Government Gazette
Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 558 Pretoria, 13 December / Desember 2011 No. 34850

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GENERAL NOTICE

NOTICE 901 OF 2011

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

PUBLICATION OF EXPLANATORY SUMMARY OF THE TRADITIONAL COURTS BILL, 2012 IN TERMS OF RULE 186 OF THE RULES OF THE NATIONAL COUNCIL OF PROVINCES

The Select Committee on Security and Constitutional Development, on request of the Minister of Justice and Constitutional Development, intends introducing the Traditional Courts Bill in Parliament during January 2012.

Prior to its introduction in the National Assembly in 2008, this Bill was published in Government *Gazette* No. 30902 of 27 March 2008 in accordance with Rule 241 (*c*) of the Rules of the National Assembly. Public hearings held by the Portfolio Committee on Justice and Constitutional Development on the Bill elicited many submissions relating, among others, to the designation of traditional leaders as presiding officers, the inadequate representation and participation of women, the prohibition on legal practitioners to represent litigants, the exclusion of some structures within the traditional justice system, the nature of some sanctions the traditional courts can impose and the appeal mechanism created in the Bill. The Bill was withdrawn from the National Assembly on 2 June 2011 with the intention to introduce it in its current form in the National Council of Provinces in terms of section 76(2) of the Constitution. Bearing in mind the statutory deadline of 30 December 2012 by when the Bill must be enacted into law, the intention is to have the concerns raised during the parliamentary process in the Portfolio Committee to date, considered and addressed during the parliamentary process in the National Council of Provinces, in addition to any further comments or concerns that might be received.

An explanatory summary of the Bill is hereby published in accordance with Rule 186*(1)(a)* and *(b)* of the Rules of the National Council of Provinces.

The Bill aims to affirm the recognition of the traditional justice system and its values, based on restorative justice and reconciliation; to provide for the structure and functioning of traditional courts in line with constitutional imperatives and values; to enhance customary law and the customs of communities observing a system of customary law; and to provide for matters

connected therewith.

Interested parties are invited to submit comments on the Bill to the Secretary to Parliament, P O Box 15 Cape Town, 8000, on or before 15 February 2012.

Copies of the Bill will be available from:

1. The website of the Department of Justice and Constitutional Development: http://www.justice.gov.za/legislation/Bills

2. The Government website: http://www.gov.za/documents/Bills/2008

3. Mr G Dixon, Committee Secretary: Select Committee on Security and Constitutional Development, 021 403 3771/ 083 709 8513, gdixon@parliament.gov.za.

4. Ms T M Ross, Department of Justice and Constitutional Development, 329 Pretorius Street, Momentum Building, E9.03, Pretoria, Tel :(012) 315 1495, tross@justice.gov.za

ISIHLOKOMISO

ISIHLOKOMISO 901 SIKA-2011

ISEBE LOBULUNGISA NOPHUHLISO LOMGAQO-SISEKO

UKUPAPASHWA KWESISHWANKATHELO ESICHAZAYO SOMTHETHO OYILWAYO WEENKUNDLA ZAKWANTU KA-2012 NGOKOMGAQO ONGUNOMBOLO 186 KWIMIGAQO YEBHUNGA LAMAPHONDO LEZWELONKE

IKomiti yoKhuseleko noPhuhliso loMgaqo-siseko, ngokucelwa nguMphathiswa woBulungisa noPhuhliso loMgaqo-siseko, iceba ukungenisa ePalamente uMthetho oYilwayo weeNkundla zakwaNtu ngoJanuwari ka-2012.

Ngaphambi kokuba ungeniswe kwiNdlu yoWiso-Mthetho ngo-2008, lo Mthetho uYilwayo wapapashwa ku*Shicilelo-Mithetho* olunguNombolo 30902 lomhla wama-27 kuMatshi 2008 ngokoMgaqo onguNombolo 241*(c)* weNdlu yoWiso-Mthetho. Ukuphulaphulwa koluntu yiKomiti yePalamente yoBulungisa noPhuhliso loMgaqo-siseko ngalo Mthetho uYilwayo kwenza ukuba kuvezwe izimvo ezininzi, phakathi kwezinye izinto, mayela nokubizwa kweenkokeli zomthonyana ngokuthi ngabachopheli-matyala, ukunqaba kwabasetyhini nokunqaba kokuthabath' inxaxheba kwabo, ukwalelwa kwamagqwetha ukuba amele abamangaleleneyo, ukukhutshelwa ngaphandle kwezakhiwo ezithile ezingaphakathi kwinkqubo yobulungisa bakwantu, ubunjani bezohlwayo ezithile ezinokuwiswa ziinkundla zakwantu, nendlela yokubhena esungulwe kulo Mthetho uYilwayo. Lo Mthetho uYilwayo warhoxiswa kwiNdlu yoWiso-Mthetho ngomhla wesi-2 kuJuni 2011 ngenjongo yokuwungenisa ukule mo ukuyo kwiBhunga lamaPhondo leZwelonke ngokwesiqendu 76(2) soMgaqo-siseko. Kukhunjulwa umhla wokuvala obekwe ngumthetho wepalamente ekungumhla wama-30 kuDisemba 2012 ekufuneka ngawo loo mhla ube lo Mthetho uYilwayo sele wenziwe wangumthetho, injongo kukuba iinkxalabo ezavezwa ngexesha lenkqubo yasepalamente kwiKomiti yePalamente ukuza kuthi ga namhlanje, zinikwe ingqwalaselo ngexesha lenkqubo yasepalamente kwiBhunga lamaPhondo leZwelonke, ukongezelela kuzo naziphi na ezinye izimvo ezisenokufunyanwa.

Ngokwenza nje kupapashwa isishwankathelo esichazayo ngokoMgaqo 186(1)*(a)* no-*(b)* kwiMigaqo yeBhunga lamaPhondo leZwelonke.

Lo Mthetho uYilwayo unenjongo yokunqwala kwinkqubo yakwantu esekelwe kubulungisa bembuyiselo noxolelwaniso; ukwanenjongo yokuba kubekho iinkundla zakwantu, uchaze nemisebenzi yazo ngokuvisisana noko kufunwa nguMgaqo-siseko; ukwanenjongo yokuphucula umthetho wakwantu namasiko abantu abaphila ngokwakwantu; ukwanenjongo yokubonelela izinto ezihlobene noko.

Abantu abanomdla bayacelwa ukuba bathumele izimvo zabo ngalo Mthetho uYilwayo kuSosiba wePalamente, P O Box 15, Cape Town, 8000 ungekagqithi umhla we-15 kuFebruwari 2012.

Iikopi zalo Mthetho uYilwayo ziza kufumaneka:

1. Kwi*website* yeSebe loBulungisa noPhuhliso loMgaqo-siseko: http://www.justice.gov.za/legislation/Bills

2. Kwi*website* kaRhulumente: http://www.gov.za/documents/Bills/2008

3. KuMnu G Dixon , uSosiba weKomiti yoKhuseleko noPhuhliso loMgaqo-siseko, (021) 403 3771 okanye 083 709 8513, gdixon@parliament.gov.za

4. KuNksz T M Ross, Department of Justice and Constitutional Development, 329 Pretorius Street, Momentum Building, E9.03, Pretoria, (012) 315 1495, tross@justice.gov.za