho. 25
- (8) Umkhandlu wendabuko oyinhloko kufanele uhlangane njalo ezinyangeni ezimbili: Uma kungukuthi umholi wendabuko oyinhloko, ngokubonisana noNdunankulu wesifundazwe obhekene nalokhu, abize umhlangano oyisipesheli womkhandlu wendabuko oyinhloko njengoba ebona kudingeka. 30
- (9) Umholi wendabuko oyinhloko kufanele anikeze inothi yezinsuku ezingengaphansi kweziyi-7 zokubamba umhlangano oyisipesheli kumalungu omkhandlu wendabuko oyinhloko.
- (10) Ilungu lomkhandlu wendabuko oyinhloko liyaphuma ehhovisi lalo uma— 35
- (a) sekunqanyuliwe ukuba isakhamuzi saseNingizimu Afrika;
- (b) uma elahlwe icala waboshwa izinyanga ezingaphezulu kwe-12 ngaphandle kokunikezwa ithuba lokukhokha inhlawulo;
- (c) esefake isicelo sokushiya isikhundla; 40
- (d) sewonakele kangangoba asakwazi ukuqhubeka nokwenza umsebenzi wakhe njengelungu lomkhandlu bendabuko;
- (e) isikhathi ayenqunyelwe sona ukuthi enze umsebenzi aqokelwe wona sesiphelile; futhi
- (f) usekhishiwe ngokwesigatshana (13). 45
- (11) Uma ilungu lomkhandlu wobukhosi lishona noma lishiya phansi ihhovisi ngaphambi kokuphela kwesikhathi esinqunyiwe sokubamba isikhundla, leso sikhala kuyofanele sigwaliswe ngokulandela imigomo esohlweni lwalo Mthetho ngesikhathi esilengene sokuvuleka kwesikhala. 50
- (12) Ilungu eliqashelwe ukugcwalisa isikhala somsebenzi ngokulandela isiqeshana (11) lihlala esikhundleni kuze kuphele isikhathi esasinqunyelwe lowo owayekhona esikhundleni ngaphambili.
- (13) Umuntu angeke aqokwa njengelungu lomkhandlu wendabuko oyinhloko, uma lowo muntu— 55
- (a) engesona isakhamuzi saseNingizimu Afrika; uneminyaka engaphansi kweyi 18;
- (b) ulahlwe icala noma waboshwa isikhathi esingaphezulu kwezinyanga ezingama 12 ngaphandle kokukhetha ukukhokha inhlawulo;
- (c) umuntu osehlulekile ukukhokha izikweletu zakhe noma usethathe isinqumo sokwenza isivumelwano nalabo abakweletayo; (e) umqondo awuthathi kahle lokho kunquywe inkantolo eyenza umsebenzi ; 60
- (d) uyilungu noma uba yilungu eligcwele lomkhandlu kamasipala;
- (e) uqokwe njengelungu lesishayamthetho sesifundazwe;

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- (f) is or becomes a full-time member of a municipal council;
- (g) is elected as a member of a provincial legislature;
- (h) is elected as a member of the National Assembly;
- (i) is appointed as a permanent delegate in the National Council of Provinces; or
- (j) is elected to, or appointed in, a full-time position in any house of traditional leaders."

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Insertion of sections 4A and 4B in Act 41 of 2003

7. The following sections are hereby inserted in the principal Act after section 4:

"Functions of kingship or queenship councils

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4A. (1) A kingship or queenship council has the following functions:

- (a) Administering the affairs of the kingship or queenship in accordance with customs and tradition;
- (b) assisting, supporting and guiding senior traditional leaders and traditional councils falling within the jurisdiction of the kingship or queenship concerned in the performance of their functions;
- (c) assisting the king or queen in performing customary functions in relation to the recognition of senior traditional leaders, where applicable;
- (d) mediating in disputes between senior traditional leaderships falling within the jurisdiction of the kingship or queenship;
- (e) promoting unity between traditional communities falling under the jurisdiction of the kingship or queenship; and
- (f) assisting the king or queen in performing his or her roles and functions conferred upon him or her by the President in terms of the regulations issued under section 9(5).

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(2) A kingship or queenship council is required to—

- (a) keep proper records;
- (b) have its financial statements audited;
- (c) disclose the receipt of gifts;
- (d) adhere to the code of conduct contained in the applicable provincial legislation for all traditional leaders and traditional councils: Provided that where a member of a kingship or queenship council has to be disciplined for the breach of the code of conduct, the king or queen must inform the Premier of such fact and also of the outcome of the inquiry; and
- (e) advise and support all traditional councils falling under the authority of the king or queen.

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(3) A kingship or queenship council and its resources may not be used to promote or prejudice the interest of any political party.

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(4) Provincial legislation may provide for a relationship between kings or queens and provincial houses as contemplated in section 14 of the National House of Traditional Leaders Act, 2009."

Establishment and functions of traditional sub-councils**4B.** (1) (a) Despite the provisions of section 3, the Premier may, in cases where a traditional community occupies two or more geographical areas within a province, establish a traditional sub-council for that section of the community which is resident outside the area in which the great place is located.

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(b) The traditional sub-council must consist of the number of members as determined by the Premier, after consultation with the main traditional council concerned, by formula published by notice in the *Provincial Gazette*.

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- (f) uqokwe njengelungu lesiShayamthetho Sikazwelonke;
 (g) uqokwe njengesithunywa esisebenza ngokugcwele kuMkhandlu kaZwelonke wezifundazwe; noma
 (h) uqokwe noma uqashwe esikhundleni sokusebenza ngokugcwele kunoma iyiphi indlu yabaholi bendabuko.

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Ukufakwa kwezigaba 4A no-4B ngokoMthetho wama-41 ka-2003

7. Lezi zigaba ezilandelayo zifakwe kulowo Mthetho oyinhloko emva kwesigaba sesi-4:

“Imisebenzi yemikhandlu yobukhosi noma yobundlunkulu

4A. (1) Umkhandlu wobukhosi noma wobundlunkulu unale misebenzi elandelayo:

- (a) Ukuphathwa kwezindaba zobukhosi noma ubundlunkulu ngokulandela amasiko endabuko;
 (b) Ukusiza, ukwesekela nokweluleka abaholi bendabuko abadala nemikhandlu yomdabu engaphakathi kwamandla okuphatha esikhundla sobukhosi noma sobundlovukazi athintekayo ekwenzeni imisebenzi yabo;
 (c) ukusiza isilo noma indlovukazi ekwenzeni imisebenzi ephathelene namasiko ukuze kuhlonishwe abaholi bendabuko abadala lapho kudingeka khona;
 (d) ukulamula lapho kunezingxabano phakathi kwabaholi bendabuko abadala abangena ngaphakathi kwamandla okuphatha esikhundla
 (e) ukweseka ubumbano phakathi kwemiphakathi yendabuko engaphakathi kwamandla okuphatha esikhundla sobukhosi noma sobundlovukazi; futhi
 (f) ukusiza isilo noma indlovukazi ekwenzeni imisebenzi yabo ekhethelwe bona 5 nguMongameli ngokwemithetho ekhishwe kuzigaba 9(5).

- (2) Umkhandlu wobukhosi kufanele—
 (a) ugcine wonke amarekhodi afanele omsebenzi;
 (b) kucwaningwe izitatimende zezimali;
 (c) kudalulwe indlela othola ngayo iziphos;
 (d) kulandelwe indlela yokuziphatha etholakala kumthetho wesifundazwe wabo bonke abaholi bendabuko nemikhandlu yendabuko: Ngaphandle uma ilungu lomkhandlu wobukhosi kufanele lijeziswe ngokuphikisana nendlela yokuziphatha, uNdunankulu wesifundazwe kufanele;
 (e) cebisa uphinde weseke yonke imikhandlu yendabuko engaphansi kobukhosi besilo noma bendlovukazi.

(3) Umkhandlu wobukhosi nezinsiza zawo zingasetshenziswa ukweseka noma amandla esikhundla okuthandwa inoma iliphi ilungu lezopolitiki.

(4) Umthetho wesifundazwe ungahlinzeka ubudlelwano phakathi kwamakhosi noma kwezindlovukazi kanye nezindlu zesifundazwe njengoba kucatshangwa esigabeni 14 soMthetho weNdlu Kazwelonke Yabaholi Bendabuko.”

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Ukusungulwa kanye nemisebenzi yemikhandlu emincane yendabuko

4B. (1) (a) Ngaphandle kokubhekela kwesigaba 3, uNdunankulu wesifundazwe lapho umphakathi wendabuko usebenzisa izindawo ezimbili, angasungula umkhandlu wendabuko wesifunda(zwe) waleyo ngxenye yomphakathi ehlala ngaphandle kwalapho kukhona indawo esezingeni eliphezulu.

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(b) Umkhandlu omncane wendabuko kufanele ube nenamba yamalungu njengoba eshiwo uNdunankulu, emva kokubonisana nomkhandlu wendabuko omkhulu oqondene, ngefomula eshicilelwe ngesaziso kuGazethi Yesifundazwe.

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(2) The Premier must, in the *Provincial Gazette*, recognise the traditional sub-council as part of the main traditional council, and define the area of its jurisdiction.

(3) The provisions of section 3(2) apply to the constitution and composition of the traditional sub-council.

(4) The chairperson of the traditional sub-council must be appointed by a senior traditional leader, in consultation with the royal family.

(5) A chairperson appointed in terms of subsection (4) must be a member of the main traditional council selected by the senior traditional leader in terms of section 3(2)(c)(i).

(6) A traditional sub-council performs such functions listed in section 4 as may be delegated to it by the main traditional council.

Functions of principal traditional councils

4C. The provisions of section 4A apply, with the necessary changes, to principal traditional councils.

Substitution of section 5 of Act 41 of 2003

8. The following section is hereby substituted for section 5 of the principal Act:

“Partnerships between district and local municipalities and kingship and queenship councils, principal traditional councils and traditional councils

5. (1) The national government and all provincial governments must promote partnerships between district municipalities and kingship or queenship councils and principal traditional councils through legislative or other measures.

(2) The national government and all provincial governments must promote partnerships between local municipalities and traditional councils through legislative or other measures.

(3) Any partnership contemplated in subsections (1) and (2) must—
(a) be based on the principles of mutual respect and recognition of the status and roles of the respective parties; and

(b) be guided by and based on the principles of co-operative governance.

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

Substitution of section 6 of Act 41 of 2003

9. The following section is hereby substituted for section 6 of the principal Act:

“Support to traditional councils principal traditional councils and kingship or queenship councils

6. The national government and a provincial government may adopt such legislative or other measures as may be necessary to support and strengthen the capacity of traditional councils principal traditional councils and kingship or queenship councils within the province to fulfill their functions.”.

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(2) UNdunankulu wesifundazwe kufanele, kuGazethi yesifundazwe 35 ahloniphe umkhandlu womdabu njengengxenywe yomkhandlu wendabuko omkhulu, futhi achaze indawo njengonamandla esikhundla.

(3) Ukuhlinzekela kwesigaba 3(2) kusebenza kumthethosisekelo nokwakhiwa komkhandlu omncane wendabuko. 5

(4) Umphathisihlalo womkhandlu wendabuko wesifunda kufanele 40 aqokwe ngumholi womdabu omdala ngokuxoxisana nendlunkulu.

(5) Umphathisihlalo oqokwe ngokomthetho oyisigatshana (4) kufanele abe ilungu lomkhandlu wendabuko omkhulu aqokwe ngumholi wendabuko omdala ngokwesigaba 3(2)(c)(i). 10

(6) Umkhandlu omncane wendabuko wenza imisebenzi ebalwe kusigaba 4 njengoba 45 uthunye yona ngumkhandlu wendabuko omkhulu.

Imisebenzi yemikhandlu yendabuko eyinhloko

4C. Ukuhlinzeka kwesigaba 4A kusebenza, ngezinguquko ezidingekayo, emikhandlwini yendabuko eyinhloko.” 15

Ukufaka esikhundleni sesigaba 5 soMthetho 41 ka-2003

8. Isigaba eesilandelayo sifakwe esikhundleni sesigaba 5 soMthetho oyinhloko:

“Ukubambisana phakathi kwesigodi nomasipala bendawo kanye nemikhandlu yobukhosi kanye nobundlunkulu, imikhandlu yendabuko eyinhloko kanye nemikhandlu yendabuko 20

5. (1) Uhulumeni kazwelonke kanye nabo bonke ohulumeni bezifunda kufanele bakhuthaze ukubambisana phakathi komasipala bezigodi kanye nemikhandlu yobukhosi noma yobundlunkulu kanye nemikhandlu yendabuko eyinhloko ngokusebenzisa umthetho noma ezinye izindlela. 25

(2) Uhulumeni kazwelonke kanye nabo bonke ohulumeni bakazwelonke kufanele bakhuthaze ukubambisana phakathi komasipala basekhaya kanye nemikhandlu yendabuko ngokusebenzisa umthetho noma ezinye izindlela.

(3) Nanoma yikuphi ukubambisana okucatshangiwe ezigatshaneni (1) kanye (2) kufanele—

(a) kufanele kuncike emigomeni yokuhloniphana bubilini kanye nokuhlonishwa kwesimo kanye nezindima zezingxenywe okufanele; futhi 30

(b) kuqondiswe futhi kuncike emigomeni yokuphatha ngokuhlanganyela.

(4) Umkhandlu wendabuko ungangena esivumelwaneni sokwenziwa komsebenzi nomasipala ngokubambisana noHulumeni Wasekhaya: Umthetho Wezinhlalo Zikamasipala, 2000 (Umthetho 32 ka-2000), kanye nomunye umthetho osebenzayo.” 35

Ukufaka esikhundleni sesigaba 6 soMthetho wama-41 ka-2003

9. Isigaba esilandelayo sifakwe esikhundleni sesigaba 6 soMthetho oyinhloko:

“Ukwesekwa kwemikhandlu yendabuko kanye nemikhandlu yendabuko eyinhloko kanye nemikhandlu yobukhosi noma yobundlunkulu 40

6. Uhulumeni kazwelonke nohulumeni wesifundazwe bangathatha lowo mthetho noma ezinye izindlela njengoba kungadingeka ukweseka nokuqinisa amandla emikhandlu yendabuko imikhandlu yendabuko eyinhloko kanye nemikhandlu yobukhosi noma yobundlunkulu esifundazweni ukufeza imisebenzi yayo.” 45

Amendment of section 8 of Act 41 of 2003

10. The following section is hereby substituted for section 8 of the principal Act:

“Recognition of traditional leadership positions

8. The following leadership positions within the institution of traditional leadership are recognised: 5
 (a) Kingship or queenship;
 (aA) principal traditional leadership;
 (b) senior traditional leadership; and
 (c) headmanship.

Amendment of section 9 of Act 41 of 2003

11. Section 9 of the principal Act is hereby amended by—

- (a) the substitution in subsection (1)(a)(ii) for subparagraph (bb) of the following subparagraph: 15
 “(bb) provide the President and the Minister with reasons for the identification of that person as king or queen;”
- (b) the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words: 20
 “The President must, on the recommendation of the Minister and subject to subsection (3), recognise a person so identified in terms of paragraph (a)(i) as king or queen, taking into account”;
- (c) the substitution in subsection (1)(b) of subparagraph (ii) of the following subparagraph: 25
 “(ii) whether a kingship or queenship has been recognised in terms of section 2A.”
- (d) the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 30
 “Where there is evidence or an allegation that the identification of a person referred to in subsection (1) was not done in terms of customary law, customs or processes, the President on the recommendation of the Minister—”; and
- (e) the substitution for subsection (4) of the following subsection: 35
 “(4) Where the matter that has been referred back to the royal family for recognition and resolution in terms of subsection (3) has been reconsidered and resolved, the President on the recommendation of the Minister must recognise the person identified by the royal family if the President is satisfied that the reconsideration and resolution by the royal family has been done in accordance with customary law.”

Amendment of section 10 of Act 41 of 2003

12. Section 10 of the principal Act is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 40
 “Where it has been decided to remove a king or queen in terms of subsection (2), the President on the recommendation of the Minister must—”.

Insertion of Part 2A in Act 41 of 2003

13. The following Part is hereby inserted in the principal Act after Part 2:

Part 2A: 45
Principal traditional leaders

“Recognition of principal traditional leaders

10A (1) Whenever the position of a principal traditional leader is to be filled, the following process must be followed: 45

Ukuchitshiyelwa kwesigaba 8 soMthetho wama-41 ka-2003

10. Isigaaba esilandelayo sifakwe endaweni yesigaba 8 soMthetho oyinhloko:

“Ukuhlonishwa kwezikhundla zobuholi bendabuko

8. Izikhundla zobuholi obulandelayo ngaphakathi esikhungweni sobuholi bendabuko yilezi: 5

- (a) Ubukhosi noma ubundlunkulu;
(aA) ubuholi bendabuko obuyinhloko;
(b) ubuholi bendabuko obudala; kanye
(c) nobunduna.

Ukuchitshiyelwa kwesigaba 9 soMthetho wama-41 ka-2003

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11. Isigaba 9 soMthetho oyinhloko uyachitshiyelwa lapha—

- (a) ukufaka esikhundleni esigatshaneni (1)(a)(ii) sendinyana (bb) sendinyana elandelayo 35:

“(bb) uhlinzeka uMongameli kanye noNgqongqoshe ngezizathu zokukhomba lowo muntu njengenkosi noma undlunkulu;” 15

- (b) ukufaka esikhundleni sesigatshana (1)(b) amagama andulela indinyana (i) yamazwi alandelayo:

“UMongameli kufanele, ngokuncoma kukaNgqongqoshe kanye nokuncika kusigatshana (3), ahloniphe umuntu okhonjwa ngokwendima (a)(i) njengenkosi noma indlunkulu, kucatshangwa”; 20

- (c) ukufaka esikhundleni sesigatshana (1)(b) sendinyana (ii) yendinyana elandelayo:

“(ii) ukuthi ubukhosi noma ubundlunkulu buhlonishiwe yini ngokwesigaba 2A.”

- (d) ukufaka esikhundleni sesigatshana (3) samazwi andulela indima (a) yamazwi alandelayo: 25

“Lapho kunobufakazi khona noma izinsolo zokuthi ukukhonjwa komuntu oshiwo 50 kusigatshana (1) akwenziwanga ngokomthetho wabantu bonke, amasiko noma izinhlelo, uMongameli ngokuncoma kukaNgqongqoshe—”; kanye 30

- (e) nokufaka esikhundleni sesigatshana (4) sesigatshana esilandelayo:

“(4) Lapho udaba obeluphindiselwe emuva emzini wenkosi ukuyohlonishwa kanye nezixazululo ngokwesigatshana (3) kuye kwabuye kwacatshangwa kwaxazululwa, uMongameli ngokuncoma kukaNgqongqoshe kufanele ahloniphe umuntu okhonjwe umndeni wasebukhosini uma uMongameli enlisekile ukuthi ukubuye kucatshangwe nokuxazulula komndeni wasebukhosini kwenziwe ngokuhambisana nomthetho wabantu bonke. 35

Ukuchitshiyelwa kwesigaba 10 soMthetho wama-41 ka-2003

12. Isigaba 10 soMthetho oyinhloko kuchitshiyelwe ngokufaka esikhundleni kusigatshana (3) ngamagama andulela indima (a) samazwi alandelayo: 40

“Lapho okunqunywe khona ukususa inkosi noma undlunkulu ngokwesigatshana (2), Umongameli ngokuncoma kukaNgqongqoshe kufanele—”.

Ukufaka Ingxenye 2A kuMthetho wama-41 ka-2003

13. Le Ngxenye elandelayo ifakwe kuMthetho oyinhloko emva kweNgxenye yesi-2: 45

Ingxenye2A:**Abaholi bendabuko abayinhloko****“Ukuhlonishwa kwabaholi bendabuko abayinhloko**

10A (1) Noma nini uma isikhundla somholi wendabuko oyinhloko kufanele sigcwaliswe, uhlelo olulandelayo kufanele lulandelwe: 50

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- (a) The royal family must, within a reasonable time after the need arises for the position of a principal traditional leader to be filled, and with due regard to applicable customary law—
- (i) identify a person who qualifies in terms of custom and customary law to assume the position of principal traditional leader, after taking into account whether any of the grounds referred to in section 10B (1) (a), (b) and (d) apply to that person; and 5
 - (ii) through the relevant customary structure—
 - (aa) inform the Premier of the province, of the particulars of the person so identified to fill the position of a principal traditional leader; and 10
 - (bb) provide the Premier with the reasons for the identification of that person as a principal traditional leader. 15
- (b) The Premier must, in accordance with provincial legislation and subject to subsections (2) and (3), recognise a person so identified in terms of paragraph (a)(i) as a principal traditional leader, taking into account—
- (i) the need to establish uniformity in the Republic in respect of the status afforded to a principal traditional leader; 20
 - (ii) whether a recognised principal traditional community exists—
 - (aa) that comprises the areas of jurisdiction of a substantial number of senior traditional leaders that fall under the authority of principal traditional leader; 25
 - (bb) in terms of which the principal traditional leader is regarded and recognised in terms of customary law and customs as a traditional leader of higher status than the senior traditional leaders referred to in subparagraph (aa); and 30
 - (cc) where the principal traditional leader has a customary structure to represent the traditional councils and senior traditional leaders that fall under the authority of the principal traditional leader; and 35
 - (iii) the functions that will be performed by the principal traditional leader. 35
- (2) A principal traditional leader to be recognised in terms of subsection (1) must be senior traditional leader of a specific traditional community who exercises authority over a number of senior traditional leaders in accordance with custom and customary law.
- (3) The provincial legislation referred to in subsection (1)(b) must at least provide for— 40
- (a) notice in the *Provincial Gazette* recognising the person identified as a principal traditional leader in terms of subsection (1);
 - (b) a certificate of recognition to be issued to the identified person; and
 - (c) the relevant provincial house of traditional leaders to be informed of the recognition of a principal traditional leader 45
- (4) (a) The Premier may, by notice in the *Provincial Gazette*, make regulations concerning—
- (i) the traditional or ceremonial role of a principal traditional leader; 50
 - (ii) the responsibilities of a principal traditional leader in respect of nation building; and
 - (iii) other functions or roles of a principal traditional leader.
- (b) Regulations made in terms of paragraph (a) must be tabled in provincial legislature after their publication in the *Provincial Gazette*. 55
- Removal of principal traditional leaders**
- 10B (1)** A principal traditional leader may be removed from office on the grounds of—
- (a) conviction of an offence with a sentence of imprisonment for more than 12 months without an option of a fine; 60

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- (a) Umndeni wasebukhosini kufanele, ngesikhathi esikahle emva kokuba kuvela isidingo sesikhundla somholi wendabuko oyinhloko kufanele sigcwaliswe, maqondana nomthetho wabantu bonke osebenzayo—
- (i) ukhombwe umuntu olungele ngokwesimo nomthetho wabantu bonke ukuthatha isikhundla somholi wendabuko oyinhloko, emva kokucabanga ukuthi nanoma yiziphi izizathu ezishiwo esigabeni 10B (1) (a), (b) kanye no- (d) usebenza kulowo muntu; kanye 5
- (ii) ngokusebenzisa isakhiwo sesiko labantu bonke elifanele—
- (aa) kufanele Undunankulu wesifundazwe, ngemininingwane yomuntu okhonjiwe ukugcwalisa isikhundla somholi wendabuko oyinhloko; kanye 10
- (bb) nokuhlinzeka uNdunankulu ngezizathu zokukhomba lowo muntu njengomholi wendabuko oyinhloko.
- (b) Undunankulu kufanele, ngokuhambisana nomthetho wesifundazwe futhi kuncike kuzigatshana (2) no-(3), uhloniphe umuntu okhonjiwe ngokwendima (a)(i) njengomholi wendabuko oyinhloko, ucabange—
- (i) isidingo sokwenza umfaniswano kuRiphabhliki maqondana nesimo esinikezwe kumholi wendabuko oyinhloko; 20
- (ii) ukuthi ingabe umphakathi wendabuko oyinhloko ohlonishwayo ukhona yini—
- (aa) onezindawo zomthetho wenamba ebonakalayo yabaholi bendabuko engena ngaphansi komthetho womholi wendabuko oyinhloko; 25
- (bb) ngokwemithetho umholi wendabuko akathathwa ngayo nahlonishwa ngayo ngokomthetho wabantu bonke kanye namasiko njengomholi wendabuko wesikhundla esiphezulu kunabaholi bendabuko abadala abashiwo kundinyana (aa); kanye
- (cc) nalapho umholi wendabuko oyinhloko enesakhiwo sabantu bonke ukumelela imikhandlu yendabuko kanye nabaholi bendabuko abadala abangena ngaphansi komthetho womholi wendabuko oyinhloko; kanye 30
- (iii) nemisebenzi ezokwenziwa ngumholi wendabuko oyinhloko.
- (2) Umholi wendabuko oyinhloko ozohlonishwa ngokwesigatshana (1) kufanele kube umholi wendabuko omdala womphakathi wendabuko othize onamandla phezu kwabaholi bendabuko abadala ngokuhambisana nesiko kanye nomthetho wabantu bonke. 35
- (3) Umthetho wesifundazwe oshiwo esigatshaneni (1)(b) kufanele okungenani uhlinzekele—
- (a) isaziso kuGazethi Yesifundazwe sokuhlonipha umuntu okhonjwe njengomholi wendabuko oyinhloko ngokwesigatshana (1); 40
- (b) isitifiketi sokuhlonipha okufanele sikhishelwe umuntu okhonjiwe; kanye
- (c) nendlu yesifundazwe efanele yabaholi bendabuko okufanele baziswe ngokuhlonishwa komholi wendabuko oyinhloko 45
- (4)(a) Undunankulu angenza izimiso zomthetho, ngesaziso kuGazethi Yesifundazwe—
- (i) iqhaza lendabuko noma lokuhlonishwa lomholi wendabuko; 50
- (ii) imisebenzi ebhekene nomholi wendabuko oyinhloko maqondana nokwakhiwa kwesizwe; kanye
- (iii) neminye imisebenzi noma amaqhaza omholi wendabuko oyinhloko.
- (b) Izimiso zomthetho ezenziwe ngokwendima (a) kufanele zethulwe kusishayamthetho sesifundazwe emva kokushicilelwa kuGazethi Yesifundazwe. 55

Ukususwa kwabaholi bendabuko abayinhloko

- 10B (1)** Umholi wendabuko oyinhloko angasuswa ehhovisi ngenxa yalezi zizathu—
- (a) ulahlwe icala noma waboshwa isikhathi esingaphezulu kwezinyanga ezingama 12 ngaphandle kokukhetha ukukhokha inhlawulo; 60

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- (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for the principal traditional leader to function as such;
- (c) wrongful appointment or recognition; or
- (d) a transgression of a customary rule or principle that warrants removal. 5
- (2) Whenever any of the grounds referred to in subsection (1)(a), (b) and (d) come to the attention of the royal family and the royal family decides to remove a principal traditional leader, the royal family must, within a reasonable time and through the relevant customary structure—
- (a) inform the Premier of the province concerned, of the particulars of the principal traditional leader to be removed from office; and 10
- (b) furnish reasons for such removal.
- (3) Where it has been decided to remove a principal traditional leader in terms of subsection (2), the Premier must—
- (a) withdraw the certificate of recognition with effect from the date of removal; 15
- (b) publish a notice with particulars of the removed principal traditional leader in the *Provincial Gazette*; and
- (c) inform the royal family concerned, and the provincial traditional leader of such removal. 20
- (4) Where a principal traditional leader is removed from office, a successor may be recognized subject to section 10A.
- (5) Where there is evidence or an allegation that the identification of a person referred to in subsection (1) was not done in accordance with customary law, customs or processes, the Premier— 25
- (a) may refer the matter to the relevant royal family for its recommendation; or
- (b) may refuse to issue a certificate of recognition; and
- (c) must refer the matter back to the royal family for reconsideration and resolution where the certificate of recognition has been refused. 30
- (6) Where the matter which has been referred back to the royal family for reconsideration and resolution in terms of subsection (3) has been reconsidered and resolved, the Premier must recognise the person identified by the royal family if the Premier is satisfied that the reconsideration and resolution by the royal family has been done in accordance with customary law. 35

Amendment of section 13 of Act 41 of 2003

14. Section 13 of the principal Act is hereby amended by—
- (a) the substitution of the words preceding paragraph (a) of subsection (1) for the following words: 40
- “Where the successor to the position of king, queen, principal traditional leader, senior traditional leader, headman or headwoman identified in terms of section 9, 9A or 11 is still regarded as a minor in terms of applicable customary law or customs—”;
- (b) by the substitution of the words preceding paragraph (a) of subsection (5) for the following words: 45
- “As soon as the successor to the position of king, queen, principal traditional leader, senior traditional leader, headman or headwoman ceases to be a minor in terms of customary law, the regent recognised in terms of subsection (1) must relinquish his or her position as regent, and the rightful successor must—”. 50
- (c) the substitution of paragraphs (a) and (b) of subsection (5) for the following paragraphs: 55
- “(a) in the case of a king or queen, be **[installed]** recognised by the President on the recommendation of the Minister in terms of section 9(1) (b), and a certificate of recognition contemplated in section 9

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- (b) ukungabi namandla okwenza umsebenzi ngokomzimba noma ukugula ngengqondo, okuncike ebufakazini bezokwelashwa obamukelekayo, obenza ukuthi kungakwazeki ukuthi umholi wendabuko oyinhloko asebenze kanjalo;
- (c) ukuqokwa ngokuyiphutha noma ukuhlonishwa ngokuyiphutha; noma
- (d) ukwephula umthetho wabantu bonke noma umgomo ovumela ukususwa. 5
- (2) Noma nini uma izizathu ezishiwo kusigatshana (1)(a), (b) kanye (d) nokuthi kufike emndenini wasebukhosini futhi umndeni wasebukhosini unqume ukumsusa umholi wendabuko oyinhloko, kufanele umndeni wasebukhosini, ngesikhathi esikahle nangokusebenzisa isakhiwo somthetho wabantu bonke esifanele— 10
- (a) wazise uNdunankulu wesifundazwe oqondene, ngemininingwane yomholi wendabuko oyinhloko okufanele asuswe ehhovisi; futhi
- (b) bamnike izizathu zalokho kususwa. 15
- (3) Lapho okunqunywe khona ukususa umholi wendabuko oyinhloko ngokwesigatshana (2), uNdunankulu kufanele—
- (a) ahoxise isitifiketi sokuhlonishwa kusukela ngosuku lokususwa;
- (b) ashicilele isaziso esineiningwane yomholi wendabuko oyinhloko osusiwe ku*Gazethi Yesifundazwe*; futhi 20
- (c) azise umndeni wasebukhosini oqondene, kanye nomholi wendabuko wesifundazwe ngalokho kususwa.
- (4) Lapho umholi wendabuko oyinhloko esusiwe ehhovisi, omlandelayo kufanele ahlonishwe ngokwesigaba 10A.
- (5) Lapho kunobufakazi noma ukusola ukuthi ukukhonjwa komuntu oshiwo kusigatshana (1) kwakungenziwanga ngokuhambisana nomthetho wabantu bonke, amasiko kanye nezinhlelo, Undunankulu— 25
- (a) angadlulisela udaba emndenini wasebukhosini ofanele ukuze wenze izincomo; noma
- (b) angala ukukhipha isitifiketi sokuhlonipha; futhi 30
- (c) kufanele adlulisele udaba emuva emndenini wasebukhosini ukuze lubhekwe futhi nesixazululo lapho okwaliwe khona nesitifiketi sokuhlonipha.
- (6) Lapho udaba olubuyiselwe khona emuva emndenini wasebukhosini ukuthi luyobhekwa futhi luxazululwe ngokwesigatshana (3) selubhekiwe futhi lwaxazululwa, Undunankulu kufanele ahloniphe umuntu okhonjwe umndeni wasebukhosini uma Undunankulu enelisekile ukuthi ukubheka futhi nokuxazulula komndeni wasebukhosini kwenziwe ngokuhambisana nomthetho wabantu bonke. 35

Isichibiyelo sesigaba 13 soMthetho wama-41 ka-2003

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14. Isigaba 13 soMthetho oyinhloko sichitshiyelwe—

- (a) ngokufaka esikhundleni samagama andulela indima (a) yesigatshana (1) ngala mazwi alandelayo: 45
- “Lapho umlandeli esikhundleni senkosi, sendlovukzi, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma owesifazane oyinduna ekhonjwe ngokwesigaba 9, 9A noma 11 usathathwa njengomncane ngokomthetho wabantu bonke osebenzayo noma ngokwamasiko—”;
- (b) ngokufaka amazwi andulela indima (a) yesigatshana (5) ngala mazwi alandelayo: 50
- “Ngokushesha lapho umlandeli esikhundleni senkosi, sendlovukazi, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma owesifazane oyinduna eyeka ukuba ngomncane ngokomthetho wabantu bonke, umbambeli ohlonishwe ngokwesigatshana (1) kufanele asuke esikhundleni sakhe njengombambeli bese umlandeli ofanele kufanele— 55
- (c) kufakwe esikhundleni sendima (a) no-(b) yesigatshana (5) salezi zindima ezilandelayo: 55
- “(a) esimeni senkosi noma nendlovukazi, **[abekiwe]** abahlonishwe nguMongameli ngokuncoma kukaNgqongqoshe ngokwesigaba 9(1)(b), kanye nesitifiketi sokuhlonipha esicatshangwe esigabeni 9 60

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- (2)(b) must be issued after his or her name has been published in the *Gazette*; or;
- (b) in the case of a principal traditional leader or senior traditional leaders, headman or headwoman, be **[installed]** recognised by the Premier in terms of section 9A or 11(1)(b), and a certificate of recognition contemplated in section 9A(6) or 11(2)(a)(ii) must be issued after his or her name has been published in the *Provincial Gazette*; or”.
- (d) the substitution in subsection (6) for the words preceding paragraph (a) of the following words:
- “Where a regent has been recognised in respect of the position of a king or queen, the Premier concerned must inform the President and Minister—”.

Amendment of section 14 of Act 41 of 2003

15. Section 14 of the principal Act is hereby amended by— 15

- (a) the substitution of subsection (1) for the following subsection:
- “(1) A royal family **[may]** must, in accordance with provincial legislation, identify a suitable person to act as a king, queen, principal traditional leader, senior traditional leader, headman or headwoman, as the case may be, where—
- (a) a successor to the position of a king, queen, principal traditional leader, senior traditional leader, headman or headwoman has not been identified by the royal family concerned in terms of section 9 (1), 9A(1) or 11 (1);
- (b) the identification of a successor to the position of a king, queen, principal traditional leader, senior traditional leader, headman or headwoman is being reconsidered and resolved in terms of section 9 (3), 9A(3) or 11 (3); or
- (c) a king, queen, principal traditional leader, senior traditional leader, headman or headwoman, as the case may be, would be absent from his or her area of jurisdiction under circumstances other than those provided for in section 15 and for a period of more than six months for—
- (i) the treatment of illness;
- (ii) study purposes; or
- (iii) any other lawful purpose.”.
- (b) by the substitution of subsections (3) and (4) for the following subsections:
- “(3) A person who has been **[appointed]** identified as an acting king, queen, principal traditional leader, senior traditional leader, headman or headwoman in terms of subsection (1) may perform the functions that are attached to the kingship, queenship, principal traditional leadership, senior traditional leadership or headmanship in question.
- (4) Where a person has been **[appointed]** identified as an acting king or queen, principal traditional leader, the authority referred to in subsection (2) (a) must inform the President, Minister and Premier of—
- (a) the acting appointment; and
- (b) the removal of the person who has been **[appointed]** identified as an acting king or queen or principal traditional leader.”.

Amendment of section 15 of Act 41 of 2003

16. Section 15 of the principal Act is hereby amended by—

- (a) the substitution of the words preceding paragraph (a) of the following words:
- “(1) A king, queen, principal traditional leader, senior traditional leader, headman or headwoman, as the case may be, may, after consultation with the royal family, appoint a deputy to act in his or her

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- (2)(b) 20 kufanele sikhishwe emva kokuba igama lakhe selishicilelwe *kuGazethi*; noma;
- (b) esimeni somholi wendabuko oyinhloko noma abaholi bendabuko abadala, induna noma owesifazane oyinduna, **[abekiwe]** ahlonishwe nguNdunankulu ngokwesigaba 9_A noma 11(1)(b), kanti isitifketi sokuhlonipha esicatshangiwe esigabeni 9A(6) noma 11(2)(a)(ii) kufanele sikhishwe emva kokuba igama lakhe selishicilelwe *ku-Gazethi Yesifundazwe*; noma.
- (d) ukufakwa esikhundleni okusesigatshaneni (6) kwamazwi andulela indima (a) yamazwi alandelayo: 10
 “Lapho umbambeli akahlonishwe khona wesikhundla senkosi noma sendlovukazi, Undunankulu oqondene kufanele azise Umongameli kanye noNgqongqoshe—”.

Ukuchibiyela isigaba 14 soMthetho 41 ka-2003

15. Isigaba 14 soMthetho oyinhloko uyachitshiyelwa— 15
- (a) ngokufaka esikhundleni sesigaba (1) isigatshana esilandelayo:
 “(1) Umndeni wasebukhosini **[anga]** kufanele, ngokuhambisana nomthetho wesifundazwe, ukhomba umuntu ofanele ukumela inkosi, undlunkulu, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma induna yesifazane njengoba kufanele, lapho— 20
- (a) umlandeli wesikhundla senkosi, indlunkulu, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma induna yowesifazane azange bakhonjwe ngumndeni wasebukhosini ofanele ngokwesigaba 9 (1), 9A(1) noma 11 (1);
- (b) ukukhonjwa komlandeli esikhundleni senkosi, sendlovukazi, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma induna yowesifazane becatshangwa kabusha futhi kuzazululwa ngokwesigaba 9(3), 9A(3) noma 11 (3); noma 25
- (c) inkosi, indlovukazi, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma induna yowesifazane, njengoba kungenzeka, bazobe bengekho endaweni yabo yomthetho ngaphansi kwezimo ngaphansi kwezimo ngaphandle kwalezo ezihlinzekwe kusigaba 15 kanye nesikhathi esingaphezu kwezinyanga eziyisithupha— 30
- (i) ukwelashwa ukugula; 35
 (ii) izinhloso zokufunda; noma
 (iii) nanoma iyiphi enye inhloso esemthethweni.”
- (b) ngokufaka esikhundleni sezigatshana (3) no (4) kwezigatshana ezilandelayo:
 “(3) Umuntu **[abekiwe]** okhonjwe njengobambele inkosi, indlovukazi, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma 60 owesifazane oyinduna ngokwesigatshana (1) angenza imisebenzi ehambisana nobukhosi, ubundlovukazi, ubuholi bendabuko obuyinhloko, ubuholi bendabuko obudala noma ubunduna okukhulunywa ngabo. 40
- (4) Lapho umuntu **[abekiwe]** ekhonjwe khona njengobambele inkosi noma indlovukazi, umholi wendabuko oyinhloko, umthetho oshiwo kusigatshana (2) (a) kufanele azise uMongameli, uNgqongqoshe kanye noNdunankulu— 45
- (a) ngokuqokelwa ukubamba; kanye
 (b) nokususwa komuntu okhonjiwe **[abekiwe]** njengenkosi noma ngendlovukazi noma ngomholi wendabuko oyinhloko.” 50

Ukuchitshiyelwa kwesigaba 15 soMthetho wama-41 ka-2003

16. Isigaba 15 soMthetho oyinhloko sichitshiyelwa—
- (a) ngokufaka esikhundleni samazwi andulela indima (a) yamazwi alandelayo: 55
 “(1) Inkosi, indlovukazi, umholi wendabuko oyinhloko, umholi wendabuko omdala, induna noma induna yowesifazane, njengoba kungenzeka, emva kokubonisana nomndeni wasebukhosini, angakhethe isekela ukuthi libambe endaweni yakhe 15 noma nini leyo nkosi,

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stead whenever that king, queen, principal traditional leader, senior traditional leader, headman or headwoman—”

(b) the substitution of subsections (3) and (4) for the following subsections:

“(3) A person who has been appointed as a deputy in terms of subsection (1) may perform the functions that are attached to the kingship or queenship or principal traditional leadership, senior traditional leadership or headmanship in question. 5

(4) Where a king or queen or a principal traditional leader, has appointed a deputy in terms of subsection (1), the king or queen or principal traditional leader must inform the President, Minister or Premier of such appointment.” 10

Amendment of section 16 of Act 41 of 2003

17. Section 16 of the Principal Act is hereby amended by the substitution of subsection (3) for the following subsection: 15

“(3) Provincial legislation must provide for—

(a) mechanisms or procedures that would allow a sufficient number of women—

[(a)] (i) to be represented in the provincial house of traditional leaders concerned; and 20

[(b)] (ii) to be elected as representatives of the provincial house of traditional leaders to the National House of Traditional leaders; and

(b) the alignment of the term of provincial houses of traditional leaders with the term of the National House of Traditional Leaders. 25

Amendment of section 17 of Act 41 of 2003

18. Section 17 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

“(1) (a) A local house of traditional leaders must be established for a term of office of five years aligned to the term of office of the National House of Traditional Leaders in accordance with provincial legislation for the area of jurisdiction of a district municipality or metropolitan municipality where more than one [**senior traditional leadership**] traditional council exists in that district municipality or metropolitan municipality. 30 35

(b) The electoral college mentioned in subsection (2)(b) must ensure that members of a local house of traditional leaders are broadly representative of the different traditional leadership positions and also of the areas falling within the district municipality or metropolitan municipality in question.;” 40

(b) the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) (i) Only persons recognised as traditional leaders excluding kings and queens and principal traditional leaders must be elected as members of a local house of traditional leaders.

(ii) Members of a local house are elected by an electoral college consisting of all kings or queens, principal traditional leader or their representatives, and senior traditional leaders residing within the district municipality or metropolitan municipality in question.”[;] and 45

(c) the insertion of a new subsection (5):

(5) Provincial legislation must provide for a relationship between a provincial house and local houses as contemplated in section 15 of the National House of Traditional Leaders Act, 2009.” 50

Amendment of section 20 of Act 41 of 2003

19. Section 20 of the principal Act is hereby amended by the addition in subsection (1) after paragraph (n) of the following paragraph: 55

(o) Education.

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indlovukazi, umholi wendabuko oyinhloko, induna noma induna yowesifazane—”

- (b) ukufaaka esikhundleni sezigaatshana (3) no (4) yezigaatshana ezilandelayo:
- “(3) Umuntu oqokiwe njengesekela ngokwesigaatsha (1) angenza imisebenzi ehambisna nobukhosi noma ubundlovukazi noma ubuholi bendabuko obuyinhloko, ubuholi bendabuko obuyinhloko noma ubunduna okukhulunywa ngabo 5
- (4) Lapho inkosi noma indlovukazi noma umholi wendabuko oyinhloko, eqoke khona isekela ngokwesigaatshana (1), inkosi noma indlovukazi noma umholi wendabuko 25 oyinhloko kufanele azise Umongameli, Ungqongqoshe noma Undunankulu ngalokho kuqoka.” 10

Ukuchitshiyelwa kwesigaba 16 soMthetho wama-41 ka-2003

17. Isigaba 16 soMthetho oyinhloko uyachitshiyelwa ngokufaka esikhundleni sesigaatshana (3) isigaatshana esilandelayo:

- “(3) Umthetho wesifundazwe kufanele uhlinzekele— 15
- (a) izindlela noma izinqubo ezizovumela inamba eyanele yabesifazane—
- [(a)] (i) ukuthi bamelelwe endlini yesifundazwe yabaholi bendabuko okuqondene nabo; kanye
- [(b)] (ii) nokukhethwa njengabameleli bendlu yesifundazwe yabaholi bendabuko eNdlini Kazwelonke yabaholi bendabuko; kanye 20
- (b) nokuqondisa kwesikhathi sezindlu zezifundazwe zabaholi bendabuko nesikhathi seNdlu kazwelonke yaBaholi Bakazwelonke.

Ukuchibiyela isigaba 17 soMthetho wama-41 ka-2003

18. Isigaba 17 soMthetho oyinhloko siyachitshiyelwa—

- (a) ngokufaka esikhundleni isigaatshana (1) sesigaatshana esilandelayo: 25
- “(1) (a) Indlu yasekhaya yendlu yabaholi bendabuko kufanele isungulwe esikhathini sehovisi leminyaka emihlanu iqondaniswa nomthetho wesifundazwe endaweni yomthetho ophethe kamasipala wesigodi noma umasipala wedolobha lapho kukhona khona umasipala ongaphezu koyedwa [ubuholi bendabuko obudala] umkhandlu wendabuko kulowo masipala wesigodi noma umasipala wedolobha. 30
- (b) Ikolishi lokhetho elishiwo kusigaatshana (2)(b) kufanele kuqinisekise ukuthi amalungu endlu yabaholi bendabuko yasekhaya amelele ngokubanzi izikhundla zobuholi bendabuko obuhlukene kanye futhi nobezindawo ezingena ngaphakathi kamasipala wesigodi noma umasipala wedolobha okukhulunywa ngaye.”; 35
- (b) ukufaka esikhundleni esigaatshani (2) sendima (b) yendima elandelayo:
- “(b) (i) Abantu kuphela abahlonishwe ngabaholi bendabuko kungafakwa amakhosi kanye nondlunkulu kanye nabaholi bendabuko oyinhloko kufanele bakhethe njengamalungu endlu yasekhaya yabaholi bendabuko. 40
- (ii) Amalungu yendlu yasekhaya akhethwa yikolishi lokhetho elinawo wonke amakhosi 5 noma izindlovukazi, umholi wendabuko oyinhloko noma abameleli babo kanye nabaholi bendabuko abadala abahlala ngaphakathi kumasipala wesigodi noma umasipala wedolobha okukhulunywa ngaye.” [;] kanye no— 45
- (c) ukufakwa kwesigaatshana esisha (5):
- (5) Umthetho wesifundazwe kufanele uhlinzekele ubudlelwano phakathi kwezindlu zesifundazwe nobasekhaya njengoba kushiwo kusigaba 15 soMthetho Wezindlu Kazwelonke Yabaholi Bendabuko, 2009.” 50

Ukuchitshiyelwa kwesigaba 20 soMthetho wama-41 ka-2003

19. Isigaba 20 soMthetho oyinhloko uyachitshiyelwa ngokwengeza kusigaatshana (1) emva kwendima (n) wendima elandelayo:

- (o) Ezemfundo. 55

Substitution of Chapter 6 of Act 41 of 2003

20. The following Chapter is hereby substituted for Chapter 6 of the principal Act:

“CHAPTER 6**DISPUTE AND CLAIM RESOLUTION AND COMMISSION ON
TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS**

5

Dispute and claim resolution

21. (1) (a) Whenever a dispute or claim concerning customary law or customs arises between or within traditional communities or other customary institutions on a matter arising from the implementation of this Act, members of such a community and traditional leaders within the traditional community or customary institution concerned must seek to resolve the dispute or claim internally and in accordance with customs before such dispute or claim may be referred to the Commission.

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(b) If a dispute or claim cannot be resolved in terms of paragraph (a), subsection (2) applies.

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(2) (a) A dispute or claim referred to in subsection (1) that cannot be resolved as provided for in that subsection must be referred to the relevant provincial house of traditional leaders, which house must seek to resolve the dispute or claim in accordance with its internal rules and procedures.

(b) If a provincial house of traditional leaders is unable to resolve a dispute or claim as provided for in paragraph (a), the dispute or claim must be referred to the Premier of the province concerned, who must resolve the dispute or claim after having consulted—

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- (i) the parties to the dispute or claim; and
- (ii) the provincial house of traditional leaders concerned.

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(c) A dispute or claim that cannot be resolved as provided for in paragraphs (a) and (b) must be referred to the Commission.

(3) Where a dispute or claim contemplated in subsection (1) has not been resolved as provided for in this section, the dispute or claim must be referred to the Commission.

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Establishment of Commission

22. (1) There is hereby established, with effect from the date of coming into operation of the Traditional Leadership and Governance Framework Amendment Act, 2009, a commission known as the Commission on Traditional Leadership Disputes and Claims.

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(2) The Commission must carry out its functions in a manner that is fair, objective and impartial.

Appointment of members of Commission

23. (1) (a) The Minister must, after consultation with the National House, appoint a chairperson and not more than four persons, for a period not exceeding five years, as members of the Commission who are knowledgeable regarding customary law, customs and the institution of traditional leadership.

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(b) The Minister must publish in the *Gazette* the name of the chairperson, the deputy chairperson and of every person appointed as a member of the Commission, together with the date from which the appointment takes effect.

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(2) A member of the Commission is either a full-time or part-time member, as may be determined by the Minister.

Ukufaka esikhundleni seSahluko 6 soMthetho wama-41 ka-2003

20. Isahluko esilandelayo kufakwa esikhundleni saso Isahluko 6 soMthetho oyinhloko:

“ISAHLUKO 6**IMPIKISWANO KANYE NESIXAZULULO SOKUFUNA KANYE 5
NEKHOMISHINI EZIMPIKISWANENI ZOBUHOLI KANYE
NEZICELO ZOKUFUNA****Isixazululo sezimpikiswano kanye nesicelo sokufuna**

21. (1) (a) Noma nini kuba nempikiswano noma ukufuna okuqondene nomthethowabantu bonke noma amasiko phakathi noma ngaphakathi emiphakathini yendabuko noma kwezinye izikhungo zamasiko esintu ngodaba oluvuka ekuqaleni ukusebenzisa lo Mthetho, amalungu alowo mphakathi kanye nabaholi bendabuko emiphakathini wendabuko noma esikhungweni sesiko labantu esiqondene kufanele bafune ukuxazulula impikiswano noma ukucela ngaphakathi kanye ngokuhambisana namasiko ngaphambi kokuphikisana noma ukufuna kungadluliselwa kuKhomishini. 10 15

(b) Uma impikiswano noma ukufaka isicelo angeke ixazululwe ngokwendima (a), isigatshana (2) esisebenzayo.

(2) (a) Impikiswano noma isicelo esishiwo kusigatshana (1) esingeki sixazululeke njengoba sihlizikelwe esigatshaneni kufanele sidluliselwe endlini yesifundazwe efanele yabaholi bendabuko, leyo ndlu kufanele ifune ukuxazulula impikiswano noma isicelo ngokuhambisana nemithetho yangaphakathi kanye nezinqubo. 20

(b) Uma indlu yesifundazwe yabaholi bendabuko ayikwazi ukuxazulula impikiswano noma isicelo njengoba kuhlizikelwe endimeni (a), impikiswano noma isicelo kufanele kudluliselwe kuNdunankulu wesifundazwe okuqondene nayo, okufanele axazulule impikiswano noma isicelo emva kokuba usibonisiwe— 25

(i) izingxenye eziphikisanayo noma isicelo; kanye

(ii) nendlu yesifundazwe sabaholi bendabuko abaqondene. 30

(c) Impikiswano noma isicelo esingeki sixazululwe njengoba kuhlizikelwe ezindimeni (a) no (b) kufanele kudluliselwe kuKhomishini.

(3) Lapho okucatshangwa khona impikiswano noma isicelo esigatshaneni (1) akukaxazulwa njengoba kuhlizikelwe kulesi sigaba, impikiswano noma isicelo kufanele kudluliselwe kuKhomishini. 35

Ukusungulwa KweKhomishini

22. (1) Kuzosungulwa, kusukela ngosuku lokuqala ukusebenza koMthetho Wokuchibiyela Ubuli Bendabuko kanye Nohlaka Lokuphatha, 2009, ikhomishini eyaziwa ngeKhomishini ngeziMpikiswano Nezicelo zoBuholi Bendabuko. 40

(2) Ikhomishini kufanele yenze imisebenzi yabo ngendlela eneqiniso, engenzeleli nengachemi.

Ukuqokwa kwamalungu eKhomishini

23. (1) (a) Ungqongqoshe kufanele, emva kokubonisana neNdlu Kazwelonke, aqoke usihlalo kanye namanye abantu abangangaphezu kwabane, isikhathi esingeqi eminyakeni emihlanu, njengamalungu eKhomishini abanolwazi maqondana nomthetho wabantu bonke, amasiko kanye nesikhungo sobuholi bendabuko. 45

(b) Ungqongqoshe kufanele ashicilele kuGazethi igama likasihlalo, isekela likasihlalo kanye nawo wonke umuntu oqokiwe njengelungu leKhomishini, kanye kanye nosuku kusuka okwaqokwa ngalo. 50

(2) Ilungu leKhomishini kungenzeka ukuthi liyilungu lesikhathi esigcwele noma lesikhashana, njengoba kunganquma uNgqongqoshe.

(3) The Minister must designate one of the members of the Commission deputy chairperson of the Commission to act as chairperson in the absence of the chairperson of the Commission.

(4) If a member of the Commission dies or vacates office before the expiry of the period for which he or she was appointed, the Minister must appoint in terms of subsection (1) a person to fill the vacancy for the unexpired term for which such member had been appointed.

(5) The Minister may remove a member of the Commission on the grounds of—

- (a) conviction by a criminal court without an option of a fine;
- (b) physical incapacity;
- (c) such member having been declared insolvent by a court; and
- (d) such member having been declared to be of unsound mind by a court.

Vacancies

24. A vacancy occurs whenever a member of the Commission—

- (a) resigns by giving written notice to the Minister;
- (b) is removed in terms of section 23(5); or
- (c) becomes a member of the National Assembly, a provincial legislature or a full-time member of a municipal council, or becomes a permanent delegate to the National Council of Provinces.

Conditions of appointment of members of Commission

24A. (1) The Minister must, after consultation with the Minister of Finance, determine the conditions of appointment of the members of the Commission, taking into account—

- (a) the role, duties and responsibilities of a member of the Commission;
- (b) affordability in relation to the responsibilities of the Commission; and
- (c) the level of expertise and experience required for a member of the Commission.

(2) Conditions of appointment may differ in respect of—

- (a) the chairperson, and other members of the Commission;
- (b) full-time and part-time members; and
- (c) any other appropriate circumstances.

Support to and reports by Commission

24B. (1) (a) The National Department responsible for traditional affairs must provide administrative and financial support to the Commission so as to enable the Commission to perform all the functions assigned to it.

(b) The Commission may subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), appoint a person or an institution to conduct research on its behalf.

(2) The Commission must quarterly, or when requested by the Minister, provide a comprehensive report on its activities to the Minister.

Functions of Commission

25. (1) The Commission operates nationally in plenary and provincially in committees and has authority to investigate and make recommendations on any traditional leadership dispute and claim contemplated in subsection (2).

(2) (a) The Commission has authority to investigate and make recommendations on—

- (i) a case where there is doubt as to whether a kingship or, principal traditional leadership, senior traditional leadership or headmanship was established in accordance with customary law and customs;

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(3) Ungqongqoshe kufanele athumele elilodwa lamalungu eKhomishini abe isekela likasihlalo weKhomishini ukuthi abambe njengosihlalo lapho usihlalo weKhomishini engekho.

(4) Uma ilungu leKhomishini lifa noma lishiya ihhovisi ngaphambi kokuphela kwesikhathi elaliqokelwe sona, uNgqongqoshe kufanele aqoke ngokwesigatshana(1) umuntu ozogcwalisa isikhala sesikhathi esingakapheli salelo lungu elaliqokiwe.

(5) Ungqongqoshe angasusa ilungu leKhomishini ngezizathu—

(a) zokuboshwa yinkantolo yobugebengu ngaphandle kokhetho lwenhlawulo;

(b) ukungabi namandla okusebenza ngokomzimba;

(c) lelo lungu limenyezwe ukuthi alinazimali yinkantolo; futhi

(d) lelo lungu selimenyezwe ukuthi aliphilile ngokwengqondo yinkantolo.

Izikhala zomsebenzi

24. Isikhala somsebenzi senzeka noma nini lapho ilungu leKhomishini—

(a) lesula emsebenzini ngokunikeza uNgqongqoshe inothisi ebhaliwe;

(b) lisuswa ngokwesigaba 23(5); noma

(c) liba ilungu leSishiyamthetho Sikazwelonke, isishiyamthetho sezifundazwe noma ilungu eliphelele lomkhandlu kamasipala, noma liba isithunywa sonomphelelo soMkhandlu Wezifundazwe Kazwelonke.

Imibandela yokuqoka amalungu eKhomishini

24A. (1) Ungqongqoshe kufanele, emva kokubonisana noNgqongqoshe Wezezimali anqume imibandela yamalungu eKhomishini ecabanga—

(a) ngeqhaza, imisebenzi kanye nemisebenzi ebhekene nelungu leKhomishini;

(b) ukukwazi ukukhokha maqondana nemisebenzi ebhekene neKhomishini; futhi

(c) izinga longcweti kanye nolwazi oludingekayo welungu leKhomishini.

(2) Imibandela yokuqoka ingehluka maqondana—

(a) nosihlalo kanye namanye amalungu eKhomishini;

(b) amalungu esikhathi esigcwele nawesikhashana; futhi

(c) nanoma yiziphi ezinye izimo ezifanele.

Ukweseka kanye nemibiko eyenziwa yiKhomishini

24B. (1) (a) Umnyango Kazwelonke obhekene nomsebenzi wezindaba zendabuko kufanele uhlinzeke ngosizo lokuphatha kanye nezimali kuKhomishini ukuze Ikhomishini yenze yonke imisebenzi enikezwe yona.

(b) Ikhomishini ngokuncika kokuhlinzeke koMthetho Wokubhekela Izimali Zikahulumeni, 1999 (Umthetho 1 ka-1999), iqoka umuntu noma isikhungo sokuqhuba ucwango egameni lawo.

(2) Ikhomishini kufanele njalo ngekwata, noma uma uceliwe nguNgqongqoshe, ihlinzeke ngombiko ophelile emisebenzini yayo kuNgqongqoshe.

Imisebenzi YeKhomishini

25. (1) Ikhomishini isebenza kuzwelonke ekuhleleni nasezifundazweni kumakomiti futhi inegunya lokuphenya nokwenza izincomo kunanoma yiyiphi impikiswano yobuholi bendabuko kanye nesicelo esishiwo esigatshaneni (2).

(2) (a) Ikhomishini inegunya lokuphenya nokwenza izincomo ngalokhu—

(i) isimo lapho kunokungabaza khona sokuthi ingabe ubuholi noma ubuholi bendabuko oyinhloko, ubuholi bendabuko obudala noma uunduna kwasungulwa ngokuhambisana nomthethi wamasiko abantu kanye namasiko;

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- (ii) a case where there is doubt as to whether a principal traditional leadership, senior traditional leadership or headmanship was established in accordance with customary law and customs;
- (iii) a traditional leadership position where the title or right of the incumbent is contested; 5
- (iv) claims by communities to be recognised as kingships, queenships, principal traditional communities, traditional communities, or headmanships;
- (v) the legitimacy of the establishment or disestablishment of 'tribes' or headmanships; 10
- (vi) disputes resulting from the determination of traditional authority boundaries as a result of merging or division of 'tribes';
- (viii) all traditional leadership claims and disputes dating from 1 September 1927 to the coming into operation of provincial legislation dealing with traditional leadership and governance matters; and 15
- (ix) gender-related disputes relating to traditional leadership positions arising after 27 April 1994.
- (b) A dispute or claim may be lodged by any person and must be accompanied by information setting out the nature of the dispute or claim and any other relevant information. 20
- (c) The Commission may decide not to consider a dispute or claim on the ground that the person who lodged the dispute or claim has not provided the Commission with relevant or sufficient information or the provisions of section 21 have not been complied with.
- (3) (a) When considering a dispute or claim, the Commission must consider and apply customary law and the customs of the relevant traditional community as they applied when the events occurred that gave rise to the dispute or claim. 25
- (b) The Commission must—
- (i) in respect of a kingship or queenship, be guided by the criteria set out in section 2A (1) and 9(1); and 30
- (ii) in respect of a principal traditional leadership, senior traditional leadership or headmanship, be guided by the customary law and customs and criteria relevant to the establishment of a principal traditional leadership, senior traditional leadership or headmanship, as the case may be. 35
- (c) Where the Commission investigates disputes resulting from the determination of traditional authority boundaries and the merging or division of 'tribes', the Commission must, before making a recommendation in terms of section 26, consult with the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998) where the traditional council boundaries straddle municipal and or provincial boundaries. 40
- (4) Subject to subsection (5) the Commission—
- (a) may only investigate and make recommendations on those disputes and claims that were before the Commission on the date of coming into operation of this chapter; and 45
- (b) must complete the matters contemplated in paragraph (a) within a period of five years, which period commences on the date of appointment of the members of the Commission in terms of section 23, or any such further period as the Minister may determine. 50
- (5) Any claim or dispute contemplated in this Chapter submitted after six months after the date of coming into operation of this chapter may not be dealt with by the Commission.
- (6) The Commission— 55
- (a) may delegate any function contemplated in this section excluding a matter related to kingships or queenships to a committee referred to in section 26A; and
- (b) must coordinate and advise on the work of the committees referred to in section 26A. 60

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- (ii) isimo lapho kunokungabaza khona ukuthi ingabe ubuholi bendabuko obuyinhloko, ubuholi bendabuko obudala noma ubunduna kwasungulwa ngokuhambisana nomthetho wabantu bonke kanye namasiko;
- (iii) isikhundla sobuholi bendabuko lapho isihloko noma ilungelo lomuntu osesikhundleni kuncintisana ngaso; 5
- (iv) izecelo ezenziwa imiphakathi okufanele zihlonishwe njengobukhosi, ubundlunkulu, imiphakathi yendabuko eyinhloko, imiphakathi yendabuko noma ubunduna;
- (v) ukuba semthethweni kwesakhiwo noma kokubhidlizwa "izizwe" noma ubunduna; 10
- (vi) izimpikiswano ezibangwa ukunquma kwemingcele yegunya lendabuko ngenxa yokuhlangana noma inhlango ye'zizwe';
- (viii) zonke izecelo kanye nezimpikiswano zabo bonke ubuholi bendabuko obusuka mhla ka-1 Septhemba 1927 ukuya ekuqaleni ukusebenza komthetho wezifundazwe obhekana nezindaba zobuholi bendabuko nokuphatah; kanye 15
- (ix) nezimpikiswano eziphathelele nobulili obuqondene nezikhundla zobuholi bendabuko ukusuka emva komhla ka-27 Ephrela 1994.
- (b) Impikiswano noma isicelo singafakwa ngunanoma yimuphi umuntu futhi kufanele iphelekezwe ulwazi olusho isimo sempikiswano noma sesicelo kanye nolunye ulwazi olufanele. 20
- (c) Ikhomishini inganquma ukungacabangi ngempikiswano noma isicelo ngesizathu sokuthi umuntu ofake impikiswano noma isicelo akahlinzeka ngeKhomishini enolwazi olufanele nolwanele noma ngokuhlinzeka ngesigaba 21 okungahanjisananga nalo. 25
- (3) (a) Uma kucatshangwa ngempikiswano noma ngesicelo, Ikhomishini kufanele acabange futhi asebenzise umthetho wabantu bonke kanye namasiko omphakathi wendabuko ofanele njengoba usebenzile uma izigameko zenzeke okuholela empikiswaneni noma isicelo.
- (b) Ikhomishini kufanele— 30
- (i) maqondana nobukhosi noma ubundlovukazi, baholwe ngezindlela ezibekiwe esigabeni 2A(1) naku-9(1); futhi
- (ii) namaqondana nobuholi bendabuko obuyinhloko, ubuholi bendabuko obudala noma ubunduna, baholwe ngumthetho wabantu bonke kanye namasiko kanye nezindlela ezifanele ekusungulweni ubuholi bendabuko obuyinhloko, ubuholi bendabuko obudala noma ubunduna njengoba kuzokwenzeka. 35
- (c) Lapho Ikhomishini iphenya izimpikiswano ezivela ekuzimiseleni kwemingcele yegunya lendabuko kanye nokuvela noma ukuhlukana 'kwezizwe', Ikhomishini kufanele, ngaphambi kokwenza isincomo ngokwesigaba 26, ubonisana neBhodi Yokunquma imingcele kamasipala esungulwe ngokwesigaba 2 soHulumeni Wasekhaya: Umthetho Wokunquma Imingcele Kamasipala, 1998 (Umthetho 27 ka-1998) lapho imingcele yomkhandlu yendabuko yeqa imingcele kamasipala kanye/noma yezifundazwe. 40
- (4) Kuncike kusigatshana (5) Ikhomishini—
- (a) ingaphenya kuphela futhi yenze izincomo ngalezo zimpikiswano kanye nezicelo ezaziphambi kweKhomishini ngosuku lokuza emsebenzini kulesi sahluko; futhi
- (b) kufanele kuqedwe izindaba ezishiwo kundima (a) ngesikhathi seminyaka emihlanu, isikhathi esiqala ngosuku lokuqokwa kwamalungu eKhomishini ngokwesigaba 23, noma nanoma yisiphi esinye isikhathi njengoba uNgqongqoshe anganquma. 50
- (5) Nanoma yisiphi isicelo noma impikiswano eshiwo kulesi sahluko esilethwe emva kwezinyanga eziyisithupha emva kosuku lokuza emsebenzini kulesi sahluko Ikhomishini ingeze yabhekana nalo. 55
- (6) Ikhomishini—
- (a) ingathumela nanoma yimuphi umsebenzi oshiwo kulesi sigaba kungafaki udaba oluphathelele nobukhosi noma ubundlunkulu ekomitini elishiwo kusigaba 26A; futhi 60
- (b) kufanele kuxhunye futhi kwelulekwe ngomsebenzi wamakomiti ashiwo esigabeni 26A.

(7) Sections 2, 3, 4, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), apply, with the necessary changes, to the Commission.

(8) The Commission may adopt rules for the conduct of the business of the Commission as well as committees referred to in section 26A.

(9) Provincial legislation must provide for a mechanism to deal with disputes and claims related to traditional leadership: Provided that such a mechanism must not deal with matters to be dealt with by the Commission.

Recommendations of Commission

26. (1) A recommendation of the Commission is taken with the support of at least two thirds of the members of the Commission.

(2) A recommendation of the Commission must, within two weeks of the recommendation having been made, be conveyed to—

(a) the President and the Minister where the position of a king or queen is affected by such a recommendation; and

(b) the relevant provincial government and any other relevant functionary to which the recommendation of the Commission applies in accordance with applicable provincial legislation in so far as the consideration of the recommendation does not relate to the recognition or removal of a king or queen in terms of section 9, 9A or 10.

(3) The President or the other relevant functionary to whom the recommendations have been conveyed in terms of subsection (2) must, within a period of 60 days make a decision on the recommendation.

(4) If the President or the relevant functionary takes a decision that differs with the recommendation conveyed in terms of subsection (2), the President or the relevant functionary as the case may be must provide written reasons for such decision.

(5) (a) The Premiers must, on an annual basis and when requested by the Minister, provide the President and the Minister with a report on the implementation of their decisions on the recommendations of the Commission.

(b) A copy of the report referred to in paragraph (a) must be submitted to the relevant provincial house for noting.

Committees of Commission

26A. (1) There is hereby established provincial committees to deal with disputes and claims relating to traditional leadership.

(2) (a) Each provincial committee contemplated in subsection (1) consists of as many members as the Premier concerned may determine after consultation with the Minister and the Commission and such members are appointed by the Premier, by the notice in the *Provincial Gazette*, for a period not exceeding five years.

(b) The term of office of committee members must be linked to that of members of the Commission contemplated in section 23(1)(a).

(c) The committee members of the Commission must have the same knowledge as the members of the Commission as contemplated in section 23(1)(a).

(3) Each provincial committee contemplated in subsection (1) must be chaired by a member of the Commission designated by the Minister after consultation with the Premier concerned and the Commission: Provided that a member of the Commission may chair more than one committee.

(4) The provisions of sections 24, 24A, 24B and 25(2) to (5) and (7) apply, with the necessary changes, to provincial committees.

(5) A provincial committee must perform such functions as delegated to it by the Commission in terms of section 25(6) after a review as contemplated in section 28(10).

(6) A provincial committee may make final recommendations on all matters delegated to it in terms of 25(6): Provided that where a committee is of the view that exceptional circumstances exist it may refer the matter to the Commission for advice.

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(7) Izigaba 2, 3, 4, 5 no 6 zoMthetho WeKhomishini, 1947 (Umthetho. 8 ka-1947), zisebenza, ngezinguquko ezidingekayo, kuKhomishini.

(8) Ikhomishini ingathatha imithetho yokuqhuba ibhizinisi leKhomishini kanjalo namakomiti ashiwo kusigaba 26A.

(9) Umthetho wezifundazwe kufanele uhlinzekele indlela yokubhekana nezimpikiswano kanye nezicelo eziphathelene nobuholi bendabuko: Uma kungukuthi leyo ndlela kufanele ingabhekani nezindaba okufanele kubhekwane nazo kuKhomishini.

Izincomo Zekhomishini

26. (1) Isincomo sekhomishini sithathwe ngokweseka okungenani okubili kokuthathu bamalungu eKhomishini.

(2) Isincomo seKhomishini kufanele, emasontweni amabili isincomo senziwe, sidluliselwe—

(a) kuMongameli kanye noNgqongqoshe lapho isikhundla senkosi noma sendlovukazi sithintekile yilesi sincomo; futhi

(b) uhulumeni wesifundazwe ofanele kanye neminye imisebenzi efanele nanoma yimiphi okwenziwe kuyo isincomo seKhomishini sisebenza ngokuhambisana nomthetho wesifundazwe osebenzayo njengoba kucatshangwa isincomo kungahambelani nokuhlonishwa noma ukususwa kwenkosi noma kwendlovukazi ngokwesigaba 9, 9A noma 10.

(3) Umongameli noma omunye umsebenzi ofanele okudluliselwe kuye izincomo ngokwesigatshana (2), esikhathini esiyizinsuku ezingama-60 enze isinqumo ngesincomo.

(4) Uma Umongameli noma umsebenzi ofanele enza isinqumo esehlukile nesincomo esidluliswe ngokwesigatshana (2), Umongameli noma umsebenzi ofanele njengoba kungenzeka kufanele kuhlinzekwe izizathu ezibhaliwe zalesi sinqumo.

(5) (a) ONdunankulu kufanele, ngokwesisekelo sonyaka nanoma kucele uNgqongqoshe, bahlinzeke uMongameli kanye noNgqongqoshe ngombiko ngokuqalisa ukusebenza kwezinqumo zabo ngezinqomo zeKhomishini.

(b) Ikhophi yombiko odluliselwe kundima (a) kufanele kulethwe endlini yezifundazwe efanele ukuthi izobhalwa.

Amakomiti eKhomishini

26A. (1) Kunamakomiti ezifundazwe asunguliwe ukuthi abhekane nezimpikiswano kanye nezicelo eziphathelene nobuholi bendabuko.

(2) (a) Ikomiti lesifundazwe ngasinye elishiwo esigatshaneni (1) elinamalungu amaningi njengoba kungasho Undunankulu oqondene nakho emva kokubonisana noNgqongqoshe kanye neKhomishini kanti nalawo malungu aqokwe undunankulu, ngesaziso ku*Gazethi Yesifundazwe*, isikhathi esingeqi iminyaka emihlanu.

(b) Isikhathi sokuba sehhovisi lamalungu ekomiti kufanele sixhumane naleso samalungu eKhomishini esishiwo kusigaba 23(1)(a).

(c) Amalungu ekomiti eKhomishini kufanele abe nolwazi olufanayo namalungu eKhomishini njengoba kushiwo kusigaba 23(1)(a).

(3) Ikomiti lesifundazwe ngalinye elishiwo kusigatshana (1) kufanele ilungu lekomiti libe usihlalo weKhomishini ekhethwe uNgqongqoshe emva kokubonisana nondunankulu oqondene kanye neKhomishini: Uma kungukuthi ilungu leKhomishini lingaba usihlalo wamakomiti angaphezu kwelilodwa.

(4) Ukuhlinzeka kwezigatshana 24, 24A, 24B no 25(2) ukuya ku-(5) no (7) ziyasebenza, nezinguquko ezidingekayo, kumakomiti esifundazwe.

(5) Ikomiti lesifundazwe kufanele lenze leyo misebenzi njengoba lithunyiwe yiKhomishini ngokwesigaba 25(6) emva kokubukezwa okushiwo esigabeni 28(10).

(6) Ikomiti lesifundazwe lingenza izincomo zokugcina kuzo zonke izindaba elithunyiwe zona ngokwe-25(6): Uma kungukuthi lapho ikomiti libona khona ukuthi izimo ezehlukile zikhona lingadlulisela udaba kukhomishini ukuze lithole izeluleko.

(7) The provisions of section 26(2)(b) apply, with the necessary changes, to the recommendations of a committee.

(8) Each provincial committee must, on a quarterly basis or when requested by the Commission, submit a report to the Commission on all disputes and claims dealt with by such provincial committee during the period covered by the report.”

Insertion of section 27A in Act 41 of 2003

21. The following section is hereby inserted in the principal Act after section 27:

“Regulatory powers

27A. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—

- (a) any matter that must or may be prescribed in terms of this Act;
- (b) any ancillary or administrative matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(2) Before any regulations are made under this section, the President must—

- (a) consult—
 - (i) the Minister responsible for local government;
 - (ii) the National House of Traditional Leaders;
 - (iii) the provincial house of traditional leaders; and
 - (iv) the provincial departments responsible for traditional leadership.
- (b) publish the draft regulations in the *Gazette* for public comment; and
- (c) submit the draft regulations to Parliament for parliamentary scrutiny at least one month before their promulgation.”

Amendment of section 28 of Act 41 of 2003

22. (1) Section 28 of the principal Act is amended by—

- (a) the substitution for subsection (4) of the following subsection:

“(4) A tribal authority that, immediately before the commencement of this Act, had been established and was still recognised as such, is deemed to be a traditional council contemplated in section 3 and must perform the functions referred to in section 4: Provided that such a tribal authority must comply with section 3(2) within **[one year]** seven years of the commencement of this Act.”;

- (b) the substitution for subsection (5) of the following subsection:

“(5) Any community authority that had been established in terms of applicable legislation and still existed as such immediately before the commencement of this Act, continues to exist until it is disestablished in accordance with provincial legislation, which disestablishment must take place within **[two]** five years of the commencement of this Act, except where the traditional leadership related to that community authority is still under investigation by the Commission in terms of section 25(2) in which case the community authority concerned must be administered as if the relevant establishing legislation had not been repealed.”;

- (c) the addition of the following subsections:

“(8) (a) Where, pursuant to an investigation conducted in terms of subsection (7), the Commission has decided that a paramountcy qualifies to be recognised as a kingship or queenship, such a paramountcy is deemed to be recognised as a kingship or queenship in terms of section 3A.

(b) The incumbent paramount chiefs, in respect of the kingships and queenships contemplated in paragraph (a), who were recognised before the commencement of this Act, are deemed to be kings or queens, subject to investigation and recommendation of the Commission in terms of section 25(2).

(9) (a) Where, pursuant to an investigation conducted in terms of subsection (7), the Commission has decided that a paramountcy does not

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- (7) Ukuhlinzeka kwesigaba 26(20)(b) kuyasebenza, ngezinguquko ezidingekayo, kuzincomo zekomiti.
- (8) Ikomiti lesifundazwe ngalinye, ngokwesisekelo sekwata noma uma kucela Ikhomishini, kufanele lilethe umbiko kuKhomishini ngazo zonke izimpikiswano nezicelo okubhekenwe nazo nalelo komiti lesifundazwe ngesikhathi esikhavwe ngumbiko.”

Ukufakwa kwesigaba 27A kuMthetho wama-41 ka-2003

21. Isigaba esilandelayo sifakwa kumthetho oyinhloko emva kwesigaba 27:

“Amandla alawulayo

- 27A.** (1) UNgqongqoshe, ngesaziso ku*Gazethi*, angenza izimiso zomthetho maqondana—
- (a) nanoma yiluphi udaba noma kungashiwo ngokwalo Mthetho;
- (b) nanoma yiluphi udaba oluncane noma lokuphatha oludingekayo ukusho ukuqalisa ukusebenza okufanele noma ukusebenza kwalo Mthetho.
- (2) Ngaphambi kokuba kwenziwe nanoma yiziphi izimiso zomthetho ngaphansi kwalesi sigaba, umongameli kufanele—
- (a) abonisane—
- (i) noNgqongqoshe obhekene nohulumeni wasekhaya;
- (ii) neNdlu Kazwelonke Yabaholi bendabuko;
- (iii) nendlu yesifundazwe yabaholi bendabuko; kanye
- (iv) neminyango yesifundazwe ebhekene nobuholi bendabuko.
- (b) ashicilele izimiso zomthetho eziwuhlaka ku*Gazethi* ukuze umphakathi uphawule; futhi
- (c) alethe izimiso zomthetho eziwuhlaka ePhalamende ukuze zizoxilongwa ephalamende okungenani inyanga eyodwa ngaphambi kokumenyezelwa.”

Ukuchitsheyelwa kwesigaba 28 soMthetho wama-41 ka-2003

22. (1) Isigaba 28 soMthetho oyinhloko uchitshiyelwa—
- (a) ngokufaka esikhundleni sesigatshana (4) sesigatshana esilandelayo: “(4) Umthetho wenkantolo, ngokushesha ngaphambi kokuqala kwalo Mthetho, owasungulwa futhi wahlonishwa kanjalo, kufanele kube umkhandlu wendabuko oshiwo esigabeni 3 futhi kufanele wenze imisebezi eshiwo kusigaba 4: Uma 40 kungukuthi lowo mthetho wenkantolo kufanele uhloniphe isigaba 3(2) [unyaka] eminyakeni eyisikhombisa yokuqala ukusebenza kwalo Mthetho.”;
- (b) ukufaka esikhundleni sesigatshana (5) sesigatshana esilandelayo:
- “(5) Nanoma yimuphi umthetho womphakathi owasungulwa ngokomthetho osebenzayo futhi waphila kanjalo ngokushesha ngaphambi kokuqala ukusebeza kwalo Mthetho, uyaqhubeka nokuphila kuze kubhidlizwe ngokuhambisana nomthetho wesifundazwe, lokhu kubhidliza kufanele kwenzeke eminyakeni emihlanu [two] yokuqalisa lo Mthetho, ngaphandle kwalapho ubuholi bendabuko obuhambelana nomthetho womphakathi busaphenywa yikhomishini ngokwesigaba 25(2) lapho umthetho womphakathi oqondene kufanele uphathwe sengathi umthetho wokusungula ofanele ubungaqedwanga.”;
- (c) ukwengeza ngezigatshana ezilandelayo:
- “(8) (a) Lapho, umlandeleli wophenyo olwenziwa ngokwesigatshana (7), Ikhomishini inqume ukuthi ubukhulu kufanele buhlonishwe njengobukhosi noma ubundlunkulu, kanti lobo bukhulu buhlonishwa njengobukhosi noma ubundlunkulu ngokwesigaba 3A.
- (b) Amakhosi amakhulu asezikhondleni, maqondana nobukhosi kanye nobundlunkulu obushiwo endimeni (a), ahlonipha ngaphambi kokuqalisa koMthetho, kufanele abe ngamakhosi noma ondlunkulu, kuncike ophenyweni nasesincomeni seKhomishini ngokwesigaba 25(2).
- (9) (a) Lapho, umlandeleli wophenyo oluqhutshwa ngokwesigatshana (7), ikhomishini inqume ukuthi ubukhulu bobukhosi abulungele

qualify to be recognised as a kingship or queenship, such a paramountcy will, notwithstanding the decision of the Commission and subject to paragraph (c), be deemed to be recognised as a kingship or queenship in terms of section 2A.

(b) Where, pursuant to an investigation conducted in terms of subsection (7), the Commission has decided that a paramount chief does not qualify to be recognised as a king or queen, such a paramount chief, regent or acting paramount chief will, notwithstanding the decision of the Commission and subject to paragraph (c), be deemed to be recognised as a king or queen in terms of section 9 or a regent or acting king or queen in terms of sections 13 and 14 respectively.

(c) A kingship or queenship and a king or queen recognised in terms of paragraph (a) and (b) lapses—

- (i) if, on the date of the coming into operation of the Traditional Leadership and Governance Framework Amendment Act, 2009, the position is vacant;
- (ii) on the death of the incumbent king or queen where the position of such king or queen is occupied by a permanent incumbent;
- (iii) where the position of the incumbent king or queen is occupied by a regent or an acting incumbent, on the death of such regent or acting incumbent or on the date of the recognition of a successor, where after the kingship or queenship and the king or queen will be deemed to be a principal traditional community and principal traditional leader respectively, as contemplated in sections 2B and 10A.

(10) The Commission must review all claims and disputes that have not been disposed of on the date of the coming into operation of the Traditional Leadership and Governance Framework Amendment Act, 2009 and if the Commission is of the opinion that any such claim or dispute should not be dealt with by the Commission or a provincial committee, subject to section 21 refer the claim or dispute to the relevant province for resolution of the claim or dispute and inform the parties to the matter concerned accordingly.

(11) (a) The Commission established by section 22 as amended by the Traditional Leadership and Governance Framework Amendment Act, 2009 (hereinafter referred to as “new Commission”), is the successor in law of the Commission as it existed immediately before that Amendment Act (hereinafter referred to as “old Commission”).

(b) All disputes and claims that were before the old Commission are deemed to have been lodged with the new Commission.

Validation of decisions

23. Despite the expiration of the term provided in the transitional arrangements, the actions and decisions taken by any community authority and tribal authority in terms of the applicable legislation, which was provided for in section 28 of the principal Act, at any time from 24 September 2005 to the date on which this Act takes effect, are hereby validated and declared to have been lawfully done.

Amendment of long title of Act 20 of 1998, as amended by Act 21 of 2000 and section 29 of Act 41 of 2003

24. The Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), is hereby amended by the substitution for the long title of the following long title:

“To provide for a framework for determining the salaries and allowances of the President, members of the National Assembly, permanent delegates to the National Council of Provinces, Deputy President, Ministers, Deputy Minis-

ters, traditional leaders, non-traditional leader members of traditional councils, non-traditional leader members of kingship or queenship councils, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of local Houses of Traditional Leaders, members of provincial houses of Traditional Leaders and members of the National House of Traditional Leaders; to provide for a framework for determining the upper limit of salaries and allowances of Premiers, members of Executive Councils, members of provincial legislatures and members of Municipal Councils; to provide for a framework for determining pension and medical aid benefits of office bearers; to provide for the repeal of certain laws; and to provide for matters connected therewith.”.

Amendment of section 1 of Act 20 of 1998

25. Section 1 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), is hereby amended—

- (a) by the substitution for the definition of “benefits” of the following definition:
- “**‘benefits’** means in respect of a traditional leader, non-traditional leader member of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a kingship or queenship council; non-traditional members of kingship or queenship councils, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders and a member of the National House of Traditional Leaders those benefits which the President may determine in terms of section 5(3), and in respect of all other office bearers, the contributions contemplated in sections 8(2) and (5) and 9(2) and (5); (xii)”;
- (b) the substitution for the definition of “**office bearer**” of the following definition:
- “**‘office bearer’** means a Deputy President, a Minister, a Deputy Minister, a member of the National Assembly, a permanent delegate, a Premier, a member of an Executive Council, a member of a provincial legislature, a traditional leader, a non-traditional leader member of a traditional council, a member of a kingship or queenship council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders, a member of the National House of Traditional Leaders and a member of a Municipal Council; (ii)”.

Substitution of section 5 of Act 20 of 1998

26. The following section is substituted for section 5 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998):

“Salaries, allowances and benefits of traditional leaders, non-traditional leader members of traditional councils, members of kingship or queenship councils, members of local Houses of Traditional Leaders, members of provincial houses of Traditional Leaders and members of National House of Traditional Leaders

5. (1) Traditional leaders, non-traditional leader members of any traditional council, non-traditional leader members of any kingship or queenship council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of any local House of Traditional Leaders, members of any

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oNgqongqoshe, amaSekela Ngqongqoshe, abaholi bendabuko, amalungu angesibo abaholi bendabuko emikhandlu yendabuko, amalungu emikhandlu yobukhosi nobundlovukazi angesibo abaholi bendabuko, amalungu emikhandlu emincane yendabuko okungesiyo eyendabuko, amalungu emikhandlu yendabuko eyinhloko yabaholi okungesibo abendabuko. 5
amalungu eZindlu zasekhaya Zabaholi Bendabuko, amalungu ezindlu zesifundazwe Zabaholi Bendabuko, amalungu ezindlu zesifundazwe Zabaholi Bendabuko kanye namalungu eNdlu Kazwelonke Yabaholi Bendabuko; 10
ukuhlinzeka ngohlaka lokusho umkhawulo ophezulu wemiholo kanye nezimali zoNdunankulu abayi-10, amalungu eMikhandlu ephethe, amalungu ezishayamthetho zezifundazwe kanye neMikhandlu Yomasipala; ukuhlinzeka uhlaka lokusho impesheni nezinzuzo zosizo lokwelapha kubasebenzi basehhoovisi; ukuhlinzekela ukuqedwa kwemithetho ethize; nokuhlinzekela izindaba ezixhumene nakho;”.

Ukuchibiyela isigaba 1 soMthetho 20 ka-1998 15

25. Isigaba 1 soMthetho Wokuholela Abasebenzi Basehhoovisi Bakahulumeni, 1998 (Umthetho 20 ka-1998) uchitshiyelwe—

- (a) ngokufaka esikhundleni sencazelo “izinzuzo” zencazelo elandelayo:
- “**‘izinzuzo’** kuchaza maqondana nomholi wendabuko, ilungu lomkhandlu wendabuko lomholi okungesiye owendabuko, amalungu emikhandlu emincane yendabuko yomholi okungesiyena owendabuko, amalungu emikhandlu yendabuko eyinhloko yomholi okungesiyena owendabuko; ilungu lomkhandlu wobukhosi noma wobundlovukazi, amalungu emikhandlu yobukhosi noma yobundlovukazi okungesiyona eyendabuko, ilungu lendlu yasekhaya Yabaholi Bendabuko, ilungu lendlu yesifundazwe yaBaholi Bendabuko kanye nelungu leNdlu Kazwelonke Yabaholi Bendabuko lezo zinzuzo uMongameli angazi-nquma ngokwesigaba 5(3), namaqondana nabo bonke abasebenzi basehhoovisi abanye, iminikelo eshiwo esigabeni 8(2) no-(5) no-9(2) no-(5); (xii) 20 25 30
- (b) ukufaka esikhundleni sencazelo “**umsebenzi wasehhoovisi**” elandelayo incazelo:
- “**‘umsebenzi wasehhoovisi’** kusho Isekela LikaMongameli, Ungqongqoshe, Isekela LikaNgqongqoshe, ilungu leSishayamthetho Sikazwelonke, isithunywa sonomphele, Undunankulu, ilungu loMkhandlu Ophethe, ilungu lesishayamthetho sesifundazwe, umholi wendabuko, umholi okungesiye owendabuko ilungu lomkhandlu wendabuko, ilungu lomkhandlu wobukhosi nobundlovukazi, umholi okungesiye owendabuko amalungu emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko; ilungu leNdlu Yasekhaya laBaholi Bendabuko, ilungu lendlu yesifundazwe yaBaholi Bendabuko, ilungu leNdlu Kazwelonke Labaholi Bendabuko kanye nelungu loMkhandlu Kamasipala; (ii)” 35 40

Ukufaka esikhundleni sesigaba 5 soMthetho 20 ka-1998

26. Isigaba esilandelayo sifakwe esikhundleni sesigaba 5 soMthetho Wokuholela Abasebenzi Basehhoovisi Kuhulumeni, 1998 (Umthetho 20 ka-1998): 45

“Imiholo, izimali kanye nezinzuzo zabaholi bendabuko, amalungu okungesiwo awendabuko emikhandlu yendabuko, amalungu emikhandlu yobukhosi noma yobundlovukazi, amalungu eZindlu zasekhaya Zabaholi Bendabuko, amalungu ezindlu zesifundazwe Zabaholi Bendabuko kanye namalungu eNdlu Kazwelonke Yabaholi Bendabuko 50

5. (1) Abaholi bendabuko, omholi okungesiye owendabuko amalungu ananoma yimuphi umkhandlu wendabuko, umholi okungesiye owendabuko amalungu ananoma yimuphi umkhandlu wobukhosi noma ubundlovukazi, umholi okungesiye owendabuko amalungu emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu 55

provincial house of Traditional Leaders and members of the National House of Traditional Leaders shall, despite anything to the contrary in any other law contained, be entitled to such salaries and allowances as may from time to time be determined by the President after consultation with the Premier concerned by proclamation in the *Gazette*, after taking into consideration— 5

- (a) any recommendations of the Commission;
- (b) the role, status, duties, functions and responsibilities of different categories of traditional leaders, non-traditional leader members of traditional councils, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of kingship or queenship councils, non-traditional members of kingship or queenship councils, different members of the local Houses of Traditional Leaders, different members of the Houses of Traditional Leaders in the various provinces and different members of the National House of Traditional Leaders; 10 15
- (c) the affordability of different levels of remuneration of public office bearers;
- (d) the current principles and levels of remuneration in society generally;
- (e) the need for the promotion of equality and uniformity of salaries and allowances for equal work performed; 20
- (f) the enhancement of co-operation, unity and understanding between traditional communities nationally;
- (g) the extent of the role and functions of traditional leaders across provincial borders; and 25
- (h) inflationary increases.

(2) Despite the provisions of subsection (1), a traditional leader, a non-traditional leader member of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a kingship or queenship council, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders or a member of the National House of Traditional Leaders who holds different public offices simultaneously, is only entitled to the salary, allowances and benefits of the public office for which he or she earns the highest income, but— 30 35

- (a) this subsection shall not preclude the payment of out of pocket expenses for the performance of functions other than those for which such office bearer receives such highest income; and
- (b) where only an allowance has been determined in terms of subsection (1) in respect of a traditional leader's membership of a local House of Traditional Leaders, a provincial house of Traditional Leaders or the National House of Traditional Leaders, such a traditional leader shall be entitled to such an allowance in addition to his or her salary, allowances and benefits as a traditional leader. 40

(3) (a) The President may, if he or she deems it expedient after consultation with the Minister and the Premier concerned, by proclamation in the *Gazette* determine any benefits to which a traditional leader, a non-traditional leader member of a traditional council, a member of a kingship or queenship council, non-traditional members of kingship or queenship councils, a member of any local House of Traditional Leaders, a member of any Provincial house of Traditional Leaders or a member of the National House of Traditional Leaders shall be entitled, subject to such conditions as the President may prescribe. 45 50

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emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko; amalungu ananoma iyiphi Indlu yasekhaya Yabaholi Bendabuko, amalungu ananoma iyiphi indlu yezifundazwe Yabaholi Bendabuko kanye namalungu eNdlu Kazwelonke Yabaholi Bendabuko kufanele, ngale kwananoma yini ephikisayo ngananoma yimuphi omunye umthetho okhona, unelungelo lalowo mholo kanye nezimali zokusiza njengoba zingahlale zishiwo nguMongameli ngezikhathi ezahlukene emva kokubonisana noNdunankulu oqondene ngokumemezela ku*Gazethi*, emva kokucabanga—

- (a) nanoma yiziphi izincomo zeKhomishini;
- (b) iqhaza, isimo, imisebenzi, imisebenzi nemisebenzi okubhekenwe nayo yezigaba ezahlukene zabaholi bendabuko, umholi okungesiye owendabuko amalungu emikhandlu emi-5 yendabuko, umholi okungesiye owendabuko amalungu emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko; amalungu emikhandlu yobukhosi noma yobundlovukazi, amalungu okungesiwo awendabuko emikhandlu yobukhosi noma nobundlovukazi, amalungu ahlukene eZindlu zasekhaya Zabaholi Bendabuko, amalungu ahlukene eZindlu eziyi-10 Zabaholi Bendabuko ezifundazweni ezahlukene namalungu ahlukene eNdlu Kazwelonke Yabaholi Bendabuko;
- (c) ukukwazi ukukhokheleka kwamazinga ahlukene okuholela abasebenzi basehhovisi bakahulueni;
- (d) imigomo yamanje kanye namazinga okuholela emphakathini jikelele;
- (e) isidingo sokukhuthaza ukulingana kanye nokufana kwemihlo kanye nezimali zokusiza ngomsebenzi owenziwe olinganayo;
- (f) ukuthuthukisa ukuhlanganyela, ubunye kanye nokuqonda phakathi kwemiphakathi yendabuko kuzwelonke;
- (g) ubungako beqhaza nemisebenzi yabaholi bendabuko emingceleni yezifundazwe ezingama-20; kanye
- (h) nokukhula kokwehla kwamandla emali.

(2) Ngale kokuhlinzeka kwesigatsha (1), umholi wendabuko, umholi okungesiye owendabuko ilungu lomkhandlu wendabuko, umholi okungesiye owendabuko amalungu emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko; ilungu lomkhandlu wobukhosi noma wobundlovukazi, ilungu leNdlu yasekhaya Yabaholi Bendabuko, ilungu lendlu yesifundazwe Yabaholi Bendabuko noma ilungu leNdlu Kazwelonke Yabaholi Bendabuko abanamahhovisi kahulumeni ahlukene kanye kanye, unelungelo kuphela emholweni, izimali zokusiza kanye nezinzuzo zehhovisi likahulumeni okufanele ngabe kulo uhola imali ephezulu kakhulu, kodwa—

- (a) lesi sigatshana kufanele simise inkokhelo yezindleko ephuma ephaketheni ngokwenza imisebenzi hhayi leyo umsebenzi wasehhovisi akayiholela imali ephezulu; and lapho okushiwo khona imali yokusiza kuphela ngokwesigatshana 35(1) maqondana nobulungu bomholi wendabuko weNdlu yasekhaya Yabaholi Bendabuko, indlu yesifundazwe Yabaholi Bendabuko noma Indlu Kazwelonke Yabaholi Bendabuko, umholi wendabuko onjalo kufanele abe nelungelo kuleyo mali yokusiza ukwengeza emholweni wakhe, ezimalini zokusiza nasezinzuzweni njengomholi wendabuko.

(3) (a) UMongameli, uma ebona kulusizo emva kokubonisana noNgqo-ngqoshe kanye noNdunankulu oqondene, ngokumemezela ku*Gazethi* angasho nanoma yiziphi izinzuzo umholi wendabuko umholi okungesiye owendabuko ilungu lomkhandlu wendabuko, ilungu lomkhandlu wobukhosi noma wobundlunkulu, amalungu okungesiwo awendabuko emikhandlu yobukhosi noma yobundlovukazi, ilungu lananoma iyiphi Indlu yasekhaya Yabaholi Bendabuko, ilungu lananoma iyiphi indlu yeSifundazwe Yabaholi Bedabuko noma ilungu leNdlu Kazwelo ke Yabaholi Bendabuko abazoba nelungelo, kucike ezimeni ezinjalo njengoba kungasho Umongameli.

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(b) If the President decides to determine such benefits, the criteria listed in paragraphs (a) to (h) of subsection (1) shall be applicable, with the necessary changes.

(4) The amount payable in respect of salaries, allowances and benefits to traditional leaders, non-traditional leader members of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; members of a kingship or queenship council, non-traditional members of kingship or queenship councils; members of local Houses of Traditional Leaders, members of provincial houses of Traditional Leaders and members of the National House of Traditional Leaders shall be paid from monies appropriated for that purpose by Parliament in respect of the National House of Traditional Leaders and by a provincial legislature in respect of traditional leaders, non-traditional leader members of traditional councils, the members of kingship or queenship councils, non-traditional members of kingship or queenship councils members of local Houses of Traditional Leaders and members of provincial houses of Traditional Leaders, as the case may be.

(5)

(6) Despite the provisions of subsection (1), a member of the National House of Traditional Leaders shall be entitled to an allowance as determined by the President by proclamation in the *Gazette* for actual work performed with effect from 10 April 1997 until a determination is made in terms of subsection (1).”

Amendment of section 8 of Act 20 of 1998

27. Section 8 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), is hereby amended by the substitution for subsection 6 of the following subsection:

“(6) The provisions of this section shall, subject to section 5(3), not apply to a traditional leader, a non-traditional leader member of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a kingship or queenship council, non-traditional members of kingship or queenship councils, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders and a member of the National House of Traditional Leaders.”

Amendment of section 9 of Act 20 of 1998

28. Section 9 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), is hereby amended by the substitution for subsection 6 of the following subsection:

“(6) The provisions of this section shall, subject to section 5(3), not apply to a traditional leader, a non-traditional leader member of a traditional council, non-traditional leader members of traditional sub-councils, non-traditional leader members of principal traditional councils; a member of a kingship or queenship council, non-traditional members of kingship or queenship councils, a member of a local House of Traditional Leaders, a member of a provincial house of Traditional Leaders and a member of the National House of Traditional Leaders.”

Short title

29. This Act is called the Traditional Leadership and Governance Framework Amendment Act, 2009, and Chapter 6 comes into operation on 1 February 2010.

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(b) Uma uMongameli enquma ukusho izinzuzo ezinjalo, izindlela ezibalwe zaba ama-50 ezindimeni (a) ukuya ku-(h) wesigatshana (1) kuzosebeza, ngezinguquko ezidingekayo.

(4) Inani lemali ekhokhekayo maqondana namaholo, izimali zokusiza kanye nezinzuzo kubaholi bendabuko, amalungu omkhandlu wendabuko, umholi okungesiye owendabuko amalung emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko, amalungu emikhandlu yobukhosi noma yobundlovukazi; amalungu eZindlu zasekhaya Zabaholi Bendabuko, amalungu ezindlu zezifundazwe Zabaholi Bendabuko kanye namalungu eNdlu Kazwelonke Yabaholi Bendabuko izokhokhelwa ngemali efanele leyo nhloso yiPhalamende maqondana neNdlu Kazwelonke Yabaholi Bendabuko kanye nesishayamthetho sezifundazwe maqondana nabaholi bendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko, amalungu emikhandlu yobukhosi noma yobundlovukazi, amalungu okungesiwo awendabuko emikhandlu yobuholi noma yobundlovukazi, amalungu eZindlu zasekhaya Zabaholi bendabuko kanye amalungu ezindlu zesifundazwe Zabaholi Bendabuko njengoba kwenzeka.

(5) . . .

(6) Nangale kokuhlinzeka kwesigatshana (1), ilungu leNdlu Kazwelonke Labaholi Bendabuko banelungelo lokuthola imali yokusizwa njengoba kusho uMongameli ngokumemezela ku*Gazethi* ngomsebenzi ngempela owenziwe kusukela ngomhla ka-10 Ephrela 1997 kuze kunqunywe ngokwesigatshana (10)."

Ukuchitshiyelwa kwesigaba 8 soMthetho 20 ka-1998

27. Isigaba 8 soMthetho Wokuholela Abasebenzi Basehhovisi likahulumeni, 1998 (Umthetho 20 ka-1998), uyachitshiyelwa ngokufaka esikhundleni sesigatshana 6 sesigatshana esilandelayo:

“(6) Ukuhlinzeka kwalesi sigaba, kuncike kusigaba 5(3), angeke kusebenze kumholi wendabuko, umholi okungesiye owendabuko ilungu lomkhandlu wendabuko, umholi okungesiye owendabuko amalungu emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko, amalungu omkhandlu wobuholi noma wobundlovukazi, amalungu okungesiwo awendabuko omkhandlu wobukhosi noma wobundlunkulu, amalungu okungesiwo awendabuko emikhandlu yobukhosi noma yobundlovukazi, ilungu leNdlu yasekhaya Yabaholi Bendabuko, ilungu lendlu yesifundazwe Labaholi Bendabuko kanye nelungu leNdlu Kazwelonke Labaholi Bendabuko.”

Ukuchitshiyelwa kwesigaba 9 soMthetho wama-20 ka-1998

28. Isigaba 9 soMthetho Wokuholela Abasebenzi Basehhovisi, 1998 (Umthetho 20 ka-1998), uyachitshiyelwa ngokufaka esikhundleni sesigatshana 6 sesigatshana esilandelayo:

“(6) Ukuhlinzeka kwalesi sigaba kufanele, kuncike kusigaba 5(3), kungasebenzi kumholi wendabuko, umholi okungesiye owendabuko ilungu lomkhandlu wendabuko, umholi okungesiye owendabuko amalungu emikhandlu emincane yendabuko, umholi okungesiye owendabuko amalungu emikhandlu yendabuko eyinhloko, amalungu omkhandlu wobuholi noma wobundlovukazi, amalungu okungesiwo awendabuko omkhandlu wobukhosi noma wobundlunkulu, amalungu okungesiwo awendabuko emikhandlu yobukhosi noma yobundlovukazi, ilungu leNdlu yasekhaya Yabaholi Bendabuko, ilungu lendlu yesifundazwe Labaholi Bendabuko kanye nelungu leNdlu Kazwelonke Labaholi Bendabuko.”

Isihloko esifushane

29. Lo Mthetho ubizwa ngokuthi Umthetho Wokuchibiyela Ubuholi Bendabuko kanye Nohlaka Lokuphatha, 2009, kanye neSahluko 6 esiqala ukusebenza ngomhla ka-1 Febhruwari 2010.