

**KWAZULU-NATAL
TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2013**

BILL

To provide for the recognition of *iziZwe*, traditional leadership and traditional institutions; to provide for a regulatory framework for the recognition and the vesting of roles, powers and functions in, as well as the allocation of functions to, traditional councils, traditional leaders and other traditional leadership structures; to provide for a framework for the development, capacity building and support of traditional councils, traditional leaders and other traditional leadership structures; to provide for the establishment of the Provincial House of Traditional Leaders, Local Houses of Traditional Leaders, and the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims; the vesting of roles, powers and functions in, as well as the allocation of functions to, these institutions; to provide for a framework for the development, capacity building and support of these institutions; to provide for an enabling framework to support collaboration and co-operative governance between these institutions and the Provincial Government; to provide for a Code of Conduct; to provide for contributions by members of traditional communities; to provide for regulatory powers of the Premier and the responsible Member of the Executive Council; to provide for the delegations of powers, assignments and agreements; to provide for mechanisms for dispute resolution; to provide for offences and penalties; to provide for transitional matters; to provide for the amendment or repeal of applicable provincial legislation; and to provide for related matters.

PREAMBLE

WHEREAS the Province of KwaZulu-Natal, in accordance with the Constitution, National Framework Policy and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), acknowledges the existence of *iziZwe* in the Province, and seeks to –

- (a) recognise, protect, preserve, transform, as well as to provide an enabling environment for the development of *iziZwe*, traditional institutions, customary law and customs;
- (b) define a place and role of traditional leadership within the system of democratic governance in South Africa; and
- (c) restore the integrity and legitimacy of the institution of traditional leadership in accordance with customary law and customs,

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of KwaZulu-

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CHAPTER 1

DEFINITIONS, APPLICATION AND GUIDING PRINCIPLES

Definitions

1.(1) In this Act, unless the context indicates otherwise –

“**area of jurisdiction**” means a designated area of jurisdiction for *isiZwe* as contemplated in section 5(2)(a), a traditional council as contemplated in section 25(8), and a Local House as established by section 53;

“**Chairperson of a traditional council**” means any traditional leader who is *ex officio* a chairperson of a traditional council, and includes –

- (a) *iNkosi*;
- (b) *isiPhakanyiswa*;
- (c) *iBambabukhosi*;
- (d) *iBambela*;
- (e) *iSekela leNkosi*; and
- (f) *iSo leSilo*;

“**Code of Conduct**” means the Codes of Conduct contained in Schedules 6 and 7 to this Act;

“Commission” means the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims established in section 58;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“customary law” means those customs that are recognised as binding on, and enforceable in respect of, all members of a particular *isiZwe* whether they are recognised in this Act or not;

“customs” mean traditional practices adhered to by *isiZwe*, whether recognized in this Act or not;

“Department” means the department in the KwaZulu-Natal Provincial Government responsible for Traditional Affairs;

“district municipality” means a municipality that has municipal executive and legislative authority in an area that includes more than one local municipality, as contemplated in section 5 of the KwaZulu-Natal Determination of Types of Municipalities Act, 2000 (Act No. 7 of 2000), and which is described in section 155(1)(c) of the Constitution as a category C municipality;

“electoral college” means an electoral college consisting of all adult members of that *isiZwe* as contemplated in section 5;

“Executive Council” means the Executive Council of the Province of KwaZulu-Natal;

“government” means the national, provincial, or local spheres of government as contemplated in section 40(1) of the Constitution;

“Head of Department” means the most senior officer of the department in the Provincial Government of KwaZulu-Natal responsible for Traditional Affairs;

“house” means a house as classified by *iNkosi* in consultation with *uMndeni weNkosi* according to customs and customary law;

“iBambabukhosi” means a person contemplated in section 17;

“iBambela” means a person contemplated in section 17;

“imbizo” means a meeting or gathering of the members of *isiZwe* called by the traditional leader concerned;

“iNduna” means a person recognised as *iNduna* for a specific *isiGodi* as contemplated in section 15;

“iNkosi” means a person contemplated in section 13;

“institution” means any institution established or recognised in terms of this Act, but excludes *isiZwe* and a traditional leader;

“iSekela leNkosi” means a person contemplated in section 17;

“isiGodi” means a demarcated traditional ward within the area of jurisdiction of a traditional council, as contemplated in section 9;

“iSilo” means the person recognised as monarch of KwaZulu-Natal in terms of section 12;

“isiPhakanyiswa” means a person elected in terms of section 14;

“isiZwe” means a traditional community contemplated in section 5;

“iSo leNkosi” means *iSo leNkosi* as contemplated in section 16;

“KwaZulu-Natal” means the Province of KwaZulu-Natal;

“legislation” means national, provincial or municipal legislation, whether principal or subordinate;

“Local House” means a Local House of Traditional Leaders established in section 53;

“local municipality” means a municipality that shares municipal executive and

legislative authority in its area with a district municipality within whose area it falls, as contemplated in section 4 of the KwaZulu-Natal Determination of Types of Municipalities Act, 2000 (Act No. 7 of 2000), and which is described in section 155(1)(b) of the Constitution as a category B municipality;

“metropolitan municipality” means a municipality that has exclusive municipal executive and legislative authority in its area of jurisdiction, as contemplated in section 3 of the KwaZulu-Natal Determination of Types of Municipalities Act, 2000 (Act No. 7 of 2000), and which is described in section 155(1)(a) of the Constitution as a category A municipality;

“municipal council” means a municipal council as contemplated in Chapter 7 of the Constitution;

“municipality” means a municipality as contemplated in Chapter 7 of the Constitution, and includes all demarcated wards within a specific municipality;

“municipal ward committees” means municipal ward committees established as contemplated in section 73 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“National Commission” means the Commission on Traditional Leadership Disputes and Claims established as contemplated in section 22 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

“National House” means the National House of Traditional Leaders as contemplated in section 212(2)(a) of the Constitution and established as contemplated in the National House of Traditional Leaders Act, 1997 (Act No. 10 of 1997);

“Premier” means the Premier of KwaZulu-Natal;

“prescribed” means prescribed by way of schedule, regulation or notice as contemplated in this Act;

“Province” means the Province of KwaZulu-Natal;

“Provincial Gazette” means the official *Provincial Gazette* of KwaZulu-Natal;

“Provincial House” means the Provincial House of Traditional Leaders for the Province as contemplated in section 39;

“responsible Member of the Executive Council” means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Traditional Affairs;

“royal family” means the traditional institution which, according to Zulu customary law and customs, is responsible for the identification of the successor of *iSilo*;

“Secretary of the Provincial House” means the head of the administration of the Provincial House of Traditional Leaders, appointed in terms of section 50;

“sub-isiZwe” means a traditional sub-community contemplated in section 7;

“this Act” includes the schedules to this Act, and any regulations made and notices issued as contemplated in this Act;

“traditional council” means a council established in terms of section 25;

“traditional institution” means an institution, whether recognised in terms of this Act or not, established in terms of the applicable customary law and customs of *isiZwe*, whether recognised in terms of section 3 or not;

“traditional leader” means a person recognised in Chapter 3 of this Act as a traditional leader;

“Traditional Leadership and Governance Framework Act, 2003” means the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

“ubuNgonyama” means *ubuNgonyama* as contemplated in section 4;

“uMndeni” means *uMndeni weNkosi* or the immediate family of *iNkosi* of a particular *isiZwe* recognised in terms of section 4, excluding the royal family, and includes –

(a) the core house in which *ubuKhosi* currently resides, which decides on matters relating to *ubuKhosi*, and consists of at least –

(i) the wife or wives, children, brothers and sisters of the current *iNkosi*, including paternal half-brothers and half-sisters;

- (ii) the father and grandfather of the current *iNkosi*, in the event that they are still alive; and
 - (iii) the surviving brothers and sisters of the father and grandfather of the current *iNkosi*; and
- (b) any other house or houses, subject to the customs and customary laws of *uMndeni* concerned, that are made up of descendants of the common ancestors of the core house, who are informed of decisions of the core house relating to matters of *ubuKhosi*.

(2) An expression which denotes the singular includes the plural and vice versa.

Application

2. This Act applies to the Province as contemplated in the Constitution and is administered by the responsible Member of the Executive Council.

Guiding principles

3.(1) All *iziZwe*, traditional institutions and traditional leaders established or recognised in terms of this Act, and all traditional institutions not expressly recognised in this Act, but established in accordance with the customary law and customs of *iziZwe* concerned, must transform and adapt customary law and customs so as to comply with 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.

(2) No traditional institution or traditional leader may promote or prejudice the interests of any political party.

(3) Every traditional institution and traditional leader recognised in this Act must, in the carrying out, execution and performance of its roles, powers and functions –

- (a) apply the principles of co-operative government and intergovernmental relations as contemplated in Chapter 3 of the Constitution and any other applicable law; and

(b) uphold and implement the basic values and principles governing public administration as contemplated in Chapter 10 of the Constitution and any other applicable law.

CHAPTER 2

RECOGNITION AND WITHDRAWAL OF RECOGNITION OF *ISIZWE*

Recognition and withdrawal of *ubuNgonyama*

4. The provisions of section 2A of the Traditional Leadership and Governance Framework Act, 2003, apply in respect of the recognition and withdrawal of the recognition of the *ubuNgonyama* for the Province.

Recognition of *isiZwe*

5.(1) A community may be recognised by the Premier as *isiZwe* if it –

- (a) is subject to a system of traditional leadership observed in that community's customs;
- (b) observes a system of customary law;
- (c) recognises itself as a distinct *isiZwe* with a proven history of existence, from a particular point in time up to the present, distinct and separate from other *iziZwe*;
- (d) occupies a specific geographical area; and
- (e) has a number of *isiGodi* under *iNduna*.

(2)(a) The Premier, after consultation with the persons and bodies contemplated in paragraph (b), may recognise a community as contemplated in subsection (1) as *isiZwe* with a defined geographic area by notice in the *Provincial Gazette* –

- (i) upon written application by the community concerned, in a format substantially compliant with Schedule 1; or
- (ii) upon having decided to establish one or more communities as contemplated in section 6(3).

(b) Any application contemplated in paragraph (a) must be accompanied by an application for the recognition of *iNkosi* for the particular community concerned.

(c) Any decision by the Premier, as contemplated in paragraph (a), must be taken after consultation with –

- (i) the responsible Member of the Executive Council;
- (ii) the community concerned;

(iii) the Local House in whose jurisdictional area the community is located;

(iv) the Provincial House; and

(v) *iSilo*.

(d) Before taking a decision contemplated in paragraph (a), the Premier may appoint an independent person or persons to conduct an investigation in order to determine whether *isiZwe* complies with the criteria as contemplated in subsection (1).

(e) The Premier must reach a decision regarding the recognition of a community within a reasonable period, having regard to the circumstances and nature of the application.

(f) In the event that the Premier –

(i) approves the written application he or she must notify the applicants concerned, in writing, of his or her decision and publish the notice in the *Provincial Gazette* as contemplated in subsection (2)(a); or

(ii) refuses the written application, he or she must notify the applicants concerned, in writing, of the reasons for the refusal within a period of 60 days after the decision contemplated in paragraph (e).

Withdrawal of recognition of *isiZwe*

6.(1) The Premier, after consultation with the responsible Member of the Executive Council, may consider the withdrawal of the recognition of *isiZwe* upon a written application by –

(a) *isiZwe* concerned,

(b) two or more *iziZwe* that wish to be merged into a single *isiZwe*;

(c) *isiZwe* that wishes to be sub-divided into more than one *isiZwe*; or

(d) one or more *isiZwe* to review the position of *isiZwe* or *iziZwe* that was or were divided or merged prior to 1994 in terms of the legislation applicable at the time.

(2) The application contemplated in subsection (1) must provide detailed reasons supporting the application for withdrawal of the recognition of *isiZwe* concerned: Provided that the Premier may appoint an independent person or persons to conduct an investigation in order to establish whether there is sufficient cause for the withdrawal of the recognition of the relevant community as *isiZwe*.

(3) The Premier, subject to the provisions of subsection (2), must reach a decision regarding the withdrawal of recognition of *isiZwe* concerned within a reasonable period.

(4) The Premier, subject to the provisions of subsections (2) and (3) may –

(a) by notice in the *Provincial Gazette*, withdraw the recognition of *isiZwe*

contemplated in subsection (1); or

(b) refuse to withdraw the recognition of *isiZwe* contemplated in subsection (1), in which event he or she must notify *isiZwe* concerned of the reasons for the refusal within a period of 60 days after the decision contemplated in subsection (3).

Recognition of sub-*isiZwe*

7.(a) Where *isiZwe* occupies two or more geographical areas, *iNkosi* of the community concerned may apply to the Premier, in writing, for the recognition of sub-*isiZwe* for the geographical area which is located outside the area where the seat of *iNkosi* is situated.

(b) The provisions of section 5, read with the necessary changes, apply to the recognition of such sub-*isiZwe*.

(c) If the Premier approves the application for the recognition of sub-*isiZwe*, *iNkosi* concerned must, in writing, request the Premier to recognise *iSo leNkosi* for the sub-*isiZwe* as contemplated in section 16.

Withdrawal of recognition of sub-*isiZwe*

8.(1) The withdrawal of the recognition of sub-*isiZwe* may only be considered where the relevant *iNkosi* applies to the Premier to withdraw such recognition.

(2) The application contemplated in subsection (1) must provide detailed reasons supporting the application for withdrawal of the recognition of sub-*isiZwe* concerned: Provided that the Premier may appoint an independent person or persons to conduct an investigation in order to establish whether there is sufficient cause for the withdrawal of the recognition of the relevant sub-*isiZwe*.

(3) The Premier, subject to the provisions of subsection (2), must reach a decision regarding the withdrawal of recognition of sub-*isiZwe* concerned within a reasonable period.

(4) The Premier, subject to the provisions of subsections (2) and (3), may –

(a) by notice in the *Provincial Gazette*, withdraw the recognition of sub-*isiZwe* contemplated in subsection (1); or

(b) refuse to withdraw the recognition of sub-*isiZwe* contemplated in subsection (1), in which event he or she must notify *iNkosi* concerned of the reasons for the refusal within a period of 60 days after the decision contemplated in subsection (3).

Recognition of *isiGodi*

9.(1) *isiGodi* may be recognised as such if it –

- (a) is recognised by *iNkosi* and the traditional council of *isiZwe* concerned;
- (b) is situated within the area of jurisdiction of the traditional council of the relevant *isiZwe*;
- (c) is managed by *iNduna* as contemplated in section 15; and
- (d) will contribute to the effective and efficient administration of the relevant traditional council.

(2)(a) In the event that a portion of *isiZwe* is of the view that it complies with the criteria contemplated in subsection (1), it may request the relevant traditional council to apply to the Premier for the recognition of such portion of the community as *isiGodi*.

(b) If the traditional council is of the view that the portion of *isiZwe* referred to in paragraph (a) does not comply with the criteria set out in subsection (1), the traditional council must inform the community and Premier accordingly and provide reasons for such view.

(3) Before taking a decision as contemplated in subsection (4), the Premier may appoint an independent person or persons to conduct an investigation in order to determine whether the application for recognition of *isiGodi* complies with the criteria contemplated in subsection (1).

(4) The Premier must reach a decision regarding the recognition of a community within a reasonable period having regard to the circumstances and nature of the application.

(5) In the event that the Premier refuses the written application, he or she must notify the applicants concerned of the reasons for the refusal within a period of 60 days after the decision has been reached, as contemplated in subsection (4).

(6) The Premier may, after consultation with the relevant traditional council and *iNkosi* –

- (a) refuse to recognise *isiGodi* concerned; or
- (b) recognise *isiGodi* concerned as part of *isiZwe* concerned by notice in the *Provincial Gazette*.

Withdrawal of recognition of *isiGodi*

10.(1) The withdrawal of the recognition of *isiGodi* may only be considered where *iNkosi* and the traditional council concerned request the Premier to withdraw such recognition.

(2) The application contemplated in subsection (1) must provide detailed reasons supporting the application for withdrawal of the recognition of *isiGodi* concerned: Provided that the Premier may appoint an independent person or persons to conduct an investigation in order to establish whether there is sufficient cause for the withdrawal of the recognition of relevant *isiGodi*.

(3) The Premier, subject to the provisions of subsection (2), must reach a decision regarding the withdrawal of recognition of *isiGodi* concerned within a reasonable period.

(4) The Premier, subject to the provisions of subsections (2) and (3), may –

(a) by notice in the *Provincial Gazette*, withdraw the recognition of *isiGodi* contemplated in subsection (1); or

(b) refuse to withdraw the recognition of *isiGodi* contemplated in subsection (1), in which event he or she must notify *iNkosi* and the traditional council concerned of the reasons for the refusal within a period of 60 days after the date of the decision contemplated in subsection (3).

CHAPTER 3 TRADITIONAL LEADERS

Recognition and remuneration of traditional leadership

11.(1) The following traditional leadership positions are recognised in terms of this Act –

- (a) *iSilo*;
- (b) *iNkosi*;
- (c) *isiPhakanyiswa*; and
- (d) *iNduna*.

(2) The following criteria apply whenever a leadership position is to be recognised –

- (a) a proven history of existence of such leadership position within the community concerned;
- (b) a proven history of acceptance of such leadership position by the community concerned;
- (c) the proven application over time of established customary law and customs within the particular community, pertaining to the hereditary succession or election of leadership including the term of the elected leadership;

- (d) a history of functions and powers of the specific leadership position in terms of the established customary law and customs within the particular community;
- (e) the recognition of the community in terms of this Act; and
- (f) a proven history of –
 - (i) hereditary leadership in terms of customary law or customs of the community, with or without a customary role for community participation in the determination or confirmation of the individual as leader; or
 - (ii) elected leadership where, in terms of the customary law or customs of the community concerned, the leader is elected.

(3) The remuneration, allowances and benefits payable to *iSilo*, *iNkosi*, *isiPhakanyiswa* and *iziNduna* are as determined in accordance with the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Identification, recognition and withdrawal of recognition of *iSilo*

12. The provisions of sections 9 and 10 of the Traditional Leadership and Governance Framework Act, 2003, apply to the identification, recognition and withdrawal of recognition of *iSilo*.

Identification and recognition of *iNkosi*

13.(1) Whenever the position of *iNkosi* is to be filled –

- (a) *uMndeni* must, within a reasonable period after the position has become vacant, having regard to the circumstances, applicable customary law and customs, and the guidelines contained in Schedule 2 –
 - (i) identify a person to assume the position of *iNkosi*;
 - (ii) in writing, inform *iSilo* of the person identified to fill the position of *iNkosi*, providing reasons for such identification;
 - (iii) in writing, inform the Premier and the responsible Member of the Executive Council of the person identified to fill the position of *iNkosi* as well as the reasons for such identification: Provided that the notification to the Premier must include proof that subparagraph (ii) has been complied with; and
- (b) the Premier, after consultation with the responsible Member of the Executive Council, and subject to subsections (2) and (3), must recognise a person so identified as contemplated in paragraph (a)(i) as *iNkosi*.

- (2) The following grounds exclude any person from being recognised as *iNkosi* –
- (a) the conviction of an offence for which a sentence of imprisonment of more than 12 months without the option of a fine was imposed;
 - (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for *iNkosi* to function as such;
 - (c) a determination by the National Commission as contemplated in section 26(2)(b) of the Traditional Leadership and Governance Framework Act, 2003, that a previous appointment or recognition of the person concerned was made incorrectly; or
 - (d) a transgression of customary law or customs that warrants non-recognition.
- (3) Where there is evidence or an allegation that the identification of the person identified for recognition as *iNkosi* was not done in terms of customs and customary law, the Premier may –
- (a) appoint a person or persons to conduct an investigation and to provide a report on whether the identification of the person was done in terms of customs and customary law; or
 - (b) nonetheless recognise the person so identified as *iNkosi*.
- (4) The Premier, after having considered the report contemplated in subsection (3)(a), may –
- (a) recognise the person so identified as *iNkosi*; or
 - (b) refuse to recognise the person so identified as *iNkosi*, in which event the Premier must inform *uMndeni* of the reasons for his or her decision and request *uMndeni* to identify another person as contemplated in subsection (1).
- (5) The recognition of the person identified as *iNkosi* as contemplated in this section must be done by way of –
- (a) publication of a notice of recognition in the *Provincial Gazette* by the Premier; and
 - (b) the issuing of a certificate of recognition to *iNkosi* concerned.
- (6) Upon publication of the notice of recognition of *iNkosi* in the *Provincial Gazette*, the Head of the Department must inform *iSilo*, the Provincial House and the local house concerned of the recognition of *iNkosi*.

Identification and recognition of *isiPhakanyiswa*

14. For the purposes of the identification and recognition of *isiPhakanyiswa* the process, as contemplated in section 13, applies with the necessary changes: Provided that –

- (a) such recognition is for a period of five years;
- (b) any reference to *uMndeni* is deemed to refer to an electoral college; and
- (c) the customary identification processes referred to in section 13(1)(a) are replaced by a democratic election, to be held in the prescribed manner.

Identification and recognition of *iNduna*

15. Whenever the position of *iNduna* for a specific *isiGodi* is to be filled –

- (a) a person who is to assume the position of *iNduna* must, in terms of customs or customary law, be identified by *iNkosi* or be nominated by the community concerned at *imbizo* called for that purpose, within a reasonable time after the need arises for such a position to be filled, taking into account whether any of the grounds referred to in section 13(2) apply to that person;
- (b) *iNkosi* must apply to the Premier for the recognition of the person so identified or nominated and provide the Premier with the particulars of such person; and
- (c) the Premier concerned must recognise the person so identified or nominated as *iNduna*, as contemplated in section 13(5), read with the necessary changes.

Identification and recognition of *iSo leSilo* and *iSo leNkosi*

16.(1) For the purposes of identification and recognition of *iSo leSilo* and *iSo leNkosi*, the provisions of section 13 apply with the necessary changes: Provided that –

- (a) *iSilo* identifies the persons for recognition as *iSo leSilo* in *uSuthu isiZwe* and its sub-*isiZwe*; and
- (b) *iNkosi* identifies the persons for recognition as *iSo leNkosi* in any sub-*isiZwe* established and recognised as contemplated in section 7.

(2) In the event that *iSo leSilo* or *iSo leNkosi* should pass away, retire or resign at any stage whilst *uSuthu isiZwe* or any other *isiZwe* does not have a recognised *iSilo*, *iNkosi*, *iBambabukhosi* or *iBambela*, as the case may be, the Premier must, within a period of 90 days of the position becoming vacant, recognise a suitable person from the members of sub-*isiZwe* to manage the affairs of sub-*isiZwe* concerned, until *iSilo*, *iNkosi*, *iBambabukhosi* or *iBambela*, as the case may be, is recognised and appoints *iSo leSilo* or *iSo leNkosi*, as the case may be.

Identification and recognition of *iBambabukhosi*, *iBambela*, and *iSekela leNkosi*

17.(1) The provisions of section 13 apply with the necessary changes to the identification and recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi*: Provided that –

(a) *iBambabukhosi* may only be identified and recognised where the successor to the leadership position concerned has been identified, but is still a minor in accordance with the customs and customary law of *isiZwe* concerned;

(b) *iBambela* may only be identified and recognised where –

(i) a successor to the leadership position concerned has not been identified;

(ii) the identification of the successor to the leadership position concerned is being reconsidered as contemplated in section 13(3), as the case may be;

(iii) *iSilo*, *iNkosi* or *isiPhakanyiswa* recognised, as contemplated in section 12, 13 or 14, as the case may be, will be absent from his or her area of jurisdiction for a period of more than six months for –

(aa) the treatment of illness;

(bb) study purposes; or

(cc) any other lawful purpose, but excluding circumstances contemplated in paragraph (c); and

(c) *iSekela leNkosi* must be identified and recognised by *iNkosi* or *isiPhakanyiswa* after consultation with *uMndeni* or the electoral college, as the case may be, for the duration of the absence of *iNkosi* or *isiPhakanyiswa*, as the case may be, where such *iNkosi* or *isiPhakanyiswa* –

(i) becomes a full-time member of a municipal council;

(ii) is elected as a member of a provincial legislature;

(iii) is elected as a member of the National Assembly;

(iv) is appointed as a permanent delegate to the National Council of Provinces;

(v) is elected to, or appointed in, a full-time position in the National or Provincial House or a Local House;

(vi) is appointed as a full-time member of the National Commission;

(vii) is appointed as a member of the Commission; or

(viii) is appointed in a full-time position in any of the three spheres of government.

(2) Notwithstanding the provisions of subsection (1)(b), the Premier must, in the event that *uMndeni* fails to identify a person for recognition as *iNkosi* or *iBambabukhosi* within a period of 60 days after the date on which the position has become vacant, after consultation with *uMndeni*, identify and recognise a suitable person who is either *iNduna* or a member of the

traditional council, as *iBambela*, until such time that *iNkosi* or *iBambabukhosi* is identified as contemplated in section 13 or 17.

(3) The recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi* must be reviewed by the Premier at least once every five years.

(4) The notice of recognition of *iBambabukhosi* published by the Premier in the *Provincial Gazette* must stipulate the identity of the successor to *ubuKhosi* on whose behalf *iBambabukhosi* has been recognised, and *iBambabukhosi* must acknowledge that he or she has no claim to *ubuKhosi* by completing the form contemplated in Schedule 3.

Grounds for withdrawal of recognition of traditional leaders

18. The recognition of any traditional leader –

(a) must be withdrawn if he or she –

(i) has been convicted of an offence with a sentence of imprisonment of more than 12 months without the option of a fine;

(ii) suffers from a physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for that *iNkosi* or *iNduna* to function as such;

(iii) no longer permanently resides within the area of the traditional council;

(iv) has been removed from office in terms of the Code of Conduct; or

(v) a determination by the National Commission as contemplated in section 25 of the Traditional Leadership and Governance Framework Act, 2003, that a previous appointment or recognition of the person concerned was made incorrectly; and

(b) may be withdrawn if he or she has transgressed a customary law or custom, on grounds that warrant withdrawal of recognition.

Withdrawal of recognition of *iNkosi*

19.(1) Whenever any of the grounds contemplated in –

(a) section 13(2) come to the attention of *uMndeni*, *uMndeni* must request the Premier, in writing, to withdraw the recognition of *iNkosi* concerned; or

(b) section 13(3) come to the attention of *uMndeni*, and *uMndeni* decides to recommend the withdrawal of the recognition of *iNkosi*, *uMndeni* must, in writing, inform the Premier of the particulars of, and the reasons for, the requested removal.

(2) In the event that the Premier decides to remove *iNkosi*, the Premier must withdraw the recognition of *iNkosi* by notice in the *Provincial Gazette*, which notice must provide particulars of the reasons for the withdrawal of recognition.

(3) Upon publication of the notice of withdrawal of recognition of *iNkosi* in the *Provincial Gazette*, the Head of the Department must inform *iSilo*, *uMndeni*, the Provincial House and the Local House concerned of the withdrawal of recognition of *iNkosi*.

(4) Where the Premier has withdrawn the recognition of *iNkosi*, as contemplated in subsection (2), the identification and recognition of a successor, as contemplated in section 13, must commence forthwith.

Withdrawal of recognition of *isiPhakanyiswa*

20.(1) Whenever any of the grounds contemplated in –

(a) section 13(2) come to the attention of the traditional council or members of *isiZwe*, the traditional council or members of *isiZwe* must request the Premier to withdraw the recognition of *isiPhakanyiswa* concerned; or

(b) section 13(3) come to the attention of the traditional council or members of *isiZwe*, and the traditional council or members of *isiZwe* decide to recommend the withdrawal of the recognition of *isiPhakanyiswa*, the traditional council or members of *isiZwe* must, in writing, inform the Premier of the particulars of, and the reasons for, the requested removal.

(2) In the event that the Premier decides to remove *isiPhakanyiswa*, the Premier must withdraw the recognition of *isiPhakanyiswa* by notice in the *Provincial Gazette*, which notice must provide particulars of the reasons for the withdrawal of recognition: Provided that the recognition of *isiPhakanyiswa* at the conclusion of his or her term of office is terminated without the necessity of a notice in the *Provincial Gazette*.

(3) Upon publication of the notice of withdrawal of recognition of *isiPhakanyiswa* in the *Provincial Gazette*, the Head of the Department must inform *iSilo*, the Provincial House and the Local House concerned of the withdrawal of recognition of *isiPhakanyiswa*.

(4) Where the Premier has withdrawn the recognition of *isiPhakanyiswa*, as contemplated in subsection (2), the process to elect a new *isiPhakanyiswa*, as contemplated in section 14, must commence within a period of 60 days.

Withdrawal of recognition of *iNduna*

21.(1) Whenever any of the grounds contemplated in –

(a) section 13(2) come to the attention of *iNkosi*, the traditional council or members of *isiZwe*, *iNkosi*, the traditional council or members of *isiZwe* must then request the Premier to withdraw the recognition of *iNduna* concerned; or

(b) section 13(3) come to the attention of *iNkosi*, the traditional council or members of *isiZwe*, and *iNkosi*, the traditional council or members of *isiZwe* decide to recommend the withdrawal of the recognition of *iNduna*, *iNkosi*, the traditional council or members of *isiZwe* must, in writing, inform the Premier of the particulars of, and the reasons for, the requested removal.

(2) In the event that the Premier decides to remove *iNduna*, the Premier must withdraw the recognition of *iNduna* by notice in the *Provincial Gazette*, which notice must provide particulars of the reasons for the withdrawal of recognition.

(3) Upon publication of the notice of withdrawal of recognition of *iNduna* in the *Provincial Gazette*, the Head of the Department must inform *iNkosi* and the traditional council concerned of the withdrawal of recognition of *iNduna*.

(4) Where the Premier has withdrawn the recognition of *iNduna*, as contemplated in subsection (2), the process to recognise a new *iNduna*, as contemplated in section 15, must commence within a period of 60 days.

Withdrawal of recognition of *iSo leSilo* and *iSo leNkosi*

22.(a) Whenever *iSilo* or *iNkosi* decides to remove *iSo leSilo* and *iSo leNkosi*, he or she must inform the Premier, in writing, of such decision, whereafter the Premier must withdraw the recognition of *iSo leSilo* and *iSo leNkosi*.

(b) The provisions of section 13(5) apply to the withdrawal of recognition contemplated in paragraph (a).

Removal of *iBambabukhosi*, *iBambela* and *iSekela leNkosi*

23. The recognition of *iBambabukhosi*, *iBambela* and *iSekela leNkosi* –

(a) is withdrawn by operation of law where –

(i) in the case of *iBambabukhosi* and *iBambela*, the successor to the position of *iNkosi* is recognised as contemplated in section 13; or

- (ii) in the case of *iSekela leNkosi*, when the circumstances leading to the absence of *iNkosi*, as contemplated in section 17(1)(c), no longer exist; or
- (b) may be withdrawn in accordance with the provision of section 18, 68 or 70.

CHAPTER 4 ESTABLISHMENT, COMPOSITION AND RECOGNITION OF KINGSHIP AND TRADITIONAL COUNCILS

Establishment, composition and recognition of kingship council

24. A kingship council must be established and recognised in KwaZulu-Natal in accordance with the provisions of section 3A of the Traditional Leadership and Governance Framework Act, 2003.

Establishment, composition and recognition of traditional councils

25.(1) Once the Premier has recognised *isiZwe* as contemplated in section 5, *isiZwe*, with the assistance of the Department, must establish a traditional council as contemplated in this section and in compliance with Schedule 4, within a period of three months after the date of recognition of the community concerned.

(2) The number of members of a traditional council must comprise of at least one third women.

(3) The members of a traditional council, who must be at least 18 years old, must consist of

–

(a) traditional leaders and members of *isiZwe* selected by *iNkosi* 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, which may include consultation with *uMndeni*, taking into account the need for overall compliance with paragraph (b); and

(b) other members of *isiZwe* who are democratically elected in a prescribed manner, for a term of five years aligned with the term of office of the National House of Traditional Leaders and who must constitute 40 per cent of the members of the traditional council: Provided that the term of office of members of the traditional council will not terminate until the date on which the newly elected members of the traditional council assume office.

(4) *iNkosi* must announce the names of the members of the traditional council selected by him or her in terms of subsection (3)(a) before the remaining members of the traditional council are elected.

(5) *iNkosi* concerned must submit the names of the members of the traditional council and the particulars of the establishment of that traditional council to the Premier, in writing, within two weeks of the date of establishment of that council in terms of this section.

(6) Where an insufficient number of women are available to participate in the traditional council, as envisaged in subsections (3)(a) and (b), *iNkosi* concerned must submit proof to the Premier that an insufficient number of women are available to so participate.

(7) On receipt of the information contemplated in subsections (5) or (6), the Premier must consider whether the establishment of the traditional council concerned was done in accordance with this section and section 3 of the Traditional Leadership and Governance Framework Act, 2003.

(8) Where the provisions of subsection (6) are not applicable, and if the Premier is satisfied that this section and section 3 of the Traditional Leadership and Governance Framework Act, 2003, have been complied with, the Premier must, by notice in the *Provincial Gazette*, recognise the traditional council and determine its area of jurisdiction.

(9) Where the provisions of subsection (6) are applicable, the Premier may, if he or she is satisfied, and after consultation with *isiZwe* concerned, that it has been proven that there is an insufficient number of women available to participate in the traditional council, determine a lower threshold for that traditional council, than that required by section 3(2)(b) of the Traditional Leadership and Governance Framework Act, 2003.

(10) After the Premier has determined a lower threshold in terms of subsection (9) and the Premier is satisfied that the other provisions of this section and section 3 of the Traditional Leadership and Governance Framework Act, 2003, have been complied with, the Premier must, by notice in the *Provincial Gazette*, recognise the traditional council and determine its area of jurisdiction.

(11) The provisions of this section apply with the necessary changes to –

(a) the establishment, composition and recognition of traditional councils chaired by *isiPhakanyiswa*; and

(b) the re-constitution of traditional councils upon the expiry of the five year term of office of a traditional council.

(12) At the first meeting of a traditional council established and recognised as contemplated in this section, the members of the traditional council must elect a deputy chairperson from amongst its members, who must act as chairperson of the traditional council during the temporary absence of the chairperson of the traditional council.

(13) The provisions of this section, as well as sections 26 and 27, apply with the necessary changes to the establishment, composition and recognition of traditional councils for sub-*isiZwe*.

Vacating of seats and filling of vacancies

26.(1) The seat of a member of a traditional council becomes vacant –

- (a) upon the death of the member;
- (b) if the member resigns in writing;
- (c) if the member has been convicted of an offence and sentenced to imprisonment of more than 12 months without the option of a fine; or
- (d) if the member is of unsound mind and has been so declared by a competent court.

(2) If a member of a traditional council vacates a seat, the chairperson of the traditional council must inform the Department of the vacancy within a period of 14 days after the date on which the vacancy occurred and the vacancy must be filled as contemplated in subsections (3) and (4) below: Provided that a member contemplated in this subsection will only serve on the traditional council for the remainder of the term of office of the remaining members.

(3) Any vacancy amongst –

- (a) the selected members of a traditional council must be filled by *iNkosi*, as contemplated in section 25(3)(a), within a period of 30 days after the date on which the vacancy has occurred; or
- (b) the elected members of a traditional council must be filled, as contemplated in section 25(3)(b), within a period of 90 days after the date on which the vacancy has occurred.

Withdrawal of recognition of traditional councils

27. In the event that the Premier withdraws the recognition of *isiZwe*, as contemplated in section 6, the notice contemplated in section 6(4)(b) must also provide for the simultaneous withdrawal of recognition of the traditional council concerned, as well as for related matters.

CHAPTER 5 ROLES, POWERS AND FUNCTIONS OF TRADITIONAL LEADERS

Roles, powers and functions of *iSilo*

28. *iSilo* must –

- (a) uphold the Constitution and the laws of KwaZulu-Natal;
- (b) promote peace, stability and nation building;
- (c) serve as a symbol of –
 - (i) provincial unity; and
 - (ii) cross-cultural unity; and
- (d) protect and promote –
 - (i) customary law and customs;
 - (ii) *isiZwe*;
 - (iii) traditional institutions; and
 - (iv) the Zulu royal legacy; and
- (e) install *iNkosi*;
- (f) participate in the activities of the Provincial House; and
- (g) carry out, execute and perform the roles, powers and functions provided for in –
 - (i) customary law and customs;
 - (ii) any other legislation; and
 - (iii) regulations published as contemplated in section 9(5)(a) of the Traditional Leadership and Governance Framework Act, 2003.

Roles, powers, and functions of *iNkosi*

29.(1) *iNkosi* must –

- (a) protect and promote –
 - (i) customary law and customs; and
 - (ii) the institution of traditional leadership; and
- (b) manage the affairs of *isiZwe* concerned as contemplated in this Act and other applicable legislation;

- (c) co-operate with, support and assist traditional institutions in the carrying out, execution and performance of their roles, powers and functions;
- (d) serve as a symbol of unity within *isiZwe* concerned;
- (e) promote indigenous knowledge systems for sustainable development and disaster management;
- (f) share information and co-operate with other *iNkosi*;
- (g) act as chairperson of the traditional council recognised in section 25;
- (h) act on behalf of the traditional council recognised in section 25 when it is not in session;
- (i) be co-responsible with traditional councils recognised in section 25 for the development of *isiZwe*, including their general socio-economic upliftment;
- (j) participate in municipal councils as contemplated in section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (k) participate in the activities of the Local House;
- (l) participate in the activities of the Provincial House;
- (m) promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;
- (n) meet at least once every six months with *isiZwe* concerned to –
 - (i) give account of their activities; and
 - (ii) provide information on the contents and implications of new laws and government programmes; and
- (o) carry out, execute and perform any other role, power or function allocated to *iNkosi* as contemplated in this Act, other applicable legislation, customary law and customs.

(2) Provincial organs of state may, through legislative and administrative measures, provide for roles, powers or functions for *iNkosi* in respect of –

- (a) arts and culture;
- (b) agriculture;
- (c) health;
- (d) housing;
- (e) welfare;
- (f) safety and security;
- (g) economic development;
- (h) environment;
- (i) tourism;
- (j) disaster management;
- (k) the management of natural resources;

- (l) the dissemination of information relating to government policies and programmes;
- and
- (m) education.

(3) In addition to the roles, powers or functions contemplated in subsection (2), *iNkosi* may also perform such functions associated with the administration of justice, land administration and the registration of births, deaths and customary marriages as may be provided for in terms of applicable national legislation.

(4) Whenever an organ of state considers allocating roles, powers and functions to *iNkosi*, as contemplated in subsection (2), such allocation may be done by means of delegations, agency agreements or powers of attorney: Provided that the organ of state concerned must –

- (a) obtain the concurrence of the responsible Member of the Executive Council;
- (b) consult with –
 - (i) the Provincial House; and
 - (ii) the Local House concerned; and
- (c) ensure that the allocation of roles, powers and functions is consistent with the Constitution and applicable legislation;
- (d) take the customary law and customs of *isiZwe* concerned into consideration;
- (e) ensure that the allocation of roles, powers and functions is accompanied by sufficient skills development, administrative, financial and other support and that appropriate measures to account for such support are implemented;
- (f) ensure, to the extent that it is reasonably possible, that the allocation of roles, powers and functions is implemented uniformly; and
- (g) promote the constitutional principles of co-operative governance, the constitutional basic values and principles of public administration, integrated development planning, sustainable development and service delivery through the allocation of roles, powers and functions.

(5) In the carrying out, execution and performance of the roles, powers and functions contemplated in subsections (1) and (2), *iNkosi* must –

- (a) keep proper records;
- (b) disclose the receipt of gifts as contemplated in the Code of Conduct; and
- (c) adhere to the Code of Conduct.

(6) The organ of state concerned and the responsible Member of the Executive Council must monitor the carrying out, execution and performance of the roles, powers and functions allocated to *iNkosi* by the organ of state concerned: Provided that, in the event that *iNkosi* does not comply with any of the provisions of subsections (1) to (5), the responsible Member of the Executive Council may intervene by taking any appropriate steps to ensure compliance.

(7) The provisions of this section apply with the necessary changes to *isiPhakanyiswa*.

Roles, powers and functions of *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo*

30. For purposes of the roles, powers and functions of *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo* the provisions of section 29 apply, with the necessary changes.

Allocation of roles, powers and functions to *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo* by organs of state

31. For purposes of the allocation of roles, powers and functions to *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo* by organs of state, the provisions of section 29 apply, with the necessary changes.

Roles, powers and functions of *iNduna*

32. *iNduna* must –

- (a) participate in the activities of municipal ward committees to promote the development of *isiGodi*;
- (b) represent *iNkosi* of *isiZwe* concerned where necessary;
- (c) identify the development needs of *isiGodi*;
- (d) attend to conflict resolution issues;
- (e) disseminate information to communities;
- (f) attend meetings of *iNduna* convened by *iNkosi* of *isiZwe* concerned;
- (g) attend to the allocation of residential areas; and
- (h) manage the day-to-day running of *isiGodi*.

Roles, powers and functions of traditional councils

33.(1) A traditional council must –

- (a) manage the affairs of *isiZwe* in accordance with the customary law and customs of the community concerned;
- (b) assist, support and guide *iNkosi* and *isiPhakanyiswa* in the carrying out, execution and performance of their roles, powers and functions;
- (c) support municipalities in the identification of community needs;
- (d) facilitate the involvement of *isiZwe* concerned in the amendment of the Integrated Development Plan of the local municipality in whose area of jurisdiction that community resides;
- (e) recommend to government, after consultation with the local municipality, the Local House concerned and the Provincial House, appropriate mechanisms and steps that will contribute to the development of *isiZwe* concerned, as well as service delivery and development in general within the area of jurisdiction of the traditional council;
- (f) participate in the development of policy and legislation at local government level;
- (g) participate in development programmes of municipalities and of the provincial and national spheres of government;
- (h) promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;
- (i) promote indigenous knowledge systems for sustainable development and disaster management;
- (j) alert the relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council in question, or the well-being of people living in such area of jurisdiction, and contribute to disaster management in general;
- (k) share information and co-operate with other traditional councils;
- (l) co-operate with all municipal ward committees within its area of jurisdiction;
- (m) meet at least once every six months with its *isiZwe* to give account of the activities and finances of the traditional council; and
- (n) carry out, execute and perform any other role, power or function allocated to a traditional council as contemplated in this Act and other applicable legislation.

(2) Provincial organs of state may, through legislative and administrative measures, provide for roles, powers and functions for traditional councils in respect of –

- (a) arts and culture;
- (b) agriculture;
- (c) health;
- (d) housing;

- (e) welfare;
- (f) safety and security;
- (g) economic development;
- (h) environment;
- (i) tourism;
- (j) disaster management;
- (k) the management of natural resources;
- (l) the dissemination of information relating to government policies and programmes;
- and
- (m) education.

(3) In addition to the roles, powers and functions contemplated in subsection (2), traditional councils may also perform such functions associated with the administration of justice, land administration and the registration of births, deaths and customary marriages as may be provided for in terms of applicable national legislation.

(4) Whenever an organ of state considers allocating roles, powers and functions to a traditional council, by means of delegations, agency agreements or powers of attorney, as contemplated in subsection (2), the provisions of section 29(3) apply with the necessary changes.

(5) A traditional council –

- (a) may enter into service delivery agreements with a municipality in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and any other applicable legislation;
- (b) must perform the customary roles, powers and functions provided for in the customary law and customs of *isiZwe* concerned, in addition to any roles, powers and functions allocated to a traditional council as contemplated in this Act and other applicable legislation; and
- (c) in the performance of its roles, powers and functions, must –
 - (i) keep proper records;
 - (ii) disclose the receipt of gifts in accordance with the Code of Conduct; and
 - (iii) adhere to the Code of Conduct.

(6) The responsible Member of the Executive Council –

- (a) must monitor the carrying out, execution and performance of the roles, powers and functions allocated as contemplated in this Act, and other applicable legislation, to traditional councils; and
- (b) in the event that a traditional council does not comply with any of the provisions of subsections (1), (2) and (5), may intervene by taking any appropriate steps to ensure compliance.

(7)(a) The responsible Member of the Executive Council, if he or she is satisfied that a traditional council is unable to perform the functions delegated to it in terms of this Act in an efficient and effective manner, or in a manner that promotes good governance and administration, may appoint any person as an administrator to assist the traditional council concerned to perform the powers and functions of such traditional council.

(b) The administrator appointed as contemplated in paragraph (a) must be competent to exercise and perform any power or function conferred or imposed by law upon the traditional council concerned, on behalf of the traditional council.

(c) The appointment of the administrator contemplated in this subsection must be reviewed after a period of 180 days.

(8) The provisions of this section and section 34 apply, with the necessary changes, to any traditional sub-council established and recognised as contemplated in section 7.

Partnerships between municipalities and traditional councils

34. The Department must promote partnerships between municipalities and traditional councils, which must be –

- (a) based on the principles of mutual respect and recognition of the status and roles of the respective parties; and
- (b) guided by and based on the constitutional principles of co-operative government and the constitutional basic values and principles governing public administration.

Support to traditional councils

35.(1) The responsible Member of the Executive Council must provide support to traditional councils, which may include –

- (a) the secondment of staff to traditional councils, taking into consideration the extent of the areas of jurisdiction of traditional councils and the needs of *isiZwe* concerned; and

(b) the opening and management of one consolidated bank account for traditional councils in the Province, including the auditing of the consolidated financial statements for the traditional councils concerned.

(2) The staff seconded to traditional councils must report to a person designated by *iNkosi* concerned.

(3) Any unacceptable behaviour or conduct of the staff seconded to traditional councils must, within a period of 60 days upon becoming aware of such unacceptable behaviour or conduct, be reported, by *iNkosi* contemplated in subsection (2), to the responsible Member of the Executive Council.

Meetings of traditional councils

36.(1) *iNkosi* must, within 21 days after the establishment of a traditional council in terms of section 25, convene the first meeting of the traditional council.

(2)(a) Meetings of traditional councils are chaired by *iNkosi* under whose area of jurisdiction the traditional council falls unless *iNkosi* is absent from a meeting, in which event that meeting will be chaired by the deputy chairperson.

(b) The deputy chairperson of a traditional council is elected by the members of that traditional council at its first meeting: Provided that the deputy chairperson only presides at any meeting of the traditional council in the event that *iNkosi* is absent.

(c) In the event that both the chairperson and deputy chairperson are absent from a meeting, that meeting must be chaired by an acting chairperson who must be elected by the members present at the meeting from one of their number.

(3) Every traditional council must hold an ordinary meeting at least once every quarter on a day and time determined by the chairperson.

(4) A written notice of the meeting must be given to all members of the traditional council at least seven days prior to the date of the meeting.

(5) The procedure to be followed at any meeting of the traditional council must be in accordance with customary law and customs.

Minutes of meetings

37.(1) Every traditional council must keep minutes of each of its meetings in which the following must be recorded –

- (a) the place, date and time of the meeting;
- (b) the names of the members present;
- (c) a summary of every decision taken at the meeting; and
- (d) if a member so requests, the fact that he or she voted against any decision taken.

(2) A copy of the minutes must, within fifteen days after any meeting, be forwarded to the relevant district office of the Department.

Subsistence and travelling allowances for members of traditional councils

38.(1) A member of a traditional council may, in respect of his or her functions as member, receive reimbursement for reasonable and actual travelling expenses necessitated by the actual attendance of a meeting of the traditional council.

(2) The responsible Member of the Executive Council, in consultation with the Member of the Executive Council responsible for Finance, must determine the procedures, including control measures for the management, handling and processing of claims for subsistence and travelling expenses, contemplated in subsection (1).

CHAPTER 6 HOUSES OF TRADITIONAL LEADERS

Establishment and membership of KwaZulu-Natal Provincial House of Traditional Leaders

39.(a) The KwaZulu-Natal Provincial House of Traditional Leaders is hereby established.

(b) The term of office of members of the Provincial House is five years, which period must be aligned to the term of office of the members of the National House of Traditional Leaders: Provided that the term of office of members of the Provincial House will not terminate until the date on which the newly elected members of the Provincial House assume office.

(c) Subject to the provisions of section 40(1)(a), the members contemplated in this section must be chairpersons of traditional councils established and recognised as contemplated in section 25 and are eligible for re-election.

Composition and seat of Provincial House

40.(1) The Provincial House consists of the following members –

- (a) *iSilo* or his or her nominee; and
- (b) a minimum of three and a maximum of seven members elected from each Local House of Traditional Leaders.

(2) Each Local House must, subject to subsection (1)(b), elect from its members the number of representatives to the Provincial House contemplated in Schedule 5.

(3) The Executive Council may, from time to time, after consultation with the Executive Committee of the Provincial House, determine the seat of the Provincial House.

(4) A Provincial House may establish and elect an executive committee comprising no more than ten members of that Provincial House, which committee has the powers and functions –

- (a) conferred upon it by the Rules of the Provincial House; and
- (b) delegated to it by the Provincial House.

Qualification for membership of Provincial House

41. A person is not eligible to become a member of the House if that person –

- (a) is a full-time member of a municipal council, a member of Provincial Legislature or a member of Parliament;
- (b) at the time of the election of members of the House, is serving a sentence of imprisonment;
- (c) is an unrehabilitated insolvent;
- (d) is of unsound mind and has been so declared by a competent court;
- (e) has been convicted of a criminal offence and sentenced to more than 12 months' imprisonment without the option of a fine;
- (f) is not a South African citizen; or
- (g) is not permanently resident within the Republic of South Africa.

Vacating of seats in Provincial House

42. The seat of a member of the Provincial House becomes vacant –

- (a) upon the death of a member;
- (b) if the member resigns by written notice under his or her Hand;
- (c) if the member becomes disqualified in terms of section 41;

(d) if he or she, without having obtained leave in accordance with the rules and orders, as contemplated in section 48, absents himself or herself from three consecutive meetings of the House; or

(e) if he/she is removed from the Provincial House for breach of the Code of Conduct contained in Part C of Schedule 7 to this Act.

Filling of vacancies in Provincial House

43.(1) Where a vacancy occurs in the Provincial House the secretary of the Provincial House must, within 14 days, inform the responsible Member of the Executive Council of such a vacancy occurring, whereafter the responsible Member of the Executive Council must, within a reasonable period, inform the Premier.

(2) A vacancy in the House must be filled within 60 days by the election of a member for the unexpired portion of the term of office of the member in whose place he or she is elected, and in the same manner in which the latter member was elected.

(3) A vacancy must be filled as contemplated in section 40(2) of this Act.

Election of Chairperson and Executive Committee of Provincial House

44.(1) The Provincial House must meet within 30 days after the election of a new House at a place and time to be determined by the Premier by notice in the *Provincial Gazette*.

(2) At the meeting contemplated in subsection (1), a Judge of the High Court of the Republic of South Africa must act as chairperson until such time as the chairperson and deputy chairperson of the Provincial House have been elected by members of the House, whereafter the Chairperson of the House must conduct the election of the remaining members of the Executive Committee of the House.

(3) Subject to the provisions of subsection (8), the chairperson and deputy chairperson hold office for the term of the Provincial House, as contemplated in section 39, and they are eligible for re-election at the expiry of their term of office: Provided that no member may serve as a chairperson or deputy chairperson for more than two consecutive terms.

(4) The chairperson has the powers and functions assigned to him or her in terms of this Act and the rules and orders of the Provincial House.

(5) If the chairperson is absent, or for any reason is unable to perform his or her functions, or when the office of chairperson is vacant, the deputy chairperson must act as chairperson until the chairperson returns or is again able to perform his or her functions, or until a new chairperson is elected.

(6) If any of the circumstances described in subsection (5) apply to both the chairperson and the deputy chairperson, a member of the Provincial House elected by members present at the meeting, must act as chairperson for as long as the circumstances contemplated in subsection (5) prevail.

(7) The deputy chairperson or the member elected, as contemplated in subsection (6), may exercise the powers and must perform the functions of the chairperson.

(8) The chairperson or deputy chairperson –

(a) must vacate his or her office if he or she ceases to be a member of the Provincial House;

(b) may be removed from office by a vote of no confidence supported by a 75 per cent majority of all the members of the Provincial House; and

(c) may resign by lodging his or her resignation in writing with the secretary to the Provincial House.

(9) In the event that the chairperson or deputy chairperson vacates his or her seat, the process contemplated in subsection (2) must be followed to elect a new chairperson or deputy chairperson.

(10) The Executive Committee or any member thereof may carry out such functions, execute such powers and perform such duties as may be delegated by the Provincial House during any time whenever the Provincial House is not in session.

(11) The Executive Committee, and any member thereof who has carried out functions, executed powers and performed duties contemplated in subsection (10), must submit a report for ratification of any such action taken to the Provincial House at the next session of the Provincial House.

(12) If the position of any member of the Executive Committee becomes vacant before the expiry of his or her term of office, his or her position must be filled by another member within

45 days, which member will serve for the remainder of the current term of office of the remaining members of the Executive Committee.

Status of members of Provincial House

45.(a) The chairperson and the deputy chairperson are full-time members of the Provincial House.

(b) The Premier may, after consultation with the Provincial House, determine, by notice in the *Provincial Gazette* that certain other members of the Provincial House are to serve as full-time members of the Provincial House.

Election of representatives to National House

46. The Provincial House must, in its first sitting, elect its representatives to serve in the National House in accordance with the provisions of section 4 of the National House of Traditional Leaders Act, 2009.

Meetings of Provincial House

47.(1) While presiding at a meeting of the Provincial House, the chairperson, deputy chairperson or other member presiding does not have a deliberative vote, but has a casting vote in the case of an equality of votes.

(2) An ordinary meeting of the Provincial House must be held at least once every quarter.

(3) In addition to the ordinary meetings of the Provincial House, the Executive Committee may, at any time, and if so directed by the Premier, call a special meeting of the Provincial House at a place and on a day to be determined by the Executive Committee.

(4) At a special meeting called by the Executive Committee, only those matters that are placed before the Provincial House may be dealt with.

(5) If a special meeting is called at the direction of the Premier, only those matters which necessitated the calling of the special meeting may be dealt with.

(6) The chairperson may convene a special meeting of the Provincial House, within a period of seven days, upon receiving a written request by at least ten members of the Provincial House.

(7) Should the chairperson fail to convene a special meeting of the Provincial House, as contemplated in subsection (6), such members may, on the expiry of the period contemplated in subsection (6), request the Premier to call a special meeting of the Provincial House.

(8) Notice of meetings of the Provincial House must be given to all members in such manner and form as the Provincial House may, from time to time, determine.

(9) An officer from the Department, designated by the responsible Member of the Executive Council, may attend the meetings of the Provincial House to advise the Provincial House regarding government policies and legislation that relate to traditional affairs.

Rules of Provincial House

48. After the election of the Executive Committee contemplated in section 44(2), the Provincial House must adopt its rules of procedure in respect of the following matters –

- (a) interim rules by the chairperson;
- (b) suspension or amendment of rules;
- (c) quorum and meetings of the Provincial House;
- (d) vacating of office and filling of vacancies;
- (e) nomination of members to the National House, of which a sufficient number must be female;
- (f) powers and functions of the Chairperson;
- (g) standing and portfolio committees;
- (h) election and duration of appointment of conveners and members of committees;
- (i) powers and functions of committees and conveners of committees;
- (j) Code of Conduct for members;
- (k) committee meetings;
- (l) sub-committees;
- (m) minutes of meetings and committee reports;
- (n) rules of debate and motions in the Provincial House;
- (o) consideration of draft legislation by the Provincial House;
- (p) duties of the secretary of the Provincial House; and
- (q) any other matter related or incidental to the effective functioning of the Provincial House.

Roles, powers and functions of Provincial House

49.(1) The Provincial House has –

- (a) the roles, powers and functions conferred upon it by this Act; and
- (b) any other roles, powers and functions –
 - (i) conferred or imposed upon it by national legislation; and
 - (ii) allocated to it by the responsible Member of the Executive Council.

(2) The Provincial House must –

- (a) represent, protect and promote –
 - (i) the interests of all *isiZwe* recognised in section 5; and
 - (ii) the institution of traditional leadership; and
- (b) as the custodian of customary law and customs, ensure the protection and promotion thereof;
- (c) at the request of the responsible Member of the Executive Council, conduct research and advise the responsible Member of the Executive Council on –
 - (i) the formulation of policies, standards and guidelines in respect of the development of *isiZwe*, traditional councils and Local Houses;
 - (ii) proposed executive or administrative action by government affecting *isiZwe*, traditional institutions, customary law and customs;
 - (iii) draft Provincial legislation dealing with or affecting *isiZwe*, traditional institutions, customary law and customs; and
 - (iv) mechanisms to ensure and enhance the effective participation of traditional institutions in governance; and
- (d) at the request of the responsible Member of the Executive Council, consider and make recommendations to the responsible Member of the Executive Council on –
 - (i) provincial programmes relating to traditional affairs; and
 - (ii) the contents and co-ordination of integrated development plans; and
- (e) comment, in writing, on Provincial bills dealing with or affecting *isiZwe*, traditional institutions and customary law and customs, within 30 days from the date on which the bill was referred to it by the Speaker of the Provincial Legislature, as contemplated in section 57; and
- (f) generally do everything that is reasonably necessary for, or incidental to, its roles, powers and functions.

(3) The Provincial House must –

- (a) keep proper records;
- (b) have its financial statements audited by the Auditor-General;

- (c) in addition to quarterly meetings, hold an annual meeting with local houses to give account of the activities and finances of the Provincial House;
- (d) enforce the Code of Conduct contained in Schedule 7 to this Act;
- (e) establish clear relationships with, and facilitate co-operation and communication between, itself, local houses and municipalities;
- (f) maximise the efficiency of communication and decision-making within the administration of the Provincial House;
- (g) assign clear responsibilities for the management and co-ordination of the administration of the Provincial House; and
- (h) create and promote an equitable, fair, open, non-discriminatory and supportive environment for all *isiZwe* and local houses in the Province.

Administration and accountability of Provincial House

50.(1) The responsible Member of the Executive Council must, in terms of the provisions of the Public Service Act, 1994 (Proclamation 103 of 1994), appoint a person as secretary to the Provincial House who must –

- (a) exercise or perform the powers and functions conferred upon or delegated to the Secretary by this Act and the rules and orders; and
- (b) subject to the directions of the Provincial House, perform such work as is incidental to the exercise or performance by the Provincial House of its powers and functions.

(2) The responsible Member of the Executive Council must, subject to the Public Service Act, 1994, second as many staff members as may be necessary to discharge the work of the Provincial House.

(3) The Secretary must be supported in the exercise or performance of his or her powers and functions by officers of the Department seconded in terms of subsection (2) for that purpose.

Remuneration, allowances and benefits payable to members of Provincial House

51. The remuneration of, and payment of allowances and benefits to, the chairperson, deputy chairperson and ordinary members of the Provincial House is as determined in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Support to Provincial House

52. The Provincial government must adopt measures as may be necessary to support and strengthen the capacity of the Provincial House to fulfil its functions and such support may include the provision of –

- (a) infrastructure;
- (b) finances;
- (c) human resources;
- (d) skills development programmes; and
- (e) administrative systems.

Establishment of Local Houses of traditional leaders

53.(1) A Local House is hereby established in the areas of district municipalities where there are five or more *isiZwe*.

(2) In the event that less than five *isiZwe* exist in the area of any district municipality the traditional leaders within that district municipality must choose one from amongst their number to represent *isiZwe* at the sitting of meetings of such district municipalities.

Composition and Executive Committee of Local Houses

54.(1) Each Local House consists of all *iNkosi* within the district municipality.

Comment [HK1]: Need to specifically include Metro or Metros. Also need to note that new Trad Affairs Bill refers to each Local Municipality and Metro Municipality.

(2) A Local House may establish and elect an Executive Committee comprising no more than seven members of that Local House.

(3) An Executive Committee of a Local House has the roles and functions conferred or imposed upon it by that Local House conferred upon it by the Rules of the Local House concerned, or delegated to it by the Local House concerned.

(4) The provisions of sections 41, 42, 43, 44, and 48 apply, with the necessary changes to the Local Houses.

Meetings of Local Houses

55.(1) The responsible Member of the Executive Council must, by notice in the *Provincial Gazette*, convene the first meetings of Local Houses.

(2) At the first meeting of a Local House a person appointed by the responsible Member of the Executive Council must act as chairperson until such time as the chairperson and deputy chairperson of that Local House have been elected by the members of that House.

(3) Meetings of Local Houses must be convened by written notice to all the members at least four days prior to the date of the meeting.

Roles Powers and Functions of Local Houses

56. The roles, powers and functions of all local houses of traditional leaders are to –

- (a) advise the district municipality or metropolitan municipality in question on –
 - (i) matters pertaining to customary law, customs, traditional leadership and *isiZwe* within the district municipality or metropolitan municipality;
 - (ii) the development of planning frameworks that impact on *isiZwe*; or
 - (iii) the development of by-laws that impact on *isiZwe*; and
- (b) participate in local programmes that have the development of rural communities as objective;
- (c) participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in rural communities; and
- (d) comment on any legislation of the district municipality concerned –
 - (i) affecting the customs or customary law of *isiZwe* within its area of jurisdiction; and
 - (ii) regarding the provision of services or the demarcation of boundaries or land tenure which affects *isiZwe*.

Referral of draft legislation to Provincial House and Local Houses

57.(1) Any draft legislation dealing with or affecting *isiZwe*, traditional institutions, customary law and customs must be referred by the Speaker of the –

- (a) Provincial Legislature to the Provincial House for its written comments as contemplated in section 49(1)(f), before it is passed by the Provincial Legislature, and any comment by the Provincial House must be tabled in the Provincial Legislature prior to the passing of the Provincial bill concerned; and
- (b) municipal council concerned to the Local House concerned for its written comments as contemplated in section 56(1)(d) before it is passed by the municipal council and any comment by the Local House concerned must be tabled in the municipal council prior to the passing of the draft municipal legislation concerned.

(2) The Provincial House must convene a special meeting to consider and make written representations on such draft legislation to the Provincial Legislature, within 30 days of receipt thereof: Provided that in the event that the Provincial House fails to consider the draft legislation or fails to make written representations to the Provincial Legislature within 30 days of the referral, the draft legislation may be put to the vote in the Provincial Legislature without further notice to the Provincial House.

(3) If the Local House concerned objects to such draft legislation, its comments and recommendations may be referred to the responsible Member of the Executive Council and the Provincial Legislature within 30 days.

CHAPTER 7 KWAZULU-NATAL COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS

Establishment of KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims

58.(1) The KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims is hereby established.

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

Composition and term of office of Commission

59.(1) The Premier, in consultation with the responsible Member of the Executive Council and the Member of the Executive Council responsible for Finance, must, within a period of three months after the promulgation of this Act and by notice in the *Provincial Gazette*, appoint a maximum of five persons as members of the Commission who, collectively, possess expert knowledge regarding the historical and present legal and administrative context concerning –

- (a) *isiZwe*;
- (b) customary law and customs;
- (c) traditional leadership;
- (d) traditional land; and
- (e) other traditional institutions.

- (2) The term of office of members of the Commission is five years: Provided that –
- (a) any member may be re-appointed for one further term of five years; and
 - (b) the notice contemplated in subsection (1) must include the terms and conditions of appointment of the members of the Commission.

Meetings and rules of Commission

60.(1) The Commission must meet within 30 days after the date of the notice contemplated in section 59(1) to determine the rules for the conduct and management of its proceedings.

- (2) The Commission must meet as and when necessary to consider and make recommendations on any dispute or claim referred to it as contemplated in section 62.

Vacancies and filling of vacancies

61.(1) A vacancy occurs whenever a member of the Commission –

- (a) dies;
- (b) resigns by giving written notice to the Premier;
- (c) is removed as contemplated in section 64;
- (d) becomes a full-time member of a municipal council;
- (e) is elected as a member of a Provincial legislature;
- (f) is elected as a member of the National Assembly;
- (g) is appointed as a permanent delegate to the National Council of Provinces;
- (h) is elected to, or appointed in, a full-time position in the National or Provincial House or a Local House;
- (i) is appointed as a full-time member of the National Commission; or
- (j) is appointed in a full-time position in any of the three spheres of government.

- (2) Any vacancy on the Commission must be filled whenever it arises, as contemplated in section 59(1).

Powers and functions of Commission

62.(1) The Commission, subject to the provisions of section 25 of the Traditional Leadership and Governance Framework Act, 2003, must –

- (a) perform and execute the powers and functions contemplated in this Act;

- (b) investigate, report and make recommendations on any dispute or claim that was submitted to the National Commission after 1 September 2010, as well as any new dispute or claim lodged after the date of commencement of this Act;
- (c) investigate any matters referred to it by the Premier in accordance with the provisions of this Act; and
- (d) at the request of the responsible Member of the Executive Council, investigate, report and make recommendations on any claim, dispute or other matter –
 - (i) relating to –
 - (aa) *isiZwe*;
 - (bb) traditional councils;
 - (cc) traditional leadership;
 - (dd) traditional leaders;
 - (ee) traditional land; and
 - (ff) other traditional institutions; or
 - (ii) involving a relationship between organs of state and the items contemplated in paragraph (i).

(2) The provisions of sections 3, 4, 5, 6, 7 and 9 of the KwaZulu-Natal Commissions Act, 1999 (Act No. 3 of 1999), apply with the necessary changes to the Commission.

- (3) Any recommendations contemplated in subsection (1) must be –
- (a) taken with the support of a majority of the members of the Commission; and
 - (b) submitted to the Premier within 14 days after completion of the report for his or her decision.

(4) The Premier must, within a period of 60 days, make a decision on the recommendation: Provided that, in the event that the Premier takes a decision that differs from the recommendation of the Commission, the Premier must provide written reasons for such decision to the Commission and the person or persons who lodged the dispute or claim.

(5) The Commission must provide a comprehensive report on its activities to the responsible Member of the Executive Council either quarterly or when requested to do so by the responsible Member of the Executive Council.

Support to Commission

63.(1) The responsible Member of the Executive Council must provide the necessary

administrative, financial and other support to the Commission to perform and execute the powers and functions contemplated in this Act and any other applicable legislation.

(2) 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.

Removal of members of Commission

64.(1) The Premier may, in consultation with the responsible Member of the Executive Council, remove a member of the Commission on the following grounds –

- (a) conviction of an offence with a sentence of imprisonment of more than 12 months without the option of a fine;
- (b) physical incapacity or mental infirmity which, based on acceptable medical evidence, makes it impossible for the member to function as such; or
- (c) such member having been declared insolvent by a competent court.

(2) A member of the Commission, removed in terms of subsection (1), may not receive any remuneration or allowances associated with his or her duties as a member of the Commission.

CHAPTER 8 GENERAL PROVISIONS

Oath of Office

65. The oath and affirmation contained in Parts A and B to Schedule 7 to this Act apply, with the necessary changes, and must be taken by all traditional leaders and all members of Traditional Councils, the Provincial House and Local Houses.

Codes of Conduct

66.(1) The Code of Conduct contained in Schedule 6 to this Act applies to all traditional leaders and members of traditional councils in KwaZulu-Natal: Provided that the provisions of Part C of the Code of Conduct contained in Schedule 7 to this Act also apply, with the necessary changes, to all traditional leaders and members of traditional councils in the Province.

(2) The Code of Conduct contained in Schedule 7 to this Act applies to all members of the

Provincial and Local Houses in KwaZulu-Natal: Provided that for the purposes of Part C of the said Code of Conduct, any reference to “the House” includes both the Provincial House and all Local Houses.

Power of Executive Council to summon traditional leaders

67.(1) Whenever he or she deems it necessary, the Premier may, after consultation with the Executive Council, summon any traditional leader, in writing, to appear before him or her in order to investigate –

- (a) any matter which is harming or is likely to harm *isiZwe* concerned;
- (b) any matter of importance or concern which directly or indirectly affects such traditional leader in his or her capacity as such, or which affects the Provincial Government in the performance of its functions; or
- (c) any other matter likely to prejudicially affect the administration of the Provincial Government in the area of *isiZwe* concerned.

(2) The Premier may, after he or she has considered the matter –

- (a) direct the traditional leader to take certain steps to resolve the problem; or
- (b) instruct the responsible Member of the Executive Council to institute an inquiry in terms of section 68 whenever there is reason to believe the traditional leader is guilty of misconduct.

Inquiry into misconduct

68.(1) Whenever there is reason to believe that a traditional leader is guilty of misconduct in that he or she –

- (a) fails or refuses to comply with the provisions of this Act or any other law with which it is his or her duty to comply;
- (b) has breached the Code of Conduct contemplated in schedules 6 and 7;
- (c) disobeys, disregards or wilfully defaults in carrying out a lawful order given to him or her by a competent authority;
- (d) conducts him or herself in a disgraceful, improper or unbecoming manner;
- (e) uses intoxicants or drugs excessively;
- (f) abuses his or her powers or extorts, or by the use of compulsion or arbitrary means obtains, any tribute, fee, reward or gift;
- (g) tries or punishes any person without the necessary authority to do so;
- (h) is negligent or indolent in the discharge of his or her duties; or

(i) has been convicted of an offence,
the responsible Member of the Executive Council must charge the traditional leader, in writing, with such misconduct.

(2) The charge referred to in subsection (1) must –

(a) set out particulars of the allegations which have been made against the traditional leader; and

(b) direct the traditional leader to respond to the allegations, in writing, within 21 days, which response must be an admission or denial of the allegations and which may be accompanied by a written explanation of the circumstances surrounding the matter.

(3) If the traditional leader denies the charge or fails to respond thereto, within the specified time, the responsible Member of the Executive Council must appoint a presiding officer to conduct an enquiry into the allegations.

(4) The presiding officer, appointed in terms of subsection (3) above, must convene an enquiry into the allegations and must give the traditional leader who has been charged no less than 14 days' notice of the place, date and time of the enquiry.

(5) At the enquiry the traditional leader charged must be granted the right to be heard, either personally or through a legal representative, and may cross-examine any person called as a witness during the enquiry, inspect any document produced in evidence, give evidence in person and call any other persons as witnesses.

(6) The presiding officer must keep a record of the proceedings of the enquiry.

(7) The presiding officer may subpoena any person to attend the enquiry and to adduce evidence relating to the charge against the traditional leader.

(8) Any person, subpoenaed in terms of subsection (7), who fails to attend the enquiry at the place, date and time specified in the subpoena, commits an offence and may, upon conviction, be sentenced to a fine or to imprisonment not exceeding a period of six months.

(9) The failure of the traditional leader charged to attend the enquiry without a valid reason, either personally or by a legal representative, does not invalidate the proceedings against him or her.

(10) At the conclusion of the enquiry the presiding officer must forward to the Premier in Executive Council his or her findings, the record of the proceedings, any observations and recommendations which he or she may wish to make, and (if applicable) any recommended sanction.

(11) The Premier in Executive Council may, after considering a finding of misconduct, any comments and recommendation of the presiding officer, together with any representations made by the traditional leader concerned, impose on that traditional leader either one or more of the following sanctions –

- (a) a formal written warning;
- (b) a suspension order without remuneration for a period not exceeding three months;
- (c) a fine, not exceeding an amount equal to three months' remuneration, which may be recovered from remuneration paid to him or her in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998), in such instalments as the Premier in Executive Council may determine, and which must be paid into the Provincial Revenue Fund; or
- (d) a notice withdrawing recognition of that traditional leader.

(12) Any sanction, as contemplated in subsection (11), imposed by the Premier in Executive Council must be published by notice in the *Provincial Gazette*.

Suspension of traditional leader

69.(1) The responsible Member of the Executive Council may, after consultation with the Premier and on notice to the traditional leader advising of the proposed suspension and requesting reasons why it should not be effected, suspend from office any traditional leader who is suspected of misconduct pending the finalisation of proceedings instituted in terms of section 68 of this Act.

(2) Any traditional leader who has been suspended under this section is not entitled to any remuneration during the period of his or her suspension: Provided that the responsible Member of the Executive Council may, for good and sufficient reason, and upon representations from the said traditional leader, order payment of the whole or a portion of the remuneration due to that traditional leader during his or her suspension.

(3) The responsible Member of the Executive Council or the Executive Council may, after consultation with the Premier, withdraw the suspension of a traditional leader.

(4) *iBambabukhosi* may be appointed in accordance with the provisions of this Act to act for any suspended traditional leader where the responsible Member of the Executive Council deems it necessary.

Breach of Codes of Conduct

70. Any breach of the Codes of Conduct contained in Schedules 6 and 7 must be dealt with in accordance with the procedure contemplated in section 68.

Contributions by members of *isiZwe*

71.(1) A traditional council may request members of *isiZwe*, or any section of *isiZwe*, to make a voluntary contribution to the Traditional Council concerned: Provided that –

- (a) no such contribution may be collected, unless the majority of the members of such *isiZwe*, or any section of *isiZwe*, at *imbizo* convened for that purpose, have consented to the payment of such contribution;
- (b) such contributions may only be collected from members of *isiZwe* concerned for the purposes of –
 - (i) financing a specific project; or
 - (ii) any other customary purpose; and
- (c) the responsible Member of the Executive Council may prescribe the specific purposes and maximum contributions that may be levied as contemplated in this section.

(2) Any contributions paid as contemplated in this section must be deposited into a trust account, opened and managed on behalf of *isiZwe* concerned, by or on behalf of the traditional council.

Regulatory powers

72.(1) The Premier may, after consultation with the responsible Member of the Executive Council, issue notices in the *Provincial Gazette* as contemplated in this Act.

(2) The responsible Member of the Executive Council may, by notice in the *Provincial Gazette* –

- (a) make regulations, issue notices and publish guidelines in respect of –
 - (i) any matter which is required or permitted by this Act to be prescribed;

- (ii) the introduction and implementation of a system of performance management for traditional councils, traditional leaders, the Provincial House and Local Houses;
 - (iii) any election contemplated in this Act; and
 - (iv) any administrative or procedural matter necessary to give effect to the provisions of this Act, including the manner in which all elections contemplated in this Act are to be conducted; and
- (b) amend any Schedule to this Act.

Juristic personality

73. The following institutions have juristic personality –

- (a) traditional councils;
- (b) the Provincial House; and
- (c) Local Houses.

Assets, liabilities and resources

74. The institutions contemplated in section 73 –

- (a) may –
 - (i) acquire, own, possess, hold, lease, alienate, encumber or dispose of any movable or immovable property;
 - (ii) acquire rights and incur liabilities in carrying out, executing and performing their roles, powers and functions as contemplated in this Act;
 - (iii) establish and administer a trust in accordance with the provisions of the Trust Property Control Act, 1998 (Act No. 57 of 1998); and
 - (iv) insure with any company or persons against any losses, damages, risks and liabilities; and
- (b) must efficiently manage all assets and resources.

Delegation of powers, agency and service delivery agreements

75.(1) The Premier, in consultation with the Executive Council, may, in writing, delegate any role, power or function contemplated in this Act to the responsible Member of the Executive Council: Provided that any such delegation does not prevent the exercise of the relevant power by the Premier concerned.

(2) The responsible Member of the Executive Council may, in writing, delegate any role, power or function contemplated in this Act, except the power to make regulations and issue notices, to the Head of Department: Provided that any such delegation does not prevent the exercise of the relevant power by the responsible Member of the Executive Council concerned.

(3) Any person contemplated in subsections (1) and (2) and to whom any role, power or function has been delegated may, with the prior written approval of the Executive Council, further delegate such power or function to a person or body approved by the Executive Council.

(4) Provincial government departments, statutory institutions, organs of state and municipalities may –

- (a) delegate any power or function to; or
- (b) enter into agency or service delivery agreements with,

traditional councils.

Dispute resolution

76.(1) Whenever a dispute concerning customary law or customs arises within *isiZwe* or between *isiZwe* or other traditional institutions on a matter arising from the implementation of this Act or otherwise, members of such a community or institution and traditional leaders within *isiZwe* or traditional institution concerned must seek to resolve the dispute internally and in accordance with customary law and customs.

(2) Any dispute contemplated in subsection (1) that cannot be resolved must be referred to –

- (a) the Provincial House, which must seek to resolve the dispute in accordance with its rules and procedures;
- (b) the responsible Member of the Executive Council, in the event that the Provincial House is unable to resolve said dispute, who must seek to resolve the dispute by way of informal mediation; and
- (c) the Premier, in the event that the responsible Member of the Executive Council is unable to resolve said dispute, who must resolve the dispute after consultation with –
 - (i) the responsible Member of the Executive Council;
 - (ii) the parties to the dispute; and
 - (iii) the Provincial House.

(3) The Premier may refer the matter to the Commission for its recommendation prior to a final decision on the dispute contemplated in this section.

Cross-boundary arrangements

77. The Premier may, after consultation with the responsible Member of the Executive Council, enter into agreements with other provincial governments in respect of matters relating to *isiZwe*, traditional leaders or traditional institutions in the event that the management of such matters would be better served by a joint approach by the provincial governments concerned.

Offences and penalties

78.(1) A person is guilty of an offence if that person –

- (a) purports to be a traditional leader without having been recognised as contemplated in this Act; and
- (b) wilfully obstructs the carrying out, performance or execution of any role, power or function vested in, or allocated to, any traditional leader, any traditional council, the Provincial House, any Local House or the Commission as contemplated in this Act or any other law.

(2) A person convicted of an offence contemplated in subsection (1) is liable to a fine or imprisonment not exceeding 12 months, or both such fine and imprisonment.

Transitional arrangements

79.(1) All executive and administrative actions performed by the Provincial Government in good faith relating to *isiZwe*, *isiZwe* members, traditional leadership, traditional leaders, traditional authorities, community authorities, traditional councils or their respective jurisdictional areas, and the informal recognition of *isiPhakanyiswa* as *iNkosi*, before the date of commencement of this Act, are hereby deemed to have been validly performed –

- (a) as if the required legal basis, including, but not limited to, delegations, assignments, agency agreements, powers of attorney or service delivery agreements, had been in existence at the time of such actions being performed; or
- (b) where the then existing legal basis including, but not limited to, delegations, assignments, agency agreements, powers of attorney or service delivery agreements, was not fully complied with.

(2) Any traditional community or traditional sub-community recognised in terms of applicable legislation prior to the commencement of this Act is deemed to have been recognised as *isiZwe* or sub-*isiZwe* as contemplated in this Act.

(3) Any traditional leader recognised or appointed, in terms of applicable legislation prior to the commencement of this Act, to a traditional leadership position contemplated in Chapter 3 of this Act is deemed to have been recognised as a traditional leader, as contemplated in this Act, subject to a decision of the National Commission as contemplated in section 26 of the Traditional Leadership and Governance Framework Act, 2003.

(4) Any traditional authority, traditional council and traditional sub-council recognised in terms of applicable legislation prior to the commencement of this Act, is deemed to have been established and recognised as a traditional council or sub-council as contemplated in this Act, subject to compliance with section 25 within a period of one year of the commencement of this Act.

(5) Any *isiGodi*, recognised in terms of applicable customs and customary law prior to the date of commencement of this Act, must be recognised, as contemplated in section 9, within a period of 24 months after the date of commencement of this Act.

(6) Any *iNduna* recognised in terms of applicable customs and customary law, notwithstanding the provisions of any other law, prior to the date of commencement of this Act, must be recognised as contemplated in section 15, within a period of 24 months after the date of commencement of this Act.

(7) All community authorities currently in existence within the area of jurisdiction of the uMzimkhulu municipality are hereby deemed to be recognised as *isiZwe*, headed by *isiPhakanyiswa* in terms of this Act: Provided that elections to elect *isiPhakanyiswa* for such communities must be held within a period of six months of the promulgation of this Act.

Amendment and repeal of laws

80. The laws mentioned in the first and second columns of Schedule 8 are amended or repealed to the extent set out in the third column of the Schedule.

Short title

81. This Act is called the KwaZulu-Natal Traditional Leadership and Governance Act, 2013.

SCHEDULE 1
APPLICATION FOR RECOGNITION AS ISIZWE
(Section 5(2)(a)(i))

Form TA 1

Postal Address: **The Premier of KwaZulu-Natal**
 Private Bag X9037
 PIETERMARITZBURG
 3200

Street Address: **Moses Mabhida Building**
 300 Langalibalele Street
 PIETERMARITZBURG
 3200

For the Attention of: The Premier	
Notes to the Applicant:	
A) This is an application for recognition as isiZwe in terms of section 5 of the KwaZulu-Natal Traditional Leadership and Governance Act, 2013 (Act No. XX of 2013).	
B) The applicant must provide sufficient information to support this application and this may include evidence in the form of any documents the applicant may deem relevant.	
C) The Premier may decline to consider this application if the form is not completed in full, or is not clearly written.	
1.	Name of the applicant representing <i>isiZwe</i> :
2.	Contact details of the Applicant:
	Postal address:
	Telephone number:
	Cellular phone number:
	Electronic (e-mail) address:
3.	Name of <i>isiZwe</i> applying for recognition:
4.	Other name or names of <i>isiZwe</i> :
5.	The name of person <i>isiZwe</i> regards as its <i>iNkosi</i> :
6.	Geographical area/Physical location of <i>isiZwe</i> and description of the area within which

<i>isiZwe</i> generally resides:	
District Municipality:	
Local Municipality:	
7. Where applicable, please indicate whether <i>isiZwe</i> is currently part of any existing <i>isiZwe</i> : (MARK WITH AN X):	
	<input type="checkbox"/> YES <input type="checkbox"/> NO
If yes, please specify:	
8. Motivation for application: Background of <i>isiZwe</i> (including system of customary law, previous leaders of <i>isiZwe</i> (family tree), the proven history of existence, the number of <i>isiGodi</i> and <i>iNduna</i> and other relevant information relating to the background and history of that <i>isiZwe</i>):	
(Additional documents may be attached if necessary)	
Signed at _____ (place) on this ____ day of _____ , Two Thousand and _____ .	
Signature:	
Name of Representative:	
Designation:	

This form must be accompanied by an application for the recognition of *iNkosi* for *isiZwe* concerned, in terms of section 5(2) of the Act.

<u>For Official Use Only</u>	<u>Yes</u> (Please mark with X)	<u>No</u> (Please mark with X)
1. Has the form been completed correctly?		
2. Application ready for a Cabinet Memorandum.		
3. Application recommended for referral to the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims.		
4. Comments:		
Official Stamp:		

SCHEDULE 2
GUIDELINES ON THE IDENTIFICATION OF SUCCESSORS TO *UBUKHOSI*
(Section 13(1)(a))

1. Subject to the customs and customary laws of *uMndeni* and *isiZwe* concerned, *iNkosi* must, in a meeting of *uMndeni* convened for that purpose, declare which of his or her houses is the senior house: Provided that in the event that *iNkosi* elects to change the status of his or her houses, *iNkosi* concerned must declare his or her new decision, in the same manner in which his or her previous decision was declared.

2. Having regard to the applicable customs and customary law of *uMndeni* and *isiZwe* concerned, any of the following persons may be identified as the successor to *ubuKhosi* –
 - (a) the firstborn child of the spouse of *iNkosi*, from the house identified by *iNkosi* in terms of item 1 as the senior house;
 - (b) the firstborn child of the first wife of *iNkosi*;
 - (c) the first child born of the wife of *iNkosi*, whose *ilobolo* was paid for by *isiZwe* concerned;
 - (d) the firstborn child of the spouse of *iNkosi*, who is from a royal family, or another *uMndeni*; or
 - (e) any child of *iNkosi* identified by *iNkosi*, in writing, in consultation with *uMndeni*.

3. Notwithstanding the criteria, listed in paragraphs (a) to (d) of item 2, *uMndeni* may decide to identify a successor born through the custom of *uKungena*, *ukufaka esiswini* and the custom of paying *ilobolo* for an illegitimate child of *iNkosi*.

4. In the unlikely event that no successor can be identified, as contemplated items 2 and 3, *uMndeni* may decide to move *ubuKhosi* to the next qualifying house in terms of the seniority of the houses.

SCHEDULE 3
DECLARATION BY IBAMBABUKHOSI
(Section 17(4))

I, _____, Identity Number: _____,
having been identified for recognition as *iBambabukhosi* by *uMndeni* of the
_____ *isiZwe*, hereby declare under oath as follows:

1. I hereby acknowledge that I have been identified for recognition as *iBambabukhosi* of
isiZwe of _____, on behalf of _____, who has been
identified as the successor to *ubuKhosi*, whose identification and future recognition I support
and confirm.

2. I hereby specifically acknowledge that –

(a) I have no current or future claim to *ubuKhosi* of *isiZwe* of _____
_____;

(b) I will not aspire to be recognised as *iNkosi* of the said Community at any time in the
future; and

(c) I will voluntarily relinquish my position as *iBambabukhosi* upon the recognition of
_____ as *iNkosi* of *isiZwe* of _____.

DEPONENT

SIGNED AND SWORN to before me at _____ on
this ____ day of _____ 20____, by the deponent who has
acknowledged that he/she understands the contents of this affidavit, has declared that
he/she has no objection to taking the oath, and that he/she regards the oath as binding on
his/her conscience.

COMMISSIONER OF OATHS

FULL NAME: _____

BUSINESS ADDRESS: _____

CAPACITY: _____

AREA: _____

SCHEDULE 4
FORMULA FOR THE DETERMINATION OF THE NUMBER OF MEMBERS OF A
TRADITIONAL COUNCIL
(Section 25(1))

1. The selection process of members indicated in the table hereunder must be done by *iNkosi*, who is an *ex officio* member of the selected members in terms of section 25 of this Act.

2. In selecting the 60 per cent of members of the total number of members of the traditional council, *iNkosi* must strive to comply with the requirement that at least one third of the total number of members on the traditional council must be women.

Number of recognised <i>iNduna</i>	Selected Members equal 60% of total number of Members				Elected Members equal 40% of total number of Members	Total number of Members	Total number of women (one third of total)
	Community Members	<i>iNduna</i>	<i>iNkosi</i>	Total Selected Members	Total Elected Members		
15 or less	2	3	1	6	4	10	3
15 to 20	3	5	1	9	6	15	5
20 to 25	4	7	1	12	8	20	7
25 to 30	5	9	1	15	10	25	8
30 to 35	6	11	1	18	12	30	10
35 to 40	7	13	1	21	14	35	12
40 to 45	8	15	1	24	16	40	13
45 to 50	9	17	1	27	18	45	15
51 or more	10	19	1	30	20	50	17

SCHEDULE 5
ELECTED MEMBERS OF THE KWAZULU-NATAL PROVINCIAL HOUSE OF
TRADITIONAL LEADERS
(Section 40(2))

COLUMN 1	COLUMN 2
LOCAL HOUSES OF TRADITIONAL LEADERS	NUMBER OF REPRESENTATIVES
<i>Ugu</i> Local House	7
<i>uMgungundlovu</i> Local House	4
<i>uThukela</i> Local House	4
<i>uMzinyathi</i> Local House	4
<i>Amajuba</i> Local House	3
Zululand Local House	5
<i>uMkhanyakude</i> Local House	3
<i>uThungulu</i> Local House	7
<i>iLembe</i> Local House	6
<i>Sisonke</i> Local House	7
<i>eThekwini</i> Local House	3

SCHEDULE 6
CODE OF CONDUCT FOR TRADITIONAL LEADERS AND MEMBERS OF TRADITIONAL COUNCILS
(Section 66)

General conduct of traditional leader

1. A traditional leader –

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of *isiZwe* or communities he or she serves;
- (f) must promote unity amongst *isiZwe*;
- (g) may not embark on actions that would create division within or amongst *isiZwe*;
- (h) must promote nation building;
- (i) may not refuse to provide any service to a person on political or ideological grounds;
- (j) must foster good relations with the organs of state with whom he or she interacts;
- (k) must promote the principles of a democratic and open society; and
- (l) must disclose gifts received.

General conduct of traditional council

2. A traditional council must –

- (a) perform the functions allocated to it in good faith, diligently, honestly and in a transparent manner;
- (b) execute its roles, powers and functions in an efficient manner;
- (c) comply with any applicable legislation;
- (d) act in the best interest of *isiZwe* it serves;
- (e) give effect to the principles governing public administration set out in section 195 of the Constitution; and
- (f) foster good relations with the organs of state with whom it interacts.

SCHEDULE 7
CODE OF CONDUCT FOR MEMBERS OF HOUSES OF TRADITIONAL LEADERS
(Sections 65 and 66)

PART A
OATH BY MEMBERS OF THE HOUSE

I, _____ (name of member), do solemnly swear that I will be faithful to the KwaZulu-Natal Provincial House of Traditional Leaders / _____ Local House of Traditional Leaders and do solemnly and sincerely promise, at all times, to promote that which will advance, and to oppose all that may harm, the House; to obey, observe, uphold and maintain the laws, rules, orders and procedures of the House and all other laws of the Republic of South Africa; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all, and to devote myself to the well-being of the House and its members.

May the Almighty God by His Grace and/or the ancestors guide and sustain me in keeping this oath with honour and dignity.

So help me God.

PART B
AFFIRMATION

I, _____ (name of member), do solemnly affirm that I will be faithful to the KwaZulu-Natal Provincial House of Traditional Leaders / _____ Local House of Traditional Leaders and do solemnly and sincerely promise at all times to promote that which will advance, and to oppose all that may harm, the House; to obey, observe, uphold and maintain the laws, rules, orders and procedures of the House and all other laws of the Republic of South Africa; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice unto all; and to devote myself to the well-being of the House and its members.

May the ancestors guide and sustain me in keeping this affirmation with honour and dignity.

PART C
CODE OF CONDUCT

Members of the House

Performance of functions by members

1. A member of the House must –
 - (a) perform the functions of office in good faith and in an honest, non-discriminatory and transparent manner; and
 - (b) at all times act in the best interest of the House and in such a way that the credibility and integrity of the House are not compromised.

Attendance at meetings

2. A member of the House must attend each meeting of the House and of a committee of which that member of the House is a member, except when –
 - (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the House; or
 - (b) that member of the House is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance of meetings

- 3.(1) The House may impose a sanction as determined by the rules and orders of the House on a member of the House for –
 - (a) not attending a meeting which that member of the House is required to attend in terms of item 2; or
 - (b) failing to remain in attendance at such a meeting.
- (2) A member of the House, who is absent from three or more consecutive meetings of the House, or from three or more consecutive meetings of a committee of the House, which that member of the House is required to attend in terms of item 2, must be removed from office as a member of the House.
- (3) The responsible Member of the Executive Council must inform the relevant Premier of the removal of the member of the House represented.
- (4) Proceedings for the imposition of a sanction, including removal of a member of House,

must be conducted in accordance with a uniform standing procedure which the House must adopt for the purposes of this item.

Disclosure of interests

4.(1) A member of the House must –

(a) disclose to the House; or to any committee of the House of which that member of the House is a member, any direct or indirect personal or private business interest that that member of the House, or any spouse, partner or business associate of that member of the House, may have in any matter before the House or the committee of the House; and

(b) withdraw from the proceedings of the House or committee of the House when that matter is considered by the House or its committee, unless the House or its committee decides that the member of the House's direct or indirect interest in the matter is trivial or irrelevant.

(2) A member of the House who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the House, must disclose full particulars of the benefit of which the member of the House is aware at the first meeting of the House at which it is possible for the member of the House to make the disclosure.

(3) This section does not apply to an interest or benefit, which a member of the House, or a spouse, partner, business associate or close family member has, or acquires, in common with other members of the House.

Personal gain

5.(1) A member of the House may not use the position or privileges of a member of the House, or confidential information obtained as a member of the House, for private gain or to improperly benefit another person.

(2) Except with the prior consent of the House, a member of the House may not –

(a) be a party to or beneficiary under a contract for –

(i) the provision of goods or services to the House; or

(ii) the performance of any work otherwise than as a member of the House and for the House;

- (b) obtain a financial interest in any business of the House; or
- (c) for a fee or other consideration appear on behalf of any other person before the House or its committee.

(3) If more than one quarter of the members of the House object to consent being given to a member of the House in terms of sub-item (2), such consent may only be given to the member of the House with the approval of the responsible Member of the Executive Council.

Declaration of interests

6.(1) When elected or appointed, a member of the House must, within 60 days, declare, in writing, to an officer of the House designated by the responsible Member of the Executive Council the following financial interests held by that member of the House –

- (a) shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust;
- (d) directorships;
- (e) partnerships;
- (f) other financial interests in any business undertaking;
- (g) employment and remuneration;
- (h) interest in property;
- (i) pension; and
- (j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a member of the House must be declared, annually and in writing, to the officer referred to in sub-item (1).

(3) Gifts received by a member of the House in excess of an amount as may be prescribed by notice in the *Provincial Gazette* from time to time, must also be declared in accordance with sub-item (1).

(4) The House must determine which of the financial interests referred to in sub-item (1) must be made public, having regard to the need for confidentiality and the public interest for disclosure.

(5) The declaration of interests and gifts contemplated in this item must substantially comply with the format of Annexure A to this Schedule, and must be completed annually where

necessary, in order to comply with the provisions of sub-item (2).

Rewards, gifts and favours

7. A member of the House may not request, solicit or accept any reward, gift or favour for –
- (a) voting or not voting in a particular manner on any matter before the House or before a committee of the House of which that member of the House is a member;
 - (b) persuading the House or any committee of the House in regard to the exercise of any power, function or duty;
 - (c) making a representation to the House or any committee of the House; or
 - (d) disclosing privileged or confidential information.

Unauthorised disclosure of information

8.(1) A member of the House may not, without the permission of the House or a committee, disclose any privileged or confidential information of the House or committee to any unauthorised person.

(2) For the purpose of this item “privileged or confidential information” includes any information –

- (a) determined by the House or committee of the House to be privileged or confidential;
- (b) discussed in closed session by the House or its committee;
- (c) of which disclosure would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of the law.

(3) This item does not derogate from the right of any person to access information in terms of national legislation.

Breach of Code of Conduct

9.(1) If the House, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the House must –

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the member of the House a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) report the matter to a meeting of the House after paragraphs (a) and (b) have been

complied with.

(2) A report referred to in sub-item (1)(c) may be made available to the public.

(3) The House must report the outcome of the investigation to the responsible Member of the Executive Council.

(4) The secretary of the House must ensure that each member of the House, when taking office, is given a copy of this Code and that a copy of this Code is available in every room or place where the House or a committee of the House meets.

(5) The House may –

- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
- (b) establish a special committee –
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the House.

(6) If the House, or a special committee appointed by the House to conduct the investigation, finds that a member of the House has breached a provision of this part of the Code of Conduct, the House may –

- (a) issue a formal warning to the member of the House;
- (b) reprimand the member of the House;
- (c) suspend the member of the House for a period in consultation with the responsible Member of the Executive Council; and
- (d) remove the member of the House from office in consultation with the responsible Member of the Executive Council.

(7)(a) Any member of the House who has been warned, reprimanded, suspended or removed in terms of paragraph (a), (b), (c) or (d) of sub-item (6) may, within 14 days of having been notified of the decision of the House, appeal to the responsible Member of the Executive Council in writing, setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the House.

(c) The House may, within 14 days of receipt of the appeal referred to in paragraph (b), make any representation pertaining to the appeal to the responsible Member of the Executive Council in writing.

(d) The responsible Member of the Executive Council may, after having considered the appeal, confirm, set aside or vary the decision of the House and inform the member of the House and the House of the outcome of the appeal.

(8) The responsible Member of the Executive Council may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the House should be suspended or removed from office.

(9) If the responsible Member of the Executive Council is of the opinion that a member of the House has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the responsible Member of the Executive Council may –

- (a) suspend the member of the House for a period and on conditions determined by the responsible Member of the Executive Council; or
- (b) remove the member of the House from office.

(10) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

ANNEXURE A
DECLARATION OF INTERESTS AND GIFTS

I, the undersigned: _____
(Full names)

Identity number: _____

Postal address: _____

Residential address: _____

Position held: _____

PERSAL No.: _____

Telephone number: _____

Fax number: _____

hereby certify that the following information is complete and correct to the best of my knowledge:

1. Shares and other financial interests

Number of shares/ Extent of financial interests	Nature	Nominal Value	Name of Company/Entity

2. Directorships and partnerships

Name of corporate entity or partnership	Type of business	Amount of Remuneration

3. Consultancies

Name of client	Nature	Type of business activity	Value of any benefits received

4. Sponsorships

Source of assistance/ sponsorship	Description of assistance/ sponsorship	Value of assistance/ sponsorship

5. Gifts and hospitality from a source other than a family member

Description	Value	Source

6. Land and property

Description	Extent	Area	Value

SIGNATURE

PLACE: _____

DATE: _____

OATH/ AFFIRMATION

1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:

(a) Do you know and understand the contents of the declaration?

Answer _____ .

(b) Do you have any objection to taking the prescribed oath or affirmation?

Answer _____ .

(c) Do you consider the prescribed oath or affirmation to be binding on your

conscience?

Answer _____ .

2. I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration. The deponent uttered the following words: "I swear that the contents of this declaration are true, so help me God." / "I truly affirm that the contents of the declaration are true". The signature/ mark of the deponent has been affixed to the declaration in my presence.

COMMISSIONER OF OATHS/JUSTICE OF THE PEACE

Full first names and surname: _____

(Block letters)

Designation: _____ *Ex Officio* Republic of South Africa

Street address of Institution: _____

Date: _____ Place: _____

Signature: _____

SIGNATURE OF RESPONSIBLE MEMBER OF THE EXECUTIVE COUNCIL

DATE _____

NAME OF RESPONSIBLE MEMBER OF THE EXECUTIVE COUNCIL

PORTFOLIO: CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

SCHEDULE 8
Repeal of laws
(Section 80)

Number and Year of Law	Title	Extent of Repeal
Act No. 5 of 2005	KwaZulu-Natal Traditional Leadership and Governance Act, 2005	The whole
Act No. 9 of 2007	KwaZulu-Natal Traditional Leadership and Governance Amendment Act, 2007	The whole
Act No. 4 of 1965	The Transkei Authorities Act, 1965	The whole, insofar as it is applicable to the <i>uMzimkhulu</i> Local Municipality
Act No. 68 of 1951	The Black Authorities Act, 1951	The whole, insofar as it is applicable to the <i>uMzimkhulu</i> Local Municipality
Act No. 15 of 1976	The Republic of Transkei Constitution Act, 1976	The whole, insofar as it is applicable to the <i>uMzimkhulu</i> Local Municipality
Act No. 16 of 1985	KwaZulu Act on the Code of Zulu Law, 1985	The whole
Proclamation No. R. 151 of 1987	Natal Code of Zulu Law, 1987	The whole

MEMORANDUM
ON THE OBJECTS OF
THE KWAZULU-NATAL TRADITIONAL LEADERSHIP AND GOVERNANCE BILL, 2013

1. BACKGROUND

The Provincial Government of KwaZulu-Natal, in accordance with Chapter 12 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), National Framework Policy and legislation including the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), acknowledges the existence of traditional communities in the Province.

Through the enactment of the Bill, the Provincial Government therefore seeks to –

- (a) recognise, protect, preserve, transform, as well as to provide an enabling environment for the development of traditional communities, traditional institutions, customary law and customs;
- (b) define a place and role for traditional leadership within the system of democratic governance in South Africa; and
- (c) restore the integrity and legitimacy of the institution of traditional leadership in line with customary law and customs.

As a result of amendments to the Traditional Leadership and Governance Framework Act, 2003, as well as challenges faced during the implementation of the current KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005), it has become necessary to substantially amend the said Act to ensure its compliance with the amended Traditional Leadership and Governance Framework Act, 2003, and a decision was taken to replace the current KwaZulu-Natal Act with new legislation, rather than amending the existing Act.

This proposed new legislation is fully compliant with the Constitution, 1996, the Traditional Leadership and Governance Framework Act, 2003, as well as other transversal legislation, thereby ensuring uniformity in the application of legislation affecting traditional institutions and leaders. In addition, and in order to facilitate the implementation of the Act, numerous Schedules have been developed and are attached to the Bill, rather than including the Schedules in separate regulations that are promulgated subsequent to the enactment of the Bill. Provision is made in the Bill, which empowers the Member of the Executive Council responsible for Traditional Affairs to amend the Schedules by notice in the *Provincial*

Gazette, thereby ensuring that any challenges in the implementation of the Act can be dealt with expeditiously.

2. OBJECTS OF THE BILL

The objects of the Bill are to provide for –

- (a) the recognition of *iziZwe*, traditional leadership, and traditional institutions;
- (b) a regulatory framework for the recognition and the vesting of roles, powers and functions in, as well as the allocation of functions to, traditional councils, traditional leaders and other traditional leadership structures;
- (c) a framework for the development, capacity building and support of traditional councils, traditional leaders and other traditional leadership structures;
- (d) the establishment of the Provincial House of Traditional Leaders, Local Houses of Traditional Leaders, and the KwaZulu-Natal Commission on Traditional Leadership Disputes and Claims;
- (e) the vesting of roles, powers and functions in, as well as the allocation of functions to, these institutions;
- (f) a framework for the development, capacity building and support of these institutions;
- (g) an enabling framework to support collaboration and co-operative governance between all the above and the Provincial Government;
- (h) a Code of Conduct;
- (i) contributions by members of *iziZwe*;
- (j) regulatory powers of the Premier and the responsible Member of the Executive Council;
- (k) the delegations of powers, assignments and agreements;
- (l) mechanisms for dispute resolution and to provide for offences and penalties;
- (m) transitional matters;
- (n) the repeal of applicable Provincial legislation; and
- (o) related matters.

2. OBJECTS AND DISCUSSION

Clause 1: Definitions

This clause contains all standard definitions relevant to the Bill and, where possible, the vernacular terms for traditional institutions and leaders have been used for ease of reference.

Clause 2: Application

This clause provides that the Bill, once enacted, will be applicable within the Province of KwaZulu-Natal.

Clause 3: Guiding Principles

Clause 3 replicates the guiding principles contained in the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), and applies to all traditional communities, institutions and leaders within KwaZulu-Natal who are enjoined to transform and adapt customary law and customs so as to comply with the Constitution of the Republic of South Africa, 1996. In addition, all institutions and leaders are prohibited from promoting or prejudicing the interest of any political party and must apply and implement the principles of co-operative government, intergovernmental relations and the principles governing public administration.

Clause 4: Recognition and withdrawal of *ubuNgonyama*

This clause makes reference to the relevant provisions of applicable National legislation with regard to the recognition of *ubuNgonyama*.

Clause 5: Recognition of *iziZwe*

This clause provides for the criteria and processes to be followed by a prospective traditional community, which is applying for recognition as *isiZwe* by the Premier. Amongst others, it provides for the consultation process that must precede any decision of the Premier, and empowers the Premier to appoint an independent person or persons to conduct an investigation in order to determine whether the traditional community should be recognised as such or not. In addition, the clause details the process that the Premier must follow in recognising a traditional community, which recognition is effected by way of a notice in the *Provincial Gazette*. For ease of reference, a form prescribing the manner in which application for recognition as an *isiZwe* has been attached to the Act as a Schedule.

Clause 6: Withdrawal of recognition of *iziZwe*

This clause provides for the process and circumstances in which the Premier may withdraw the recognition of *isiZwe*, which includes the sub-division or merger of *iziZwe*, whether they were merged or sub-divided before or after 1994. In addition, this clause empowers the Premier to appoint a person or persons to conduct an investigation into the proposed withdrawal of recognition and to withdraw the recognition of *isiZwe* by notice in the *Provincial Gazette*, alternatively to refuse such withdrawal.

Clause 7: Recognition of sub-iziZwe

This clause provides for the recognition of sub-*iziZwe* that are located in a different geographical area to *isiZwe*, and prescribes a similar process to the process which the Premier must follow in clause 5, to recognise such a sub-*isiZwe*, upon application by *iNkosi* concerned.

Clause 8: Withdrawal of recognition of sub-iziZwe

This clause provides for the process and circumstances in which the recognition of a sub-*isiZwe* may, upon application by the relevant *iNkosi*, be withdrawn by the Premier by Notice in the *Provincial Gazette*.

Clause 9: Recognition of iziGodi

This clause provides for the recognition of *iziGodi* within *isiZwe* and the process to be followed by the traditional council in applying to the Premier for recognition as *iziGodi*.

Clause 10: Withdrawal of recognition of iziGodi

This clause provides that the withdrawal of recognition of an *isiGodi* may only be considered by the Premier, where *iNkosi* and the traditional council concerned requests such a withdrawal of recognition and empowers the Premier to appoint a person or persons to conduct an investigation to establish whether such withdrawal of recognition is warranted.

Clause 11: Recognition and remuneration of traditional leadership

This clause provides for the recognition of the traditional leadership positions of *iSilo*, *amaKhosi*, *iziPhakanyiswa* and *iziNduna* and the criteria for recognition to such positions.

Clause 12: Identification, recognition and withdrawal of recognition of iSilo

This clause makes reference to the relevant provisions of applicable National legislation with regard to the identification, recognition and withdrawal of recognition of *iSilo*.

Clause 13: Identification and recognition of amaKhosi

This clause provides for the criteria, process and procedures for the identification and recognition of *amaKhosi* by the Premier by notice in the *Provincial Gazette* and a Schedule has been included, which provides guidelines to *uMndeni* on the identification of a successor to *ubuKhosi*. To facilitate the implementation of these guidelines, an attempt has been made to provide a detailed definition of *uMndeni*, including the core and broader *uMndeni*, and specifying which part of *uMndeni* is the decision-making body in identifying a successor to

ubuKhosi, subject to the specific customs and customary laws of *uMndeni* and *isiZwe* concerned.

Clause 14: Identification and recognition of *iziPhakanyiswa*

This clause provides for the criteria, process and procedures for the identification and recognition of *iziPhakanyiswa* by the Premier by notice in the *Provincial Gazette*.

Clause 15: Identification and recognition *iziNduna*

This clause provides for the criteria, process and procedures for the identification and recognition of *iziNduna* by the Premier by notice in the *Provincial Gazette*. The current legislation does not provide for the identification and recognition of *iziNduna*, which has caused challenges in the implementation of the National Framework legislation as well as uncertainty as to the number of appointed *iziNduna* in KwaZulu-Natal. In providing for the recognition of *iziNduna* by the Premier, the Bill will enable the relevant department to establish comprehensive and complete databases of all *iziNduna* currently recognised in KwaZulu-Natal.

Clause 16: Identification and recognition *iso leSilo and iso leNkosi*

This clause provides for the criteria, process and procedures for the identification and recognition of *iSo leSilo and iSo leNkosi* by the Premier by notice in the *Provincial Gazette*, and empowers the Premier to recognise a suitable person as *iSo leSilo* or *iSo leNkosi*, in the event that the relevant *isiZwe* does not have a recognised traditional leader.

Clause 17: *iBambabukhosi, iBambela, and iSekela leNkosi*

This clause provides for the criteria, process and procedures for the identification and recognition of *iBambabukhosi, iBambela, and iSekela leNkosi* by the Premier by notice in the *Provincial Gazette*. As a result of challenges faced during the implementation of the current Act, two new positions of *iBambela* and *iSekela leNkosi* are created to cater for the situations where no successor to *ubuKhosi* has been recognised as yet, or where the relevant traditional leader will be absent from *isiZwe* for a period of more than six months for a variety of reasons, as well as the situation where the relevant traditional leader is elected to political office or is appointed in a full-time position in government.

Clause 18: Grounds for withdrawal of recognition of traditional leaders

This clause provides for the circumstances under which the Premier must or may withdraw the recognition of any traditional leader by notice in the *Provincial Gazette*.

Clause 19: Withdrawal of recognition of *amaKhosi*

This clause provides for the process *uMndeni* must follow in applying to the Premier for the withdrawal of recognition of an *iNkosi*, as a result of the disqualification of *iNkosi* for reasons contemplated in clause 13(2), or in the event of a flawed recognition process contemplated in clause 13(3), which withdrawal must be effected by way of notice in the *Provincial Gazette*.

Clause 20: Withdrawal of recognition of *iziPhakanyiswa*

This clause provides for the process any members of a traditional council or *isiZwe* must follow in applying to the Premier for the withdrawal of recognition of an *isiPhakanyiswa*. Provision is made for the term of office of *iziPhakanyiswa* to end after five years, and this is aligned with the term of office of traditional councils.

Clause 21: Withdrawal of recognition of *iziNduna*

This clause provides for the process *iNkosi* must follow in applying to the Premier for the withdrawal of recognition of an *iziNduna*, which withdrawal must be effected by way of notice in the *Provincial Gazette*.

Clause 22: Withdrawal of recognition of *iSo leSilo and iSo leNkosi*

This clause provides for the process *iSo leSilo and iSo leNkosi* must follow in applying to the Premier for the withdrawal of recognition of an *iSo leSilo and iSo leNkosi*, which withdrawal must be effected by way of notice in the *Provincial Gazette*.

Clause 23: Removal of *iBambabukhosi, iBambela and iSekela leNkosi*

This clause provides for the recognition of *iBambabukhosi, iBambela and iSekela leNkosi* may be withdrawn by operation of law or as provided for in clause 18, 68 or 70 of the Bill.

Clause 24: Establishment, composition and recognition of kingship council

This clause makes reference to the relevant provisions of applicable National legislation with regard to the establishment, composition and recognition of a kingship council.

Clause 25: Establishment, composition and recognition of traditional councils

This clause comprehensively provides for the establishment, composition and recognition of traditional councils and makes the clause applicable to the establishment, composition and

recognition of traditional sub-councils as well. In order to facilitate the composition of the traditional councils in compliance guidelines published by the Minister responsible for Traditional Affairs, a Schedule was developed and attached to the Bill, which Schedule provides for the number of members of each traditional council, to a maximum of 50, depending on the number of *iziNduna zeziGodi* per *isiZwe*, and also provides for the minimum number of women per traditional council. The clause empowers the Premier to reduce the minimum number of women in each traditional council in certain circumstances and describes the procedure for the official recognition of the traditional council by the Premier by notice in the *Provincial Gazette* and the process to be followed by the council at its first meeting.

Clause 26: Vacating of seats and filling of vacancies

This clause provides for the circumstances under which a seat on a traditional council becomes vacant and also provides for the manner in which vacant seats on a traditional council must be filled.

Clause 27: Withdrawal of recognition of traditional councils

This clause provides that where the Premier withdraws the recognition of an *isiZwe* in terms of clause 6 of the Bill, the notice issued in terms of clause 6 must also provide for the withdrawal of recognition of the relevant traditional council.

Clause 28: Roles, powers and functions of *iSilo*

This clause provides for the roles, powers and functions of *iSilo*, arising from customs, customary laws and statutory provisions, as well as roles assigned to *iSilo* by the Executive Council.

Clause 29: Roles, powers, and functions of *amaKhosi*

The roles, powers and functions of *amaKhosi* are set out in this clause and provision is also made for provincial organs of state to assign or delegate additional roles, powers and functions to *amaKhosi*, through legislative or administrative measures. The clause also provides for the process any organ of state must follow in assigning or delegating roles, powers and functions to *amaKhosi*, as well as the manner in which *amaKhosi* must carry out, execute or perform these roles, powers and functions, and the duty of the responsible Member of the Executive Council to monitor the implementation of this clause.

Clause 30: Roles, powers and functions of *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo*

This clause provides that roles, powers and functions allocated to *amaKhosi* in terms of clause 29(1) are also performed and executed by *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo*.

Clause 31: Allocation of roles, powers and functions to *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo* by organs of state

This clause provides that roles, powers and functions allocated to *amaKhosi* by organs of state, in terms of clause 29(2), are also performed and executed by *iBambabukhosi*, *iBambela*, *iSekela leNkosi* and *iSo leSilo*.

Clause 32: Roles, powers and functions of *iziNduna*

This clause lists the roles, powers and functions of *iziNduna*, as enumerated by National Government in various documents, including the job description of *iziNduna* developed by the Independent Commission on the Remuneration of Public Office Bearers.

Clause 33: Roles, powers and functions of traditional councils

This clause provides for the roles, powers and functions of traditional councils and provision is also made for Provincial organs of state to provide for additional roles, powers and functions for traditional councils through legislative and administrative measures. The clause also provides that whenever an organ of state considers allocating roles, powers and functions to a traditional council, by means of assignments, delegations, agency agreements or powers of attorney, as contemplated in sub-clause (2) of clause 33, the provisions of clause 29(3) apply with the necessary changes. The clause also provides that the responsible Member of the Executive Council must monitor the carrying out, execution and performance of the roles, powers and functions allocated as contemplated in this Act and other applicable legislation to traditional councils and may intervene in the event that the council does not comply. The responsible Member of the Executive Council, if he or she is satisfied that a traditional council is unable to perform the functions assigned to it in terms of the Act in an efficient and effective manner, or in a manner that promotes good governance and administration, may appoint any person as an administrator to assist the traditional council concerned to perform the powers and functions of such traditional council. The provisions of this clause, and clause 34, apply with the necessary changes to any traditional sub-council established and recognised as contemplated in clause 7.

Clause 34: Partnerships between municipalities and traditional councils

This clause provides for the Department to promote partnerships between municipalities and traditional councils.

Clause 35: Support to traditional councils

This clause provides that the responsible Member of the Executive Council must provide support to traditional councils, including through the secondment of staff to traditional councils. The clause also provides that the staff seconded to traditional councils must report to a person designated by the *iNkosi* concerned.

Clause 36: Meetings of traditional councils

This clause provides for the regulation of proceedings at meetings of traditional councils. Meetings of traditional councils must be chaired by *iNkosi* under whose area of jurisdiction the traditional council falls. The clause also makes provision for a deputy chairperson to be elected by the members of a traditional council at its first meeting. The clause also provides that every traditional council must hold an ordinary meeting at least once every quarter.

Clause 37: Minutes of meetings

This clause provides that traditional councils are to keep minutes of each of its meetings and specifies what information should be recorded in the minutes. The clause also provides that a copy of the minutes of every traditional council meeting must be forwarded to the relevant district office of the Department within fifteen days after any meeting.

Clause 38: Subsistence and travelling allowances for members of traditional councils

This clause provides that the Premier, in consultation with the responsible Member of the Executive Council and the Member of the Executive Council for Finance, may determine the subsistence and travelling allowances payable to members of traditional councils.

Clause 39: Establishment and membership of KwaZulu-Natal Provincial House of Traditional Leaders

This clause provides for the establishment of the KwaZulu-Natal House of Traditional Leaders. This clause also provides that the term of office of members of the Provincial House is five years, which period must be aligned to the term of office of the members of the National House of Traditional Leaders. The clause also provides that the term of office of members of the Provincial House will not terminate until the date on which the newly elected members of the Provincial House assume office. The clause further provides that the members of the Provincial House must be chairpersons of traditional councils established and recognized in terms of the Bill.

Clause 40: Composition and seat of Provincial House

This clause provides that the Provincial House consists of *iSilo* or his or her nominee and a minimum of three and a maximum of seven members elected from each Local House of Traditional Leaders. This clause also provides that each Local House must elect from its members the number of representatives to the Provincial House as contemplated in Schedule 5 of the Bill. This clause also provides that the Provincial House may establish and elect an Executive Committee.

Clause 41: Qualification for membership of the Provincial House

This clause provides for the criteria which will render a person ineligible for membership to the Provincial House.

Clause 42: Vacating of seats in the Provincial House

This clause provides for the vacating of seats in the Provincial House and provides the circumstances under which the seat of a member of the Provincial House would become vacant.

Clause 43: Filling of vacancies in the Provincial House

This clause provides for the procedure to be followed where a vacancy occurs in the Provincial House and provides that the secretary of the Provincial House must, within 14 days of a vacancy occurring, inform the responsible Member of the Executive Council of the vacancy where after the responsible Member of the Executive Council must inform the Premier of the vacancy, within a reasonable time. The clause also provides that any vacancy must be filled within 60 days, in the manner contemplated in clause 40(2) of the Bill.

Clause 44: Election of Chairperson and Executive Committee of Provincial House

This clause provides that the Provincial House must meet within 30 days after the election of a new House at a place and time determined by the Premier by Notice in the *Provincial Gazette*. The clause also makes provision for a Judge of the High Court to act as chairperson at the first meeting until the members have elected a chairperson and deputy chairperson and provides for the election of an Executive Committee for the Provincial House. The clause further provides for the vacating of office by the chairperson or deputy chairperson and makes provision for the filling of such vacancy.

Clause 45: Status of members of Provincial House

This clause provides that the chairperson and deputy chairperson of the Provincial House are full-time members of the Provincial House. The clause also provides that the Premier may, after consultation with the Provincial House, determine, by notice in the *Provincial Gazette*, that certain other members are full-time members of the Provincial House.

Clause 46: Election of representatives to National House

This clause provides that the Provincial House must elect its representatives to serve in the National House at its first sitting in accordance with the procedure contained in the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009).

Clause 47: Meetings of Provincial House

This clause provides for meetings and proceedings at meetings of the Provincial House and provides that an ordinary meeting of the Provincial House must be held at least once quarterly and provision is also made for special meetings of the Provincial House which may be called by the Premier, the Executive Committee of the House or upon request by at least ten members of the Provincial House.

Clause 48: Rules of Provincial House

This clause provides for the various matters in respect of which the Provincial House must adopt its Rules of Procedure.

Clause 49: Roles, powers and functions of Provincial House

This clause provides for the roles, powers and functions of the Provincial House and provides that the Provincial House must represent, protect and promote the interests of all *iziZwe* recognised in terms of the Bill and the institution of traditional leadership. The clause also provides that the Provincial House must be responsible for the protection, promotion and codification of customary law and customs. Provision is also made for the Provincial House to conduct research at the request of the responsible Member of the Executive Council in respect of the matters mentioned in the clause. The Provincial House may also make recommendations to the responsible Member of the Executive Council on Provincial programmes relating to traditional affairs or on the content and co-ordination of municipal integrated development plans and comment on Provincial bills affecting *iziZwe*. The Provincial House must, inter alia, keep proper records and have its financial statements audited by the Auditor-General.

Clause 50: Administration and accountability of the Provincial House

This clause provides for the appointment, by the responsible Member of the Executive Council, of a secretary to the Provincial House. The secretary is responsible for the administration of the House. The clause also makes provision for the responsible Member of the Executive Council to second as many Departmental staff members as may be necessary to discharge the work of the Provincial House.

Clause 51: Remuneration, allowances and benefits payable to members of Provincial House

This clause provides that the remuneration, allowances and benefits to the chairperson, deputy chairperson and ordinary members of the Provincial House are as determined in the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

Clause 52: Support to Provincial House

This clause provides that the Provincial Government must adopt necessary measures to support and strengthen the capacity of the House to fulfil its functions. This support may include the provision of infrastructure, finances, human resources, skills development programmes and administrative systems.

Clause 53: Establishment of Local Houses of traditional leaders

This clause provides for the establishment of Local Houses in the areas of district municipalities where there are five or more *iziZwe*. The clause also provides that where there are less than five *iziZwe* within the area of any district municipality, the traditional leaders within that district must choose from amongst their number to represent *iziZwe* at the sitting of meetings of the district municipality.

Clause 54: Composition and Executive Committee of local houses

This clause provides that each Local House consists of all *amaKhosi* within the district municipality and further makes provision for each Local House to establish and elect an Executive Committee comprising no more than seven members of that Local House.

Clause 55: Meetings of Local Houses

This clause provides for meetings of Local Houses and provides that the responsible Member of the Executive Council must, by notice in the *Provincial Gazette*, convene the first meetings of Local Houses and appoint a person to act as chairperson until the members of a House have elected the chairperson and deputy chairperson.

Clause 56: Roles Powers and Functions of Local Houses

This clause provides that the roles, powers and functions of Local Houses of traditional leaders are, inter alia, to advise the relevant district or metropolitan municipality on matters pertaining to customary law, customs, traditional leadership and *iziZwe* within the district or metropolitan municipality and to develop planning frameworks or by-laws that impact on *iziZwe*, participate in local programmes for the development of rural communities and participate in local initiatives for the monitoring, reviewing or evaluation of government programmes in rural communities. The clause further provides that Local Houses can comment on any legislation of the district or metropolitan municipality that affects the customs or customary law of *iziZwe* within its area of jurisdiction or regarding the provision of services or the demarcation of boundaries or land tenure, which affects *iziZwe*.

Clause 57: Referral of draft legislation to Provincial House and Local Houses

This clause provides for draft legislation dealing with or affecting *iziZwe*, traditional institutions, customary law or customs, to be referred to Provincial and Local Houses for comment. In respect of Provincial legislation, the Speaker of the Legislature must refer the draft legislation to the Provincial House for comment and in respect of draft local government legislation (i.e. by-laws) the Speaker of the relevant municipal council must refer the draft legislation to the relevant Local House(s) for comment.

Clause 58: Establishment of KwaZulu-Natal Provincial Commission on Traditional Leadership Disputes and Claims

This clause provides for the establishment of the KwaZulu-Natal Provincial Commission on Traditional Leadership Disputes and Claims.

Clause 59: Composition and term of office of Commission

This clause provides for the composition and term of office of the Commission. In terms of this clause, the Premier, in consultation with the responsible Member of the Executive Council and the Member of the Executive Council responsible for Finance, must, within a period of three months after the promulgation of this Act, and by notice in the *Provincial Gazette*, appoint a maximum of five persons as members of the Provincial Commission who have expert knowledge regarding the historical and present legal and administrative context concerning *iziZwe*, customary law and customs, traditional leadership, or other traditional institutions. The clause further provides that the term of office of members of the Commission is five years and the Premier may appoint the existing Provincial Committee to the National Commission on Traditional Leadership Disputes and Claims established in terms of the Traditional Leadership and Governance Framework Act, 2003, to the Provincial Commission.

Clause 60: Meetings and rules of Commission

This clause provides that the Commission must meet within 30 days after the date of the notice contemplated in clause 59(1) of the Bill to determine the rules for the conduct and management of its proceedings and the Commission must meet as and when necessary to consider and rule on any dispute or claim referred to it in terms of the Bill.

Clause 61: Vacancies and filling of vacancies

This clause provides for the circumstances under which a vacancy would occur on the Commission and makes provision for the filling of such vacancy.

Clause 62: Powers and functions of Commission

This clause provides for the powers and functions of the Commission. The Commission must perform and execute its powers and functions in terms of the Bill and investigate, report and make recommendations on any dispute or claim that was submitted to the National Commission after 1 September 2010, as well as any new dispute or claim lodged after the date of commencement of the Bill. The clause further provides that the Commission must investigate any matters referred to it by the Premier in accordance with the provisions of the Bill and, at the request of the responsible Member of the Executive Council, investigate, report and make recommendations on any matter relating to iziZwe, traditional councils, traditional leadership, traditional leaders and other traditional institutions or involving a relationship between organs of state and the abovementioned traditional leaders or institutions. In terms of this clause, the Provincial Commission also has an obligation to provide regular reports on its activities to the Premier.

Clause 63: Support to Commission

This clause provides that the responsible Member of the Executive Council must provide the necessary administrative, financial and other support to the Commission to perform its duties; the Commission may also appoint a person or institution to conduct research on its behalf.

Clause 64: Removal of members of Commission

This clause provides that the Premier, in consultation with the responsible Member of the Executive Council, may remove a member of the Commission on any of the grounds set out in clause 64.

Clause 65: Oath of Office

This clause provides for an oath or affirmation which must be taken by all traditional leaders, members of traditional councils, the Provincial House of Traditional Leaders and Local Houses of Traditional Leaders contemplated in the Bill. The oath and affirmation are contained in Parts A and B to Schedule 7 of the Bill.

Clause 66 Codes of Conduct

This clause provides that the Code of Conduct contained in Schedule 6 to the Bill is applicable to all traditional leaders and members of traditional councils in KwaZulu-Natal, provided that the provisions of Part C of the Code of Conduct contained in Schedule 7 to this Act also apply, with the necessary changes, to all traditional leaders and members of traditional councils in KwaZulu-Natal. This clause further provides that the Code of Conduct contained in Schedule 7 to the Bill applies to all members of the Provincial and Local Houses in KwaZulu-Natal, provided that for the purposes of Part C of the said Code of Conduct, any reference to “the House” includes both the Provincial House and all Local Houses.

Clause 67: Power of Executive Council to summon traditional leaders

This clause provides that the Executive Council may, whenever it deems necessary, summon any traditional leader, in writing, to appear before it in order to investigate any matter which is harming or likely to harm any *isiZwe* concerned or any matter of importance or concern which directly or indirectly affects such traditional leader in his or her capacity as such or which affects the Provincial Government in the performance of its functions or any matter which is likely to prejudicially affect the administration of the Provincial Government in the area of *isiZwe* concerned. The clause further provides that the Executive Council may, after considering the matter, direct the traditional leader to take certain steps to resolve the problem or instruct the responsible Member of the Executive Council to institute an inquiry in terms of the Bill.

Clause 68: Inquiry into misconduct

This clause provides that the responsible Member of the Executive Council must charge a traditional leader with misconduct whenever there is reason to believe that a traditional leader is guilty of misconduct. The clause also provides the procedure to be followed in order to charge a traditional leader with misconduct and provides that the charge must set out the particulars of the allegations made against the traditional leader and he or she must be given a period of 21 days to admit or deny the allegations and make any representations. If the traditional leader denies the allegations or fails to respond within 21 days, the responsible Member of the Executive Council must appoint a presiding officer to conduct an enquiry into the allegations. The clause further provides the procedure for the enquiry and provides that

upon completion thereof, the presiding officer must forward his or her findings, the record of the enquiry proceedings and any observations, recommendations and any recommended sanctions to the responsible Member of the Executive Council for consideration. Thereafter the responsible Member of the Executive Council may impose any of the sanctions contained in sub-clause 68(11) of the Bill, which sanction must be published in the *Provincial Gazette*.

Clause 69: Suspension of traditional leader

This clause provides that the responsible Member of the Executive Council may, after consultation with the Premier, suspend from office any traditional leader who is suspected of misconduct pending the finalisation of proceedings instituted in terms of clause 68 of the Bill. The clause further provides that any traditional leader who has been suspended under this clause is not entitled to any remuneration during the period of his or her suspension, however, the responsible Member of the Executive Council may, for good and sufficient reason, order payment of the whole or a portion of the remuneration due to that traditional leader during his or her suspension. The clause also provides that the responsible Member of the Executive Council may, after consultation with the Premier, withdraw the suspension of a traditional leader and provision is also made for the appointment of *iBambabhukosi* where the responsible Member of the Executive Council deems it necessary.

Clause 70: Breaches of Codes of Conduct

This clause provides that any breach of the Codes of Conduct contained in Schedules 6 and 7 to the Bill must be dealt with in terms of clause 68 of the Bill.

Clause 71: Contributions by members of *isiZwe*

This clause provides that a traditional council may request members of *isiZwe*, or any section of an *isiZwe*, to make a voluntary contribution to the Traditional Council concerned: Provided that no such contribution may be collected, unless the majority of the members of such an *isiZwe*, or any section of an *isiZwe*, at an *imbizo* convened for that purpose, have consented to the payment of such contribution. The clause further provides that the above contributions may only be collected from members of an *isiZwe* for the purposes of financing a specific project or any other customary purpose and must be deposited into a trust account opened and managed on behalf of *isiZwe* or the traditional council concerned. The clause also provides that the responsible Member of the Executive Council may prescribe the specific purposes and maximum contributions that may be levied as contemplated in this clause.

Clause 72: Regulatory powers

This clause provides that the Premier and the responsible Member of the Executive Council may issue notices and make regulations, respectively, in the *Provincial Gazette* as contemplated in the Bill. The clause further provides that the responsible Member of the Executive Council may make regulations, issue notices and publish guidelines in respect of any matter which is required or permitted by the Bill to be prescribed, the introduction and implementation of a system of performance management for traditional councils, traditional leaders, the Provincial House and Local Houses and any election contemplated in the Bill and any necessary administrative or procedural matter or to amend any schedule to the Bill.

Clause 73: Juristic personality

This clause provides that traditional councils, the Provincial House and Local Houses all have juristic personality.

Clause 74: Assets, liabilities and resources

This clause provides that the institutions contemplated in clause 63 may acquire, own, possess, hold, lease, alienate, encumber, or dispose of any movable or immovable property, acquire rights and incur liabilities in carrying out, executing and performing their roles, powers and functions as contemplated in the Bill. The clause further provides that these institutions may establish and administer a trust in accordance with the provisions of the Trust Property Control Act, 1998 (Act No. 57 of 1998), and insure with any company or persons against any losses, damages, risks and liabilities and must efficiently manage all assets and resources.

Clause 75: Delegation of powers, assignments, agency and service delivery agreements

This clause provides that the Premier, in consultation with the Executive Council, may delegate any role, power or function contemplated in this Act to the responsible Member of the Executive Council: Provided that any such delegation does not prevent the exercise of the relevant power by the Premier concerned. The clause also provides that the responsible Member of the Executive Council may delegate any role, power or function contemplated in the Bill, except the power to make regulations and issue notices, to the Head of the KwaZulu-Natal Provincial Department responsible for Traditional Affairs: Provided that any such delegation does not prevent the exercise of the relevant power by the responsible Member of the Executive Council concerned. The clause also provides that any person to whom any role, power or function has been delegated may, with the prior written approval of the Executive Council, further delegate such power or functions to a person or body approved by the Executive Council. The clause also provides that Provincial government

departments, statutory institutions, organs of state and municipalities may delegate or assign any power or function to or enter into agency or service delivery agreements with traditional councils.

Clause 76: Dispute resolution

This clause provides that whenever a dispute concerning customary law or customs arises within an *isiZwe* or between *iziZwe* or other traditional institutions on a matter arising from the implementation of this Act or otherwise, members of such a community or institution and traditional leaders within *isiZwe* or traditional institution concerned must seek to resolve the dispute internally and in accordance with customary law and customs. The clause also provides that any dispute that cannot be resolved must be referred to the Provincial House for resolution. The clause also provides that in the event that the Provincial House is unable to resolve the dispute, it must be referred to the responsible Member of the Executive Council for resolution and should the responsible Member of the Executive Council be unable to resolve the dispute, it must be referred to the Premier for resolution. The clause also provides that the Premier must resolve the dispute after consultation with the responsible Member of the Executive Council, the parties to the dispute and the Provincial House. The clause further provides that the Premier may refer the matter to the Provincial Commission for its recommendation prior to a final decision on the dispute contemplated in this clause.

Clause 77: Cross-boundary arrangements

This clause provides that the Premier, after consultation with the responsible Member of the Executive Council, may enter into agreements with other provincial governments in respect of matters relating to *iziZwe*, traditional leaders or traditional institutions in the event that the management of such matters would be better served by a joint approach by the provincial governments concerned.

Clause 78: Offences and penalties

This clause provides that a person is guilty of an offence if that person purports to be a traditional leader without having been recognised as contemplated in this Act or wilfully obstructs the carrying out, performance or execution of any role, power or function vested in, or allocated to, any traditional leader, any traditional council, the Provincial House, any Local House or the Provincial Commission as contemplated in this Act or any other law. The clause also provides that a person convicted of an offence is liable to a fine or imprisonment not exceeding 12 months, or both such fine and imprisonment.

Clause 79: Transitional arrangements

This clause provides that all executive and administrative actions performed by the Provincial Government in good faith, relating to *iziZwe*, *isiZwe* members, traditional leadership, traditional leaders, traditional authorities, community authorities, traditional councils or their respective jurisdictional areas, and the informal recognition of *isiPhakanyiswa* as *iNkosi*, before the date of commencement of this Act, are deemed to have been validly performed. The clause also provides that any *iNduna* recognised in terms of applicable customs and customary law, notwithstanding the provisions of any other law, prior to the date of commencement of this Act, must be recognised as contemplated in clause 15, within a period of 24 months after the date of commencement of this Bill once enacted.

Clause 80: Amendment and repeal of laws

This clause makes reference to Schedule 3 of the Bill which contains the laws that are to be amended or repealed by this Bill once enacted.

Clause 81: Short title

This clause contains the short title of the Bill.

SCHEDULE 1

Schedule 1 to the Bill contains the Application Form TA1 to be used for an application for recognition as *isiZwe*.

SCHEDULE 2

Schedule 2 to the Bill contains the guidelines on the identification of successors to *ubuKhosi* contemplated in clause 13(1)(a) of the Bill.

SCHEDULE 3

Schedule 3 to the Bill contains the declaration by *iBambabukhosi* contemplated in clause 17(4) of the Bill.

SCHEDULE 4

Schedule 4 to the Bill contains the formula for the determination of the number of members of a traditional council contemplated in clause 25(1) of the Bill.

SCHEDULE 5

Schedule 5 to the Bill contains the number of elected members of the KwaZulu-Natal Provincial House of Traditional Leaders contemplated in clause 40(2) of the Bill.

SCHEDULE 6

Schedule 6 to the Bill contains the Code of Conduct for Traditional Leaders and Members of Traditional Councils contemplated in clause 66 of the Bill.

SCHEDULE 7

Schedule 7 to the Bill contains the Code of Conduct for Members of Houses of Traditional Leaders.

SCHEDULE 8

Schedule 8 to the Bill contains the laws that are to be repealed by this Bill, once enacted.

4. CONSTITUTIONAL IMPLICATIONS

The Bill will give effect to the aims and objects of the Constitution as it applies to traditional institutions, leaders and authorities within the Province of KwaZulu-Natal.

5. BODIES AND ORGANISATIONS CONSULTED

The KwaZulu-Natal Provincial House of Traditional Leaders, all Local Houses within KwaZulu-Natal, all district and local municipalities within KwaZulu-Natal and organised local government are to be consulted on the Bill; the latter two in compliance with the provisions of section 154(2) of the Constitution of the Republic of South Africa, 1996.

6. FINANCIAL IMPLICATIONS

Not determined as yet.

7. ORGANISATION AND PERSONNEL IMPLICATIONS

Not determined as yet.

8. IMPLICATIONS FOR MUNICIPALITIES

The implications for municipalities in terms of the Bill are, inter alia –

- (a) Clause 34 of the Bill provides that the Department must promote partnerships between municipalities and traditional councils;
- (b) Clause 29(1)(j) provides for *amaKhosi* to participate in municipal councils as contemplated in section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (c) Clause 32(a) provides for *iziNduna* to participate in the activities of municipal ward committees to promote the development of *iziGodi*;
- (d) Clause 33(1) provides that traditional councils must support municipalities in the identification of community needs, facilitate the involvement of *isiZwe* in the amendment of the integrated development plan of the local municipality in whose area of jurisdiction that community resides, participate in the development of policy and legislation at local government level, participate in development programmes of municipalities, alert relevant municipalities to any hazard or calamity that threatens the area of jurisdiction of the relevant traditional council and co-operate with municipal ward committees within its area of jurisdiction;
- (e) Clause 33(4) provides that a traditional council may enter into service delivery agreements with a municipality in accordance with the Local Government: Municipal Systems Act, 2000, and any other applicable legislation; and
- (f) Clause 57(1) of the Bill provides that any draft legislation dealing with, or affecting *iziZwe*, traditional institutions, customary law and customs must be referred by the Speaker of a municipal council to the Local House concerned for its written comments, as contemplated in clause 56(1)(d), before it is passed by the municipal council and any comment by the Local House concerned must be tabled in the municipal council prior to the passing of the draft municipal legislation concerned.

9. CONTACT PERSON

NAME: Ms N Qhobosheane
TITLE: Head of Department – KwaZulu-Natal Department of Co-operative
Governance and Traditional Affairs
CONTACT NO.: (033) 395 2831
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10. LEGISLATIVE PROCEDURE

Due to the fact that the subject matter of the Bill affects the status, institutions and powers or functions of local government, the Bill is to be published for public comment in terms of section 154(2) of the Constitution of the Republic of South Africa, 1996, before it is introduced into the KwaZulu-Natal Legislature to afford organised local government, municipalities and other interested persons an opportunity to make representations on the draft Bill.

KWAZULU-NATAL
WETSONTWERP OP TRADISIONELE LEIERSKAP EN REGERING, 2013

WETSONTWERP

Om voorsiening te maak vir die erkenning van *iziZwe*, tradisionele leierskap, en tradisionele instellings; om voorsiening te maak vir 'n regulatoriese raamwerk vir die erkenning en die vestiging van rolle, bevoegdhede en werksaamhede in, sowel as die toewysing van werksaamhede aan, tradisionele rade, tradisionele leiers en ander tradisionele leierskapstrukture; om voorsiening te maak vir 'n raamwerk vir die ontwikkeling, kapasiteitsbou van, en ondersteuning aan tradisionele rade, tradisionele leiers en ander tradisionele leierskapstrukture; om voorsiening te maak vir die instelling van die Provinsiale Huis van Tradisionele Leiers, Plaaslike Huise van Tradisionele Leiers en die KwaZulu-Natal Kommissie oor Tradisionele Leierskaps-geskille en -eise; die vestiging van rolle, bevoegdhede en werksaamhede in, sowel as die toewysing van werksaamhede aan, hierdie instellings; om voorsiening te maak vir 'n raamwerk vir die ontwikkeling, kapasiteitsbou en ondersteuning aan hierdie instellings; om voorsiening te maak vir 'n bemagtende raamwerk ten einde ondersteuning te verleen vir samewerking en samewerkende regering tussen hierdie instellings en die Provinsiale Regering; om voorsiening te maak vir 'n Gedragskode; om voorsiening te maak vir bydrae deur lede van tradisionele gemeenskappe; om voorsiening te maak vir regulatoriese bevoegdhede van die Premier en die verantwoordelike Lid van die Uitvoerende Raad; om voorsiening te maak vir die delegering van bevoegdhede, toewysings en ooreenkomste; om voorsiening te maak vir geskilbeslegtingsmeganismes; om voorsiening te maak vir misdrywe en strawwe; om voorsiening te maak vir oorgangsaangeleenthede; om voorsiening te maak vir die wysiging of herroeping van toepaslike provinsiale wetgewing; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

AANHEF

AANGESIEN die Provinsie van KwaZulu-Natal, in ooreenstemming met die Grondwet, Nasionale Raamwerkbeleid en die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wet No. 41 van 2003), die bestaan van *iziZwe* in die Provinsie erken, en poog om –

- (a) die ontwikkeling van *iziZwe*, tradisionele instellings, gewoontereg en gebruike te erken, beskerm, bewaar en transformeer, asook om voorsiening te maak vir 'n bemagtigende omgewing daarvoor;
- (b) 'n plek en rol vir tradisionele leiers te omskryf binne die stelsel van demokratiese regering in Suid-Afrika; en
- (c) die integriteit en regmatigheid van die instelling van tradisionele leierskap, in ooreenstemming met gewoontereg en gebruike, te herstel,

WORD DAAR soos volg deur die Provinsiale Wetgewer van die Provinsie van KwaZulu-Natal bepaal:-

RANGSKIKKING VAN ARTIKELS

Artikel

HOOFSTUK 1

OMSKRYWINGS, TOEPASSING EN RIGLYNBEGINSELS

1. Omskrywings
2. Toepassing
3. Riglynbeginsels

HOOFSTUK 2

ERKENNING EN TERUGTREKKING VAN ERKENNING VAN *ISIZWE*

4. Erkenning en terugtrekking van *ubuNgonyama*
5. Erkenning van *isiZwe*
6. Terugtrekking van erkenning van *isiZwe*
7. Erkenning van sub-*isiZwe*
8. Terugtrekking van erkenning van sub-*isiZwe*
9. Erkenning van *isiGodi*
10. Terugtrekking van erkenning van *isiGodi*

HOOFSTUK 3

TRADISIONELE LEIERS

11. Erkenning en besoldiging van tradisionele leierskap
12. Identifisering, erkenning en terugtrekking van erkenning van *iSilo*
13. Identifisering en erkenning van *iNkosi*

14. Identifisering en erkenning van *isiPhakanyiswa*
15. Identifisering en erkenning van *iNduna*
16. Identifisering en erkenning van *iSo leSilo* en *iSo leNkosi*
17. Identifisering en erkenning van *iBambabukhosi*, *iBambela* en *iSekela leNkosi*
18. Gronde vir terugtrekking van erkenning van tradisionele leiers
19. Terugtrekking van erkenning van *iNkosi*
20. Terugtrekking van erkenning van *isiPhakanyiswa*
21. Terugtrekking van erkenning van *iNduna*
22. Terugtrekking van erkenning van *iSo leSilo* en *iSo leNkosi*
23. Ontslag van *iBambabukhosi*, *iBambela* en *iSekela leNkosi*

HOOFSTUK 4

INSTELLING, SAMESTELLING EN ERKENNING VAN KONINGSKAPS- EN TRADISIONELE RADE

24. Instelling, samestelling en erkenning van koningskapsraad
25. Instelling, samestelling en erkenning van tradisionele rade
26. Ontruiming van setels en vul van vakatures
27. Terugtrekking van erkenning van tradisionele rade

HOOFSTUK 5

ROLLE, BEVOEGDHEDE EN WERKSAAMHEDE VAN TRADISIONELE LEIERS

28. Rolle, bevoegdhede en werksaamhede van *iSilo*
29. Rolle, bevoegdhede en werksaamhede van *iNkosi*
30. Rolle, bevoegdhede en werksaamhede van *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo*
31. Toewysing van rolle, bevoegdhede en werksaamhede aan *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo* deur staatsorgane
32. Rolle, bevoegdhede en werksaamhede van *iNduna*
33. Rolle, bevoegdhede en werksaamhede van tradisionele rade
34. Vennootskappe tussen munisipaliteite en tradisionele rade
35. Ondersteuning aan tradisionele rade
36. Vergaderings van tradisionele rade
37. Notules van vergaderings
38. Reis-en-verblyftoelaes vir lede van tradisionele rade

HOOFSTUK 6

HUISE VAN TRADISIONELE LEIERS

39. Instelling en lidmaatskap van KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers
40. Samestelling en setel van Provinsiale Huis
41. Kwalifikasie vir lidmaatskap van Provinsiale Huis
42. Ontruiming van setels in Provinsiale Huis
43. Vul van vakatures in Provinsiale Huis
44. Verkiesing van Voorsitter en Uitvoerende Komitee van Provinsiale Huis
45. Status van Lede van Provinsiale Huis
46. Verkiesing van verteenwoordigers tot Nasionale Huis
47. Vergaderings van Provinsiale Huis
48. Reëls van Provinsiale Huis
49. Rolle, bevoegdhede en werksaamhede van Provinsiale Huis
50. Administrasie en aanspreeklikheid van Provinsiale Huis
51. Besoldiging, toelaes en voordele betaalbaar aan lede van Provinsiale Huis
52. Ondersteuning aan Provinsiale Huis
53. Instelling van Plaaslike Huise van tradisionele leiers
54. Samestelling en Uitvoerende Komitee van Plaaslike Huise
55. Vergaderings van Plaaslike Huise
56. Rolle, bevoegdhede en werksaamhede van Plaaslike Huise
57. Verwysing van konsepwetgewing na Provinsiale Huis en Plaaslike Huise

HOOFSTUK 7

KWAZULU-NATAL KOMMISSIE OOR TRADISIONELE LEIERSKAPSGESKILLE EN -EISE

58. Instelling van KwaZulu-Natal Kommissie oor Tradisionele Leierskapsgeskille en -eise
59. Samestelling en ampstermyn van Kommissie
60. Vergaderings en reëls van Kommissie
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HOOFSTUK 8

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65. Ampseed
66. Gedragskodes
67. Bevoegdhede van Uitvoerende Raad om tradisionele leiers te ontbied

68. Ondersoek na wangedrag
69. Skorsing van tradisionele leier
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71. Bydraes deur lede van *isiZwe*
72. Regulatoriese bevoegdhede
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74. Bates, laste en hulpbronne
75. Delegering van bevoegdhede, agentskaps- en diensleweringsooreenkomste
76. Geskilbeslegting
77. Oorgrensreëlings
78. Misdrywe en strawwe
79. Oorgangsreëlings
80. Wysiging en herroeping van wette
81. Kort titel

BYLAES

- Bylae 1: Aansoek om erkenning as *isiZwe*
- Bylae 2: Riglyne vir identifisering van *uBukhosi*
- Bylae 3: Verklaring deur *iBambabukhosi*
- Bylae 4: Formule vir bepaling van getal lede van Tradisionele Raad
- Bylae 5: Verkose lede van KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers
- Bylae 6: Gedragskode vir Tradisionele Leiers en Lede van Tradisionele Rade
- Bylae 7: Gedragskode vir Lede van Huise van Tradisionele Leiers
- Bylae 8: Herroeping van wette

HOOFSTUK 1

OMSKRYWINGS, TOEPASSING EN RIGLYNBEGINSELS

Omskrywings

1.(1) In hierdie Wet, tensy uit die samehang anders blyk, beteken –

“**Departement**” die departement in die KwaZulu-Natal Provinsiale Regering verantwoordelik vir Tradisionele Sake;

“**Departementshoof**” die mees senior beampste van die departement in die Provinsiale Regering van KwaZulu-Natal verantwoordelik vir Tradisionele Sake;

“distriksmunisipaliteit” ’n munisipaliteit wat beskik oor munisipale uitvoerende en wetgewende gesag in ’n gebied wat meer as een plaaslike munisipaliteit insluit, soos bedoel in artikel 5 van die KwaZulu-Natal Wet op die Bepaling van Soorte Munisipaliteite, 2000 (Wet No. 7 van 2000), en wat omskryf word in artikel 155(1)(c) van die Grondwet as ’n kategorie C munisipaliteit;

“gebruike” die tradisionele praktyke wat nagekom word deur *isiZwe*, hetsy erken in die Wet of nie;

“Gedragkode” die Gedragkodes vervat in Bylaes 6 en 7 tot hierdie Wet;

“gewoontereg” daardie gewoontes wat erken word as bindend op, en afdwingbaar ten opsigte van, alle lede van ’n bepaalde *isiZwe*, hetsy hulle erken word in hierdie Wet of nie;

“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);

“hierdie Wet” sluit in die bylaes tot hierdie Wet en enige regulasies gemaak en kennisgewings uitgereik soos bedoel in hierdie Wet;

“huis” ’n huis soos geklassifiseer deur *iNkosi* in oorleg met *uMndeni weNkosi* in ooreenstemming met gewoontes en gewoontereg;

“iBambabukhosi” ’n persoon bedoel in artikel 17;

“iBambela” ’n persoon bedoel in artikel 17;

“imbizo” ’n vergadering of byeenkoms van die lede van *isiZwe* belê deur die betrokke tradisionele leier;

“iNduna” ’n persoon erken as *iNduna* vir ’n spesifieke *isiGodi* soos bedoel in artikel 15;

“iNkos” ’n persoon bedoel in artikel 13;

“instelling” enige instelling wat ingestel of erken word ingevolge hierdie Wet, maar sluit *isiZwe* en ’n tradisionele leier uit;

“**iSekela leNkos**” ’n persoon bedoel in artikel 17;

“**isiGod**” ’n afgebakende tradisionele wyk binne die juridiksiegebied van ’n tradisionele raad, soos bedoel in artikel 9;

“**iSilo**” die persoon erken as monarg van KwaZulu-Natal ingevolge artikel 12;

“**isiPhakanyiswa**” ’n persoon verkies ingevolge artikel 14;

“**isiZwe**” ’n tradisionele gemeenskap bedoel in artikel 5;

“**iSo leNkos**” *iSo leNkosi* soos bedoel in artikel 16;

“**juridiksiegebied**” ’n aangewese juridiksiegebied vir *isiZwe* soos bedoel in artikel 5(2)(a), ’n tradisionele raad soos bedoel in artikel 25(8), en ’n Plaaslike Huis soos ingestel deur artikel 53;

“**Kommissie**” die KwaZulu-Natal Kommissie oor Tradisionele Leierskapsgeskille en -eise ingestel deur artikel 58;

“**koninklike gesin**” die tradisionele instelling wat, ooreenkomstig Zulu gewoontereg en gebruike, verantwoordelik is vir die indentifisering van die opvolger van *Isilo*;

“**KwaZulu-Natal**” die Provinsie van KwaZulu-Natal;

“**metropolitaanse munisipaliteit**” ’n munisipaliteit wat beskik oor eksklusiewe munisipale uitvoerende en wetgewende gesag in sy juridiksiegebied, soos bedoel in artikel 3 van die KwaZulu-Natal Wet op die Bepaling van Soorte Munisipaliteite, 2000 (Wet No. 7 van 2000), en wat in artikel 155(1)(a) van die Grondwet as ’n kategorie A munisipaliteit omskryf word;

“**munisipale raad**” ’n munisipale raad soos bedoel in Hoofstuk 7 van die Grondwet;

“**munisipale wykskomitees**” munisipale wykskomitees ingestel soos bedoel in artikel 73 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);

“**munisipaliteit**” ’n munisipaliteit soos bedoel in Hoofstuk 7 van die Grondwet, en sluit in alle afgebakende wyke binne ’n spesifieke munisipaliteit;

“**Nasionale Huis**” die Nasionale Huis van Tradisionele Leiers soos bedoel in artikel 212(2)(a) van die Grondwet en ingestel soos bedoel in die Wet op die Nasionale Huis van Tradisionele Leiers, 1997 (Wet No. 10 van 1997);

“**Nasionale Kommissie**” die Kommissie oor Tradisionele Leierskapsgeskille en -eise, ingestel soos bedoel in artikel 22 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wet No. 41 van 2003);

“**Plaaslike Huis**” ’n Plaaslike Huis van Tradisionele Leiers ingestel in artikel 53;

“**plaaslike munisipaliteit**” ’n munisipaliteit wat munisipale uitvoerende en wetgewende gesag in sy gebied deel met ’n distriksmunisipaliteit binne wie se gebied dit val, soos bedoel in artikel 4 van die KwaZulu-Natal Wet op die Bepaling van Soorte Munisipaliteite, 2000 (Wet No. 7 van 2000), en wat in artikel 155(1)(b) van die Grondwet as ’n kategorie B munisipaliteit omskryf word;

“**Premier**” die Premier van KwaZulu-Natal;

“**Provinsiale Huis**” die Provinsiale Huis van Tradisionele Leiers vir die Provinsie soos bedoel in artikel 39;

“**Provinsiale Koerant**” die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

“**Provinsie**” die Provinsie van KwaZulu-Natal;

“**Raamwerkwet op Tradisionele Leierskap en Regering, 2003**” die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wet No. 41 van 2003);

“**regering**” die nasionale, provinsiale, of plaaslike sfer van regering soos bedoel in artikel 40(1) van die Grondwet;

“**Sekretaris van die Provinsiale Huis**” die hoof van die administrasie van die Provinsiale Huis van Tradisionele Leiers, aangestel ingevolge artikel 50;

“**sub-isiZwe**” ’n tradisionele sub-gemeenskap bedoel in artikel 7;

“**tradisionele instelling**” ’n instelling, hetsy erken ingevolge hierdie Wet of nie, ingestel ingevolge die toepaslike gewoontereg en gebruike van *isiZwe*, hetsy erken ingevolge artikel 3 of nie;

“**tradisionele leier**” ’n persoon erken in Hoofstuk 3 van hierdie Wet as ’n tradisionele leier;

“**tradisionele raad**” ’n raad ingestel ingevolge artikel 25;

“**ubuNgonyama**” *ubuNgonyama* soos bedoel in artikel 4;

“**uMndeni**” *uMndeni weNkosi* of die onmiddelike familie van *iNkosi* van ’n bepaalde *isiZwe* erken ingevolge artikel 4, uitgesluit die koninklike familie, en sluit in –

(a) die kernhuis waarin *ubuKhosi* huidiglik woon, wat beslis oor aangeleenthede met betrekking tot *ubuKhosi*, en wat bestaan uit ten minste –

(i) die vrou of vroue, kinders, broers en susters van die huidige *iNkosi*, insluitend vaderlike halfbroers en halfsusters;

(ii) die vader en oupa van die huidige *iNkosi*, sou hulle nog lewend wees; of

(iii) die oorblywende broers en susters van die vader en oupa van die huidige *iNkosi*; en

(b) enige ander huis of huise, onderworpe aan die gebruike en gewoontereg van die betrokke *uMndeni*, wat bestaan uit die afstammeling van die gemeenskaplike voorsate van die kernhuis, wat verwittig word van besluite van die kernhuis met betrekking tot aangeleenthede van *ubuKhosi*;

“**Uitvoerende Raad**” die Uitvoerende Raad van die Provinsie van KwaZulu-Natal;

“**verantwoordelike Lid van die Uitvoerende Raad**” die Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal verantwoordelik vir Tradisionele Sake;

“**verkiesingskollege**” die verkiesingskollege bestaande uit alle volwasse lede van daardie *isiZwe* soos bedoel in artikel 5;

“voorgeskrif” voorgeskryf by wyse van bylae, regulasie of kennisgewing soos bedoel in hierdie Wet;

“Voorsitter van ’n tradisionele raad” enige tradisionele leier wat *ex officio* ’n voorsitter van ’n tradisionele raad is, met inbegrip van –

- (a) *iNkosi*;
- (b) *isiPhakanyiswa*;
- (c) *iBambabukhosi*;
- (d) *iBambela*;
- (e) *iSekela leNkosi*; en
- (f) *iSo leSilo*;

“wetgewing” Nasionale, provinsiale of munisipale wetgewing, hetsy hoof of ondergeskik;

(2) ’n Uitdrukking wat die enkelvoud aandui sluit die meervoud in en omgekeerd.

Toepassing

2. Hierdie Wet is van toepassing op die Provinsie soos bedoel in die Grondwet en word bestuur deur die verantwoordelike Lid van die Uitvoerende Raad.

Riglynbeginsels

3.(1) Alle *isiZwe*, tradisionele instellings en tradisionele leiers ingestel of erken ingevolge hierdie Wet, en alle tradisionele instellings nie uitdruklik erken in hierdie Wet nie, maar ingestel in ooreenstemming met die gewoontereg en gebruike van die betrokke *isiZwe*, moet gewoontereg en gebruike verander en aanpas ten einde te voldoen aan die Grondwet, in die besonder deur –

- (a) onregverdige diskriminase te vermy;
- (b) gelykheid te bevorder; en
- (c) te poog om op ’n progressiewe wyse geslagsverteenvoording te bevorder in die opvolging tot tradisionele leierskapsposisies.

(2) Geen tradisionele instelling of tradisionele leier mag die belange van enige politieke party bevorder of benadeel nie.

(3) Elke tradisionele instelling en tradisionele leier erken in hierdie Wet moet, in die vervulling, uitoefening en verrigting van sy rolle, bevoegdhede en werksaamhede –

- (a) die beginsels van samewerkende regering en interregeringsverhoudings toepas, soos bedoel in Hoofstuk 3 van die Grondwet, en enige ander toepaslike wet; en
- (b) die basiese waardes en beginsels, wat openbare administrasie beheer, handhaaf en impementeer, soos bedoel in Hoofstuk 10 van die Grondwet en enige ander toepaslike wet.

HOOFSUK 2

ERKENNING EN TERUGTREKING VAN ERKENNING VAN *ISIZWE*

Erkenning en terugtrekking van *ubuNgonyama*

4. Die bepalings van artikel 2A van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, is van toepassing ten opsigte van die erkenning en terugtrekking van die erkenning van die *ubuNgonyama* in die Provinsie.

Erkenning van *isiZwe*

5.(1) 'n Gemeenskap kan deur die Premier as *isiZwe* erken word indien dit –

- (a) onderworpe is aan 'n stelsel van tradisionele leierskap wat gehandhaaf word in daardie gemeenskap se gebruike;
- (b) 'n stelsel van gewoontereg handhaaf;
- (c) homself erken as 'n eiesoortige *isiZwe* met 'n bewese geskiedenis van bestaan, vanaf 'n bepaalde punt in tyd tot in die hede, onmiskenbaar en afsonderlik van ander *isiZwe*;
- (d) 'n spesifieke geografiese gebied beslaan; en
- (e) 'n getal *isiGodi* onder *iNduna* insluit.

(2)(a) Die Premier, na oorlegpleging met die persone en liggame bedoel in paragraaf (b), kan 'n gemeenskap erken, soos bedoel in subartikel (1), as *isiZwe* met 'n geografiese gebied wat uitdruklik omskryf is by kennisgewing in die *Provinsiale Koerant* –

- (i) by skriftelike aansoek deur die betrokke gemeenskap, in 'n formaat wat weselik voldoen aan Bylae 1; of
- (ii) by besluitneming om een of meer gemeenskappe in te stel, soos bedoel in artikel 6(3).

(b) Enige aansoek bedoel in paragraaf (a) moet vergesel gaan van 'n aansoek om die erkenning van *iNkosi* vir die bepaalde en betrokke gemeenskap.

(c) Enige besluit deur die Premier, soos bedoel in paragraaf (a), moet geneem word na oorlegpleging met –

- (i) die verantwoordelike Lid van die Uitvoerende Raad;
- (ii) die betrokke gemeenskap;
- (iii) die Plaaslike Huis in wie se juridiksiegebied die gemeenskap geleë is;
- (iv) die Provinsiale Huis; en
- (v) *iSilo*.

(d) Voordat die besluit bedoel in paragraaf (a) geneem word, kan die Premier 'n onafhanklike persoon of persone aanstel om 'n ondersoek te doen ten einde te bepaal of *isiZwe* voldoen aan die kriteria soos bedoel in subartikel (1).

(e) Die Premier moet 'n besluit neem ten opsigte van die erkenning van 'n gemeenskap binne 'n redelike tyd, met inagneming van die omstandighede en die aard van die aansoek.

(f) In die geval dat die Premier –

- (i) die skriftelike aansoek goedkeur, moet hy of sy die betrokke aansoekers skriftelik in kennis stel van sy of haar beslissing en die kennisgewing in die *Provinsiale Koerant* publiseer, soos bedoel in subartikel (2)(a); of
- (ii) die skriftelike aansoek weier, moet hy of sy die betrokke aansoekers skriftelik in kennis stel van die redes vir die weiering binne 'n tydperk van 60 dae nadat die besluit bedoel in paragraaf (e) geneem is.

Terugtrekking van erkenning van *isiZwe*

6.(1) Die Premier, na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, kan die terugtrekking van die erkenning van *isiZwe* oorweeg by 'n skriftelike aansoek deur –

- (a) betrokke *isiZwe*;
- (b) twee of meer *iziZwe* wat verlang om saam te smelt as 'n enkel *isiZwe*;
- (c) *isiZwe* wat verlang om onderverdeel te word in meer as een *isiZwe*; of
- (d) een of meer *isiZwe* om die posisie van *isiZwe*, of *iziZwe* wat verdeel of saamgesmelt was voor 1994, te hersien, ingevolge die toepaslike wetgewing op daardie stadium.

(2) Die aansoek bedoel in subartikel (1) moet breedvoerige redes verstrek ter ondersteuning van die aansoek om terugtrekking van die betrokke *isiZwe*: Met dien verstande dat die Premier 'n onafhanklike persoon of persone kan aanstel om ondersoek te doen ten einde vas

te stel of daar genoegsame rede is vir die terugtrekking van erkenning van die betrokke gemeenskap as *isiZwe*.

(3) Die Premier, behoudens die bepalings van subartikel (2), moet binne 'n redelike tydperk 'n beslissing neem betreffende die terugtrekking van erkenning van betrokke *isiZwe*.

(4) Die Premier, behoudens die bepalings van subartikels (2) en (3) kan –

(a) deur kennisgewing in die *Provinsiale Koerant*, die erkenning van *isiZwe* bedoel in subartikel (1) terugtrek; of

(b) die terugtrekking van erkenning van *isiZwe* bedoel in subartikel (1) weier, in welke geval hy of sy betrokke *isiZwe* in kennis moet stel van die redes vir die weiering binne 'n tydperk van 60 dae na die besluit bedoel in subartikel (3).

Erkenning van sub-*isiZwe*

7.(a) Waar *isiZwe* twee of meer geografiese gebiede okkupeer, kan *iNkosi* van die betrokke gemeenskap skriftelik aansoek doen by die Premier om die erkenning van sub-*isiZwe* vir die geografiese gebied wat geleë is buite die gebied waar die setel van *iNkosi* geleë is.

(b) Die bepalings van artikel 5, gelees met die nodige veranderinge, is van toepassing op die erkenning van sodanige sub-*isiZwe*.

(c) Indien die Premier die aansoek om die erkenning van sub-*isiZwe* goedkeur, moet betrokke *iNkosi* die Premier skriftelik versoek om *iSo leNkosi* te erken vir die sub-*isiZwe* soos bedoel in artikel 16.

Terugtrekking van erkenning van sub-*isiZwe*

8.(1) Die terugtrekking van erkenning van sub-*isiZwe* kan slegs oorweeg word waar die betrokke *iNkosi* by die Premier aansoek doen om sodanige erkenning terug te trek.

(2) Die aansoek bedoel in subartikel (1) moet breedvoerige redes verskaf wat die aansoek om die terugtrekking van erkenning van betrokke *isiZwe* ondersteun: Met dien verstande dat die Premier 'n onafhanklike persoon of persone kan aanstel om ondersoek te doen ten einde vas te stel of daar genoegsame rede is vir die terugtrekking van die erkenning van die betrokke *isiZwe*.

(3) Die Premier, behoudens die bepalings van subartikel (2), moet binne 'n redelike tydperk 'n beslissing neem betreffende die terugtrekking van erkenning van sub-*isiZwe*.

(4) Die Premier, behoudens die bepalings van subartikels (2) en (3), kan –

(a) deur kennisgewing in die *Provinsiale Koerant*, die erkenning van sub-*isiZwe* bedoel in subartikel (1) terugtrek; of

(b) die terugtrekking van erkenning van sub-*isiZwe* bedoel in subartikel (1) weier, in welke geval hy of sy betrokke *iNkosi* in kennis moet stel van die redes vir die weiering binne 'n tydperk van 60 dae na die besluit bedoel in subartikel (3).

Erkenning van *isiGodi*

9.(1) *isiGodi* kan as sodanig erken word indien dit –

(a) erken word deur *iNkosi* en die tradisionele raad van betrokke *isiZwe*;

(b) geleë is binne die juridiksiegebied van die tradisionele raad van die betrokke *isiZwe*;

(c) bestuur word deur *iNduna* soos bedoel in artikel 15; en

(d) sal bydra tot die doeltreffende en doelmatige administrasie van die betrokke tradisionele raad.

(2)(a) In die geval dat 'n gedeelte van *isiZwe* van mening is dat dit voldoen aan die kriteria bedoel in subartikel (1), kan dit die betrokke tradisionele raad versoek om by die Premier aansoek te doen om die erkenning van sodanige gedeelte van die gemeenskap as *isiGodi*.

(b) Indien die tradisionele raad van mening is dat die gedeelte van *isiZwe* verwys na in paragraaf (a) nie voldoen aan die kriteria uiteengesit in subartikel (1) nie, moet die tradisionele raad die gemeenskap en die Premier dienooreenkomstig verwittig en redes vir sodanige mening verskaf.

(3) Voordat 'n besluit, soos bedoel in subartikel (4), geneem word, kan die Premier 'n onafhanklike persoon of persone aanstel om ondersoek te doen ten einde te bepaal of die aansoek om erkenning van *isiGodi* voldoen aan die kriteria bedoel in subartikel (1).

(4) Die Premier moet, binne 'n redelike tydperk, 'n besluit neem ten opsigte van die erkenning van 'n gemeenskap, met inagneming van die omstandighede en aard van die aansoek.

(5) In die geval dat die Premier die skriftelike aansoek weier, moet hy of sy die betrokke aansoekers in kennis stel van die weiering binne 'n tydperk van 60 dae nadat die besluit geneem is, soos bedoel in subartikel (4).

- (6) Die Premier kan, na oorlegpleging met die betrokke tradisionele raad en *iNkosi* –
- (a) weier om betrokke *isiGodi* te erken; of
 - (b) betrokke *isiGodi* te erken as deel van betrokke *isiZwe* deur kennisgewing in die *Provinsiale Koerant*.

Terugtrekking van erkenning van *isiGodi*

10.(1) Die terugtrekking van die erkenning van *isiGodi* kan slegs oorweeg word waar *iNkosi* en die betrokke tradisionele raad die Premier versoek om sodanige erkenning terug te trek.

(2) Die aansoek bedoel in subartikel (1) moet breedvoerige redes ter ondersteuning van die aansoek om terugtrekking van die erkenning van betrokke *isiGodi* verskaf: Met dien verstande dat die Premier 'n onafhanklike persoon of persone kan aanstel om ondersoek te doen ten einde vas te stel of daar genoegsame rede is vir die terugtrekking van die erkenning van betrokke *isiGodi*.

(3) Die Premier, behoudens die bepalings van subartikel (2), moet binne 'n redelike tydperk 'n beslissing aangaande die terugtrekking van erkenning van betrokke *isiGodi* bereik.

- (4) Die Premier, behoudens die bepalings van subartikels (2) en (3), kan –
- (a) deur kennisgewing in die *Provinsiale Koerant*, die erkenning van *isiGodi* soos bedoel in subartikel (1) terugtrek; of
 - (b) weier om die erkenning van *isiGodi* bedoel in subartikel (1) terug te trek, in welke geval hy of sy *iNkosi* en die betrokke tradisionele raad in kennis moet stel van die redes vir die weiering binne 'n tydperk van 60 dae na die datum van die besluit bedoel in subartikel (3).

HOOFSTUK 3 TRADISIONELE LEIERS

Erkenning en besoldiging van tradisionele leierskap

- 11.(1) Die volgende tradisionele leierskapsposisies word erken ingevolge hierdie Wet –
- (a) *iSilo*;
 - (b) *iNkosi*;
 - (c) *isiPhakanyiswa*; en
 - (d) *iNduna*.

(2) Die volgende kriteria is van toepassing wanneer 'n leierskapsposisie erken word –

- (a) 'n bewese geskiedenis van bestaan van sodanige leierskapsposisie binne die betrokke gemeenskap;
- (b) 'n bewese geskiedenis van aanvaarding van sodanige leierskapsposisie deur die betrokke gemeenskap;
- (c) die bewese aansoek oor 'n tydperk van ingestelde gewoontereg en gebruike binne die bepaalde gemeenskap, wat van toepassing is op die erfopvolging of verkiesing van leierskap, ingesluit die termyn van verkose leierskap;
- (d) 'n geskiedenis van werksaamhede en bevoegdhede van die spesifieke leierskapsposisie ingevolge die ingestelde gewoontereg en gebruike binne die bepaalde gemeenskap;
- (e) die erkenning van die gemeenskap ingevolge hierdie Wet; en
- (f) 'n bewese geskiedenis van –
 - (i) erflike leierskap ingevolge gewoontereg en gebruike van die gemeenskap, met of sonder 'n gewoontefunksie vir gemeenskapsdeelname in die bepaling of bevestiging van die individu as leier; of
 - (ii) verkose leierskap waar, ingevolge die gewoontereg of gewoontes van die betrokke gemeenskap, die leier verkies word.

(3) Die besoldiging, toelaes en voordele betaalbaar aan *iSilo*, *iNkosi*, *isiPhakanyiswa* en *iziNduna* is soos bepaal in ooreenstemming met die Wet op Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van 1998).

Identifisering, erkenning en terugtrekking van *iSilo*

12. Die bepalinge van artikels 9 en 10 van die Raamwet op Tradisionele Leierskap en Regering, 2003, is van toepassing op die identifisering, erkenning en terugtrekking van erkenning van *iSilo*.

Identifisering en erkenning van *iNkosi*

13.(1) Wanneer die posisie van *iNkosi* gevul moet word –

- (a) moet *uMndeni*, binne 'n redelike tydperk nadat die posisie vakant geword het, met inagneming van die omstandighede, toepaslike gewoontereg en gebruike en die riglyne vervat in Bylae 2 –
 - (i) 'n persoon identifiseer om die posisie van *iNkosi* te vul;

(ii) *iSilo* skriftelik verwittig van die persoon wat geïdentifiseer is om die posisie van *iNkosi* te vul en redes vir sodanige identifisering verstrek; en

(iii) die Premier en die verantwoordelike Lid van die Uitvoerende Raad skriftelik verwittig van die persoon geïdentifiseer om die posisie van *iNkosi* te vul asook die redes vir sodanige identifisering: Met dien verstande dat die kennisgewing aan die Premier bewys moet insluit dat subparagraaf (ii) nagekom is; en

(b) moet die Premier, na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, en behoudens subartikels (2) en (3), 'n persoon geïdentifiseer soos bedoel in paragraaf (a)(i), as *iNkosi* erken.

(2) Die volgende gronde diskwalifiseer enige persoon van erkenning as *iNkosi* –

- (a) skuldigbevinding aan 'n misdryf met 'n vonnis van gevangenisstraf van meer as 12 maande sonder die keuse van 'n boete;
- (b) liggaamlike onvermoë of geestesgebrek, gegrond op aanvaarbare mediese getuienis dit onmoontlik maak vir *iNkosi* om as sodanig te funksioneer;
- (c) 'n bepaling deur die Nasionale Kommissie, soos bedoel in artikel 26(2)(b) van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, dat 'n vorige aanstelling of erkenning van die betrokke persoon verkeerdelik gemaak is; of
- (d) 'n oortreding van gewoontereg of gebruike wat nie-erkenning regverdig.

(3) Waar daar bewys, of 'n bewering, is dat die identifisering van die persoon vir erkenning as *iNkosi* nie uitgevoer is ingevolge gewoontereg en gebruike nie, kan die Premier –

- (a) 'n persoon of persone aanstel om ondersoek te doen en verslag te lewer oor die regmatigheid, al dan nie, waarvolgens die identifisering van die persoon, ingevolge gewoontes en gewoontereg, gedoen is; of
- (b) Desnieteenstaande, die persoon as sodanig geïdentifiseer erken as *iNkosi*.

(4) Die Premier kan, nadat die verslag bedoel in subartikel (3)(a) oorweeg is –

- (a) die persoon as sodanig geïdentifiseer as *iNkosi* erken; of
- (b) weier om die persoon as sodanig geïdentifiseer as *iNkosi* te erken, in welke geval die Premier *uMndeni* moet verwittig van die redes vir sy of haar besluit en *uMndeni* versoek om 'n ander persoon te identifiseer, soos bedoel in subartikel (1).

(5) Die erkenning van die persoon geïdentifiseer as *iNkosi*, soos bedoel in hierdie artikel, moet gedoen word by wyse van –

- (a) publikasie van 'n kennisgewing van erkenning deur die Premier in die *Provinsiale Koerant*, en

(b) die uitreiking van 'n sertifikaat van erkenning aan betrokke *iNkosi*.

(6) By publikasie van die kennisgewing van erkenning van *iNkosi* in die *Provinsiale Koerant*, moet die Departementshoof *iSilo*, die Provinsiale Huis en die betrokke plaaslike huis verwittig van die erkenning van *iNkosi*.

Identifisering en erkenning van *isiPhakanyiswa*

14. Vir die doeleindes van die identifisering en erkenning van *isiPhakanyiswa* is die proses, soos bedoel in artikel 13, van toepassing met die nodige veranderinge: Met dien verstande dat –

- (a) sodanige erkenning geld vir 'n tydperk van vyf jaar;
- (b) enige verwysing na *uMndeni* beskou word as 'n verwysing na 'n verkiesingskollege; en
- (c) die gebruikelike indentifiseringsprosesse verwys na in artikel 13(1)(a) vervang word deur 'n demokratiese verkiesing wat gehou moet word op die voorgeskrewe wyse.

Identifisering en erkenning van *iNduna*

15. Wanneer ook al die posisie van *iNduna* vir 'n spesifieke *isiGodi* gevul moet word –

- (a) moet 'n persoon wat die posisie van *iNduna* vul, ingevolge gebruike of gewoontereg, deur *iNkosi* geïdentifiseer of deur die betrokke gemeenskap benoem word by *imbizo* byeengeroep vir daardie doel, binne 'n redelike tyd nadat die behoefte ontstaan het vir sodanige posisie om gevul te word, en met inagneming van enige gronde verwys na in artikel 13(2), wat moontlik van toepassing kan wees op daardie persoon;
- (b) moet *iNkosi* aansoek doen by die Premier om die erkenning van die persoon sodanig geïdentifiseer of benoem en moet die besonderhede van sodanige persoon aan die Premier verstrek; en
- (c) moet die betrokke Premier die persoon as sodanig geïdentifiseer of benoem as *iNduna* erken, soos bedoel in artikel 13(5), geles met die nodige veranderinge.

Identifisering en erkenning van *iSo leSilo* en *iSo leNkosi*

16.(1) Vir die doeleindes van identifisering en erkenning van *iSo leSilo* en *iSo leNkosi* is die bepaling van artikel 13 van toepassing, met die nodige veranderinge: Met dien verstande dat –

- (a) *iSilo* die persone identifiseer vir erkenning as *iSo leSilo* in *uSuthu isiZwe* en sy sub-*isiZwe*, en
- (b) *iNkosi* die persone identifiseer vir erkenning as *iSo leNkosi* in enige sub-*isiZwe* ingestel en erken soos bedoel in artikel 7.

(2) Sou *iSo leSilo* of *iSo leNkosi* te sterwe kom, aftree of bedank te enige tyd terwyl *uSuthu isiZwe*, of enige ander *isiZwe*, nie 'n erkende *iSilo*, *iNkosi*, *iBambabukhosi* of *iBambela* het nie, moet die Premier, na gelang van die geval, binne 'n tydperk van 90 dae vanaf die dag wat die posisie vakant geword het, 'n geskikte persoon vanuit die lede van sub-*isiZwe* erken om die sake van betrokke sub-*isiZwe* te behartig totdat *iSilo*, *iNkosi*, *iBambabukhosi* of *iBambela*, na gelang van die geval, erken word en *iSo leSilo* of *iSo leNkosi* aanstel, na gelang van die geval.

Identifisering en erkenning van *iBambabukhosi*, *iBambela* en *iSekela leNkosi*

17.(1) Die bepalinge van artikel 13 is van toepassing, met die nodige veranderinge, op die identifisering en erkenning van *iBambabukhosi*, *iBambela* en *iSekela leNkosi*. Met dien verstande dat –

- (a) *iBambabukhosi* slegs geïdentifiseer en erken kan word waar die opvolger tot die betrokke leierskapsposisie geïdentifiseer is, maar steeds 'n minderjarige is in ooreenstemming met die gebruike en gewoontereg van betrokke *isiZwe*;
- (b) *iBambela* slegs geïdentifiseer en erken kan word waar –
 - (i) die opvolger tot die betrokke leierskapsposisie nie geïdentifiseer is nie;
 - (ii) die identifisering van die opvolger tot die betrokke leierskapsposisie in 'n proses van oorweging is, soos bedoel in artikel 13(3), na gelang van die geval;
 - (iii) erkende *iSilo*, *iNkosi* of *isiPhakanyiswa*, soos bedoel in artikel 12, 13 of 14, na gelang van die geval, afwesig sal wees van sy of haar juridiksiegebied vir 'n tydperk van meer as ses maande vir –
 - (aa) die behandeling van siekte;
 - (bb) studiedoeleindes; of
 - (cc) enige ander regmatige doel, maar uitgesluit omstandighede bedoel in paragraaf (c); en
- (c) *iNkosi* of *isiPhakanyiswa* moet, na oorlegpleging met *uMndeni* of die verkiesingskollege, *iSekela le Nkosi* identifiseer en erken, na gelang van die geval, vir die duur van die afwesigheid van *iNkosi* of *isiPhakanyiswa*, na gelang van die geval, waar sodanige *iNkosi* of *isiPhakanyiswa* –
 - (i) 'n voltydse lid van 'n munisipale raad word;

- (ii) verkies is as 'n lid van die Provinsiale Wetgewer;
- (iii) verkies is as lid van die Nasionale Vergadering;
- (iv) aangestel is as permanente afgevaardigde tot die Nasionale Raad van Provinsies;
- (v) verkies is tot, of aangestel is in, 'n voltydse posisie in die Nasionale of Provinsiale Huis of 'n Plaaslike Huis;
- (vi) aangestel is as 'n voltydse lid van die Nasionale Kommissie;
- (vii) aangestel is as 'n lid van die Kommissie; of
- (viii) aangestel is in 'n voltydse posisie in enige van die drie sferes van regering.

(2) Nieteenstaande die bepalings van subartikel (1)(b), moet die Premier, in die geval dat *uMndeni* versuim om 'n persoon te identifiseer vir erkenning as *iNkosi* of *iBambabukhosi* binne 'n tydperk van 60 dae vanaf die datum waarop die posisie vakant geraak het, en na oorlegpleging met *uMndeni*, 'n geskikte persoon identifiseer en erken as *iBambela*, wat, hetsy *iNduna* of 'n lid van die tradisionele raad is, tot sodanige tyd dat *iNkosi* of *iBambabukhosi* geïdentifiseer is soos bedoel in artikel 13 of 17.

(3) Die erkenning van *iBambabukhosi*, *iBambela* en *iSekela leNkosi* moet minstens een keer elke vyf jaar deur die Premier hersien word.

(4) Die kennisgewing van erkenning van *iBambabukhosi*, deur die Premier gepubliseer in die *Provinsiale Koerant*, moet die identiteit van die opvolger tot *ubuKhosi* namens wie *iBambabukhosi* erken word stipuleer en *iBambabukhosi* moet erken dat hy of sy geen eis het tot *ubuKhosi* nie deur die vorm bedoel in Bylae 3 te voltooi.

Gronde vir terugtrekking van erkenning van tradisionele leiers

18.(1) Die erkenning van enige tradisionele leier –

(a) moet teruggetrek word indien hy of sy –

- (i) skuldig bevind is van 'n misdryf met 'n vonnis van gevangenisstraf van meer as 12 maande sonder die keuse van 'n boete;
- (ii) ly aan 'n liggaamlike onvermoë of geestesgebrek, gegrond op aanvaarbare mediese getuienis wat dit onmoontlik maak vir daardie *iNkosi* of *iNduna* om as sodanig te funksioneer;
- (iii) nie meer permanent woonagtig is in die gebied van die tradisionele raad nie;
- (iv) verwyder is uit die amp ingevolge die Gedragskode; of

- (v) 'n bepaling deur die Nasionale Kommissie, soos bedoel in artikel 25 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, dat 'n vorige aanstelling of erkenning van die betrokke persoon verkeerdelik gemaak is; en
- (b) kan teruggetrek word indien hy of sy 'n gewoontereg of gebruik oortree het, gebaseer op gronde wat die terugtrekking van erkenning regverdig.

Terugtrekking van erkenning van *iNkosi*

19.(1) Wanneer ook al enige van die gronde bedoel in –

- (a) artikel 13(2) onder die aandag van *uMndeni* kom, moet *uMndeni* die Premier skriftelik versoek om die erkenning van die betrokke *iNkosi* terug te trek; of
- (b) artikel 13(2) onder die aandag van *uMndeni* kom, en *uMndeni* besluit om die terugtrekking van die erkenning van *iNkosi* aan te beveel, moet *uMndeni* die Premier skriftelik verwittig van die besonderhede van, en die redes vir, die versoek om verwydering.

(2) In die geval dat die Premier besluit om *iNkosi* te verwyder, moet die Premier die erkenning van *iNkosi* terugtrek by kennisgewing in die *Provinsiale Koerant*, welke kennisgewing besonderhede moet verstrek van die redes vir die terugtrekking van erkenning van *iNkosi*.

(3) By publikasie van die kennisgewing van terugtrekking van erkenning van *iNkosi* in die *Provinsiale Koerant*, moet die Departementshoof *iSilo*, *uMndeni*, die Provinsiale Huis en die betrokke Plaaslike Huis verwittig van die terugtrekking van erkenning van *iNkosi*.

(4) Waar die Premier die erkenning van *iNkosi* teruggetrek het, soos bedoel in subartikel (2), moet die die identifisering en erkenning van 'n opvolger, soos bedoel in artikel 13, onverwyld 'n aanvang neem.

Terugtrekking van erkenning van *isiPhakanyiswa*

20.(1) Wanneer ook al enige gronde bedoel in –

- (a) artikel 13(2) onder die aandag van die tradisionele raad of lede van *isiZwe* kom, moet die tradisionele raad of lede van *isiZwe* die Premier versoek om die erkenning van betrokke *isiPhakanyiswa* terug te trek;
- (b) artikel 13(2) onder die aandag van die tradisionele raad of lede van *isiZwe* kom, en die tradisionele raad of lede van *isiZwe* besluit om die terugtrekking van erkenning van *isiPhakanyiswa* aan te beveel, moet die tradisionele raad of lede van *isiZwe* die

Premier skriftelik verwittig van die besonderhede van, en die redes vir, die versoek om verwydering.

(2) In die geval dat die Premier besluit om *isiPhakanyiswa* te verwyder, moet die Premier die erkenning van *isiPhakanyiswa*, by kennisgewing in die *Provinsiale Koerant*, terugtrek, welke kennisgewing besonderhede van die redes vir die terugtrekking van erkenning moet verstrek: Met dien verstande dat die erkenning van *isiPhakanyiswa*, by die einde van sy of haar ampstermyn, beëindig word sonder dat 'n kennisgewing in die *Provinsiale Koerant* nodig is.

(3) By publikasie van die kennisgewing van terugtrekking van erkenning van *isiPhakanyiswa* in die *Provinsiale Koerant*, moet die Departementshoof *iSilo*, die Provinsiale Huis en die betrokke Plaaslike Huis, verwittig van die terugtrekking van erkenning van *isiPhakanyiswa*.

(4) Waar die Premier die erkenning van *isiPhakanyiswa* teruggetrek het, soos bedoel in subartikel (2), moet die verkiesingsproses vir 'n nuwe *isiPhakanyiswa*, soos bedoel in artikel 14, binne 'n tydperk van 60 dae 'n aanvang neem.

Terugtrekking van erkenning van *iNduna*

21.(1) Wanneer ook al enige van die gronde bedoel in –

- (a) artikel 13(2) onder die aandag van *iNkosi*, die tradisionele raad of lede van *isiZwe* kom, moet *iNkosi*, die tradisionele raad of lede van *isiZwe* dan die Premier versoek om die erkenning van betrokke *iNduna* terug te trek; of
- (b) artikel 13(3) onder die aandag van *iNkosi*, die tradisionele raad of lede van *isiZwe* kom, en *iNkosi*, die tradisionele raad of lede van *isiZwe* besluit gevolglik om die terugtrekking van erkenning van *iNduna* aan te beveel, moet *iNkosi*, die tradisionele raad of lede van *isiZwe* die Premier skriftelik verwittig van die besonderhede van, asook die redes vir, die versoek om verwydering.

(2) In die geval dat die Premier besluit om *iNduna* te verwyder, moet die Premier die erkenning van *iNduna* by kennisgewing in die *Provinsiale Koerant* terugtrek, welke kennisgewing die besonderhede van die redes vir die terugtrekking van erkenning moet verstrek.

(3) By publikasie van die kennisgewing van terugtrekking van erkenning van die *iNduna* in die *Provinsiale Koerant* moet die Departementshoof *iNkosi* en die betrokke tradisionele raad verwittig van die terugtrekking van erkenning van die *iNduna*.

(4) Waar die Premier die erkenning van die *iNduna* teruggetrek het, soos bedoel in subartikel (2), moet die proses van erkenning van 'n nuwe *iNduna*, soos bedoel in artikel 15, binne 'n tydperk van 60 dae 'n aanvang neem.

Terugtrekking van erkenning van *iSo leSilo* en *iSo leNkosi*

22.(a) Wanneer ook al *iSilo* of *iNkosi* besluit om *iSo leSilo* en *Iso leNkosi* te verwyder, moet hy of sy die Premier skriftelik verwittig van sodanige besluit, waarna die Premier die erkenning van *iSo leSilo* en *iSo leNkosi* moet terugtrek.

(b) Die bepalings van artikel 13(5) is van toepassing op die terugtrekking van erkenning bedoel in paragraaf (a).

Verwydering van *iBambabukhosi*, *iBambela* en *iSekela leNkosi*

23. Die erkenning van *iBambabukhosi*, *iBambela* en *iSekela leNkosi* –

(a) word teruggetrek deur regsverwerking waar –

(i) die opvolger tot die posisie van *iNkosi*, in die geval van *iBambabukhosi* en *iBambela*, erken word soos bedoel in artikel 13; of

(ii) in die geval van *iSekela leNkosi*, wanneer die omstandighede wat die afwesigheid van *iNkosi* veroorsaak, soos bedoel in artikel 17(1)(c), nie langer bestaan nie; of

(b) kan teruggetrek word in ooreenstemming met die bepaling van artikel 16, 68 of 70.

HOOFSTUK 4

INSTELLING, SAMESTELLING EN ERKENNING VAN KONINGSKAPS- EN TRADISIONELE RADE

Instelling, samestelling en erkenning van Koningskapsraad

24. 'n Koningskapsraad moet in KwaZulu-Natal ingestel en erken word in ooreenstemming met die bepalings van artikel 3A van die Raamwet op Tradisionele Leierskap en Regering, 2003.

Instelling, samestelling en erkenning van tradisionele rade

25.(1) Sodra die Premier *isiZwe* erken het, soos bedoel in artikel 5, moet *isiZwe*, met die bystand van die Departement, 'n tradisionele raad instel, soos bedoel in hierdie artikel en in nakoming van Bylae 4, binne 'n tydperk van drie maande vanaf die erkenningsdatum van die betrokke gemeenskap.

(2) Die getal lede van 'n tradisionele raad moet bestaan uit minstens een derde vroue.

(3) Die lede van 'n tradisionele raad, wat minstens 18 jaar oud moet wees, moet bestaan uit

–

(a) tradisionele leiers en lede van *isiZwe* verkies deur betrokke *iNkosi*, wat 'n *ex officio* lid en voorsitter van die tradisionele raad is, vir 'n tydperk van vyf jaar, verenigbaar met die ampstermyn van die Nasionale Huis van Tradisionele Leiers, ingevolge daardie gemeenskap se gebruike, wat oorlegpleging met *uMndeni* kan insluit, met inagneming van die noodsaaklikheid van algehele nakoming van paragraaf (b); en

(b) ander lede van *isiZwe*, demokraties verkies op 'n voorgeskrewe wyse, vir 'n tydperk van vyf jaar, verenigbaar met die ampstermyn van die Nasionale Huis van Tradisionele Leiers en wat 40 persent van die lede van die tradisionele raad moet uitmaak: Met dien verstande dat die ampstermyn van lede van die tradisionele raad nie verstryk tot op die datum waarop nuutverkose lede van die tradisionele raad amp aanneem nie.

(4) *iNkosi* moet die name van die lede van die tradisionele raad, deur hom of haar gekies, ingevolge subartikel (3)(a), aankondig voordat die oorblywende lede van die tradisionele raad verkies word.

(5) Die betrokke *iNkosi* moet die name van die lede van die tradisionele raad en die besonderhede van die instelling van daardie tradisionele raad skriftelik aan die Premier voorlê, binne twee weke vanaf die instellingsdatum van daardie raad, ingevolge hierdie artikel.

(6) Waar 'n onvoldoende getal vroue beskikbaar is om lede te wees van die tradisionele raad, soos beoog in subartikels (3)(a) en (b), moet die betrokke *iNkosi* bewys aan die Premier voorlê ter staving dat 'n onvoldoende getal vroue beskikbaar is om sodanig te dien.

(7) By ontvangs van die inligting bedoel in subartikels (5) en (6) moet die Premier besluit of die instelling van die betrokke tradisionele raad gedoen is in ooreenstemming met hierdie artikel en artikel 3 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003.

(8) Waar die bepalings van subartikel (6) nie van toepassing is nie, en indien die Premier oortuig is dat hierdie artikel en artikel 3 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, nagekom is, moet die Premier, by kennisgewing in die *Provinsiale Koerant*, die tradisionele raad erken en sy juridiksiegebied bepaal.

(9) Waar die bepalings van subartikel (6) van toepassing is kan die Premier, indien hy of sy oortuig is, na oorlegpleging met die betrokke *isiZwe*, dat daar bewys is dat 'n onvoldoende getal vroue beskikbaar is om op die tradisionele raad te dien, 'n laer drumpel vir daardie tradisionele raad bepaal as wat vereis word deur artikel 3(2)(b) van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003.

(10) Nadat die Premier 'n laer drumpel bepaal het, ingevolge subartikel (9), en die Premier is oortuig dat die ander bepalings van hierdie artikel en artikel 3 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, nagekom is, moet die Premier, by kennisgewing in die *Provinsiale Koerant*, die tradisionele raad erken en sy juridiksiegebied bepaal

(11) Die bepalings van hierdie artikel is van toepassing, met die nodige veranderinge aan –
(a) die instelling, samestelling en erkenning van tradisionele rade, onder voorsitterskap van *isiPhakanyiswa*; en
(b) die hersamestelling van tradisionele rade by verstryking van 'n tradisionele raad se ampstermyn van vyf jaar.

(12) By die eerste vergadering van 'n tradisionele raad, ingestel en erken soos bedoel in hierdie artikel, moet die lede van die tradisionele raad uit hul geledere 'n ondervoorsitter verkies wat as voorsitter van die tradisionele raad moet optree tydens die tydelike afwesigheid van die voorsitter van die tradisionele raad.

(13) Die bepalings van hierdie artikel, ingesluit artikels 26 en 27, is van toepassing, met die nodige veranderinge, op die instelling, samestelling en erkenning van tradisionele rade vir sub-*isiZwe*.

Ontruiming van setels en vul van vakatures

26.(1) Die setel van 'n lid van 'n tradisionele raad raak vakant –

- (a) by die afsterwe van die lid;
- (b) indien die lid skriftelik bedank;
- (c) indien die lid skuldig bevind is aan 'n misdryf en gevonnissen is tot tronkstraf van minstens 12 maande sonder die keuse van 'n boete; of
- (d) indien die lid deur 'n bevoegde hof geestelik siek verklaar is.

(2) Indien 'n lid van 'n tradisionele raad 'n setel ontruim moet die voorsitter van die tradisionele raad die Departement verwittig van die vakature binne 14 dae vanaf die datum waarop die vakature ontstaan het, en die vakature vul soos bedoel in subartikels (3) en (4) hieronder: Met dien verstande dat 'n lid bedoel in hierdie subartikel slegs op die tradisionele raad sal dien vir die oorblywende ampstermyn van die oorblywende lede.

(3) Enige vakature in die geledere van –

- (a) die gekose lede van 'n tradisionele raad moet deur *iNkosi* gevul word, soos bedoel in artikel 25(3)(a), binne 'n tydperk van 30 dae vanaf die datum waarop die vakature ontstaan het; of
- (b) die verkose lede van 'n tradisionele raad, moet gevul word, soos bedoel in artikel 25(3)(b), binne 'n tydperk van 90 dae vanaf die datum waarop die vakature ontstaan het.

Terugtrekking van erkenning van tradisionele rade

27. In die geval dat die Premier die erkenning van *isiZwe* terugtrek, soos bedoel in artikel 6, moet die kennisgewing bedoel in artikel 6(4)(b) ook voorsiening maak vir die gelyktydige terugtrekking van erkenning van die betrokke tradisionele raad, asook aangeleenthede wat daarmee verband hou.

HOOFSTUK 5

ROLLE, BEVOEGDHEDE EN WERKSAAMHEDE VAN TRADISIONELE LEIERS

Rolle, bevoegdhede en werksaamhede van *iSilo*

28. *iSilo* moet –

- (a) die Grondwet en die wette van KwaZulu-Natal handhaaf;
- (b) vrede, stabiliteit en nasiebou bevorder;
- (c) as 'n simbool dien van –
 - (i) provinsiale eenheid; en

- (ii) interkulturele eenheid; en
- (d) beskerm en bevorder –
 - (i) gewoontereg en gebruike;
 - (ii) *isiZwe*;
 - (iii) tradisionele instellings; en
 - (iv) die koninklike Zulu erfenis; en
- (e) *iNkosi* bevestig;
- (f) deelneem aan die aktiwiteite van die Provinsiale Huis; en
- (g) die rolle, bevoeghede en werksaamhede vervul, uitoefen en verrig soos voorsiening gemaak is in –
 - (i) gewoontereg en gebruike;
 - (ii) enige ander wetgewing; en
 - (iii) regulasies gepubliseer soos bedoel in artikel 9(5)(a) van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003.

Rolle, bevoegdhede en werksaamhede van *iNkosi*

29.(1) *iNkosi* moet –

- (a) beskerm en bevorder –
 - (i) gewoontereg en gebruike; en
 - (ii) die instelling van tradisionele leierskap; en
- (b) die sake van betrokke *isiZwe* bestuur soos bedoel in hierdie Wet en ander toepaslike wetgewing;
- (c) saamwerk met tradisionele instellings en hulle ondersteun en bystaan in die vervulling, uitoefening en verrigting van hul rolle, bevoegdhede en werksaamhede;
- (d) dien as 'n simbool van eenheid binne die betrokke *isiZwe*;
- (e) inheemse kennisstelsels vir volhoubare ontwikkeling en rampbestuur bevorder;
- (f) inligting deel en saamwerk met ander *iNkosi*;
- (g) as voorsitter van die tradisionele raad, soos erken in artikel 25, optree;
- (h) namens die tradisionele raad, soos erken in artikel 25, optree wanneer die raad nie in sessie is nie;
- (i) saam met tradisionele rade, soos erken in artikel 25, mede-verantwoordelik wees vir die ontwikkeling van *isiZwe*, wat hul sosio-ekonomiese opheffing insluit;
- (j) deelneem aan munisipale rade soos bedoel in artikel 81 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);
- (k) aan die aktiwiteite van die Plaaslike Huis deelneem;
- (l) aan die aktiwiteite van die Provinsiale Huis deelneem;

(m) die ideale van samewerkende regering, geïntegreerde ontwikkelingsbeplanning, volhoubare ontwikkeling en dienslewering bevorder;

(n) minstens elke ses maande vergader met betrokke *isiZwe* ten einde –

(i) rekenskap te lewer van hul aktiwiteite; en

(ii) inligting te verstrek ten opsigte van die inhoud en implikasies van nuwe wette en regeringsprogramme; en

(o) enige ander rol, bevoegdheid or werksaamheid toegewys aan *iNkosi* soos bedoel in hierdie Wet, ander toepaslike wetgewing, gewoontereg en gebruike vervul, uitoefen en verrig.

(2) Provinsiale staatsorgane kan, deur wetgewende en administratiewe maatreëls, voorsiening maak vir rolle, bevoegdhede of werksaamhede van *iNkosi* ten opsigte van –

(a) kuns en kultuur;

(b) landbou;

(c) gesondheid;

(d) behuising;

(e) welsyn;

(f) veiligheid en sekuriteit;

(g) ekonomiese ontwikkeling;

(h) omgewing;

(i) toerisme;

(j) rampbestuur;

(k) natuurlike hulpbronbestuur;

(l) verspreiding van inligting ten opsigte van regeringsbeleide en -programme; en

(m) opvoeding.

(3) Benewens die rolle, bevoegdhede en werksaamhede bedoel in subartikel (2), kan *iNkosi* ook sodanige werksaamhede verbonde aan regspleging, grondbestuur en registrasie van geboortes, sterftes en gewoontehuwelike verrig, soos voorsien kan word ingevolge toepaslike Nasionale wetgewing.

(4) Wanneer ook al 'n staatsorgaan die toewysing van rolle, bevoegdhede en werksaamhede aan *iNkosi* oorweeg, soos bedoel in subartikel (2), kan sodanige toewysing gemaak word by wyse van delegering, agentskapsoreenkomste of volmag: Met dien verstande dat die betrokke staatsorgaan –

(a) die instemming van die verantwoordelike Lid van die Uitvoerende Raad moet verkry;

(b) oorleg moet pleeg met –

(i) die Provinsiale Huis; en

(ii) die betrokke Plaaslike Huis; en

(c) moet verseker dat die toewysing van rolle, bevoegdhede en werksaamhede verenigbaar is met die Grondwet en toepaslike wetgewing;

(d) die gewoontereg en gebruike van die betrokke *isiZwe* in ag moet neem;

(e) verseker dat die toewysing van rolle, bevoegdhede en werksaamhede vergesel gaan van voldoende vaardigheidsontwikkeling, administratiewe, finansiële en ander ondersteuning en dat toepaslike maatreëls geïmplementeer word vir die lewering van rekenskap van sodange ondersteuning;

(f) die eenvormige implementering van die toewysing van rolle, bevoegdhede en werksaamhede moet verseker, tot in die mate wat dit redelik moontlik is; en

(g) die grondwetlike beginsels van samewerkende regering, die grondwetlike basiese waardes en beginsels van staatsadministrasie, geïntegreerde ontwikkelingsbeplanning, volhoubare ontwikkeling en dienslewering deur die toewysing van rolle, bevoegdhede en werksaamhede, moet bevorder.

(5) In die vervulling, uitoefening en verrigting van rolle, bevoegdhede en werksaamhede bedoel in subartikels (1) en (2), moet *iNkosi* –

(a) behoorlike rekords hou;

(b) die ontvangs van geskenke openbaar, soos bedoel in die Gedragskode; en

(c) getrou bly aan die Gedragskode.

(6) Die betrokke staatsorgaan en die verantwoordelike Lid van die Uitvoerende Raad moet die vervulling, uitoefening en verrigting van die rolle, bevoegdhede en werksaamhede toegeken aan *iNkosi* deur die betrokke staatsorgaan monitor: Met dien verstande dat, in die geval dat *iNkosi* nie voldoen aan enige van die bepalings van subartikels (1) en (5) nie, kan die verantwoordelike Lid van die Uitvoerende Raad ingryp deur enige toepaslike stappe te neem ten einde nakoming te verseker.

(7) Die bepalings van hierdie artikel is van toepassing, met die nodige veranderinge, op die *isiPhakanyiswa*.

Rolle, bevoegdhede en werksaamhede van *iBambabukhosi*, *iBambela*, *leNkosi* en *iSo leSilo*

30. Vir doeleindes van die rolle, bevoegdhe en werksaamhede van *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo* is die bepalings van artikel 29 van toepassing, met die nodige veranderinge.

Toewysing van rolle, bevoegdhe en werksaamhede aan *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo* deur staatsorgane

31. Vir die doeleindes van die toewysing van rolle, bevoegdhe en werksaamhede aan *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo* deur staatsorgane, is die bepalings van artikel 29 van toepassing, met die nodige veranderinge.

Rolle, bevoegdhe en werksaamhede van *iNduna*

32. *iNduna* moet –

- (a) aan die aktiwiteite van munisipale wykskomitees deelneem ten einde die ontwikkeling van *isiGodi* te bevorder;
- (b) *iNkosi* of betrokke *isiZwe*, waar nodig, verteenwoordig;
- (c) *isiGodi* se ontwikkelingsbehoefte identifiseer;
- (d) aandag skenk aan geskilbeslegtingsaangeleenthede;
- (e) inligting onder gemeenskappe versprei;
- (f) vergaderings van *iNduna*, wat belê is deur *iNkosi* of betrokke *isiZwe*, bywoon;
- (g) aandag skenk aan die toewysing van residensiële gebiede; en
- (h) die daaglikse bedryf van *isiGodi*.

Rolle, bevoegdhe en werksaamhede van tradisionele rade

33.(1) 'n Tradisionele raad moet –

- (a) die sake van *isiZwe* bestuur in ooreenstemming met die gewoontereg en gebruike van die betrokke gemeenskap;
- (b) *iNkosi* en *isiPhakanyiswa* bystaan, ondersteun en lei in die vervulling, uitoefening en verrigting van hul rolle, bevoegdhe en werksaamhede;
- (c) munisipaliteite ondersteun in die identifisering van gemeenskapsbehoefte;
- (d) die betrokkenheid van *isiZwe* by die wysiging van die Geïntegreerde Ontwikkelingsplan van die plaaslike munisipaliteit, in wie se juridiksiegebied daardie gemeenskap woon, fasiliteer;
- (e) na oorlegpleging met die plaaslike munisipaliteit, die betrokke Plaaslike Huis en die Provinsiale Huis, aanbevelings maak ten opsigte van toepaslike meganismes en

stappe wat sal bydra tot die ontwikkeling van betrokke *isiZwe*, asook dienslewering en algemene ontwikkeling in die juridiksiegebied van die tradisionele raad;

(f) deelneem aan beleidsontwikkeling en wetgewing op plaaslike regeringsvlak;

(g) deelneem aan ontwikkelingsprogramme van munisipaliteite en provinsiale en nasionale sfere van regering;

(h) die ideale van samewerkende regering, geïntegreerde ontwikkelingsbeplanning, volhoubare ontwikkeling en dienslewering bevorder;

(i) inheemse kennisstelsels vir volhoubare ontwikkeling en rampbestuur bevorder;

(j) die betrokke munisipaliteit waarsku oor enige gevaar of ramp wat die juridiksiegebied van die betrokke tradisionale raad, of die welstand van mense woonagtig in sodanige juridiksiegebied, bedreig, en bydra tot rampbestuur oor die algemeen;

(k) inligting deel, en saamwerk met, ander tradisionele rade;

(l) saamwerk met alle munisipale wykskomitees binne sy juridiksiegebied;

(m) minstens elke ses maande bymekaar kom met sy *isiZwe* om rekenskap te lewer van die aktiwiteite en finansies van die tradisionele raad; en

(n) enige ander rol, bevoegdheid of werksaamheid, soos toegewys aan 'n tradisionele raad en soos bedoel in hierdie Wet en enige ander toepaslike wetgewing, vervul, uitoefen en verrig.

(2) Provinsiale staatsorgane kan, deur wetgewing en administratiewe maatreëls, voorsiening maak vir rolle, bevoegdhede en werksaamhede vir tradisionale rade ten opsigte van –

(a) kuns en kultuur;

(b) landbou;

(c) gesondheid;

(d) behuising;

(e) welsyn;

(f) veiligheid en sekuriteit;

(g) ekonomiese ontwikkeling;

(h) omgewing;

(i) toerisme;

(j) rampbestuur;

(k) natuurlike hulpbronnbestuur;

(l) die verspreiding van inligting betreffende regeringsbeleid en programme; en

(m) opvoeding.

(3) Bykomend tot die rolle, bevoegdhede en werksaamhede bedoel in subartikel (2), kan tradisionele rade ook sodanige werksaamhede verrig wat verband hou met regspleging, grondadministrasie en die registrasie van geboortes, sterftes en gewoontehuwelike soos voorsien kan word ingevolge toepaslike Nasionale wetgewing.

(4) Wanneer ook al 'n staatsorgaan die toewysing van rolle, bevoegdhede en werksaamhede aan 'n tradisionele raad oorweeg, deur middel van delegering, agentskapsooreenkomste of volmag, soos bedoel in subartikel (2), is die bepalings van artikel 29(3) van toepassing met die nodige veranderinge.

(5) 'n Tradisionele raad –

(a) kan diensleweringsooreenkomste met 'n munisipaliteit aangaan, in ooreenstemming met die Wet op Plaaslike Regering: Munisipale Strukture, 2000 (Wet No. 32 van 2000), en enige ander toepaslike wetgewing;

(b) moet die gewoonterolle, -bevoegdhede en -werksaamhede verrig waarvoor voorsiening gemaak is in die gewoontereg en gebruike van betrokke *isiZwe*, bykomend tot enige ander rolle, bevoegdhede en werksaamhede toegewys aan 'n tradisionele raad soos bedoel in hierdie Wet en ander toepaslike wetgewing; en

(c) moet, in die verrigting van sy rolle, bevoegdhede en werksaamhede –

(i) behoorlike rekords hou;

(ii) die ontvangs van geskenke openbaar soos bedoel in die Gedragskode; en

(iii) getrou bly aan die Gedragskode.

(6) Die verantwoordelike Lid van die Uitvoerende Raad –

(a) moet die vervulling, uitoefening en verrigting van die rolle, bevoegdhede en werksaamhede toegeken, soos bedoel in hierdie Wet en ander toepaslike wetgewing, aan tradisionele rade, monitor; en

(b) in die geval dat 'n tradisionele raad nie voldoen aan enige van die bepalings van subartikels (1), (2) en (5) nie, kan ingryp deur enige toepaslike stappe te neem ten einde nakoming te verseker.

(7)(a) Die verantwoordelike Lid van die Uitvoerende Raad kan, indien hy of sy tevrede is dat 'n tradisionele raad nie in staat is om die werksaamhede wat aan hom gedelegeer is, ingevolge hierdie Wet, op 'n doelmatige en doeltreffende wyse, of op 'n wyse wat goeie regering en administrasie bevorder, te verrig nie, enige persoon as administrateur aanstel om die betrokke tradisionele raad by te staan in die verrigting van die bevoegdhede en werksaamhede van sodanige tradisionele raad.

(b) Die administrateur wat aangestel is, soos bedoel in paragraaf (a), moet bevoeg wees om, namens die tradisionele raad, enige bevoegdheid of werksaamheid te verrig wat regtens opgelê of verleen is aan die betrokke tradisionele raad.

(c) Die aanstelling van die administrateur bedoel in hierdie subartikel moet na 'n tydperk van 180 dae hersien word.

(8) Die bepalings van hierdie artikel en artikel 34 is van toepassing, met die nodige veranderinge, op enige tradisionele sub-raad ingestel en erken soos bedoel in artikel 7.

Vennootskappe tussen munisipaliteite en tradisionele rade

34. Die Departement moet vennootskappe tussen munisipaliteite en tradisionele rade bevorder, wat –

(a) gebaseer moet wees op die beginsels van wedersydse respek en erkenning van die status en rolle van die onderskeie partye; en

(b) begelei deur en gegrond wees in die grondwetlike beginsels van samewerkende regering en die grondwetlike basiese waardes en riglyne wat openbare administrasie bestuur.

Ondersteuning aan tradisionele rade

35.(1) Die verantwoordelike Lid van die Uitvoerende Raad moet ondersteuning verskaf aan tradisionele rade, wat kan insluit –

(a) die afstaan van personeel aan die tradisionele raad, met inagneming van die omvang van die juridiksiegebiede van tradisionele rade en die behoeftes van betrokke *isiZwe*; en

(b) die open en bestuur van een gekonsolideerde bankrekening vir tradisionele rade in die Provinsie, ingesluit die oudit van die gekonsolideerde finansiële verslae vir die betrokke tradisionele rade.

(2) Die personeel afgestaan aan tradisionele rade moet verantwoordbaar wees aan 'n persoon aangewys deur die betrokke *iNkosi*.

(3) Enige onaanvaarbare optrede of gedrag van die personeel afgestaan aan tradisionele rade moet, binne 'n tydperk van 60 dae nadat sodanige onaanvaarbare optrede of gedrag aan die lig gekom het, deur *iNkosi*, bedoel in subartikel (2), aangemeld word by die verantwoordelike Lid van die Uitvoerende Raad.

Vergaderings van tradisionele rade

36.(1) *iNkosi* moet, binne 21 dae na die instelling van 'n tradisionele raad, ingevolge artikel 25, die eerste vergadering van die tradisionele raad belê.

(2)(a) Vergaderings van tradisionele rade vind plaas onder voorsitterskap van *iNkosi* in wie se juridiksiegebied die tradisionele raad val, tensy *iNkosi* afwesig is van 'n vergadering, in welke geval daardie vergadering onder voorsitterskap van die ondervoorsitter sal plaasvind.

(b) Die ondervoorsitter van 'n tradisionele raad word verkies deur die lede van daardie tradisionele raad by sy eerste vergadering: Met dien verstande dat enige vergadering van die tradisionele raad slegs onder voorsitterskap van die ondervoorsitter sal plaasvind, sou *iNkosi* afwesig wees.

(c) Indien beide die voorsitter en ondervoorsitter afwesig is van 'n vergadering, moet daardie vergadering plaasvind onder voorsitterskap van 'n waarnemende voorsitter wat deur en uit die geledere van die teenwoordige lede by die vergadering verkies word.

(3) Elke tradisionele raad moet 'n gewone vergadering minstens elke kwartaal hou op 'n dag en tyd wat deur die voorsitter bepaal word.

(4) 'n Skriftelike kennisgewing van die vergadering moet aan alle lede van die tradisionele raad gestuur word minstens sewe dae voor die datum van die vergadering.

(5) Die prosedure wat by enige vergadering van die tradisionele raad gevolg word, moet in ooreenstemming wees met gewoontereg en gebruike.

Notules van vergaderings

37.(1) Elke tradisionele raad moet notules hou van elkeen van sy vergaderings waarin die volgende genotuleer word –

- (a) die tyd, datum en plek van die vergadering;
- (b) die name van die teenwoordige lede;
- (c) 'n opsomming van elke besluit wat by die vergadering geneem is; en
- (d) indien 'n lid so versoek, die feit dat hy of sy teen of vir enige besluit gestem het.

(2) 'n Afskrif van die notule moet, binne vyftien dae vanaf enige vergadering, aan die betrokke distrikskantoor van die Departement gestuur word.

Reis-en-verblyftoelaes vir lede van tradisionele rade

38.(1) 'n Lid van 'n tradisionele raad kan, ten opsigte van sy of haar werksaamhede as lid, vergoeding ontvang vir redelike en werklike reisuittgawes genoodsaak deur die werklike bywoning van 'n vergadering van die tradisionele raad.

(2) Die verantwoordelike Lid van die Uitvoerende Raad, in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, moet die prosedures bepaal, met inbegrip van beheermaatreëls vir die bestuur, hantering en verwerking van eise vir reis-en-verblyfuitgawes bedoel in subartikel (1).

HOOFSTUK 6

HUISE VAN TRADISIONELE LEIERS

Instelling en lidmaatskap van KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers

39.(a) Die KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers word hiermee ingestel.

(b) Die ampstermyn van lede van die Provinsiale Huis is vyf jaar, welke tydperk verenigbaar moet wees met die ampstermyn van die lede van die Nasionale Huis van Tradisionele Leiers: Met dien verstande dat die ampstermyn van lede van die Provinsiale Huis nie beëindig sal word nie tot die datum waarop die nuutverkose lede van die Provinsiale Huis die amp opneem.

(c) Behoudens die bepalings van artikel 40(1)(a), moet die lede bedoel in hierdie artikel voorsitters wees van tradisionele rade ingestel en erken soos bedoel in artikel 25 en is herverkiesbaar.

Samestelling en setel van Provinsiale Huis

40.(1) Die Provinsiale Huis bestaan uit die volgende lede –

(a) *iSilo* of sy of haar benoemde; en

(b) minstens drie en hoogstens sewe lede verkies uit elke Plaaslike Huis van Tradisionele Leiers.

(2) Elke Plaaslike Huis moet, behoudens subartikel (1)(b), die getal verteenwoordigers uit sy geledere tot die Provinsiale Huis verkies soos bedoel in Bylae 5.

(3) Die Uitvoerende Raad kan, van tyd tot tyd, na oorlegpleging met die Uitvoerende Raad van die Provinsiale Huis, die setel van die Provinsiale Huis bepaal.

(4) 'n Provinsiale Huis kan 'n Uitvoerende Komitee instel en verkies wat bestaan uit hoogstens tien lede van daardie Provinsiale Huis, welke komitee oor die bevoegdheede en werksaamhede beskik wat aan hom –

- (a) verleen word deur die Reëls van die Provinsiale Huis; en
- (b) gedelegeer word deur die Provinsiale Huis.

Kwalifisering vir lidmaatskap van Provinsiale Huis

41. 'n Lid is nie verkiesbaar om 'n lid van die Huis te word nie indien daardie persoon –

- (a) 'n voltydse lid van 'n munisipale raad, 'n lid van Provinsiale Wetgewer of 'n Parlements lid is;
- (b) ten tye van die verkiesing van lede van die Huis, gevangenisstraf uitdien;
- (c) 'n ongerehabiliteerde insolvent is;
- (d) geestelik siek is en sodanig verklaar is deur 'n bevoegde hof;
- (e) skuldig bevind is aan 'n kriminele oortreding en gevonnissen is tot meer as 12 maande gevangenisstraf sonder die keuse van 'n boete;
- (f) nie 'n Suid-Afrikaanse burger is nie; of
- (g) nie permanent woonagtig is binne die Republiek van Suid-Afrika nie.

Ontruiming van setels in Provinsiale Huis

42. Die setel van 'n lid van die Provinsiale Huis word vakant –

- (a) by die afsterwe van 'n lid;
- (b) indien die lid bedank deur skriftelike kennisgewing onder sy of haar Hand;
- (c) indien die lid gediskwalifiseer word ingevolge artikel 41;
- (d) indien hy of sy, sonder om toestemming te bekom in ooreenstemming met die reëls en opdragte, soos bedoel in artikel 48; afwesig is tydens drie agtereenvolgende vergaderings van die Huis; of
- (e) indien hy of sy verwyder word uit die Provinsiale Huis vir skending van die Gedragskode vervat in Deel C van Bylae 7 van hierdie Wet.

Vul van vakatures in Provinsiale Huis

43.(1) Waar 'n vakature in die Provinsiale Huis ontstaan moet die Uitvoerende Raad die Sekretaris van die Provinsiale Huis, binne 14 dae, verwittig van die ontstaan van sodanige vakature, waarna die verantwoordelike Lid van die Uitvoerende Raad, binne 'n redelike tydperk, die Premier moet verwittig.

(2) 'n Vakature in die Huis moet binne 60 dae gevul word deur die verkiesing van 'n lid vir die onverstreke gedeelte van die ampstermyn van die lid in wie se plek hy of sy verkies word, en op dieselfde wyse waarop die vorige lid verkies was.

(3) 'n Vakature moet gevul word soos bedoel in artikel 40(2) van hierdie Wet.

Verkiesing van Voorsitter en Uitvoerende Komitee van Provinsiale Huis

44.(1) Na die verkiesing van 'n nuwe Huis moet die Provinsiale Huis binne 30 dae byeenkom op 'n tyd en by 'n plek soos bepaal deur die Premier by kennisgewing in die *Provinsiale Koerant*.

(2) By die vergadering bedoel in subartikel (1), moet 'n Regter van die Hooggeregshof van die Republiek van Suid-Afrika optree as voorsitter tot sodanige tyd wat die voorsitter en ondervoorsitter van die Provinsiale Huis verkies is deur lede van die Huis, waarna die voorsitter van die Huis die verkiesing van die oorblywende lede van die Uitvoerende Komitee van die Huis moet bestuur.

(3) Behoudens die bepalings van subartikel (8), beklee die voorsitter en ondervoorsitter hul amp vir die termyn van die Provinsiale Huis, soos bedoel in artikel 39, en is herkiesbaar by verstryking van hul ampstermyn: Met dien verstande dat geen lid as voorsitter of ondervoorsitter vir meer as twee opeenvolgende termyne kan dien nie.

(4) Die voorsitter beskik oor die bevoegdhede en werksaamhede soos toegeken aan hom of haar ingevolge hierdie Wet en die reëls en opdragte van die Provinsiale Huis.

(5) Indien die voorsitter afwesig is, of vir enige rede nie in die posisie is om sy of haar werksaamhede te verrig nie, of wanneer die amp van voorsitter vakant is, moet die ondervoorsitter optree as voorsitter totdat die voorsitter terugkeer of weer in staat is om sy of haar werksaamhede te verrig, of totdat 'n nuwe voorsitter verkies word.

(6) Indien enige van die omstandighede beskryf in subartikel (5) van toepassing is op beide die voorsitter en die ondervoorsitter, moet 'n lid van die Provinsiale Huis, verkies deur lede teenwoordig by die vergadering, optree as voorsitter vir so lank as wat die omstandighede bedoel in subartikel (5) voortduur.

(7) Die ondervoorsitter of verkose lid, soos bedoel in subartikel (6), kan die bevoegdhede uitoefen en moet die werksaamhede van die voorsitter verrig.

(8) Die voorsitter of ondervoorsitter –

(a) moet sy of haar amp ontruim indien sy of haar lidmaatskap van die Provinsiale Huis eindig;

(b) kan uit amp verwyder word deur 'n mosie van wantroue ondersteun deur 'n 75 persent meerderheid van alle lede van die Provinsiale Huis; en

(c) kan bedank deur sy of haar bedanking skriftelik by die Sekretaris van die Provinsiale Huis in te dien.

(9) In die geval dat die voorsitter of ondervoorsitter sy of haar setel ontruim, moet die prosedure bedoel in subartikel (2) gevolg word ten einde 'n nuwe voorsitter of ondervoorsitter te verkies.

(10) Die Uitvoerende Komitee of enige lid daarvan kan sodanige werksaamhede verrig, sodanige bevoegdhede uitoefen en sodanige pligte nakom soos gedelegeer kan word deur die Provinsiale Huis tydens enige tydperk wanneer ook al die Provinsiale Huis nie in sessie is nie.

(11) Die Uitvoerende Komitee, en enige lid daarvan, wat die werksaamhede verrig het, bevoegdhede uitgeoefen en pligte nagekom het, soos bedoel in subartikel (10), moet 'n bekragtigingsverslag van enige sodanige handeling uitgevoer by die Provinsiale Huis indien by die volgende sessie van die Provinsiale Huis.

(12) Indien die posisie van enige lid van die Uitvoerende Komitee vakant word voor die verstryking van sy of haar ampstermyn, moet sy of haar posisie binne 45 dae gevul word deur 'n ander lid, welke lid sal dien vir die oorblywende tydperk van die huidige ampstermyn van die oorblywende lede van die Uitvoerende Komitee.

Status van lede van Provinsiale Huis

45.(a) Die voorsitter en ondervoorsitter is voltydse lede van die Provinsiale Huis.

(b) Die Premier kan, na oorlegpleging met die Provinsiale Huis, bepaal, by kennisgewing in die *Provinsiale Koerant*, dat sekere ander lede van die Provinsiale Huis as voltydse lede van die Provinsiale Huis sal dien.

Verkieping van verteenwoordigers tot Nasionale Huis

46. Die Provinsiale Huis moet, by sy eerste sitting, sy verteenwoordigers om in die Nasionale Huis te dien, verkies in ooreenstemming met die bepalings van artikel 4 van die Wet op die Nasionale Huis van Tradisionele Leiers, 2009 (Wet No. 22 van 2009).

Vergaderings van Provinsiale Huis

47.(1) Die voorsitter, ondervoorsitter of ander lid onder wie se voorsitterskap 'n vergadering van die Provinsiale Huis plaasvind, het nie 'n beraadslagende stem nie, maar het 'n beslissende stem in die geval van 'n staking van stemme.

(2) 'n Gewone vergadering van die Provinsiale Huis moet minstens eenkeer kwartaalliks gehou word.

(3) Bykomend tot die gewone vergaderings van die Provinsiale Huis, kan die Uitvoerende Komitee, te eniger tyd, en indien so gelas deur die Premier, 'n spesiale vergadering van die Provinsiale Huis belê op 'n dag en by 'n plek soos bepaal deur die Uitvoerende Komitee.

(4) Aandag kan slegs geskenk word aan daardie aangeleenthede wat voor die Provinsiale Huis, by 'n spesiale vergadering belê deur die Uitvoerende Komitee, geplaas word.

(5) Indien 'n spesiale vergadering belê is in opdrag van die Premier, kan aandag geskenk word aan slegs daardie aangeleenthede wat die byeenroep van die vergadering genoodsaak het.

(6) Die voorsitter kan 'n spesiale vergadering van die Provinsiale Huis, binne 'n tydperk van sewe dae, en by die ontvangs van 'n skriftelike versoek deur minstens tien lede van die Provinsiale Huis, belê.

(7) Sou die voorsitter versuim om 'n spesiale vergadering van die Provinsiale Huis te belê, soos bedoel in subartikel (6), kan sodanige lede, by verstryking van die tydperk bedoel in

subartikel (6), die Premier versoek om 'n spesiale vergadering van die Provinsiale Huis byeen te roep.

(8) Kennisgewings van vergaderings van die Provinsiale Huis moet aan alle lede gestuur word op sodanige wyse en in sodanige vorm soos die Provinsiale Huis, van tyd tot tyd, kan bepaal.

(9) 'n Amptenaar van die Departement, aangewys deur die verantwoordelike Lid van die Uitvoerende Raad, kan die vergaderings van die Provinsiale Huis bywoon ten einde die Provinsiale Huis van advies te bedien ten opsigte van regeringsbeleide en wetgewing wat betrekking het op tradisionele sake.

Reëls van Provinsiale Huis

48. Na die verkiesing van die Uitvoerende Komitee bedoel in artikel 44(2), moet die Provinsiale Huis sy prosedurereëls ten opsigte van die volgende aangeleenthede aanvaar –

- (a) tussentydse reëls deur die voorsitter;
- (b) opskorting of wysiging van reëls;
- (c) kworum en vergaderings van die Provinsiale Huis;
- (d) ontruiming van amp en vul van vakatures;
- (e) benoeming van lede tot die Nasionale Huis, waarvan 'n voldoende getal vroulik moet wees;
- (f) bevoegdhede en werksaamhede van die voorsitter;
- (g) staande en portfoliokomitees;
- (h) verkiesing en duur van aanstelling van sameroepers en lede van komitees;
- (i) bevoegdhede en werksaamhede van komitees en sameroepers van komitees;
- (j) Gedragskode vir lede;
- (k) komiteevergaderings;
- (l) sub-komitees;
- (m) notules van vergaderings en komiteeverslae;
- (n) debatreëls en mosies in die Provinsiale Huis;
- (o) oorweging van konsepwetgewing deur die Provinsiale Huis;
- (p) pligte van die Sekretaris van die Provinsiale Huis; en
- (q) enige ander aangeleentheid betreffende of bykomend tot die doeltreffende funksionering van die Provinsiale Huis.

Rolle, bevoegdhede en werksaamhede van Provinsiale Huis

49.(1) Die Provinsiale Huis beskik oor –

- (a) die rolle, bevoegdhede en werksaamhede soos aan hom verleen deur hierdie Wet; en
- (b) enige ander rolle, bevoegdhede, werksaamhede aan hom –
 - (i) verleen of opgelê deur Nasionale wetgewing; en
 - (ii) toegewys deur die verantwoordelike Lid van die Uitvoerende Raad.

(2) Die Provinsiale Huis moet –

- (a) verteenwoordig, beskerm en bevorder –
 - (i) die belange van alle *isiZwe* erken in artikel 5; en
 - (ii) die instelling van tradisionele leierskap; en
- (b) as bewaarder van gewoontereg en gebruike, die beskerming en bevordering daarvan verseker;
- (c) op versoek van die verantwoordelike Lid van die Uitvoerende Raad, navorsing doen en die verantwoordelike Lid van die Uitvoerende Raad adviseer oor –
 - (i) die formulering van beleide, standarde en riglyne ten opsigte van die ontwikkeling van *isiZwe*, tradisionele rade en Plaaslike Huisse;
 - (ii) voorgestelde uitvoerende en administratiewe optrede deur regering wat *isiZwe*, tradisionele instellings, gewoontereg en gebruike beïnvloed;
 - (iii) konsepwetgewing wat handel oor of 'n invloed het op *isiZwe*, tradisionele instellings, gewoontereg en gebruike; en
 - (iv) meganismes vir die versekering en uitbreiding van die doeltreffende deelname van tradisionele instellings aan regering; en
- (d) op versoek van die verantwoordelike Lid van die Uitvoerende Raad, aanbevelings oorweeg en maak aan die verantwoordelike Lid van die Uitvoerende Raad rakende –
 - (i) provinsiale programme betreffende tradisionele sake; en
 - (ii) die inhoud en koördinerings van geïntegreerde ontwikkelingsplanne; en
- (e) skriftelik kommentaar lewer oor Provinsiale konsepwetgewing wat handel oor *isiZwe*, tradisionele instellings en gewoontereg en gebruike, of dit beïnvloed, binne 30 dae vanaf die datum waarop die wetsontwerp na die Provinsiale Huis verwys is deur die Speaker van die Provinsiale Wetgewer, soos bedoel in artikel 57; en
- (f) oor die algemeen alles doen wat redelikerwys nodig is vir of bykomend is tot sy rolle, bevoegdhede en werksaamhede.

(3) Die Provinsiale Huis moet –

- (a) behoorlike rekords hou;

- (b) finansiële verslae laat oudit deur die Ouditeur-generaal;
- (c) bykomend tot die kwartaallikse vergaderings, 'n jaarlikse vergadering met plaaslike huise hou ten einde verantwoording te doen van die Provinsiale Huis se aktiwiteite en finansies;
- (d) die Gedragskode vervat in Bylae 7 tot hierdie Wet handhaaf;
- (e) deursigtige verhoudings tussen homself, plaaslike huise en munisipaliteite daarstel en samewerking en kommunikasie fasiliteer;
- (f) die doeltreffendheid van kommunikasie en besluitneming binne die administrasie van die Provinsiale Huis optimaliseer;
- (g) duidelike verantwoordelikhede toewys vir die bestuur en koördinasie van die administrasie van die Provinsiale Huis; en
- (h) 'n billike en regverdigte, oop, nie-diskriminerende en ondersteunende omgewing vir alle *isiZwe* en plaaslike huise in die Provinsie skep en bevorder.

Administrasie en aanspreeklikheid van Provinsiale Huis

50.(1) Die verantwoordelike Lid van die Uitvoerende Raad moet, ingevolge die bepalings van die Staatsdienswet, 1994 (Proklamasie 103 van 1994), 'n persoon aanstel as Sekretaris van die Provinsiale Huis wat –

- (a) die bevoegdhede moet uitoefen en werksaamhede verrig soos verleen of gedelegeer aan die Sekretaris deur hierdie Wet, ingesluit die reëls en opdragte; en
- (b) behoudens die voorskrifte van die Provinsiale Huis, sodanige werk moet verrig soos bykomend tot die uitoefening of verrigting van die bevoegdhede en werksaamhede van die Provinsiale Huis.

(2) Die verantwoordelike Lid van die Uitvoerende Raad moet, behoudens die Staatsdienswet, 1994, soveel personeellede afstaan as wat nodig is om die werk van die Provinsiale Huis uit te oefen.

(3) Die Sekretaris moet ondersteun word in die uitoefening of verrigting van sy of haar bevoegdhede en werksaamhede deur amptenare van die Departement, afgestaan ingevolge subartikel (2), vir daardie doel.

Besoldiging, toelaes en voordele betaalbaar aan lede van Provinsiale Huis

51. Die besoldiging van, en betaling van toelaes en voordele aan, die voorsitter, ondervoorsitter en gewone lede van die Provinsiale Huis is soos bepaal deur die Wet op Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van van 1998).

Ondersteuning aan Provinsiale Huis

52. Die Provinsiale regering moet maatreëls aanvaar soos nodig mag wees ten einde die bevoegdheid van die Provinsiale Huis te ondersteun en versterk vir die verwesenliking van sy werksaamhede en sodanige ondersteuning kan die verskaffing van –

- (a) infrastruktuur;
- (b) finansies;
- (c) menslike hulpbronne;
- (d) vaardigheidontwikkelingsprogramme; en
- (e) administratiewe stelsels,

insluit.

Instelling van Plaaslike Huisse van tradisionele leiers

53.(1) 'n Plaaslike Huis word hiermee ingestel in die distriksmunisipaliteitsgebiede waar vyf of meer *isiZwe* bestaan.

(2) In die geval dat minder as vyf *isiZwe* bestaan in enige distriksmunisipaliteitsgebied, moet die tradisionele leiers binne daardie distriksmunisipaliteit een lid vanuit hul geledere kies om *isiZwe* te verteenwoordig by die sitting van sodanige distriksmunisipaliteitsvergaderings.

Samestelling en Uitvoerende Komitee van Plaaslike Huisse

54.(1) Elke Plaaslike Huis bestaan uit alle *iNkosi* binne die distriksmunisipaliteit.

(2) 'n Plaaslike Huis kan 'n Uitvoerende Komitee instel en verkies wat bestaan uit hoogstens sewe lede van daardie Plaaslike Huis.

(3) 'n Uitvoerende Komitee van 'n Plaaslike Huis beskik oor die rolle en werksaamhede verleen of opgelê aan hom deur daardie Plaaslike Huis, soos opgelê aan die Huis deur die Reëls van die betrokke Plaaslike Huis, of soos gedelegeer aan die Uitvoerende Komitee deur die betrokke Plaaslike Huis.

(4) Die bepalings van artikels 41, 42, 43, 44 en 48 is van toepassing, met die nodige veranderinge, op die Plaaslike Huise.

Vergaderings van Plaaslike Huise

55.(1) Die verantwoordelike Lid van die Uitvoerende Raad moet, by kennisgewing in die *Provinsiale Koerant*, die eerste vergaderings van die Plaaslike Huis belê.

(2) By die eerste vergadering van 'n Plaaslike Huis moet 'n persoon, aangestel deur die verantwoordelike Lid van die Uitvoerende Raad, optree as voorsitter tot sodanige tyd wat die voorsitter en ondervoorstter van daardie Plaaslike Huis verkies is deur lede van daardie Huis.

(3) Vergaderings van Plaaslike Huise moet belê word deur skriftelike kennisgewing aan alle lede minstens vier dae voor die datum van die vergadering.

Rolle, Bevoegdhede en Werksaamhede van Plaaslike Huise

56. Die rolle, bevoegdhede en werksaamhede van alle plaaslike huise van tradisionele leiers is om –

- (a) die tersaaklike distriksmunisipaliteit of metropolitaanse munisipaliteit te adviseer oor –
 - (i) aangeleenthede betreffende gewoontereg, gebruike, tradisionele leierskap en *isiZwe* binne die distriksmunisipaliteit of metropolitaanse munisipaliteit;
 - (ii) die ontwikkeling van beplanningsraamwerke wat *isiZwe* beïnvloed; of
 - (iii) die ontwikkeling van verordeninge wat *siZwe* beïnvloed; en
- (b) deel te neem aan plaaslike programme met die doel om landelike gemeenskappe te ontwikkel;
- (c) deel te neem aan plaaslike inisiatiewe wat gemik is op monitering, hersiening en evaluering van regeringsprogramme in landelike gemeenskappe; en
- (d) kommentaar te lewer oor enige wetgewing van die betrokke distriksmunisipaliteit –
 - (i) wat die gebruike en gewoontereg van *isiZwe* binne sy juridiksiegebied beïnvloed; en
 - (ii) aangaande die diensbepalings of grensafbakening of grondbesit wat *isiZwe* beïnvloed.

Verwysing van konsepwetgewing na Provinsiale Huis en Plaaslike Huise

57.(1) Enige konsepwetgewing wat handel oor *isiZwe*, tradisionele instellings, gewoontereg en gebruike of hulle beïnvloed; moet verwys word deur die Speaker van die –

- (a) Provinsiale Wetgewer na die Provinsiale Huis vir sy skriftelike kommentaar soos bedoel in artikel 49(1)(f), voordat dit deur die Provinsiale Wetgewer aangeneem word, en enige kommentaar deur die Provinsiale Huis moet ter tafel gelê word in die Provinsiale Wetgewer voor aanneming van die betrokke Provinsiale Wetsontwerp; en
- (b) betrokke munisipale raad na die betrokke Plaaslike Huis vir sy skriftelike kommentaar soos bedoel in artikel 56(1)(d) voordat dit aangeneem word deur die munisipale raad en enige kommentaar deur die betrokke Plaaslike Huis moet ter tafel gelê word in die munisipale raad voor die aanneming van die betrokke munisipale konsepwetgewing.

(2) Die Provinsiale Huis moet 'n spesiale vergadering belê vir oorweging en skriftelike versoë oor sodanige wetgewing aan die Provinsiale Wetgewer te rig, binne 30 dae na ontvangs daarvan: Met dien verstande dat, in die geval dat die Provinsiale Huis versuim om die konsepwetgewing te oorweeg of versuim om skriftelike versoë aan die Provinsiale Wetgewer te rig binne 30 dae van die verwysing, kan die konsepwetgewing tot stemming gebring word in die Provinsiale Wetgewer sonder verdere kennisgewing aan die Provinsiale Huis.

(3) Indien die betrokke Plaaslike Huis beswaar aanteken teen sodanige konsepwetgewing, kan sy kommentaar en aanbevelings binne 30 dae verwys word na die verantwoordelike Lid van die Uitvoerende Raad en die Provinsiale Wetgewer.

HOOFSTUK 7

KWAZULU-NATAL KOMMISSIE OOR TRADISIONELE LEIERSKAPSGESKILLE EN -EISE

Instelling van KwaZulu-Natal Kommissie oor Tradisionele Leierskapsgeskille en -eise

58.(1) Die KwaZulu-Natal Kommissie oor Tradisionele Leierskapsgeskille en -eise word hiermee ingestel.

(2) Die Kommissie moet sy werksaamhede uitvoer op 'n wyse wat billik, objektief en onpartydig is.

Samestelling en ampstermyn van Kommissie

59.(1) Die Premier, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad en die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, moet, binne 'n tydperk van drie maande na die promulgering van hierdie Wet en by kennisgewing in die *Provinsiale Koerant*, hoogstens vyf persone aanstel as lede van die Kommissie wat gesamentelik beskik oor kundige kennis betreffende die historiese en huidige regseldige en administratiewe samehang met betrekking tot –

- (a) *isiZwe*;
- (b) gewoontereg en gebruike;
- (c) tradisionele leierskap;
- (d) tradisionele grond; en
- (e) ander tradisionele instellings.

(2) Die ampstermyn van lede van die Kommissie is vyf jaar: Met dien verstande dat –

- (a) enige lid heraanstel kan word vir een verdere termyn van vyf jaar; en
- (b) die kennisgewing bedoel in subartikel (1) moet die lede van die Kommissie se aanstellingsbepalings en -voorwaardes insluit.

Vergaderings en reëls van Kommissie

60.(1) Die Kommissie moet, binne 30 dae vanaf die datum van die kennisgewing, bedoel in artikel 59(1), vergader ten einde die reëls vir die gedrag en bestuur van sy verrigtinge te bepaal.

(2) Die Kommissie moet vergader, soos en wanneer nodig, ten einde aanbevelings te oorweeg en maak oor enige geskil of eis verwys na die Kommissie, soos bedoel in artikel 62.

Vakatures en vul van vakatures

61.(1) 'n Vakature ontstaan wanneer 'n lid van die Kommissie –

- (a) te sterwe kom;
- (b) bedank deur skriftelik kennisgewing te gee aan die Premier;
- (c) verwyder word soos bedoel in artikel 64;
- (d) 'n voltydse lid van 'n munisipale raad word;
- (e) verkies word as 'n lid van 'n Provinsiale Wetgewer;
- (f) verkies word as 'n lid van die Nasionale Vergadering;
- (g) aangestel word as permanente afgevaardigde na die Nasionale Raad van Provinsies;

(h) verkies word tot, of aangestel word in, 'n voltydse amp in die Nasionale of Provinsiale Huis of 'n Plaaslike Huis;

(i) aangestel word as voltydse lid van die Nasionale Kommissie; of

(j) aangestel word in 'n voltydse amp in enige van die drie regeringsfere.

(2) Enige vakature op die Kommissie moet gevul word wanneer ook al dit ontstaan, soos bedoel in artikel 59(1).

Bevoegdhede en werksaamhede van Kommissie

62.(1) Die Kommissie, behoudens die bepalings van artikel 25 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, moet –

(a) die bevoegdhede uitoefen en werksaamhede verrig soos bedoel in hierdie Wet;

(b) ondersoek, verslag lewer en aanbevelings maak oor enige geskil of eis wat ingedien is by die Nasionale Kommissie na 1 September 2010, asook enige nuwe geskil of eis ingedien na die inwerkingtredingsdatum van hierdie Wet;

(c) enige aangeleenthede wat deur die Premier verwys word na die Kommissie ondersoek, in ooreenstemming met die bepalings van hierdie Wet; en

(d) op versoek van die verantwoordelike Lid van die Uitvoerende Raad, ondersoek, verslag lewer en aanbevelings maak oor enige geskil, eis of ander aangeleentheid –

(i) wat verband hou met –

(aa) *isiZwe*;

(bb) tradisionele rade;

(cc) tradisionele leierskap;

(dd) tradisionele leiers;

(ee) tradisionele grond; en

(ff) tradisionele instellings; of

(ii) wat 'n verhouding tussen staatsorgane en die items bedoel in paragraaf (i) behels.

(2) Die bepalings van artikels 3, 4, 5, 6, 7 en 9 van die KwaZulu-Natal Wet op Kommissies, 1999 (Wet No. 3 van 1999), is van toepassing, met die nodige veranderinge, op die Kommissie.

(3) Enige aanbevelings bedoel in subartikel (1) moet –

(a) aanvaar word met die ondersteuning van 'n meerderheid van die lede van die Kommissie; en

(b) voorgelê word aan die Premier binne 14 dae na voltooiing van die verslag vir sy of haar beslissing.

(4) Die Premier moet, binne 'n tydperk van 60 dae, beslis oor die aanbeveling: Met dien verstande dat, in die geval dat die Premier 'n besluit neem wat verskil van die aanbeveling van die Kommissie, die Premier skriftelike redes aan die Kommissie en die persoon of persone moet verstrek wat die geskil of eis ingedien het vir sodanige beslissing.

(5) Die Kommissie moet 'n omvattende verslag van sy aktiwiteite aan die verantwoordelike Lid van die Uitvoerende Raad verskaf, hetsy kwartaalliks, of wanneer versoek word om so te doen, deur die verantwoordelike Lid van die Uitvoerende Raad.

Ondersteuning aan Kommissie

63.(1) Die verantwoordelike Lid van die Uitvoerende Raad moet die nodige administratiewe, finansiële en ander ondersteuning aan die Kommissie verskaf ten einde die bevoegdhede en werksaamhede uit te oefen en verrig soos bedoel in hierdie Wet en ander toepaslike wetgewing.

(2) Die Kommissie kan, behoudens die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), 'n persoon of instelling aanstel om navorsing te doen namens die Kommissie.

Verwydering van lede van Kommissie

64.(1) Die Premier kan, in oorleg met die verantwoordelike Lid van die Uitvoerende Raad, 'n lid van die Kommissie verwyder op die volgende gronde –

- (a) skuldig bevind is aan 'n misdryf met 'n vonnis van gevangenisstraf van meer as 12 maande sonder die keuse van 'n boete;
- (b) liggaamlike onvermoë of geestesgebrek, gegrond op aanvaarbare mediese getuienis wat dit onmoontlik vir die lid maak om as sodanig te funksioneer; of
- (c) sodanige lid is insolvent verklaar deur 'n bevoegde hof.

(2) 'n Lid van die Kommissie, verwyder ingevolge subartikel (1), kan nie enige besoldiging of toelaes verwant aan sy of haar pligte as lid van die Kommissie ontvang nie.

HOOFSTUK 8

ALGEMENE BEPALINGS

Ampseed

65. Die eed en bevestiging vervat in Dele A en B tot Bylae 7 tot hierdie Wet is van toepassing, met die nodige veranderinge, en moet deur alle tradisionele leiers en alle lede van Tradisionele Rade, die Provinsiale Huis en Plaaslike Huis afgelê word.

Gedragkodes

66.(1) Die Gedragkode vervat in Bylae 6 tot hierdie Wet is van toepassing op alle tradisionele leiers en lede van tradisionele rade in KwaZulu-Natal: Met dien verstande dat die bepalinge van Deel C van die Gedragkode vervat in Bylae 7 tot hierdie Wet ook van toepassing is, met die nodige veranderinge, op alle tradisionele leiers en lede van tradisionele rade in die Provinsie.

(2) Die Gedragkode vervat in Bylae 7 tot hierdie Wet is van toepassing op alle lede van die Provinsiale en Plaaslike Huise in KwaZulu-Natal: Met dien verstande dat, vir die doeleindes van Deel C van die vermelde Gedragkode, enige verwysing na "die Huis" beide die Provinsiale Huis en alle Plaaslike Huise insluit.

Bevoegdhede van Uitvoerende Raad om tradisionele leiers te ontbied

67.(1) Die Premier kan, wanneer ook al hy of sy dit nodig ag, na oorlegpleging met die Uitvoerende Raad, enige tradisionele leier skriftelik ontbied om voor hom of haar te verskyn ten einde ondersoek in te stel na –

- (a) enige aangeleentheid wat die betrokke *isiZwe* kan benadeel of vermoedelik kan benadeel;
- (b) enige aangeleentheid van belang of kommer wat sodanige tradisionele leier regstreeks of onregstreeks beïnvloed in sy of haar hoedanigheid as sodanig, of wat die Provinsiale Regering in die verrigtinge van sy werksaamhede beïnvloed; of
- (c) enige ander aangeleentheid wat die administrasie van die Provinsiale Regering in die gebied van betrokke *isiZwe* waaarskynlik nadelig kan beïnvloed.

(2) Die Premier kan, nadat hy of sy die aangeleentheid oorweeg het –

- (a) die tradisionele leier beveel om sekere stappe te neem om die probleem op te los;
- of

(b) die verantwoordelike Lid van die Uitvoerende Raad opdrag gee om 'n ondersoek in te stel ingevolge artikel 68 wanneer daar rede is om te glo dat die tradisionele leier skuldig is aan wangedrag.

Ondersoek na wangedrag

68.(1) Wanneer daar rede is om te glo dat 'n tradisionele leier skuldig is aan wangedrag deurdat hy of sy –

- (a) in gebreke bly of weier om aan die bepalings van hierdie Wet of enige ander wet ingevolge sy of haar plig te voldoen;
- (b) die Gedragskode bedoel in Bylaes 6 en 7 geskend het;
- (c) 'n regmatige opdrag wat deur 'n bevoegde gesag aan hom of haar gegee is verontagsaam, minag of doelbewus in gebreke bly om dit uit te voer;
- (d) hom- of haarself op 'n skandelige, onbehoorlike of onbetaamlike wyse gedra;
- (e) sterk drank of verdowende middels oormatig gebruik;
- (f) sy of haar bevoegdheids misbruik hetsy deur afdreiging, of deur die gebruik van dwang of eietatige middele, enige heffing, fooi, vergoeding of geskenk ontvang;
- (g) poog om enige persoon te straf of enige persoon straf sonder die nodige gesag om so te doen;
- (h) nalatig of traag is om sy of haar pligte na te kom; of
- (i) skuldig bevind word aan 'n misdryf,

moet die verantwoordelike Lid van die Uitvoerende die tradisionele leier skriftelik aankla van sodanige wangedrag.

(2) Die aanklag vermeld in subartikel (1) moet –

- (a) die besonderhede uiteensit van die beweringe wat teen die tradisionele leier gemaak word; en
- (b) die tradisionele leier gelas om binne 21 dae skriftelik op die beweringe te reageer, welke reaksie 'n erkenning of ontkenning van die beweringe moet wees en wat vergesel kan gaan van 'n skriftelike verduideliking van die omstandighede rakende die aangeleentheid.

(3) Indien die tradisionele leier die aanklag ontken of in gebreke bly om daarop te reageer binne die gespesifiseerde tyd, moet die verantwoordelike lid van die Uitvoerende Raad 'n voorsittende beampste aanstel om die bewerings te ondersoek.

(4) Die voorsittende beampte wat ingevolge subartikel (3) hierbo aangestel word, moet 'n ondersoek na die beweringe instel en moet die tradisionele leier wat aangekla word minstens 14 dae kennis gee van die tyd, datum en plek van die ondersoek.

(5) Die tradisionele leier wat aangekla word, het tydens die ondersoek die reg om aangehoor te word, hetsy persoonlik of deur 'n regsverteenvoerder, en kan enige persoon wat as 'n getuie deur die ondersoek se voorsittende beampte geroep word in kruisondervraging neem, enige dokument wat as getuie ingedien word inspekteer, getuie in persoon lewer en enige ander persone as getuies roep.

(6) Die voorsittende beampte moet rekord hou van die ondersoek se verrigtinge.

(7) Die voorsittende beampte kan enige persoon dagvaar om die ondersoek by te woon en om getuie aan te bied met betrekking tot die aanklag teen die tradisionele leier.

(8) Enige persoon, wat ingevolge subartikel (7) gedagvaar word, en in gebreke bly om die ondersoek by te woon op die tyd, datum en plek in die dagvaarding gespesifiseer, is skuldig aan 'n misdryf en kan, by skuldigbevinding, gevonnissen word tot 'n boete of tot gevangenisstraf vir 'n tydperk van hoogstens ses maande.

(9) Die versuim van die aangeklaagde tradisionele leier om die ondersoek sonder 'n geldige rede by te woon, hetsy persoonlik of deur 'n regsverteenvoerder, maak die verrigtinge teen hom of haar nie ongeldig nie.

(10) Na afhandeling van die ondersoek moet die voorsittende beampte sy of haar bevindinge, die rekord van die verrigtinge, en enige waarnemings en aanbevelings wat hy of sy wil maak, en (indien van toepassing) enige aanbevole strafbepaling, aan die Premier en die Uitvoerende Raad voorlê.

(11) Die Premier in Uitvoerende Raad kan, na oorweging van 'n bevinding ten opsigte van wangedrag, enige kommentaar en aanbevelings van die voorsittende beampte, tesame met enige verhoë deur die betrokke tradisionele leier, aan daardie tradisionele leier een of meer van die volgende strafbepalings oplê –

(a) 'n formele skriftelike waarskuwing;

(b) 'n skorsingsbevel sonder besoldiging vir 'n tydperk van hoogstens drie maande;

(c) 'n boete wat nie 'n bedrag gelyk aan drie maande se besoldiging oorskry nie en wat verhaal kan word van besoldiging aan hom of haar betaal ingevolge die Wet op

Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van 1998), in sodanige paaielemente as wat die Premier in Uitvoerende Raad kan bepaal, en wat in die Provinsiale Inkomstefonds gestort moet word; of

(d) 'n kennisgewing wat die erkenning van daardie tradisionele leier terugtrek.

(12) Enige strafbepaling, soos bedoel in subartikel (11), wat deur die Premier in Uitvoerende Raad opgelê word, moet by kennisgewing in die *Provinsiale Koerant* gepubliseer word.

Skorsing van tradisionele leier

69.(1) Die verantwoordelike lid van die Uitvoerende Raad kan, na oorlegpleging met die Premier en by kennisgewing aan die tradisionele leier, wat hom/haar verwitting van die voorgestelde skorsing en redes versoek waarom die skorsing nie gehandhaaf moet word nie, enige tradisionele leier wat verdink word van wangedrag uit die amp skors, hangende die finalisering van die verrigtinge wat ingevolge artikel 68 van hierdie Wet ingestel word.

(2) Enige tradisionele leier wat ingevolge hierdie artikel geskors word, is nie geregtig op enige besoldiging vir die tydperk van sy of haar skorsing nie: Met dien verstande dat die verantwoordelike Lid van die Uitvoerende Raad, vir goeie en voldoende redes, en na verhoër deur die vermeldde tradisionele leier, die betaling van die hele of gedeelte van die besoldiging verskuldig aan daardie tradisionele leier tydens sy of haar skorsing kan gelas.

(3) Die verantwoordelike Lid van die Uitvoerende Raad of die Uitvoerende Raad kan, na oorlegpleging met die Premier, die skorsing van 'n tradisionele leier terugtrek.

(4) *iBambabukhosi* kan aangestel word in ooreenstemming met die bepalings van hierdie Wet om vir enige geskorste tradisionele leier op te tree waar die verantwoordelike Lid van die Uitvoerende Raad dit nodig mag ag.

Skending van Gedragskodes

70. Enige skending van die Gedragskodes vervat in Bylaes 6 en 7 moet mee gehandel word in ooreenstemming met die prosedure bedoel in artikel 68.

Bydraes deur lede van *isiZwe*

71.(1) 'n Tradisionele raad kan lede van *isiZwe*, of enige gedeelte van *isiZwe*, versoek om 'n vrywillige bydrae tot die betrokke Tradisionele Raad te maak: Met dien verstande dat –

(a) geen sodanige bydrae ingevorder kan word nie tensy die meerderheid van die lede van sodanige *isiZwe*, of enige gedeelte van *isiZwe*, by 'n *imbizo* vir daardie doel belê, ingewillig het tot die betaling van sodanige bydrae;

(b) sodanige bydraes slegs van betrokke lede van *isiZwe* ingevorder kan word vir die doeleindes van –

(i) die finansiering van 'n spesifieke projek; of

(ii) die doel van enige ander gewoonte; en

(c) die verantwoordelike Lid van die Uitvoerende Raad kan die uitdruklike doeleindes en maksimum bydraes wat hef kan word voorskryf, soos bedoel in hierdie artikel.

(2) Enige bydraes gemaak, soos bedoel in hierdie artikel, moet in 'n trustrekening inbetaal word, geopen en bestuur namens betrokke *isiZwe*, deur of namens die tradisionele raad.

Regulatoriese bevoegdhede

72.(1) Die Premier kan, na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, kennisgewings uitreik in die *Provinsiale Koerant* soos bedoel in hierdie Wet.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan, by kennisgewing in die *Provinsiale Koerant* –

(a) regulasies maak, kennisgewings uitreik en riglyne publiseer ten opsigte van –

(i) enige aangeleentheid wat vereis of toegelaat word om voorgeskryf te word deur hierdie Wet;

(ii) die bekendstelling en implementering van 'n prestasiebestuurstelsel vir tradisionele rade, tradisionele leiers, die Provinsiale Huis en Plaaslike Huise;

(iii) enige verkiesing bedoel in hierdie Wet; en

(iv) enige administratiewe of prosedurele aangeleentheid benodig om uitvoering te gee aan die bepalings van hierdie Wet, ingesluit die wyse waarop alle verkiesings, bedoel in hierdie Wet, gehou moet word; en

(b) enige Bylae tot hierdie Wet wysig.

Regspersoonlikheid

73. Die volgende instellings beskik elk oor 'n regs persoonlikheid –

(a) tradisionele rade;

- (b) die Provinsiale Huis; en
- (c) Plaaslike Huise.

Bates, laste en hulpbronne

74. Die instellings bedoel in artikel 73 –

- (a) kan –
 - (i) enige roerende of onroerende eiendom verkry, eienaar wees van, besit, hou, huur, vervreem, belas of uit die weg ruim;
 - (ii) regte bekom en skuld aangaan in die vervulling, uitoefening en verrigting van hul rolle, bevoegdhede en werksaamhede, soos bedoel in hierdie Wet;
 - (iii) 'n trust instel en administreer in ooreenstemming met die bepalinge van die Wet op die Beheer van Trustgoed, 1998 (Wet No. 57 van 1998); en
 - (iv) versekering uitneem by enige maatskappy of persone teen enige verliese, skade, risiko's en aanspreeklikhede; en
- (b) moet alle bates en hulpbronne op 'n doeltreffende wyse bestuur.

Delegering van bevoegdhede, agentskaps- en diensleweringsooreenkomste

75.(1) Die Premier, in oorlegpleging met die Uitvoerende Raad kan, skriftelik, enige rol, bevoegdheid of werksaamheid aan die verantwoordelike Lid van die Uitvoerende Raad deleger, soos bedoel in hierdie Wet: Met dien verstande dat enige sodanige delegering nie die uitoefening van die betrokke bevoegdheid deur die betrokke Premier verhinder nie.

(2) Die verantwoordelike Lid van die Uitvoerende Raad kan, skriftelik, enige rol, bevoegdheid of werksaamheid deleger aan die Departementshoof, soos bedoel in hierdie Wet, behalwe die bevoegdheid om regulasies te maak en kennisgewings uit te vaardig: Met dien verstande dat enige sodanige delegering nie die uitoefening van die betrokke bevoegdheid deur die verantwoordelike lid van die betrokke Uitvoerende Raad verhinder nie.

(3) Enige persoon bedoel in subartikels (1) en (2) en aan wie enige rol, bevoegdheid of werksaamheid gedelegeer is, kan, met die vooraf skriftelike goedkeuring van die Uitvoerende Raad, sodanige bevoegdheid of werksaamheid verder deleger aan 'n persoon of liggaam soos goedgekeur deur die Uitvoerende Raad.

(4) Provinsiale staatsdepartemente, statutêre instellings, staatsorgane en munisipaliteite kan –

- (a) enige bevoegdheid of werksaamheid delegeer; of
- (b) 'n agentskaps- of diensleweringsooreenkomste aangaan met, tradisionele rade.

Geskilbeslegting

76.(1) Wanneer ook al 'n geskil aangaande gewoontereg of gebruike ontstaan binne *isiZwe* of tussen *isiZwe* of ander tradisionele instellings rakende 'n aangeleentheid wat voortspruit uit die implementering van hierdie Wet, of andersins, moet lede van 'n sodanige gemeenskap of instelling en tradisionele leiers binne *isiZwe* of die betrokke tradisionele instelling poog om die geskil intern, en in ooreenstemming met gewoontereg en gebruike, op te los.

- (2) Enige geskil bedoel in subartikel (1) wat nie opgelos kan word nie moet verwys word na –
 - (a) die Provinsiale Huis, wat moet poog om die geskil in ooreenstemming met sy reëls en prosedures op te los;
 - (b) die verantwoordelike Lid van die Uitvoerende Raad, sou die Provinsiale Huis nie in staat wees om die vermelde dispuut op te los nie, moet poog om die geskil by wyse van informele bemiddeling op te los; en
 - (c) die Premier, sou die verantwoordelike Lid van die Uitvoerende Raad nie in staat is om die genoemde dispuut op te los nie, moet die geskil oplos na oorlegpleging met –
 - (i) die verantwoordelike Lid van die Uitvoerende Raad;
 - (ii) partye tot die geskil; en
 - (iii) die Provinsiale Huis.
- (3) Die Premier kan die aangeleentheid na die Kommissie verwys vir sy aanbeveling voordat 'n finale besluit oor die geskil, bedoel in hierdie afdeling, geneem word.

Oorgrensreëlings

77. Die Premier kan, na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, ooreenkomste met ander provinsiale regerings aangaan ten opsigte van aangeleenthede met betrekking tot *isiZwe*, tradisionele leiers of tradisionele instellings, sou die bestuur van sodanige aangeleenthede groter baat sal geniet by 'n gemene benadering deur die betrokke provinsiale regerings.

Misdrywe en strawwe

78.(1) 'n Persoon is skuldig aan 'n misdryf indien daardie persoon –

(a) voorgee om 'n tradisionele leier te wees sonder erkenning soos bedoel in hierdie Wet; en

(b) opsetlik die vervulling, uitoefening of verrigting van enige rol, bevoegdheid of werksaamheid belemmer wat verleen is aan enige tradisionele leier, enige tradisionele raad, die Provinsiale Huis, enige Plaaslike Huis of die Kommissie, of daaraan toegewys is, soos bedoel in hierdie Wet of enige ander reg.

(2) 'n Persoon wat skuldig bevind word aan 'n misdryf bedoel in subartikel (1) is strafbaar met 'n boete of gevangenisstraf van hoogstens 12 maande, of beide die boete en gevangenisstraf.

Oorgangsreëlings

79.(1) Alle uitvoerende en administratiewe handeling, te goeder trou verrig deur die Provinsiale Regering met betrekking tot *isiZwe*, lede van *isiZwe*, tradisionele leierskap, tradisionele leiers, tradisionele owerhede, gemeenskapsowerhede, tradisionele rade of hul onderskeie jurisdiksiegebiede en die informele erkenning van *isiPhakanyiswa* as *iNkosi*, voor die inwerkingtreddatum van hierdie Wet, word hierby geag wettig verrig te wees –

(a) asof die vereiste regsgrondslag, met inbegrip van, maar nie beperk nie tot, delegasies, opdragte, agentskapsooreenkomste, volmagte of diensleweringkontrakte bestaan het toe sodanige aksies verrig is; of

(b) waar die regsgrondslag wat destyds bestaan het, met ingebrip van, maar nie beperk nie tot, delegasies, opdragte, agentskapsooreenkomste, volmagte of diensleweringkontrakte, nie ten volle nagekom is nie.

(2) Enige tradisionele gemeenskap of tradisionele sub-gemeenskap wat erken is, ingevolge toepaslike wetgewing, voor die inwerkingtreding van hierdie Wet, word geag as erken as *isiZwe* of sub-*isiZwe*, soos bedoel in hierdie Wet.

(3) Enige tradisionele leier erken of aangestel, ingevolge toepaslike wetgewing, voor die inwerkingtreding van hierdie Wet, in 'n tradisionele leierskapsposisie bedoel in Hoofstuk 3 van hierdie Wet, word geag as erken as 'n tradisionele leier, soos bedoel in hierdie Wet, behoudens 'n besluit van die Nasionale Kommissie, soos bedoel in artikel 26 van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003.

(4) Enige tradisionele owerheid, tradisionele raad en tradisionele sub-raad erken ingevolge toepaslike wetgewing voor die inwerkingtreding van hierdie Wet, word geag as ingestel en erken as 'n tradisionele raad of sub-raad soos bedoel in hierdie Wet, behoudens voldoening aan artikel 25 binne 'n tydperk van een jaar vanaf die inwerkingtreding van hierdie Wet.

(5) Enige *isiGodi*, erken ingevolge toepaslike gebruike en gewoontereg voor die inwerkingtreddingsdatum van hierdie Wet, moet erken word, soos bedoel in artikel 9, binne 'n tydperk van 24 maande vanaf die inwerkingtreddingsdatum van hierdie Wet.

(6) Enige *iNduna* erken ingevolge toepaslike gebruike en gewoontereg, nieteenstaande die bepaling van enige ander wet voor die inwerkingtreddingsdatum van hierdie Wet, moet erken word soos bedoel in artikel 15, binne 'n tydperk van 24 maande vanaf die inwerkingtreddingsdatum van hierdie Wet.

(7) Alle bestaande gemeenskapsowerhede wat huidiglik binne die juridiksiegebied van die *uMzimkhulu* munisipaliteit val, word geag as erken as *isiZwe*, met *isiPhakanyiswa* wat aan die hoof staan, ingevolge hierdie Wet: Met dien verstande dat 'n verkiesing ten einde *isiPhakanyiswa* vir sodanige gemeenskappe te verkies gehou moet word binne 'n tydperk van ses maande vanaf die promulgering van hierdie Wet.

Wysiging en herroeping van wette

80. Die wette vermeld in die eerste en tweede kolom van Bylae 8 word gewysig of herroep tot die omvang soos uiteengesit in die derde kolom van die Bylae.

Kort titel

81. Die Wet word die KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2013 genoem.

BYLAE 1
AANSOEK OM ERKENNING AS ISIZWE
(Artikel 5(2)(a)(i))

VORM TA 1

Posadres: Die Premier van KwaZulu-Natal
Privaatsak X9037
PIETERMARITZBURG
3200

Straatadres: Moses Mabhidagebou
Langalibalelestraat 300
PIETERMARITZBURG

Vir aandag: Die Premier

Notas aan die Aansoeker:

A) Hierdie is 'n aansoek om erkenning as isiZwe ingevolge artikel 5 van die KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2013 (Wet No. XX van 2013).

B) Die aansoeker moet voldoende inligting verskaf ter ondersteuning van hierdie aansoek en kan bewysstukke in die vorm van enige dokumente wat die aansoeker as tersaaklik mag ag insluit.

C) Die Premier kan weier om hierdie aansoek te oorweeg indien die vorm nie ten volle voltooi is nie, of nie in duidelike skrif ingevul is nie.

1. Naam van aansoeker wat *isiZwe* verteenwoordig:

2. Kontakbesonderhede van Aansoeker:

Posadres:

	Telefoonnummer:
	Selfoonnummer:
	Elektroniese (e-pos) adres:
3.	Naam van <i>isiZwe</i> wat aansoek doen om erkenning:
4.	Ander naam of name van <i>isiZwe</i> :
5.	Die naam van persoon wat <i>isiZwe</i> as sy <i>iNkosi</i> ag:
6.	Geografiese gebied / Fisiese ligging van <i>isiZwe</i> en beskrywing van die gebied waarin <i>isiZwe</i> oor die algemeen woon:
	Distriksgemeenskaplikheid:
	Plaaslike Gemeenskaplikheid:
7.	<p>Waar toepaslik, dui asseblief aan of <i>isiZwe</i> huidiglik deel is van enige bestaande <i>isiZwe</i>: (MERK MET 'n X):</p> <p style="text-align: center;"><input type="checkbox"/> JA <input type="checkbox"/> NEE</p> <p>Indien ja, spesifiseer asseblief:</p>
8.	<p>Motivering vir aansoek:</p> <p>Agtergrond van <i>isiZwe</i> (ingesluit gewoontergestel, vorige leiers van <i>isiZwe</i> (familie stamboom), die bewese geskiedenis van bestaan, die getal <i>isiGodi</i> en <i>iNduna</i> en ander tersaaklike inligting betreffende die agtergrond en geskiedenis van daardie <i>isiZwe</i>):</p> <p>(Bykomende dokumente kan aangeheg word indien nodig)</p>
<p>Geteken te _____ (plek) op hierdie ____ dag van _____, Twee-duisend-en- _____</p>	

Handtekening:	
Naam van verteenwoordiger:	
Benoeming:	

Die vorm moet vergesel gaan van 'n aansoek om die erkenning van *iNkosi* vir betrokke *isiZwe*, ingevolge artikel 5(2) van die Wet.

<u>Slegs vir amptelike gebruik</u>	<u>Ja</u> (Merk asseblief met X)	<u>Nee</u> (Merk asseblief met X)
1. Is die vorm korrek voltooi?		
2. Aansoek gereed vir 'n Kabinetmemorandum.		
3. Aansoek word aanbeveel vir verwysing na die KwaZulu-Natal Kommissie op Tradisionele Leierskapsgeskille en -eise		
4. Opmerkings:		
Amptelike Stempel:		

BYLAE 2
RIGLYNE VIR DIE IDENTIFISERING VAN OPVOLGERS TOT *UBUKHOSI*
(Artikel 13(1)(a))

1. Behoudens die gebruike en gewoontereg van die betrokke *uMndeni* en *isiZwe*, moet *iNkosi*, by 'n vergadering van *uMndeni* belê vir daardie doel, verklaar watter een van sy of haar huise geag word as die senior huis: Met dien verstande dat, in die geval dat *iNkosi* sou verkies om die status van sy of haar huise te verander, die betrokke *iNkosi* sy of haar nuwe besluit moet verklaar, op dieselfde wyse waarop sy of haar vorige besluit verklaar was.

2. Met inagneming van die toepaslike gebruike en gewoontereg van die betrokke *uMndeni* en *isiZwe*, kan enige van die volgende persone geïdentifiseer word as die opvolger tot *ubuKhosi* –
 - (a) die eersgebore kind van die eggenoot/e van *iNkosi*, uit die huis geïdentifiseer deur *iNkosi* ingevolge item 1 as die senior huis;
 - (b) die eersgebore kind van die eerste vrou van *iNkosi*;
 - (c) die eerste kind gebore van die vrou van *iNkosi*, wie se *ilobolo* betaal is deur die betrokke *isiZwe*;
 - (d) die eersgebore kind van die eggenoot/e van *iNkosi*, wat koninklike familie is, of ander *uMndeni*; of
 - (e) enige kind van *iNkosi*, skriftelik en in oorleg met *uMndeni*, geïdentifiseer deur *uMndeni*.

3. Nieteenstaande die kriteria, gelys in paragrawe (a) tot (d) van item 2, kan *uMndeni* besluit om 'n opvolger te identifiseer wat gebore is volgens die gebruik van *uKungena*, *ukufaka esiswini* en die gewoonte om *ilobolo* te betaal vir 'n buite-egtelike kind van *iNkosi*.

4. In die onwaarskynlike gebeurtenis dat geen opvolger geïdentifiseer kan word nie, soos

bedoel in items 2 en 3, kan *uMndeni* besluit om *ubuKhosi* te verskuif na die volgende kwalifiserende huis ingevolge die senioriteit van die huise.

BYLAE 3
VERKLARING DEUR *IBAMBABUKHOSI*
(Artikel 17(4))

Ek, _____, Identiteitsnommer:
_____, geïdentifiseer vir erkenning as *iBambabukhosi* deur *uMndeni* van die
_____ *isiZwe*, verklaar hiermee onder eed as volg:

1. Ek erken hiermee dat ek geïdentifiseer is vir erkenning as *iBambabukhosi* van *isiZwe* van
_____, namens _____, wat geïdentifiseer is as die
opvolger tot *ubuKhosi*, wie se idenitifisering en toekomstige erkenning ek ondersteun en
bevestig.

2. Hiermee erken ek uitdruklik dat –

(a) ek geen huidige of toekomstige aanspraak tot *ubuKhosi* van *isiZwe* van
_____ het nie;

(b) ek sal nie daarna streef om erken te word as *iNkosi* van die vermelde Gemeenskap te
eniger tyd in die toekoms nie; en

(c) ek sal uit vrye wil afstand doen van my posisie as *iBambabukhosi* by die erkenning
van _____ as *iNkosi* van *isiZwe* van
_____.

VERKLAARDER

VOOR MY ONDER EED afgelê en **GETEKEN** te
_____ op hierdie _____ dag van
_____ 20____, deur die verklaarder wat erken het dat hy/sy die
inhoud van hierdie verklaring verstaan en verklaar het dat hy/sy geen beswaar het teen die
af lê van die eed nie en dat hy/sy die eed as bindend tot sy/haar gewete beskou.

KOMMISSARIS VAN EDE

VOLLE NAAM: _____

BESIGHEIDSADRES: _____

HOEDANIGHEID: _____

GEBIED: _____

BYLAE 4

FORMULE VIR DIE BEPALING VAN DIE GETAL TRADISIONELE RAADSLEDE (Artikel 25(1))

1. Die verkiesingsproses van lede aangedui in die tabel hieronder moet gedoen word deur *iNkosi*, wat 'n *ex officio* lid van die verkose lede is ingevolge artikel 25 van hierdie Wet.
2. Tydens die seleksie van die 60 persent lede van die totale getal lede van die tradisionele raad moet *iNkosi* daarna streef om te voldoen aan die vereiste dat ten minste een derde van die totale getal lede op die tradisionele raad vroulik moet wees.

Getal erkende <i>iNduna</i>	Gekose Lede gelykstaande aan 60% van totale getal Lede				Verkose Lede gelykstaande aan 40% van totale getal Lede	Totale getal Lede	Totale getal vroue (een derde van totaal)
	Gemeen-skapslede	<i>iNduna</i>	<i>iNkosi</i>	Totaal Gekose Lede	Totaal Verkose Lede		
15 of minder	2	3	1	6	4	10	3
15 tot 20	3	5	1	9	6	15	5
20 tot 25	4	7	1	12	8	20	7
25 tot 30	5	9	1	15	10	25	8
30 tot 35	6	11	1	18	12	30	10
35 tot 40	7	13	1	21	14	35	12
40 tot 45	8	15	1	24	16	40	13
45 tot 50	9	17	1	27	18	45	15
51 of meer	10	19	1	30	20	50	17

BYLAE 5
VERKOSE LEDE VAN DIE KWAZULU-NATAL PROVINSIALE HUIS
VAN TRADISIONELE LEIERS
(Artikel 40(2))

KOLOM 1	KOLOM 2
PLAASLIKE HUISE VAN TRADISIONELE LEIERS	GETAL VERTEENWOORDIGERS
<i>Ugu</i> Plaaslike Huis	7
<i>uMgungundlovu</i> Plaaslike Huis	4
<i>uThukela</i> Plaaslike Huis	4
<i>uMzinyathi</i> Plaaslike Huis	4
<i>Amajuba</i> Plaaslike Huis	3
Zululand Plaaslike Huis	5
<i>uMkhanyakude</i> Plaaslike Huis	3
<i>uThungulu</i> Plaaslike Huis	7
<i>iLembe</i> Plaaslike Huis	6
<i>Sisonke</i> Plaaslike Huis	7
<i>eThekwini</i> Plaaslike Huis	3

BYLAE 6
GEDRAGSKODE VIR TRADISIONELE LEIERS EN LEDE VAN TRADISIONELE RADE
(*Artikel 66*)

Algemene gedrag van tradisionele leier

1. 'n Tradisionele leier –

- (a) moet die werksaamhede wat aan hom of haar toegewys is te goeder trou, ywerig, eerlik en op 'n deursigtige wyse verrig;
- (b) moet sy of haar rol op 'n doeltreffende wyse vervul;
- (c) mag nie hom- of haarself op 'n skandalige, onbehoorlike of onbetaamlike wyse gedra nie;
- (d) moet aan enige toepaslike wetgewing voldoen;
- (e) moet in die beste belang van *isiZwe* of gemeenskappe wat hy of sy dien optree;
- (f) moet eenheid onder *isiZwe* bevorder;
- (g) kan nie handeling onderneem wat verdeeldheid binne of onder *isiZwe* veroorsaak nie;
- (h) moet nasiebou bevorder;
- (i) kan nie weier om enige diens aan 'n persoon weens politieke of ideologiese gronde te lewer nie;
- (j) moet goeie verhoudinge met die staatsorgane met wie hy of sy in wisselwerking is aanwakker;
- (k) moet die beginsels van 'n demokratiese en oop samelewing bevorder; en
- (l) moet geskenke wat ontvang word, openbaar maak.

Algemene gedrag van tradisionele raad

2. 'n Tradisionele raad –

- (a) moet die werksaamhede wat aan hom toegewys is te goeder trou, ywerig, eerlik en op 'n deursigtige wyse verrig;

- (b) moet sy rolle, bevoegdhede en werksaamhede op 'n doeltreffende wyse uitvoer;
- (c) moet aan enige toepaslike wetgewing voldoen;
- (d) moet in die beste belang van *isiZwe* wat hy dien optree;
- (e) uitvoering gee aan die beginsels wat openbare administrasie bestuur, soos uiteengesit in artikel 195 van die Grondwet; en
- (f) moet goeie verhoudinge met die staatsorgane met wie hy in wisselwerking is aanwakker.

BYLAE 7
GEDRAGSKODE VIR LEDE VAN HUISE VAN TRADISIONELE LEIERS
(Artikels 65 en 66)

DEEL A

EED DEUR LEDE VAN DIE HUIS

Ek, _____ (naam van die lid), sweer plegtig dat ek getrou sal wees aan die KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers / _____ Plaaslike Huis van Tradisionele Leiers en ek belowe plegtig en opreg om te alle tye dit wat vir die Huis vooruitgang sal meebring, te bevorder en alles wat die Huis kan benadeel teen te staan; die wette, reëls, opdragte en prosedures van die Huis en alle ander wette van die Republiek van Suid-Afrika te gehoorsaam, na te kom, handhaaf en in stand te hou, om my pligte uit te voer met al my kragte en talente na die beste van my kennis en vermoë en getrou te wees aan die stem van my gewete, om geregtigheid te laat geskied aan almal; en myself toe te wy aan die welstand van die Huis en sy lede.

Mag die Almagtige God deur Sy genade en/of die voorvaders my lei en ondersteun om met eer en waardigheid hierdie eed na te kom.

So help my God.

DEEL B
BEVESTIGING

Ek, _____ (naam van die lid), bevestig plegtig dat ek getrou sal wees aan die KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers / _____ Plaaslike Huis van Tradisionele Leiers, en ek belowe plegtig en opreg om te alle tye dit wat

vir die Huis vooruitgang sal meebring, te bevorder en alles wat dit kan benadeel teen te staan, die wette, reëls, opdragte en prosedures van die Huis en alle ander wette van die Republiek van Suid-Afrika te gehoorsaam, na te kom, handhaaf en in stand te hou, om my pligte uit te voer met al my kragte en talente na die beste van my kennis en vermoë en getrou te wees aan die stem van my gewete, om geregtigheid te laat geskied aan almal, en myself toe te wy aan die welstand van die Huis en sy lede.

Mag die voorvaders my lei en ondersteun om met eer en waardigheid hierdie bevestiging na te kom.

DEEL C GEDRAGSKODE

Lede van die Huis

Verrigting van werksaamhede deur lede

1. 'n Lid van die Huis moet –

- (a) die werksaamhede van die amp te goeder trou, eerlik, en op 'n nie-diskriminerende en deursigtige wyse verrig; en
- (b) te alle tye in die beste belang van die Huis optree en op sodanige wyse dat die geloofwaardigheid en integriteit van die Huis nie onder verdenking geplaas word nie.

Bywoning van vergaderings

2. 'n Lid van die Huis moet elke vergadering van die Huis en 'n komitee waarvan daardie lid van die Huis 'n lid is, bywoon, behalwe wanneer –

- (a) verlof om afwesigheid toegestaan word ingevolge 'n toepaslike wet of soos bepaal deur die reëls en opdragte van die huis; of
- (b) daar van daardie lid van die Huis vereis word om van die vergadering te onttrek, ingevolge hierdie Kode.

Strafbepalings vir nie-bywoning van vergaderings

3.(1) Die Huis kan 'n strafbepaling op 'n lid van die Huis opleë, soos bepaal deur die reëls en opdragte van die Huis, vir –

- (a) nie-bywoning van 'n vergadering wat vereis dat daardie lid van die Huis teenwoordig is, ingevolge item 2; of
- (b) versuim om teenwoordig te bly by sodanige vergadering.

(2) 'n Lid van die Huis, van wie verwag word deur 'n Huis om vergaderings van die Huis by te woon ingevolge item 2, moet verwyder word uit amp as 'n lid van die Huis wanneer hy/sy afwesig is van drie of meer agtereenvolgende vergaderings van die Huis, of van drie of meer agtereenvolgende vergaderings van 'n komitee van die Huis.

(3) Die verantwoordelike Lid van die Uitvoerende Raad moet die betrokke Premier verwittig van die verwydering van die lid van die Huis wat verteenwoordig word.

(4) Verrigtinge vir die oplegging van 'n strafbepaling, ingesluit die verwydering van 'n lid van die Huis, moet uitgevoer word in ooreenstemming met 'n eenvormige staande prosedure wat die Huis moet aanvaar vir die doeleindes van hierdie item.

Openbaarmaking van belange

4.(1) 'n Lid van die Huis moet –

(a) aan die Huis, of enige komitee van die Huis waarvan die lid van die Huis 'n lid is, enige regstreekste of onregstreekse persoonlike of private sakebelang wat daardie lid van die Huis, of enige eggenoot/e, vennoot of sakevennoot van daardie lid van die Huis, mag hê in enige aangeleentheid voor die Huis of die komitee van die Huis, openbaar maak; en

(b) onttrek aan die verrigtinge van die Huis of die komitee van die Huis wanneer daardie aangeleentheid deur die Huis of sy komitee oorweeg word, tensy die Huis of sy komitee besluit dat die lid van die Huis se regstreekste of onregstreekse belang in die aangeleentheid onbeduidend of nie tersaaklik is nie.

(2) 'n Lid van Huis wie, of wie se eggenoot/e, vennoot, sakevennoot of nabye familielid, enige regstreekse voordeel uit 'n kontrak aangegaan met die Huis bekom, of verwag om te bekom, moet volledige besonderhede van die voordeel, waarvan die lid van die Huis bewus is, openbaar by die eerste vergadering van die Huis waarby dit moontlik is vir die lid van die Huis om dit te openbaar.

(3) Hierdie artikel is nie van toepassing op 'n belang of voordeel wat 'n lid van die Huis, of 'n eggenoot/e, vennoot, sakevennoot of nabye familielid van die lid, besit of bekom het in gemeen met ander lede van die Huis nie.

Persoonlike gewin

5.(1) 'n Lid van die Huis kan nie die posisie of voordele van 'n lid van die Huis gebruik, of vertroulike inligting wat bekom is as 'n lid van die Huis, vir private gewin of die onbehoorlike bevoordeling van 'n ander persoon gebruik nie

(2) Behalwe met voorafverkrygte toestemming van die Huis, kan 'n lid van die Huis nie –

- (a) 'n party tot of 'n bevoordeelde wees van 'n ooreenkoms nie vir –
 - (i) die voorsiening van goedere of dienste aan die Huis; of
 - (ii) werkverrigting anders as die van 'n lid van die Huis en vir die Huis;
- (b) 'n finansiële belang bekom in enige besigheid van die Huis; of
- (c) vir 'n fooi of ander oorweging optree namens enige ander persoon voor die Huis of sy komitee.

(3) Indien meer as een kwart van die lede van die Huis beswaar aanteken teen die verlening van toestemming aan 'n lid van die Huis ingevolge sub-item (2), kan sodanige toestemming slegs verleen word aan die lid van die Huis met die goedkeuring van die verantwoordelike Lid van die Uitvoerende Raad.

Verklaring van belange

6.(1) Wanneer verkies of aangestel, moet 'n lid van die Huis aan 'n beampte van die Huis, aangewys deur die verantwoordelike Lid van die Uitvoerende Raad, die volgende belange gehou deur daardie lid van die Huis binne 60 dae skriftelik verklaar –

- (a) aandele en effekte in enige maatskappy;
- (b) lidmaatskap van enige beslote korporasie;
- (c) belange in enige trust;
- (d) direkteurskappe;
- (e) vennootskappe;
- (f) ander finansiële belange in enige sake-onderneming;
- (g) indiensneming en besoldiging;
- (h) belange in eiendom;
- (i) pensioen; en
- (j) subsidies, toelaes en borgskappe deur enige organisasie.

(2) Enige verandering in die aard of besonderhede van die finansiële belange van 'n lid van die Huis moet jaarliks skriftelik verklaar word aan die beampte verwys na in sub-item (1).

(3) Geskenke ontvang deur 'n lid van die Huis wat 'n bedrag oorskry soos voorgeskryf kan

word by kennisgewing in die *Provinsiale Koerant*, van tyd tot tyd, moet ook openbaar word in ooreenstemming met sub-item (1).

(4) Die Huis moet bepaal watter van die finansiële belange verwys na in sub-item (1) aan die publiek openbaar gemaak moet word, met inagneming van die noodsaaklikheid vir vertroulikheid en die openbare belang vir openbaarmaking.

(5) Die verklaring van belange en geskenke bedoel in hierdie item moet wesenlik ooreenstem met die formaat van Aanhangsel A tot hierdie Bylae, en moet jaarliks voltooi word, waar nodig, ten einde te voldoen aan die bepalings van sub-item (2).

Belonings, geskenke en begunstiging

7. 'n Lid van die Huis kan nie enige beloning, geskenk of begunstiging versoek, aanvra of aanvaar nie vir –

- (a) die stem of nie stem nie vir enige aangeleentheid op 'n bepaalde wyse voor die Huis of voor 'n komitee van die Huis waarvan daardie lid van die Huis 'n lid is;
- (b) die oorreding van die Huis of enige komitee betreffende die uitoefening van enige bevoegdheid, werksaamheid of plig;
- (c) 'n voorlegging aan die Huis of enige komitee van die Huis maak; of
- (d) die openbaarmaking van beskermde en vertroulike inligting.

Ongemagtigde bekendmaking van inligting

8.(1) 'n Lid van die Huis kan nie, sonder die toestemming van die Huis of 'n komitee, enige beskermde of vertroulike inligting van die Huis of komitee aan enige ongemagtigde persoon bekendmaak nie.

(2) Vir die doel van hierdie item sluit “beskermde en vertroulike inligting” enige inligting in –

- (a) wat deur die Huis of komitee van die Huis bepaal is as beskerm en vertroulik;
- (b) wat bespreek is in 'n geslote sessie deur die Huis of sy komitee;
- (c) waarvan openbaarmaking 'n persoon se reg tot privaatheid skend; of
- (d) verklaar as beskermde, vertroulik of geheim ingevolge die reg.

(3) Hierdie item doen nie afbreuk aan die reg van enige persoon se toegang tot inligting ingevolge Nasionale wetgewing nie.

Skending van Gedragskode

9.(1) Indien die Huis, met redelike vermoede, van die opinie is dat 'n bepaling van die Gedragskode geskend is, moet die Huis –

- (a) 'n ondersoek van die feite en omstandighede van die beweerde skending magtig;
- (b) die lid van die Huis 'n redelike geleentheid gun om skriftelik te antwoord ten opsigte van die beweerde skending; en
- (c) die aangeleentheid aan 'n vergadering van die Huis rapporteer na voldoening aan paragrawe (a) en (b).

(2) 'n Verslag verwys na in sub-item (1)(c) moet beskikbaar gestel word aan die publiek.

(3) Die Huis moet verslag betreffende die uitslag van die ondersoek aan die verantwoordelike Lid van die Uitvoerende Raad lewer.

(4) Die Sekretaris van die Huis moet verseker dat elke lid van die Huis, by opneming van amp, 'n afskrif ontvang van hierdie Kode en dat 'n afskrif van hierdie Kode beskikbaar gestel word in elke kamer of plek waar die Huis of 'n komitee van die Huis bymekaarkom.

(5) Die Huis kan –

- (a) ondersoek instel en 'n bevinding maak oor enige beweerde skending van 'n bepaling van hierdie Kode; of
- (b) 'n spesiale komitee instel –
 - (i) om ondersoek te doen en 'n bevinding te maak oor enige beweerde skending van hierdie Kode; en
 - (ii) om toepaslike aanbevelings aan die Huis te maak.

(6) Indien die Huis, of 'n spesiale komitee aangestel deur die Huis om die ondersoek te doen, bevind dat 'n lid van die Huis 'n bepaling van hierdie deel van die Gedragskode geskend het, kan die Huis –

- (a) 'n formele waarskuwing aan die lid van die Huis uitreik;
- (b) die lid van die Huis teregwys;
- (c) die lid van die Huis skors vir 'n tydperk, in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad; of
- (d) die lid van die Huis verwyder uit amp in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad.

(7)(a) Enige lid van die Huis wat gewaarsku, tereggewys, geskors of verwyder is ingevolge

paragraaf (a), (b), (c) of (d) van sub-item (6) kan, binne 14 dae vanaf kennisgewing van die besluit van die Huis skriftelik appèl rig, met die redes waarop die appel gebaseer is daarin uiteengesit, aan die verantwoordelike Lid van die Uitvoerende Raad.

(b) Die Huis moet voorsien word van 'n afskrif van die appèl.

(c) Die Huis kan, binne 14 dae vanaf ontvangs van die appèl verwys na in paragraaf (b), enige skriftelike voorlegging betreffende die appèl aan die verantwoordelike Lid van die Uitvoerende Raad maak.

(d) Die verantwoordelike lid van die Uitvoerende Raad kan, na oorweging van die appèl, die besluit van die Huis bevestig, tersyde stel of wysig en die lid van die Huis en die Huis verwittig van die uitslag van die appèl.

(8) Die verantwoordelike Lid van die Uitvoerende Raad kan 'n persoon of 'n komitee aanstel om enige beweerde skending van hierdie Kode te ondersoek en om aanbevelings te maak, hetsy die lid van die Huis geskors of uit amp verwyder moet word.

(9) Indien die verantwoordelike Lid van die Uitvoerende Raad van die opinie is dat 'n lid van die Huis 'n bepaling van hierdie Kode geskend het, en dat sodanige oortreding 'n skorsing of verwydering uit amp regverdig, kan die verantwoordelike Lid van die Uitvoerende Raad –

(a) die lid van die Huis skors vir 'n tydperk, en op voorwaardes, bepaal deur die verantwoordelike Lid van die Uitvoerende Raad; of

(b) die lid van die Huis uit amp verwyder.

(10) Enige ondersoek ingevolge hierdie item moet uitgevoer word in ooreenstemming met die reëls van natuurlike geregtigheid.

AANHAGSEL A
VERKLARING VAN BELANGE EN GESKENKE

Ek, die ondergetekende: _____
(Volle name)

Identiteitsnommer: _____

Posadres: _____

Woonadres: _____

Amp beklee: _____

PERSAL Nommer: _____

Telefoonnommer: _____

Faksnommer: _____

sertifiseer hiermee dat die volgende inligting volledig en korrek is volgens die beste van my wete:

1. Aandele en ander finansiële belange

Getal aandele/ Omvang van finansiële belange	Aard	Nominale Waarde	Naam van Maatskappy/Entiteit

2. Direkteurskappe en vennootskappe

Naam van korporatiewe entiteit of vennootskap	Soort besigheid	Besoldigingsbedrag

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3. Konsultantskappe

Naam van kliënt	Aard	Soort sake-aktiwiteit	Waarde van enige voordele ontvang

4. Borgskappe

Bron van bystand/borgskap	Beskrywing van bystand/borgskap	Waarde van bystand/borgskap

5. Geskenke en gasvryheid vanuit 'n bron anders as 'n familielid

Beskrywing	Waarde	Bron

6. Grond en eiendom

Beskrywing	Omvang	Gebied	Waarde

HANDTEKENING

DATUM: _____

PLEK: _____

EED / BEVESTIGING

1. Ek sertifiseer dat voor die aflê van die eed/bevestiging ek die volgende vrae aan die verklaarder gerig het en ek sy/haar antwoorde neergeskryf het in sy/haar teenwoordigheid:

(a) Ken en verstaan u die inhoud van die verklaring?

Antwoord _____ .

(b) Het u enige beswaar teen die aflê van die voorgeskrewe eed of bevestiging?

Antwoord _____ .

(c) Beskou u die voorgeskrewe eed of bevestiging as bindend tot u gewete?

Antwoord _____ .

2. Ek sertifiseer dat die verkaarder erken het dat hy/sy die inhoud van hierdie verklaring ken en verstaan. Die verklaarder het die volgende woorde geuit: "Ek sweer dat die inhoud van hierdie verklaring waar is, so help my God." / "Ek verklaar plegtig dat die inhoud van die verklaring waar is". Die handtekening/merk van die verklaarder is op die verklaring aangebring in my teenwoordigheid.

KOMMISSARIS VAN EDE / VREDEREGTER

Volle eerste name en van: _____
(drukskrif)

Benoeming: _____ Ex Officio Republiek van
Suid-Afrika

Straatadres van Instelling: _____

Datum: _____ Plek: _____

Handtekening: _____

HANDTEKENING VAN VERANTWOORDELIKE LID VAN UITVOERENDE RAAD

DATUM _____

NAAM VAN VERANTWOORDELIKE LID VAN DIE UITVOERENDE RAAD

PORTEFEULJE: SAMEWERKENDE REGERING EN TRADISIONELE SAKE

BYLAE 8
Herroeping van Wette
(Artikel 80)

Nommer en Jaar van Wet	Titel	Omvang van Herroeping
Wet No. 5 van 2005	KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2005	Die geheel
Wet No. 9 van 2007	KwaZulu-Natal Wysigingswet op Tradisionele Leierskap en Regering, 2007	Die geheel
Wet No. 4 van 1965	Wet op Transkeise Owerhede, 1965	Die geheel in soverre dit van toepassing is op <i>uMzimkhulu</i> Plaaslike Munisipaliteit
Wet No. 68 van 1951	Die Wet op Swart Owerhede, 1951	Die geheel in soverre dit van toepassing is op <i>uMzimkhulu</i> Plaaslike Munisipaliteit
Wet No. 15 van 1976	Die Wet op die Republiek van Transkeise Grondwet, 1976	Die geheel in soverre dit van toepassing is op <i>uMzimkhulu</i> Plaaslike Munisipaliteit
Wet No. 16 van 1985	KwaZulu Wet op die Wetboek van Zulureg, 1985	Die geheel
Proklamasie No. R. 151 van 1987	Die Wetboek van Zulureg, 1987	Die geheel

MEMORANDUM
OOOR DIE OOGMERKE
VAN DIE KWAZULU-NATAL WETSONTWERP OP TRADISIONELE LEIERSKAP EN
REGERING

1. AGTERGROND

Die Provinsiale Regering van KwaZulu-Natal, in ooreenstemming met Hoofstuk 12 van die Grondwet van Suid-Afrika, 1996, (Wet 108 van 1996), die Nasionale Raamwerkbeleid en wetgewing, met inbegrip van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wet No. 41 van 2003), erken die bestaan van tradisionele gemeenskappe in die Provinsie.

Deur die verordening van hierdie Wetsontwerp poog die Provinsiale Regering aldus om –

- (a) 'n bemagtigende omgewing te skep vir die erkenning, beskerming, bewaring en transformasie, asook ontwikkeling, van tradisionele gemeenskappe, tradisionele instellings, gewoontereg en gebruike;
- (b) 'n plek en rol te omskryf vir tradisionele leierskap binne Suid-Afrika se demokratiese regeringstelsel; en
- (c) die integriteit en regmatigheid van die instelling van tradisionele leierskap, in ooreenstemming met gewoontereg en gebruike, te herstel.

As 'n gevolg van wysigings aan die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, asook die uitdagings wat in die gesig gestaar is tydens die implementering van die huidige KwaZulu-Natal Wet op Tradisionele Leierskap en Regering, 2005 (Wet No. 5 van 2005), het dit noodsaaklik geword om die vermelde Wet wesenlik te wysig, ten einde nakoming met die gewysigde Raamwerkwet op Tradisionele Leierskap en Regering, 2003 te verseker, en 'n besluit is geneem om die huidige KwaZulu-Natal Wet te vervang met nuwe wetgewing eerder as om die bestaande Wet te wysig.

Die voorgestelde nuwe wetgewing is ten volle in nakoming met die Grondwet, 1996, die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, asook ander transversale wetgewing, waardeur eenvormigheid in die toepassing van wetgewing wat tradisionele instellings en leiers beïnvloed, verseker word. Bykomend, en ten einde om die implementering van die Wet te fasiliteer, is veelvuldige Bylaes ontwikkel en aangeheg tot die Wetsontwerp, eerder as om die Bylaes in te sluit in afsonderlike regulasies wat uitgevaardig word na die verordening van die Wetsontwerp. Voorsiening word in die Wetsontwerp gemaak vir bemaatiging van die Lid van die Uitvoerende Raad verantwoordelik vir Tradisionele Sake om die Bylaes te wysig by kennisgewing in die *Provinsiale Koerant*, waardeur verseker word dat enige uitdagings betreffende die implementering van hierdie Wet onverwyld hanteer kan word.

2. OOGMERKE VAN DIE WETSONTWERP

Die oogmerke van die Wetsontwerp is om voorsiening te maak vir –

- (a) die erkenning van *isiZwe*, tradisionele leierskap en tradisionele instellings;
- (b) 'n regulatoriese raamwerk vir die erkenning en vestiging van rolle, bevoegdhede en werksaamhede in, asook die toewysing van werksaamhede aan, tradisionele rade, tradisionele leiers en ander tradisionele leierskapstrukture;
- (c) 'n raamwerk vir die ontwikkeling, kapasiteitsbou en ondersteuning aan tradisionele rade, tradisionele leiers en ander tradisionele leierskapstrukture;
- (d) die instelling van die Provinsiale Huis van Tradisionele Leiers, Plaaslike Huisse van Tradisionele Leiers, en die KwaZulu-Natal Kommissie oor Tradisionele Leierskapgeskille en -eise;
- (e) die vestiging van rolle, bevoegdhede en werksaamhede in, asook die toewysing van werksaamhede aan, hierdie instellings;
- (f) 'n raamwerk vir die ontwikkeling, kapasiteitsbou en ondersteuning aan hierdie instellings;
- (g) 'n bemaatigende raamwerk ten einde samewerking en samewerkende regering te ondersteun tussen al die bogenoemde en die Provinsiale Regering;
- (h) 'n gedragskode;
- (i) bydrae deur lede van *isiZwe*;
- (j) regulatoriese bevoegdhede van die Premier en die verantwoordelike Lid van die Uitvoerende Raad;
- (k) die delegering van bevoegdhede, toewysings en ooreenkomste;

- (l) meganismes vir geskilbeslegting en om voorsiening te maak vir misdrywe en strawwe;
- (m) oorgangsaangeleenthede;
- (n) die herroeping van toepaslike Provinsiale wetgewing; en
- (o) aangeleenthede wat daarmee verband hou.

3. OOGMERKE EN BESPREKING

Klousule 1: Omskrywings

Hierdie klousule bevat alle standaardomskrywings met betrekking tot die Wetsontwerp en, waar moontlik, die sosiolek van tradisionele instellings en leiers is gebruik om verwysing te vergemaklik.

Klousule 2: Toepassing

Hierdie klousule maak voorsiening dat sodra die Wetsontwerp verorden is, dit van toepassing sal wees binne die Provinsie van KwaZulu-Natal.

Klousule 3: Riglynbeginsels

Klousule 3 herhaal die riglynbeginsels vervat in die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wet No. 41 van 2003), en is van toepassing op alle tradisionele gemeenskappe, instellings en leiers binne KwaZulu-Natal, wat gelas word om gewoontereg en gebruike te verander en aan te pas ten einde te voldoen aan die Grondwet van die Republiek van Suid-Afrika, 1996. Daarbenewens word alle instellings en leiers verbied om die belang van enige politieke party te bevorder of benadeel, en moet die beginsels van samewerkende regering, interregeringsverhoudings en die beginsels wat openbare administrasie beheer, handhaaf en implementeer.

Klousule 4: Erkenning en terugtrekking van *ubuNgonyama*

Hierdie klousule verwys na die betrokke bepalings van toepaslike Nasionale wetgewing ten opsigte van die erkenning van *ubuNgonyama*.

Klousule 5: Erkenning van *isiZwe*

Hierdie klousule maak voorsiening vir die kriteria en prosesse wat gevolg moet word deur 'n voornemende tradisionele gemeenskap wat by die Premier aansoek doen om erkenning as *isiZwe*. Dit maak, onder andere, voorsiening vir die oorlegplegingsproses wat enige besluit deur die Premier moet voorafgaan, en bemagtig die Premier om 'n onafhanklike persoon of persone aan te stel om 'n ondersoek in te stel ten einde te bepaal of die tradisionele

gemeenskap as sodanig erken moet word of nie. Daarbenewens beskryf die klousule breedvoerig die proses wat die Premier moet volg by die erkenning van 'n tradisionele gemeenskap en uitvoering word gegee aan hierdie erkenning by kennisgewing in die *Provinsiale Koerant*. Aangeheg tot die Wet as 'n Bylae, ten einde verwysing te vergemaklik, is 'n vorm wat die wyse voorskryf waarop aansoek om erkenning as 'n *isiZwe* gedoen moet word.

Klousule 6. Terugtrekking van erkenning van *isiZwe*

Hierdie klousule maak voorsiening vir die proses vir en omstandighede waaronder die Premier die erkenning van *isiZwe* kan terugtrek, ingesluit die sub-afdeling of samesmelting van *isiZwe*, hetsy hulle saamgesmelt of onderverdeel is voor of na 1994. Daarbenewens bemagtig hierdie klousule die Premier om 'n persoon of persone aan te stel ten einde om die voorgestelde terugtrekking van erkenning te ondersoek, en om die erkenning van *isiZwe* by kennisgewing in die *Provinsiale Koerant* terug te trek, en alternatiewelik, om sodanige terugtrekking te weier.

Klousule 7: Erkenning van sub-*isiZwe*

Hierdie klousule maak voorsiening vir die erkenning van sub-*isiZwe* geleë in 'n verskillende geografiese gebied as *isiZwe*, en skryf 'n proses voor wat soortgelyk is aan die proses wat die Premier moet volg in klousule 5, om sodanige sub-*isiZwe* te erken, by aansoek deur betrokke *iNkosi*.

Klousule 8: Terugtrekking van erkenning van sub-*isiZwe*

Hierdie klousule maak voorsiening vir die proses en omstandighede waaronder die erkenning van sub-*isiZwe*, by aansoek deur die betrokke *iNkosi*, en by kennisgewing in die *Provinsiale Koerant*, deur die Premier teruggetrek kan word.

Klousule 9: Erkenning van *iziGodi*

Hierdie klousule maak voorsiening vir die erkenning van *iziGodi* binne *isiZwe*, en die proses wat deur die tradisionele raad gevolg moet word in die aansoek om erkenning as *iziGodi* by die Premier.

Klousule 10: Terugtrekking van erkenning van *iziGodi*

Hierdie klousule maak voorsiening daarvoor dat die terugtrekking van erkenning van 'n *iziGodi* slegs deur die Premier oorweeg kan word waar *iNkosi* en die betrokke tradisionele raad sodanige terugtrekking van erkenning versoek, en die Premier bemagtig om 'n persoon

of persone aan te stel om 'n ondersoek in te stel ten einde te bepaal of sodanige terugtrekking van erkenning geregverdig is.

Klousule 11: Erkenning en besoldiging van tradisionele leierskap

Hierdie klousule maak voorsiening vir die erkenning van die tradisionele leierskapsposisies van *iSilo*, *amaKhosi*, *iziPhakanyiswa* en *iziNduna* en die kriteria vir erkenning tot sodanige posisies.

Klousule 12: Identifisering, erkenning en terugtrekking van *iSilo*

Hierdie klousule verwys na die betrokke bepalings van toepaslike Nasionale wetgewing met betrekking tot die identifisering, erkenning en terugtrekking van erkenning van *iSilo*.

Klousule 13: Identifisering en erkenning van *amaKhosi*

Hierdie klousule maak voorsiening vir die kriteria, proses en prosedures vir die identifisering en erkenning van *amaKhosi* deur die Premier by kennisgewing in die *Provinsiale Koerant*, en 'n Bylae wat voorsiening maak vir riglyne vir *uMndeni* ten opsigte van die identifisering van 'n opvolger tot *ubuKhosi*, is ingesluit. Ten einde die implementering van hierdie riglyne te vergemaklik, is gepoog om 'n breedvoerige omskrywing van *uMndeni*, ingesluit die kern en breër *uMndeni*, te verskaf, en te spesifiseer watter deel van *uMndeni* die besluitnemingsliggaam by identifisering van 'n opvolger tot *ubuKhosi* is, behoudens die bepaalde gebruike en gewoonteregte van *uMndeni* en betrokke *isiZwe*.

Klousule 14: Identifisering en erkenning van *iziPhakanyiswa*

Hierdie klousule maak voorsiening vir die kriteria, proses en prosedures vir die identifisering en erkenning van *iziPhakanyiswa* deur die Premier by kennisgewing in die *Provinsiale Koerant*.

Klousule 15: Identifisering en erkenning van *iziNduna*

Hierdie klousule maak voorsiening vir die kriteria, proses en prosedures vir die identifisering en erkenning van *iziNduna* deur die Premier by kennisgewing in die *Provinsiale Koerant*. Die huidige wetgewing maak nie voorsiening vir die identifisering en erkenning van *iziNduna* nie, wat uitdagings teweeg gebring het vir die implementering van die Nasionale Raamwerkwetgewing, asook onsekerheid ten opsigte van die getal aangestelde *iziNduna* in KwaZulu-Natal. Deur voorsiening te maak vir die erkenning van *iziNduna* deur die Premier, sal die Wetsontwerp die betrokke Departement in staat stel om breedvoerige en volledige databasisse van alle *iziNduna*, wat huidiglik erken word in KwaZulu-Natal, tot stand te bring.

Klousule 16: Identifisering en erkenning van *iSo leSilo* en *iSo leNkosi*

Hierdie klousule maak voorsiening vir die kriteria, proses en prosedures vir die identifisering en erkenning van *iSo leSilo* en *iSo leNkosi* deur die Premier by kennisgewing in die *Provinsiale Koerant*, en bemagtig die Premier om 'n geskikte persoon as *iSo leSilo* of *iSo leNkosi* te erken, sou dit gebeur dat die betrokke *isiZwe* nie 'n erkende tradisionele leier het nie.

Klousule 17: *iBambabukhosi*, *iBambela*, en *iSekela leNkosi*

Hierdie klousule maak voorsiening vir die kriteria, proses en prosedures vir die identifisering en erkenning van *iBambabukhosi*, *iBambela*, en *iSekela leNkosi* deur die Premier by kennisgewing in die *Provinsiale Koerant*. As gevolg van die uitdagings in die gesig gestaar tydens die implementering van die huidige Wet is die twee nuwe posisies van *iBambela* en *iSekela leNkosi* geskep om voorsiening te maak vir omstandighede waar geen opvolger tot *ubuKhosi* tot dusver erken is nie, of waar die betrokke tradisionele leier afwesig sal wees van *isiZwe* vir 'n tydperk van meer as ses maande, om verskeie redes, asook die omstandighede wanneer die betrokke tradisionele leier verkies word tot 'n politieke amp of aangestel word in 'n voltydse regeringsposisie.

Klousule 18: Gronde vir terugtrekking van erkenning van tradisionele leiers

Hierdie klousule maak voorsiening vir die omstandighede waaronder die Premier die erkenning van enige tradisionele leier moet of kan terugtrek by kennisgewing in die *Provinsiale Koerant*.

Klousule 19: Terugtrekking van erkenning van *amaKhosi*

Hierdie klousule maak voorsiening vir die proses wat *uMndeni* moet volg by aansoek om die terugtrekking van erkenning van *iNkosi* by die Premier, as gevolg van die onbevoegdheid van *iNkosi* vir redes bedoel in klousule 13(2), of in die geval van 'n gebrekkige erkenningsproses bedoel in klousule 13(3), welke terugtrekking in werking gestel moet word by wyse van kennisgewing in die *Provinsiale Koerant*.

Klousule 20: Terugtrekking van erkenning van *iziPhakanyiswa*

Hierdie klousule maak voorsiening vir die proses wat enige lede van 'n tradisionele raad of *isiZwe* moet volg by aansoek om die terugtrekking van erkenning van *iziPhakanyiswa* by die Premier. Voorsiening word gemaak vir die beëindiging van die ampstermyn van *iziPhakanyiswa* na vyf jaar, en dit is verenigbaar met die ampstermyn van tradisionele rade.

Klousule 21: Terugtrekking van erkenning van *iziNduna*

Hierdie klousule maak voorsiening vir die proses wat *iNkosi* moet volg by aansoek aan die Premier om die terugtrekking van erkenning van 'n *iziNduna*, welke terugtrekking in werking gestel moet word by wyse van kennisgewing in die *Provinsiale Koerant*.

Klousule 22: Terugtrekking van erkenning van *iSo leSilo* en *iSo leNkosi*

Hierdie klousule maak voorsiening vir die proses wat *iSo leSilo* en *iSo leNkosi* moet volg by aansoek om die terugtrekking van erkenning van 'n *iSo leSilo* en *iSo leNkosi* by die Premier, welke terugtrekking in werking gestel moet word by wyse van kennisgewing in die *Provinsiale Koerant*.

Klousule 23: Verwydering van *iBambabukhosi*, *iBambela* en *iSekela leNkosi*

Hierdie klousule maak voorsiening vir die erkenning van *iBambabukhosi*, *iBambela* en *iSekela leNkosi* wat teruggetrek kan word deur regswerking of soos bepaal deur klousule 18, 68 of 70 van die Wetsontwerp.

Klousule 24: Instelling, samestelling en erkenning van koningskapsraad

Hierdie klousule verwys na die tersaaklike bepalings van toepaslike Nasionale wetgewing met betrekking tot die instelling, samestelling en erkenning van 'n koningskapsraad.

Klousule 25: Instelling, samestelling en erkenning van tradisionele rade

Hierdie klousule maak breedvoerig voorsiening vir die instelling, samestelling en erkenning van tradisionele rade en maak die klousule verder toepaslik op die instelling, samestelling en erkenning van tradisionele sub-rade. Ten einde die samestelling van die tradisionele rade te fasiliteer, in nakoming van riglyne gepubliseer deur die Minister verantwoordelik vir Tradisionele Rade, is 'n Bylae ontwikkel en aangeheg tot die Wetsontwerp, welke Bylae voorsiening maak vir die getal lede van elke tradisionele raad, met hoogstens 50, afhangende van die getal *iziNduna zeziGodi* per *iziZwe*, en maak ook voorsiening vir die minimum getal vroue per tradisionele raad. Hierdie klousule bemagtig die Premier om die minimum getal vroue in elke tradisionele raad, onder sekere omstandighede, te verminder en beskryf die prosedure vir die amptelike erkenning van die tradisionele raad deur die Premier by kennisgewing in die *Provinsiale Koerant* en die prosedure wat deur die raad gevolg moet word by sy eerste vergadering.

Klousule 26: Ontruiming van setels en vul van vakatures

Hierdie klousule maak voorsiening vir die omstandighede waaronder 'n setel in 'n tradisionele raad vakant raak en maak ook voorsiening vir die wyse waarop vakante setels in 'n tradisionele raad gevul moet word.

Klousule 27: Terugtrekking van erkenning van tradisionele rade

Hierdie klousule maak voorsiening dat waar die Premier die erkenning van 'n *isiZwe* terugtrek, ingevolge klousule 6 van die Wetsontwerp, moet die kennisgewing uitgereik ingevolge klousule 6 ook voorsiening maak vir die terugtrekking van erkenning van die betrokke tradisionele raad.

Klousule 28: Rolle, bevoegdhede en werksaamhede van *iSilo*

Hierdie klousule maak voorsiening vir die rolle, bevoegdhede en werksaamhede van *iSilo* wat voortspruit uit gebruike, gewoontereg en statutêre bepalings, asook rolle toegeken aan *iSilo* deur die Uitvoerende Raad.

Klousule 29: Rolle, bevoegdhede en werksaamhede van *amaKhosi*

Die rolle, bevoegdhede en werksaamhede van *amaKhosi* word uiteengesit in hierdie klousule en voorsiening word ook gemaak vir provinsiale staatsorgane om bykomende rolle, bevoegdhede en werksaamhede aan *amaKhosi* toe te ken of te deleger deur wetgewing of administratiewe maatreëls. Die klousule maak ook voorsiening vir die proses wat enige staatsorgaan moet volg by die toewysing of delegering van rolle, bevoegdhede en werksaamhede aan *amaKhosi*, asook die wyse waarop *amaKhosi* hierdie rolle, bevoegdhede en werksaamhede moet vervul, uitoefen of verrig, en die plig van die Lid van die Uitvoerende Raad om die implementering van hierdie klousule te monitor.

Klousule 30: Rolle, bevoegdhede en werksaamhede van *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo*

Hierdie klousule maak voorsiening dat rolle, bevoegdhede en werksaamhede toegewys aan *amaKhosi* ingevolge klousule 29(1) ook vervul, uitgeoefen en verrig word deur *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo*.

Klousule 31: Toewysing van rolle, bevoegdhede en werksaamhede aan *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo* deur staatsorgane

Hierdie klousule maak voorsiening dat rolle, bevoegdhede en werksaamhede, toegeken aan *amaKhosi* deur staatsorgane ingevolge klousule 29(2), ook vervul, uitgeoefen en verrig word deur *iBambabukhosi*, *iBambela*, *iSekela leNkosi* en *iSo leSilo*.

Klousule 32: Rolle, bevoegdhede en werksaamhede van *iziNduna*

Hierdie klousule lys die rolle, bevoegdhede en werksaamhede van *iziNduna*, soos opgesom deur die Nasionale Regering in verskeie dokumente, ingesluit die posbeskrywing van

iziNduna soos ontwikkel deur die Onafhanklike Kommissie op Besoldiging van Openbare Ampsbekleërs.

Klousule 33: Rolle, bevoegdhede en werksaamhede van tradisionele rade

Hierdie klousule maak voorsiening vir die rolle, bevoegdhede en werksaamhede van tradisionele rade en voorsiening word ook gemaak vir Provinsiale staatsorgane om voorsiening te maak vir bykomende rolle, bevoegdhede en werksaamhede vir tradisionele rade deur wetgewing en administratiewe maatreëls. Hierdie klousule maak ook voorsiening dat wanneer ook al 'n staatsorgaan die toewysing van rolle, bevoegdhede en werksaamhede aan 'n tradisionele raad oorweeg, hetsy by wyse van toewysings, delegerings, agentskapsooreenkomste of volmag, soos bedoel in subklousule (2) van klousule 33, die bepaling van klousule 29(3) van toepassing is, met die nodige veranderinge. Die klousule maak ook voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad die vervulling, uitoefening, en verrigting van die rolle, bevoegdhede en werksaamhede toegewys aan tradisionele rade, soos bedoel in hierdie Wet en ander toepaslike wetgewing, moet monitor en kan ingryp sou die raad nakoming daarvan versuim. Die verantwoordelike Lid van die Uitvoerende Raad, indien hy of sy tevrede is dat 'n tradisionele raad nie in staat is nie om werksaamhede soos toegewys, ingevolge hierdie Wet, te verrig op 'n doeltreffende en doelmatige wyse, of op 'n wyse wat goeie regering en administrasie bevorder, kan enige persoon aanstel as 'n administrateur om die betrokke tradisionele raad by te staan ten einde die bevoegdhede en werksaamhede van sodanige tradisionele raad te verrig. Die bepaling van hierdie klousule, en klousule 34, is van toepassing, met die nodige veranderinge, op enige tradisionele sub-raad ingestel en erken soos bedoel in klousule 7.

Klousule 34: Vennootskappe tussen munisipaliteite en tradisionele rade

Hierdie klousule maak voorsiening vir die Departement om vennootskappe tussen munisipaliteite en tradisionele rade te bevorder.

Klousule 35: Ondersteuning aan tradisionele rade

Hierdie klousule maak voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad ondersteuning aan tradisionele rade moet verskaf, ingesluit die afstaan van personeel aan tradisionele rade. Hierdie klousule maak ook voorsiening dat die personeel wat afgestaan is aan tradisionele rade verantwoordbaar moet wees aan 'n persoon aangewys deur die betrokke *iNkosi*.

Klousule 36: Vergaderings van tradisionele rade

Hierdie klousule maak voorsiening vir die regulering van verrigtinge by vergaderings van tradisionele rade. Vergaderings van tradisionele rade vind plaas onder voorsitterskap van *iNkosi* in wie se juridiksiegebied die tradisionele raad geleë is. Hierdie klousule maak ook voorsiening vir die verkiesing van 'n ondervoorsitter deur die lede van 'n tradisionele raad by sy eerste vergadering. Hierdie klousule maak ook voorsiening dat elke tradisionele raad 'n gewone vergadering minstens kwartaalliks moet hou.

Klousule 37: Notules van vergaderings

Hierdie klousule maak voorsiening dat tradisionele rade notules moet hou van elk van sy vergaderings en spesifiseer watter inligting in die notules opgeneem moet word. Die klousule maak ook voorsiening dat 'n afskrif van die notule van elke tradisionele raadsvergadering aan die betrokke distrikskantoor van die Departement gestuur word binne vyftien dae vanaf enige vergadering.

Klousule 38: Reis-en-Verblyftoelaes vir lede van tradisionele rade

Hierdie klousule maak voorsiening dat die Premier, in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad en die Lid van die Uitvoerende Raad vir Finansies, die reis-en-verblyftoelaes betaalbaar aan lede van tradisionele rade, kan bepaal.

Klousule 39: Instelling en lidmaatskap van KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers

Hierdie klousule maak voorsiening vir die instelling van die KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers. Hierdie klousule maak ook voorsiening dat die ampstermyn van lede van die Provinsiale Huis vyf jaar is, welke tydperk verenigbaar moet wees met die ampstermyn van die lede van die Nasionale Huis van Tradisionele Leiers. Die klousule maak ook voorsiening dat die ampstermyn van lede van die Provinsiale Huis nie beëindig sal word nie tot en met die datum waarop die nuutverkose lede van die Provinsiale Huis amp aanvaar. Die klousule maak verder voorsiening dat die lede van die Provinsiale Huis voorsitters moet wees van tradisionele rade wat ingestel en erken is ingevolge die Wetsontwerp.

Klousule 40: Samestelling en setel van Provinsiale Huis

Hierdie klousule maak voorsiening dat die Provinsiale Huis bestaan uit *iSilo* of sy of haar benoemde en 'n minstens drie en hoogstens sewe lede verkies uit elke Plaaslike Huis van Tradisionele Leiers. Hierdie klousule maak ook voorsiening dat elke Plaaslike Huis uit hul geleedere die getal verteenwoordigers tot die Provinsiale Huis, soos bedoel in Bylae 5 van

hierdie Wetsontwerp, verkies. Hierdie klousule maak ook voorsiening dat die Provinsiale Huis 'n Uitvoerende Komitee kan instel en verkies.

Klousule 41: Kwalifisering vir lidmaatskap van die Provinsiale Huis

Hierdie klousule maak voorsiening vir die kriteria wat 'n persoon diskwalifiseer vir lidmaatskap van die Provinsiale Huis.

Klousule 42: Ontruiming van setels in die Provinsiale Huis

Die klousule maak voorsiening vir die ontruiming van setels in die Provinsiale Huis en maak voorsiening vir die omstandighede wat daartoe sal lei dat die setel van 'n lid van die Provinsiale Huis vakant sal raak.

Klousule 43: Vul van vakatures in die Provinsiale Huis

Hierdie klousule maak voorsiening vir die prosedure wat gevolg moet word by die ontstaan van 'n vakature in die Provinsiale Huis en maak voorsiening dat die Sekretaris van die Provinsiale Huis, binne 14 dae nadat 'n vakature ontstaan het, die verantwoordelike Lid van die Uitvoerende Raad moet verwittig, waarna die verantwoordelike Lid van die Uitvoerende Raad, binne 'n redelike tyd, die Premier moet verwittig van die vakature. Die klousule maak ook voorsiening dat enige vakature binne 60 dae gevul moet word op die wyse bedoel in klousule 40(2) van die Wetsontwerp.

Klousule 44: Verkiesing van Voorsitter en Uitvoerende Komitee van Provinsiale Huis

Hierdie klousule maak voorsiening dat die Provinsiale Huis, binne 30 dae na die verkiesing van 'n nuwe Huis, op 'n tyd en plek bepaal deur die Premier by kennisgewing in die *Provinsiale Koerant*, byeenkom. Hierdie klousule maak verder voorsiening dat 'n Regter van die Hooggeregshof as voorsitter optree by die eerste vergadering totdat 'n voorsitter en ondervoorsitter deur die lede verkies word en maak voorsiening vir die verkiesing van 'n Uitvoerende Komitee vir die Provinsiale Huis. Die klousule maak verder voorsiening vir die ontruiming van amp deur die voorsitter of ondervoorsitter en maak voorsiening vir die vul van sodanige vakature.

Klousule 45: Status van lede van Provinsiale Huis

Hierdie klousule maak voorsiening dat die voorsitter en ondervoorsitter van die Provinsiale Huis voltydse lede van die Provinsiale Huis is. Die klousule maak ook voorsiening dat die Premier, na oorlegpleging met die Provinsiale Huis, kan bepaal, by kennisgewing in die *Provinsiale Koerant*, dat sekere ander lede voltydse lede van die Provinsiale Huis is.

Klousule 46: Verkiesing van verteenwoordigers tot Nasionale Huis

Hierdie klousule maak voorsiening dat die Provinsiale Huis sy verteenwoordigers, om te dien in die Nasionale Huis, by sy eerste sitting moet verkies, ooreenkomstig die prosedure vervat in die Wet op die Nasionale Huis van Tradisionele Leiers, 2009 (Wet No. 22 van 2009).

Klousule 47: Vergaderings van Provinsiale Huis

Hierdie klousule maak voorsiening vir vergaderings en verrigtinge by vergaderings van die Provinsiale Huis en maak voorsiening dat 'n gewone vergadering van die Provinsiale Huis minstens kwartaalliks gehou moet word en voorsiening is ook gemaak vir spesiale vergaderings van die Provinsiale Huis wat belê kan word deur die Premier, die Uitvoerende Komitee van die Huis of op versoek van minstens tien lede van die Provinsiale Huis.

Klousule 48: Reëls van Provinsiale Huis

Hierdie klousule maak voorsiening daarvoor dat die Provinsiale Huis sy prosedurereëls ten opsigte van verskeie aangeleenthede moet aanvaar.

Klousule 49: Rolle, bevoegdhede en werksaamhede van Provinsiale Huis

Hierdie klousule maak voorsiening vir die rolle, bevoegdhede en werksaamhede van die Provinsiale Huis en maak voorsiening dat die Provinsiale Huis die belange van alle *iziZwe*, erken ingevolge die Wetsontwerp en die instelling van tradisionele leierskap, moet verteenwoordig, beskerm en bevorder. Die klousule maak ook voorsiening dat die Provinsiale Huis verantwoordelik moet wees vir die beskerming, bevordering en kodifisering van gewoontereg en gebruike. Voorsiening word ook gemaak vir die Provinsiale Huis om ondersoek in te stel, op versoek van die verantwoordelike Lid van die Uitvoerende Raad, ten opsigte van aangeleenthede vermeld in die klousule. Die Provinsiale Huis kan ook, aan die verantwoordelike Lid van die Uitvoerende Raad, aanbevelings rakende Provinsiale programme met betrekking tot tradisionele sake of oor die inhoud en koördineringsplanne maak en kommentaar lewer oor Provinsiale wetsontwerpe wat *iziZwe* beïnvloed. Die Provinsiale Huis moet, *inter alia*, behoorlike rekords hou en sy finansiële verslae laat oudit deur die Ouditeur-generaal.

Klousule 50: Administrasie en aanspreeklikheid van die Provinsiale Huis

Hierdie klousule maak voorsiening vir die aanstelling, deur die verantwoordelike Lid van die Uitvoerende Raad, van 'n Sekretaris tot die Provinsiale Huis. Die Sekretaris is verantwoordelik vir die administrasie van die Huis. Die klousule maak ook voorsiening vir die verantwoordelike Lid van die Uitvoerende Raad om soveel Departementele personeellede af te staan as wat nodig is om die werk van die Provinsiale Huis te verrig.

Klousule 51: Besoldiging, toelaes en voordele betaalbaar aan lede van Provinsiale Huis

Hierdie klousule maak voorsiening dat die besoldiging van, en toelaes en voordele aan, die voorsitter, ondervoorsitter en gewone lede van die Provinsiale Huis is soos bepaal deur die Wet op die Besoldiging van Openbare Ampsbekleërs, 1998 (Wet No. 20 van 1998).

Klousule 52: Ondersteuning aan Provinsiale Huis

Hierdie klousule maak voorsiening dat die Provinsiale Regering die nodige maatreëls moet aanvaar ten einde die bevoegdheid van die Huis te ondersteun en versterk vir die verwesenliking van sy werksaamhede. Hierdie ondersteuning kan die voorsiening van infrastruktuur, finansies, menslike hulpbronne, vaardigheidsontwikkelingsprogramme en administratiewe stelsels insluit.

Klousule 53: Instelling van Plaaslike Huis van tradisionele leiers

Hierdie klousule maak voorsiening vir die instelling van Plaaslike Huise in die distriksmunisipaliteitsgebiede waar vyf of meer *iziZwe* bestaan. Die klousule maak ook voorsiening dat waar minder as vyf *iziZwe* binne enige distriksmunisipaliteitsgebied bestaan, die tradisionele leiers binne daardie distrik uit hul eie geledere moet kies om *iziZwe* te verteenwoordig by die sitting van vergaderings van die distriksmunisipaliteit.

Klousule 54: Samestelling en Uitvoerende Komitee van Plaaslike Huis

Hierdie klousule maak voorsiening dat elke Plaaslike Huis bestaan uit alle *amaKhosi* binne die distriksmunisipaliteit en maak ook voorsiening dat elke Plaaslike Huis 'n Uitvoerende Komitee, bestaande uit hoogstens sewe lede van daardie Plaaslike Huis, instel en verkies.

Klousule 55: Vergaderings van Plaaslike Huise

Hierdie klousule maak voorsiening vir vergaderings van Plaaslike Huise en maak voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad, by kennisgewing in die *Provinsiale Koerant*, die eerste vergaderings van Plaaslike Huise moet belê en 'n persoon aanstel om op te tree as voorsitter totdat 'n voorsitter en ondervoorsitter deur lede van 'n Huis verkies word.

Klousule 56: Rolle, Bevoegdhede en Werksaamhede van Plaaslike Huise

Hierdie klousule maak voorsiening dat die rolle, bevoegdhede en werksaamhede van Plaaslike Huise van tradisionele leiers bestaan daaruit om, *inter alia*, die tersaaklike distriks- of metropolitaanse munisipaliteit te adviseer oor aangeleenthede met betrekking tot

gewoontereg, gebruike, tradisionele leierskap en *iziZwe* binne die distriks- of metropolitaanse munisipaliteit en om beplanningsraamwerke of verordeninge te ontwikkel wat inwerk op *iziZwe*, deelneem aan plaaslike programme vir die ontwikkeling van landelike gemeenskappe en deelneem aan plaaslike inisiatiewe vir die monitering, hersiening of evaluering van regeringsprogramme in landelike gemeenskappe. Die klousule maak verder voorsiening daarvoor dat plaaslike huise kommentaar kan lewer op enige wetgewing van die distriks- of metropolitaanse munisipaliteit wat 'n invloed het op die gewoontereg en gebruike van *iziZwe* binne sy juridiksiegebied of ten opsigte van diensverskaffing of die afbakening van grense of grondbesit wat *iziZwe* beïnvloed.

Klousule 57: Verwysing van konsepwetgewing na Provinsiale Huis en Plaaslike Huise

Hierdie klousule maak voorsiening vir konsepwetgewing wat handel oor, of 'n invloed het op, *iziZwe*, tradisionele instellings, gewoontereg of gebruike om verwys te word na Provinsiale en Plaaslike Huise vir kommentaar. Ten opsigte van Provinsiale wetgewing, moet die Speaker van die Wetgewer die konsepwetgewing na die Provinsiale Huis verwys vir kommentaar en ten opsigte van konsepwetgewing van plaaslike regering (i.e. verordeninge) moet die Speaker van die tersaaklike munisipale raad die konsepwetgewing na die tersaaklike Plaaslike Huis(e) verwys vir kommentaar.

Klousule 58: Instelling van KwaZulu-Natal Provinsiale Kommissie oor Tradisionele Leierskapsgeskille en -eise

Hierdie klousule maak voorsiening vir die instelling van die KwaZulu-Natal Provinsiale Kommissie oor Tradisionele Leierskapsgeskille en -eise.

Klousule 59: Samestelling en ampstermyn van Kommissie

Hierdie klousule maak voorsiening vir die samestelling en ampstermyn van die Kommissie. Ingevolge hierdie klousule moet die Premier, in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad en die Lid van die Uitvoerende Raad vir Finansies, binne 'n tydperk van drie maande na die promulgasie van hierdie Wet, en by kennisgewing in die *Provinsiale Koerant*, hoogstens vyf persone aanstel as lede van die Provinsiale Kommissie wat beskik oor deskundige kennis betreffende die historiese en huidige regs- en administratiewe konteks betreffende *iziZwe*, gewoontereg en gebruike, tradisionele leierskap, of ander tradisionele instellings. Die klousule maak verder voorsiening dat die ampstermyn van die Kommissie vyf jaar is en die Premier kan die bestaande Provinsiale Komitee aanstel tot die Nasionale Kommissie oor Tradisionele Leierskapsgeskille en -eise ingestel ingevolge die Raamwerkwet op Tradisionele Leierskap en Regering, 2003, tot die Provinsiale Kommissie.

Klousule 60: Vergaderings en reëls van Kommissie

Hierdie klousule maak voorsiening dat die Kommissie binne 30 dae vanaf die datum van die kennisgewing bedoel in klousule 59(1) van die Wetsontwerp moet byeenkom ten einde die reëls te bepaal vir die gedrag en bestuur van sy verrigtinge en die Kommissie moet byeenkom soos en wanneer nodig, ten einde enige dispuut of eis te oorweeg of 'n beslissing te neem waarna verwys word ingevolge die Wetsontwerp.

Klousule 61: Vakatures en vul van vakatures

Hierdie klousule maak voorsiening vir die omstandighede waaronder 'n vakature in die Kommissie kan ontstaan en maak voorsiening vir die vul van sodanige vakature.

Klousule 62: Bevoegdhede en werksaamhede van Kommissie

Hierdie klousule maak voorsiening vir die bevoegdhede en werksaamhede van die Kommissie. Die Kommissie moet sy bevoegdhede en werksaamhede uitoefen en verrig ingevolge die Wetsontwerp en ondersoek doen, rapporteer en aanbevelings maak rakende enige geskil of eis wat by die Nasionale Kommissie ingedien is na 1 September 2010, asook enige nuwe geskil of eis ingedien na die inwerkingtredingsdatum van die Wetsontwerp. Die klousule maak verder voorsiening dat die Kommissie enige aangeleenthede na hom verwys deur die Premier moet ondersoek in ooreenstemming met die bepalings van die Wetsontwerp en, op versoek van die verantwoordelike Lid van die Uitvoerende Raad, ondersoek doen, rapporteer en aanbevelings maak rakende enige aangeleentheid met betrekking tot *izizwe*, tradisionele rade, tradisionele leierskap, tradisionele leiers en ander tradisionele instellings, of wat 'n verhouding tussen staatsorgane en die bogenoemde tradisionele leiers of instellings behels. Ingevolge hierdie klousule het die Provinsiale Kommissie ook 'n verpligting om gereelde verslae oor sy aktiwiteite aan die Premier voor te lê.

Klousule 63: Ondersteuning aan Kommissie

Hierdie klousule maak voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad die nodige administratiewe, finansiële en ander ondersteuning aan die Kommissie moet verskaf ten einde sy pligte te verrig. Die Kommissie kan ook 'n persoon of instelling aanstel om namens die Kommissie navorsing te doen.

Klousule 64: Verwydering van lede van Kommissie

Hierdie klousule maak voorsiening dat die Premier, in oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, 'n lid van die Kommissie kan verwyder op enige van die gronde uiteengesit in klousule 64.

Klousule 65: Ampseed

Hierdie klousule maak voorsiening vir 'n eed of bevestiging wat afgelê moet word deur alle tradisionele leiers, lede van tradisionele rade, die Provinsiale Huis van Tradisionele Leiers en Plaaslike Huise van Tradisionele Leiers bedoel in die Wetsontwerp. Die eed en bevestiging is vervat in Dele A en B van Bylae 7 tot die Wetsontwerp.

Klousule 66: Gedragskodes

Hierdie klousule maak voorsiening dat die Gedragskode vervat in Bylae 6 tot die Wetsontwerp van toepassing is op alle tradisionele leiers en lede van tradisionele rade in KwaZulu-Natal, met dien verstande dat die bepalings van Deel C van die Gedragskode vervat in Bylae 7 tot hierdie Wet ook van toepassing is, met die nodige veranderinge, op alle tradisionele leiers en lede van tradisionele rade in KwaZulu-Natal. Hierdie klousule maak verder voorsiening dat die Gedragskode vervat in Bylae 7 tot die Wetsontwerp van toepassing is op alle lede van die Provinsiale en Plaaslike Huise in KwaZulu-Natal, met dien verstande dat, vir die doeleindes van Deel C van die vermeldde Gedragskode, enige verwysing na "die Huis" beide die Provinsiale Huis en alle Plaaslike Huise insluit.

Klousule 67: Bevoegdhede van Uitvoerende Raad om tradisionele leiers te ontbied

Hierdie klousule maak voorsiening dat die Uitvoerende Raad, wanneer ook al hy dit nodig ag, enige tradisionele leier skriftelik kan ontbied om voor hom te verskyn ten einde enige aangeleentheid te ondersoek wat skadelik of waarskynlik skadelik vir enige betrokke *iziZwe* kan wees of enige aangeleentheid van belang of kommer wat regstreeks of onregstreeks sodanige tradisionele leier beïnvloed in sy of haar bevoegdheid as sodanig of wat die Provinsiale Regering beïnvloed in die verrigting van sy werksaamhede of enige aangeleentheid wat moontlik die administrasie van die Provinsiale Regering nadelig kan beïnvloed in die gebied van betrokke *isiZwe*. Die klousule maak verder voorsiening dat die Uitvoerende Raad, na oorweging van die aangeleentheid, die tradisionele leier kan gelas om sekere stappe te neem om die probleem op te los of die verantwoordelike Lid van die Uitvoerende Raad opdrag gee om 'n ondersoek in te stel ingevolge die Wetsontwerp.

Klousule 68: Ondersoek na wangedrag

Hierdie klousule maak voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad 'n tradisionele leier van wangedrag moet aankla wanneer ook al daar rede is om te glo dat 'n

tradisionele leier skuldig is aan wangedrag. Hierdie klousule maak ook voorsiening vir die prosedure wat gevolg moet word ten einde 'n tradisionele leier aan te kla van wangedrag en maak voorsiening dat die klag die besonderhede van die bewerings gemaak teen die tradisionele leier moet uiteensit en hy of sy moet 'n tydperk van 21 dae gegun word om die bewerings te erken of ontken en enige verhoë te rig. Indien die tradisionele leier die bewerings ontken of versuim om binne 21 dae te reageer, moet die verantwoordelike Lid van die Uitvoerende Raad 'n voorsittende beampte aanstel om die bewerings te ondersoek. Die klousule maak verder voorsiening vir die prosedure van die ondersoek en maak voorsiening dat, by die voltooiing daarvan, die voorsittende beampte sy of haar bevindings, die rekord van die ondersoekverrigtinge en enige waarnemings, aanbevelings en enige aanbevole strafbepalings moet aanstuur na die verantwoordelike Lid van die Uitvoerende Raad vir ooreweging. Daarna kan die verantwoordelike Lid van die Uitvoerende Raad enige van die strafbepalings vervat in sub-klousule 68(11) van die Wetsontwerp oplaë, welke strafbepaling in die *Provinsiale Koerant* gepubliseer moet word.

Klousule 69: Skorsing van tradisionele leier

Hierdie klousule maak voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad, na oorlegpleging met die Premier, enige tradisionele leier wat van wangedrag verdink word kan skors uit die amp, hangende die finalisering van aksies ingestel ingevolge klousule 68 van die Wetsontwerp. Die klousule maak verder voorsiening dat enige tradisionele leier, wat geskors is kragtens hierdie klousule, nie geregtig is op enige besoldiging tydens die tydperk van sy of haar skorsing nie, maar die verantwoordelike Lid van die Uitvoerende Raad, vir goeie en voldoende rede, kan egter die betaling van die geheel of 'n gedeelte van die besoldiging verskuldig aan daardie tradisionele leier tydens sy of haar skorsing beveel. Die klousule maak ook voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad, na oorlegpleging met die Premier, die skorsing van 'n tradisionele leier kan terugtrek en voorsiening is ook gemaak vir die aanstelling van *iBambabukhosi*, sou die verantwoordelike Lid van die Uitvoerende Raad dit nodig ag.

Klousule 70: Skending van Gedragskodes

Hierdie klousule maak voorsiening dat enige skending van die Gedragskode vervat in Bylaes 6 en 7 tot die Wetsontwerp hanteer moet word ingevolge klousule 68 van die Wetsontwerp.

Klousule 71: Bydraes deur lede van isiZwe

Hierdie klousule maak voorsiening dat 'n tradisionele raad lede van *isiZwe*, of enige gedeelte van *isiZwe*, kan versoek om 'n vrywillige bydrae tot die betrokke Tradisionele Raad te maak: Met dien verstande dat geen sodanige bydrae ingevorder kan word nie, tensy die

meerderheid van die lede van sodanige *isiZwe*, of enige gedeelte van *isiZwe*, by *imbizo* byeengeroep vir daardie doel, ingestem het tot die betaling van sodanige bydrae. Die klousule maak verder voorsiening dat die bogenoemde bydraes slegs ingevorder kan word van lede van *isiZwe* met die doeleindes om 'n spesifieke projek te finansier of die doel van enige ander gewoonte, en moet in 'n trustrekening inbetaal word wat geopen is en bestuur word namens *isiZwe* of die betrokke tradisionele raad. Die klousule maak ook voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad die spesifieke doeleindes en maksimum bydraes wat gehef kan word kan voorskryf, soos bedoel in hierdie klousule.

Klousule 72: Regulatoriese bevoegdhede

Hierdie klousule maak voorsiening dat die Premier en verantwoordelike Lid van die Uitvoerende Raad, onderskeidelik, kennisgewings kan uitreik en regulasies kan maak in die *Provinsiale Koerant*, soos bedoel in die Wetsontwerp. Die klousule maak verder voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad regulasies kan maak, kennisgewings kan uitreik en riglyne publiseer ten opsigte van enige aangeleentheid wat vereis of toegelaat word deur die Wetsontwerp om voorgeskryf te word, die bekendstelling en implementering van 'n prestasiebestuurstelsel vir tradisionele rade, tradisionele leiers, die Provinsiale Huis en Plaaslike Huise, en enige verkiesing bedoel in die Wetsontwerp, en enige noodsaaklike administratiewe of prosedurele aangeleentheid, of om enige bylae tot die Wetsontwerp te wysig.

Klousule 73: Regspersoon

Hierdie klousule maak voorsiening dat tradisionele rade, die Provinsiale Huis en Plaaslike Huise almal beskik oor regs persoonlikhede.

Klousule 74: Bates, laste en hulpbronne

Hierdie klousule maak voorsiening dat die instellings bedoel in klousule 63 enige roerende of onroerende eiendom kan verkry, eienaar wees van, besit, hou, huur, vervreem, belas of uit die weg ruim, regte bekom en skuld aangaan in die vervulling, uitoefening en verrigting van hul rolle, bevoegdhede en werksaamhede soos bedoel in die Wetsontwerp. Die klousule maak verder voorsiening dat hierdie instellings 'n trust kan instel en administreer in ooreenstemming met die bepalings van die Wet op die Beheer van Trustgoed, 1998 (Wet No. 57 van 1998), en versekering uitneem teen enige verliese, skade, risiko's en aanspreeklikhede by enige maatskappy of persone en moet alle bates en hulpbronne doeltreffend bestuur.

Klousule 75: Delegering van bevoegdhe, toewysings, agentskaps- en diensleweringsooreenkomste

Hierdie klousule maak voorsiening dat die Premier, in oorlegpleging met die Uitvoerende Raad, enige rol, bevoegdheid of werksaamheid bedoel in hierdie Wet kan deleger aan die verantwoordelike Lid van die Uitvoerende Raad: Met dien verstande dat enige sodanige delegering nie die uitoefening van die tersaaklike bevoegdheid deur die betrokke Premier belemmer nie. Die klousule maak ook voorsiening dat die verantwoordelike Lid van die Uitvoerende Raad enige rol, bevoegdheid of werksaamheid, bedoel in die Wetsontwerp, kan deleger, behalwe vir die bevoegdheid om regulasies te maak en kennisgewing uit te reik, aan die Hoof van die KwaZulu-Natal Provinsiale Departement verantwoordelik vir Tradisionele Sake: Met dien verstande dat enige sodanige delegering nie die uitoefening van die tersaaklike bevoegdheid deur die betrokke verantwoordelike Lid van die Uitvoerende Raad belemmer nie. Hierdie klousule maak ook voorsiening dat enige persoon aan wie enige rol, bevoegdheid of werksaamheid gedelegeer is, met die voorafverkrygte skriftelike goedkeuring van die Uitvoerende Raad, verder sodanige bevoegdheid of werksaamheid kan deleger aan 'n persoon of liggaam goedgekeur deur die Uitvoerende Raad. Die klousule maak ook voorsiening dat Provinsiale regeringsdepartemente, statutêre instellings, staatsorgane en munisipaliteite enige bevoegdheid of werksaamheid kan deleger of toewys aan, of agentskaps- of diensleweringsooreenkomste kan aangaan, met tradisionale rade.

Klousule 76: Geskilbeslegting

Hierdie klousule maak voorsiening dat wanneer ook al 'n geskil betreffende gewoontereg of gebruike ontstaan binne *isiZwe*, of tussen *iziZwe* of ander tradisionele instellings, oor 'n aangeleentheid wat voortspruit uit die implementering van hierdie Wet of andersins, moet lede van sodanige gemeenskap of instelling en tradisionele leiers binne *isiZwe* of betrokke tradisionele instelling poog om die geskil intern en in ooreenstemming met gewoontereg en gebruike op te los. Die klousule maak ook voorsiening dat enige geskil wat nie opgelos kan word nie verwys moet word na die Provinsiale Huis vir beslissing. Die klousule maak ook voorsiening dat, sou die Provinsiale Huis nie in staat wees om die geskil op te los nie, dit verwys moet word na die verantwoordelike Lid van die Uitvoerende Raad vir beslissing, en sou die verantwoordelike Lid van die Uitvoerende Raad nie in staat wees om die geskil op te los nie, dit na die Premier verwys moet word vir beslissing. Die klousule maak ook voorsiening dat die Premier oor die geskil moet beslis na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, die partye tot die geskil en die Provinsiale Huis. Die klousule maak verder voorsiening dat die Premier die aangeleentheid kan verwys na die Provinsiale Kommissie vir sy aanbeveling voor 'n finale beslissing oor die geskil bedoel in hierdie klousule gemaak word.

Klousule 77: Oorgrensreëlings

Hierdie klousule maak voorsiening dat die Premier, na oorlegpleging met die verantwoordelike Lid van die Uitvoerende Raad, ooreenkomste met ander provinsiale regerings kan aangaan ten opsigte van aangeleenthede met betrekking tot *iziZwe*, tradisionele leiers of tradisionele instellings, sou die bestuur van sodanige aangeleenthede groter baat sal vind deur 'n gemene benadering deur die betrokke provinsiale regerings.

Klousule 78: Misdrywe en strawwe

Hierdie klousule maak voorsiening dat indien 'n persoon skuldig is aan 'n misdryf wanneer daardie persoon voorgee om 'n tradisionele leier te wees sonder die erkenning soos bedoel in hierdie Wet of opsetlik die vervulling, uitoefening of verrigting van enige rol, bevoegdheid of werksaamheid gesetel in, of toegewys aan, enige tradisionele leier, enige tradisionele raad, die Provinsiale Huis, enige Plaaslike Huis of die Provinsiale Kommissie soos bedoel in hierdie Wet of eniger ander reg, belemmer. Die klousule maak ook voorsiening dat 'n persoon wat skuldig bevind is aan 'n misdryf strafbaar is met 'n boete of gevangenisstraf van hoogstens 12 maande, of beide die boete en gevangenisstraf.

Klousule 79: Oorgangsreëlings

Hierdie klousule maak voorsiening dat alle uitvoerende en administratiewe handeling, te goeder trou verrig deur die Provinsiale Regering, met betrekking tot *iziZwe*, lede van *isiZwe*, tradisionele leierskap, tradisionele leiers, tradisionele owerhede, gemeenskapsowerhede, tradisionele rade of hul onderskeie juridiksiegebiede, en die informele erkenning van *isiPhakanyiswa* as *iNkosi*, voor die inwerkingtreddingsdatum van hierdie Wet, geag word as regtens verrig. Die klousule maak ook voorsiening dat enige *iNduna*, erken ingevolge toepaslike gebruike en gewoontereg, nieteenstaande die bepalings van enige ander wet, voor die inwerkingtreddingsdatum van hierdie Wet erken moet word, soos bedoel in klousule 15, binne 'n tydperk van 24 maande na die inwerkingtreddingsdatum van hierdie Wet, by die verordening daarvan.

Klousule 80: Wysiging en herroeping van wette

Hierdie klousule verwys na Bylae 3 van die Wetsontwerp wat die wette vervat wat gewysig of herroep sal word by die verordening van hierdie Wetsontwerp.

Klousule 81: Kort titel

Hierdie klousule bevat die kort titel van die Wetsontwerp.

BYLAE 1

Bylae 1 tot die Wetsontwerp bevat Aansoekvorm TA1, vir gebruik wanneer aansoek om erkenning as *isiZwe* gedoen word.

BYLAE 2

Bylae 2 tot die Wetsontwerp bevat die riglyne vir die identifisering van opvolgers tot *ubuKhosi* bedoel in klousule 13(1)(a) van die Wetsontwerp.

BYLAE 3

Bylae 3 tot die Wetsontwerp bevat die verklaring deur *iBambabukhosi* bedoel in klousule 17(4) van die Wetsontwerp.

BYLAE 4

Bylae 4 tot die Wetsontwerp bevat die formule vir die bepaling van die getal lede van 'n tradisionele raad bedoel in klousule 25(1) van die Wetsontwerp.

BYLAE 5

Bylae 5 tot die Wetsontwerp bevat die getal verkose lede van die KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers bedoel in klousule 40(2) van die Wetsontwerp.

BYLAE 6

Bylae 6 tot die Wetsontwerp bevat die Gedragskode vir Tradisionele Leiers en Lede van Tradisionele Rade bedoel in klousule 66 van die Wetsontwerp.

BYLAE 7

Bylae 7 tot die Wetsontwerp bevat die Gedragskode vir Lede van Huise van Tradisionele Leiers.

BYLAE 8

Bylae 8 tot die Wetsontwerp bevat die wette wat herroep word deur hierdie Wetsontwerp by verordening daarvan.

4. GRONDWETLIKE IMPLIKASIES

Die Wetsontwerp sal uitwerking gee aan die doelwitte en oogmerke van die Grondwet soos dit van toepassing is op tradisionele instellings, leiers en owerhede binne die Provinsie van KwaZulu-Natal.

5. LIGGAME EN ORGANISASIES GERAADPLEEG

Die KwaZulu-Natal Provinsiale Huis van Tradisionele Leiers, alle Plaaslike Huise binne KwaZulu-Natal, alle distriks- en plaaslike munisipaliteite binne KwaZulu-Natal en georganiseerde plaaslike regering sal geraadpleeg word oor die Wetsontwerp, die laaste twee ter nakoming van die bepalings van artikel 154(2) van die Grondwet van die Republiek van Suid-Afrika, 1996.

6. FINANSIËLE IMPLIKASIES

Tot dusver nog nie bepaal nie.

7. ORGANISATORIESE- EN PERSONEELIMPLIKASIES

Tot dusver nog nie bepaal nie.

8. IMPLIKASIES VIR MUNISIPALITEITE

Die implikasies vir munisipaliteite ingevolge die Wetsontwerp is, *inter alia* dat–

- (a) Klousule 34 van die Wetsontwerp voorsiening maak dat die Departement vennootskappe tussen munisipaliteite en tradisionele rade moet bevorder;
- (b) Klousule 29(1)(j) voorsiening maak vir *amaKhosi* om deel te neem aan munisipale rade soos bedoel in artikel 81 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);
- (c) Klousule 32(a) voorsiening maak vir *iziNduna* om deel te neem aan die aktiwiteite van munisipale wykskomitees ten einde die ontwikkeling van *iziGodi* te bevorder;
- (d) Klousule 33(1) voorsiening maak dat tradisionele rade munisipaliteite moet ondersteun in die identifisering van gemeenskapsbehoefes, die betrokkenheid van *isiZwe* by die wysiging van die geïntegreerde ontwikkelingsplan van die plaaslike munisipaliteit, in wie se juridiksiegebied daardie gemeenskap woonagtig is, fasiliteer, deelneem aan beleidsontwikkeling en ontwikkeling van wetgewing op plaaslike regeringsvlak, deelneem aan munisipale ontwikkelingsprogramme, tersaaklike munisipaliteite waarsku oor enige gevaar of ramp wat die betrokke tradisionele raad se juridiksiegebied bedreig en saamwerk met munisipale wykskomitees binne die raad se juridiksiegebied;

(e) Klousule 33(4) voorsiening maak dat 'n tradisionele raad diensleweringooreenkomste met 'n munisipaliteit kan aangaan in ooreenstemming met die Wet op Plaaslike Regering: Munisipale Strukture, 2000, en enige ander toepaslike wetgewing; en

(f) Klousule 57(1) van die Wetsontwerp voorsiening maak dat enige konsepwetgewing wat handel oor, of *iziZwe* beïnvloed, tradisionele instellings, gewoontereg en gebruike verwys moet word deur die Speaker van 'n munisipale raad na die betrokke Plaaslike Huis vir sy skriftelike kommentaar, soos bedoel in klousule 56(1)(d), voor dit deur die munisipale raad aanvaar word en enige kommentaar deur die betrokke Plaaslike Huis moet ter tafel gelê word in die munisipale raad voor die aanvaarding van die betrokke munisipale konsepwetgewing.

9. KONTAKPERSOON

NAAM: Me N Qhobosheane

TITEL: Departementshoof – KwaZulu-Natal Departement van Samewerkende Regering en Tradisionele Sake

KONTAKNOMMER: (033) 395 2831

FAKSNOMMER: (033) 345 6432

10. WETGEWENDE PROSEDURE

Aangesien die onderwerp van die Wetsontwerp inwerk op die status, instellings, bevoegdhede of werksaamhede van plaaslike regering, sal die Wetsontwerp gepubliseer word vir openbare kommentaar ingevolge artikel 154(2) van die Grondwet van Suid-Afrika, 1996, voordat dit ingedien word by die KwaZulu-Natal Wetgewer ten einde georganiseerde plaaslike regering, munisipaliteite en ander belanghebbende persone 'n geleentheid te gun om verhoë te rig ten opsigte van die Konsepwetsontwerp.