



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

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(Extraordinary)

## PROVINCIAL NOTICE

PROVINCE OF THE EASTERN CAPE

OFFICE OF THE PREMIER

No. 22

10 December 1996

### PUBLICATION OF HOUSE OF TRADITIONAL LEADERS AMENDMENT BILL, 1996 (EASTERN CAPE)

The above-mentioned Bill is hereby published in terms of Rule 127 (2) of the Rules of the Legislature of the Province of the Eastern Cape, for general information and comment.

Any person who wishes to comment on the said Bill must submit such comments in writing to the Permanent Secretary, Office of the Premier, Province of the Eastern Cape, Private Bag X0047, BISHO, to reach him within 14 days of the publication hereof.

PROVINCE OF THE EASTERN CAPE  
HOUSE OF TRADITIONAL LEADERS AMENDMENT BILL, 1996 (EASTERN CAPE)

*(As introduced)*

Introduced by the Premier of the Province  
of the Eastern Cape

HOUSE OF TRADITIONAL LEADERS AMENDMENT ACT, 1996 (EASTERN CAPE)

BILL

To amend the House of Traditional Leaders Act (Eastern Cape), 1995

**B**E IT ENACTED by the Legislature of the Province of the Eastern Cape, as follows:—

**Amendment of section 1 of Act 1 of 1995**

1. Section 1 of the House of Traditional Leaders Act (Eastern Cape), 1995 (Act No. 1 of 1995) (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "traditional authority" of the following definition:

"'traditional authority' means a traditional authority referred to in section 181 of the Constitution and—

- (a) for purposes of section 3, means a tribal authority and includes, as the case may be, representatives of a tribal authority or authorities; and
- (b) for purposes of section 8, includes tribal authorities, community authorities, regional authorities and any other similar bodies."

**Amendment of section 3 of Act 1 of 1995**

2. Section 3 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:

"(2) The Premier shall, after taking into consideration the recommendations of a standing committee or committees of the Provincial Legislature designated by the Speaker for this purpose, make rules and prescribe a procedure with regard to—

- (a) the way in which the nominations shall be conducted in order to ensure the full participation by traditional communities in the selection of candidates to be nominated to the House;
- (b) the fair distribution among the various traditional communities in the Province of representatives in the House; or
- (c) any other matter relating to the nomination of the members."; and

- (b) by the substitution for subsection (3) of the following subsection:

"(3) A traditional authority involved in the selection and nomination of members in terms of this section may at any time, after consultation with the traditional community concerned, revoke the nomination of a member selected by it and shall thereupon nominate another member in the prescribed manner."

**Amendment of section 4 of Act 1 of 1995**

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) The Premier shall convene the first sitting of the House and notify members of all particulars relating to such sitting in such manner as he or she may deem suitable."

**Amendment of section 6 of Act 1 of 1995**

4. Section 6 of the principal Act is hereby amended in subsection (1)—

- (a) by the deletion of the word "or" which appears at the end of paragraph (c); and
- (b) by the addition after paragraph (d) of the following paragraph:

"(e) does not qualify to be a member, or was selected or nominated to the House otherwise than in terms of a rule or regulation made in terms of this Act."

**Amendment of section 7 of Act 1 of 1995**

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The seat of a member shall become vacant—

- (a) upon the death of such member;
- (b) if he or she resigns his or her seat by written notice under his or her hand;
- (c) if he or she becomes disqualified in terms of section 6 of his or her membership is revoked in terms of section 3; or
- (d) if he or she is elected to the Council of Traditional Leaders established by section 184 of the Constitution."

**Amendment of section 8 of Act 1 of 1995**

6. Section 8 of the principal Act is hereby amended by the addition of the following subsection:

"(8) (a) The House may upon receipt of a complaint from the traditional community concerned, appoint a tribunal to investigate any matter relating to section 6 (1) (e) or relating to a member's qualifications for membership of the House and, upon presentation of a report, take such decision as may be necessary on the qualification or otherwise of a member to continue to be such a member.

(b) If the House is of the opinion that a person whose membership has been investigated in terms of paragraph (a) does not qualify to remain a member of the House, the House shall refer the matter for consideration by the relevant traditional authority.

(c) After the traditional authority concerned has considered the report of the House on the matter the said traditional authority may exercise the powers vested upon it by section 3 (3) of this Act."

**Insertion of section 8A and 8B in Act 1 of 1995**

7. The following sections are hereby inserted after section 8 of the principal Act:

**"Additional powers, and privileges, of the House**

8A. (1) The House shall have full power to control, regulate and dispose of its internal affairs and shall have all such other privileges and immunities as may, subject to the Constitution, be prescribed by law.

(2) Subject to the Act and the rules and orders of the House, there shall be freedom of speech and debate in or before the House and any committee thereof, and such freedom shall not be impeached or questioned in any court provided such debate is limited to matters falling within the powers of the House.

(3) A member of the House shall, subject to the provisions of section 8, not be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything which he or she has said, produced or submitted in or before or to the House or any committee thereof or by reason of anything which may have been revealed as a result of what he or she has said, produced or submitted in or before or to the House or any committee thereof.

#### Oath or affirmation by members

8B. A member of the House shall, before taking his or her seat, subscribe to an oath or affirmation, in the terms set out in the Schedule, before a judge of the Supreme Court of South Africa."

#### Addition of Schedule to Act 1 of 1995

8. The following Schedule is hereby added to the principal Act after section 17:

#### "SCHEDULE

#### OATH OR SOLEMN AFFIRMATION OF MEMBERS OF THE HOUSE OF TRADITIONAL LEADERS (EASTERN CAPE)

'I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic, and I solemnly promise to perform my functions as a member of the House of Traditional Leaders of the Province of the Eastern Cape to the best of my ability.

(In the case of an oath: So help me God)' "

#### Short title and commencement

9. This Act shall be called the House of Traditional Leaders Amendment Act, 1996 (Eastern Cape), and sections 1, 2 (a), 3, 4, 7 (in so far as it relates to an oath or affirmation) and 8 shall be deemed to have come into operation on 27 March 1995.

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